

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 252
SENATE BILL 1469

AN ACT

AMENDING SECTIONS 5-324, 6-101 AND 6-110, ARIZONA REVISED STATUTES; REPEALING SECTION 6-111, ARIZONA REVISED STATUTES; AMENDING SECTIONS 6-112, 6-113, 6-122, 6-123.01, 6-129, 6-131, 6-135.01, 6-991.12, 6-991.15, 6-991.16, 6-991.21, 10-2251, 11-483, 11-505, 13-2301, 14-3603, 14-5411 AND 20-102, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-124; REPEALING SECTION 20-1593, ARIZONA REVISED STATUTES; AMENDING SECTIONS 23-1361, 25-519 AND 28-455, ARIZONA REVISED STATUTES; AMENDING SECTION 28-4301, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 81, SECTION 1; AMENDING SECTION 28-4301, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 298, SECTION 6; AMENDING SECTIONS 28-4405, 28-5104, 28-5105, 32-1001, 32-1391.01, 32-1391.03, 32-1391.04, 32-1391.05, 32-1391.16, 32-3601, 32-3605, 32-4301, 35-311, 35-321, 35-323, 35-1210 AND 38-871, ARIZONA REVISED STATUTES; AMENDING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 46, SECTION 3 AND CHAPTER 296, SECTION 12; REPEALING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 287, SECTION 3; AMENDING SECTION 41-1502, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 46, SECTION 4 AND CHAPTER 296, SECTION 13; REPEALING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 287, SECTION 4; AMENDING SECTION 41-3020.17, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-3022.17 AND 41-3024.03, ARIZONA REVISED STATUTES; AMENDING SECTION 41-3451, ARIZONA REVISED

STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 303, SECTION 14; AMENDING SECTION 41-3451, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 298, SECTION 8; AMENDING SECTIONS 41-3453, 44-281, 44-282, 44-287, 44-1601, 44-3101, 46-300.03, 48-101 AND 48-3204, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO THE DEPARTMENT OF INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 5-324, Arizona Revised Statutes, is amended to
3 read:

4 5-324. Public records; identification of requester; supplying
5 information by mail; records custodians;
6 certification of records

7 A. All records of the department made or kept pursuant to this
8 article are public records.

9 B. The department shall furnish information or copies from the
10 records kept pursuant to this section subject to sections 39-121.01 and
11 39-121.03.

12 C. Persons requesting a copy of a public record pursuant to this
13 section shall identify themselves and state the reason for making the
14 request. The department shall verify the name and address of the person
15 making the request by requiring the person to produce necessary
16 information to ensure that the information given is true and correct.

17 D. The department shall not divulge any information from a
18 watercraft registration record unless the person requesting the
19 information provides the following:

- 20 1. The name of the owner.
- 21 2. The hull identification number of the watercraft.
- 22 3. The ~~department-issued~~ DEPARTMENT-ISSUED number assigned to the
23 watercraft.

24 E. The procedures required by subsections C and D of this section
25 do not apply to:

- 26 1. This state or any of its departments, agencies or political
27 subdivisions.
- 28 2. A court.
- 29 3. A law enforcement officer.
- 30 4. A licensed private investigator.
- 31 5. Financial institutions and enterprises under the jurisdiction of
32 the department of ~~financial institutions~~ INSURANCE AND FINANCIAL
33 INSTITUTIONS or a federal monetary authority.
- 34 6. The federal government or any of its agencies.
- 35 7. An attorney admitted to practice in this state who alleges the
36 information is relevant to any pending or potential court proceeding.
- 37 8. An operator of a self-service storage facility located in this
38 state who alleges both of the following:
 - 39 (a) That the watercraft on which the operator is requesting the
40 record is in the operator's possession.
 - 41 (b) That the record is requested to allow the operator to notify
42 the registered owner and any lienholders of record of the operator's
43 intent to foreclose its lien and to sell the watercraft.

1 9. A towing company located in this state that alleges both of the
2 following:

3 (a) That the watercraft on which the towing company is requesting
4 the record is in the towing company's possession.

5 (b) That the record is requested to allow the towing company to
6 notify the registered owner and any lienholders of record, if known, of
7 the towing company's intent to sell the watercraft.

8 10. An insurance company.

9 F. The department may supply the requested information by mail or
10 telecommunications.

11 G. The director may designate as custodian of the department's
12 public records those department employees the director deems
13 necessary. If a public record of the department has been certified by a
14 records custodian and authenticated as required under proof of records
15 (records of public officials), rules of civil procedure and the rules of
16 evidence for courts in this state, it is admissible in evidence without
17 further foundation.

18 H. Notwithstanding subsection D of this section, information may be
19 supplied for commercial purposes, as defined in section 39-121.03, if the
20 information is transmitted in a ~~machine-readable~~ MACHINE-READABLE form
21 such as computer magnetic tape to the person making the request.

22 I. The department shall maintain for a period of at least one year
23 a file of requests for information that shall be maintained by the name of
24 the person whose record was requested, except those requests made by
25 government agencies.

26 Sec. 2. Heading change

27 The chapter heading of title 6, chapter 1, Arizona Revised Statutes,
28 is changed from "DEPARTMENT OF FINANCIAL INSTITUTIONS" to "FINANCIAL
29 INSTITUTIONS DIVISION".

30 Sec. 3. Section 6-101, Arizona Revised Statutes, is amended to
31 read:

32 6-101. Definitions

33 In this title, unless the context otherwise requires:

34 1. "Automated teller machine" means an automated device that is
35 established by a bank, savings and loan association or credit union and
36 that facilitates customer-bank communications activities, including taking
37 deposits and disbursing cash drawn against a customer's deposit account or
38 a customer's preapproved loan account, at a location separate from the
39 home office or a branch.

40 2. "Bank" means a corporation that holds a banking permit issued
41 pursuant to chapter 2 of this title.

42 3. "Banking office" means any place of business of the bank at
43 which deposits are received, checks are paid or money is loaned but does
44 not include the premises used for computer operations, proofing, record

1 keeping, accounting, storage, maintenance or other administrative or
2 service functions.

3 4. "Branch" means any banking office other than the principal
4 banking office.

5 5. "Department" means the department of ~~financial institutions~~
6 INSURANCE AND FINANCIAL INSTITUTIONS.

7 6. "DIRECTOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 20-102.

8 7. "DIVISION" MEANS THE FINANCIAL INSTITUTIONS DIVISION WITHIN THE
9 DEPARTMENT.

10 ~~6.~~ 8. "Enterprise" means any person under the jurisdiction of the
11 department other than a financial institution.

12 ~~7.~~ 9. "Federal deposit insurance corporation" includes any
13 successor to the corporation or other agency or instrumentality of the
14 United States that undertakes to discharge the purposes of the
15 corporation.

16 ~~8.~~ 10. "Financial institution" means banks, trust companies,
17 savings and loan associations, credit unions, consumer lenders,
18 international banking facilities and financial institution holding
19 companies under the jurisdiction of the department.

20 ~~9.~~ 11. "Home state" means the state that has granted the bank its
21 charter, permit or license to operate.

22 ~~10.~~ 12. "Host state" means the state in which a financial
23 institution is doing business and not the state that has granted the bank
24 its charter, permit or license to operate.

25 ~~11.~~ 13. "In-state financial institution" means a state or federal
26 bank, savings bank, savings and loan association or holding company with
27 its home office located in this state.

28 ~~12.~~ 14. "International banking facility" means a facility that is
29 represented by a set of asset and liability accounts segregated on the
30 books and records of a commercial bank, the principal office of which is
31 located in this state, and that is incorporated and doing business under
32 the laws of the United States or of this state, a United States branch or
33 agency of a foreign bank, an edge corporation organized under section
34 25(a) of the federal reserve act (12 United States Code sections 611
35 through 631) or an agreement corporation having an agreement or
36 undertaking with the board of governors of the federal reserve system
37 under section 25 of the federal reserve act (12 United States Code
38 sections 601 through 604(a)) that includes only international banking
39 facility time deposits and international banking facility extensions of
40 credit as defined in 12 Code of Federal Regulations part 204.

41 ~~13.~~ 15. "National credit union administration" includes any
42 successor to the organization or other agency or instrumentality of the
43 United States that undertakes to discharge the purposes of the
44 organization.

1 ~~14.~~ 16. "Out-of-state bank" means a bank, savings bank or savings
2 and loan association that is approved by the superintendent pursuant to
3 section 6-322 and that has a charter, a permit or any other license to
4 operate that is issued by a state other than this state.

5 ~~15.~~ 17. "Out-of-state financial institution" means a state or
6 federal bank, savings bank, savings and loan association or holding
7 company with its home office in a state other than this state.

