

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

# SB 1045

Introduced by  
Senator Kavanagh

AN ACT

AMENDING SECTIONS 32-106, 32-122.02, 41-619.51, 41-1758 AND 41-1758.01,  
ARIZONA REVISED STATUTES; RELATING TO HOME INSPECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-106, Arizona Revised Statutes, is amended to  
3 read:

4 32-106. Powers and duties

5 A. The board shall:

6 1. Adopt rules for the conduct of its meetings and performance of  
7 duties imposed on it by law.

8 2. Adopt an official seal for attestation of certificates of  
9 registration and other official papers and documents.

10 3. Consider and act on or delegate the authority to act on  
11 applications for registration or certification.

12 4. Conduct examinations for in-training and professional  
13 registration, except for an alarm business, a controlling person or an  
14 alarm agent.

15 5. Hear and act on complaints or charges or direct an  
16 administrative law judge to hear and act on complaints and charges.

17 6. Compel attendance of witnesses, administer oaths and take  
18 testimony concerning all matters coming within its jurisdiction. In  
19 exercising these powers, the board may issue subpoenas for the attendance  
20 of witnesses and the production of books, records, documents and other  
21 evidence it deems relevant to an investigation or hearing.

22 7. Keep a record of its proceedings.

23 8. Keep a register that shows the date of each application for  
24 registration or certification, the name of the applicant, the practice or  
25 branch of practice in which the applicant has applied for registration, if  
26 applicable, and the disposition of the application.

27 9. Do other things necessary to carry out the purposes of this  
28 chapter.

29 B. The board shall specify the proficiency designation in the  
30 branch of engineering in which the applicant has designated proficiency on  
31 the certificate of registration and renewal card issued to each registered  
32 engineer and shall authorize the engineer to use the title of registered  
33 professional engineer. The board shall decide what branches of  
34 engineering it shall recognize.

35 C. The board may hold membership in and be represented at national  
36 councils or organizations of proficiencies registered under this chapter  
37 and may pay the appropriate membership fees. The board may conduct  
38 standard examinations on behalf of national councils and may establish  
39 fees for those examinations.

40 D. The board may employ and pay on a fee basis persons, including  
41 full-time employees of a state institution, bureau or department, to  
42 prepare and grade examinations given to applicants for registration **OR**  
43 **REVIEW REQUIREMENTS FOR HOME INSPECTOR CERTIFICATION AND REGULATION** and  
44 may fix the fee to be paid for these services. These employees are  
45 authorized to prepare, grade and monitor examinations, **REVIEW REQUIREMENTS**

1 FOR HOME INSPECTOR CERTIFICATION AND REGULATION and perform other services  
2 the board authorizes, and to receive payment for these services from the  
3 technical registration fund. The board may contract with an organization  
4 to administer the registration examination, including selecting the test  
5 site, scheduling the examination, billing and collecting the fee directly  
6 from the applicant and grading the examination if a national council of  
7 which the board is a member or a professional association approved by the  
8 board does not provide these services. If a national council of which the  
9 board is a member or a professional association approved by the board does  
10 provide these services, the board shall enter into an agreement with the  
11 national council or professional association to administer the  
12 registration examination.

13 E. The board may rent necessary office space and pay the cost of  
14 this office space from the technical registration fund.

15 F. The board may adopt rules establishing rules of professional  
16 conduct for registrants.

17 G. The board may require evidence it deems necessary to establish  
18 the continuing competency of registrants as a condition of renewal of  
19 licenses.

20 H. Subject to title 41, chapter 4, article 4, the board may employ  
21 persons as it deems necessary.

22 I. The board shall issue or may authorize the executive director to  
23 issue a certificate or renewal certificate to each alarm business and each  
24 controlling person and a certification or renewal certification card to  
25 each alarm agent if the qualifications prescribed by this chapter are met.

26 Sec. 2. Section 32-122.02, Arizona Revised Statutes, is amended to  
27 read:

28 32-122.02. Certification of home inspectors; insurance

29 A. An applicant for certification as a home inspector shall:

30 1. Be at least eighteen years of age.

31 2. Be of good moral character and repute.

32 3. Have passed within two years preceding application a written  
33 examination that is approved by the board and that meets the competency  
34 standards recommended by the home inspector rules and standards committee  
35 and adopted by the board.

