

REFERENCE TITLE: spouses; married couples; terminology

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

## **SB 1409**

Introduced by  
Senators Hobbs, Cajero Bedford, Dalessandro, Farley, Pancrazi, Quezada,  
Sherwood: Bradley, Contreras

AN ACT

AMENDING SECTIONS 7-102, 8-103, 10-1623, 10-2058, 10-2060, 11-1134, 12-612, 12-2231, 12-2232, 13-1408, 13-3609, 13-4062, 14-1201, 14-2802, 14-2804, 14-3101, 14-5426, 14-9106, 23-805, 23-1046, 23-1064, 25-211, 25-314, 25-1060, 25-1256, 32-2101, 33-405, 33-431, 33-452, 33-454, 33-457, 36-832, 42-2079, 43-301, 43-309, 43-310, 43-311, 43-432, 43-562, 43-943, 43-1022, 43-1041, 43-1043, 43-1083, 43-1086, 43-1088, 43-1089, 43-1089.01, 43-1089.02 AND 43-1089.03, ARIZONA REVISED STATUTES; RELATING TO MARRIED COUPLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 7-102, Arizona Revised Statutes, is amended to  
3 read:

4 7-102. Qualification of sureties

5 A bond shall not be approved if executed by individual sureties unless  
6 the sureties appear ~~upon~~ ON the tax roll of the county for an amount at least  
7 equal to the penalty of any other judicial bonds ~~upon~~ ON which they may  
8 already be sureties. If a surety is married, the bond shall be signed by  
9 both ~~husband and wife~~ SPOUSES.

10 Sec. 2. Section 8-103, Arizona Revised Statutes, is amended to read:

11 8-103. Who may adopt

12 A. Any adult resident of this state, whether married, unmarried or  
13 legally separated, is eligible to qualify to adopt children. ~~A husband and~~  
14 ~~wife~~ A MARRIED COUPLE may jointly adopt children.

15 B. Pursuant to rules adopted by the division, the division or adoption  
16 agency shall place a child in an adoptive home that best meets the safety,  
17 social, emotional, physical and mental health needs of the child. Other  
18 relevant factors for consideration, in no order of preference, shall include:

19 1. The marital status, ~~AND THE~~ length and stability of the marital  
20 relationship of the prospective adoptive parents.

21 2. Placement with the child's siblings pursuant to section 8-862.

22 3. Established relationships between the child and the prospective  
23 adoptive family as described in section 8-862, including placement with a  
24 grandparent or another member of the child's extended family including a  
25 person or foster parent who has a significant relationship with the child.

26 4. The prospective adoptive family's ability to meet the child's  
27 safety, social, emotional, physical and mental health needs and the ability  
28 to financially provide for the child.

29 5. The wishes of the child who is twelve years of age or older.

30 6. The wishes of the child's birth parents unless the rights of the  
31 parent have been terminated or the court has established a case plan of  
32 severance and adoption.

33 7. The availability of relatives, the child's current or former foster  
34 parents or other significant persons to provide support to the prospective  
35 adoptive family and child.

36 C. If all relevant factors are equal and the choice is between a  
37 married ~~man and woman~~ COUPLE certified to adopt and a single adult certified  
38 to adopt, placement preference shall be with a married ~~man and woman~~ COUPLE.

39 D. In each adoption proceeding, the court shall make findings on the  
40 record regarding the best interests of the child pursuant to law.

1           Sec. 3. Section 10-1623, Arizona Revised Statutes, is amended to read:  
2           10-1623. Statement of bankruptcy or receivership:  
3                           interrogatories before subsequent incorporation:  
4                           violation; classification; definitions

5           A. On the filing of a petition for bankruptcy or the appointment of a  
6 receiver for any corporation, the corporation shall deliver a statement to  
7 the commission listing:

8           1. All officers, directors, trustees and major stockholders of the  
9 corporation within one year of filing the petition for bankruptcy or the  
10 appointment of a receiver. If a major stockholder is a corporation, the  
11 statement shall list the current president, THE chairman of the board of  
12 directors and major stockholders of such corporate stockholder.

13           2. Whether any such person has been an officer, director, trustee or  
14 major stockholder of any other corporation within one year of the bankruptcy  
15 or receivership of the other corporation.

16           3. If the answer in paragraph 2 of this subsection is in the  
17 affirmative, for each such corporation the following information:

18           (a) Name and address.

19           (b) States in which it:

20           (i) Was incorporated.

21           (ii) Transacted business.

22           (c) Dates of operation.

23           B. The commission shall maintain a suitably indexed list of all such  
24 persons. The index is a public record of the commission for purposes of  
25 title 39.

26           C. On receipt for filing of articles of incorporation of a new  
27 corporation or application for authority to transact business by a foreign  
28 corporation, the commission shall determine whether any person proposed as an  
29 officer, director, trustee, incorporator or major stockholder of the new or  
30 foreign corporation has been involved two or more times in a corporate  
31 bankruptcy, receivership, revocation, administrative dissolution or judicial  
32 dissolution commenced by any state. If so, the commission may direct  
33 detailed interrogatories to the persons requiring any additional relevant  
34 information deemed necessary by the commission and at the same time shall  
35 provide public notice of the interrogatory procedure. Any person may request  
36 additional interrogatories or may provide additional information to the  
37 commission. The interrogatories shall be completely answered within thirty  
38 days after mailing. With respect to corporations incorporated or seeking  
39 authority to transact business, articles of incorporation or application for  
40 authority shall not be filed until all outstanding interrogatories have been  
41 answered to the satisfaction of the commission.

42           D. Any applicant for filing articles of incorporation or authority to  
43 transact business who is dissatisfied with a determination of the commission  
44 or any other proceeding under this section may demand and the commission or  
45 its designee shall convene a public hearing at the county seat of the county

1 of the corporate headquarters of the proposed corporation. The commission  
2 shall give public notice of the hearing at least twenty days before the  
3 hearing by publication in a newspaper of general circulation in any county in  
4 which a relevant prior bankruptcy or receivership occurred.

5 E. The commission shall provide the attorney general with a copy of  
6 statements furnished pursuant to subsection A OF THIS SECTION and answers to  
7 interrogatories propounded pursuant to subsection C OF THIS SECTION on a  
8 quarterly updated basis.

9 F. Any person or corporation failing to comply with the requirements  
10 of this section is guilty of a class 1 misdemeanor. Any person making a  
11 false statement or giving false information pursuant to this section is  
12 guilty of a class 5 felony.

13 G. ~~In~~ FOR THE PURPOSES OF this section:

14 1. "Controlling" includes the total shares of stock issued to a  
15 ~~husband and wife~~ MARRIED COUPLE and their relatives to the first degree of  
16 consanguinity.

17 2. "Major stockholder" means a shareholder possessing or controlling  
18 twenty ~~per cent~~ PERCENT of the issued and outstanding shares or twenty  
19 ~~per cent~~ PERCENT of any proprietary, beneficial or membership interest in the  
20 corporation.

21 Sec. 4. Section 10-2058, Arizona Revised Statutes, is amended to read:  
22 10-2058. Board of directors; compensation; term; quorum

23 A. The business of a cooperative shall be managed by a board of  
24 directors. Unless the bylaws provide otherwise, each of the directors shall  
25 be a member of the cooperative or of another cooperative that is a member.  
26 The bylaws shall prescribe the number of directors, their qualifications  
27 other than those prescribed in this article and the manner of holding  
28 meetings of the board of directors and of electing successors to directors  
29 who resign or die or who are otherwise incapable of acting. The bylaws may  
30 also provide for the removal of directors from office and for the election of  
31 their successors.

32 B. Unless the bylaws provide otherwise, the directors shall not  
33 receive salaries for services as directors and, except in emergencies, shall  
34 not be employed by the cooperative in any capacity involving compensation  
35 without the approval of the members. The bylaws may allow a payment of a fee  
36 and provide that expenses of attendance may be allowed to each director for  
37 attendance at each meeting of the board of directors.

38 C. The directors of a cooperative named in the articles of  
39 incorporation, consolidation, merger or conversion shall hold office until  
40 successors are elected and qualify. The bylaws shall prescribe the manner of  
41 electing directors and the number and terms of the directors, including  
42 whether the terms are staggered. If stated in the bylaws, at each annual  
43 meeting, or, in case of failure to hold the annual meeting as specified in  
44 the bylaws, at a special meeting called for that purpose, the members shall  
45 elect directors to hold office until the next annual meeting of the members,

1 except as otherwise provided in this article. Each director shall hold  
2 office for the term for which the director is elected and until a successor  
3 is elected and qualifies. A director may resign at any time by delivering  
4 written notice to the board of directors, its presiding officer or the  
5 cooperative. A resignation is effective when the notice is delivered unless  
6 the notice specifies a later effective date or event.

7 D. A majority of the board of directors shall constitute a quorum.

8 E. If a ~~husband and wife hold~~ MARRIED COUPLE HOLDS a joint membership  
9 in a cooperative, either ~~one~~ SPOUSE, but not both, may be elected a director.

10 F. The board of directors may take any action without a meeting if the  
11 action would be allowed at a meeting and if before the board takes the action  
12 all of the directors who are normally required to approve the action at a  
13 meeting provide prior consent by signing a written statement that explains  
14 and approves the action.

15 G. The board of directors may exercise all the powers of a cooperative  
16 not conferred ~~upon~~ ON the members by this article, or its articles of  
17 incorporation or bylaws.

18 H. Any person who serves as a director or officer or who serves on a  
19 board or council in an advisory capacity to the cooperative or board of  
20 directors of a cooperative is immune from civil liability and is not subject  
21 to a suit directly or by way of contribution for any act or omission that  
22 results in damage or injury if that person was acting in good faith and  
23 within the scope of that person's official capacity and the damage or injury  
24 was not caused by the wilful conduct or gross negligence of that person.  
25 Nothing in this subsection limits or modifies in any manner the duties or  
26 liabilities of a director or person who serves in any advisory capacity to  
27 the cooperative or the cooperative members. For the purposes of this  
28 subsection, "official capacity" means any decision, act or event the  
29 cooperative undertakes in furtherance of the purposes for which the  
30 cooperative is organized or operating.

31 Sec. 5. Section 10-2060, Arizona Revised Statutes, is amended to read:

32 10-2060. Members in cooperative

33 Each incorporator of a cooperative shall be a member of the  
34 cooperative, but no other person may become a member unless the person agrees  
35 to use electric energy or other services furnished by the cooperative as the  
36 cooperative establishes in its bylaws. A ~~husband and wife~~ MARRIED COUPLE may  
37 hold a joint membership in a cooperative. Membership in a cooperative is not  
38 transferable, except as provided in the bylaws. The bylaws may prescribe  
39 additional qualifications, limitations, classifications and rights concerning  
40 membership.

41 Sec. 6. Section 11-1134, Arizona Revised Statutes, is amended to read:

42 11-1134. Exemptions

43 A. The affidavit and fee required by this article do not apply to the  
44 following instruments:

- 1           1. A deed that represents the payment in full or forfeiture of a
- 2 recorded contract for the sale of real property.
- 3           2. A lease or easement on real property, regardless of the length of
- 4 the term.
- 5           3. A deed, patent or contract for the sale or transfer of real
- 6 property in which an agency or representative of the United States, this
- 7 state, a county, city or town of this state or any political subdivision of
- 8 this state is the named grantor, and authorized seller, or purchaser.
- 9           4. A quitclaim deed to quiet title as described in section 12-1103,
- 10 subsection B or otherwise executed for no monetary consideration.
- 11           5. A conveyance of real property that is executed pursuant to a court
- 12 order.
- 13           6. A deed to an unpatented mining claim.
- 14           7. A deed of gift.
- 15           B. The affidavit and fee required by this article do not apply to a
- 16 transfer of title:
- 17           1. Solely in order to provide or release security for a debt or
- 18 obligation, including a trustee's deed pursuant to power of sale under a deed
- 19 of trust.
- 20           2. That confirms or corrects a deed that was previously recorded.
- 21           3. When the transfer of title has only nominal actual consideration
- 22 for the transfer of residential property between:
- 23           (a) ~~Husband and wife~~ A MARRIED COUPLE or ancestor of ~~the husband and~~
- 24 ~~wife~~ EITHER SPOUSE.
- 25           (b) Parent and child, including natural or adopted children and their
- 26 descendants.
- 27           (c) Grandparent and grandchild.
- 28           (d) Natural or adopted siblings.
- 29           4. On a sale for delinquent taxes or assessments.
- 30           5. On partition.
- 31           6. Pursuant to a merger.
- 32           7. For no consideration or nominal consideration:
- 33           (a) By a subsidiary to its parent or from a parent to a subsidiary.
- 34           (b) Among commonly controlled entities.
- 35           (c) From a member to its limited liability company or from a limited
- 36 liability company to a member.
- 37           (d) From a partner to its partnership.
- 38           (e) From a partnership to a partner.
- 39           (f) From a joint venturer to its joint venture.
- 40           (g) From a joint venture to a joint venturer.
- 41           (h) From a trust beneficiary to its trustee.
- 42           (i) From a trustee to its trust beneficiary.
- 43           (j) From any of the entities in subdivisions (a) through (i) of this
- 44 paragraph to a single purpose entity in order to obtain financing.



1 wrongful death without the issuance of further letters or any other  
2 requirement or authorization of law.

3 Sec. 8. Section 12-2231, Arizona Revised Statutes, is amended to read:

4 12-2231. Spouses; antimarital fact

5 In a civil action, a husband SPOUSE shall not be examined for or  
6 against ~~his wife~~ THE OTHER SPOUSE without ~~her~~ THE OTHER SPOUSE'S consent, ~~nor~~  
7 ~~a wife for or against her husband without his consent,~~ except as provided in  
8 section 12-2232.

9 Sec. 9. Section 12-2232, Arizona Revised Statutes, is amended to read:

10 12-2232. Spouses; privileged communications; permissible  
11 examination

12 A. A ~~husband or wife~~ SPOUSE, during the marriage or afterward, without  
13 the consent of the other SPOUSE, shall not be examined as to any  
14 communications made by one to the other during the marriage, except:

15 1. In an action for divorce or a civil action by one against the  
16 other.

17 2. In a criminal action or proceeding as provided in the criminal  
18 code.

19 3. In an action for damages against another person for adultery  
20 committed by either ~~husband or wife~~ SPOUSE.

21 B. In a hearing conducted pursuant to title 36, chapter 5, a ~~husband~~  
22 ~~or wife~~ SPOUSE, during the marriage or afterward, without the consent of the  
23 other SPOUSE, may be examined as to any communications, physical acts or  
24 behaviors made by one to the other during the marriage that relate to the  
25 matters at issue in the hearing.

26 Sec. 10. Section 13-1408, Arizona Revised Statutes, is amended to  
27 read:

28 13-1408. Adultery; classification; punishment; limitation on  
29 prosecution

30 A. A married person who has sexual intercourse with another than his  
31 or her spouse, and an unmarried person who has sexual intercourse with a  
32 married person not his or her spouse, commits adultery and is guilty of a  
33 class 3 misdemeanor. When the act is committed between parties only one of  
34 whom is married, both shall be punished.

35 B. ~~No~~ A prosecution for adultery shall NOT be commenced except ~~upon~~ ON  
36 THE complaint of ~~the husband or wife~~ A SPOUSE.

37 Sec. 11. Section 13-3609, Arizona Revised Statutes, is amended to  
38 read:

39 13-3609. Child bigamy; classification; definitions

40 A. A person commits child bigamy if the person knowingly does any of  
41 the following:

42 1. Is at least eighteen years of age, has a spouse and marries a  
43 child.

1           2. Is at least eighteen years of age and, either alone or in  
2 association with others, directs, causes or controls the marriage of a child  
3 to a person who already has a spouse.

4           3. Is at least eighteen years of age and, either alone or in  
5 association with others, directs, causes or controls the marriage of a child  
6 if the child already has a spouse.

7           4. Is at least eighteen years of age and marries a child if the child  
8 already has a spouse.

9           5. Transports or finances the transportation of a child to promote  
10 marriage between the child and a person who already has a spouse.

11           6. Transports or finances the transportation of a child who already  
12 has a spouse to promote marriage between the child and another person.

13           B. This section does not apply if a person who marries a child:

14           1. Has a spouse who has been absent for at least five successive years  
15 without being known to the person within that time to be living.

16           2. Has a former marriage that has been pronounced void, annulled or  
17 dissolved by judgment of a competent court.

18           C. A violation of this section is a class 3 felony.

19           D. For the purposes of this section:

20           1. "Marriage" means the state of joining together as ~~husband and wife~~  
21 ~~A MARRIED COUPLE~~ through an agreement, promise or ceremony regardless of  
22 whether a marriage license has been issued by the appropriate authority.

23           2. "Marry" means to join together as ~~husband and wife~~ ~~A MARRIED COUPLE~~  
24 through an agreement, promise or ceremony regardless of whether a marriage  
25 license has been issued by the appropriate authority.

26           3. "~~Spouses~~ SPOUSE" means two persons living together as ~~husband and~~  
27 ~~wife~~ ~~A MARRIED COUPLE~~, including the assumption of those marital rights,  
28 duties and obligations that are usually manifested by married people,  
29 including but not necessarily dependent on sexual relations.