8 ~~16.~~ 18. "Superintendent" means the superintendent of THE financial
9 institutions DIVISION OF THE DEPARTMENT.

10 ~~17.~~ 19. "Title" includes this title, title 32, chapters 9 and 36
11 and title 44, chapter 2.1.

12 Sec. 4. Heading change

13 The article heading of title 6, chapter 1, article 2, Arizona
14 Revised Statutes, is changed from "DEPARTMENT OF FINANCIAL INSTITUTIONS"
15 to "FINANCIAL INSTITUTIONS DIVISION".

16 Sec. 5. Section 6-110, Arizona Revised Statutes, is amended to
17 read:

18 6-110. Financial institutions division; superintendent

19 The ~~department of~~ financial institutions DIVISION is established IN
20 THE DEPARTMENT. The ~~department has charge of~~ DIRECTOR SHALL APPOINT A
21 SUPERINTENDENT TO ASSIST THE DIRECTOR WITH the execution of the laws of
22 this state relating to financial institutions and enterprises.

23 Sec. 6. Repeal

24 Section 6-111, Arizona Revised Statutes, is repealed.

25 Sec. 7. Section 6-112, Arizona Revised Statutes, is amended to
26 read:

27 6-112. Deputy superintendent; examiners; personnel

28 Subject to title 41, chapter 4, article 4, the ~~superintendent~~
29 DIRECTOR:

30 1. Shall appoint a deputy superintendent who shall have the power
31 and perform the duties of the superintendent. The deputy superintendent
32 shall hold such appointment at the will and pleasure of the ~~superintendent~~
33 DIRECTOR.

34 2. May appoint such assistants as ~~he~~ THE DIRECTOR deems necessary
35 whose powers ~~shall be~~ ARE limited to the powers, duties or functions set
36 forth in the appointment.

37 3. Shall appoint such examiners and other personnel AS necessary.

38 Sec. 8. Section 6-113, Arizona Revised Statutes, is amended to
39 read:

40 6-113. Acts prohibited; officers; employees

41 A. ~~Neither~~ THE DIRECTOR, the superintendent, the deputy
42 superintendent ~~nor~~ AND any personnel of the department ~~shall~~ MAY NOT do
43 any of the following with respect to any financial institution or
44 enterprise under the jurisdiction of the department:

1 1. Be indebted, directly or indirectly, as borrower, accommodation
2 endorser, surety or guarantor, to any such financial institution or
3 enterprise unless ~~such~~ THE indebtedness was contracted before becoming
4 employed by the department and is fully disclosed to the department,
5 except that an employee of the department, other than THE DIRECTOR, the
6 superintendent or the deputy superintendent, may become so indebted if the
7 indebtedness is both:

8 (a) Incurred on terms ~~no~~ NOT more favorable than those available to
9 the general public.

10 (b) Fully disclosed to and approved by the ~~superintendent~~ DIRECTOR
11 before funding, including the following information:

12 (i) The date of the indebtedness.

13 (ii) The amount.

14 (iii) The interest rate.

15 (iv) Other obligors.

16 (v) Security.

17 (vi) The purpose for which the monies are to be used. The borrower
18 shall not participate in any examination of the lender conducted by the
19 department.

20 2. Be an officer, director or employee of any such financial
21 institution or enterprise.

22 3. Own or deal in, directly or indirectly, the shares or
23 obligations of any such financial institution or enterprise.

24 4. Be interested in, directly or indirectly, or receive from any
25 such financial institution or enterprise, or any officer, director or
26 employee ~~thereof~~ OF THE FINANCIAL INSTITUTION OR ENTERPRISE, any salary,
27 fee, compensation or other valuable thing by way of gift, credit,
28 compensation for services or otherwise.

29 5. Be interested in or engage in the negotiation of any loan to,
30 obligation of, or accommodation for another person to or with any such
31 financial institution or enterprise.

32 B. Notwithstanding the provisions of subsection A OF THIS SECTION,
33 THE DIRECTOR, the superintendent, the deputy superintendent and any
34 personnel of the department may:

35 1. Maintain demand, savings, time, share and trust accounts in any
36 financial institution.

37 2. Become a beneficiary of any trust or estate administered by any
38 fiduciary under the jurisdiction of the ~~department~~ DIVISION.

39 3. Become indebted to and own and deal in shares and obligations of
40 national banks, federal savings and loan associations and federal credit
41 unions.

1 Sec. 9. Section 6-122, Arizona Revised Statutes, is amended to
2 read:

3 6-122. Superintendent; authority; duties

4 A. The superintendent has the authority and responsibility for the
5 discharge of all duties imposed by law on the ~~department~~ DIVISION.

6 B. The superintendent shall:

7 1. Examine or cause to be examined each financial institution
8 annually, except financial institution holding companies, banks, savings
9 and loan associations, credit unions and consumer lenders, and more
10 frequently if the superintendent considers it necessary.

11 2. Examine or cause to be examined each bank, credit union and
12 savings and loan association at the superintendent's discretion but at
13 least once in every twenty-four month period.

14 3. Examine or cause to be examined the business and affairs of any
15 enterprise and any consumer lender for the purpose of administering and
16 enforcing this title at the superintendent's discretion.

17 4. Examine or cause to be examined financial institution holding
18 companies as frequently as the superintendent considers necessary to
19 administer and enforce this title.

20 5. Notwithstanding paragraph 3 of this subsection, examine or cause
21 to be examined the accounts held in trust by each escrow agent at least
22 once in every two-year period ~~pursuant to section 20-1593~~ and examine or
23 cause to be examined each escrow agent at least once in every four-year
24 period or more frequently if the superintendent considers it necessary.

25 6. Publish a consumer information brochure that includes:

26 (a) The finance charges permitted by this state.

27 (b) The types of insurance that may be offered but that are not
28 required by law to be purchased with the granting of a loan.

29 (c) Interest rate limitations on all lenders including amounts that
30 may not be charged to borrowers.

31 (d) Consumer rights and means of recourse from unfair
32 practitioners.

33 7. Make it a priority to encourage the growth of state-chartered
34 financial institutions in this state and by February 1 of each calendar
35 year notify the governor, the president of the senate and the speaker of
36 the house of representatives if the total number of state-chartered banks
37 or state-chartered credit unions decreases during the prior calendar year.

38 C. Notwithstanding subsection B, paragraph 5 of this section, an
39 escrow agent shall be examined within twelve months when an escrow agent's
40 license is transferred or assigned pursuant to section 6-813 or when
41 control of the license is otherwise acquired.

1 Sec. 10. Section 6-123.01, Arizona Revised Statutes, is amended to
2 read:

3 6-123.01. Fingerprint requirements; fees

4 A. Before receiving and holding a license, permit, certificate or
5 permission to organize a bank, savings and loan association or credit
6 union, the superintendent may require an applicant, licensee, active
7 manager or responsible individual or an organizer, director or officer of
8 any corporate applicant or licensee to submit a full set of fingerprints
9 and fees to the department. The department of ~~financial institutions~~
10 **INSURANCE AND FINANCIAL INSTITUTIONS** shall submit the fingerprints and
11 fees to the department of public safety, or the nationwide mortgage
12 licensing system and registry established by the secure and fair
13 enforcement for mortgage licensing act of 2008 (P.L. 110-289; 122 Stat.
14 2810; 12 United States Code sections 5101 through 5116) or its successor,
15 for the purpose of obtaining a state and federal criminal records check
16 pursuant to section 41-1750 and Public Law 92-544. The department of
17 public safety may exchange this fingerprint data with the federal bureau
18 of investigation.

19 B. The fees that the department collects under subsection A of this
20 section shall be credited pursuant to section 35-148.

21 C. The applicant is responsible for providing the department with
22 readable fingerprints. The applicant shall pay any costs that are
23 attributable to refingerprinting due to the unreadability of any
24 fingerprints and any fees that are required for the resubmission of
25 fingerprints.

26 D. The department may issue a temporary license or certificate or
27 grant temporary permission to organize to an original applicant before the
28 department receives the results of a criminal records check if there is
29 not evidence or reasonable suspicion that the applicant has a criminal
30 history background that would be cause for denial of a license,
31 certificate or permission to organize. The department may terminate the
32 temporary license or certificate or permission to organize if a
33 fingerprint card is returned as unreadable and the applicant fails to
34 submit new fingerprints within ten days after being notified by the
35 department that the original card was unreadable or if the results of the
36 criminal records check reveal grounds for the denial of the license or
37 certificate or permission to organize. The temporary license or
38 certificate or permission to organize shall not be effective longer than
39 one hundred eighty days.