36 4. Have passed a course of study that meets the standards  
37 recommended by the home inspector rules and standards committee and  
38 approved by the board.

39 5. Pay a fee as determined by the board and shall ~~submit a full set~~  
40 ~~of fingerprints to the board for the purpose of obtaining a state and~~  
41 ~~federal criminal records check pursuant to section 41-1750 and Public Law~~  
42 ~~92-544. The department of public safety may exchange this fingerprint~~  
43 ~~data with the federal bureau of investigation. Any documents and~~  
44 ~~information relating to the state and federal criminal records check~~  
45 ~~required by this section are not public records~~ PROVIDE TO THE BOARD

1 EVIDENCE OF HAVING A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO  
2 TITLE 41, CHAPTER 12, ARTICLE 3.1.

3 6. Not have had a certificate denied or revoked pursuant to this  
4 chapter within one year immediately preceding the application.

5 7. Have received an absolute discharge from sentence at least five  
6 years before the application if the person has been convicted of one or  
7 more felonies, provided the board determines the applicant is of good  
8 moral character and repute.

9 8. Provide evidence of the applicant's ability to obtain financial  
10 assurance as provided by subsection B of this section.

11 B. Within sixty days after certification and before any fee-based  
12 home inspection is performed, a home inspector certified pursuant to this  
13 chapter shall file one of the following financial assurances pursuant to  
14 rules recommended by the home inspector rules and standards committee and  
15 adopted by the board:

16 1. Errors and omissions insurance for negligent acts committed in  
17 the course of a home inspection in an amount of two hundred thousand  
18 dollars in the aggregate and one hundred thousand dollars per occurrence.

19 2. A bond that is retroactive to the certification date in the  
20 amount of twenty-five thousand dollars or proof that minimum net assets  
21 have a value of at least twenty-five thousand dollars.

22 C. If a home inspector loses or otherwise fails to maintain a  
23 required financial assurance, the certification shall be automatically  
24 suspended and shall be reinstated if a financial assurance is obtained  
25 within ninety days. If a financial assurance is not obtained within ninety  
26 days, the certification shall be automatically revoked.

27 D. A home inspector is subject to this chapter and rules adopted  
28 pursuant to this chapter.

29 Sec. 3. Section 41-619.51, Arizona Revised Statutes, is amended to  
30 read:

31 41-619.51. Definitions

32 In this article, unless the context otherwise requires:

33 1. "Agency" means the supreme court, the department of economic  
34 security, the department of child safety, the department of education, the  
35 department of health services, the department of juvenile corrections, the  
36 department of emergency and military affairs, the department of public  
37 safety, the department of transportation, the state real estate  
38 department, the department of financial institutions, the Arizona game and  
39 fish department, the board of examiners of nursing care institution  
40 administrators and assisted living facility managers, the state board of  
41 dental examiners, the Arizona state board of pharmacy or the board of  
42 physical therapy or the state board of technical registration.

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

44 3. "Central registry exception" means notification to the  
45 department of economic security, the department of child safety or the

1 department of health services, as appropriate, pursuant to section  
2 41-619.57 that the person is not disqualified because of a central  
3 registry check conducted pursuant to section 8-804.

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

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

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

- 12 (a) Section 8-105.
- 13 (b) Section 8-322.
- 14 (c) Section 8-463.
- 15 (d) Section 8-509.
- 16 (e) Section 8-802.
- 17 (f) Section 8-804.
- 18 (g) Section 15-183.
- 19 (h) Section 15-503.
- 20 (i) Section 15-512.
- 21 (j) Section 15-534.
- 22 (k) Section 15-763.01.
- 23 (l) Section 15-782.02.
- 24 (m) Section 15-1330.
- 25 (n) Section 15-1881.
- 26 (o) Section 17-215.
- 27 (p) Section 28-3228.
- 28 (q) Section 28-3413.
- 29 (r) SECTION 32-122.02.
- 30 ~~(s)~~ (s) Section 32-122.05.
- 31 ~~(t)~~ (t) Section 32-122.06.
- 32 ~~(u)~~ (u) Section 32-1232.
- 33 ~~(v)~~ (v) Section 32-1284.
- 34 ~~(w)~~ (w) Section 32-1297.01.
- 35 ~~(x)~~ (x) Section 32-1904.
- 36 ~~(y)~~ (y) Section 32-1941.
- 37 ~~(z)~~ (z) Section 32-2022.
- 38 ~~(aa)~~ (aa) Section 32-2108.01.
- 39 ~~(bb)~~ (bb) Section 32-2123.
- 40 ~~(cc)~~ (cc) Section 32-2371.
- 41 ~~(dd)~~ (dd) Section 32-3620.
- 42 ~~(ee)~~ (ee) Section 32-3668.
- 43 ~~(ff)~~ (ff) Section 32-3669.
- 44 ~~(gg)~~ (gg) Section 36-207.
- 45 ~~(hh)~~ (hh) Section 36-411.