30           Sec. 12. Section 13-4062, Arizona Revised Statutes, is amended to  
31 read:

32           13-4062. Antimarital fact privilege: other privileged  
33 communications

34           A person shall not be examined as a witness in the following cases:

35           1. A ~~husband~~ SPOUSE for or against ~~his wife~~ THE OTHER SPOUSE without  
36 ~~her~~ THE OTHER SPOUSE'S consent, ~~nor a wife for or against her husband without~~  
37 ~~his consent~~, as to events occurring during the marriage, nor can either,  
38 during the marriage or afterwards, without consent of the other, be examined  
39 as to any communication made by one to the other during the marriage. These  
40 exceptions do not apply in a criminal action or proceeding for a crime  
41 committed by ~~the husband~~ A SPOUSE against the ~~wife, or by the wife against~~  
42 ~~the husband~~, OTHER SPOUSE nor in a criminal action or proceeding against ~~the~~  
43 ~~husband~~ A SPOUSE for abandonment, failure to support or provide for or  
44 failure or neglect to furnish the necessities of life to the ~~wife~~ OTHER  
45 SPOUSE or the minor children. Either spouse may be examined as a witness for

1 or against the other in a prosecution for an offense listed in section  
2 13-706, subsection F, paragraph 1, for bigamy or adultery, committed by  
3 either spouse, or for sexual assault ~~committed by the husband~~ if either of  
4 the following occurs:

5 (a) Before testifying, the testifying spouse makes a voluntary  
6 statement to a law enforcement officer during an investigation of the offense  
7 or offenses about the events that gave rise to the prosecution or about any  
8 statements made to the spouse by the other spouse about those events.

9 (b) Either spouse requests to testify.

10 2. An attorney, without consent of the attorney's client, as to any  
11 communication made by the client to the attorney, or the attorney's advice  
12 given in the course of professional employment.

13 3. A clergyman or priest, without consent of the person making the  
14 confession, as to any confession made to the clergyman or priest in his  
15 professional character in the course of discipline enjoined by the church to  
16 which the clergyman or priest belongs.

17 4. A physician or surgeon, without consent of the physician's or  
18 surgeon's patient, as to any information acquired in attending the patient  
19 which was necessary to enable the physician or surgeon to prescribe or act  
20 for the patient.

21 Sec. 13. Section 14-1201, Arizona Revised Statutes, is amended to  
22 read:

23 14-1201. Definitions

24 In this title, unless the context otherwise requires:

25 1. "Agent" includes an attorney-in-fact under a durable or nondurable  
26 power of attorney, a person who is authorized to make decisions concerning  
27 another person's health care and a person who is authorized to make decisions  
28 for another person under a natural death act.

29 2. "Application" means a written request to the registrar for an order  
30 of informal probate or appointment under chapter 3, article 3 of this title.

31 3. "Basis for compensation" means AN hourly rate, a fixed fee or a  
32 contingency fee agreement and reimbursable costs.

33 4. "Beneficiary", as it relates to a trust beneficiary, includes a  
34 person who has any present or future interest, vested or contingent, and ~~also~~  
35 includes the owner of an interest by assignment or other transfer. As it  
36 relates to a charitable trust, beneficiary includes any person entitled to  
37 enforce the trust. As it relates to a beneficiary of a beneficiary  
38 designation, beneficiary refers to a beneficiary of an insurance or annuity  
39 policy, an account with pay on death designation, a security registered in  
40 beneficiary form or a pension, profit sharing, retirement or similar benefit  
41 plan, or any other nonprobate transfer at death. As it relates to a  
42 beneficiary designated in a governing instrument, beneficiary includes a  
43 grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a  
44 beneficiary designation, a donee, appointee or taker in default of a power of

1 appointment and a person in whose favor a power of attorney or a power held  
2 in any person, fiduciary or representative capacity is exercised.

3 5. "Beneficiary designation" refers to a governing instrument naming a  
4 beneficiary of an insurance or annuity policy, of an account with pay on  
5 death designation, of a security registered in beneficiary form or of a  
6 pension, profit sharing, retirement or similar benefit plan, or any other  
7 nonprobate transfer at death.

8 6. "Child" includes a person who is entitled to take as a child under  
9 this title by intestate succession from the parent whose relationship is  
10 involved. Child excludes a person who is only a stepchild, a foster child, a  
11 grandchild or a more remote descendant.

12 7. "Claims", in respect to estates of decedents and protected persons,  
13 includes liabilities of the decedent or the protected person, whether arising  
14 in contract, in tort or otherwise, and liabilities of the estate that arise  
15 at or after the death of the decedent or after the appointment of a  
16 conservator, including funeral expenses and expenses of administration.  
17 Claims do not include estate or inheritance taxes or demands or disputes  
18 regarding title of a decedent or a protected person to specific assets  
19 alleged to be included in the estate.

20 8. "Community property" means that property of a ~~husband and wife~~  
21 MARRIED COUPLE that is acquired during the marriage and that is community  
22 property as prescribed in section 25-211.

23 9. "Conservator" means a person who is appointed by a court to manage  
24 the estate of a protected person.

25 10. "Court" means the superior court.

26 11. "Dependent child" means a minor child whom the decedent was  
27 obligated to support or an adult child who was in fact being supported by the  
28 decedent at the time of the decedent's death.

29 12. "Descendant" means all of the decedent's descendants of all  
30 generations, with the relationship of parent and child at each generation.

31 13. "Devise", when used as a noun, means a testamentary disposition of  
32 real or personal property and, when used as a verb, means to dispose of real  
33 or personal property by will.

34 14. "Devisee" means a person WHO IS designated in a will to receive a  
35 devise. For the purposes of chapter 3 of this title, in the case of a devise  
36 to an existing trust or trustee, or to a trustee on trust described by will,  
37 the trust or trustee is the devisee and the beneficiaries are not devisees.

38 15. "Disability" means cause for a protective order as described in  
39 section 14-5401.

40 16. "Distributee" means any person who has received property of a  
41 decedent from that person's personal representative other than as a creditor  
42 or purchaser. Distributee includes a testamentary trustee only to the extent  
43 of distributed assets or increment that remains in that person's hands. A  
44 beneficiary of a testamentary trust to whom the trustee has distributed  
45 property received from a personal representative is a distributee of the

1 personal representative. For the purposes of this paragraph, "testamentary  
2 trustee" includes a trustee to whom assets are transferred by will, to the  
3 extent of the devised assets.

4 17. "Estate" includes the property of the decedent, trust or other  
5 person whose affairs are subject to this title as originally constituted and  
6 as it exists from time to time during administration. As it relates to a  
7 spouse, the estate includes only the separate property and the share of the  
8 community property belonging to the decedent or person whose affairs are  
9 subject to this title.

10 18. "Exempt property" means that property of a decedent's estate that  
11 is described in section 14-2403.

12 19. "Fiduciary" includes a personal representative, guardian,  
13 conservator and trustee.

14 20. "Foreign personal representative" means a personal representative  
15 WHO IS appointed by another jurisdiction.

16 21. "Formal proceedings" means proceedings THAT ARE conducted before a  
17 judge with notice to interested persons.

18 22. "Governing instrument" means a deed, will, trust, insurance or  
19 annuity policy, account with pay on death designation, security registered in  
20 beneficiary form, pension, profit sharing, retirement or similar benefit  
21 plan, instrument creating or exercising a power of appointment or a power of  
22 attorney or a dispositive, appointive or nominative instrument of any similar  
23 type.

24 23. "Guardian" means a person who has qualified as a guardian of a  
25 minor or incapacitated person pursuant to testamentary or court appointment  
26 but excludes a person who is merely a guardian ad litem.

27 24. "Guardian ad litem" includes a person who is appointed pursuant to  
28 section 14-1408.

29 25. "Heirs", except as controlled by section 14-2711, means persons,  
30 including the surviving spouse and the state, who are entitled under the  
31 statutes of intestate succession to the property of a decedent.

32 26. "Incapacitated person" has the same meaning prescribed in section  
33 14-5101.

34 27. "Informal proceedings" means those proceedings conducted without  
35 notice to interested persons by an officer of the court acting as a registrar  
36 for probate of a will or appointment of a personal representative.

37 28. "Interested person" includes any trustee, heir, devisee, child,  
38 spouse, creditor, beneficiary, person holding a power of appointment and  
39 other person who has a property right in or claim against a trust estate or  
40 the estate of a decedent, ward or protected person. Interested person also  
41 includes a person who has priority for appointment as personal representative  
42 and other fiduciaries representing interested persons. Interested person, as  
43 the term relates to particular persons, may vary from time to time and must  
44 be determined according to the particular purposes of, and matter involved  
45 in, any proceeding.

- 1           29. "Issue" of a person means descendant as defined in this section.  
2           30. "Joint tenants with the right of survivorship" and "community  
3 property with the right of survivorship" includes co-owners of property held  
4 under circumstances that entitle one or more to the whole of the property on  
5 the death of the other or others but excludes forms of co-ownership  
6 registration in which the underlying ownership of each party is in proportion  
7 to that party's contribution.  
8           31. "Lease" includes any oil, gas or other mineral lease.  
9           32. "Letters" includes letters testamentary, letters of guardianship,  
10 letters of administration and letters of conservatorship.  
11           33. "Minor" means a person who is under eighteen years of age.  
12           34. "Mortgage" means any conveyance, agreement or arrangement in which  
13 property is encumbered or used as security. Mortgage does not include leases  
14 or easements.  
15           35. "Nonresident decedent" means a decedent who was domiciled in  
16 another jurisdiction at the time of the decedent's death.  
17           36. "Organization" means a corporation, limited liability company,  
18 business trust, estate, trust, partnership, joint venture, association,  
19 government or governmental subdivision or agency or any other legal or  
20 commercial entity.  
21           37. "Parent" includes any person entitled to take, or who would be  
22 entitled to take if the child died without a will, as a parent under this  
23 title by intestate succession from the child whose relationship is in  
24 question and excludes any person who is only a stepparent, foster parent or  
25 grandparent.  
26           38. "Payor" means a trustee, insurer, business entity, employer,  
27 government, governmental agency or subdivision or any other person who is  
28 authorized or obligated by law or a governing instrument to make payments.  
29           39. "Person" means an individual or an organization.  
30           40. "Personal representative" includes AN executor, AN administrator,  
31 A successor personal representative, A special administrator and persons who  
32 perform substantially the same function under the law governing their status.  
33 A general personal representative excludes a special administrator.  
34           41. "Petition" means a written request to the court for an order after  
35 notice.  
36           42. "Proceeding" includes action at law and suit in equity.  
37           43. "Property" has the same meaning prescribed in section 14-10103.  
38           44. "Protected person" has the same meaning prescribed in section  
39 14-5101.  
40           45. "Protective proceeding" has the same meaning prescribed in section  
41 14-5101.  
42           46. "Registrar" means the official of the court WHO IS designated to  
43 perform the functions of registrar as provided in section 14-1307.

1           47. "Security" includes any note, stock, treasury stock, bond,  
2 debenture, evidence of indebtedness, certificate of interest or participation  
3 in an oil, gas or mining title or lease or in payments out of production  
4 under that title or lease, collateral trust certificate, transferable share  
5 or voting trust certificate and, in general, includes any interest or  
6 instrument commonly known as a security, or any certificate of interest or  
7 participation, any temporary or interim certificate, receipt or certificate  
8 of deposit for, or any warrant or right to subscribe to or purchase, any of  
9 these securities.

10           48. "Separate property" means that property of a ~~husband or wife~~  
11 SPOUSE that is the spouse's separate property as defined in section 25-213.

12           49. "Settlement", in reference to a decedent's estate, includes the  
13 full process of administration, distribution and closing.

14           50. "Special administrator" means a personal representative as  
15 described by sections 14-3614 through 14-3618.

16           51. "State" has the same meaning prescribed in section 14-10103.

17           52. "Successor personal representative" means a personal  
18 representative, other than a special administrator, who is appointed to  
19 succeed a previously appointed personal representative.

20           53. "Successors" means persons, other than creditors, who are entitled  
21 to property of a decedent under a will or this title.

22           54. "Supervised administration" refers to the proceedings described in  
23 chapter 3, article 5 of this title.

24           55. "Survive" means that a person has neither predeceased an event,  
25 including the death of another person, nor is deemed to have predeceased an  
26 event under section 14-2104 or 14-2702.

27           56. "Testacy proceeding" means a proceeding to establish a will or  
28 determine intestacy.

29           57. "Testator" includes a person of either sex.

30           58. "Trust" includes an express trust, private or charitable, with any  
31 additions, wherever and however created. Trust also includes a trust created  
32 or determined by judgment or decree under which the trust is to be  
33 administered in the manner of an express trust. Trust excludes other  
34 constructive trusts and excludes resulting trusts, conservatorship, personal  
35 representatives, trust accounts, custodial arrangements pursuant to chapter  
36 7, article 7 of this title, business trusts providing for certificates to be  
37 issued to beneficiaries, common trust funds, voting trusts, security  
38 arrangements, liquidation trusts and trusts for the primary purpose of paying  
39 debts, dividends, interest, salaries, wages, profits, pensions or employee  
40 benefits of any kind, trusts created by a city or town for the payment of  
41 medical insurance, health care benefits or expenses, long-term or short-term  
42 disability, self insurance reserves and similar programs administered by a  
43 city or town, legal defense trusts and any arrangement under which a person  
44 is nominee or escrowee for another.

1           59. "Trustee" includes an original, additional or successor trustee,  
2 whether or not appointed or confirmed by the court.

3           60. "Ward" has the same meaning prescribed in section 14-5101.

4           61. "Will" includes a codicil and any testamentary instrument that  
5 merely appoints an executor, revokes or revises another will, nominates a  
6 guardian or expressly excludes or limits the right of an individual or class  
7 to succeed to property of the decedent passing by intestate succession.

8           Sec. 14. Section 14-2802, Arizona Revised Statutes, is amended to  
9 read:

10           14-2802. Effect of divorce, annulment and decree of separation

11           A. A person who is divorced from the decedent or whose marriage to the  
12 decedent has been annulled is not a surviving spouse unless, by virtue of a  
13 subsequent marriage, that person is married to the decedent at the time of  
14 death. A decree of separation that does not terminate the status of ~~husband~~  
15 ~~and wife~~ THE MARRIED COUPLE is not a divorce for purposes of this section.

16           B. For the purposes of this section, "surviving spouse" does not  
17 include:

18           1. A person who obtains or consents to a final decree or judgment of  
19 divorce from the decedent or an annulment of the marriage if that decree or  
20 judgment is not recognized as valid in this state, unless they subsequently  
21 participate in a marriage ceremony purporting to marry each to the other or  
22 live together as ~~husband and wife~~ A MARRIED COUPLE.

23           2. A person who, after an invalid decree or judgment of divorce or  
24 annulment obtained by the decedent, participates in a marriage ceremony with  
25 a third person.

26           3. A person who was a party to a valid proceeding concluded by an  
27 order purporting to terminate all marital property rights.

28           Sec. 15. Section 14-2804, Arizona Revised Statutes, is amended to  
29 read:

30           14-2804. Termination of marriage; effect; revocation of probate  
31 and nonprobate transfers; federal law; definitions

32           A. Except as provided by the express terms of a governing instrument,  
33 a court order or a contract relating to the division of the marital estate  
34 made between a divorced couple before or after the marriage, divorce or  
35 annulment, the divorce or annulment of a marriage:

36           1. Revokes any revocable:

37           (a) Disposition or appointment of property made by a divorced person  
38 to that person's former spouse in a governing instrument and any disposition  
39 or appointment created by law or in a governing instrument to a relative of  
40 the divorced person's former spouse.

41           (b) Provision in a governing instrument conferring a general or  
42 nongeneral power of appointment on the divorced person's former spouse or on  
43 a relative of the divorced person's spouse.

1 (c) Nomination in a governing instrument that nominates a divorced  
2 person's former spouse or a relative of the divorced person's former spouse  
3 to serve in any fiduciary or representative capacity, including a personal  
4 representative, executor, trustee, conservator, agent or guardian.

5 2. Severs the interests of the former spouses in property held by them  
6 at the time of the divorce or annulment as joint tenants with the right of  
7 survivorship or as community property with the right of survivorship and  
8 transforms the interests of the former spouses into tenancies in common.

9 B. A severance under subsection A, paragraph 2 of this section does  
10 not affect any ~~third-party~~ THIRD-PARTY interest in property acquired for  
11 value and in good faith reliance on an apparent title by survivorship in the  
12 survivor of the former spouses unless a writing declaring the severance has  
13 been noted, registered, filed or recorded in records appropriate to the kind  
14 and location of the property that a person relied on as evidence of ownership  
15 in the ordinary course of transactions involving that property.

16 C. Provisions of a governing instrument are given effect as if the  
17 former spouse and relatives of the former spouse disclaimed all provisions  
18 revoked by this section or, in the case of a revoked nomination in a  
19 fiduciary or representative capacity, as if the former spouse and relatives  
20 of the former spouse died immediately before the divorce or annulment.

21 D. Provisions revoked solely by this section are revived by the  
22 divorced person's remarriage to the former spouse or by a nullification of  
23 the divorce or annulment.

24 E. No change of circumstances other than as described in this section  
25 and in section 14-2803 effects a revocation.

26 F. Any payor or other third party is not liable for making a payment  
27 or transferring an item of property or any other benefit to a beneficiary  
28 designated in a governing instrument affected by a divorce, annulment or  
29 remarriage, or for taking any other action in good faith reliance on the  
30 validity of the governing instrument, before the payor or other third party  
31 receives written notice of the divorce, annulment or remarriage. Any payor  
32 or other third party is liable for a payment made or any other action taken  
33 after the payor or other third party receives written notice of a claimed  
34 forfeiture or revocation under this section.

35 G. Written notice of the divorce, annulment or remarriage under  
36 subsection F of this section must be mailed to the payor's or other third  
37 party's main office or home by certified mail, return receipt requested, or  
38 served on the payor or other third party in the same manner as a summons in a  
39 civil action. On receipt of written notice of the divorce, annulment or  
40 remarriage, a payor or any other third party may pay any amount owed or  
41 transfer or deposit any item of property held by it to or with the court  
42 having jurisdiction of the probate proceedings relating to the decedent's  
43 estate or, if no proceedings have been commenced, to or with the court having  
44 jurisdiction of probate proceedings relating to decedents' estates located in  
45 the county of the decedent's residence. The court shall hold the monies or

1 item of property and, on its determination under this section, shall order  
2 disbursement or transfer in accordance with the determination. Payments,  
3 transfers or deposits made to or with the court discharge the payor or other  
4 third party from all claims for the value of amounts paid to or items of  
5 property transferred to or deposited with the court.