40 E. The superintendent may require a current licensee, organizer,
41 director, active manager, responsible individual or officer of any
42 corporate licensee to submit a full set of fingerprints to the department.
43 The department of ~~financial institutions~~ **INSURANCE AND FINANCIAL**
44 **INSTITUTIONS** shall submit the fingerprints and fees to the department of
45 public safety for the purpose of obtaining a state and federal criminal

1 records check pursuant to section 41-1750 and Public Law 92-544. The
2 department of public safety may exchange this fingerprint data with the
3 federal bureau of investigation.

4 F. This section does not affect the department's authority to
5 otherwise issue, deny, cancel, terminate, suspend or revoke a license.

6 Sec. 11. Section 6-129, Arizona Revised Statutes, is amended to
7 read:

8 6-129. Records; disclosure and limitations on disclosure;
9 evidentiary effect

10 A. Except as otherwise provided by this title, the records of the
11 department relating to financial institutions ~~shall~~ ARE not ~~be~~ public
12 documents, ~~nor shall they be~~ ARE NOT open for inspection by the public and
13 ~~neither~~ the ~~superintendent nor~~ DIRECTOR AND any member of the
14 ~~superintendent's~~ DIRECTOR'S staff ~~shall~~ MAY NOT disclose any information
15 obtained in the discharge of official duties to any person not connected
16 with the department.

17 B. Records and information may be disclosed as follows:

18 1. To representatives of federal agencies insuring accounts in the
19 financial institution.

20 2. To representatives of state or federal agencies and foreign
21 countries having regulatory or supervisory authority over the activities
22 of the financial institution or enterprise or similar financial
23 institutions or enterprises if such representatives are permitted to and
24 do, ~~upon~~ ON request of the ~~superintendent~~ DIRECTOR, disclose similar
25 information respecting those financial institutions or enterprises under
26 their regulation or supervision or to such representatives who state in
27 writing under oath that they shall maintain the confidentiality of such
28 information.

29 3. To the attorney general of this state.

30 4. To a select committee of the legislature of this state appointed
31 for the purpose of inspecting such records, but this paragraph ~~shall~~ DOES
32 not permit disclosure of information as to the condition of any particular
33 financial institution or enterprise, or disclosure of information as to
34 any particular transaction or transactions of a financial institution or
35 enterprise, or disclosure of information ~~which~~ THAT has been disclosed to
36 a financial institution or enterprise by or on behalf of any person in
37 connection with a transaction or proposed transaction with such financial
38 institution or enterprise.

39 5. To a federal, state or county grand jury in response to a lawful
40 subpoena.

41 6. To the auditor general of this state for the purpose of
42 conducting audits authorized by law.

43 7. To state and federal law enforcement agencies.

44 8. To a federal home loan bank, as defined by the federal home loan
45 act of 1932 (12 United States Code section 1422), after the department

1 receives authorization to release the records from the financial
2 institution that is the subject of the records.

3 C. The ~~superintendent~~ DIRECTOR may:

4 1. Disclose the fact of filing of applications with the department
5 pursuant to this title, give notice of a hearing, if any, regarding such
6 applications, and announce the ~~superintendent's~~ DIRECTOR'S action thereon.

7 2. Disclose whether a person is or was certified or licensed by the
8 department, the type of license or certificate held and the status of the
9 license or certificate.

10 3. Disclose final decisions in connection with proceedings for the
11 suspension or revocation of licenses or certificates issued pursuant to
12 this title.

13 4. Disclose final decisions in connection with the issuance of an
14 order to cease and desist issued pursuant to section 6-137.

15 5. Disclose to the financial institution or enterprise or its
16 holding company the results of any examination, inquiry or investigation
17 by the department regarding that financial institution or enterprise.

18 6. Disclose to the financial institution or enterprise any
19 complaint made concerning that financial institution or enterprise.

20 7. Disclose to any person who complains to the department
21 concerning any financial institution or enterprise the result of any
22 investigation concerning the complaint.

23 8. Prepare and circulate reports reflecting the assets and
24 liabilities of financial institutions, including such other information
25 considered pertinent to the purpose of each report for general statistical
26 information.

27 9. Prepare and circulate reports provided by law.

28 D. Every official report of the department is prima facie evidence
29 of the facts therein stated in any action or proceeding wherein the
30 ~~superintendent~~ DIRECTOR is a party.

31 E. Disclosure of the results of any examination, inquiry or
32 investigation disclosed to the financial institution or enterprise
33 pursuant to subsection C, paragraph 5 of this section or disclosure of any
34 complaint to the financial institution or enterprise pursuant to
35 subsection C, paragraph 6 of this section does not make that information a
36 public record, and the financial institution or enterprise or its holding
37 company may not disclose any of the information to the general public.
38 Under no circumstances shall any of the comments, conclusions or results
39 of an examination, inquiry or investigation disclosed pursuant to
40 subsection C, paragraph 5 of this section be used or referenced in any
41 form by a financial institution, enterprise or holding company in any type
42 of communication to a customer or potential customer.

43 F. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT prevent
44 the disclosure of information ~~which~~ THAT is admissible in evidence in any
45 civil or criminal proceeding brought by or at the request of the

1 ~~superintendent~~ DIRECTOR or this state to enforce or prosecute violations
2 of this title or the rules or orders issued or adopted pursuant to this
3 title.

4 Sec. 12. Section 6-131, Arizona Revised Statutes, is amended to
5 read:

6 6-131. Right to sue and defend in actions; liability
7 limitation; award of fees and other expenses

8 A. The ~~superintendent~~ DIRECTOR may sue and prosecute or defend in
9 any action or proceeding in any court of this state or any other state or
10 territory and in any court of the United States for the enforcement or
11 protection of any right or pursuit of any remedy necessary or proper in
12 connection with the matters committed to ~~him~~ THE DIRECTOR for
13 administration or in connection with any financial institution or
14 enterprise under ~~his~~ THE DIRECTOR'S supervision, or the rights,
15 liabilities, property or assets thereof, and may obtain without bond any
16 order necessary to enforce or protect such rights or remedies, including
17 ~~but not limited to~~ ANY OF THE FOLLOWING:

18 1. An order impounding records, books, documents, accounts, monies,
19 negotiable instruments or papers and placing such articles in the
20 possession of the ~~superintendent~~ DIRECTOR until completion of all
21 proceedings undertaken pursuant to this title.

22 2. An order appointing a receiver.

23 3. An order restoring to any person in interest any monies or
24 property, real or personal, ~~which~~ THAT may have been acquired or
25 transferred in violation of this title.

26 B. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT render
27 the ~~superintendent~~ DIRECTOR as such ~~superintendent~~ DIRECTOR or otherwise
28 liable to suit except as any other department or agency of the state may
29 be liable under the general law.

30 C. In addition to any costs ~~which~~ THAT are awarded as prescribed by
31 statute, a court shall award fees and other expenses to the department if
32 the department prevails by an adjudication on the merits in any action
33 brought by the department to enforce the provisions of this title or any
34 rule ~~promulgated~~ ADOPTED under this title. The department may apply
35 pursuant to the applicable procedural rules for an award of attorney fees
36 and other expenses authorized under this section and shall include as part
37 of the application evidence of the department's eligibility for the award
38 and the amount sought, including an itemized statement from the attorneys
39 and experts stating the actual time expended in representing the
40 department and the rate at which the fees were computed. ~~As used in~~ FOR
41 THE PURPOSES OF this subsection, "fees and other expenses" includes the
42 reasonable expenses of expert witnesses, the reasonable cost of any study,
43 analysis, report, test or project ~~which~~ THAT is found by the court to be
44 necessary for the preparation of the department's case and reasonable and
45 necessary attorney fees. The department shall deposit any fees or other

1 expenses awarded by a court in the revolving fund ~~provided~~ ESTABLISHED by
2 section 6-135.

3 Sec. 13. Section 6-135.01, Arizona Revised Statutes, is amended to
4 read:

5 6-135.01. Department receivership revolving fund; use of fund

6 A. ~~A~~ THE department receivership revolving fund is established to
7 be administered by the superintendent. The fund shall consist of monies
8 from the following sources:

9 1. Monies awarded and received as fees and costs in receiverships
10 in which the superintendent was the receiver, as provided in section
11 6-131.01.

12 2. Monies received from the department revolving fund, as provided
13 in section 6-135, subsection B.

14 B. Monies in the fund may be used to pay any costs incurred by the
15 ~~department~~ DIVISION arising out of the administration of a receivership in
16 which the superintendent is the receiver.

17 C. The ~~superintendent~~ DIRECTOR shall submit to the legislature with
18 the department's annual budget request a full and complete account of the
19 department receivership revolving fund through the end of its most recent
20 fiscal year.