- 1       ~~(hh)~~ (ii) Section 36-425.03.
- 2       ~~(ii)~~ (jj) Section 36-446.04.
- 3       ~~(jj)~~ (kk) Section 36-594.01.
- 4       ~~(kk)~~ (ll) Section 36-594.02.
- 5       ~~(ii)~~ (mm) Section 36-882.
- 6       ~~(mm)~~ (nn) Section 36-883.02.
- 7       ~~(mm)~~ (oo) Section 36-897.01.
- 8       ~~(oo)~~ (pp) Section 36-897.03.
- 9       ~~(pp)~~ (qq) Section 36-3008.
- 10      ~~(qq)~~ (rr) Section 41-619.53.
- 11      ~~(rr)~~ (ss) Section 41-1964.
- 12      ~~(ss)~~ (tt) Section 41-1967.01.
- 13      ~~(tt)~~ (uu) Section 41-1968.
- 14      ~~(uu)~~ (vv) Section 41-1969.
- 15      ~~(vv)~~ (ww) Section 41-2814.
- 16      ~~(ww)~~ (xx) Section 46-141, subsection A.
- 17      ~~(xx)~~ (yy) Section 46-321.

18       Sec. 4. Section 41-1758, Arizona Revised Statutes, is amended to  
19 read:

20       41-1758. Definitions

21       In this article, unless the context otherwise requires:

22       1. "Agency" means the supreme court, the department of economic  
23 security, the department of child safety, the department of education, the  
24 department of health services, the department of juvenile corrections, the  
25 department of emergency and military affairs, the department of public  
26 safety, the department of transportation, the state real estate  
27 department, the department of financial institutions, the board of  
28 fingerprinting, the Arizona game and fish department, the board of  
29 examiners of nursing care institution administrators and assisted living  
30 facility managers, the state board of dental examiners, the Arizona state  
31 board of pharmacy or the board of physical therapy or the state board of  
32 technical registration.

33       2. "Division" means the fingerprinting division in the department  
34 of public safety.

35       3. "Electronic or internet-based fingerprinting services" means a  
36 secure system for digitizing applicant fingerprints and transmitting the  
37 applicant data and fingerprints of a person or entity submitting  
38 fingerprints to the department of public safety for any authorized purpose  
39 under this title. For the purposes of this paragraph, "secure system"  
40 means a system that complies with the information technology security  
41 policy approved by the department of public safety.

42       4. "Good cause exception" means the issuance of a fingerprint  
43 clearance card to an applicant pursuant to section 41-619.55.

