

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SENATE BILL 1218

AN ACT

AMENDING SECTIONS 28-2063, 33-1501, 36-1639, 41-3953, 41-4001, 41-4002, 41-4004, 41-4005, 41-4006, 41-4009 AND 41-4010, ARIZONA REVISED STATUTES; REPEALING SECTION 41-4021, ARIZONA REVISED STATUTES; AMENDING SECTION 41-4023, ARIZONA REVISED STATUTES; REPEALING SECTION 41-4024, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-4025, 41-4026, 41-4027, 41-4028, 41-4029, 41-4030, 41-4031, 41-4036, 41-4039, 41-4040, 41-4041, 41-4042, 41-4043, 41-4046, 41-4047 AND 41-4048, ARIZONA REVISED STATUTES; REPEALING SECTION 41-4049, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-4062, 41-4063 AND 42-15203, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA DEPARTMENT OF HOUSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-2063, Arizona Revised Statutes, is amended to
3 read:

4 28-2063. Mobile home certificate of title; exceptions; fee

5 A. The department shall issue a certificate of title for a mobile
6 home that is customarily kept in this state and the fee required under
7 section 28-2003 shall be paid except for:

8 1. A mobile home that is owned and held by a dealer solely for
9 purposes of sale.

10 2. A mobile home that is owned and operated exclusively in the
11 public service by the United States, by this state or by any political
12 subdivision of this state, except that it shall have a certificate of
13 title.

14 3. A mobile home that is permanently affixed, as defined in section
15 42-15201, and for which an affidavit of affixture has been recorded
16 pursuant to section 33-1501. The owner shall surrender the original
17 certificates of title or manufacturer's statements of origin to
18 permanently affixed mobile homes to the department in the manner
19 prescribed by the department. The department shall issue a receipt for
20 the documents surrendered pursuant to this paragraph.

21 B. The issuance of a certificate of title for a mobile home shall
22 be as provided by law for the issuance of a certificate of title for motor
23 vehicles, except that in the case of a mobile home that consists of two or
24 more separate sections, each section shall have a separate certificate of
25 title.

26 C. A mobile home is subject to all applicable provisions of this
27 title, except those relating to registration.

28 D. If a certificate of title is applied for on a mobile home
29 entering this state for sale or installation, a certificate of compliance
30 or waiver issued by the ~~office of manufactured~~ ARIZONA DEPARTMENT OF
31 housing is required and shall be submitted with the certificate of title
32 application.

33 Sec. 2. Section 33-1501, Arizona Revised Statutes, is amended to
34 read:

35 33-1501. Affidavit of affixture for mobile home in mobile
36 home park

37 A. Notwithstanding any other statute, a person who owns a mobile
38 home that is located in a mobile home park on real property that is not
39 owned by that person may file an affidavit of affixture with the county
40 recorder of the county in which the real property is located if all of the
41 following conditions are met:

42 1. The mobile home has been installed on the real property with all
43 wheels and axles removed in compliance with applicable state and local
44 mobile home installation standards.

1 2. The owner of the mobile home has entered into a lease for the
2 real property on which the mobile home is located for a primary term of at
3 least twenty years and the lease specifically permits the recording of an
4 affidavit of affixture.

5 3. Before filing the affidavit of affixture, a memorandum of lease
6 is recorded that includes all of the following:

7 (a) The names and addresses of the landlord and the tenant.

8 (b) The duration of the primary term of the lease.

9 (c) The conditions of any lease renewal provisions.

10 (d) The make, year, size, manufacturer's list price and vehicle
11 identification numbers of the mobile home.

12 (e) The legal description of the real property on which the mobile
13 home is located.

14 (f) The acknowledged signatures of both the landlord and the
15 tenant. A memorandum of lease is not valid unless the signatures of both
16 the landlord and the tenant are included on the memorandum and are
17 acknowledged.

18 B. For a mobile home park, a legal description of the real property
19 is sufficient as follows:

20 1. For a mobile home park that has a subdivision plat recorded with
21 the county recorder that identifies the individual lots, the description
22 shall refer to the lot, the name of the community as shown on the plat and
23 the recording information for the plat of record.

24 2. A mobile home park may record a leasehold map of the mobile home
25 park. A leasehold map shall, at a minimum, set forth the legal
26 description of the land comprising the mobile home park, show the location
27 of all rental spaces of the mobile home park and assign each space a
28 unique identifying number. To qualify as a leasehold map, the map shall
29 identify the mobile home park by name and contain a certification by the
30 owner of the land that it accurately depicts the location and dimensions
31 of all mobile home spaces in the mobile home park. Leasehold maps shall
32 be recorded as maps by the county recorder and shall conform to size and
33 other restrictions applicable to the recording of maps. For a mobile home
34 park that has recorded a leasehold map, the legal description is
35 sufficient if it refers to the space number of the mobile home space as
36 shown on the leasehold map and refers to the recording data pertaining to
37 the leasehold map.

38 3. For a mobile home park that does not have a plat recorded with
39 the county recorder that identifies individual lots, the description shall
40 comply with any of the following:

41 (a) A metes and bounds description of the real property that is
42 subject to the lease. This description shall also serve as the legal
43 description of the mobile home lot in the lease.

44 (b) A reference to a lot number that is contained in an unrecorded
45 plat of the mobile home park if a legible copy of the plat is attached to

1 both the memorandum of lease and the affidavit of affixture and each copy
2 of the unrecorded plat sets forth the exact dimensions of the mobile home
3 lot. The location of the lot shall be shown on the plat so that the lot
4 can be located with certainty.

5 (c) A reference to a lot number that is contained in a development
6 plan that has been reviewed and approved by the county or municipal
7 planning department that has jurisdiction over the land depicted in the
8 development plan. The description is sufficient if it contains the name
9 and date of the development plan, the lot number of the designated lot and
10 the actual or approximate date of approval of the development plan by the
11 planning department. A legible copy of the development plan lot shall be
12 attached to both the memorandum of lease and the affidavit of affixture
13 and each copy of the development plan lot shall set forth the exact
14 dimensions of the mobile home lot and shall show its exact location.

15 C. An affidavit of affixture that is filed pursuant to this section
16 shall contain all of the following:

17 1. The make, year, size, manufacturer's list price and vehicle
18 identification numbers of the mobile home.

19 2. The legal description of the real property to which the mobile
20 home has been affixed.

21 3. A statement that the mobile home has not previously been
22 assessed and taxed in this state as personal property or the name and
23 address of the persons to whom the last tax statement for the mobile home
24 was sent and the location of the mobile home when it was last taxed.

25 4. The name of the holder of any security interests in the mobile
26 home that are not terminated by the consent of the secured party that is
27 contained in the affidavit of affixture pursuant to subsection E of this
28 section and the original principal amount that is secured by the security
29 interest.

30 D. The department of transportation's receipt that is issued
31 pursuant to section 28-2063, subsection A, paragraph 3 shall be filed with
32 the assessor in the county the affidavit of affixture is recorded.

33 E. The recording of an affidavit of affixture does not impair the
34 rights of any holder of a perfected security interest in the mobile home
35 unless the affidavit of affixture contains the acknowledged consent of the
36 secured party to the termination of the security interest. If a secured
37 party so consents, that security interest terminates when the affidavit of
38 affixture is recorded.

39 F. If an affidavit of affixture is submitted for recording on a
40 mobile home that enters this state for sale or installation, a certificate
41 of compliance or waiver that is issued by the ~~office of manufactured~~
42 ARIZONA DEPARTMENT OF housing is required and shall be submitted with the
43 affidavit of affixture.

44 G. The landlord under the lease who is also the owner of the real
45 property on which the mobile home is located may record a notice and

1 affidavit that terminates an affidavit of affixture of a mobile home on
2 the landlord's real property if the lease has been terminated before its
3 expiration. In that event, the landlord shall attach to the notice and
4 affidavit one of the following:

5 1. An agreement executed by both the landlord and the tenant in
6 which both parties agree to the termination of the lease.

7 2. A copy of a judgment for forcible detainer that is entered by a
8 court of competent jurisdiction, that upholds the termination of the lease
9 and that awards possession of the real property to the landlord.

10 3. An affidavit of the landlord stating that the mobile home has
11 been removed from the real property.

12 H. At any time after the landlord records a notice and affidavit
13 terminating an affidavit of affixture pursuant to subsection G of this
14 section, the department of transportation shall retitle the mobile home to
15 the owner of the mobile home on presentation of a copy of the notice and
16 affidavit that terminates the affidavit of affixture, together with a
17 document that contains a tax clearance from the county treasurer's office,
18 and on satisfaction of other requirements that the department of
19 transportation imposes.

20 I. The mobile home and the leasehold interest to which it is
21 affixed shall be treated as real property. ~~The provisions of~~ This chapter
22 ~~apply~~ APPLIES to the relationship between the landlord and the owner of
23 the mobile home as tenant.

24 J. If there is a change in the identity of the owner of the mobile
25 home during the term of any lease for which an affidavit of affixture has
26 been recorded pursuant to this section, the landlord and the new owner of
27 the mobile home as successor tenant shall execute an amended memorandum of
28 lease that identifies the successor tenant and that refers to the
29 affidavit of affixture by date and recording information. On the
30 recording of the amended memorandum of lease, the successor tenant
31 succeeds to the rights and obligations of the owner under the affidavit of
32 affixture.

33 Sec. 3. Section 36-1639, Arizona Revised Statutes, is amended to
34 read:

35 36-1639. Exemptions

36 This article does not apply to:

37 1. Manufactured homes as defined in section 41-4001 that were
38 manufactured from and after June 15, 1976.

39 2. Factory-built buildings as defined by section 41-4001 that
40 display ~~an insignia of approval~~ A CERTIFICATE from the Arizona department
41 of housing, ~~office of administration~~.

1 Sec. 4. Section 41-3953, Arizona Revised Statutes, is amended to
2 read:

3 41-3953. Department powers and duties

4 A. The department is responsible for establishing policies,
5 procedures and programs that the department is authorized to conduct to
6 address the affordable housing issues confronting this state, including
7 housing issues of low income families, moderate income families, housing
8 affordability, special needs populations and decaying housing
9 stock. Among other things, the department shall provide to qualified
10 housing participants and political subdivisions of this state financial,
11 advisory, consultative, planning, training and educational assistance for
12 the development of safe, decent and affordable housing, including housing
13 for low and moderate income households. **THE DEPARTMENT IS RESPONSIBLE FOR
14 MAINTAINING AND ENFORCING STANDARDS OF QUALITY AND SAFETY FOR MANUFACTURED
15 HOMES, MOBILE HOMES AND FACTORY-BUILT BUILDINGS.**

16 B. Under the direction of the director, the department shall:

17 1. Establish guidelines applicable to the programs and activities
18 of the department for the construction and financing of affordable housing
19 and housing for low and moderate income households in this state. These
20 guidelines shall meet or exceed all applicable state or local building and
21 health and safety code requirements and, if applicable, the national
22 manufactured home construction and safety standards act of 1974 and title
23 VI of the housing and community development act of 1974 (P.L. 93-383, as
24 amended by P.L. 95-128, 96-153 and 96-339). Guidelines established
25 pursuant to this paragraph do not apply to the department's activities
26 prescribed in section 35-726, subsection E.

27 2. Accept and allocate any monies as from time to time may be
28 appropriated by the legislature for the purposes set forth in this
29 article.

30 3. Perform other duties necessary to administer this chapter.

31 4. Perform the duties prescribed in sections 35-726 and 35-728.

32 5. Stimulate and encourage all local, state, regional and federal
33 governmental agencies and all private persons and enterprises that have
34 similar and related objectives and purposes, cooperate with the agencies,
35 persons and enterprises and correlate department plans, programs and
36 operations with those of the agencies, persons and enterprises.

37 6. Conduct research on its own initiative or at the request of the
38 governor, the legislature or state or local agencies pertaining to any
39 department objectives.

40 7. Provide information and advice on request of any local, state or
41 federal agencies, private persons and business enterprises on matters
42 within the scope of department activities.

43 8. Consult with and make recommendations to the governor and the
44 legislature on all matters concerning department objectives.

1 9. Make annual reports to the governor and the legislature on its
2 activities, including the geographic location of its activities, its
3 finances and the scope of its operations.

4 10. MAINTAIN AND ENFORCE STANDARDS OF QUALITY AND SAFETY FOR
5 MANUFACTURED HOMES, MOBILE HOMES AND FACTORY-BUILT BUILDINGS AND ENFORCE
6 RULES ADOPTED BY THE BOARD PURSUANT TO SECTION 41-4010.

7 C. Under the direction of the director, the department may:

8 1. Assist in securing construction and mortgage financing from
9 public and private sector sources.

10 2. Assist mortgage financing programs established by industrial
11 development authorities and political subdivisions of this state.

12 3. Assist in the acquisition and use of federal housing assistance
13 programs pertinent to enhance the economic feasibility of a proposed
14 residential development.

15 4. Assist in the compliance of a proposed residential development
16 with applicable federal, state and local codes and ordinances.

17 5. Prepare and publish planning and development guidelines for the
18 establishment and delivery of housing assistance programs.

19 6. Contract with a federal agency to carry out financial work on
20 the federal agency's behalf and accept payment for the work.

21 7. Subcontract for the financial work prescribed in paragraph 6 of
22 this subsection and make payments for that subcontracted work based on the
23 expectation that the federal agency will pay for that work.

24 8. Accept payment from a federal agency for work prescribed in
25 paragraph 6 of this subsection and deposit those payments in the Arizona
26 department of housing program fund established by section 41-3957.