21 Sec. 14. Section 6-991.12, Arizona Revised Statutes, is amended to
22 read:

23 6-991.12. Notice of claim to judgment debtor; response

24 A. Within the same time prescribed by section 6-991.11, subsection
25 C for applying for payment from the mortgage recovery fund, an aggrieved
26 party who applies for payment shall serve notice of the claim on the
27 judgment debtor, together with a copy of the application. The notice
28 shall be in the following form:

29 NOTICE

30 Based on a judgment against you in favor of (enter name
31 of claimant), application is being made to the Arizona
32 department of ~~financial institutions~~ INSURANCE AND FINANCIAL
33 INSTITUTIONS for payment from the mortgage recovery fund.

34 If you wish to contest payment from the mortgage
35 recovery fund, you must file a written response to the
36 application. The superintendent of THE financial institutions
37 DIVISION OF THE DEPARTMENT OF INSURANCE AND FINANCIAL
38 INSTITUTIONS must receive your response at (address) within
39 thirty-five calendar days after the date this notice is
40 (mailed, delivered, first published). You must also send a
41 copy of the response to the claimant. If you fail to respond
42 as required, you waive your right to present your objections
43 to payment.

44 B. If the judgment debtor holds a current license issued by the
45 department, the notice and copy of the application may be served by

1 certified mail, return receipt requested, addressed to the judgment
2 debtor's latest business or residence address on file with the department.
3 If the judgment debtor does not hold a current license and if personal
4 delivery cannot be effected by exercising reasonable diligence, the
5 claimant must publish the notice once a week for two consecutive weeks in
6 a newspaper of general circulation in the county in which the judgment
7 debtor was last known to reside.

8 C. If the judgment debtor fails to file a written response to the
9 application with the department within thirty-five calendar days after
10 service under subsection B of this section or after the first publication
11 of the notice, the judgment debtor is not entitled to notice of any action
12 taken or proposed to be taken by the superintendent with respect to the
13 claim.

14 Sec. 15. Section 6-991.15, Arizona Revised Statutes, is amended to
15 read:

16 6-991.15. Final decision and order on claim; notice

17 A. The superintendent shall make a final written decision and order
18 on a claim within ninety calendar days after receiving a completed
19 application except in the following cases:

20 1. A proration hearing is pending under section 6-991.11.

21 2. An application is deficient or fails to comply substantially
22 with the requirements of section 6-991.11 or rules adopted pursuant to
23 this article as determined pursuant to section 6-991.13.

24 3. The claimant agrees in writing to extend the time for making a
25 decision.

26 B. If the superintendent fails to render a written decision and
27 order on a claim within ninety calendar days after receiving a completed
28 application, or within an extended period of time provided under
29 subsection A of this section, the claim is considered to be approved on
30 the day following the final day for rendering the decision.

31 C. The superintendent may approve or deny an application or may
32 enter into a compromise with the claimant to pay less in settlement than
33 the full amount of the claim. If the claimant refuses to accept a
34 settlement offered by the superintendent, the superintendent shall deny
35 the claim.

36 D. The superintendent shall give notice of a decision and order
37 with respect to the claim to the claimant and to any judgment debtor who
38 has filed a timely response to the claim pursuant to section 6-991.12 as
39 follows:

40 1. If the superintendent denies the application, the notice shall
41 include the following:

42 The claimant's application has been denied. If the
43 claimant wishes to pursue the application in court, the
44 claimant must file the application in the court in which the
45 underlying judgment was entered within six months after

1 receiving this notice, pursuant to section 6-991.16, Arizona
2 Revised Statutes.

3 2. If the superintendent's decision is to make a payment to the
4 claimant out of the mortgage recovery fund, the following notice shall be
5 given to the judgment debtor with a copy of the decision and order of the
6 superintendent:

7 The decision of the superintendent of THE financial
8 institutions DIVISION OF THE DEPARTMENT OF INSURANCE AND
9 FINANCIAL INSTITUTIONS on the claim of (name of claimant) is
10 to pay \$_____ from the mortgage recovery fund. A copy of
11 that decision and order is enclosed. If you desire a judicial
12 review of the superintendent's decision and order or the
13 termination of your licenses and license rights, you may
14 petition the superior court, in the county in which the
15 judgment that is the basis of this claim was rendered, for a
16 judicial review. To be timely, you must file the petition
17 with the court within thirty calendar days after receiving
18 this notice.

19 Sec. 16. Section 6-991.16, Arizona Revised Statutes, is amended to
20 read:

21 6-991.16. Claimant's right to appeal denial of claim; service
22 of notice of appeal; response; failure to file
23 response

24 A. A claimant whose application is denied pursuant to section
25 6-991.15 may file within six months after receiving notice of a denial of
26 the claim a verified application in the court in which judgment was
27 entered in the claimant's favor for an order directing payment out of the
28 mortgage recovery fund based on the grounds set forth in the claimant's
29 application to the superintendent.

30 B. The claimant must serve a copy of the verified application on
31 the superintendent and on the judgment debtor and file a certificate or
32 affidavit of service with the court. Service on the superintendent shall
33 be made by certified mail addressed to the superintendent. Service on a
34 judgment debtor shall be made pursuant to section 6-991.12 and shall
35 include the following notice:

36 NOTICE

37 An application has been filed with the court for a
38 payment from the mortgage recovery fund that was previously
39 denied by the superintendent of THE financial institutions
40 DIVISION OF THE DEPARTMENT OF INSURANCE AND FINANCIAL
41 INSTITUTIONS. If you wish to defend in court against this
42 claim, you must file a written response with the court within
43 thirty calendar days after you are served with a copy of the
44 application. If you fail to file a written response, you
45 waive your right to defend against the claim.

1 C. The superintendent and the judgment debtor each must file a
2 written response within thirty calendar days after being served with the
3 application under subsection B of this section. The court shall set the
4 matter for hearing on the petition of the claimant. The court shall grant
5 a request of the superintendent for a continuance of as much as thirty
6 calendar days and, on a showing of good cause by any party, may continue
7 the hearing for a time that the court considers to be appropriate.

8 D. At the hearing, the claimant must establish compliance with the
9 requirements of section 6-991.11.

10 E. If the judgment debtor fails to file a written response to the
11 application, the superintendent may compromise or settle the claim at any
12 time during the court proceedings and, on joint petition of the applicant
13 and the superintendent, the court shall issue an order directing payment
14 out of the mortgage recovery fund.

15 Sec. 17. Section 6-991.21, Arizona Revised Statutes, is amended to
16 read:

17 6-991.21. Financial services fund; use of fund

18 A. The financial services fund is established consisting of loan
19 originator fees collected pursuant to this article. The superintendent
20 shall administer the fund for the purpose of discharging the duties
21 imposed by law on the ~~department~~ DIVISION.

22 B. Monies deposited in the financial services fund are subject to
23 section 35-143.01.

24 Sec. 18. Section 10-2251, Arizona Revised Statutes, is amended to
25 read:

26 10-2251. Definitions

27 In this chapter, unless the context otherwise requires:

28 1. "Bank" means any banking corporation or national banking
29 association.

30 2. "Corporation" means a business development corporation formed
31 under the provisions of this chapter.

32 3. "Member" means any bank or federal or state savings and loan
33 association authorized to do business within this state which shall
34 undertake to lend money to the corporation upon its call and in accordance
35 with the provisions of this chapter.

36 4. "Shareholder" means a registered owner of shares in a
37 corporation formed under the provisions of this chapter.

38 5. "Shares" means units into which the shareholders' rights to
39 participate in the control of a corporation, in its surplus or profits, or
40 in the distribution of its assets, are divided.

41 6. "SUPERINTENDENT OF FINANCIAL INSTITUTIONS" MEANS THE
42 SUPERINTENDENT OF THE FINANCIAL INSTITUTIONS DIVISION OF THE DEPARTMENT OF
43 INSURANCE AND FINANCIAL INSTITUTIONS.

1 Sec. 19. Section 11-483, Arizona Revised Statutes, is amended to
2 read:

3 11-483. Records maintained by county recorder;
4 confidentiality; definitions

5 A. Notwithstanding any other provision of this article, in any
6 county an eligible person may request that the general public be
7 prohibited from accessing the unique identifier and the recording date
8 contained in indexes of recorded instruments maintained by the county
9 recorder and may request the county recorder to prohibit access to that
10 person's residential address and telephone number contained in instruments
11 or writings recorded by the county recorder.

12 B. An eligible person may request this action by filing an
13 affidavit that states all of the following on an application form
14 developed by the administrative office of the courts in agreement with an
15 association of counties, an organization of peace officers and the motor
16 vehicle division of the department of transportation:

17 1. The person's full legal name and residential address.

18 2. The full legal description and parcel number of the person's
19 property.