6 H. A person who purchases property from a former spouse, a relative of  
7 a former spouse or any other person for value and without notice or who  
8 receives from a former spouse, a relative of a former spouse or any other  
9 person a payment or other item of property in partial or full satisfaction of  
10 a legally enforceable obligation is neither obligated under this section to  
11 return the payment, item of property or benefit nor is liable under this  
12 section for the amount of the payment or the value of the item of property or  
13 benefit. However, a former spouse, a relative of a former spouse or any  
14 other person who, not for value, received a payment, an item of property or  
15 any other benefit to which that person is not entitled under this section is  
16 obligated to return the payment, item of property or benefit to the person  
17 who is entitled to it under this section or is personally liable for the  
18 amount of the payment or the value of the item of property or benefit.

19 I. For the ~~purpose~~ PURPOSES of this section:

20 1. "Disposition or appointment of property" includes a transfer of an  
21 item of property or any other benefit to a beneficiary designated in a  
22 governing instrument.

23 2. "Divorce or annulment" means any divorce or annulment or any  
24 dissolution or declaration of invalidity of a marriage that would exclude the  
25 spouse as a surviving spouse within the meaning of section 14-2802 but does  
26 not include a decree of separation that does not terminate the status of  
27 ~~husband and wife~~ THE MARRIED COUPLE.

28 3. "Divorced person" includes a person whose marriage has been  
29 annulled.

30 4. "Governing instrument" means an instrument THAT IS executed by the  
31 divorced person before the divorce or annulment of that person's marriage to  
32 that person's former spouse.

33 5. "Relative of the divorced person's former spouse" means a person  
34 who is related to the divorced person's former spouse by blood, adoption or  
35 affinity and who, after the divorce or annulment, is not related to the  
36 divorced person by blood, adoption or affinity.

37 6. "Revocable", with respect to a disposition, appointment, provision  
38 or nomination, means one under which the divorced person, at the time of the  
39 divorce or annulment, was alone empowered by law or under the governing  
40 instrument to cancel a designation in favor of that person's former spouse or  
41 former spouse's relative, whether or not the divorced person was then  
42 empowered to designate himself or herself in place of that person's former  
43 spouse or in place of the former spouse's relative and whether or not the  
44 divorced person then had the capacity to exercise the power.

1           Sec. 16. Section 14-3101, Arizona Revised Statutes, is amended to  
2 read:

3           14-3101. Devolution of estate at death; administration on  
4           deaths of spouses

5           A. The power of a person to leave property by will, and the rights of  
6 creditors, devisees and heirs to ~~his~~ THE PERSON'S property are subject to the  
7 restrictions and limitations contained in this title to facilitate the prompt  
8 settlement of estates. ~~Upon~~ ON the death of a person, ~~his~~ THE PERSON'S  
9 separate property and ~~his~~ share of community property ~~devolves~~ DEVOLVE to the  
10 persons to whom the property is devised by ~~his~~ THE PERSON'S last will, or to  
11 those indicated as substitutes for them in cases involving lapse,  
12 renunciation or other circumstances affecting the devolution of testate  
13 estates, or in the absence of testamentary disposition to ~~his~~ THE PERSON'S  
14 heirs, or to those indicated as substitutes for them in cases involving  
15 renunciation or other circumstances affecting the devolution of intestate  
16 estates. The devolution of separate property and decedent's share of  
17 community property is subject to rights to the allowance in lieu of  
18 homestead, exempt property and family allowance, to rights of creditors and  
19 to administration as provided in this title. In addition, the surviving  
20 spouse's share of the community property is subject to administration until  
21 the time for presentation of claims has expired, and thereafter only to the  
22 extent necessary to pay community claims.

23           B. If ~~a husband and wife~~ both SPOUSES die, and the administration of  
24 one of their estates is not completed prior to commencement of administration  
25 of the other, their estates may be combined in a single administration with  
26 the same personal representative, if feasible. A single application or  
27 petition may be made to obtain appointment of a personal representative and  
28 to determine testacy. If their estates devolve as if each spouse survived  
29 the other because of application of section 14-2702, and their estates are  
30 not combined, half of their community property is subject to administration  
31 in each estate and community claims will be charged ratably to each half of  
32 the community property.

33           Sec. 17. Section 14-5426, Arizona Revised Statutes, is amended to  
34 read:

35           14-5426. Enlargement or limitation of powers of conservator

36           A. Subject to the restrictions in section 14-5408, subsection A,  
37 paragraph 4, the court may confer on a conservator at the time of appointment  
38 or later, in addition to the powers conferred ~~on him~~ by sections 14-5424 and  
39 14-5425, any power ~~which~~ the court itself could exercise under section  
40 14-5408, subsection A, paragraphs 2 and 3. The court may, at the time of  
41 appointment or later, limit the powers of a conservator otherwise conferred  
42 by sections 14-5424 and 14-5425, or previously conferred by the court, and  
43 may at any time relieve ~~him~~ THE CONSERVATOR of any limitation. If the court  
44 limits any power conferred on the conservator by section 14-5424 or 14-5425,

1 the limitation shall be endorsed ~~upon his~~ ON THE CONSERVATOR'S letters of  
2 appointment.

3 B. ~~Upon~~ ON appointment of a conservator for a protected spouse, the  
4 court may determine whether the spouse's share of community property shall be  
5 managed by the conservator or by the other spouse. ~~If the court determines~~  
6 ~~that the community property shall be managed by the other spouse, and if the~~  
7 ~~protected spouse is the husband, the wife may become the manager of the~~  
8 ~~community property during the conservatorship and may dispose of community~~  
9 ~~personal property in the interests of the community.~~

10 Sec. 18. Section 14-9106, Arizona Revised Statutes, is amended to  
11 read:

12 14-9106. Multiple beneficiaries; separate custodial trusts;  
13 survivorship

14 A. Beneficial interests in a custodial trust created for multiple  
15 beneficiaries are deemed to be separate custodial trusts of equal undivided  
16 interests for each beneficiary. Except in a transfer or declaration for use  
17 and benefit of ~~husband and wife~~ A MARRIED COUPLE, for whom survivorship is  
18 presumed, a right of survivorship does not exist unless the instrument  
19 creating the custodial trust specifically provides for survivorship or  
20 survivorship is required as to community or marital property.

21 B. Custodial trust property held under this chapter by the same  
22 custodial trustee for the use and benefit of the same beneficiary may be  
23 administered as a single custodial trust.

24 C. A custodial trustee of custodial trust property held for more than  
25 one beneficiary shall separately account to each beneficiary pursuant to  
26 sections 14-9107 and 14-9115 for the administration of the custodial trust.

27 Sec. 19. Section 23-805, Arizona Revised Statutes, is amended to read:

28 23-805. Right of action for damages; two-year limitation

29 A. When in the course of work in any of the employments or occupations  
30 enumerated in section 23-803, personal injury or death by an accident arising  
31 out of and in the course of ~~such~~ THE labor, service and employment, and due  
32 to a condition or conditions of ~~such~~ THE occupation or employment, is caused  
33 to or suffered by a workman engaged therein, in all cases in which the injury  
34 or death of the employee is not caused by the negligence of the employee  
35 killed or injured, the employer is liable in damages to the employee injured  
36 or, in case death ensues, to the personal representative of the deceased for  
37 the benefit of the surviving ~~widow or husband~~ SPOUSE and children of the  
38 employee or, if none, then to the employee's parents or, if none, then to the  
39 next of kin dependent ~~upon~~ ON the employee or, if none, then to ~~his~~ THE  
40 EMPLOYEE'S personal representative for the benefit of the estate of the  
41 deceased.

42 B. The action shall not be maintained unless IT IS commenced within  
43 two years from the day the claim or cause of action accrued.

1           Sec. 20. Section 23-1046, Arizona Revised Statutes, is amended to  
2 read:

3           23-1046. Death benefits

4           A. In case of an injury causing death, the compensation therefor shall  
5 be known as a death benefit and shall be payable in the amount, for the  
6 period, and to and for the benefit of the following:

7           1. Burial expenses, not to exceed five thousand dollars, in addition  
8 to the compensation.

9           2. To the surviving spouse, if there are no children, sixty-six and  
10 two-thirds ~~per-cent~~ PERCENT of the average monthly wage of the deceased, to  
11 be paid until ~~such~~ THE spouse's death or remarriage, with two years'  
12 compensation in one sum ~~upon~~ ON remarriage. To the surviving spouse if there  
13 are surviving children, thirty-five ~~per-cent~~ PERCENT of the average monthly  
14 wage of the deceased, to be paid until ~~such~~ THE spouse's death or remarriage  
15 with two years' compensation in one sum ~~upon~~ ON remarriage, and to the  
16 surviving children, an additional thirty-one and two-thirds ~~per-cent~~ PERCENT  
17 of the average monthly wage, to be divided equally among them until the age  
18 of eighteen years, until the age of twenty-two years if the child is enrolled  
19 as a full-time student in any accredited educational institution, or if over  
20 eighteen years and incapable of self-support when the child becomes capable  
21 of self-support. When all surviving children are no longer eligible for  
22 benefits, the surviving spouse's benefits shall be paid as if there were no  
23 children. In the event of the subsequent death or remarriage of the  
24 surviving spouse, the surviving child's or children's benefits shall be  
25 computed pursuant to paragraph 3 OF THIS SUBSECTION.

26           3. To a single surviving child, in the case of the subsequent death or  
27 remarriage of a surviving ~~husband-or-wife~~ SPOUSE, or if there is no surviving  
28 ~~husband-or-wife~~ SPOUSE, sixty-six and two-thirds ~~per-cent~~ PERCENT of the  
29 average monthly wage of the deceased, or if there is more than one surviving  
30 child, sixty-six and two-thirds ~~per-cent~~ PERCENT to be divided equally among  
31 the surviving children. Compensation to any such child shall cease ~~upon~~ ON  
32 death, ~~upon~~ ON marriage or ~~upon~~ ON reaching the age of eighteen years,  
33 except, if over eighteen years and incapable of self-support, when ~~he~~ THE  
34 CHILD becomes capable of self-support, or if over eighteen years of age and  
35 enrolled as a full-time student in any accredited educational institution,  
36 when the child reaches age twenty-two.

37           4. To a parent, if there is no surviving ~~husband,-wife~~ SPOUSE or child  
38 under the age of eighteen years, if wholly dependent for support ~~upon~~ ON the  
39 deceased employee at the time of ~~his~~ THE EMPLOYEE'S death, twenty-five  
40 ~~per-cent~~ PERCENT of the average monthly wage of the deceased during  
41 dependency, with an added allowance of fifteen ~~per-cent~~ PERCENT if two  
42 dependent parents survive, and, if neither parent is wholly dependent, but  
43 one or both partly dependent, fifteen ~~per-cent~~ PERCENT divided between them  
44 share and share alike.

1           5. To brothers or sisters under the age of eighteen years, if there is  
2 no surviving ~~husband or wife~~ SPOUSE, dependent children under the age of  
3 eighteen years or dependent parent, the following shall govern:

4           (a) If one of the brothers or sisters is wholly dependent ~~upon~~ ON the  
5 deceased employee for support at the time of injury causing death,  
6 twenty-five ~~per cent~~ PERCENT of the average monthly wage until the age of  
7 eighteen years.

8           (b) If more than one brother or sister is wholly dependent,  
9 thirty-five ~~per cent~~ PERCENT of the average monthly wage at the time of  
10 injury causing death, divided among ~~such~~ THE dependents share and share  
11 alike.

12           (c) If none of the brothers or sisters is wholly dependent, but one or  
13 more are partly dependent, fifteen ~~per cent~~ PERCENT divided among ~~such~~ THE  
14 dependents share and share alike.

15           B. If the deceased employee leaves dependents only partially dependent  
16 ~~upon his~~ ON THE EMPLOYEE'S earnings for support at the time of the injury,  
17 the monthly compensation shall be equal to ~~such~~ THAT proportion of the  
18 monthly payments for the benefit of persons totally dependent as the amount  
19 contributed by the employee to ~~such~~ THE partial dependents bears to the  
20 average wage of the deceased at the time of the injury resulting in ~~his~~ THE  
21 EMPLOYEE'S death. The duration of compensation to partial dependents shall  
22 be fixed by the commission in accordance with the facts shown, and in  
23 accordance with the provisions of section 23-1047, but shall ~~in no case~~ NOT  
24 exceed compensation for one hundred months.

25           C. In the event of death of a dependent before expiration of the time  
26 named in the award, the funeral expenses of ~~such~~ THE person, not to exceed  
27 eight hundred dollars, shall be paid.

28           Sec. 21. Section 23-1064, Arizona Revised Statutes, is amended to  
29 read:

30           23-1064. Presumptions of dependency; determination

31           A. The following persons are conclusively presumed to be totally  
32 dependent for support ~~upon~~ ON a deceased employee:

33           1. A ~~wife upon a husband whom she has~~ SPOUSE ON THE OTHER SPOUSE WHO  
34 WAS not voluntarily abandoned at the time of the injury.

35           ~~2. A husband upon a wife whom he has not voluntarily abandoned at the~~  
36 ~~time of the injury.~~

37           ~~3.~~ 2. A natural, posthumous or adopted child under the age of  
38 eighteen years or under the age of twenty-two years if enrolled as a  
39 full-time student in any accredited educational institution, or over that age  
40 if physically or mentally incapacitated from wage earning, ~~upon~~ ON the  
41 injured parent. Stepparents may be regarded as parents, if dependent, and a  
42 stepchild as a natural child if dependent.

43           B. Questions of dependency and the extent thereof shall be determined  
44 as of the date of the injury to the employee and the dependent's right to any  
45 death benefit shall become fixed as of ~~such~~ THAT time irrespective of any

1 subsequent change in conditions, and the death benefits shall be directly  
2 recoverable by and payable to the dependent entitled thereto.

3 Sec. 22. Heading change

4 The chapter heading of title 25, chapter 2, Arizona Revised Statutes,  
5 is changed from "HUSBAND AND WIFE, PROPERTY AND CONTRACT RIGHTS" to "PROPERTY  
6 AND CONTRACT RIGHTS OF SPOUSES".

7 Sec. 23. Section 25-211, Arizona Revised Statutes, is amended to read:

8 25-211. Property acquired during marriage as community property;  
9 exceptions; effect of service of a petition

10 A. All property acquired by either ~~husband or wife~~ SPOUSE during the  
11 marriage is the community property of the ~~husband and wife~~ MARRIED COUPLE  
12 except for property that is:

13 1. Acquired by gift, devise or descent.

14 2. Acquired after service of a petition for dissolution of marriage,  
15 legal separation or annulment if the petition results in a decree of  
16 dissolution of marriage, legal separation or annulment.

17 B. Notwithstanding subsection A, paragraph 2 OF THIS SECTION, service  
18 of a petition for dissolution of marriage, legal separation or annulment does  
19 not:

20 1. Alter the status of preexisting community property.

21 2. Change the status of community property used to acquire new  
22 property or the status of that new property as community property.

23 3. Alter the duties and rights of either spouse with respect to the  
24 management of community property except as prescribed pursuant to section  
25 25-315, subsection A, paragraph 1, subdivision (a).

26 Sec. 24. Section 25-314, Arizona Revised Statutes, is amended to read:

27 25-314. Pleadings; contents; defense; joinder of parties;  
28 confidentiality

29 A. The verified petition in a proceeding for dissolution of marriage  
30 or legal separation shall allege that the marriage is irretrievably broken or  
31 that one or both of the parties desire to live separate and apart, or, if the  
32 marriage is a covenant marriage, any of the grounds prescribed in section  
33 25-903 or 25-904, whichever is appropriate, and shall set forth:

34 1. The birth date, occupation and address of each party and the length  
35 of domicile in this state.

36 2. The date of the marriage, the place at which it was performed and  
37 whether the marriage is a covenant marriage.

38 3. The names, birth dates and addresses of all living children,  
39 natural or adopted, common to the parties and whether ~~the wife~~ EITHER PARTY  
40 TO THE MARRIAGE is pregnant.

41 4. The details of any agreements between the parties as to support,  
42 custody and parenting time of the children and maintenance of a spouse.

43 5. The relief sought.

1 B. Either party to the marriage may initiate the proceeding.

2 C. The only defense to a petition for the dissolution of a marriage or  
3 legal separation is that the marriage is not irretrievably broken. If the  
4 marriage is a covenant marriage, it is a defense that none of the grounds  
5 alleged for a dissolution of marriage or legal separation prescribed in  
6 section 25-903 or 25-904 are met.

7 D. The court may join additional parties necessary for the exercise of  
8 its authority.

9 E. This section does not require a victim of domestic violence or a  
10 resident of a domestic violence shelter as defined in section 36-3001 to  
11 divulge the person's address, except that a means of communicating with the  
12 resident, such as a post office box or address of the person's attorney, must  
13 be disclosed.

14 Sec. 25. Section 25-1060, Arizona Revised Statutes, is amended to  
15 read:

16 25-1060. Hearing and order

17 A. Unless the court issues a temporary emergency order in accordance  
18 with section 25-1034, on a finding that a petitioner is entitled to immediate  
19 physical custody of the child, the court shall order that the petitioner may  
20 take immediate physical custody of the child unless the respondent  
21 establishes that either of the following is true:

22 1. The child custody determination has not been registered and  
23 confirmed under section ~~25-1053~~ 25-1055 and ~~that~~ any of the following is  
24 true:

25 (a) The issuing court did not have jurisdiction under article 2 of  
26 this chapter.

27 (b) The child custody determination for which enforcement is sought  
28 has been vacated, stayed or modified by a court of a state having  
29 jurisdiction to do so under article 2 of this chapter.

30 (c) The respondent was entitled to notice, but notice was not given in  
31 accordance with section 25-1008, in the proceedings before the court that  
32 issued the order for which enforcement is sought.

33 2. The child custody determination for which enforcement is sought was  
34 registered and confirmed under section 25-1055 but has been vacated, stayed  
35 or modified by a court of a state having jurisdiction to do so under article  
36 2 of this chapter.