27 9. Contract for the services of outside advisers, consultants and
28 aides reasonably necessary or desirable to enable the department to
29 adequately perform its duties.

30 10. Contract for and incur obligations reasonably necessary or
31 desirable within the general scope of department activities and operations
32 to enable the department to adequately perform its duties.

33 11. Use any media of communication, publication and exhibition in
34 the dissemination of information, advertising and publicity in any field
35 of its purposes, objectives or duties.

36 12. Adopt rules deemed necessary or desirable to govern its
37 procedures and business.

38 13. Contract with other agencies in furtherance of any department
39 program.

40 14. Use monies, facilities or services to provide contributions
41 under federal or other programs that further the objectives and programs
42 of the department.

43 15. Accept gifts, grants, matching monies or direct payments from
44 public or private agencies or private persons and enterprises for the
45 conduct of programs that are consistent with the general purposes and

1 objectives of this article and deposit these monies in the Arizona
2 department of housing program fund established by section 41-3957.

3 16. Establish and collect fees and receive reimbursement of costs
4 in connection with any programs or duties performed by the department and
5 deposit the fees and cost reimbursements in the Arizona department of
6 housing program fund established by section 41-3957.

7 **17. PROVIDE STAFF SUPPORT TO THE BOARD OF MANUFACTURED HOUSING.**

8 D. For the purposes of this section, the department is exempt from
9 chapter 23 of this title.

10 E. The department is the designated state public housing agency as
11 defined in the United States housing act of 1937 (42 United States Code
12 sections 1401 through 1440) for the purpose of accepting federal housing
13 assistance monies and may participate in the housing assistance payments
14 program. Federal monies may be secured for all areas of this state
15 subject only to the limitations prescribed in subsection F of this
16 section.

17 F. For areas of this state where an existing public housing
18 authority has not been established pursuant to section 36-1404, subsection
19 A, the department acting as a public housing agency may undertake all
20 activities under the section 8 tenant-based rental housing assistance
21 payment program, except that the department shall not undertake a section
22 8 tenant-based rental housing assistance payment program within the
23 boundaries of a city, town or county unless authorized by resolution of
24 the governing body of the city, town or county. If the department accepts
25 monies for a section 8 tenant-based rental housing assistance payment
26 program for areas of this state where an existing public housing authority
27 has been established pursuant to section 36-1404, subsection A, the
28 department shall only accept and secure federal monies to provide housing
29 for the seriously mentally ill or other populations with
30 disabilities. The department may accept and secure federal monies for
31 undertaking all contract administrator activities authorized under a
32 section 8 project-based rental housing assistance payment program in all
33 areas of this state and this participation does not require the
34 authorization of any local governing body.

35 G. The department shall not itself directly own, construct, operate
36 or rehabilitate any housing units, except as may be necessary to protect
37 the department's collateral or security interest arising out of any
38 department programs.

39 H. Notwithstanding any other provision of this section, the
40 department may obligate monies as loans or grants applicable to programs
41 and activities of the department for the purpose of providing housing
42 opportunities for low or moderate income households or for housing
43 affordability or to prevent or combat decaying housing stock. Unless
44 otherwise required by federal or state law, any loan repayments shall be

1 deposited in the Arizona department of housing program fund established by
2 section 41-3957.

3 I. For any construction project financed by the department pursuant
4 to subsection C of this section, except for contract administration
5 activities in connection with the project-based section 8 program, the
6 department shall notify a city, town, county or tribal government that a
7 project is planned for its jurisdiction and, before proceeding, shall seek
8 comment from the governing body of the city, town, county or tribal
9 government or an official authorized by the governing body of the city,
10 town, county or tribal government. The department shall not interfere
11 with or attempt to override the local jurisdiction's planning, zoning or
12 land use regulations.

13 J. THE DEPARTMENT HAS THE ADMINISTRATIVE RESPONSIBILITY THROUGH ITS
14 HEARING OFFICER FUNCTION CONCERNING ALLEGED VIOLATIONS OF THE ARIZONA
15 MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT ACT UNDER TITLE 33,
16 CHAPTER 11.

17 K. THE DEPARTMENT SHALL ACT CONSISTENTLY WITH THE MINIMUM STANDARDS
18 OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AS SO
19 BE DESIGNATED THE "STATE INSPECTOR" FOR MANUFACTURED HOMES AND RELATED
20 INDUSTRIES. THE DEPARTMENT SHALL IMPLEMENT ALL EXISTING LAWS AND
21 REGULATIONS ESTABLISHED BY THE FEDERAL GOVERNMENT, ITS AGENCIES AND THIS
22 STATE FOR THAT PURPOSE.

23 Sec. 5. Section 41-4001, Arizona Revised Statutes, is amended to
24 read:

25 41-4001. Definitions

26 In this chapter, unless the context otherwise requires:

27 1. "Accessory structure" means the installation, assembly,
28 connection or construction of any one-story habitable room, storage room,
29 patio, porch, garage, carport, awning, skirting, retaining wall,
30 evaporative cooler, refrigeration air conditioning system, solar system or
31 wood decking attached to a new or used manufactured home, mobile home or
32 residential single family factory-built building.

33 2. "Act" means the national manufactured ~~home~~ HOUSING construction
34 and safety standards act of 1974 and title VI of the housing and community
35 development act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 95-557,
36 96-153 and 96-339).

37 3. "Alteration" means the replacement, addition, modification or
38 removal of any equipment or installation after the sale by a manufacturer
39 to a dealer or distributor but ~~prior to~~ BEFORE the sale by a dealer to a
40 purchaser, which may affect compliance with the standards, construction,
41 fire safety, occupancy, plumbing or heat-producing or electrical system.
42 Alteration does not mean the repair or replacement of a component or
43 appliance requiring plug-in to an electrical receptacle if the replaced
44 item is of the same configuration and rating as the component or appliance
45 being repaired or replaced. Alteration also does not mean the addition of

1 an appliance requiring plug-in to an electrical receptacle if such
2 appliance is not provided with the unit by the manufacturer and the rating
3 of the appliance does not exceed the rating of the receptacle to which
4 such appliance is connected.

5 4. "Board" means the board of manufactured housing.

6 ~~5. "Broker" means any person who, on behalf of another, sells,~~
7 ~~exchanges, buys, offers or attempts to negotiate or~~ acts as an agent for
8 the sale or exchange of a used manufactured home or mobile home except as
9 exempted in section 41-4028.

10 6. "CERTIFICATE" MEANS A NUMBERED OR SERIALIZED LABEL OR SEAL THAT
11 IS ISSUED BY THE DIRECTOR AS CERTIFICATION OF COMPLIANCE WITH THIS
12 CHAPTER.

13 ~~6.~~ 7. "Component" means any part, material or appliance that is
14 built-in as an integral part of the unit during the manufacturing process.

15 ~~7.~~ 8. "Consumer" means either a purchaser or seller of a unit
16 regulated by this chapter who utilizes the services of a person licensed
17 by the department.

18 ~~8.~~ 9. "Consummation of sale" means that a purchaser has received
19 all goods and services that the dealer or broker agreed to provide at the
20 time the contract was entered into, ~~or~~ the transfer of title **OR THE FILING**
21 **OF AN AFFIDAVIT OF AFFIXTURE, IF APPLICABLE, TO THE SALE.** Consummation of
22 sale does not include warranties.

23 ~~9.~~ 10. "Dealer" means any person who sells, exchanges, buys,
24 offers or attempts to negotiate or acts as an agent for the sale or
25 exchange of factory-built buildings, ~~subassemblies,~~ manufactured homes or
26 mobile homes except as exempted in section 41-4028. A lease or rental
27 agreement by which the user acquired ownership of the unit with or without
28 additional remuneration is considered a sale under this chapter.

29 ~~10.~~ 11. "Defect" means any defect in the performance,
30 construction, components or material of a unit that renders the unit or
31 any part of the unit unfit for the ordinary use for which it was intended.

32 ~~11.~~ 12. "Department" means the Arizona department of housing.

33 ~~12.~~ 13. "Director" means the director of the department.

34 ~~13.~~ 14. "Earnest monies" means all monies given by a purchaser or
35 a financial institution to a dealer or broker before consummation of the
36 sale.

37 ~~14.~~ 15. "Factory-built building":

38 (a) Means a residential or ~~nonresidential~~ **COMMERCIAL** building
39 ~~including a dwelling unit or habitable room thereof~~ that is:

40 (i) Either wholly or in substantial part manufactured at an
41 off-site location ~~to be assembled~~ **AND TRANSPORTED FOR INSTALLATION OR**
42 **COMPLETION, OR BOTH,** on-site, ~~;~~.

43 (ii) **CONSTRUCTED IN COMPLIANCE WITH ADOPTED CODES, STANDARDS AND**
44 **PROCEDURES.**

45 (iii) **INSTALLED TEMPORARILY OR PERMANENTLY.**

1 (b) ~~except that it~~ Does not include a manufactured home,
2 recreational vehicle, ~~or mobile home as defined in this section~~ PANELIZED
3 BUILDING OR DOMESTIC OR LIGHT COMMERCIAL STORAGE BUILDING.

4 ~~15.~~ 16. "HUD" means the United States department of housing and
5 urban development.

6 ~~16.~~ 17. "Imminent safety hazard" means an imminent and
7 unreasonable risk of death or severe personal injury.

8 ~~17. "Insignia of approval" means a numbered or serialized label or~~
9 ~~seal issued by the director as certification of compliance with this~~
10 ~~chapter.~~

11 18. "Installation" means:

12 (a) Connecting new or used mobile homes, manufactured homes or
13 factory-built buildings to on-site utility terminals or repairing these
14 utility connections.

15 (b) Placing new or used mobile homes, manufactured homes, accessory
16 structures or factory-built buildings on foundation systems or repairing
17 these foundation systems.

18 (c) Providing ground anchoring for new or used mobile homes or
19 manufactured homes or repairing the ground anchoring.

20 19. "Installer" means any person who engages in the business of
21 performing installations of manufactured homes, mobile homes or
22 residential single family factory-built buildings.

23 20. "Installer of accessory structures" means any person who
24 engages in the business of installing accessory structures.

25 21. "Listing agreement" means a document that contains the name and
26 address of the seller, ~~a description of the unit to be listed and the~~
27 ~~terms, including the period of time~~ THE YEAR, MANUFACTURER AND SERIAL
28 NUMBER OF THE LISTED UNIT, THE BEGINNING AND ENDING DATES OF THE TIME
29 PERIOD that the agreement is in force, THE NAME OF THE LENDER AND LIEN
30 AMOUNT, IF APPLICABLE, the price the seller is requesting for the unit,
31 the commission to be paid to the licensee and the signatures of the
32 sellers and the licensee who obtains the listing.

33 22. "Local enforcement agency" means a zoning or building
34 department of a city, town or county or its agents.

35 23. "Manufactured home" means a structure built in accordance with
36 the act.

37 24. "Manufacturer" means any person engaged in manufacturing,
38 assembling or reconstructing any unit regulated by this chapter.

39 25. "Mobile home" means a structure built ~~prior to~~ BEFORE June 15,
40 1976, on a permanent chassis, capable of being transported in one or more
41 sections and designed to be used with or without a permanent foundation as
42 a dwelling when connected to on-site utilities. ~~except~~ MOBILE HOME DOES
43 NOT INCLUDE recreational vehicles and factory-built buildings.

44 26. "Office" means the office of manufactured housing within the
45 department.

1 27. "Purchaser" means a person purchasing a unit in good faith from
2 a licensed dealer or broker for purposes other than resale.

3 28. "Qualifying party" means a person who is an owner, employee,
4 corporate officer or partner of the licensed business and who has active
5 and direct supervision of and responsibility for all operations of that
6 licensed business.

7 29. "Reconstruction" means construction work performed for the
8 purpose of restoration or modification of a unit by changing or adding
9 structural components or electrical, plumbing or heat or air producing
10 systems.

11 30. "Recreational vehicle" means a vehicular type unit that is:

12 (a) A portable camping trailer mounted on wheels and constructed
13 with collapsible partial sidewalls that fold for towing by another vehicle
14 and unfold for camping.

15 (b) A motor home designed to provide temporary living quarters for
16 recreational, camping or travel use and built on or permanently attached
17 to a self-propelled motor vehicle chassis or on a chassis cab or van that
18 is an integral part of the completed vehicle.

19 (c) A park trailer built on a single chassis, mounted on wheels and
20 designed to be connected to utilities necessary for operation of installed
21 fixtures and appliances and has a gross trailer area of not less than
22 three hundred twenty square feet and not more than four hundred square
23 feet when it is set up, except that it does not include fifth wheel
24 trailers.

25 (d) A travel trailer mounted on wheels, designed to provide
26 temporary living quarters for recreational, camping or travel use, of a
27 size or weight that may or may not require special highway movement
28 permits when towed by a motorized vehicle and has a trailer area of less
29 than three hundred twenty square feet. This subdivision includes fifth
30 wheel trailers. If a unit requires a size or weight permit, it shall be
31 manufactured to the standards for park trailers in a 119.5 of the American
32 national standards institute code.

33 (e) A portable truck camper constructed to provide temporary living
34 quarters for recreational, travel or camping use and consisting of a roof,
35 floor and sides designed to be loaded onto and unloaded from the bed of a
36 pickup truck.