20 3. Unless the person is the spouse of a peace officer or the spouse
21 or minor child of a deceased peace officer or the person is a former
22 public official or former judge, the position the person currently holds
23 and a description of the person's duties, except that an eligible person
24 who is protected under an order of protection or injunction against
25 harassment shall instead attach a copy of the order of protection or
26 injunction against harassment or an eligible person who is a participant
27 in the address confidentiality program shall instead attach a copy of the
28 participant's current and valid address confidentiality program
29 authorization card issued pursuant to section 41-163 and a statement of
30 certification provided by the secretary of state's office.

31 4. The reasons the person reasonably believes that the person's
32 life or safety or that of another person is in danger and that restricting
33 access pursuant to this section will serve to reduce the danger.

34 5. The document locator number and recording date of each
35 instrument for which the person requests access restriction pursuant to
36 this section.

37 6. A copy of pages from each instrument that includes the document
38 locator number and the person's full legal name and residential address or
39 full legal name and telephone number.

40 C. If an eligible person is also requesting pursuant to section
41 11-484 that the general public be prohibited from accessing records
42 maintained by the county assessor and county treasurer, the eligible
43 person may combine the request pursuant to subsection B of this section
44 with the request pursuant to section 11-484 by filing one affidavit. The

1 affidavit and subsequent action by the appropriate authorities shall meet
2 all of the requirements of this section and section 11-484.

3 D. The affidavit shall be filed with the presiding judge of the
4 superior court in the county in which the affiant resides. To prevent
5 multiple filings, an eligible person who is a peace officer, spouse of a
6 peace officer, spouse or minor child of a deceased peace officer, public
7 defender, prosecutor, code enforcement officer, corrections or detention
8 officer, corrections support staff member or law enforcement support staff
9 member shall deliver the affidavit to the peace officer's commanding
10 officer, or to the head of the prosecuting, public defender, code
11 enforcement, law enforcement, corrections or detention agency, as
12 applicable, or that person's designee, who shall file the affidavits at
13 one time. In the absence of an affidavit that contains a request for
14 immediate action and that is supported by facts justifying an earlier
15 presentation, the commanding officer, or the head of the prosecuting,
16 public defender, code enforcement, law enforcement, corrections or
17 detention agency, as applicable, or that person's designee, shall not file
18 affidavits more often than quarterly.

19 E. On receipt of an affidavit or affidavits, the presiding judge of
20 the superior court shall file with the clerk of the superior court a
21 petition on behalf of all requesting affiants. Each affidavit presented
22 shall be attached to the petition. In the absence of an affidavit that
23 contains a request for immediate action and that is supported by facts
24 justifying an earlier consideration, the presiding judge may accumulate
25 affidavits and file a petition at the end of each quarter.

26 F. The presiding judge of the superior court shall review the
27 petition and each attached affidavit to determine whether the action
28 requested by each affiant should be granted. If the presiding judge of
29 the superior court concludes that the action requested by the affiant will
30 reduce a danger to the life or safety of the affiant or another person,
31 the presiding judge of the superior court shall order that the county
32 recorder prohibit access for five years to the affiant's residential
33 address and telephone number contained in instruments or writings recorded
34 by the county recorder and made available on the internet. If the
35 presiding judge of the superior court concludes that the affiant or
36 another person is in actual danger of physical harm from a person or
37 persons with whom the affiant has had official dealings and that action
38 pursuant to this section will reduce a danger to the life or safety of the
39 affiant or another person, the presiding judge of the superior court shall
40 order that the general public be prohibited for five years from accessing
41 the unique identifier and the recording date contained in indexes of
42 recorded instruments maintained by the county recorder and identified
43 pursuant to subsection B of this section.

1 G. On motion to the court, if the presiding judge of the superior
2 court concludes that an instrument or writing recorded by the county
3 recorder has been redacted or sealed in error, that the original affiant
4 no longer lives at the address listed in the original affidavit, that the
5 cause for the original affidavit no longer exists or that temporary access
6 to the instrument or writing is needed, the presiding judge may
7 temporarily stay or permanently vacate all or part of the court order
8 prohibiting public access to the recorded instrument or writing.

9 H. On entry of the court order, the clerk of the superior court
10 shall file the court order and a copy of the affidavit required by
11 subsection B of this section with the county recorder. No more than ten
12 days after the date on which the county recorder receives the court order,
13 the county recorder shall restrict access to the information as required
14 by subsection F of this section.

15 I. If the court denies an affiant's request pursuant to this
16 section, the affiant may request a court hearing. The hearing shall be
17 conducted by the court in the county where the petition was filed.

18 J. The county recorder shall remove the restrictions on all records
19 restricted pursuant to this section by January 5 in the year after the
20 court order expires. The county recorder shall send by mail one notice to
21 either the former public official, peace officer, spouse of a peace
22 officer, spouse or minor child of a deceased peace officer, public
23 defender, prosecutor, code enforcement officer, corrections or detention
24 officer, corrections support staff member, law enforcement support staff
25 member or employee of the department of child safety who has direct
26 contact with families in the course of employment or the employing agency
27 of a peace officer, public defender, prosecutor, code enforcement officer,
28 corrections or detention officer, corrections support staff member or law
29 enforcement support staff member who was granted an order pursuant to this
30 section of the order's expiration date at least six months before the
31 expiration date. If the notice is sent to the employing agency, the
32 employing agency shall immediately notify the person who was granted the
33 order of the upcoming expiration date. The county recorder may coordinate
34 with the county assessor and county treasurer to prevent multiple notices
35 from being sent to the same person.

36 K. To include subsequent recordings in the court order, the
37 eligible person shall present to the county recorder at the time of
38 recordation a certified copy of the court order or shall provide to the
39 county recorder the recording number of the court order. The county
40 recorder shall ensure that public access ~~shall be~~ IS restricted pursuant
41 to subsection A of this section.

42 L. This section shall not be interpreted to restrict access to
43 public records for the purposes of perfecting a lien pursuant to title 12,
44 chapter 9, article 2.

1 M. This section does not prohibit access to the records of the
2 county recorder by parties to the instrument, a law enforcement officer
3 performing the officer's official duties pursuant to subsection N of this
4 section, a title insurer, a title insurance agent or an escrow agent
5 licensed by the department of insurance ~~or the department of financial~~
6 ~~institutions~~ AND FINANCIAL INSTITUTIONS.

7 N. A law enforcement officer is deemed to be performing the
8 officer's official duties if the officer provides a subpoena, court order
9 or search warrant for the records.

10 O. For the purposes of this section:

11 1. "Code enforcement officer" means a person who is employed by a
12 state or local government and whose duties include performing field
13 inspections of buildings, structures or property to ensure compliance with
14 and enforce national, state and local laws, ordinances and codes.

15 2. "Commissioner" means a commissioner of the superior court.

16 3. "Corrections support staff member" means an adult or juvenile
17 corrections employee who has direct contact with inmates.

18 4. "Eligible person" means a former public official, peace officer,
19 spouse of a peace officer, spouse or minor child of a deceased peace
20 officer, justice, judge, commissioner, public defender, prosecutor, code
21 enforcement officer, adult or juvenile corrections officer, corrections
22 support staff member, probation officer, member of the board of executive
23 clemency, law enforcement support staff member, employee of the department
24 of child safety who has direct contact with families in the course of
25 employment, national guard member who is acting in support of a law
26 enforcement agency, person who is protected under an order of protection
27 or injunction against harassment, person who is a participant in the
28 address confidentiality program pursuant to title 41, chapter 1, article 3
29 or firefighter who is assigned to the Arizona ~~counterterrorism~~ COUNTER
30 TERRORISM INFORMATION center in the department of public safety.

31 5. "Former public official" means a person who was duly elected or
32 appointed to Congress, the legislature or a statewide office, who ceased
33 serving in that capacity and who was the victim of a dangerous offense as
34 defined in section 13-105 while in office.

35 6. "Indexes" means only those indexes that are maintained by and
36 located in the office of the county recorder, that are accessed
37 electronically and that contain information beginning from and after
38 January 1, 1987.

39 7. "Judge" means a judge or former judge of the United States
40 district court, the United States court of appeals, the United States
41 magistrate court, the United States bankruptcy court, the United States
42 immigration court, the Arizona court of appeals, the superior court or a
43 municipal court.

44 8. "Justice" means a justice of the United States or Arizona
45 supreme court or a justice of the peace.

1 9. "Law enforcement support staff member" means a person who serves
2 in the role of an investigator or prosecutorial assistant in an agency
3 that investigates or prosecutes crimes, who is integral to the
4 investigation or prosecution of crimes and whose name or identity will be
5 revealed in the course of public proceedings.

6 10. "Peace officer":

7 (a) Means any person vested by law, or formerly vested by law, with
8 a duty to maintain public order and make arrests.

9 (b) Includes a federal law enforcement officer or agent who resides
10 in this state and who has the power to make arrests pursuant to federal
11 law.