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

- 1 (a) Section 8-105.
- 2 (b) Section 8-322.
- 3 (c) Section 8-463.
- 4 (d) Section 8-509.
- 5 (e) Section 8-802.
- 6 (f) Section 15-183.
- 7 (g) Section 15-503.
- 8 (h) Section 15-512.
- 9 (i) Section 15-534.
- 10 (j) Section 15-763.01.
- 11 (k) Section 15-782.02.
- 12 (l) Section 15-1330.
- 13 (m) Section 15-1881.
- 14 (n) Section 17-215.
- 15 (o) Section 28-3228.
- 16 (p) Section 28-3413.
- 17 (q) SECTION 32-122.02.
- 18 ~~(r)~~ (r) Section 32-122.05.
- 19 ~~(s)~~ (s) Section 32-122.06.
- 20 ~~(t)~~ (t) Section 32-1232.
- 21 ~~(u)~~ (u) Section 32-1284.
- 22 ~~(v)~~ (v) Section 32-1297.01.
- 23 ~~(w)~~ (w) Section 32-1904.
- 24 ~~(x)~~ (x) Section 32-1941.
- 25 ~~(y)~~ (y) Section 32-2022.
- 26 ~~(z)~~ (z) Section 32-2108.01.
- 27 ~~(aa)~~ (aa) Section 32-2123.
- 28 ~~(bb)~~ (bb) Section 32-2371.
- 29 ~~(cc)~~ (cc) Section 32-3620.
- 30 ~~(dd)~~ (dd) Section 32-3668.
- 31 ~~(ee)~~ (ee) Section 32-3669.
- 32 ~~(ff)~~ (ff) Section 36-207.
- 33 ~~(gg)~~ (gg) Section 36-411.
- 34 ~~(hh)~~ (hh) Section 36-425.03.
- 35 ~~(ii)~~ (ii) Section 36-446.04.
- 36 ~~(jj)~~ (jj) Section 36-594.01.
- 37 ~~(kk)~~ (kk) Section 36-594.02.
- 38 ~~(ll)~~ (ll) Section 36-882.
- 39 ~~(mm)~~ (mm) Section 36-883.02.
- 40 ~~(nn)~~ (nn) Section 36-897.01.
- 41 ~~(oo)~~ (oo) Section 36-897.03.
- 42 ~~(pp)~~ (pp) Section 36-3008.
- 43 ~~(qq)~~ (qq) Section 41-619.52.
- 44 ~~(rr)~~ (rr) Section 41-619.53.
- 45 ~~(ss)~~ (ss) Section 41-1964.

- 1           ~~(ss)~~ (tt) Section 41-1967.01.
- 2           ~~(tt)~~ (uu) Section 41-1968.
- 3           ~~(uu)~~ (vv) Section 41-1969.
- 4           ~~(vv)~~ (ww) Section 41-2814.
- 5           ~~(ww)~~ (xx) Section 46-141, subsection A.
- 6           ~~(xx)~~ (yy) Section 46-321.

7           6. "Vulnerable adult" has the same meaning prescribed in section  
8 13-3623.

9           Sec. 5. Section 41-1758.01, Arizona Revised Statutes, is amended to  
10 read:

11           41-1758.01. Fingerprinting division; powers and duties

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

14           1. Conduct fingerprint background checks for persons and applicants  
15 who are seeking licenses from state agencies, employment with licensees,  
16 contract providers and state agencies or employment or educational  
17 opportunities with agencies that require fingerprint background checks  
18 pursuant to sections 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503,  
19 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3228,  
20 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-1232, 32-1284, 32-1297.01,  
21 32-1904, 32-1941, 32-2022, 32-2108.01, 32-2123, 32-2371, 32-3620, 32-3668,  
22 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02,  
23 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53,  
24 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141,  
25 subsection A and section 46-321.

26           2. Issue fingerprint clearance cards. On issuance, a fingerprint  
27 clearance card becomes the personal property of the cardholder and the  
28 cardholder shall retain possession of the fingerprint clearance card.

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

33           4. Inform in writing each person who submits fingerprints for a  
34 fingerprint background check of the right to petition the board of  
35 fingerprinting for a good cause exception pursuant to section 41-1758.03,  
36 41-1758.04 or 41-1758.07.

37           5. If after conducting a state and federal criminal history records  
38 check the division determines that it is not authorized to issue a  
39 fingerprint clearance card to a person, inform the person in writing that  
40 the division is not authorized to issue a fingerprint clearance card. The  
41 notice shall include the criminal history information on which the denial  
42 was based. This criminal history information is subject to dissemination  
43 restrictions pursuant to section 41-1750 and Public Law 92-544.

44           6. Notify the person in writing if the division suspends, revokes  
45 or places a driving restriction notation on a fingerprint clearance card



1 pursuant to section 41-1758.04. The notice shall include the criminal  
2 history information on which the suspension, revocation or placement of  
3 the driving restriction notation was based. This criminal history  
4 information is subject to dissemination restrictions pursuant to section  
5 41-1750 and Public Law 92-544.

6 7. Administer and enforce this article.

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

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

17 2. The information technology security policy approved by the  
18 department of public safety.