37 ~~31. "Safety" means the performance of a unit in such a manner that~~
38 ~~the public is protected against any unreasonable risk of the occurrence of~~
39 ~~accidents due to the design or construction of such unit, or any~~
40 ~~unreasonable risk of death or injury to the user or to the public if such~~
41 ~~accidents occur.~~

42 ~~32.~~ 31. "Salesperson" means any person who, for a salary,
43 commission or compensation of any kind, is employed by or acts on behalf
44 of any dealer or broker of manufactured homes, mobile homes or
45 factory-built buildings to sell, exchange, buy, offer or attempt to

1 negotiate or act as an agent for the sale or exchange of an interest in a
2 manufactured home, mobile home or factory-built building.

3 ~~33.~~ 32. "Seller" means a natural person who enters into a listing
4 agreement with a licensed dealer or broker for the purpose of resale.

5 ~~34.~~ 33. "Site development" means the development of an area for
6 the installation of the unit's or units' locations, parking, surface
7 drainage, driveways, on-site utility terminals and property lines at a
8 proposed construction site or area.

9 ~~35.~~ 34. "Statutory agent" means ~~an adult person who has been a~~
10 ~~bona fide resident of this state for at least three years and has agreed~~
11 ~~to act as agent for a licensee~~ A PERSON WHO IS ON FILE WITH THE
12 CORPORATION COMMISSION AS THE STATUTORY AGENT.

13 ~~36.~~ "Subassembly" means ~~a prefabricated wall, floor, ceiling, roof~~
14 ~~or similar combination of components.~~

15 ~~37.~~ 35. "Title transfer" means a true copy of the application for
16 title transfer that is stamped or validated by the appropriate government
17 agency.

18 ~~38.~~ 36. "Unit" means a manufactured home, mobile home,
19 factory-built building, ~~subassembly~~ or accessory structures.

20 ~~39.~~ 37. "Used unit" means any unit that is regulated by this
21 chapter and that has been sold, bargained, exchanged or given away from a
22 purchaser who first acquired the unit that was titled in the name of such
23 purchaser.

24 ~~40.~~ 38. "Workmanship" means a minimum standard of construction or
25 installation reflecting a journeyman quality of the work of the various
26 trades.

27 Sec. 6. Section 41-4002, Arizona Revised Statutes, is amended to
28 read:

29 41-4002. Office of manufactured housing: purpose

30 The purpose of the office of manufactured housing within the
31 department is to maintain AND ENFORCE standards of quality and safety for
32 manufactured homes, factory-built buildings, mobile homes and accessory
33 structures and installation of manufactured and mobile homes,
34 factory-built buildings and accessory structures. The affairs of the
35 office of manufactured housing shall be conducted consistently with
36 minimum standards of the United States department of housing and urban
37 development so as to be designated the "state inspector" for manufactured
38 homes and related industries. The office shall implement all existing
39 laws and regulations mandated by the federal government, its agencies and
40 this state for such purposes.

1 Sec. 7. Section 41-4004, Arizona Revised Statutes, is amended to
2 read:

3 41-4004. Powers and duties of department; work by unlicensed
4 person; inspection agreement; permit

5 ~~A. The deputy director under the authority and direction of the~~
6 ~~director shall administer the provisions of this article and the rules~~
7 ~~adopted by the board.~~

8 ~~B.~~ A. The ~~deputy director shall~~ DEPARTMENT MAY:

9 1. Establish a state inspection and design approval bureau within
10 the ~~office~~ DEPARTMENT.

11 2. Enter into reciprocity agreements and compacts with other states
12 or private organizations that adopt and maintain standards of construction
13 reasonably consistent with those adopted pursuant to this article on
14 determining that such standards are being enforced. The ~~deputy~~ director
15 may void such agreements on determining such standards are not being
16 maintained.

17 3. ~~Authorize affixment of insignia~~ ISSUE A CERTIFICATE to indicate
18 compliance with the construction and installation requirements of this
19 article.

20 4. Enter and inspect or investigate premises at reasonable times,
21 after presentation of credentials by the ~~deputy~~ director or personnel of
22 the office or under contract with the office, where units regulated by
23 this article are manufactured, sold or installed, to determine if any
24 person has violated this ~~article~~ CHAPTER or the rules adopted pursuant to
25 this ~~article~~ CHAPTER.

26 5. Enter into agreements with local enforcement agencies to enforce
27 the installation standards in their jurisdiction provided the ~~deputy~~
28 director is monitoring their performance to be consistent with the
29 installation standards of the office.

30 6. If an inspection reveals that a mobile home entering this state
31 for sale or installation is in violation of this chapter, order its use
32 discontinued and the mobile home or any portion of the mobile home
33 vacated. The order to vacate shall be served on the person occupying the
34 mobile home and copies of the order shall be posted at or on each exit of
35 the mobile home. The order to vacate shall include a reasonable period of
36 time in which the violation can be corrected.

37 7. If an inspection of a new installation of any mobile home or
38 manufactured home reveals that the natural gas or electrical connections
39 of the installation do not conform to the installation standards
40 promulgated pursuant to this ~~article~~ CHAPTER and the nonconformance
41 constitutes an immediate danger to life and property, the inhabitants of
42 the home shall be notified immediately and in their absence a notice
43 citing the violations shall be posted in a conspicuous location. The
44 ~~deputy~~ director may order that the public service corporation, municipal
45 corporation or other entity or individual supplying the service to the

1 unit discontinue such service. If the danger is not immediate, the ~~deputy~~
2 director shall allow at least twenty-four hours to correct the condition
3 before ordering any discontinuation of service.

4 8. If construction, installation, rebuilding or any other work is
5 performed in violation of this chapter or any rule adopted pursuant to
6 this chapter, order the work stopped. The order to stop work shall be
7 served on the person doing the work or on the person causing the work to
8 be done. The person served with the order shall immediately cease the
9 work until authorized by the office to continue.

10 9. Verify written complaints filed with the office by purchasers
11 within one year after the date of purchase or installation of units.
12 Complaints shall be accepted from consumers ~~which~~ THAT allege violations
13 by any dealer, broker, salesperson, installer or manufacturer of this
14 chapter or the rules adopted pursuant to this chapter.

15 10. On verification of a complaint pursuant to paragraph 9 of this
16 subsection, serve notice to the dealer, broker, salesperson, installer or
17 manufacturer that such verified complaint shall be satisfied as specified
18 by the office.

19 ~~C.~~ B. Any dealer, broker, salesperson, installer or manufacturer
20 licensed by the office shall respond within thirty days to a notice served
21 pursuant to subsection ~~B~~ A, paragraph 10 of this section. Failure to
22 respond is grounds for disciplinary action pursuant to section 41-4039.

23 ~~D.~~ C. If an inspection or an investigation reveals that any work
24 that is required to be performed by a licensee was performed by an
25 unlicensed person required to be licensed pursuant to this chapter, the
26 ~~deputy~~ director, an employee or a person under contract with the office
27 may cite the unlicensed person. The citation may be issued and served
28 pursuant to section 13-3903. The action shall be filed in the justice
29 court in the precinct where the unlicensed activity occurred.

30 ~~E.~~ D. The ~~deputy~~ director may enter into agreements with
31 acceptable qualified building inspection personnel or inspection
32 organizations for enforcement of inspection requirements provided the
33 ~~deputy~~ director is monitoring their performance to be consistent with this
34 ~~article~~ CHAPTER, rules adopted pursuant to this ~~article~~ CHAPTER and the
35 established procedures of the office. If the ~~deputy~~ director determines
36 that the person's or organization's performance is not consistent with
37 this ~~article~~ CHAPTER, rules adopted pursuant to this ~~article~~ CHAPTER and
38 the established procedures of the office, the person or organization may
39 not enforce the contract and the aggrieved person shall be entitled to a
40 refund of the consideration paid under the agreement.

41 ~~F.~~ E. If a mobile or manufactured home or factory-built building
42 is installed without first obtaining an installation permit, the ~~deputy~~
43 director shall send a written notice to the purchaser specifying that a
44 permit is required. If a permit is not obtained within thirty days after
45 receipt of the written notice, the department shall issue and serve by

1 personal service or certified mail a citation on the purchaser. Service
2 of the citation by certified mail is complete after forty-eight hours
3 after the time of deposit in the mail. On failure of the purchaser to
4 comply with the citation within twenty days after its receipt, the ~~deputy~~
5 director shall file an action in the justice court in the precinct where
6 installation occurred for violation of this subsection.

7 Sec. 8. Section 41-4005, Arizona Revised Statutes, is amended to
8 read:

9 41-4005. Submission of construction, reconstruction or
10 alteration plans by manufacturers; approval;
11 revocation

12 A. ~~Prior to~~ BEFORE the construction of any new model of
13 factory-built building ~~or subassembly~~, each manufacturer who intends to
14 manufacture for delivery or sell such unit in this state shall submit to
15 the director for approval detailed plans of each model and shall have
16 obtained such approval.

17 B. ~~Prior to~~ BEFORE reconstruction of any factory-built building,
18 including those for which the director has not approved plans before
19 construction, the licensee shall submit to the director for approval
20 detailed plans of the factory-built building that indicate conformance
21 with this state's adopted codes as certified by an engineer who is
22 registered pursuant to title 32, chapter 1.

23 C. ~~Prior to~~ BEFORE installation of a factory-built building or
24 accessory structure, each licensee who intends to accomplish the
25 construction shall submit to the director for approval detailed plans for
26 each project and shall obtain the director's approval.

27 D. The office or a ~~third-party~~ THIRD-PARTY inspector who is
28 authorized by the ~~deputy~~ director to verify compliance with the approved
29 plans shall inspect the factory-built building.

30 E. A plan approval may be immediately suspended by the written
31 notice of the ~~deputy~~ director if the ~~deputy~~ director has reasonable cause
32 to believe that the licensee is not complying with the plan as approved or
33 that the licensee has used inferior materials or workmanship in
34 construction. This notice shall be served by personal service to an
35 in-state licensee and by certified mail to an out-of-state
36 licensee. Service of process by certified mail is complete after
37 forty-eight hours from the time of deposit in the mail.

38 Sec. 9. Section 41-4006, Arizona Revised Statutes, is amended to
39 read:

40 41-4006. Preemption of local building codes; responsibility
41 for maintenance of utility connections

42 A. No building code or local enforcement agency or its adopted
43 building codes may require, as a condition of entry into or sale in any
44 county or municipality, that any unit ~~which~~ THAT has been certified
45 pursuant to this ~~article~~ CHAPTER be subjected to any local enforcement

1 inspection to determine compliance with any standard covering any aspect
2 of the unit ~~which~~ THAT is inspected pursuant to this article.

3 B. Except where a local enforcement agency participates in the
4 office permit and ~~insignia~~ CERTIFICATE issuance program for the
5 installation of manufactured homes, mobile homes, factory-built buildings
6 and accessory structures and inspection of such installations, no local
7 enforcement agency shall subject any unit installed to any local
8 inspections or charge a fee for any services provided pursuant to this
9 article.

10 C. A local enforcement agency in any county or municipality shall
11 recognize the minimum standards of the act as equal to any nationally
12 accepted or locally adopted building code standard.

13 D. Nothing in subsection A, B or C of this section shall prevent
14 the application of local codes and ordinances governing zoning
15 requirements, fire zones, building setback, maximum area and fire
16 separation requirements, site development and property line requirements
17 and requirements for on-site utility terminals for factory-built
18 buildings, manufactured homes and mobile homes.

19 E. Notwithstanding any other provision of this section, the owner
20 of a manufactured home or mobile home located in a park subject to title
21 33, chapter 11 is responsible for the maintenance of utility connections
22 from any outlets furnished by the landlord pursuant to section 33-1434 to
23 the unit, except that the landlord is responsible for the maintenance of
24 connections for any distance greater than twenty-five feet to the point at
25 which the utility connections are the property of the providing utility
26 company if the outlet is located outside the lot line of the owner's unit
27 and is more than twenty-five feet from the unit. A local enforcement
28 agency that determines that local code requirements are not being met or
29 that maintenance or safety activities are needed for utility connections
30 may not require anyone except the responsible party to perform or pay for
31 such activities.

32 Sec. 10. Section 41-4009, Arizona Revised Statutes, is amended to
33 read:

34 41-4009. Board of manufactured housing; members; meetings

35 A. ~~There is established a~~ THE board of manufactured housing IS
36 ESTABLISHED. The board shall consist of nine members appointed by the
37 governor pursuant to section 38-211. One member shall represent the
38 manufacturers OF MANUFACTURED HOMES, one shall represent the installer
39 industry, one shall represent manufactured home park owners, one shall
40 represent financial institutions, one shall represent the manufacturers of
41 residential factory-built buildings, one shall represent the dealers and
42 brokers and three members of the public, at least one of whom has as his
43 residence a mobile or manufactured home and is a resident of a mobile home
44 park or manufactured home park, shall represent the consumers of this
45 state. Each member shall be appointed for a term of three years. The

1 governor may remove any member from the board for incompetency, improper
2 conduct, disability or neglect of duty. Members are eligible to receive
3 compensation pursuant to section 38-611 and are eligible for reimbursement
4 for expenses incurred while attending meetings called by the board
5 pursuant to title 38, chapter 4, article 2.

6 B. The board annually shall select from its membership a
7 chairperson for the board.

8 C. The board shall meet on call of the chairperson or on the
9 request of at least four members.

10 Sec. 11. Section 41-4010, Arizona Revised Statutes, is amended to
11 read:

12 41-4010. Powers and duties of board

13 A. The board shall:

14 1. Adopt rules imposing minimum construction requirements for
15 factory-built buildings, ~~subassemblies~~ and components thereof that are
16 reasonably consistent with nationally recognized and accepted publications
17 or generally accepted manufacturing practices pertinent to the
18 construction and safety standards for such item to be manufactured. These
19 standards shall include minimum requirements for the safety and welfare of
20 the public.