12 11. "Prosecutor" means a county attorney, a municipal prosecutor,
13 the attorney general or a United States attorney and includes an assistant
14 or deputy United States attorney, county attorney, municipal prosecutor or
15 attorney general.

16 12. "Public defender" means a federal public defender, county
17 public defender, county legal defender or county contract indigent defense
18 counsel and includes an assistant or deputy federal public defender,
19 county public defender or county legal defender.

20 Sec. 20. Section 11-505, Arizona Revised Statutes, is amended to
21 read:

22 11-505. Disclosure of confidential information; violation;
23 classification; definition

24 A. A person, including a former employee or agent of the treasurer,
25 who has received confidential information while an employee or agent of
26 the treasurer shall not disclose that information except as provided in
27 subsection B **OF THIS SECTION**.

28 B. Confidential information relating to **A TAXPAYER MAY BE**
29 **DISCLOSED**:

30 1. ~~A taxpayer may be disclosed~~ To the taxpayer, its successor in
31 interest or a designee of the taxpayer who is authorized in writing by the
32 taxpayer. A principal corporate officer of a parent corporation may
33 execute a written authorization for a controlled subsidiary.

34 2. ~~A taxpayer may be disclosed~~ To the taxpayer's title company duly
35 licensed with the department of ~~financial institutions~~ **INSURANCE AND**
36 **FINANCIAL INSTITUTIONS**.

37 3. ~~A taxpayer may be disclosed~~ Pursuant to a lawful court order or
38 a subpoena that is issued by a law enforcement ~~entity~~ **AGENCY** pursuant to a
39 criminal investigation.

40 4. ~~A taxpayer may be disclosed~~ To the auditor general pursuant to
41 an official audit and a written request specifying the information to be
42 disclosed.

43 C. A knowing disclosure of confidential information in violation of
44 this section is a class 6 felony.

1 D. For the purposes of this section, "confidential information"
2 includes the following information whether it concerns individual
3 taxpayers or is aggregate information for specifically identified
4 taxpayers:

5 1. Images of checks received in payment of ANY ad valorem property
6 tax.

7 2. Signatures, bank account numbers and bank routing numbers
8 contained on checks received in payment of ANY ad valorem property tax.

9 Sec. 21. Section 13-2301, Arizona Revised Statutes, is amended to
10 read:

11 13-2301. Definitions

12 A. For the purposes of sections 13-2302, 13-2303 and 13-2304:

13 1. "Collect an extension of credit" means to induce in any way any
14 person to make repayment of that extension.

15 2. "Creditor" means any person making an extension of credit or any
16 person claiming by, under or through any person making an extension of
17 credit.

18 3. "Debtor" means any person to whom an extension of credit is made
19 or any person who guarantees the repayment of an extension of credit, or
20 in any manner undertakes to indemnify the creditor against loss resulting
21 from the failure of any person to whom an extension is made to repay the
22 extension.

23 4. "Extend credit" means to make or renew any loan or to enter into
24 any agreement, tacit or express, whereby the repayment or satisfaction of
25 any debt or claim, whether acknowledged or disputed, valid or invalid, and
26 however arising, may or shall be deferred.

27 5. "Extortionate extension of credit" means any extension of credit
28 with respect to which it is the understanding of the creditor and the
29 debtor ~~at the time~~ WHEN the extension is made that delay in making
30 repayment or failure to make repayment could result in the use of violence
31 or other criminal means to cause harm to the person or the reputation or
32 property of any person.

33 6. "Extortionate means" means the use, or an express or implicit
34 threat of use, of violence or other criminal means to cause harm to the
35 person or the reputation or property of any person.

36 7. "Repayment of any extension of credit" means the repayment,
37 satisfaction or discharge in whole or in part of any debt or claim,
38 acknowledged or disputed, valid or invalid, resulting from or in
39 connection with that extension of credit.

40 B. For the purposes of section 13-2305, 13-2306 or 13-2307:

41 1. "Dealer in property" means a person who buys and sells property
42 as a business.

43 2. "Stolen property" means property of another as defined in
44 section 13-1801 that has been the subject of any unlawful taking.

1 3. "Traffic" means to sell, transfer, distribute, dispense or
2 otherwise dispose of stolen property to another person, or to buy,
3 receive, possess or obtain control of stolen property, with the intent to
4 sell, transfer, distribute, dispense or otherwise dispose of the property
5 to another person.

6 C. For the purposes of this chapter:

7 1. "Animal activity" means a commercial enterprise that uses
8 animals for food, clothing or fiber production, agriculture or
9 biotechnology.

10 2. "Animal facility" means a building or premises where a
11 commercial activity in which the use of animals is essential takes place,
12 including a zoo, rodeo, circus, amusement park, hunting preserve and horse
13 and dog event.

14 3. "Animal or ecological terrorism" means any felony in violation
15 of section 13-2312, subsection B that involves at least three persons
16 acting in concert, that involves the intentional or knowing infliction of
17 property damage in an amount of more than ~~ten thousand dollars~~ \$10,000 to
18 the property that is used by a person for the operation of a lawfully
19 conducted animal activity or to a commercial enterprise that is engaged in
20 a lawfully operated animal facility or research facility and that involves
21 either:

22 (a) The use of a deadly weapon or dangerous instrument.

23 (b) The intentional or knowing infliction of serious physical
24 injury on a person engaged in a lawfully conducted animal activity or
25 participating in a lawfully conducted animal facility or research
26 facility.

27 4. "Biological agent" means any microorganism, virus, infectious
28 substance or biological product that may be engineered through
29 biotechnology or any naturally occurring or bioengineered component of any
30 microorganism, virus, infectious substance or biological product and that
31 is capable of causing any of the following:

32 (a) Death, disease or physical injury in a human, animal, plant or
33 other living organism.

34 (b) The deterioration or contamination of air, food, water,
35 equipment, supplies or material of any kind.

36 5. "Combination" means persons who collaborate in carrying on or
37 furthering the activities or purposes of a criminal syndicate even though
38 such persons may not know each other's identity, membership in the
39 combination changes from time to time or one or more members may stand in
40 a wholesaler-retailer or other arm's length relationship with others as to
41 activities or dealings between or among themselves in an illicit
42 operation.

43 6. "Communication service provider" has the same meaning prescribed
44 in section 13-3001.

1 7. "Criminal syndicate" means any combination of persons or
2 enterprises engaging, or having the purpose of engaging, on a continuing
3 basis in conduct that violates any one or more provisions of any felony
4 statute of this state.

5 8. "Explosive agent" means an explosive as defined in section
6 13-3101 and flammable fuels or fire accelerants in amounts over fifty
7 gallons but excludes:

8 (a) Fireworks as defined in section 36-1601.

9 (b) Firearms.

10 (c) A propellant actuated device or propellant actuated industrial
11 tool.

12 (d) A device that is commercially manufactured primarily for the
13 purpose of illumination.

14 (e) A rocket having a propellant charge of less than four ounces.

15 9. "Material support or resources" includes money or other
16 financial securities, financial services, lodging, sustenance, training,
17 safehouses, false documentation or identification, communications
18 equipment, facilities, weapons, lethal substances, explosives, personnel,
19 transportation, disguises and other physical assets but does not include
20 medical assistance, legal assistance or religious materials.

21 10. "Public establishment" means a structure, vehicle or craft that
22 is owned, leased or operated by any of the following:

23 (a) This state or a political subdivision as defined in section
24 38-502.

25 (b) A public agency as defined in section 38-502.

26 (c) The federal government.

27 (d) A health care institution as defined in section 36-401.

28 11. "Research facility" means a laboratory, institution, medical
29 care facility, government facility, public or private educational
30 institution or nature preserve at which a scientific test, experiment or
31 investigation involving the use of animals is lawfully carried out,
32 conducted or attempted.

33 12. "Terrorism" means any felony, including any completed or
34 preparatory offense, that involves the use of a deadly weapon or a weapon
35 of mass destruction or the intentional or knowing infliction of serious
36 physical injury with the intent to do any of the following:

37 (a) Influence the policy or affect the conduct of this state or any
38 of the political subdivisions, agencies or instrumentalities of this
39 state.

40 (b) Cause substantial damage to or substantial interruption of
41 public communications, communication service providers, public
42 transportation, common carriers, public utilities, public establishments
43 or other public services.

1 (c) Intimidate or coerce a civilian population and further the
2 goals, desires, aims, public pronouncements, manifestos or political
3 objectives of any terrorist organization.

4 13. "Terrorist organization" means any organization that is
5 designated by the United States department of state as a foreign terrorist
6 organization under section 219 of the immigration and nationality act
7 (8 United States Code section 1189).