37 B. The court shall award the fees, costs and expenses authorized under  
38 section 25-1062, may grant additional relief, including a request for the  
39 assistance of law enforcement officials, and may set a further hearing to  
40 determine whether additional relief is appropriate.

41 C. If a party called to testify refuses to answer on the ground that  
42 the testimony may be self-incriminating, the court may draw an adverse  
43 inference from the refusal.

1 D. A privilege against disclosure of communications between spouses  
2 and a defense of immunity based on THE SPOUSAL RELATIONSHIP OR the  
3 relationship of ~~husband and wife or~~ parent and child shall not be invoked in  
4 a proceeding under this article.

5 Sec. 26. Section 25-1256, Arizona Revised Statutes, is amended to  
6 read:

7 25-1256. Special rules of evidence and procedure

8 A. The physical presence of a nonresident party who is an individual  
9 in a tribunal of this state is not required for the establishment,  
10 enforcement or modification of a support order or the rendition of a judgment  
11 determining parentage of a child.

12 B. An affidavit, a document substantially complying with federally  
13 mandated forms or a document incorporated by reference in any affidavit or  
14 mandated form that would not be excluded under the hearsay rule if given in  
15 person is admissible in evidence if given under penalty of perjury by a party  
16 or witness residing outside this state.

17 C. A copy of the record of child support payments certified as a true  
18 copy of the original by the custodian of the record may be forwarded to a  
19 responding tribunal. The copy is evidence of facts asserted in it and is  
20 admissible to show whether payments were made.

21 D. Copies of bills for testing for parentage of a child and for  
22 prenatal and postnatal health care of the mother and child furnished to the  
23 adverse party at least ten days before trial are admissible in evidence to  
24 prove the amount of the charges billed and that the charges were reasonable,  
25 necessary and customary.

26 E. Documentary evidence transmitted from outside this state to a  
27 tribunal of this state by telephone, fax or other electronic means that do  
28 not provide an original record shall not be excluded from evidence on an  
29 objection based on the means of transmission.

30 F. In a proceeding under this chapter, a tribunal of this state shall  
31 permit a party or witness residing outside this state to be deposed or to  
32 testify under penalty of perjury by telephone, audiovisual means or other  
33 electronic means at a designated tribunal or other location. A tribunal of  
34 this state shall cooperate with other tribunals in designating an appropriate  
35 location for the deposition or testimony.

36 G. If a party called to testify at a civil hearing refuses to answer  
37 on the ground that the testimony may be self-incriminating, the trier of fact  
38 may draw an adverse inference from the refusal.

39 H. A privilege against disclosure of communications between spouses  
40 does not apply in a proceeding under this chapter.

41 I. The defense of immunity based on THE SPOUSAL RELATIONSHIP OR the  
42 relationship of ~~husband and wife or~~ parent and child does not apply in a  
43 proceeding under this chapter.

44 J. A voluntary acknowledgment of paternity, certified as a true copy,  
45 is admissible to establish parentage of the child.

1           Sec. 27. Section 32-2101, Arizona Revised Statutes, is amended to  
2 read:

3           32-2101. Definitions

4           In this chapter, unless the context otherwise requires:

5           1. "Acting in concert" means evidence of collaborating to pursue a  
6 concerted plan.

7           2. "Advertising" means the attempt by publication, dissemination,  
8 exhibition, solicitation or circulation, oral or written, or for broadcast on  
9 radio or television to induce directly or indirectly any person to enter into  
10 any obligation or acquire any title or interest in lands subject to this  
11 chapter including the land sales contract to be used and any photographs,  
12 drawings or artist's presentations of physical conditions or facilities  
13 existing or to exist on the property. Advertising does not include:

14           (a) Press releases or other communications delivered to newspapers,  
15 periodicals or other news media for general information or public relations  
16 purposes if no charge is made by the newspapers, periodicals or other news  
17 media for the publication or use of any part of these communications.

18           (b) Communications to stockholders as follows:

19           (i) Annual reports and interim financial reports.

20           (ii) Proxy materials.

21           (iii) Registration statements.

22           (iv) Securities prospectuses.

23           (v) Applications for listing of securities on stock exchanges.

24           (vi) Prospectuses.

25           (vii) Property reports.

26           (viii) Offering statements.

27           3. "Affiliate" means a person who, directly or indirectly through one  
28 or more intermediaries, controls, is controlled by or is under common control  
29 with the person specified.

30           4. "Associate broker" means a licensed broker WHO IS employed by  
31 another broker. Unless otherwise specifically provided, an associate broker  
32 has the same license privileges as a salesperson.

33           5. "Barrier" means a natural or man-made geographical feature that  
34 prevents parcels of land from being practicably, reasonably and economically  
35 united or reunited and that was not caused or created by the owner of the  
36 parcels.

37           6. "Blanket encumbrance" means any mortgage, any deed of trust or any  
38 other encumbrance or lien securing or evidencing the payment of money and  
39 affecting more than one lot or parcel of subdivided land, or an agreement  
40 affecting more than one lot or parcel by which the subdivider holds the  
41 subdivision under an option, contract to sell or trust agreement. Blanket  
42 encumbrance does not include taxes and assessments THAT ARE levied by public  
43 authority.

44           7. "Board" means the state real estate advisory board.

1           8. "Broker", when used without modification, means a person who is  
2 licensed as a broker under this chapter or who is required to be licensed as  
3 a broker under this chapter.

4           9. "Business broker" means a real estate broker who acts as an  
5 intermediary or agent between sellers or buyers, or both, in the sale or  
6 purchase, or both, of businesses or business opportunities where a lease or  
7 sale of real property is either a direct or incidental part of the  
8 transaction.

9           10. "Camping site" means a space THAT IS designed and promoted for the  
10 purpose of locating any trailer, tent, tent trailer, pickup camper or other  
11 similar device used for camping.

12           11. "Cemetery" or "cemetery property" means any one, or a combination  
13 of more than one, of the following in a place THAT IS used, or intended to be  
14 used, and dedicated for cemetery purposes:

15           (a) A burial park, for earth interments.

16           (b) A mausoleum, for crypt or vault entombments.

17           (c) A crematory, or a crematory and columbarium, for cinerary  
18 interments.

19           (d) A cemetery plot, including interment rights, mausoleum crypts,  
20 niches and burial spaces.

21           12. "Cemetery broker" means a person other than a real estate broker  
22 or real estate salesperson who, for another, for compensation:

23           (a) Sells, leases or exchanges cemetery property or interment services  
24 of or for another, or on the person's own account.

25           (b) Offers for another or for the person's own account to buy, sell,  
26 lease or exchange cemetery property or interment services.

27           (c) Negotiates the purchase and sale, lease or exchange of cemetery  
28 property or interment services.

29           (d) Negotiates the purchase or sale, lease or exchange, or lists or  
30 solicits, or negotiates a loan on or leasing of cemetery property or  
31 interment services.

32           13. "Cemetery salesperson" means a natural person who acts on the  
33 person's own behalf or through and on behalf of a professional limited  
34 liability company or a professional corporation engaged by or on behalf of a  
35 licensed cemetery or real estate broker, or through and on behalf of a  
36 corporation, partnership or limited liability company that is licensed as a  
37 cemetery or real estate broker, to perform any act or transaction included in  
38 the definition of cemetery broker.

39           14. "Commissioner" means the state real estate commissioner.

40           15. "Common promotional plan" means a plan, undertaken by a person or  
41 a group of persons acting in concert, to offer lots for sale or lease. If  
42 the land is offered for sale by a person or group of persons acting in  
43 concert, and the land is contiguous or is known, designated or advertised as  
44 a common unit or by a common name, the land is presumed, without regard to  
45 the number of lots covered by each individual offering, as being offered for

1 sale or lease as part of a common promotional plan. Separate subdividers  
2 selling lots or parcels in separately platted subdivisions within a master  
3 planned community shall not be deemed to be offering their combined lots for  
4 sale or lease as part of a common promotional plan.

5 16. "Compensation" means any fee, commission, salary, money or other  
6 valuable consideration for services THAT IS rendered or to be rendered as  
7 well as the promise of consideration whether contingent or not.

8 17. "Contiguous" means lots, parcels or fractional interests that  
9 share a common boundary or point. Lots, parcels or fractional interests are  
10 not contiguous if they are separated by either of the following:

11 (a) A barrier.

12 (b) A road, street or highway that has been established by this state  
13 or by any agency or political subdivision of this state, that has been  
14 designated by the federal government as an interstate highway or that has  
15 been regularly maintained by this state or by any agency or political  
16 subdivision of this state and has been used continuously by the public for at  
17 least the last five years.

18 18. "Control" or "controlled" means a person who, through ownership,  
19 voting rights, power of attorney, proxy, management rights, operational  
20 rights or other rights, has the right to make decisions binding on an entity,  
21 whether a corporation, a partnership or any other entity.

22 19. "Corporation licensee" means a lawfully organized corporation that  
23 is registered with the Arizona corporation commission and that has an officer  
24 licensed as the designated broker pursuant to section 32-2125.

25 20. "Department" means the state real estate department.

26 21. "Designated broker" means the natural person who is licensed as a  
27 broker under this chapter and who is either:

28 (a) Designated to act on behalf of an employing real estate, cemetery  
29 or membership camping entity.

30 (b) Doing business as a sole proprietor.

31 22. "Developer" means a person who offers real property in a  
32 development for sale, lease or use, either immediately or in the future, on  
33 the person's own behalf or on behalf of another person, under this chapter.  
34 Developer does not include a person whose involvement with a development is  
35 limited to the listing of property within the development for sale, lease or  
36 use.

37 23. "Development" means any division, proposed division or use of real  
38 property that the department has authority to regulate, including subdivided  
39 and unsubdivided lands, cemeteries, condominiums, timeshares, membership  
40 campgrounds and stock cooperatives.

41 24. "Employing broker" means a person who is licensed or is required  
42 to be licensed as a:

43 (a) Broker entity pursuant to section 32-2125, subsection A.

44 (b) Sole proprietorship if the sole proprietor is a broker licensed  
45 pursuant to this chapter.

1           25. "Fractional interest" means an undivided interest in improved or  
2 unimproved land, lots or parcels of any size created for the purpose of sale  
3 or lease and evidenced by any receipt, certificate, deed or other document  
4 conveying the interest. Undivided interests in land, lots or parcels created  
5 in the names of ~~a husband and wife~~ BOTH SPOUSES as community property, joint  
6 tenants or tenants in common, or in the names of other persons who, acting  
7 together as part of a single transaction, acquire the interests without a  
8 purpose to divide the interests for present or future sale or lease, shall be  
9 deemed to constitute only one fractional interest.

10           26. "Improved lot or parcel" means a lot or parcel of a subdivision  
11 ~~upon~~ ON which lot or parcel there is a residential, commercial or industrial  
12 building or concerning which a contract has been entered into between a  
13 subdivider and a purchaser that obligates the subdivider directly, or  
14 indirectly through a building contractor, to complete construction of a  
15 residential, commercial or industrial building on the lot or parcel within  
16 two years from the date on which the contract of sale for the lot is entered  
17 into.

18           27. "Inactive license" means a license THAT IS issued pursuant to  
19 article 2 of this chapter to a licensee who is on inactive status during the  
20 current license period and who is not engaged by or on behalf of a broker.

21           28. "Lease" or "leasing" includes any lease, whether it is the sole,  
22 the principal or any incidental part of a transaction.

23           29. "License" means the whole or part of any agency permit,  
24 certificate, approval, registration, public report, charter or similar form  
25 of permission required by this chapter.

26           30. "License period" means the ~~two-year~~ TWO-YEAR period beginning with  
27 the date of original issue or renewal of a particular license and ending on  
28 the expiration date, if any.

29           31. "Licensee" means a person to whom a license for the current  
30 license period has been granted under any provision of this chapter, and, for  
31 purposes of section 32-2153, subsection A, shall include original license  
32 applicants.

33           32. "Limited liability company licensee" means a lawfully organized  
34 limited liability company that has a member or manager who is a natural  
35 person and who is licensed as the designated broker pursuant to section  
36 32-2125.

37           33. "Lot reservation" means an expression of interest by a prospective  
38 purchaser in buying at some time in the future a subdivided or unsubdivided  
39 lot, unit or parcel in this state. In all cases, a subsequent affirmative  
40 action by the prospective purchaser must be taken to create a contractual  
41 obligation to purchase.

42           34. "Master planned community" means a development that consists of  
43 two or more separately platted subdivisions and that is either subject to a  
44 master declaration of covenants, conditions or restrictions, is subject to  
45 restrictive covenants sufficiently uniform in character to clearly indicate a

1 general scheme for improvement or development of real property or is governed  
2 or administered by a master owner's association.

3 35. "Member" means a member of the real estate advisory board.

4 36. "Membership camping broker" means a person, other than a  
5 salesperson, who, for compensation:

6 (a) Sells, purchases, lists, exchanges or leases membership camping  
7 contracts.

8 (b) Offers to sell, purchase, exchange or lease membership camping  
9 contracts.

10 (c) Negotiates or offers, attempts or agrees to negotiate the sale,  
11 purchase, exchange or lease of membership camping contracts.

12 (d) Advertises or holds himself out as being engaged in the business  
13 of selling, buying, exchanging or leasing membership camping contracts or  
14 counseling or advising regarding membership camping contracts.

15 (e) Assists or directs in the procuring of prospects calculated or  
16 intended to result in the sale, purchase, listing, exchange or lease of  
17 membership camping contracts.

18 (f) Performs any of the foregoing acts as an employee or on behalf of  
19 a membership camping operator or membership contract owner.

20 37. "Membership camping contract" means an agreement **THAT IS** offered  
21 or sold in this state evidencing a purchaser's right or license to use the  
22 camping or outdoor recreation facilities of a membership camping operator and  
23 includes a membership that provides for this use.

24 38. "Membership camping operator" means an enterprise, other than one  
25 that is tax exempt under section 501(c)(3) of the internal revenue code of  
26 1986, as amended, that solicits membership paid for by a fee or periodic  
27 payments and has as one of its purposes camping or outdoor recreation,  
28 including the use of camping sites primarily by members. Membership camping  
29 operator does not include camping or recreational trailer parks that are open  
30 to the general public and that contain camping sites rented for a per use fee  
31 or a mobile home park.

32 39. "Membership camping salesperson" means a natural person who acts  
33 on the person's own behalf or through and on behalf of a professional limited  
34 liability company or a professional corporation engaged by or on behalf of a  
35 licensed membership camping or real estate broker, or by or on behalf of a  
36 corporation, partnership or limited liability company that is licensed as a  
37 membership camping or real estate broker, to perform any act or participate  
38 in any transaction in a manner included in the definition of membership  
39 camping broker.

40 40. "Partnership licensee" means a partnership with a managing general  
41 partner who is licensed as the designated broker pursuant to section 32-2125.

42 41. "Permanent access", as required under article 4 of this chapter,  
43 means permanent access from the subdivision to any federal, state or county  
44 highway.

1           42. "Perpetual or endowed-care cemetery" means a cemetery wherein lots  
2 or other burial spaces are sold or transferred under the representation that  
3 the cemetery will receive "perpetual" or "endowed" care as defined in this  
4 section free of further cost to the purchaser after payment of the original  
5 purchase price for the lot, burial space or interment right.

6           43. "Perpetual-care" or "endowed-care" means the maintenance and care  
7 of all places where interments have been made of the trees, shrubs, roads,  
8 streets and other improvements and embellishments contained within or forming  
9 a part of the cemetery. This shall not include the maintenance or repair of  
10 monuments, tombs, copings or other man-made ornaments as associated with  
11 individual burial spaces.

12           44. "Person" means any individual, corporation, partnership or company  
13 and any other form of multiple organization for carrying on business, foreign  
14 or domestic.

15           45. "Private cemetery" means a cemetery or place that is not licensed  
16 under article 6 of this chapter, where burials or interments of human remains  
17 are made, in which sales or transfers of interment rights or burial plots are  
18 not made to the public and in which not more than ten interments or burials  
19 occur annually.

20           46. "Promotion" or "promotional practice" means advertising and any  
21 other act, practice, device or scheme to induce directly or indirectly any  
22 person to enter into any obligation or acquire any title or interest in or  
23 use of real property subject to this chapter, including meetings with  
24 prospective purchasers, arrangements for prospective purchasers to visit real  
25 property, travel allowances and discount, exchange, refund and cancellation  
26 privileges.

27           47. "Real estate" includes leasehold-interests and any estates in land  
28 as defined in title 33, chapter 2, articles 1 and 2, regardless of whether  
29 located in this state.

30           48. "Real estate broker" means a person, other than a salesperson,  
31 who, for another and for compensation:

32           (a) Sells, exchanges, purchases, rents or leases real estate,  
33 businesses and business opportunities or timeshare interests.

34           (b) Offers to sell, exchange, purchase, rent or lease real estate,  
35 businesses and business opportunities or timeshare interests.

36           (c) Negotiates or offers, attempts or agrees to negotiate the sale,  
37 exchange, purchase, rental or leasing of real estate, businesses and business  
38 opportunities or timeshare interests.

39           (d) Lists or offers, attempts or agrees to list real estate,  
40 businesses and business opportunities or timeshare interests for sale, lease  
41 or exchange.

42           (e) Auctions or offers, attempts or agrees to auction real estate,  
43 businesses and business opportunities or timeshare interests.

1 (f) Buys, sells, offers to buy or sell or otherwise deals in options  
2 on real estate, businesses and business opportunities or timeshare interests  
3 or improvements to real estate, businesses and business opportunities or  
4 timeshare interests.

5 (g) Collects or offers, attempts or agrees to collect rent for the use  
6 of real estate, businesses and business opportunities or timeshare interests.

7 (h) Advertises or holds himself out as being engaged in the business  
8 of buying, selling, exchanging, renting or leasing real estate, businesses  
9 and business opportunities or timeshare interests or counseling or advising  
10 regarding real estate, businesses and business opportunities or timeshare  
11 interests.

12 (i) Assists or directs in the procuring of prospects, calculated to  
13 result in the sale, exchange, leasing or rental of real estate, businesses  
14 and business opportunities or timeshare interests.