21 2. Adopt rules imposing requirements for body and frame design and
22 construction and installation of plumbing, heating and electrical systems
23 for manufactured homes that are consistent with the rules and regulations
24 for construction and safety standards adopted by the United States
25 department of housing and urban development.

26 3. Adopt rules relating to plan approvals as to requirements for
27 the design, construction, alteration, reconstruction and installation of
28 units or accessory structures as deemed necessary by the board to carry
29 out this chapter.

30 4. Establish a schedule of fees, payable by persons, licensees or
31 owners of units regulated by this chapter, for inspections, licenses,
32 permits, plan reviews, administrative functions and ~~insignia~~ CERTIFICATES
33 so that the total annual income derived from such fees will not be less
34 than ninety-five percent and not more than one hundred five percent of the
35 anticipated expenditures for the ~~operation of the office of manufactured~~
36 ~~housing~~ ADMINISTRATION OF THE ACTIVITIES DESCRIBED IN THIS SUBSECTION.

37 5. Adopt rules relating to the inspection throughout the state by
38 the ~~director~~ DEPARTMENT of the installation of manufactured homes, mobile
39 homes, factory-built buildings and accessory structures included as part
40 of a sales contract for a ~~new or used mobile or~~ manufactured home, MOBILE
41 HOME OR FACTORY-BUILT BUILDING or ~~part of~~ INCLUDED IN an agreement to move
42 a ~~new or used mobile or~~ manufactured home, MOBILE HOME OR FACTORY-BUILT
43 BUILDING.

44 6. Establish and maintain licensing standards and bonding
45 requirements for all manufacturers of manufactured homes, ~~AND~~

1 factory-built buildings ~~and subassemblies~~ regulated pursuant to this
2 chapter.

3 7. Establish and maintain licensing standards and bonding
4 requirements for all dealers and brokers of manufactured homes, mobile
5 homes, ~~AND~~ factory-built buildings ~~and subassemblies~~ thereof who sell or
6 arrange the sale of such products within this state.

7 8. Establish and maintain licensing standards and bonding
8 requirements for all installers of manufactured homes, mobile homes and
9 accessory structures and certified standards for all persons who repair
10 these homes and structures under warranties and who are not employees of
11 the manufacturer.

12 9. Establish and maintain licensing standards for all salespersons
13 of manufactured homes, mobile homes and factory-built buildings. These
14 standards shall not include educational requirements.

15 10. Adopt rules consistent with the United States department of
16 housing and urban development procedural and enforcement regulations and
17 enter into such contracts necessary to administer the federal manufactured
18 home regulations.

19 11. Adopt rules imposing minimum fire and life safety requirements
20 in the categories of fire detection equipment, flame spread for gas
21 furnace and water heater compartments, egress windows, electrical system
22 and gas system for mobile homes entering this state.

23 12. Adopt rules for inspections and permits for minimum fire and
24 life safety requirements and establish fees for such inspections and
25 permits for mobile homes entering this state.

26 13. Adopt such other rules as the board deems necessary for the
27 ~~director~~ DEPARTMENT to carry out this chapter and, to the extent not
28 authorized by other provisions of this section, adopt rules as necessary
29 to interpret, clarify, administer or enforce ~~this article and article 4 of~~
30 this chapter.

31 14. Adopt rules relating to the installation of manufactured homes,
32 mobile homes, factory-built buildings and accessory structures included as
33 part of a sales contract for a ~~new or~~ used mobile HOME, ~~or~~ NEW OR USED
34 manufactured home OR NEW OR USED FACTORY-BUILT BUILDING or part of an
35 agreement to move a ~~new or~~ used mobile HOME, ~~or~~ NEW OR USED manufactured
36 home OR NEW OR USED FACTORY-BUILT BUILDING. This paragraph does not apply
37 to:

38 (a) Single wide factory-built buildings that are used for
39 construction project office purposes and that are not used by the public.

40 (b) Storage buildings of less than one hundred sixty-eight square
41 feet that are not used by the public.

42 (c) Equipment buildings that are not used by the public.

43 15. Adopt rules relating to acceptable workmanship standards.

1 16. Adopt rules relating to issuing permits to licensees, owners of
2 units or other persons for the installation of manufactured homes, mobile
3 homes, factory-built buildings and accessory structures.

4 17. Adopt rules including a requirement that a permit shall be
5 obtained before the installation of a mobile or manufactured home.

6 18. Establish standards for the permanent foundation of a
7 manufactured home, mobile home or factory-built building.

8 B. In adopting rules pursuant to subsection A, paragraph 3 of this
9 section, the board shall consider for adoption any amendments to the codes
10 and standards referred to in subsection A, paragraphs 1 and 2 of this
11 section. If the board adopts the amendments to such codes and standards,
12 the ~~director~~ DEPARTMENT shall notify the manufacturers licensed pursuant
13 to article 4 of this chapter ninety or more days ~~prior to~~ BEFORE the
14 effective date of such amendments.

15 C. Chapter 6 of this title does not apply to the setting of fees
16 under subsection A, paragraph 4 of this section.

17 D. Rules adopted pursuant to subsection A, paragraph 14 of this
18 section shall be standard throughout this state and may be enforced by the
19 local enforcement agencies on installation to ensure a standard of
20 safety. The board may make an exception to the standard if, on petition
21 by a local jurisdiction participating in the installation inspection
22 program, local conditions justify the exemption or it is necessary to
23 protect the health and safety of the public. On its own motion, the board
24 may revise or repeal any exception.

25 Sec. 12. Repeal

26 Section ~~41-4021~~, Arizona Revised Statutes, is repealed.

27 Sec. 13. Section 41-4023, Arizona Revised Statutes, is amended to
28 read:

29 ~~41-4023.~~ General powers and duties

30 The director shall appoint the deputy director who shall, under the
31 authority and direction of the director:

32 ~~1. Administer the provisions of this article.~~

33 ~~2. Provide personnel, clerical, accounting, fiscal and budget~~
34 ~~support for the department and other functions designated by the director.~~

35 ~~3.~~ 1. Establish licensing and regulation procedures in accordance
36 with this article and issue certification documents for compliance with
37 the licensing and bonding requirements of this article.

38 ~~4.~~ 2. Issue ~~certification insignia~~ CERTIFICATES to indicate
39 compliance with the construction and installation requirements of article
40 ~~2- 3~~ of this chapter.

41 ~~5.~~ 3. Provide for investigative support, enforcement, penalty
42 procedures, hearings and rehearings in accordance with this chapter.

43 ~~6.~~ 4. Establish field offices for the department as required.

1 ~~7.~~ 5. Issue permits to licensees, owners of units and other
2 persons for the installation of manufactured homes, mobile homes and
3 factory-built buildings and the rehabilitation of mobile homes.

4 Sec. 14. Repeal

5 Section 41-4024, Arizona Revised Statutes, is repealed.

6 Sec. 15. Section 41-4025, Arizona Revised Statutes, is amended to
7 read:

8 41-4025. Qualifications and requirements for license

9 A. A manufacturer, dealer, broker, salesperson or installer license
10 shall be issued by the director.

11 B. The director shall:

12 1. ~~Classify and~~ Qualify applicants for a license.

13 2. Conduct such investigations as the director deems necessary.

14 3. Establish and administer written examinations for the applicable
15 ~~class~~ license CLASSIFICATIONS.

16 C. The director may establish experience requirements for
17 installers of manufactured homes, mobile homes, RESIDENTIAL FACTORY-BUILT
18 BUILDINGS and accessory structures.

19 D. To obtain a license pursuant to this article, the applicant
20 shall submit to the director a notarized application on forms prescribed
21 by the ~~office~~ DEPARTMENT together with the required license fee. Such
22 application shall contain the following information:

23 1. A designation of the classification of license sought by the
24 applicant.

25 2. The name, birth date and address of an individual applicant.

26 3. If the applicant is a partnership, the name, birth date and
27 address of all partners with a designation of any limited partners.

28 4. If the applicant is a corporation, association or other
29 organization, the names, birth dates and addresses of the president,
30 ~~vice-president~~ VICE PRESIDENT, secretary and treasurer.

31 5. For all licenses, except those for salespersons, the name, birth
32 date and address of the qualifying party. The qualifying party must
33 reside within the state of the principal place of the licensee's business
34 and shall not act in the capacity of a qualifying party for more than one
35 license in the same classification.

36 6. If the applicant is a corporation, ASSOCIATION OR OTHER
37 ORGANIZATION, evidence that the corporation, ASSOCIATION OR OTHER
38 ORGANIZATION is in good standing with the Arizona corporation commission.

39 7. Whether the owner, if the applicant is a sole proprietorship,
40 all partners, if the applicant is a partnership, all officers, if the
41 applicant is a corporation or other type of association, THE MANAGERS OR
42 MANAGING MEMBERS, IF THE APPLICANT IS A LIMITED LIABILITY COMPANY, the
43 general partner, if the applicant is a limited partnership, or the
44 individual, if the applicant is a salesperson, has ever been charged or
45 convicted of a felony, or has ever received an adverse final decision in a

1 civil action alleging fraud or misrepresentation, and, if so, the nature
2 of the action and the final disposition of the case.

3 8. For corporations, the name and address of a statutory agent
4 appointed by the licensee on whom legal notices, summonses or other
5 processes may be served, which service shall be deemed personal service on
6 the licensee.

7 9. If it is an application for a salesperson's license, the
8 applicant shall designate an employing dealer or broker and the
9 application shall include the signature of the qualifying party or the
10 qualifying party's designee.

11 10. Other information as the director may deem necessary.

12 E. ~~Prior to~~ BEFORE the issuance of any license pursuant to this
13 article, the owner, if the applicant is a sole proprietorship, all
14 partners, if the applicant is a partnership, the general partner, if the
15 applicant is a limited partnership, the president, ~~vice-president~~ VICE
16 PRESIDENT, secretary, and treasurer, if the applicant is a corporation or
17 other type of association, ~~THE MANAGER OR MANAGING MEMBERS, IF THE~~
18 ~~APPLICANT IS A LIMITED LIABILITY COMPANY~~, the individual, if the applicant
19 is a salesperson, and the qualifying party shall be of good character and
20 reputation and shall submit a fingerprint card for background
21 analysis. Lack of good character and reputation may be established by
22 showing that such person has committed any act ~~which~~ THAT, if committed by
23 any licensee, would be grounds for suspension or revocation of such
24 license.

25 F. To obtain a license pursuant to this article, a person shall not
26 have had a license refused or revoked within one year ~~prior to~~ BEFORE the
27 date of the application nor have engaged in the business without first
28 having been licensed nor shall a person act as a licensee between the
29 filing of the application and actual issuance of the license. For the
30 purposes of this subsection, "person" means an applicant, an individual, a
31 qualifying party, any partner of a partnership, ~~ANY MANAGER OR MANAGING~~
32 ~~MEMBER OF A LIMITED LIABILITY COMPANY~~, or any officer, director,
33 qualifying party or owner of forty percent or more of the stock or
34 beneficial interest of a corporation.

35 G. ~~Prior to~~ BEFORE issuance of a dealer, broker or installer
36 license, the qualifying party, in addition to meeting the requirements
37 provided in subsection D of this section, shall successfully show, by
38 written examination within three attempts, qualification in the kind of
39 work or business in which the applicant proposes to engage. ~~BEFORE THE~~
40 ~~ISSUANCE OF AN INSTALLER LICENSE, THE QUALIFYING PARTY SHALL ALSO PROVIDE~~
41 ~~THE DEPARTMENT WITH EVIDENCE OF SUCCESSFUL COMPLETION OF THE ONLINE~~
42 ~~INSTALLER COURSE THAT IS ADMINISTERED BY THE MANUFACTURED HOUSING~~
43 ~~EDUCATIONAL INSTITUTE AND PROOF OF THREE YEARS OF PRACTICAL OR FIELD~~
44 ~~EXPERIENCE OR TRAINING THAT IS DEEMED ACCEPTABLE BY THE DEPARTMENT.~~

1 H. ~~No~~ A license shall NOT be issued to a minor or to any
2 partnership in which one of the partners is a minor.

3 I. Every salesperson who holds an active license shall maintain on
4 file with the ~~office~~ DEPARTMENT a current residence address and shall
5 notify the ~~office~~ DEPARTMENT within five working days of any change of
6 address, of any discontinued employment, and where, if anywhere, the
7 salesperson is currently working.

8 J. The license of a salesperson who is no longer employed by the
9 dealer of record is deemed inactive.,~~and~~ The salesperson shall turn ~~in~~
10 the license ~~to~~ INTO the ~~office~~ DEPARTMENT until the salesperson is
11 employed by another dealer and a written notification of the change has
12 been received by the ~~office~~ DEPARTMENT. On notification, the ~~office~~
13 DEPARTMENT shall return the license to the salesperson.

14 Sec. 16. Section 41-4026, Arizona Revised Statutes, is amended to
15 read:

16 41-4026. Issuance of a license

17 A. On receipt by the director of the nonrefundable fee required by
18 this article and an application furnishing complete information as
19 required by the director and on the applicant taking and passing the
20 applicable examination required by section 41-4025, the director shall
21 issue a **CONDITIONAL** license to the applicant, pending completion of the
22 background analysis, permitting the applicant to engage in business
23 pursuant to this article for one year.