8 14. "Toxin" means the toxic material of plants, animals,
9 microorganisms, viruses, fungi or infectious substances or a recombinant
10 molecule, whatever its origin or method of reproduction, including:

11 (a) Any poisonous substance or biological product that may be
12 engineered through biotechnology and that is produced by a living
13 organism.

14 (b) Any poisonous isomer or biological product, homolog or
15 derivative of such a substance.

16 15. "Vector" means a living organism or molecule, including a
17 recombinant molecule or biological product that may be engineered through
18 biotechnology, that is capable of carrying a biological agent or toxin to
19 a host.

20 16. "Weapon of mass destruction" means:

21 (a) Any device or object that is designed or that the person
22 intends to use to cause multiple deaths or serious physical injuries
23 through the use of an explosive agent or the release, dissemination or
24 impact of a toxin, biological agent or poisonous chemical, or its
25 precursor, or any vector.

26 (b) Except as authorized and used in accordance with a license,
27 registration or exemption by the department of health services pursuant to
28 section 30-672, any device or object that is designed or that the person
29 intends to use to release radiation or radioactivity at a level that is
30 dangerous to human life.

31 D. For the purposes of sections 13-2312, 13-2313, 13-2314 and
32 13-2315, unless the context otherwise requires:

33 1. "Control", in relation to an enterprise, means the possession of
34 sufficient means to permit substantial direction over the affairs of an
35 enterprise and, in relation to property, means to acquire or possess.

36 2. "Enterprise" means any corporation, partnership, association,
37 labor union or other legal entity or any group of persons associated in
38 fact although not a legal entity.

39 3. "Financial institution" means ~~any business under the~~
40 ~~jurisdiction of the department of financial institutions or~~ a banking or
41 securities regulatory agency of the United States, a business coming
42 within the definition of a bank, financial agency or financial institution
43 as prescribed by 31 United States Code section 5312 or 31 Code of Federal
44 Regulations section 1010.100 or a business under the jurisdiction of the

1 securities division of the corporation commission, the state real estate
2 department or the department of insurance AND FINANCIAL INSTITUTIONS.

3 4. "Racketeering" means any act, including any preparatory or
4 completed offense, that is chargeable or indictable under the laws of the
5 state or country in which the act occurred and, if the act occurred in a
6 state or country other than this state, that would be chargeable or
7 indictable under the laws of this state if the act had occurred in this
8 state, and that would be punishable by imprisonment for more than one year
9 under the laws of this state and, if the act occurred in a state or
10 country other than this state, under the laws of the state or country in
11 which the act occurred, regardless of whether the act is charged or
12 indicted, and the act involves either:

13 (a) Terrorism, animal terrorism or ecological terrorism that
14 results or is intended to result in a risk of serious physical injury or
15 death.

16 (b) Any of the following acts if committed for financial gain:

17 (i) Homicide.

18 (ii) Robbery.

19 (iii) Kidnapping.

20 (iv) Forgery.

21 (v) Theft.

22 (vi) Bribery.

23 (vii) Gambling.

24 (viii) Usury.

25 (ix) Extortion.

26 (x) Extortionate extensions of credit.

27 (xi) Prohibited drugs, marijuana or other prohibited chemicals or
28 substances.

29 (xii) Trafficking in explosives, weapons or stolen property.

30 (xiii) Participating in a criminal syndicate.

31 (xiv) Obstructing or hindering criminal investigations or
32 prosecutions.

33 (xv) Asserting false claims, including false claims asserted
34 through fraud or arson.

35 (xvi) Intentional or reckless false statements or publications
36 concerning land for sale or lease or sale of subdivided lands or sale and
37 mortgaging of unsubdivided lands.

38 (xvii) Resale of realty with intent to defraud.

39 (xviii) Intentional or reckless fraud in the purchase or sale of
40 securities.

41 (xix) Intentional or reckless sale of unregistered securities or
42 real property securities.

43 (xx) A scheme or artifice to defraud.

44 (xxi) Obscenity.

45 (xxii) Sexual exploitation of a minor.

- 1 (xxiii) Prostitution.
2 (xxiv) Restraint of trade or commerce in violation of section
3 34-252.
4 (xxv) Terrorism.
5 (xxvi) Money laundering.
6 (xxvii) Obscene or indecent telephone communications to minors for
7 commercial purposes.
8 (xxviii) Counterfeiting marks as proscribed in section 44-1453.
9 (xxix) Animal terrorism or ecological terrorism.
10 (xxx) Smuggling of human beings.
11 (xxxii) Child sex trafficking.
12 (xxxii) Sex trafficking.
13 (xxxiii) Trafficking of persons for forced labor or services.
14 (xxxiv) Manufacturing, selling or distributing misbranded drugs in
15 violation of section 13-3406, subsection A, paragraph 9.
16 5. "Records" means any book, paper, writing, computer program,
17 data, image or information that is collected, recorded, preserved or
18 maintained in any form of storage medium.
19 6. "Remedy racketeering" means to enter a civil judgment pursuant
20 to this chapter or chapter 39 of this title against property or a person
21 who is subject to liability, including liability for injury to the state
22 that is caused by racketeering or by actions in concert with racketeering.
23 E. For the purposes of sections 13-2316, 13-2316.01 and 13-2316.02:
24 1. "Access" means to instruct, communicate with, store data in,
25 retrieve data from or otherwise make use of any resources of a computer,
26 computer system or network.
27 2. "Access device" means any card, token, code, account number,
28 electronic serial number, mobile or personal identification number,
29 password, encryption key, biometric identifier or other means of account
30 access, including a canceled or revoked access device, that can be used
31 alone or in conjunction with another access device to obtain money, goods,
32 services, computer or network access or any other thing of value or that
33 can be used to initiate a transfer of any thing of value.
34 3. "Computer" means an electronic device that performs logic,
35 arithmetic or memory functions by the manipulations of electronic or
36 magnetic impulses and includes all input, output, processing, storage,
37 software or communication facilities that are connected or related to such
38 a device in a system or network.
39 4. "Computer contaminant" means any set of computer instructions
40 that is designed to modify, damage, destroy, record or transmit
41 information within a computer, computer system or network without the
42 intent or permission of the owner of the information, computer system or
43 network. Computer contaminant includes a group of computer instructions,
44 such as viruses or worms, that is self-replicating or self-propagating and
45 that is designed to contaminate other computer programs or computer data,

1 to consume computer resources, to modify, destroy, record or transmit data
2 or in some other fashion to usurp the normal operation of the computer,
3 computer system or network.

4 5. "Computer program" means a series of instructions or statements,
5 in a form acceptable to a computer, that permits the functioning of a
6 computer system in a manner designed to provide appropriate products from
7 the computer system.

8 6. "Computer software" means a set of computer programs, procedures
9 and associated documentation concerned with the operation of a computer
10 system.

11 7. "Computer system" means a set of related, connected or
12 unconnected computer equipment, devices and software, including storage,
13 media and peripheral devices.

14 8. "Critical infrastructure resource" means any computer or
15 communications system or network that is involved in providing services
16 necessary to ensure or protect the public health, safety or welfare,
17 including services that are provided by any of the following:

18 (a) Medical personnel and institutions.

19 (b) Emergency services agencies.

20 (c) Public and private utilities, including water, power,
21 communications and transportation services.

22 (d) Fire departments, districts or volunteer organizations.

23 (e) Law enforcement agencies.

24 (f) Financial institutions.

25 (g) Public educational institutions.

26 (h) Government agencies.

27 9. "False or fraudulent pretense" means the unauthorized use of an
28 access device or the use of an access device to exceed authorized access.

29 10. "Financial instrument" means any check, draft, money order,
30 certificate of deposit, letter of credit, bill of exchange, credit card or
31 marketable security or any other written instrument as defined in section
32 13-2001 that is transferable for value.

33 11. "Network" includes a complex of interconnected computer or
34 communication systems of any type.

35 12. "Property" means financial instruments, information, including
36 electronically produced data, computer software and programs in either
37 machine or human readable form, and anything of value, tangible or
38 intangible.

39 13. "Proprietary or confidential computer security information"
40 means information about a particular computer, computer system or network
41 that relates to its access devices, security practices, methods and
42 systems, architecture, communications facilities, encryption methods and
43 system vulnerabilities and that is not made available to the public by its
44 owner or operator.

1 14. "Services" includes computer time, data processing, storage
2 functions and all types of communication functions.

3 Sec. 22. Section 14-3603, Arizona Revised Statutes, is amended to
4 read:

5 14-3603. Bond required; exceptions

6 A. A bond is required of a personal representative unless either:

7 1. The will expressly waives the bond.

8 2. All of the heirs if no will has been probated, or all of the
9 devisees under a will which does not provide for waiver of the bond, file
10 with the court a written waiver of the bond requirement. A duly appointed
11 guardian or conservator may waive on behalf of ~~his~~ THE ward or protected
12 person unless the guardian or conservator is the personal representative.