15 (j) Assists or directs in the negotiation of any transaction  
16 calculated or intended to result in the sale, exchange, leasing or rental of  
17 real estate, businesses and business opportunities or timeshare interests.

18 (k) Incident to the sale of real estate, businesses and business  
19 opportunities negotiates or offers, attempts or agrees to negotiate a loan  
20 secured or to be secured by any mortgage or other encumbrance ~~upon~~ ON or  
21 transfer of real estate, businesses and business opportunities or timeshare  
22 interests subject to section 32-2155, subsection C. This subdivision does  
23 not apply to mortgage brokers as defined in and subject to title 6, chapter  
24 9, article 1.

25 (l) Engages in the business of assisting or offering to assist another  
26 in filing an application for the purchase or lease of, or in locating or  
27 entering ~~upon~~ ON, lands owned by the state or federal government.

28 (m) Claims, demands, charges, receives, collects or contracts for the  
29 collection of an advance fee in connection with any employment enumerated in  
30 this section, including employment undertaken to promote the sale or lease of  
31 real property by advance fee listing, by furnishing rental information to a  
32 prospective tenant for a fee paid by the prospective tenant, by advertisement  
33 or by any other offering to sell, lease, exchange or rent real property or  
34 selling kits connected therewith. This shall not include the activities of  
35 any communications media of general circulation or coverage not primarily  
36 engaged in the advertisement of real estate or any communications media  
37 activities that are specifically exempt from applicability of this article  
38 under section 32-2121.

39 (n) Engages in any of the acts listed in subdivisions (a) through (m)  
40 of this paragraph for the sale or lease of other than real property if a real  
41 property sale or lease is a part of, contingent on or ancillary to the  
42 transaction.

43 (o) Performs any of the acts listed in subdivisions (a) through (m) of  
44 this paragraph as an employee of, or in behalf of, the owner of real estate,

1 or interest in the real estate, or improvements affixed on the real estate,  
2 for compensation.

3 (p) Acts as a business broker.

4 49. "Real estate sales contract" means an agreement in which one party  
5 agrees to convey title to real estate to another party ~~upon~~ ON the  
6 satisfaction of specified conditions set forth in the contract.

7 50. "Real estate salesperson" means a natural person who acts on the  
8 person's own behalf or through and on behalf of a professional limited  
9 liability company or a professional corporation engaged by or on behalf of a  
10 licensed real estate broker, or by or on behalf of a limited liability  
11 company, partnership or corporation that is licensed as a real estate broker,  
12 to perform any act or participate in any transaction in a manner included in  
13 the definition of real estate broker subject to section 32-2155.

14 51. "Sale" or "lease" includes every disposition, transfer, option or  
15 offer or attempt to dispose of or transfer real property, or an interest, use  
16 or estate in the real property, including the offering of the property as a  
17 prize or gift if a monetary charge or consideration for whatever purpose is  
18 required.

19 52. "Salesperson", when used without modification, means a natural  
20 person who acts on the person's own behalf or through and on behalf of a  
21 professional limited liability company or a professional corporation licensed  
22 under this chapter or any person required to be licensed as a salesperson  
23 under this chapter.

24 53. "School" means a person or entity that offers a course of study  
25 towards completion of the education requirements leading to licensure or  
26 renewal of licensure under this chapter.

27 54. "Stock cooperative" means a corporation to which all of the  
28 following apply:

29 (a) The corporation is formed or used to hold title to improved real  
30 property in fee simple or for a term of years.

31 (b) All or substantially all of the shareholders of the corporation  
32 each receive a right of exclusive occupancy in a portion of the real property  
33 to which the corporation holds title.

34 (c) The right of occupancy may only be transferred with the concurrent  
35 transfer of the shares of stock in the corporation held by the person having  
36 the right of occupancy.

37 55. "Subdivider" means any person who offers for sale or lease six or  
38 more lots, parcels or fractional interests in a subdivision or who causes  
39 land to be subdivided into a subdivision for the subdivider or for others, or  
40 who undertakes to develop a subdivision, but does not include a public agency  
41 or officer authorized by law to create subdivisions.

42 56. "Subdivision" or "subdivided lands":

43 (a) Means improved or unimproved land or lands divided or proposed to  
44 be divided for the purpose of sale or lease, whether immediate or future,  
45 into six or more lots, parcels or fractional interests.

1 (b) Includes a stock cooperative, lands divided or proposed to be  
2 divided as part of a common promotional plan and residential condominiums as  
3 defined in title 33, chapter 9.

4 (c) Does not include:

5 (i) Leasehold offerings of one year or less.

6 (ii) The division or proposed division of land located in this state  
7 into lots or parcels each of which is or will be thirty-six acres or more in  
8 area including to the centerline of dedicated roads or easements, if any,  
9 contiguous to the lot or parcel.

10 (iii) The leasing of agricultural lands or apartments, offices,  
11 stores, hotels, motels, pads or similar space within an apartment building,  
12 industrial building, rental recreational vehicle community, rental  
13 manufactured home community, rental mobile home park or commercial building.

14 (iv) The subdivision into or development of parcels, plots or  
15 fractional portions within the boundaries of a cemetery that has been formed  
16 and approved pursuant to this chapter.

17 (v) A sale or lease of a lot, parcel or fractional interest that  
18 occurs ten or more years after the sale or lease of another lot, parcel or  
19 fractional interest if the other lot, parcel or fractional interest is not  
20 subject to this article and is treated as an independent parcel unless, ~~upon~~  
21 ~~ON~~ investigation by the commissioner, there is evidence of intent to  
22 subdivide.

23 57. "Timeshare" or "timeshare property" means real property ownership  
24 or right of occupancy in real property pursuant to article 9 of this chapter.  
25 For the purposes of this chapter, a timeshare is not a security unless it  
26 meets the definition of a security under section 44-1801.

27 58. "Trustee" means:

28 (a) A person ~~WHO IS~~ designated under section 32-2194.27 to act as a  
29 trustee for an endowment-care cemetery fund.

30 (b) A person holding bare legal title to real property under a  
31 subdivision trust. A trustee shall not be deemed to be a developer,  
32 subdivider, broker or salesperson within this chapter.

33 59. "Unimproved lot or parcel" means a lot or parcel of a subdivision  
34 that is not an improved lot or parcel.

35 60. "Unsubdivided lands":

36 (a) Means land or lands divided or proposed to be divided for the  
37 purpose of sale or lease, whether immediate or future, into six or more lots,  
38 parcels or fractional interests and the lots or parcels are thirty-six acres  
39 or more each but less than one hundred sixty acres each, or that are offered,  
40 known or advertised under a common promotional plan for sale or lease, except  
41 that agricultural leases shall not be included in this definition.

42 (b) Includes any land that is sold that would otherwise constitute the  
43 sixth lot, parcel or fractional interest if the sale occurs ten or more years  
44 after the earliest of the previous five sales and if all of the sales consist

1 of property that was originally contained within the same parcel that is  
2 thirty-six acres or more and less than one hundred sixty acres.

3 Sec. 28. Section 33-405, Arizona Revised Statutes, is amended to read:  
4 33-405. Beneficiary deeds; recording; definitions

5 A. A deed that conveys an interest in real property, including any  
6 debt secured by a lien on real property, to a grantee beneficiary designated  
7 by the owner and that expressly states that the deed is effective on the  
8 death of the owner transfers the interest to the designated grantee  
9 beneficiary effective on the death of the owner subject to all conveyances,  
10 assignments, contracts, mortgages, deeds of trust, liens, security pledges  
11 and other encumbrances made by the owner or to which the owner was subject  
12 during the owner's lifetime.

13 B. A beneficiary deed may designate multiple grantees who take title  
14 as joint tenants with right of survivorship, tenants in common, a ~~husband and~~  
15 ~~wife~~ MARRIED COUPLE as community property or as community property with right  
16 of survivorship, or any other tenancy that is valid under the laws of this  
17 state.

18 C. A beneficiary deed may designate a successor grantee  
19 beneficiary. If the beneficiary deed designates a successor grantee  
20 beneficiary, the deed shall state the condition on which the interest of the  
21 successor grantee beneficiary would vest.

22 D. If real property is owned as joint tenants with the right of  
23 survivorship or as community property with the right of survivorship, a deed  
24 that conveys an interest in the real property to a grantee beneficiary  
25 designated by all of the then surviving owners and that expressly states that  
26 the deed is effective on the death of the last surviving owner transfers the  
27 interest to the designated grantee beneficiary effective on the death of the  
28 last surviving owner. If a beneficiary deed is executed by fewer than all of  
29 the owners of real property owned as joint tenants with right of survivorship  
30 or community property with right of survivorship, the beneficiary deed is  
31 valid if the last surviving owner is one of the persons who executes the  
32 beneficiary deed. If the last surviving owner did not execute the  
33 beneficiary deed, the transfer shall lapse and the deed is void. An estate  
34 in joint tenancy with right of survivorship or community property with right  
35 of survivorship is not affected by the execution of a beneficiary deed that  
36 is executed by fewer than all of the owners of the real property, and the  
37 rights of a surviving joint tenant with right of survivorship or a surviving  
38 spouse in community property with right of survivorship shall prevail over a  
39 grantee beneficiary named in a beneficiary deed.

40 E. A beneficiary deed is valid only if the deed is executed and  
41 recorded as provided by law in the office of the county recorder of the  
42 county in which the property is located before the death of the owner or the  
43 last surviving owner. A beneficiary deed may be used to transfer an interest  
44 in real property to the trustee of a trust even if the trust is revocable.

1 F. A beneficiary deed may be revoked at any time by the owner or, if  
2 there is more than one owner, by any of the owners who executed the  
3 beneficiary deed. To be effective, the revocation must be executed and  
4 recorded as provided by law in the office of the county recorder of the  
5 county in which the real property is located before the death of the owner  
6 who executes the revocation. If the real property is owned as joint tenants  
7 with right of survivorship or community property with right of survivorship  
8 and if the revocation is not executed by all the owners, the revocation is  
9 not effective unless executed by the last surviving owner.

10 G. If an owner executes and records more than one beneficiary deed  
11 concerning the same real property, the last beneficiary deed that is recorded  
12 before the owner's death is the effective beneficiary deed.

13 H. This section does not prohibit other methods of conveying property  
14 that are permitted by law and that have the effect of postponing enjoyment of  
15 an interest in real property until the death of the owner. This section does  
16 not invalidate any deed otherwise effective by law to convey title to the  
17 interests and estates provided in the deed that is not recorded until after  
18 the death of the owner.

19 I. The signature, consent or agreement of or notice to a grantee  
20 beneficiary of a beneficiary deed is not required for any purpose during the  
21 lifetime of the owner.

22 J. A beneficiary deed that is executed, acknowledged and recorded in  
23 accordance with this section is not revoked by the provisions of a will.

24 K. A beneficiary deed is sufficient if it complies with other  
25 applicable laws and if it is in substantially the following form:

26 Beneficiary Deed

27 I (we) \_\_\_\_\_ (owner) hereby convey to  
28 \_\_\_\_\_ (grantee beneficiary) effective on  
29 my (our) death the following described real property:

30 (Legal description)

31 If a grantee beneficiary predeceases the owner, the  
32 conveyance to that grantee beneficiary shall either (choose  
33 one):

- 34  Become null and void.
- 35  Become part of the estate of the grantee beneficiary.

36 \_\_\_\_\_  
37 (Signature of grantor(s))

38 (acknowledgment).

39 L. The instrument of revocation shall be sufficient if it complies  
40 with other applicable laws and is in substantially the following form:

Revocation of Beneficiary Deed

The undersigned hereby revokes the beneficiary deed recorded on \_\_\_\_\_ (date), in docket or book \_\_\_\_\_ at page \_\_\_\_\_, or instrument number \_\_\_\_\_, records of \_\_\_\_\_ county, Arizona.

Dated: \_\_\_\_\_

Signature

(acknowledgment).

M. For the purposes of this section:

1. "Beneficiary deed" means a deed authorized under this section.

2. "Owner" means any person who executes a beneficiary deed as provided in this section.

Sec. 29. Section 33-431, Arizona Revised Statutes, is amended to read:

33-431. Grants and devises to two or more persons; estates in common; community property with right of survivorship; joint tenants with right of survivorship

A. Except as otherwise provided in this section, all grants and devises of real property made to two or more persons create estates in common and not in joint tenancy, except grants or devises in trust, or to executors, or to ~~husband and wife~~ A MARRIED COUPLE.

B. A grant or devise to two or more persons may by express words vest the estate in the survivor on the death of a grantee or devisee when expressly declared in the grant, transfer or devise to be a joint tenancy with right of survivorship. An estate in joint tenancy with right of survivorship may also be created by grant or transfer from a sole owner to himself and others, or from two or more owners to themselves or to one or more of them and others.

C. A grant or devise to a ~~husband and wife~~ MARRIED COUPLE may by express words vest the estate in the surviving spouse on the death of one of the spouses when expressly declared in the grant, transfer or devise to be an estate in community property with right of survivorship. An estate in community property with right of survivorship may also be created by grant or transfer from a ~~husband and wife~~ MARRIED COUPLE, when holding title as community property or otherwise, to themselves or from either ~~husband or wife~~ SPOUSE to both ~~husband and wife~~ SPOUSES.

D. In the case of real property owned by a ~~husband and wife~~ MARRIED COUPLE as community property with right of survivorship, the right of survivorship is extinguished as provided in section 14-2804 or on the recordation in the office of the recorder of the county or counties where the real property is located OF an affidavit entitled "affidavit terminating right of survivorship" executed by either spouse under oath that sets forth a stated intent by the spouse to terminate the survivorship right, a description of the instrument by which the right of survivorship was created

1 including the date the instrument was recorded and the county recorder's book  
2 and page or instrument reference number and the legal description of the real  
3 property affected by the affidavit. The recordation shall not extinguish the  
4 community interest of either spouse.

5 E. In the case of real property owned as joint tenants with right of  
6 survivorship, the right of survivorship is extinguished as provided in  
7 section 14-2804 or on the recordation in the office of the recorder of the  
8 county or counties where the real property is located ~~OF~~ an affidavit  
9 entitled "affidavit terminating right of survivorship" executed by any joint  
10 tenant under oath that sets forth a stated intent by that joint tenant to  
11 terminate the survivorship right, a description of the instrument by which  
12 the right of survivorship was created including the date the instrument was  
13 recorded and the county recorder's book and page or instrument reference  
14 number and the legal description of the real property affected by the  
15 affidavit. If there are more than two joint tenants, the recordation of the  
16 affidavit shall extinguish only the joint tenancy and survivorship right of  
17 the person who executes the affidavit, and the joint tenancy and survivorship  
18 right shall continue among all remaining joint tenants who have not executed  
19 an affidavit of termination.

20 F. With respect to a deceased joint tenant, the termination or  
21 extinguishment by death of that tenant's joint tenancy with right of  
22 survivorship may be evidenced by the recordation of both of the following  
23 items in the office of the recorder of the county or counties where the real  
24 property is located:

25 1. An affidavit executed by one or more of the surviving joint tenants  
26 that includes the name of the deceased joint tenant, the date of death of the  
27 deceased joint tenant, a description of the instrument by which the right of  
28 survivorship was created including the date the instrument was recorded and  
29 the county recorder's book and page or instrument reference number, the legal  
30 description of the real property affected by the affidavit, and the cause of  
31 death of the deceased joint tenant.

32 2. An attached death certificate of the deceased joint tenant.

33 Sec. 30. Section 33-452, Arizona Revised Statutes, is amended to read:

34 ~~33-452.~~ Conveyance of community property

35 A conveyance or ~~incumbrance~~ ENCUMBRANCE of community property is not  
36 valid unless executed and acknowledged by both ~~husband and wife~~ SPOUSES,  
37 except unpatented mining claims ~~which~~ THAT may be conveyed or ~~incumbered~~  
38 ENCUMBERED by the spouse having the title or right of possession without the  
39 other spouse joining in the conveyance or ~~incumbrance~~ ENCUMBRANCE.

40 Sec. 31. Section 33-454, Arizona Revised Statutes, is amended to read:

41 ~~33-454.~~ Power of attorney from one spouse to the other to  
42 execute instruments relating to property

43 Either ~~husband or wife~~ SPOUSE may authorize the other by power of  
44 attorney, executed and acknowledged in the manner conveyances of real  
45 property are executed and acknowledged, to execute, acknowledge and deliver,

1 in ~~his or her~~ THAT SPOUSE'S name and behalf, any conveyance, mortgage or  
2 other instrument affecting the separate or community property or any interest  
3 therein of the spouse executing the power of attorney.

4 Sec. 32. Section 33-457, Arizona Revised Statutes, is amended to read:

5 33-457. Fraudulent representation by married person of ability  
6 to convey realty; violation; classification

7 A married person who falsely and fraudulently represents ~~himself or~~  
8 ~~herself~~ THAT PERSON as competent to sell or mortgage real estate, when the  
9 validity of the sale or mortgage requires the assent or concurrence of the  
10 ~~wife or husband~~ OTHER SPOUSE, and, under ~~such~~ THE representations, knowingly  
11 conveys or mortgages the real estate, is guilty of a class 5 felony.

12 Sec. 33. Section 36-832, Arizona Revised Statutes, is amended to read:

13 36-832. Authorization for post-mortem examination

14 A. In addition to the provisions set forth in section 11-597,  
15 whichever of the following assumes custody of the body for purposes of burial  
16 may give permission to a licensed physician to conduct a post-mortem  
17 examination:

- 18 1. Father.
- 19 2. Mother.
- 20 3. ~~Husband~~ SPOUSE.
- 21 ~~4. Wife.~~
- 22 ~~5.~~ 4. Adult child.
- 23 ~~6.~~ 5. Guardian.
- 24 ~~7.~~ 6. Next of kin.

25 B. In the absence of any of the persons named in subsection A of this  
26 section, a friend or one charged with the responsibility of burial may give  
27 permission to a licensed physician to conduct a post-mortem examination.