24 B. Pursuant to the agreement for conditional license, the applicant
25 shall agree to a revocation of the conditional license if it appears, on
26 review of the background analysis, that the applicant has misrepresented
27 its background. The applicant shall also agree to waive any right the
28 applicant may have to a stay of the effectiveness of any order of
29 revocation of the conditional license, the right to notice of hearing and
30 the right to a hearing before the revocation of the license.

31 C. The agreement for conditional license does not prohibit the
32 applicant from making a written demand for a hearing on the order of
33 revocation pursuant to chapter 6, article 10 of this title. Pending the
34 hearing, the applicant shall not continue to transact business under the
35 conditional license.

36 D. ~~On completion~~ **DEPENDING ON THE RESULTS** of the background
37 analysis, the director may ~~issue either a permanent or a probationary~~
38 ~~license, depending on the results of the background analysis~~ **EITHER REVOKE**
39 **THE CONDITIONAL LICENSE OR DEEM THE LICENSE AS GRANTED WITHOUT FURTHER**
40 **CONDITION.**

41 E. ~~licenses~~ **LICENSE CERTIFICATES** issued pursuant to this article
42 ~~and any annual renewals~~ shall be signed by the director or the director's
43 designated representative ~~and by the licensee~~. The license is
44 nontransferable and satisfactory evidence of the possession shall be
45 exhibited by the licensee on demand. The license held by the licensee

1 shall be posted in a conspicuous place on the premises where any business
2 is being performed. ~~A license card shall be carried by the person doing~~
3 ~~the work away from the premises where the license is posted.~~ The license
4 number shall be written on any contract entered into by the licensee.

5 F. If an application for a license is denied or if the applicant
6 fails to supply complete and correct required information within ninety
7 days or fails to pass the required written examination within ninety days
8 after filing or if an application for renewal is not completed by the
9 expiration date or if any applicant requiring examination after having
10 been notified by letter of the date to appear fails to appear for the
11 examination within ninety days from the date of filing the application,
12 the fee paid by the applicant on filing the application is forfeited and
13 the application is terminated. A reapplication for a license shall be
14 accompanied by the fee prescribed by the director.

15 G. If, before the issuance of the license, information brought to
16 the attention of the director concerning the qualifications of the
17 applicant is such that in the director's discretion it may be proper to
18 deny the license, the director may notify the applicant that the license
19 is denied and that the applicant may request in writing a hearing if the
20 applicant so desires.

21 H. The licensee may not engage in the sale of units, either new or
22 used, unless the licensee maintains an office where the records are
23 available for inspection and the location is listed on the license
24 application as the principal place of business.

25 Sec. 17. Section 41-4027, Arizona Revised Statutes, is amended to
26 read:

27 41-4027. Renewal of licenses; license status

28 A. Licenses issued under this article shall expire one year after
29 the date of issuance. An application for renewal of any current license
30 with evidence of a valid bond or cash deposit when accompanied by the
31 required fee and received by the director before the expiration date shall
32 authorize the licensee to operate until actual issuance of the renewal
33 license for the ensuing year.

34 B. A license that expires may be reactivated and renewed within one
35 year of its expiration by filing the required renewal application, signed
36 by the licensee or qualifying party for a business licensee, evidence of a
37 valid bond and payment of a fee of one hundred twenty-five percent of the
38 amount required for that license class. When a license has been expired
39 for more than one year for failure to renew, a new application for license
40 shall be made and a new license issued pursuant to this article. If the
41 license has been expired for more than one year, the fee required shall be
42 two hundred percent of the fee required for that license class.

43 C. An applicant for renewal of a license issued pursuant to this
44 article shall not be required to take a written examination.

1 D. A license is not transferable. Any change in the legal entity
2 of a licensee that includes any change in the ownership of a sole
3 proprietorship or a partner of a partnership or in the creation of a new
4 corporate entity requires a new license.

5 E. A license may be ~~cancelled~~ CANCELED on the written request of
6 the owner of a sole proprietorship, a partner of a partnership or, in the
7 case of a corporation OR A LIMITED LIABILITY CORPORATION, any person with
8 written evidence of his authority to request the cancellation. A
9 salesperson's license may be ~~cancelled~~ CANCELED on the written request of
10 the salesperson. The director may refuse to accept voluntary cancellation
11 of a license if good cause may exist for disciplinary action.

12 F. If possible, the licensee shall notify the director in writing
13 of the disassociation of a qualifying party before the action, and in any
14 event no later than five business days after the action. The licensee
15 shall also notify the director as to who will be temporarily responsible
16 for the operation of the business. The absence of a written designated
17 qualifying party for sixty days is grounds for suspension of the
18 license. If a person ceases to be the qualifying party for a licensee,
19 the person shall notify the ~~office~~ DEPARTMENT within five days.

20 G. An application for a new qualifying party shall include the
21 completion of the prescribed forms, fingerprints and testing, if
22 applicable, in accordance with sections 41-4025 and 41-4026.

23 H. A licensee may request the director, on forms prescribed by the
24 director, to inactivate the licensee's current license for a period of not
25 more than two years. In the absence of any disciplinary proceeding or
26 disciplinary suspension and on payment of reasonable fees determined by
27 the board the director may issue an inactive license certificate to the
28 licensee if the licensee has turned in his license. The inactive license
29 certificate may consist of an endorsement on the licensee's license
30 stating that the license is inactive. The director may not refund any of
31 the license renewal fee which a licensee paid before requesting inactive
32 status. A licensee's license ~~which~~ THAT is not suspended or revoked and
33 is inactive shall be reactivated as an active license on payment of the
34 current year's renewal fee and thirty days' written notice to the
35 director. ~~No~~ AN examination may NOT be required to reactivate an inactive
36 license. If the license is not reactivated within two years, a new
37 application for licensing must be made and the new license issued pursuant
38 to this chapter. ~~No~~ A licensee may NOT inactivate the license more than
39 once. The holder of an inactive license shall not work as a licensee
40 until ~~his~~ THE LICENSEE'S license is reactivated as an active license. The
41 inactive status of a licensee's license does not bar any disciplinary
42 action by the director against a licensee for any of the grounds stated in
43 this chapter.

1 Sec. 18. Section 41-4028, Arizona Revised Statutes, is amended to
2 read:

3 41-4028. Exemptions

4 A. Any person engaged in installing manufactured homes, mobile
5 homes or accessory structures and licensed in an appropriate category by
6 the registrar of contractors pursuant to title 32, chapter 10, article 2
7 is exempt only from the licensing requirements of this article.

8 B. The requirements of this chapter applicable to dealers ~~and~~
9 ~~brokers~~ do not apply to persons performing the following transactions:

10 1. Real estate brokers and real estate salesmen licensed under
11 section 32-2122 who engage in activities proscribed by this chapter with
12 respect to used manufactured homes, mobile homes, ~~OR~~ factory-built
13 buildings ~~or subassemblies~~ if the manufactured home, mobile home, ~~OR~~
14 factory-built building ~~or subassembly~~ is listed in a contract for transfer
15 of an interest in real property executed by its owner and is installed on
16 the real property.

17 2. Receivers, trustees, administrators, executors, guardians or
18 other persons appointed by or acting under the judgment of any court.

19 3. Public officers while performing their official duties.

20 4. Banks and other financial institutions, and their subsidiaries,
21 and other corporations qualified to do business in this state, if they are
22 proceeding as repossessors or liquidators, but only to the extent that
23 they finance the sales transaction by which the repossessed property is
24 liquidated or are a holder in due course with respect to the transaction.

25 5. A purchaser who sells no more than two factory-built buildings,
26 ~~subassemblies,~~ manufactured homes or mobile homes in any ~~twelve-month~~
27 ~~TWELVE-MONTH~~ period.

28 C. For the purposes of this section, a manufactured home, mobile
29 home, ~~OR~~ factory-built building ~~or subassembly~~ is used if it has been
30 occupied for at least thirty consecutive days for its intended use or
31 function by a bona fide homeowner, renter or other end user.

32 Sec. 19. Section 41-4029, Arizona Revised Statutes, is amended to
33 read:

34 41-4029. Bonds and cash deposits; requirements; fund

35 A. Before granting an original license, the director shall require
36 of the applicant, except an applicant for salesperson or broker of
37 manufactured homes, mobile homes or factory-built buildings designed for
38 use as residential buildings, a surety bond in a form acceptable to the
39 director or a cash deposit pursuant to this section. A separate bond or
40 cash deposit shall be required for each branch location of any licensed
41 manufacturer or installer. No license shall be renewed unless the
42 applicant's surety bond or cash deposit is in full force and effect. A
43 change of location of a licensee's principal place of business requires a
44 rider or endorsement to the existing bond and payment of the

1 administrative function fee. The rider or endorsement shall indicate the
2 new location and acceptance of claims for the previous location.

3 B. The bonds or cash deposit shall be in amounts prescribed by the
4 board.

5 C. The surety bonds shall be executed by the applicant as principal
6 with a corporation duly authorized to transact surety business in this
7 state. Evidence of a surety bond shall be submitted to the director in a
8 form prescribed by the director. The applicant may in the alternative
9 establish a cash deposit in the amount of the bond with the state
10 treasurer pursuant to the rules adopted by the director. The bond funds
11 shall be deposited, pursuant to sections 35-146 and 35-147, in a special
12 account to be known as the consumer recovery fund. The state treasurer
13 shall invest and divest monies in the fund as provided by section 35-313,
14 and monies earned from investment shall be credited to the fund. Such
15 cash deposits may be withdrawn, if there are no outstanding claims against
16 them, two years after the termination of the license in connection with
17 which the cash is deposited. The cash deposit may be withdrawn two years
18 after the filing of a commercial surety bond as a replacement to the cash
19 deposit.

20 D. The bond or deposit required by this section shall be in favor
21 of the state for the benefit of any person covered by this subsection.
22 The bond or deposit shall be subject to claims by:

23 1. Any consumer of a unit regulated by this chapter who enters into
24 an agreement with any licensee, except a salesperson or broker of
25 manufactured homes, mobile homes or factory-built buildings designed for
26 use as residential buildings, and is damaged by the failure of the
27 principal to perform a sales or installation agreement or to perform
28 repairs under a warranty.

29 2. The director, if the principal fails to pay any of the fees or
30 costs ~~which~~ THAT the principal owes the ~~office~~ DEPARTMENT.

31 E. Any person claiming against the bond or deposit, except the
32 department, may maintain an action against the principal and the surety.
33 Such principal's bond or deposit may be sued on in successive actions
34 until the full amount is exhausted. No suit may be commenced on the bond
35 or deposit after the expiration of two years after the date of sale or
36 installation of the unit, whichever is later, on which the suit is based,
37 except that the time for purposes of the claim for fraud shall be measured
38 pursuant to section 12-543.

39 F. The surety bond or deposit shall be continuous in form and shall
40 contain the condition that the total aggregate liability of the surety or
41 depository for all claims shall be limited to the face amount of the bond
42 or depository irrespective of the number of years the bond or depository
43 is in force. If the corporate surety desires to make payment without
44 awaiting court action, the amount of the bond filed shall be reduced to
45 the extent of any payment or payments made by the corporate surety in good

1 faith. Any such payments shall be based on priority of written claims
2 received by the corporate surety prior to court action. The surety bond
3 or depository shall be continuous as long as the corporate surety or the
4 depositor maintains the face amount of the bond or deposit. Failure to
5 maintain the face amount of the bond or deposit constitutes a suspension
6 of such license until the face amount of the bond or deposit is restored.

7 G. The corporate surety shall notify the director of the intent of
8 the principal to cancel the bond and of any monies paid from the bond. On
9 receipt by the director of notice to cancel a bond by any corporate
10 surety, the director shall immediately notify the licensee who is the
11 principal on the bond of the effective date of cancellation of the bond
12 and that the licensee shall furnish a like bond or make cash deposit on or
13 before the effective date of cancellation or the license shall be
14 suspended. Notice to the licensee shall be by certified mail postage
15 fully prepaid, addressed to the licensee's last address of record with the
16 ~~office~~ DEPARTMENT. The license shall be suspended on the date the bond is
17 canceled unless a replacement bond or cash deposit in lieu of a bond is on
18 file with the director.

19 H. The director ~~and director~~ shall have no personal liability for
20 the performance of duties relating to the bond and cash deposit
21 requirements of this section if such duties are performed in good faith.

22 Sec. 20. Section 41-4030, Arizona Revised Statutes, is amended to
23 read:

24 41-4030. Trust and escrow requirements; rules; exemptions

25 A. ~~Beginning July 1, 2012,~~ Each dealer ~~or broker~~ licensed pursuant
26 to this article shall establish an independent escrow account with an
27 independent financial institution or escrow agent authorized to handle
28 such an account in this state as prescribed by title 6, chapter 7 or 8,
29 for each transaction involving:

30 1. A new manufactured home.

31 2. A new factory-built building designed for use as a residential
32 dwelling.

33 3. A manufactured home, mobile home or factory-built building
34 designed for use as a residential dwelling that is previously owned and
35 that has a purchase price of fifty thousand dollars or more.

36 B. For the purposes of subsection A of this section, a financial
37 institution or escrow agent is independent if the individual or entity is
38 not controlled by the licensee, a family member of the licensee or a
39 business affiliated with the licensee and the licensee, family member or
40 business affiliate does not have a majority interest in the financial
41 institution or escrow agent.

42 C. The owner of a mobile home park who also is or owns a dealership
43 licensed pursuant to this article to sell new units may sell a new
44 manufactured home or a new factory-built building designed for use as a

1 residential dwelling as a licensee without complying with subsection A of
2 this section if all of the following apply:

3 1. The home will be sited in a mobile home park that is owned by
4 the park owner.