28 Sec. 34. Section 42-2079, Arizona Revised Statutes, is amended to  
29 read:

30 42-2079. Suspension of liabilities by reason of disasters,  
31 terroristic or military actions or states of  
32 emergency; definitions

33 A. Notwithstanding sections 42-1107 and 42-1123, the director shall  
34 specify a period of up to one year to extend any due date and suspend any  
35 penalty or interest that would ordinarily accrue during that time for any  
36 affected taxpayer in any of the following circumstances:

37 1. Section 7508A of the internal revenue code relating to disasters  
38 and terroristic and military actions applies.

39 2. The governor has declared a state of emergency pursuant to section  
40 26-303, subsection D.

41 B. Notwithstanding section 42-1123, interest shall not accrue on any  
42 unpaid tax during the time determined under subsection A of this section for  
43 any affected taxpayer.

1 C. For the purposes of this section:  
2 1. "Affected taxpayer" means:  
3 (a) An individual whose principal residence is located in a covered  
4 area.  
5 (b) A business entity or sole proprietor whose principal place of  
6 business is located in a covered area.  
7 (c) An individual who is a relief worker affiliated with a recognized  
8 government or philanthropic organization and who is assisting in a covered  
9 area.  
10 (d) An individual, business entity or sole proprietor whose records  
11 necessary to meet a tax filing or paying deadline are maintained in a covered  
12 area.  
13 (e) The spouse of an affected taxpayer, solely with regard to a joint  
14 return of the ~~husband and wife~~ MARRIED COUPLE.  
15 (f) Any other person determined by the director to be affected  
16 pursuant to subsection A of this section.  
17 2. "Covered area" means a geographical area to which subsection A of  
18 this section applies.  
19 Sec. 35. Section 43-301, Arizona Revised Statutes, is amended to read:  
20 43-301. Individual returns; definition  
21 A. An individual whose income is taxable under this title shall file a  
22 return with the department if, for the taxable year, the individual has any  
23 of the following:  
24 1. An Arizona adjusted gross income of five thousand five hundred  
25 dollars or over, if single or married filing a separate return.  
26 2. An Arizona adjusted gross income of eleven thousand dollars or  
27 over, if married filing a joint return pursuant to section 43-309.  
28 3. A gross income of fifteen thousand dollars or over, regardless of  
29 the amount of taxable income.  
30 B. In the case of a ~~husband and wife~~ MARRIED COUPLE, the spouse who  
31 controls the disposition of or who receives or spends community income as  
32 well as the spouse who is taxable on such income is liable for the payment of  
33 taxes imposed by this title on such income. If a joint return is filed, the  
34 liability for the tax on the aggregate income is joint and several.  
35 C. This section applies regardless of whether an individual is  
36 required to file a return under the internal revenue code or whether the  
37 individual has any federal adjusted gross income for the taxable year.  
38 D. For the purposes of this section, "gross income" means gross income  
39 as defined in the internal revenue code minus income included in gross income  
40 but excluded from taxation under this title.  
41 Sec. 36. Section 43-309, Arizona Revised Statutes, is amended to read:  
42 43-309. Joint returns of a married couple  
43 If ~~a husband and wife are~~ EACH SPOUSE IS required to file a return  
44 pursuant to section 43-301, they may file a joint return under the following  
45 conditions:

1           1. ~~No~~ A joint return shall NOT be made if ~~husband and wife have~~ EACH  
2 SPOUSE HAS A different taxable ~~years~~ YEAR. If such taxable years begin on  
3 the same day and end on different days because of the death of either or of  
4 both, then the joint return may be made with respect to the taxable year of  
5 each. Such exception shall not apply if the surviving spouse remarried  
6 before the close of ~~his~~ THAT SPOUSE'S taxable year, nor if the taxable year  
7 of either spouse is a fractional part of a year under section 43-931,  
8 subsection A.

9           2. In the case of the death of one or both spouses, the joint return  
10 with respect to the decedent may be made only by ~~his~~ THE executor or  
11 administrator, except that in the case of the death of one spouse the joint  
12 return may be made by the surviving spouse with respect to both ~~himself~~ THE  
13 SURVIVING SPOUSE and the decedent if all of the following apply:

14           (a) No return for the taxable year has been made by the decedent.

15           (b) No executor or administrator has been appointed.

16           (c) No executor or administrator is appointed before the last day  
17 prescribed by law for filing the return of the surviving spouse. If an  
18 executor or administrator of the decedent is appointed after the making of  
19 the joint return by the surviving spouse, the executor or administrator may  
20 disaffirm such joint return by making, within one year after the last day  
21 prescribed by law for filing the return of the surviving spouse, a separate  
22 return for the taxable year of the decedent with respect to which the joint  
23 return was made, in which case the return made by the survivor shall  
24 constitute ~~his~~ THE SURVIVING SPOUSE'S separate return.

25           3. For THE purposes of this section, the status as ~~husband and wife~~ A  
26 MARRIED COUPLE of two individuals having taxable years beginning on the same  
27 day shall be determined:

28           (a) If both have the same taxable year, as of the close of such year.

29           (b) If one dies before the close of the taxable year of the other, as  
30 of the time of such death.

31           Sec. 37. Section 43-310, Arizona Revised Statutes, is amended to read:

32           43-310. Separate returns after filing joint returns

33           A. If a ~~husband and wife have~~ MARRIED COUPLE HAS filed a joint return  
34 for a taxable year for which separate returns could have been made by them  
35 under section 43-309, and the time prescribed by this title for filing the  
36 return for such taxable year has expired, the spouses may nevertheless make  
37 separate returns for such taxable year. Separate returns filed by the  
38 spouses in such a case shall constitute their returns for such taxable year,  
39 and all payments, credits, refunds or other repayments made or allowed with  
40 respect to the joint return for such taxable year shall be taken into account  
41 in determining the extent to which the taxes based on the separate returns  
42 have been paid.

43           B. Separate returns may be filed under subsection A of this section  
44 only if there is paid in full all of the following, at or before the time of  
45 filing such returns:

- 1           1. All amounts previously assessed with respect to both spouses for  
2 such taxable year.
- 3           2. All amounts shown as the tax by the spouses upon their joint return  
4 for such taxable year.
- 5           3. Any amount determined, at the time of the filing of the separate  
6 returns, as a deficiency with respect to the spouses for such taxable year,  
7 if, prior to such A filing, a notice of proposed deficiency under section  
8 42-1108 has been mailed.
- 9           C. Separate returns may not be filed under subsection A of this  
10 section:
- 11           1. After the expiration of four years from the last date prescribed by  
12 this title for filing the return for such taxable year, determined without  
13 regard to any extension of time granted for the filing of the joint return.
- 14           2. After there has been mailed to the spouses, with respect to such  
15 taxable year, a notice of deficiency under section 42-1108, or if the  
16 spouses, as to such notice, appeal to the department under section 42-1251,  
17 or appeal to the state board under section 42-1253.
- 18           3. After the spouses have commenced a suit in court for the recovery  
19 of any part of the tax paid for the taxable year with respect to the joint  
20 return.
- 21           4. After the spouses have entered into a closing agreement under  
22 section 42-1113, with respect to such taxable year as to the tax payable by  
23 the spouse under their joint return.
- 24           D. If separate returns are made under subsection A of this section,  
25 any election, other than the election to file the joint return, made by the  
26 spouses in their joint return for such taxable year with respect to the  
27 treatment of any income, deduction or credit shall not be changed in the  
28 making of the separate returns where such election would have been  
29 irrevocable if the separate returns had not been filed.
- 30           E. If separate returns are made under subsection A of this section  
31 after the death of either spouse, such return with respect to the decedent  
32 may be made only by the decedent's personal representative.
- 33           F. Where the aggregate amount of the taxes shown by the spouses on  
34 their separate returns filed pursuant to subsection A of this section exceeds  
35 the tax shown on their joint return:
- 36           1. If any of such excess is attributable to negligence or intentional  
37 disregard of rules ~~and regulations~~ of the department, but without intent to  
38 defraud, at the time of making the joint return, then five ~~per cent~~ PERCENT  
39 of the total amount of such excess on each return shall be assessed,  
40 collected and paid as if it were a deficiency.
- 41           2. If any part of such excess is attributable to fraud with intent to  
42 evade tax at the time of the making of the joint return, then fifty ~~per cent~~  
43 PERCENT of the total amount of such excess shall be so assessed, collected  
44 and paid, in lieu of the fifty ~~per cent~~ PERCENT addition to the tax provided  
45 in section 42-1125.

1 G. For the purposes of section 42-1104, relating to periods of  
2 limitations upon assessment and collection, and for the purposes of section  
3 42-1125, subsection A, relating to delinquent returns, separate returns made  
4 under this section shall be deemed to have been filed on the date on which  
5 the joint return was filed.

6 H. For the purposes of section 42-1118, relating to refunds and  
7 credits, separate returns made under this section shall be deemed to have  
8 been filed on the last date prescribed by this title for filing the return  
9 for such taxable year, determined without regard to any extension of time  
10 granted for the filing of the joint return.

11 I. If separate returns are made under subsection A of this section,  
12 the period of limitations provided in section 42-1104 on the making of  
13 assessments and collecting taxes shall, with respect to such returns, include  
14 one year immediately after the date of filing of such separate returns,  
15 computed without regard to the provisions of subsection G of this section.

16 J. For the purposes of section 42-1125, relating to penalties in the  
17 case of fraudulent returns, ~~the term~~ "return" includes a joint return filed  
18 by spouses with respect to a taxable year for which separate returns are made  
19 under subsection A of this section after the filing of such joint return.

20 Sec. 38. Section 43-311, Arizona Revised Statutes, is amended to read:

21 43-311. Joint return after filing separate return

22 A. If an individual has filed a separate return for a taxable year for  
23 which the individual and spouse could have filed a joint return under section  
24 43-309, and the time prescribed by this title for filing the return for such  
25 taxable year has expired, such individual and spouse may nevertheless make a  
26 joint return for such taxable year. A joint return filed by the ~~husband and~~  
27 ~~wife~~ MARRIED COUPLE for such taxable year, and all payments, credits, refunds  
28 or other repayments made or allowed with respect to the separate return of  
29 either spouse for such taxable year, shall be taken into account in  
30 determining the extent to which the tax based ~~upon~~ ON the joint return has  
31 been paid.

32 B. A joint return may be made under subsection A of this section only  
33 if there is paid in full at or before the time of the filing of the joint  
34 return:

35 1. All amounts previously assessed with respect to either spouse for  
36 such taxable year.

37 2. All amounts shown as the tax by either spouse ~~upon his or her~~ ON  
38 THAT SPOUSE'S separate return for such taxable year.

39 3. Any amount determined, at the time of the filing of the joint  
40 return, as a proposed deficiency with respect to either spouse for such  
41 taxable year if, prior to such filing, a notice under section 42-1108 of such  
42 proposed deficiency has been mailed.

1 C. A joint return may not be made under subsection A of this section:  
2 1. After the expiration of four years from the last date prescribed by  
3 law for filing the return for such taxable year, determined without regard to  
4 any extension of time granted to either spouse.  
5 2. After there has been mailed to either spouse, with respect to such  
6 taxable year, a notice of deficiency under section 42-1108, if the spouse, as  
7 to such notice, appeals to the department under section 42-1251, or appeals  
8 to the state board under section 42-1253.  
9 3. After either spouse has commenced a suit in any court for the  
10 recovery of any part of the tax for such taxable year.  
11 4. After either spouse has entered into a closing agreement under  
12 section 42-1113, with respect to such taxable year.  
13 D. If a joint return is made under subsection A of this section, any  
14 election, other than the election to file a separate return, made by either  
15 spouse in the separate return for such taxable year with respect to the  
16 treatment of any income, deduction or credit of such spouse shall not be  
17 changed in the making of the joint return where such election would have been  
18 irrevocable if the joint return had not been made.  
19 E. If a joint return is made under subsection A of this section after  
20 the death of either spouse, such return with respect to the decedent may be  
21 made only by the decedent's personal representative.  
22 F. Where the amount shown as the tax by the ~~husband and wife~~ MARRIED  
23 COUPLE on a joint return made under subsection A of this section exceeds the  
24 aggregate of the amounts shown as the tax ~~upon~~ ON the separate return of each  
25 spouse:  
26 1. If any part of such excess is attributable to negligence or  
27 intentional disregard of rules ~~and regulations~~, but without intent to  
28 defraud, at the time of the making of such separate return, then five ~~per~~  
29 ~~cent~~ PERCENT of the total amount of such excess shall be assessed, collected  
30 and paid as if it were a deficiency.  
31 2. If any part of such excess is attributable to fraud with intent to  
32 evade tax at the time of the making of such separate return, then fifty ~~per~~  
33 ~~cent~~ PERCENT of the total amount of such excess shall be so assessed,  
34 collected and paid in lieu of the fifty ~~per cent~~ PERCENT addition to the tax  
35 provided in section 42-1125.  
36 G. For the purposes of section 42-1104, relating to periods of  
37 limitations upon assessment and collection, and for the purposes of section  
38 42-1125, subsection A, relating to delinquent returns, a joint return made  
39 under this section shall be deemed to have been filed:  
40 1. Where both spouses filed separate returns prior to making the joint  
41 return, on the date the last separate return was filed, but not earlier than  
42 the last date prescribed by this title for filing the return of either  
43 spouse.  
44 2. Where one spouse filed a separate return prior to the making of the  
45 joint return, and the other spouse had less than one thousand dollars of

1 taxable income and less than five thousand dollars of gross income for such  
 2 taxable year, on the date of the filing of such separate return, but not  
 3 earlier than the last date prescribed by law for the filing of such separate  
 4 return.

5 3. Where only one spouse filed a separate return prior to the making  
 6 of a joint return and the other spouse had a taxable income of more than one  
 7 thousand dollars or a gross income of more than five thousand dollars for  
 8 such taxable year, on the date of the filing of such joint return.

9 H. For the purposes of section 42-1118, relating to refunds and  
 10 credits, a joint return made under this section shall be deemed to have been  
 11 filed on the last date prescribed by this title for filing the return for  
 12 such taxable year, determined without regard to any extension of time granted  
 13 to either spouse.

14 I. If a joint return is made under subsection A of this section, the  
 15 period of limitations provided in section 42-1104 on the making of  
 16 assessments and collecting taxes shall with respect to such return include  
 17 one year immediately after the date of the filing of such joint return,  
 18 computed without regard to the provisions of subsection G of this section.

19 J. For the purposes of section 42-1125, relating to penalties in the  
 20 case of fraudulent returns, ~~the term~~ "return" includes a separate return  
 21 filed by a spouse with respect to a taxable year for which a joint return is  
 22 made under subsection A of this section after the filing of such separate  
 23 return.

24 Sec. 39. Section 43-432, Arizona Revised Statutes, is amended to read:  
 25 43-432. Refund for excess withholding

26 A. When the total amount withheld under section 43-401 exceeds the  
 27 amount of the tax on the employee's entire taxable income as computed under  
 28 this title, the department shall, after auditing the annual return filed by  
 29 the employee in accordance with chapter 3 of this title, and without  
 30 requiring a filing of a refund claim as provided in section 42-1106,  
 31 subsection A, refund the amount of the excess withheld, subject to setoff for  
 32 debts pursuant to section 42-1122. Failure of the department to make such  
 33 refund shall not limit the right of the taxpayer to file a claim for a refund  
 34 as provided in chapter 6, article 1 of this title. If the excess tax  
 35 withheld is less than one dollar, no refund shall be made unless specifically  
 36 requested by the taxpayer at the time such return is filed. In no event  
 37 shall any excess be allowed as a credit against any tax accruing on a return  
 38 filed for a year subsequent to the year during which such excess was  
 39 withheld, the provisions of chapter 6 of this title notwithstanding.

40 B. The department may make separate refunds of withheld taxes ~~upon~~ **ON**  
 41 request by a ~~husband or wife~~ **SPOUSE** who has filed a joint return, the refund  
 42 payable to each spouse being proportioned to the gross earnings of each shown  
 43 by the information returns filed by the employer or otherwise shown to the  
 44 satisfaction of the department. If a taxpayer entitled to a refund under  
 45 this subsection dies, the department **OF REVENUE** may certify to the department

1 of administration that the refund be made to the taxpayer's duly appointed  
2 executor, administrator or personal representative.

3 Sec. 40. Section 43-562, Arizona Revised Statutes, is amended to read:  
4 43-562. Spousal liability for tax

5 The spouse who controls the disposition of or who receives or spends  
6 community income as well as the spouse who is taxable on ~~such~~ THAT income is  
7 liable for the payment of the taxes imposed by this title on ~~such~~ THAT  
8 income. If a joint return is filed, the liability for the tax on the  
9 aggregate income is joint and several.

10 Sec. 41. Section 43-943, Arizona Revised Statutes, is amended to read:  
11 43-943. Allocation in the case of a married couple

12 If ~~husband and wife file~~ EACH SPOUSE FILES A separate ~~returns~~ RETURN,  
13 the department may distribute, apportion or allocate gross income between the  
14 spouses, if it is determined that such distribution, apportionment or  
15 allocation is necessary in order to reflect the proper income of the spouses.

16 Sec. 42. Section 43-1022, Arizona Revised Statutes, is amended to  
17 read:

18 43-1022. Subtractions from Arizona gross income

19 In computing Arizona adjusted gross income, the following amounts shall  
20 be subtracted from Arizona gross income:

21 1. The amount of exemptions allowed by section 43-1023.

22 2. Benefits, annuities and pensions in an amount totaling not more  
23 than two thousand five hundred dollars received from one or more of the  
24 following:

25 (a) The United States government service retirement and disability  
26 fund, retired or retainer pay of the uniformed services of the United States,  
27 the United States foreign service retirement and disability system and any  
28 other retirement system or plan established by federal law.

29 (b) The Arizona state retirement system, the corrections officer  
30 retirement plan, the public safety personnel retirement system, the elected  
31 officials' retirement plan, an optional retirement program established by the  
32 Arizona board of regents under section 15-1628, an optional retirement  
33 program established by a community college district board under section  
34 15-1451 or a retirement plan established for employees of a county, city or  
35 town in this state.

36 3. A beneficiary's share of the fiduciary adjustment to the extent  
37 that the amount determined by section 43-1333 decreases the beneficiary's  
38 Arizona gross income.

39 4. Interest income received on obligations of the United States, less  
40 any interest on indebtedness, or other related expenses, and deducted in  
41 arriving at Arizona gross income, which were incurred or continued to  
42 purchase or carry such obligations.

43 5. The excess of a partner's share of income required to be included  
44 under section 702(a)(8) of the internal revenue code over the income required  
45 to be included under chapter 14, article 2 of this title.

1           6. The excess of a partner's share of partnership losses determined  
2 pursuant to chapter 14, article 2 of this title over the losses allowable  
3 under section 702(a)(8) of the internal revenue code.

4           7. The amount by which the adjusted basis of property described in  
5 this paragraph and computed pursuant to this title and the income tax act of  
6 1954, as amended, exceeds the adjusted basis of such property computed  
7 pursuant to the internal revenue code. This paragraph shall apply to all  
8 property that is held for the production of income and that is sold or  
9 otherwise disposed of during the taxable year other than depreciable property  
10 used in a trade or business.

11           8. The amount allowed by section 43-1025 for contributions during the  
12 taxable year of agricultural crops to charitable organizations.

13           9. The portion of any wages or salaries paid or incurred by the  
14 taxpayer for the taxable year that is equal to the amount of the federal work  
15 opportunity credit, the empowerment zone employment credit, the credit for  
16 employer paid social security taxes on employee cash tips and the Indian  
17 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
18 and 1396 of the internal revenue code.

19           10. The amount of prizes or winnings less than five thousand dollars  
20 in a single taxable year from any of the state lotteries established and  
21 operated pursuant to title 5, chapter 5.1, article 1.

22           11. The amount of exploration expenses that is determined pursuant to  
23 section 617 of the internal revenue code, that has been deferred in a taxable  
24 year ending before January 1, 1990 and for which a subtraction has not  
25 previously been made. The subtraction shall be made on a ratable basis as  
26 the units of produced ores or minerals discovered or explored as a result of  
27 this exploration are sold.

28           12. The amount included in federal adjusted gross income pursuant to  
29 section 86 of the internal revenue code, relating to taxation of social  
30 security and railroad retirement benefits.

31           13. To the extent not already excluded from Arizona gross income under  
32 the internal revenue code, compensation received for active service as a  
33 member of the reserves, the national guard or the armed forces of the United  
34 States, including compensation for service in a combat zone as determined  
35 under section 112 of the internal revenue code.

36           14. The amount of unreimbursed medical and hospital costs, adoption  
37 counseling, legal and agency fees and other nonrecurring costs of adoption  
38 not to exceed three thousand dollars. In the case of ~~a husband and wife~~ EACH  
39 SPOUSE who ~~file~~ FILES A separate ~~returns~~ RETURN, the subtraction may be taken  
40 by either taxpayer or may be divided between them, but the total subtractions  
41 allowed both ~~husband and wife~~ SPOUSES shall not exceed three thousand  
42 dollars. The subtraction under this paragraph may be taken for the costs  
43 that are described in this paragraph and that are incurred in prior years,  
44 but the subtraction may be taken only in the year during which the final  
45 adoption order is granted.

1           15. The amount authorized by section 43-1027 for the taxable year  
2 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

3           16. The amount by which a net operating loss carryover or capital loss  
4 carryover allowable pursuant to section 43-1029, subsection F exceeds the net  
5 operating loss carryover or capital loss carryover allowable pursuant to  
6 section 1341(b)(5) of the internal revenue code.

7           17. Any amount of qualified educational expenses that is distributed  
8 from a qualified state tuition program determined pursuant to section 529 of  
9 the internal revenue code and that is included in income in computing federal  
10 adjusted gross income.

11           18. Any item of income resulting from an installment sale that has  
12 been properly subjected to income tax in another state in a previous taxable  
13 year and that is included in Arizona gross income in the current taxable  
14 year.

15           19. The amount authorized by section 43-1030 relating to holocaust  
16 survivors.

17           20. For property placed in service:

18           (a) In taxable years beginning before December 31, 2012, an amount  
19 equal to the depreciation allowable pursuant to section 167(a) of the  
20 internal revenue code for the taxable year computed as if the election  
21 described in section 168(k)(2)(D)(iii) of the internal revenue code had been  
22 made for each applicable class of property in the year the property was  
23 placed in service.

24           (b) In taxable years beginning from and after December 31, 2012  
25 through December 31, 2013, an amount determined in the year the asset was  
26 placed in service based on the calculation in subdivision (a) of this  
27 paragraph. In the first taxable year beginning from and after December 31,  
28 2013, the taxpayer may elect to subtract the amount necessary to make the  
29 depreciation claimed to date for the purposes of this title the same as it  
30 would have been if subdivision (c) of this paragraph had applied for the  
31 entire time the asset was in service. Subdivision (c) of this paragraph  
32 applies for the remainder of the asset's life. If the taxpayer does not make  
33 the election under this subdivision, subdivision (a) of this paragraph  
34 applies for the remainder of the asset's life.

35           (c) In taxable years beginning from and after December 31, 2013, an  
36 amount equal to the depreciation allowable pursuant to section 167(a) of the  
37 internal revenue code for the taxable year as computed as if the additional  
38 allowance for depreciation had been ten ~~per-cent~~ PERCENT of the amount  
39 allowed pursuant to section 168(k) of the internal revenue code.

40           21. With respect to property that is sold or otherwise disposed of  
41 during the taxable year by a taxpayer that complied with section 43-1021,  
42 paragraph 16 with respect to that property, the amount of depreciation that  
43 has been allowed pursuant to section 167(a) of the internal revenue code to  
44 the extent that the amount has not already reduced Arizona taxable income in  
45 the current or prior taxable years.

1           22. With respect to property for which an adjustment was made under  
2 section 43-1021, paragraph 17, an amount equal to one-fifth of the amount of  
3 the adjustment pursuant to section 43-1021, paragraph 17 in the year in which  
4 the amount was adjusted under section 43-1021, paragraph 17 and in each of  
5 the following four years.

6           23. The amount contributed during the taxable year to college savings  
7 plans established pursuant to section 529 of the internal revenue code to the  
8 extent that the contributions were not deducted in computing federal adjusted  
9 gross income. The amount subtracted shall not exceed:

10           (a) Two thousand dollars for a single individual or a head of  
11 household.

12           (b) Four thousand dollars for a married couple filing a joint return.  
13 In the case of ~~a husband and wife~~ EACH SPOUSE who file FILES A separate  
14 ~~returns~~ RETURN, the subtraction may be taken by either taxpayer or may be  
15 divided between them, but the total subtractions allowed both ~~husband and~~  
16 ~~wife~~ SPOUSES shall not exceed four thousand dollars.

17           24. The amount of any original issue discount that was deferred and  
18 not allowed to be deducted in computing federal adjusted gross income in the  
19 current taxable year pursuant to section 108(i) of the internal revenue code  
20 as added by section 1231 of the American recovery and reinvestment act of  
21 2009 (P.L. 111-5).

22           25. The amount of previously deferred discharge of indebtedness income  
23 that is included in the computation of federal adjusted gross income in the  
24 current taxable year pursuant to section 108(i) of the internal revenue code  
25 as added by section 1231 of the American recovery and reinvestment act of  
26 2009 (P.L. 111-5), to the extent that the amount was previously added to  
27 Arizona gross income pursuant to section 43-1021, paragraph 19.

28           26. The portion of the net operating loss carryforward that would have  
29 been allowed as a deduction in the current year pursuant to section 172 of  
30 the internal revenue code if the election described in section 172(b)(1)(H)  
31 of the internal revenue code had not been made in the year of the loss that  
32 exceeds the actual net operating loss carryforward that was deducted in  
33 arriving at federal adjusted gross income. This subtraction only applies to  
34 taxpayers who made an election under section 172(b)(1)(H) of the internal  
35 revenue code as amended by section 1211 of the American recovery and  
36 reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the  
37 worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

38           27. For taxable years beginning from and after December 31, 2013, the  
39 amount of any net capital gain included in federal adjusted gross income for  
40 the taxable year derived from investment in a qualified small business as  
41 determined by the Arizona commerce authority pursuant to section 41-1518.

42           28. An amount of any net long-term capital gain included in federal  
43 adjusted gross income for the taxable year that is derived from an investment  
44 in an asset acquired after December 31, 2011, as follows:

1 (a) For taxable years beginning from and after December 31, 2012  
2 through December 31, 2013, ten ~~per cent~~ PERCENT of the net long-term capital  
3 gain included in federal adjusted gross income.

4 (b) For taxable years beginning from and after December 31, 2013  
5 through December 31, 2014, twenty ~~per cent~~ PERCENT of the net long-term  
6 capital gain included in federal adjusted gross income.

7 (c) For taxable years beginning from and after December 31, 2014,  
8 twenty-five ~~per cent~~ PERCENT of the net long-term capital gain included in  
9 federal adjusted gross income.

10 For the purposes of this paragraph, a transferee that receives an asset by  
11 gift or at the death of a transferor is considered to have acquired the asset  
12 when the asset was acquired by the transferor. If the date an asset is  
13 acquired cannot be verified, a subtraction under this paragraph is not  
14 allowed.

15 29. If an individual is not claiming itemized deductions pursuant to  
16 section 43-1042, the amount of premium costs for long-term care insurance, as  
17 defined in section 20-1691.

18 30. With respect to a long-term health care savings account  
19 established pursuant to section 43-1032, the amount deposited by the taxpayer  
20 in the account during the taxable year to the extent that the taxpayer's  
21 contributions are included in the taxpayer's federal adjusted gross income.

22 Sec. 43. Section 43-1041, Arizona Revised Statutes, is amended to  
23 read:

24 43-1041. Optional standard deduction

25 A. A taxpayer may elect to take a standard deduction as follows:

26 1. In the case of a single person or a married person filing  
27 separately, the standard deduction shall be four thousand fifty dollars,  
28 subject to subsection G of this section.

29 2. In the case of a married couple filing a joint return or a single  
30 person who is a head of a household, the standard deduction shall be eight  
31 thousand one hundred dollars, subject to subsection G of this section.

32 B. The standard deduction provided for in subsection A of this section  
33 shall be in lieu of all itemized deductions allowed by section 43-1042, which  
34 are to be subtracted from Arizona adjusted gross income in computing taxable  
35 income, but not in lieu of the personal exemption allowed by section 43-1043.

36 C. The standard deduction shall be allowed if the taxpayer so elects,  
37 and the department shall by rule prescribe the manner of signifying such  
38 election in the return.

39 D. In the case of a ~~husband and wife~~ MARRIED COUPLE, the standard  
40 deduction provided for in subsection A of this section shall not be allowed  
41 to either if the taxable income of one of the spouses is determined without  
42 regard to the standard deduction.

43 E. The standard deduction provided for by subsection A of this section  
44 shall not be allowed in the case of a taxable year of less than twelve months  
45 on account of a change in the accounting period.

1 F. Under rules adopted by the department, a change of an election to  
2 take, or not to take, the standard deduction for any taxable year may be made  
3 after the filing of the return for such year. If the spouse of the taxpayer  
4 filed a separate return for any taxable year corresponding, for the purposes  
5 of subsection D of this section, to the taxable year of the taxpayer, the  
6 change shall not be allowed unless, in accordance with such rules, both  
7 paragraphs 1 and 2 of this subsection apply:

8 1. The spouse makes a change of election with respect to the standard  
9 deduction for the taxable year covered in such separate return consistent  
10 with the change of election sought by the taxpayer.

11 2. The taxpayer and spouse consent in writing to the assessment,  
12 within such period as may be agreed ~~upon~~ ON with the department, of any  
13 deficiency, to the extent attributable to such change of election, even  
14 though at the time of the filing of such consent the assessment of such  
15 deficiency would otherwise be prevented by the operation of any law or rule  
16 of law.

17 G. For each taxable year beginning on or after January 1, the  
18 department shall adjust the dollar amounts prescribed by subsection A,  
19 paragraphs 1 and 2 of this section according to the average annual change in  
20 the metropolitan Phoenix consumer price index published by the United States  
21 bureau of labor statistics. The revised dollar amounts shall be raised to  
22 the nearest whole dollar. The designated dollar amounts shall not be revised  
23 below the amounts allowed by the standard deduction in the prior taxable  
24 year.

25 Sec. 44. Section 43-1043, Arizona Revised Statutes, is amended to  
26 read:

27 43-1043. Personal exemptions

28 There shall be allowed as an exemption, in the case of:

29 1. A single individual, a personal exemption of two thousand one  
30 hundred dollars.

31 2. A head of a household or a married individual, a personal exemption  
32 of four thousand two hundred dollars under this paragraph. A ~~husband and~~  
33 ~~wife~~ MARRIED COUPLE shall receive but one personal exemption of four thousand  
34 two hundred dollars. If ~~the husband and wife make~~ EACH SPOUSE MAKES A  
35 separate ~~returns~~ RETURN, the personal exemption may be taken by either SPOUSE  
36 or divided between them.

37 3. A married couple who claim at least one dependent, an exemption of  
38 six thousand three hundred dollars. If ~~the husband and wife make~~ EACH SPOUSE  
39 MAKES A separate ~~returns~~ RETURN, the personal exemption may be taken by  
40 either SPOUSE or divided between them. An exemption under this paragraph is  
41 in lieu of the exemption under paragraph 2 OF THIS SECTION.

1           Sec. 45. Section 43-1083, Arizona Revised Statutes, is amended to  
2 read:

3           43-1083. Credit for solar energy devices

4           A. A credit is allowed against the taxes imposed by this title for  
5 each resident who is not a dependent of another taxpayer for installing a  
6 solar energy device, as defined in section 42-5001, during the taxable year  
7 in the taxpayer's residence located in this state. The credit is equal to  
8 twenty-five ~~per-cent~~ PERCENT of the cost of the device.

9           B. The maximum credit in a taxable year may not exceed one thousand  
10 dollars. The person who provides the solar energy device shall furnish the  
11 taxpayer with an accounting of the cost to the taxpayer. A taxpayer may  
12 claim the credit under this section only once in a tax year and may not  
13 cumulate over different tax years tax credits under this section exceeding,  
14 in the aggregate, one thousand dollars for the same residence.

15           C. If the allowable tax credit exceeds the taxes otherwise due under  
16 this title on the claimant's income, or if there are no taxes due under this  
17 title, the amount of the claim not used to offset taxes under this title may  
18 be carried forward for not more than five consecutive taxable years as a  
19 credit against subsequent years' income tax liability.

20           D. ~~A husband and wife~~ EACH SPOUSE who ~~file~~ FILES A separate ~~returns~~  
21 RETURN for a taxable year in which they could have filed a joint return may  
22 each claim only one-half of the tax credit that would have been allowed for a  
23 joint return.

24           E. The credit allowed under this section is in lieu of any allowance  
25 for state tax purposes for exhaustion, wear and tear of the solar energy  
26 device under section 167 of the internal revenue code.

27           F. To qualify for the credit under this section, the solar energy  
28 device and its installation shall meet the requirements of title 44, chapter  
29 11, article 11.

30           G. A solar hot water heater plumbing stub out that was installed by  
31 the builder of a house or dwelling unit before title was conveyed to the  
32 taxpayer does not qualify for a credit under this section, but the taxpayer  
33 may claim a credit for the device under section 43-1090 or 43-1176 under the  
34 circumstances, conditions and limitations prescribed by section 43-1090,  
35 subsection C or SECTION 43-1176, subsection C, as applicable.

36           Sec. 46. Section 43-1086, Arizona Revised Statutes, is amended to  
37 read:

38           43-1086. Credit for donation to the military family relief fund

39           A. For taxable years beginning from and after December 31, 2007  
40 through December 31, 2018, a credit is allowed against the taxes imposed by  
41 this title for cash contributions made by a taxpayer during the taxable year  
42 to the military family relief fund established by section 41-608.04. The  
43 amount of the credit is the lowest of the following amounts, as applicable:

44           1. The total amount of contributions to the fund by the taxpayer  
45 during the taxable year.

1           2. Two hundred dollars of contributions during the taxable year by a  
2 taxpayer filing as a single individual or a head of household.

3           3. Four hundred dollars of contributions during the taxable year by a  
4 married couple filing a joint return.

5           4. The taxpayer's tax liability for the taxable year.

6           B. ~~A husband and wife~~ EACH SPOUSE who file FILES A separate returns  
7 RETURN for a taxable year in which they could have filed a joint return may  
8 each claim only one-half of the tax credit that would have been allowed on a  
9 joint return.

10          Sec. 47. Section 43-1088, Arizona Revised Statutes, is amended to  
11 read:

12           43-1088. Credit for contribution to qualifying charitable  
13 organizations; definitions

14           A. Except as provided in subsection B of this section, a credit is  
15 allowed against the taxes imposed by this title for voluntary cash  
16 contributions by the taxpayer or on the taxpayer's behalf pursuant to section  
17 43-401, subsection G during the taxable year to a qualifying charitable  
18 organization not to exceed:

19           1. Two hundred dollars in any taxable year for a single individual or  
20 a head of household.

21           2. Four hundred dollars in any taxable year for a married couple  
22 filing a joint return.

23           B. If the voluntary cash contribution by the taxpayer or on the  
24 taxpayer's behalf pursuant to section 43-401, subsection G is to a qualifying  
25 foster care charitable organization, the credit shall not exceed:

26           1. Four hundred dollars in any taxable year for a single individual or  
27 a head of household.

28           2. Eight hundred dollars in any taxable year for a married couple  
29 filing a joint return.

30           C. ~~A husband and wife~~ EACH SPOUSE who file FILES A separate returns  
31 RETURN for a taxable year in which they could have filed a joint return may  
32 each claim only one-half of the tax credit that would have been allowed for a  
33 joint return.