5 2. At the time of the sale, the park owner has on file at the
6 ~~office of manufactured housing~~ DEPARTMENT the name and address of all
7 mobile home parks owned by the park owner, the name, address and license
8 number of the licensed dealership and documentation showing to the
9 satisfaction of the ~~office of manufactured housing~~ DEPARTMENT that the
10 park owner either holds the license, owns a majority interest in the
11 license or is controlled by an entity that holds a controlling interest in
12 the license.

13 3. At the time of the sale, the licensed dealership has posted with
14 the ~~office of manufactured housing~~ DEPARTMENT a dealer bond in an amount
15 of at least one hundred thousand dollars in a form satisfactory to the
16 ~~office of manufactured housing~~ DEPARTMENT covering sales by parks sharing
17 common control.

18 D. Each dealer ~~or broker who is licensed pursuant to this article~~
19 ~~and~~ who sells NEW manufactured homes, ~~mobile homes~~ or factory-built
20 buildings designed for use as residential dwellings or a manufactured
21 home, mobile home or factory-built building designed for use as a
22 residential dwelling that is previously owned and that has a purchase
23 price of less than fifty thousand dollars shall maintain a LICENSEE'S
24 trust account or OPEN an escrow account with ~~a~~ AN INDEPENDENT financial
25 institution or escrow agent located in this state and shall deposit all
26 earnest money received for the sale of manufactured homes, mobile homes or
27 factory-built buildings designed for use as residential dwellings in such
28 account. The department shall conduct an audit of each dealer's ~~or~~
29 ~~broker's~~ trust or escrow account, including any transactions with an
30 independent escrow account, at least once every two years. ~~Beginning July~~
31 ~~1, 2012,~~ A purchaser ~~under this subsection~~ OF A MOBILE HOME, USED
32 MANUFACTURED HOME OR USED FACTORY-BUILT BUILDING DESIGNED FOR USE AS A
33 RESIDENTIAL DWELLING may request that the dealer ~~or broker~~ establish an
34 independent escrow account and if such a request is made in writing no
35 later than the time the purchase contract is signed, and the seller
36 consents, the dealer ~~or broker~~ shall comply with this subsection by
37 complying with subsection A of this section. A licensee handling a
38 transaction under this subsection shall disclose to the purchaser, in
39 writing and before or at the time the purchaser signs the purchase
40 contract, that the purchaser may request in writing the use of an
41 independent escrow account, and that the transaction will otherwise be
42 handled through a trust account controlled by the licensee.

43 E. All dealers ~~or brokers~~ shall notify the director in writing when
44 the trust or escrow account has been established by indicating the name

1 and number of the account and the name and location of the financial
2 institution used.

3 F. The dealer ~~or broker~~, in writing, shall authorize the depository
4 to release any and all information relative to trust or escrow accounts to
5 the director or the director's agent, employee or deputy.

6 G. The dealer's ~~or broker's~~ earnest money receipt book shall
7 reflect all earnest monies received and shall be at the minimum in
8 duplicate and consecutively numbered.

9 H. All earnest monies shall be deposited in the escrow account or
10 trust fund account no later than the close of the second banking business
11 day after receipt.

12 I. The terms or instructions for any escrow account opened under
13 subsection A or D of this section are deemed to be ~~and~~ enforceable as part
14 of the purchase contract. All parties to the purchase contract and the
15 licensee shall sign the terms and instructions. If practicable, the
16 escrow terms or instructions shall be included in the purchase contract or
17 stated in an addendum to the purchase contract. The licensee shall
18 provide a copy of the purchase contract to the escrow agent even if the
19 escrow terms or instructions are contained in a separate document. The
20 licensee shall promptly provide the escrow account information to all
21 parties to the purchase contract once the account is opened.

22 J. At a minimum, the escrow terms or instructions shall contain:

23 1. Identification of the escrow agent with information containing
24 at least the name, address and telephone number of the **ESCROW** agent.

25 2. All conditions or requirements that affect or pertain to closing
26 the escrow account and disbursement of the monies in the **ESCROW** account.

27 3. Any conditions or requirements where monies are to be disbursed
28 from the escrow account in advance of the **ESCROW** account being closed.

29 4. Any conditions or requirements where additional monies or
30 documents must be deposited with an escrow agent after the escrow account
31 is opened.

32 K. A dealer or broker may deposit and maintain up to two hundred
33 dollars in the trust account to offset service charges that may be
34 assessed by the financial ~~institutions~~ **INSTITUTION**.

35 L. Every deposit into a trust account shall be made with a deposit
36 slip that identifies each transaction as follows:

37 1. The amount of deposit.

38 2. The names of all parties involved in the transaction. All
39 receipts for monies deposited in escrow shall be made accountable by
40 containing the same information.

41 M. A complete record shall be retained by the dealer's or broker's
42 office of all earnest monies received. The record shall contain
43 provisions for entering:

44 1. The amount received.

45 2. From whom the money was received.

- 1 3. The date of receipt.
- 2 4. The place of deposit.
- 3 5. The date of deposit.
- 4 6. The daily balance of the trust fund account deposit of each
- 5 transaction.
- 6 7. When the transaction has been completed.
- 7 8. The date and payment for all goods and services the dealer has
- 8 contracted to provide.
- 9 N. All earnest money deposited in the trust or escrow account shall
- 10 be held in such account until one of the following is completed:
- 11 ~~1. An application for title transfer has been made.~~
- 12 ~~2. The transaction involved is consummated or terminated and a~~
- 13 ~~complete accounting is made.~~
- 14 1. THE CONSUMMATION OF SALE.
- 15 2. THE TERMINATION OF SALE, INCLUDING A COMPLETE ACCOUNTING OF ALL
- 16 MONIES.
- 17 O. On completion pursuant to subsection N of this section, the
- 18 earnest money deposit shall be conveyed to the lending institution or the
- 19 dealer, ~~broker~~, purchaser, seller, manufacturer or lienholder, whichever
- 20 is applicable.
- 21 P. The dealer ~~or broker~~ shall retain true copies of the purchase
- 22 agreements, earnest money receipts, depository receipts, evidence of
- 23 delivery documents and evidence of consummation of sale or termination of
- 24 sale for a period of three years.
- 25 Q. The deposits referred to in this section shall not be used for
- 26 any purpose other than the transaction for which they were provided.
- 27 R. Notwithstanding any other provision of this section and except
- 28 that this subsection does not apply to an independent escrow account
- 29 established pursuant to subsection A of this section, before an event
- 30 listed under subsection N of this section is completed, a licensed dealer
- 31 may release trust account earnest monies to pay for flooring or inventory
- 32 for the unit that is the subject of the transaction for which the earnest
- 33 monies were provided. ~~Either~~ A licensed dealer ~~or broker~~ may release
- 34 trust account earnest monies to pay other lawfully imposed interim loan
- 35 amounts and charges imposed by a financial institution or other bona fide
- 36 lender on the unit that is the subject of the transaction for which the
- 37 earnest monies were provided. The dealer ~~or broker~~ shall not make any
- 38 payment out of trust account monies pursuant to this subsection unless
- 39 done in compliance with all of the following:
- 40 1. The payment is made no more than ten business days before the
- 41 completion date pursuant to subsection N of this section.
- 42 2. The payment is made directly to the financial institution or
- 43 other bona fide lender.

1 3. The payment is recorded in the dealer's ~~or broker's~~ records
2 under this section and documented by a receipt, a payment record or any
3 other evidence from the financial institution or lender.

4 4. If the transaction is terminated, the dealer ~~or broker~~ replaces
5 the amount of the payment in the trust account within three business days
6 after receiving written notification of the termination.
7 This subsection does not affect any other rights or obligations between
8 the purchaser and the licensed dealer ~~or broker~~.

9 S. The board shall adopt separate rules for dealer trust and escrow
10 accounts ~~and broker~~ trust and escrow accounts. At a minimum, these rules
11 shall contain trust and escrow account requirements for the following:

- 12 1. Recordkeeping.
- 13 2. Administration.
- 14 3. Service fees or charges.
- 15 4. Deposits.
- 16 5. Advances or payments out of trust and escrow accounts.
- 17 6. Closing or termination of sales transactions.
- 18 7. Auditing or investigation of trust or escrow account complaints.

19 T. This section shall not apply to a real estate broker or
20 salesperson licensed pursuant to section 32-2122 and pursuant to this
21 article when the unit is sold in conjunction with real estate.

22 Sec. 21. Section 41-4031, Arizona Revised Statutes, is amended to
23 read:

24 41-4031. Complaints; citation; failure to respond

25 A. The ~~office~~ DEPARTMENT shall issue a citation on failure to
26 respond or on the verified written complaint of a purchaser pursuant to
27 section 41-4004, subsection ~~B~~ A, paragraph 9 and shall issue a citation
28 directing the licensee, within ten days after service of the citation on
29 the licensee, to appear by filing with the ~~office~~ DEPARTMENT a verified
30 answer to the complaint showing cause why the license should not be
31 revoked or suspended. The director, after conducting an investigation
32 pursuant to section 41-4039, may issue a citation on the director's own
33 initiative.

34 B. Failure of the licensee to answer shall be deemed an admission
35 by the licensee of the cited complaint or failure to respond as charged in
36 the citation, and the ~~office~~ DEPARTMENT may suspend or revoke such license
37 without a hearing.

38 ~~C. A person served with a citation or with a cease and desist order
39 by the state fire marshal may request a hearing pursuant to chapter 6,
40 article 10 of this title.~~

41 Sec. 22. Section 41-4036, Arizona Revised Statutes, is amended to
42 read:

43 41-4036. Repairs; complaints

44 A. Within ninety days after the end of the cosmetic complaint
45 period the dealer or manufacturer shall repair or replace cosmetic,

1 superficial or minor matters discovered on the walk-through unless an item
2 necessary for the repair or replacement is unavailable and written notice
3 of that fact is provided to the purchaser.

4 B. For cosmetic, superficial or minor matters found after the
5 walk-through and before the one hundred twenty-day deadline, the purchaser
6 shall notify the dealer in writing before a complaint may be filed, except
7 if there are extenuating circumstances, such as serious illness,
8 incapacity or death. The dealer or manufacturer shall replace or repair
9 these items within ninety days after the end of the cosmetic complaint
10 period.

11 C. The board shall adopt rules establishing procedures for
12 scheduling repair and replacement of complaint items.

13 D. The purchaser may file a complaint with the ~~office of~~
14 ~~manufactured housing~~ DEPARTMENT on matters covered by this section if the
15 complaint is filed within the twelve-month period prescribed by sections
16 41-4004 and 41-4031 and the licensee failed to repair or replace the items
17 within the repair and replacement period or the repair or replacement does
18 not comply with adopted codes or workmanship standards.

19 Sec. 23. Section 41-4039, Arizona Revised Statutes, is amended to
20 read:

21 41-4039. Grounds for disciplinary action

22 The director may, on the director's own motion, and shall, on the
23 complaint in writing of any person, cause to be investigated by the ~~office~~
24 DEPARTMENT the acts of any manufacturer, dealer, broker, salesperson or
25 installer licensed with the ~~office~~ DEPARTMENT and may temporarily suspend
26 or permanently revoke any license issued under this article, impose an
27 administrative penalty or place on probation any licensee, if the holder
28 of the license, while a licensee, is guilty of or commits any of the
29 following acts or omissions:

30 1. Failure in any material respect to comply with this article or
31 article 3 of this chapter.

32 2. Violation of any rule that is adopted by the board and that
33 pertains to the construction of any unit or of any rule that is adopted by
34 the board and that is necessary to effectively carry out the intent of
35 this article, article 3 of this chapter or the laws of the United States
36 or of this state.

37 3. Misrepresentation of a material fact by the applicant in
38 obtaining a license.

39 4. Aiding or abetting an unlicensed person or knowingly combining
40 or conspiring with an unlicensed person to evade this article or article 3
41 of this chapter, or allowing one's license to be used by an unlicensed
42 person or acting as an agent, partner or associate of an unlicensed person
43 with intent to evade this article or article 3 of this chapter.

44 5. Conviction of a felony.

1 6. The doing of a wrongful or fraudulent act by a licensee that
2 relates to this article or article 3 of this chapter, including, ~~beginning~~
3 ~~July 1, 2012~~, failure to comply with section 41-4030, subsection A, or the
4 doing of any other wrongful or fraudulent act in conjunction with the
5 sale, transfer or relocation of a mobile home in this state.

6 7. Departure from or disregard of any code or any rule adopted by
7 the board.

8 8. Failure to disclose or subsequent discovery by the ~~office~~
9 DEPARTMENT of facts that, if known at the time of issuance of a license or
10 the renewal of a license, would have been grounds to deny the issuance or
11 renewal of a license.

12 9. Knowingly entering into a contract with a person not duly
13 licensed in the required classification for work to be performed for which
14 a license is required.

15 10. Acting in the capacity of a licensee under any license issued
16 under this article in a name other than as set forth on the license.

17 11. Acting as a licensee while the license is under suspension or
18 in any other invalid status.

19 12. Failure to respond relative to a verified complaint after
20 notice of such complaint.

21 13. Violation of title 28, chapter 10 or rules adopted pursuant to
22 title 28, chapter 10, except for the licensing requirements of sections
23 28-4334, 28-4335, 28-4361, 28-4362, 28-4364, 28-4401 and 28-4402.

24 14. False, misleading or deceptive sales practices by a licensee in
25 the sale or offer of sale of any unit regulated by this article or article
26 3 of this chapter.

27 15. Failure to remit the consumer recovery fund fee pursuant to
28 section 41-4042.