34           D. If the allowable tax credit exceeds the taxes otherwise due under  
35 this title on the claimant's income, or if there are no taxes due under this  
36 title, the taxpayer may carry forward the amount of the claim not used to  
37 offset the taxes under this title for not more than five consecutive taxable  
38 years' income tax liability.

39           E. The credit allowed by this section is in lieu of a deduction  
40 pursuant to section 170 of the internal revenue code and taken for state tax  
41 purposes.

42           F. Taxpayers taking a credit authorized by this section shall provide  
43 the name of the qualifying charitable organization and the amount of the  
44 contribution to the department of revenue on forms provided by the  
45 department.

1 G. A qualifying charitable organization shall provide the department  
2 of revenue with a written certification that it meets all criteria to be  
3 considered a qualifying charitable organization. The organization shall also  
4 notify the department of any changes that may affect the qualifications under  
5 this section.

6 H. The charitable organization's written certification must be signed  
7 by an officer of the organization under penalty of perjury. The written  
8 certification must include the following:

9 1. Verification of the organization's status under section 501(c)(3)  
10 of the internal revenue code or verification that the organization is a  
11 designated community action agency that receives community services block  
12 grant program monies pursuant to 42 United States Code section 9901.

13 2. Financial data indicating the organization's budget for the  
14 organization's prior operating year and the amount of that budget spent on  
15 services to residents of this state who either:

16 (a) Receive temporary assistance for needy families benefits.

17 (b) Are low-income residents of this state.

18 (c) Are children who have a chronic illness or physical disability.

19 3. A statement that the organization plans to continue spending at  
20 least fifty percent of its budget on services to residents of this state who  
21 receive temporary assistance for needy families benefits, who are low-income  
22 residents of this state or who are children who have a chronic illness or  
23 physical disability.

24 4. A statement that the organization does not provide, pay for or  
25 provide coverage of abortions and does not financially support any other  
26 entity that provides, pays for or provides coverage of abortions.

27 I. The department shall review each written certification and  
28 determine whether the organization meets all the criteria to be considered a  
29 qualifying charitable organization and notify the organization of its  
30 determination. The department may also periodically request recertification  
31 from the organization. The department shall compile and make available to  
32 the public a list of the qualifying charitable organizations.

33 J. For the purposes of this section:

34 1. "Children who have a chronic illness or physical disability" has  
35 the same meaning prescribed in section 36-260.

36 2. "Low-income residents" means persons whose household income is less  
37 than one hundred fifty percent of the federal poverty level.

38 3. "Qualifying charitable organization" means a charitable  
39 organization that is exempt from federal income taxation under section  
40 501(c)(3) of the internal revenue code or is a designated community action  
41 agency that receives community services block grant program monies pursuant  
42 to 42 United States Code section 9901. The organization must spend at least  
43 fifty percent of its budget on services to residents of this state who  
44 receive temporary assistance for needy families benefits or low-income  
45 residents of this state and their households or to children who have a

1 chronic illness or physical disability who are residents of this state.  
2 Taxpayers choosing to make donations through an umbrella charitable  
3 organization that collects donations on behalf of member charities shall  
4 designate that the donation be directed to a member charitable organization  
5 that would qualify under this section on a stand-alone basis. Qualifying  
6 charitable organization does not include any entity that provides, pays for  
7 or provides coverage of abortions or that financially supports any other  
8 entity that provides, pays for or provides coverage of abortions.

9 4. "Qualifying foster care charitable organization" means a qualifying  
10 charitable organization that each operating year provides services to at  
11 least two hundred qualified individuals in this state and spends at least  
12 fifty percent of its budget on services to qualified individuals in this  
13 state. For the purposes of this paragraph, "qualified individual" means a  
14 foster child as defined in section 8-501 or a person who is under twenty-one  
15 years of age and who is participating in a transitional independent living  
16 program as prescribed by section 8-521.01.

17 5. "Services" means cash assistance, medical care, child care, food,  
18 clothing, shelter, job placement and job training services or any other  
19 assistance that is reasonably necessary to meet immediate basic needs and  
20 that is provided and used in this state.

21 Sec. 48. Section 43-1089, Arizona Revised Statutes, is amended to  
22 read:

23 43-1089. Credit for contributions to school tuition  
24 organization

25 A. A credit is allowed against the taxes imposed by this title for the  
26 amount of voluntary cash contributions by the taxpayer or on the taxpayer's  
27 behalf pursuant to section 43-401, subsection G during the taxable year to a  
28 school tuition organization that is certified pursuant to chapter 16 of this  
29 title at the time of donation. Except as provided by subsection C of this  
30 section, the amount of the credit shall not exceed:

31 1. Five hundred dollars in any taxable year for a single individual or  
32 a head of household.

33 2. One thousand dollars in any taxable year for a married couple  
34 filing a joint return.

35 B. ~~A husband and wife~~ EACH SPOUSE who ~~file~~ FILES A separate ~~returns~~  
36 RETURN for a taxable year in which they could have filed a joint return may  
37 each claim only one-half of the tax credit that would have been allowed for a  
38 joint return.

39 C. For each taxable year beginning on or after January 1, the  
40 department shall adjust the dollar amounts prescribed by subsection A,  
41 paragraphs 1 and 2 of this section according to the average annual change in  
42 the metropolitan Phoenix consumer price index published by the United States  
43 bureau of labor statistics, except that the dollar amounts shall not be  
44 revised downward below the amounts allowed in the prior taxable year. The  
45 revised dollar amounts shall be raised to the nearest whole dollar.

1 D. If the allowable tax credit exceeds the taxes otherwise due under  
2 this title on the claimant's income, or if there are no taxes due under this  
3 title, the taxpayer may carry the amount of the claim not used to offset the  
4 taxes under this title forward for not more than five consecutive taxable  
5 years' income tax liability.

6 E. The credit allowed by this section is in lieu of any deduction  
7 pursuant to section 170 of the internal revenue code and taken for state tax  
8 purposes.

9 F. The tax credit is not allowed if the taxpayer designates the  
10 taxpayer's contribution to the school tuition organization for the direct  
11 benefit of any dependent of the taxpayer or if the taxpayer designates a  
12 student beneficiary as a condition of the taxpayer's contribution to the  
13 school tuition organization. The tax credit is not allowed if the taxpayer,  
14 with the intent to benefit the taxpayer's dependent, agrees with one or more  
15 other taxpayers to designate each taxpayer's contribution to the school  
16 tuition organization for the direct benefit of the other taxpayer's  
17 dependent.

18 G. For the purposes of this section, a contribution, for which a  
19 credit is claimed, that is made on or before the fifteenth day of the fourth  
20 month following the close of the taxable year may be applied to either the  
21 current or preceding taxable year and is considered to have been made on the  
22 last day of that taxable year.

23 Sec. 49. Section 43-1089.01, Arizona Revised Statutes, is amended to  
24 read:

25 43-1089.01. Tax credit; public school fees and contributions;  
26 definitions

27 A. A credit is allowed against the taxes imposed by this title for the  
28 amount of any fees PAID or cash contributions MADE by a taxpayer or on the  
29 taxpayer's behalf pursuant to section 43-401, subsection G during the taxable  
30 year to a public school located in this state for ~~the support of~~ FEES PAID  
31 FOR standardized testing fees for college credit or readiness offered by a  
32 widely recognized and accepted educational testing organization, the career  
33 and technical education industry certification assessment, ~~OR~~ preparation  
34 courses and materials for standardized testing, ~~OR~~ CONTRIBUTIONS FOR THE  
35 SUPPORT OF extracurricular activities or character education programs of the  
36 public school, but not exceeding:

- 37 1. Two hundred dollars for a single individual or a head of household.
- 38 2. Three hundred dollars in taxable year 2005 for a married couple  
39 filing a joint return.
- 40 3. Four hundred dollars in taxable year 2006 and any subsequent  
41 taxable year for a married couple filing a joint return.

42 B. ~~A husband and wife~~ EACH SPOUSE who file FILES A separate returns  
43 RETURN for a taxable year in which they could have filed a joint return may  
44 each claim only one-half of the tax credit that would have been allowed for a  
45 joint return.

1 C. The credit allowed by this section is in lieu of any deduction  
2 pursuant to section 170 of the internal revenue code and taken for state tax  
3 purposes.

4 D. If the allowable tax credit exceeds the taxes otherwise due under  
5 this title on the claimant's income, or if there are no taxes due under this  
6 title, the taxpayer may carry the amount of the claim not used to offset the  
7 taxes under this title forward for not more than five consecutive taxable  
8 years' income tax liability.

9 E. The site council of the public school that receives contributions  
10 that are not designated for a specific purpose shall determine how the  
11 contributions are used at the school site. If a charter school does not have  
12 a site council, the principal, director or chief administrator of the charter  
13 school shall determine how the contributions that are not designated for a  
14 specific purpose are used at the school site. If at the end of a fiscal year  
15 a public school has unspent contributions that were previously designated for  
16 a specific purpose or program and that purpose or program has been  
17 discontinued or has not been used for two consecutive fiscal years, these  
18 contributions shall be considered undesignated in the following fiscal year  
19 for the purposes of this subsection.

20 F. A public school that receives fees or a cash contribution pursuant  
21 to subsection A of this section shall report to the department, in a form  
22 prescribed by the department, by February 28 of each year the following  
23 information:

24 1. The total number of fee and cash contribution payments received  
25 during the previous calendar year.

26 2. The total dollar amount of fees and contributions received during  
27 the previous calendar year.

28 3. The total dollar amount of fees and contributions spent by the  
29 school during the previous calendar year, categorized by specific  
30 standardized testing, preparation courses and materials for standardized  
31 testing, extracurricular activity or character education program.

32 G. For the purposes of this section, a contribution for which a credit  
33 is claimed and that is made on or before the fifteenth day of the fourth  
34 month following the close of the taxable year may be applied to either the  
35 current or preceding taxable year and is considered to have been made on the  
36 last day of that taxable year.

37 H. For the purposes of this section:

38 1. "Career and technical education industry certification assessment"  
39 means an assessment for career and technical preparation programs for pupils.

40 2. "Character education programs" means a program described in section  
41 15-719.

42 3. "Extracurricular activities" means school-sponsored activities that  
43 require enrolled students to pay a fee in order to participate, including  
44 fees for:

45 (a) Band uniforms.

1 (b) Equipment or uniforms for varsity athletic activities.

2 (c) Scientific laboratory materials.

3 (d) In-state or out-of-state trips that are solely for competitive  
4 events. Extracurricular activities do not include any senior trips or events  
5 that are recreational, amusement or tourist activities.

6 4. "Public school" means a school that is part of a school district, a  
7 joint technical education district or a charter school.

8 5. "Standardized testing for college credit or readiness" includes the  
9 SAT, PSAT, ACT, advanced placement and international baccalaureate diploma  
10 tests and other similar tests.

11 6. "Widely recognized and accepted educational testing organization"  
12 means the college board, the ACT, the international baccalaureate and other  
13 organizations that are widely recognized and accepted by colleges and  
14 universities in the United States and that offer college credit and readiness  
15 examinations.

16 Sec. 50. Section 43-1089.02, Arizona Revised Statutes, is amended to  
17 read:

18 43-1089.02. Credit for donation of school site

19 A. A credit is allowed against the taxes imposed by this title in the  
20 amount of thirty ~~per-cent~~ PERCENT of the value of real property and  
21 improvements donated by the taxpayer to a school district or a charter school  
22 for use as a school or as a site for the construction of a school.

23 B. To qualify for the credit:

24 1. The real property and improvements must be located in this state.

25 2. The real property and improvements must be conveyed unencumbered  
26 and in fee simple, except that:

27 (a) The conveyance must include as a deed restriction and protective  
28 covenant running with title to the land the requirement that as long as the  
29 donee holds title to the property the property shall only be used as a school  
30 or as a site for the construction of a school, subject to subsection I or J  
31 of this section.

32 (b) In the case of a donation to a charter school, the donor shall  
33 record a lien on the property as provided by subsection J, paragraph 3 of  
34 this section.

35 3. The conveyance shall not violate section 15-341, subsection D or  
36 section 15-183, subsection U.

37 C. For the purposes of this section, the value of the donated property  
38 is the property's fair market value as determined in an appraisal as defined  
39 in section 32-3601 that is conducted by an independent party and that is paid  
40 for by the donee.

41 D. If the property is donated by co-owners, including partners in a  
42 partnership and shareholders of an S corporation, as defined in section 1361  
43 of the internal revenue code, each donor may claim only the pro rata share of  
44 the allowable credit under this section based on the ownership interest. If  
45 the property is donated by ~~a husband and wife~~ BOTH SPOUSES who file separate

1 returns for a taxable year in which they could have filed a joint return,  
2 they may determine between them the share of the credit each will claim. The  
3 total of the credits allowed all co-owner donors may not exceed the allowable  
4 credit.

5 E. If the allowable tax credit exceeds the taxes otherwise due under  
6 this title on the claimant's income, or if there are no taxes due under this  
7 title, the taxpayer may carry the amount of the claim not used to offset the  
8 taxes under this title forward for not more than five consecutive taxable  
9 years' income tax liability.

10 F. The credit under this section is in lieu of any deduction pursuant  
11 to section 170 of the internal revenue code taken for state tax purposes.

12 G. On written request by the donee, the donor shall disclose in  
13 writing to the donee the amount of the credit allowed pursuant to this  
14 section with respect to the property received by the donee.

15 H. A school district or charter school may refuse the donation of any  
16 property for purposes of this section.

17 I. If the donee is a school district:

18 1. The district shall notify the school facilities board established  
19 by section 15-2001 and furnish the board with any information the board  
20 requests regarding the donation. A school district shall not accept a  
21 donation pursuant to this section unless the school facilities board has  
22 reviewed the proposed donation and has issued a written determination that  
23 the real property and improvements are suitable as a school site or as a  
24 school. The school facilities board shall issue a determination that the  
25 real property and improvements are not suitable as a school site or as a  
26 school if the expenses that would be necessary to make the property suitable  
27 as a school site or as a school exceed the value of the proposed donation.

28 2. The district may sell any donated property pursuant to section  
29 15-342, but the proceeds from the sale shall only be used for capital  
30 projects. The school facilities board shall withhold an amount that  
31 corresponds to the amount of the proceeds from any monies that would  
32 otherwise be due the school district from the school facilities board  
33 pursuant to section 15-2041.

34 J. If the donee is a charter school:

35 1. The charter school shall:

36 (a) Immediately notify the sponsor of the charter school by certified  
37 mail and shall furnish the sponsor with any information requested by the  
38 sponsor regarding the donation during the ~~ten-year~~ TEN-YEAR period after the  
39 conveyance is recorded.

40 (b) Notify the sponsor by certified mail, and the sponsor shall notify  
41 the state treasurer, in the event of the charter school's financial failure  
42 or if the charter school:

43 (i) Fails to establish a charter school on the property within  
44 forty-eight months after the conveyance is recorded.

1 (ii) Fails to provide instruction to pupils on the property within  
2 forty-eight months after the conveyance is recorded.

3 (iii) Establishes a charter school on the property but subsequently  
4 ceases to operate the charter school on the property for twenty-four  
5 consecutive months or fails to provide instruction to pupils on the property  
6 for twenty-four consecutive months.

7 2. The charter school, or a successor in interest, shall pay to the  
8 state treasurer the amount of the credit allowed under this section, or if  
9 that amount is unknown, the amount of the allowable credit under this  
10 section, if any of the circumstances listed in paragraph 1, subdivision (b)  
11 of this subsection occurs. If the amount is not paid within one year after  
12 the treasurer receives notice under paragraph 1, subdivision (b) of this  
13 subsection, a penalty and interest shall be added, determined pursuant to  
14 title 42, chapter 1, article 3.

15 3. A tax credit under this section constitutes a lien on the property,  
16 which the donor must record along with the title to the property to qualify  
17 for the credit. The amount of the lien is the amount of the allowable credit  
18 under this section, adjusted according to the average change in the GDP price  
19 deflator, as defined in section 41-563, for each calendar year since the  
20 donation, but not exceeding twelve and one-half ~~per-cent~~ PERCENT more than  
21 the allowable credit. The lien is subordinate to any liens securing the  
22 financing of the school construction. The lien is extinguished on the  
23 earliest of the following:

24 (a) Ten years after the lien is recorded. After that date, the  
25 charter school, or a successor in interest, may request the state treasurer  
26 to release the lien.

27 (b) On payment to the state treasurer by the donee charter school, or  
28 by a successor in interest, of the amount of the allowable credit under this  
29 section, either voluntarily or as required by paragraph 2 of this subsection.  
30 After the required amount is paid, the charter school or successor in  
31 interest may request the state treasurer to release the lien.

32 (c) On conveyance of fee simple title to the property to a school  
33 district.

34 (d) On enforcement and satisfaction of the lien pursuant to paragraph  
35 4 of this subsection.

36 4. The state treasurer shall enforce the lien by foreclosure within  
37 one year after receiving notice of any of the circumstances described in  
38 paragraph 1, subdivision (b) of this subsection.

39 5. Subject to paragraphs 3 and 4 of this subsection, the charter  
40 school may sell any donated property.



1 current or preceding taxable year and is considered to have been made on the  
2 last day of that taxable year.

3 H. A taxpayer may not claim a credit under this section and also under  
4 section 43-1089 with respect to the same contribution. If a taxpayer's  
5 contribution to a school tuition organization exceeds the amount of the  
6 credit allowed under section 43-1089, a taxpayer may claim a credit under  
7 this section and also under section 43-1089. If a taxpayer's contribution to  
8 a school tuition organization does not exceed the amount of the credit  
9 allowed by section 43-1089, the contribution is considered to have been made  
10 pursuant to section 43-1089.

11 Sec. 52. Legislative intent

12 This act replaces the term "husband and wife" in each of the statutes  
13 in which it appears in the Arizona Revised Statutes. It is the intent of the  
14 legislature that agencies, boards, commissions, department, officers and  
15 other administrative units of this state make similar changes in their  
16 respective administrative rules.