29 16. Acting as a salesperson while not employed by a dealer ~~or~~
30 ~~broker~~.

31 17. As a salesperson, representing or attempting to represent a
32 dealer ~~or broker~~ other than by whom the salesperson is employed.

33 18. ACTING BEYOND THE SCOPE OF ACTIVITY AUTHORIZED BY THE
34 SALESPERSON'S LICENSE CLASSIFICATION OF THE EMPLOYING DEALER.

35 ~~18.~~ 19. Failure by a salesperson to promptly place all cash,
36 checks and other items of value and any related documents received in
37 connection with a sales transaction in the care of the employing dealer ~~or~~
38 ~~broker~~.

39 ~~19.~~ 20. Failure to provide all agreed on goods and services.

40 ~~20.~~ 21. Failure to manufacture or install in a workmanlike manner
41 all ~~subassemblies~~, units and accessory structures that are suitable for
42 their intended purpose.

43 ~~21.~~ 22. Failure of the licensee to work only within the scope of
44 the license held.

1 ~~22.~~ 23. An action by a licensee, who is also a mobile home park
2 owner, manager, agent or representative, that restricts a resident's or
3 prospective resident's access to buyers, sellers or licensed dealers or
4 brokers in connection with the sale of a home or the rental of a space,
5 that the department finds constitutes a violation of section 33-1434,
6 subsection B or section 33-1452, subsection F or that violates any law or
7 regulation relating to fair housing or credit practices.

8 Sec. 24. Section 41-4040, Arizona Revised Statutes, is amended to
9 read:

10 41-4040. Reports by dealers to department of revenue and
11 county assessor

12 A. Every dealer ~~or broker~~ who acquires or sells a previously titled
13 manufactured home or mobile home, as defined in section 42-19151, shall
14 submit a written report of all such acquisitions and sales to the
15 department of revenue and to the county assessor of the county where such
16 dealer ~~or broker~~ is located. Such report shall be submitted by the
17 fifteenth day of each month for the period of the previous calendar month
18 and shall include:

19 1. The manufacturer, brand name or model, size, factory list price,
20 total selling price and serial number of such manufactured home or mobile
21 home.

22 2. The name and address of the person from whom such manufactured
23 home or mobile home was acquired and the last previous location of such
24 manufactured home or mobile home.

25 3. The name and address of the person to whom such manufactured
26 home or mobile home was sold.

27 4. The new location of such manufactured home or mobile home if
28 such location is known to the dealer ~~or broker~~.

29 B. Every dealer ~~and broker~~ shall comply with the reporting
30 provisions of this section. The information required in subsection A of
31 this section shall be forwarded by dealers ~~and brokers~~ of manufactured
32 homes and factory-built buildings to the ~~office~~ DEPARTMENT by the
33 fifteenth day of the month after the reporting period or a statement that
34 no sales have occurred for that month.

35 C. Each dealer ~~and broker~~ of manufactured homes shall also make and
36 maintain the records and make the reports required pursuant to this
37 article.

38 D. Before the sale of a manufactured home each dealer ~~or broker~~
39 shall convey notice in writing to the prospective buyer that the utility
40 service facilities for manufactured home spaces are not standardized and
41 compatibility between a chosen manufactured home space and a manufactured
42 home to be purchased is the buyer's responsibility. Before the sale of a
43 used manufactured home each dealer ~~or broker~~ shall notify the prospective
44 buyer in writing of the existence and amount of any tax lien on record
45 against the unit.

1 E. The dealer ~~or broker~~ shall provide a notification form to the
2 buyer, as approved by the board, part of which shall contain the buyer's
3 signature and other information to be completed by the dealer ~~or broker~~
4 ~~which~~ THAT when forwarded to the ~~office~~ DEPARTMENT constitutes compliance
5 with the reporting requirements of subsection B of this section.

6 Sec. 25. Section 41-4041, Arizona Revised Statutes, is amended to
7 read:

8 41-4041. Consumer recovery fund

9 A. The consumer recovery fund is established. The ~~board~~ DIRECTOR
10 shall administer the fund.

11 B. On notice from the ~~board~~ DIRECTOR, the state treasurer shall
12 invest and divest monies in the fund as provided by section 35-313, and
13 monies earned from investment shall be credited to the fund.

14 C. The monies earned from investment ~~can~~ MAY be used for the same
15 purposes as all other monies deposited in the fund.

16 D. Recovery from the consumer recovery fund is limited to actual or
17 compensatory damages, including costs but excluding interest or attorney
18 fees.

19 E. Recovery from the consumer recovery fund is not limited by the
20 consumer's right, if any, to also claim against a holder of a retail sales
21 contract or promissory note ~~which~~ THAT is secured by the property that is
22 the subject matter of the claim.

23 Sec. 26. Section 41-4042, Arizona Revised Statutes, is amended to
24 read:

25 41-4042. Funding and assessments

26 A. A dealer ~~or broker~~ of manufactured homes, mobile homes or
27 factory-built buildings designed for use as residential dwellings shall
28 pay, in addition to the license or renewal fee, a fee established by the
29 ~~board~~ DIRECTOR of not to exceed fifty dollars for each unit that is sold
30 and that is subject to section 41-4030, subsection D, for deposit into the
31 consumer recovery fund. The fee is payable to the ~~office~~ DEPARTMENT by
32 the fifteenth day of the month following the month in which the sale is
33 consummated.

34 B. Chapter 6 of this title does not apply to the setting of fees
35 under this section.

36 C. An amount not to exceed seventy-five percent of the previous
37 fiscal year's interest earned on the consumer recovery fund may be
38 expended by the director, with the approval of the board. The expenditure
39 shall be used for consumer and licensee education in connection with the
40 manufactured housing and factory-built building industry, and all monies
41 up to a maximum of fifty thousand dollars remaining unexpended and
42 unencumbered at the end of each fiscal year may be used for consumer and
43 licensee education in succeeding fiscal years and do not revert to the
44 consumer recovery fund.

1 Sec. 27. Section 41-4043, Arizona Revised Statutes, is amended to
2 read:

3 41-4043. Recovery from fund; claim against licensee;
4 subrogation; appeal; statute of limitations

5 A. If any consumer who is buying or selling the consumer's home
6 uses the services of a licensed dealer ~~or broker~~ of manufactured homes,
7 mobile homes or factory-built buildings designed for use as residential
8 buildings and is damaged as a result of an act or omission by a licensed
9 dealer ~~or broker~~ of manufactured homes, mobile homes or factory-built
10 buildings designed for use as residential buildings that constitutes a
11 violation of section 41-4030, or rules adopted pursuant to that section,
12 and the sale is subject to section 41-4030, subsection D, that consumer
13 may file a claim with the ~~office~~ DEPARTMENT for payment from the consumer
14 recovery fund. The claim shall be verified by the ~~office~~ DEPARTMENT.

15 B. If any consumer of manufactured homes, mobile homes or
16 factory-built buildings designed for use as residential buildings is
17 damaged by the failure of the principal to perform a sales agreement or to
18 perform repairs under a warranty the consumer may file a claim with the
19 ~~office~~ DEPARTMENT for payment from the consumer recovery fund. The claim
20 shall be verified by the ~~office~~ DEPARTMENT.

21 C. On verification of the claim for payment, the director shall
22 provide for a hearing pursuant to chapter 6, article 10 of this title.

23 D. The ~~board~~ DIRECTOR shall pay from the consumer recovery fund
24 whatever sum the administrative law judge finds payable on the claim. A
25 decision granting a claim shall include an order suspending the license of
26 the licensee on whose account the claim was filed. Such a license shall
27 remain ~~on suspension~~ SUSPENDED until the licensee has repaid in full, plus
28 interest at the rate of ten percent per year, the amount paid from the
29 consumer recovery fund on the licensee's account.

30 E. Any party aggrieved by the administrative law judge's decision
31 may apply for a rehearing by filing with the director a motion in writing
32 pursuant to chapter 6, article 10 of this title. The filing of a motion
33 for rehearing shall suspend the operation of the administrative law
34 judge's order pending the decision of the director on the rehearing.

35 F. Except as provided in section 41-1092.08, subsection H, any
36 person aggrieved by a final administrative decision may seek judicial
37 review pursuant to title 12, chapter 7, article 6.

38 G. The consumer recovery fund has a claim against the licensee on
39 whose account a claim was granted or any other person who caused or
40 contributed to a claim paid by the consumer recovery fund for the amount
41 paid plus costs, necessary expenses and reasonable attorney fees.

42 H. The director is subrogated to the claim of the consumer recovery
43 fund against the bond and other assets of the licensee. The director
44 shall deposit any amount recovered into the consumer recovery fund.

1 I. If, at any time, the money deposited in the consumer recovery
2 fund is insufficient to satisfy any duly authorized claim or portion of a
3 claim, the ~~board~~ DIRECTOR, when sufficient money has been deposited in the
4 consumer recovery fund, shall satisfy such unpaid claims or portions of
5 claims in the order that such claims or portions of claims were originally
6 filed.

7 J. A consumer pursuant to subsection A or B of this section is
8 barred from commencing an application for payment from the consumer
9 recovery fund later than two years from the date of sale or date of
10 installation, whichever is later.

11 Sec. 28. Section 41-4046, Arizona Revised Statutes, is amended to
12 read:

13 41-4046. Enforcement powers of director personnel; civil and
14 administrative penalties

15 A. The director, personnel of the ~~office~~ DEPARTMENT and personnel
16 under contract to the ~~office~~ DEPARTMENT, on presentation of credentials,
17 shall be permitted to enter and inspect premises where units regulated by
18 this chapter are manufactured, sold or installed as the director may deem
19 appropriate to determine if any person has violated this chapter. No
20 person licensed by the ~~office~~ DEPARTMENT may refuse to admit the director
21 or the personnel of the ~~office~~ DEPARTMENT or personnel under contract if
22 the proper credentials are presented and the inspection is made at a
23 reasonable time.

24 B. If the director has reasonable cause to believe a unit is being
25 offered for sale by a party required to be licensed but not licensed as a
26 dealer ~~or broker~~ by the ~~office~~ DEPARTMENT or is in violation of this
27 chapter, or the rules, regulations or standards adopted pursuant to this
28 chapter, the ~~office~~ DEPARTMENT shall serve on the manufacturer, dealer,
29 broker or installer a notice of violation, which may be affixed to the
30 unit in violation and, if affixed to the unit, shall not be removed by
31 anyone without the authorization of the ~~office~~ DEPARTMENT.

32 C. If there is reasonable cause to believe, from information
33 furnished to the director or from an investigation instituted by the
34 director, that any person is engaged in a business regulated by this
35 article without being licensed as required by law, the director shall
36 issue and serve on the person, by certified mail, a cease and desist order
37 requiring the person immediately, on receipt of the notice, to cease and
38 desist from engaging in such business. On failure of such person to
39 comply with the order, the director shall file an action in the superior
40 court in Maricopa county restraining and enjoining the person from
41 engaging in such business. The court in the action shall proceed as in
42 other actions for injunctions.

43 D. If in the judgment of the director any person has engaged, or is
44 about to engage, in any acts or practices that constitute, or will
45 constitute, a violation of this chapter, the rules, regulations or

1 standards adopted pursuant to this chapter or an order issued pursuant to
2 this chapter, the director may make application to the appropriate court
3 for an order enjoining such acts or practices. On a showing by the
4 director that such person has engaged in, or is about to engage in, any
5 such acts or practices, an injunction, restraining order or such other
6 order as may be appropriate shall be granted by such court without bond.
7 On a showing by the director that a licensee has wrongfully withdrawn, or
8 is about to wrongfully withdraw, funds required to be held in the
9 licensee's trust account, an injunction, restraining order or such other
10 order as may be appropriate to prevent a licensee from wrongfully
11 withdrawing trust account monies shall be granted by the court. On
12 granting a permanent injunction, the court may impose a civil penalty not
13 exceeding one thousand dollars for each violation.

14 E. In any investigation, proceeding or hearing that the director
15 may institute, conduct or hold under this article, the director, or a
16 representative designated by the director, may administer oaths, certify
17 to official acts, issue subpoenas for attendance of witnesses and
18 production of books, papers and records and exercise the same powers in
19 this regard as conferred on public officers by section 12-2212.

20 F. After any hearing that the director may institute, conduct or
21 hold under this article, the director or a representative designated by
22 the director may impose an administrative penalty in an amount of not to
23 exceed one thousand dollars for each violation. All monies collected
24 pursuant to this subsection shall be deposited in the ~~state general~~
25 ARIZONA DEPARTMENT OF HOUSING PROGRAM fund ESTABLISHED BY SECTION 41-3957.

26 G. ~~Beginning July 1, 2012,~~ The director may refer to the attorney
27 general or a county attorney for criminal or civil investigation the
28 results of any investigation that indicate the existence of the elements
29 of fraud, including investigative information regarding any person or
30 entity that, although not a licensee under this article, has a business or
31 other relationship to a licensee or to a manufactured home transaction
32 under this article.

33 H. If an inspection reveals that a mobile home entering this state
34 for sale or installation is in violation of this chapter, the ~~office~~
35 DEPARTMENT may order its use discontinued and the mobile home or any
36 portion of the mobile home vacated. The order to vacate shall be served
37 on the person occupying the mobile home and copies of the order shall be
38 posted at or on each exit of the mobile home. The order to vacate shall
39 include a reasonable period of time in which the violation can be
40 corrected. A person shall not occupy or use a mobile home in violation of
41 an order to vacate.

42 I. If construction, rebuilding or any other work is performed in
43 violation of this chapter or any rule adopted pursuant to this chapter,
44 the ~~office~~ DEPARTMENT may order the work stopped. The order to stop work
45 shall be served on the person doing the work or on the person causing the

1 work to be done. The person served with the order shall immediately cease
2 the work until authorized by the ~~office~~ DEPARTMENT to continue.

3 Sec. 29. Section 41-4047, Arizona Revised Statutes, is amended to
4 read:

5 41-4047. Unlawful acts

6 It is unlawful for any person to:

7 1. Manufacture manufactured homes, ~~OR~~ factory-built buildings ~~or~~
8 ~~subassemblies~~ in this state or for delivery or sale in this state unless
9 such person is licensed as a manufacturer by the ~~office~~ DEPARTMENT.

10 2. Engage in the business of installing manufactured homes, mobile
11 homes or accessory structures unless such person is licensed as an
12 installer by the ~~office~~ DEPARTMENT.

13 3. Engage in the business of a salesperson of manufactured homes,
14 mobile homes or factory-built buildings unless the person is licensed as a
15 salesperson by the ~~office~~ DEPARTMENT.

16 4. Engage in the business of contracting to sell any new or used
17 unit ~~or subassemblies~~ regulated by this article or otherwise act in the
18 capacity of a dealer or broker unless such person is licensed as a dealer
19 or broker by the ~~office~~ DEPARTMENT.

20 5. Make alterations to or reconstruct any manufactured homes or
21 factory-built buildings unless such person is licensed or certified.

22 Sec. 30. Section 41-4048, Arizona Revised Statutes, is amended to
23 read:

24 41-4048. Violation; classification; penalty

25 A. ~~No~~ A person required to be licensed pursuant to this article may
26 NOT sell or offer to sell in this state any manufactured home, ~~OR~~
27 factory-built building ~~or subassembly~~ unless the proper state ~~insignia~~
28 CERTIFICATE or HUD label is affixed to such unit.

29 B. ~~No~~ A person required to be licensed pursuant to this article may
30 NOT manufacture for delivery, sell or offer to sell in this state any
31 manufactured home, ~~OR~~ factory-built building ~~or subassembly~~ unless the
32 unit and its components, systems and appliances have been constructed and
33 assembled in accordance with the standards and rules adopted pursuant to
34 this chapter.

35 C. A person shall not occupy or otherwise use a mobile home that
36 has been brought into this state or move a mobile home from one mobile
37 home park in this state to another mobile home park in this state unless
38 it meets the standards adopted pursuant to this chapter and displays the
39 proper state ~~insignia~~ CERTIFICATE. A mobile home that is rehabilitated in
40 accordance with rehabilitation rules adopted by the department and
41 receives ~~an insignia of approval~~ A CERTIFICATE shall be deemed by a county
42 or municipality to be acceptable for relocation into an existing mobile
43 home park. This subsection does not apply to a person bringing a mobile
44 home into this state as a tourist.

1 D. A person shall not advertise or offer for sale a mobile home
2 that has been brought into this state unless it meets the standards
3 adopted pursuant to this chapter and displays the proper state ~~insignia~~
4 CERTIFICATE.

5 E. ~~No~~ A person may NOT remove or cause to be removed ~~an insignia of~~
6 ~~approval~~ A CERTIFICATE or a notice of violation without prior
7 authorization of the ~~office~~ DEPARTMENT.

8 F. A person shall not occupy or use a mobile home in violation of
9 an order to vacate issued pursuant to section 41-4004, subsection ~~B~~ A,
10 paragraph 6.

11 G. Except as provided in subsections I and J of this section, a
12 person who violates this chapter, or any such rule or standard, is guilty
13 of a class 2 misdemeanor.

14 H. The director, after notice and a hearing pursuant to section
15 41-4031, subsection A, may deny the issuance of a license or revoke or
16 suspend the license of, impose an administrative penalty on or place on
17 probation any manufacturer, dealer, broker, salesperson or installer who
18 has violated this chapter or any standards and rules adopted pursuant to
19 this chapter.

20 I. Any manufacturer, dealer, broker, salesperson or installer who
21 knowingly violates this chapter or the rules adopted pursuant to section
22 41-4010, subsection A, paragraph 1, 2, 9 or 10 or any person who knowingly
23 provides false information to seek reimbursement of expenses under section
24 41-4008 is guilty of a class 1 misdemeanor. Each violation of this
25 chapter shall constitute a separate violation with respect to each failure
26 or refusal to allow or perform an act required by this chapter, except
27 that the maximum fine may not exceed one million dollars for any related
28 series of violations occurring within one year ~~from~~ AFTER the date of the
29 first violation.

30 J. An individual or a director, officer or agent of a corporation
31 who knowingly violates this chapter or the rules adopted pursuant to this
32 chapter in a manner ~~which~~ THAT threatens the health or safety of any
33 purchaser is guilty of a class 1 misdemeanor.

34 K. A manufacturer, dealer, ~~OR~~ salesperson ~~or broker~~ shall not
35 knowingly sell a unit regulated by this chapter to an unlicensed person
36 for the purpose of resale, nor shall a dealer offer for sale or sell a new
37 unit manufactured by an unlicensed person.

38 L. In addition to any other obligations imposed by law or contract
39 during the term of a listing agreement, a licensee who has agreed to act
40 as an agent to offer a MOBILE HOME, manufactured home OR FACTORY-BUILT
41 BUILDING for sale shall promptly submit all offers to purchase the listed
42 unit from any source to the client. The offers shall be in writing and
43 signed and dated by the party making the offer and the client on
44 receipt. A copy of the executed document shall be maintained as part of
45 the record of sales.

1 M. ~~No~~ A licensee, owner or other persons may NOT manufacture,
2 alter, reconstruct or install units regulated by this chapter, unless it
3 is accomplished in a workmanlike manner in accordance with the rules
4 adopted pursuant to this chapter and is suitable for the intended purpose.

5 Sec. 31. Repeal

6 Section 41-4049, Arizona Revised Statutes, is repealed.

7 Sec. 32. Section 41-4062, Arizona Revised Statutes, is amended to
8 read:

9 41-4062. Hearing; rights and procedures; definitions

10 A. A person that is subject to title 33, chapter 11 or a party to a
11 rental agreement entered into pursuant to title 33, chapter 11 may
12 petition the department for a hearing concerning violations of the Arizona
13 mobile home parks residential landlord and tenant act by filing a petition
14 with the department and paying a nonrefundable filing fee in an amount to
15 be established by the director. All monies collected shall be deposited
16 in the ~~state general~~ ARIZONA DEPARTMENT OF HOUSING PROGRAM fund
17 ESTABLISHED BY SECTION 41-3957 and are not refundable.

18 B. The petition shall be in writing on a form approved by the
19 department, list the complaints, be signed by or on behalf of the persons
20 filing and include their addresses, state that a hearing is desired and be
21 filed with the department.

22 C. On receipt of the petition and the filing fee, the department
23 shall mail to the named respondent by certified mail a copy of the
24 petition along with notice that a response showing cause, if any, why the
25 petition should be dismissed is required within twenty days after mailing
26 of the petition.

27 D. After receiving the response, the director or the director's
28 designee shall promptly review the petition for hearing and, if justified,
29 refer the petition to the office of administrative hearings. The director
30 may dismiss a petition for hearing if it appears to the director's
31 satisfaction that the disputed issue or issues have been resolved by the
32 parties.

33 E. Failure of the respondent to answer is deemed an admission of
34 the allegations made in the petition, and the director shall issue a
35 default decision.

36 F. Informal disposition may be made of any contested case.

37 G. Either party or the party's authorized agent may inspect any
38 file of the department that pertains to the hearing if the authorization
39 is filed in writing with the department.

40 H. At a hearing conducted pursuant to this section, a corporation
41 may be represented by a corporate officer, employee or contractor of the
42 corporation who is not a member of the state bar if:

43 1. The corporation has specifically authorized the officer,
44 employee or contractor of the corporation to represent it.

1 2. The representation is not the officer's, employee's or
2 contractor of the corporation's primary duty to the corporation but is
3 secondary or incidental to the officer's, employee's or contractor of the
4 corporation's, limited liability company's, limited liability
5 partnership's, sole proprietor's or other lawfully formed and operating
6 entity's duties relating to the management or operation of the
7 corporation.

8 I. For the purposes of this section:

9 1. "Department" means the Arizona department of housing.

10 2. "Director" means the director of the department.

11 Sec. 33. Section 41-4063, Arizona Revised Statutes, is amended to
12 read:

13 41-4063. Orders; penalties; disposition

14 A. The administrative law judge may order any party to abide by the
15 statute or contract provision at issue and may levy a civil penalty on the
16 basis of each violation. For the purposes of actions brought under the
17 Arizona mobile home parks residential landlord and tenant act, the civil
18 penalty may not exceed five hundred dollars. All monies collected
19 pursuant to this article shall be deposited in the ~~state general~~ ARIZONA
20 DEPARTMENT OF HOUSING PROGRAM fund ESTABLISHED BY SECTION 41-3957 to be
21 used to offset the cost of administering the administrative law judge
22 function. If the petitioner prevails, the administrative law judge shall
23 order the respondent to pay to the petitioner the filing fee required by
24 section 41-4062.

25 B. The order issued by the administrative law judge is binding on
26 the parties unless a rehearing is granted pursuant to section 41-4065
27 based on a petition setting forth the reasons for the request for
28 rehearing, in which case the order issued at the conclusion of the
29 rehearing is binding on the parties. The order issued by the
30 administrative law judge is enforceable through contempt of court
31 proceedings and is subject to judicial review as prescribed by section
32 41-1092.08.

33 Sec. 34. Section 42-15203, Arizona Revised Statutes, is amended to
34 read:

35 42-15203. Affidavit of affixture

36 A. A person who owns a mobile home that is permanently affixed to
37 real property may file an affidavit of affixture with the county recorder
38 of the county in which the real property is located.

39 B. An affidavit of affixture shall contain all of the following:

40 1. The vehicle identification numbers of the mobile home.

41 2. The legal description of the real property to which the mobile
42 home has been affixed.

43 3. A statement that the mobile home has not previously been
44 assessed and taxed in this state as personal property or the name and

1 address of the person to whom the last tax statement for the mobile home
2 was sent and the location of the mobile home when it was last taxed.

3 4. The name of the holder of any security interests in the mobile
4 home that are not terminated by consent of the secured party contained on
5 the affidavit of affixture pursuant to subsection C of this section and
6 the original principal amount secured by the security interest.

7 5. As an attachment, the department of transportation's receipt
8 issued pursuant to section 28-2063, subsection A, paragraph 3.

9 C. The recording of an affidavit of affixture does not impair the
10 rights of any holder of a perfected security interest in the mobile home
11 unless the affidavit of affixture contains the acknowledged consent of the
12 secured party to the termination of the security interest. If a secured
13 party so consents, that security interest terminates when the affidavit of
14 affixture is recorded.

15 D. If an affidavit of affixture is submitted for recording on a
16 mobile home entering this state for sale or installation, a certificate of
17 compliance or waiver issued by the ~~office of manufactured~~ ARIZONA
18 DEPARTMENT OF housing is required and shall be submitted with the
19 affidavit of affixture.

20 E. If a release of a security interest that, according to its
21 terms, recites that it secures an obligation having a stated indebtedness
22 not greater than five hundred thousand dollars exclusive of interest has
23 not been executed and recorded within sixty days of full satisfaction of
24 the obligation secured by the security interest, a title insurer as
25 defined in section 20-1562 may prepare, execute and record a full release
26 of the security interest. At least thirty days before issuing and
27 recording a release pursuant to this subsection, the title insurer shall
28 mail by certified mail with postage prepaid, return receipt requested, to
29 the holder of the security interest contained in the affidavit of
30 affixture at the last known address shown of record and to any persons who
31 according to the records of the title insurer received payment of the
32 obligation at the address shown in the records, a notice of its intention
33 to release the security interest accompanied by a copy of the release to
34 be recorded. The release shall set forth:

35 1. The name of the holder of the security interest or any
36 successors in interest of record of the security interest and, if known,
37 the name of any servicing agent.

38 2. The name of the owner of the property shown on the affidavit of
39 affixture.

40 3. The name of the current record owner of the property.

41 4. The recording reference to the affidavit of affixture.

42 5. The date and amount of payment, if known.

43 6. A statement that the title insurer has actual knowledge that the
44 obligation secured by the security interest has been paid in full.

1 F. The release of security interest may be executed by a duly
2 appointed attorney-in-fact of the title insurer, but such delegation does
3 not relieve the title insurer from any liability pursuant to this section.

4 G. A release issued pursuant to subsection E of this section is
5 entitled to recordation and, when recorded, constitutes a full release of
6 security interest.

7 H. In addition to any other remedy provided by law, a title insurer
8 preparing or recording the release of security interest pursuant to
9 subsection E of this section is liable to any party for actual damage,
10 including attorney fees, that any person may sustain by reason of the
11 issuance and recording of the release of security interest.

12 I. The title insurer shall not record a release of security
13 interest if, before the expiration of the ~~thirty-day~~ THIRTY-DAY period
14 specified in subsection E of this section, the title insurer receives a
15 notice from the holder or servicing agent that states that the security
16 interest continues to secure an obligation.

17 J. The title insurer may charge a reasonable fee for services to
18 the owner of the land or other person requesting a release of security
19 interest, including search of title, document preparation and mailing
20 services rendered, and in addition may collect official fees.

21 K. A mobile home identified in an affidavit of affixture recorded
22 pursuant to section 33-1501 shall be assessed as personal property.