13 3. The personal representative is a national banking association, a
14 holder of a banking permit under the laws of this state, a savings and
15 loan association authorized to conduct trust business in this state, a
16 title insurance company ~~which~~ THAT is qualified to do business under the
17 laws of this state, a trust company holding a certificate to engage in
18 trust business from the superintendent of THE financial institutions
19 DIVISION OF THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS or the
20 public fiduciary.

21 4. The petition for formal or informal appointment alleges that the
22 probable value of the entire estate will permit summary procedures under
23 section 14-3973 and the surviving spouse, or the nominee of the surviving
24 spouse, is applying for appointment as personal representative.

25 B. In any case where a bond is not required under subsection A of
26 this section, the court may, upon petition of any interested person and
27 ~~upon~~ ON reasonable proof that the interest of the petitioning person is in
28 danger of being lost because of the administration of the estate, require
29 a bond in such amount as the court may direct to protect the interest of
30 the petitioner or of the petitioner and others. An heir or devisee who
31 initially waived bond may be a petitioner under this subsection.

32 C. If a bond is not initially required because the petition for
33 appointment alleges that the probable value of the entire estate will
34 permit summary procedures under section 14-3973, and it later appears from
35 the inventory and appraisal that the value of the estate will not permit
36 use of such procedures, then the personal representative must promptly
37 file a bond unless one is not required for some other reason under
38 subsection A of this section.

39 Sec. 23. Section 14-5411, Arizona Revised Statutes, is amended to
40 read:

41 14-5411. Bond; exception

42 A. Except as otherwise provided in subsection B OF THIS SECTION,
43 the court shall require a conservator to furnish a bond conditioned ~~upon~~
44 ON faithful discharge of all duties according to law, with sureties as it
45 shall specify. Unless otherwise directed, the bond shall be in the amount

1 of the aggregate capital value of the property of the estate in the
2 conservator's control plus one year's estimated income minus the value of
3 securities deposited under arrangements requiring an order of the court
4 for their removal and the value of any land ~~which~~ THAT the fiduciary, by
5 express limitation of power, lacks power to sell or convey without court
6 authorization. For good cause shown the court may reduce or eliminate the
7 bond to the extent of regular fixed expenses paid for the benefit of the
8 protected person. The court in lieu of sureties on a bond may accept
9 other security for the performance of the bond, including a pledge of
10 securities or a mortgage of land.

11 B. A bond is not required of a conservator ~~which~~ THAT is a national
12 banking association, a holder of a banking permit under the laws of this
13 state, a savings and loan association authorized to conduct trust business
14 in this state, a title insurance company qualified to do business under
15 the laws of this state, a trust company holding a certificate to engage in
16 trust business from the superintendent of THE financial institutions
17 DIVISION OF THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS or the
18 public fiduciary.

19 Sec. 24. Section 20-102, Arizona Revised Statutes, is amended to
20 read:

21 20-102. "Director" defined

22 When used with reference to THE administration of this title, TITLE
23 6, TITLE 32, CHAPTERS 9 AND 36, TITLE 41, CHAPTER 31 AND TITLE 44, CHAPTER
24 2.1, "director" OR "ADMINISTRATOR" means the director of insurance AND
25 FINANCIAL INSTITUTIONS of the state. When used with reference to a member
26 of the governing body of an insurer, ~~"director"~~ includes ~~"trustee."~~

27 Sec. 25. Title 20, chapter 1, article 1, Arizona Revised Statutes,
28 is amended by adding section 20-124, to read:

29 20-124. Adoption of rules

30 THE DIRECTOR MAY ADOPT RULES FOR THE ADMINISTRATION OF TITLE 6,
31 TITLE 32, CHAPTERS 9 AND 36, TITLE 41, CHAPTER 31 AND TITLE 44,
32 CHAPTER 2.1.

33 Sec. 26. Repeal

34 Section 20-1593, Arizona Revised Statutes, is repealed.

35 Sec. 27. Section 23-1361, Arizona Revised Statutes, is amended to
36 read:

37 23-1361. Blacklist; definition; exceptions; privileged
38 communications; immunity

39 A. "Blacklist" means any understanding or agreement whereby the
40 names of any person or persons, list of names, descriptions or other means
41 of identification shall be spoken, written, printed or implied for the
42 purpose of being communicated or transmitted between two or more employers
43 of labor, or their bosses, foremen, superintendents, managers, officers or
44 other agents, whereby the laborer is prevented or prohibited from engaging
45 in a useful occupation. Any understanding or agreement between employers,

1 or their bosses, foremen, superintendents, managers, officers or other
2 agents, whether written or verbal, comes within the meaning of this
3 section and it makes no difference whether the employers, or their bosses,
4 foremen, superintendents, managers, officers or other agents, act
5 individually or for some company, corporation, syndicate, partnership or
6 society and it makes no difference whether they are employed or acting as
7 agents for the same or different companies, corporations, syndicates,
8 partnerships or societies.

9 B. It is not unlawful for a former employer to provide to a
10 requesting employer, or agents acting in the employer's behalf,
11 information concerning a person's education, training, experience,
12 qualifications and job performance to be used for the purpose of
13 evaluating the person for employment. It is not unlawful for a school
14 district to provide information received as a result of a fingerprint
15 check required by section 15-512 to any other school district if requested
16 to do so by the person who was the subject of the fingerprint check or
17 communicate to any school district if requested to do so by the person who
18 applied for a fingerprint clearance card whether the person has been
19 issued or denied a fingerprint clearance card. A copy of any written
20 communication regarding employment must be sent by the employer providing
21 the information to the former employee's last known address.

22 C. An employer who in good faith provides information requested by
23 a prospective employer about the reason for termination of a former
24 employee or about the job performance, professional conduct or evaluation
25 of a current or former employee is immune from civil liability for the
26 disclosure or the consequences of providing the information. There is a
27 presumption of good faith if either:

28 1. The employer employs less than one hundred employees and
29 provides only the information authorized by this subsection.

30 2. The employer employs at least one hundred employees and has a
31 regular practice in this state of providing information requested by a
32 prospective employer about the reason for termination of a former employee
33 or about the job performance, professional conduct or evaluation of a
34 current or former employee.

35 D. The presumption of good faith under subsection C of this section
36 is rebuttable by showing that the employer disclosed the information with
37 actual malice or with intent to mislead. This subsection and subsection C
38 of this section do not alter any privileges that exist under common
39 law. For the purposes of this subsection, "actual malice" means knowledge
40 that the information was false or was provided with reckless disregard of
41 its truth or falsity.

42 E. Communications concerning employees or prospective employees
43 that are made by an employer or prospective employer, or by a labor
44 organization, to a government body or agency and that are required by law

1 or that are furnished pursuant to written rules or policies of the
2 government body or agency are privileged.

3 F. An employer, including this state and its agencies, a labor
4 organization or an individual is not civilly liable for privileged
5 communications made pursuant to subsection E of this section.

6 G. In response to a request by another bank, savings and loan
7 association, credit union, escrow agent, commercial mortgage banker,
8 mortgage banker or mortgage broker it is not unlawful for a bank, a
9 savings and loan association, a credit union, an escrow agent, a
10 commercial mortgage banker, a mortgage banker or a mortgage broker to
11 provide a written employment reference that advises of the applicant's
12 involvement in any theft, embezzlement, misappropriation or other
13 defalcation that has been reported to federal authorities pursuant to
14 federal banking guidelines or reported to the department of ~~financial~~
15 ~~institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS. In order for the
16 immunity provided in subsection H of this section to apply, a copy of the
17 written employment reference must be sent by the institution providing the
18 reference to the last known address of the applicant in question.

19 H. ~~No~~ A bank, savings and loan association, credit union, escrow
20 agent, commercial mortgage banker, mortgage banker or mortgage broker
21 ~~shall be~~ IS NOT civilly liable for providing an employment reference
22 unless the information provided is false and the bank, savings and loan
23 association, credit union, escrow agent, commercial mortgage banker,
24 mortgage banker or mortgage broker providing the false information does so
25 with knowledge and malice.

26 I. A court shall award court costs, attorney fees and other related
27 expenses to any party that prevails in any civil proceeding in which a
28 violation of this section is alleged.

29 Sec. 28. Section 25-519, Arizona Revised Statutes, is amended to
30 read:

31 25-519. Regulatory entities; suspension of license

32 The following are subject to the requirements of section 25-518:

33 1. All boards established under title 32.

34 2. The superintendent of THE financial institutions DIVISION OF THE
35 DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS.

36 3. The registrar of contractors.

37 4. The department of public safety.

38 5. Boards and agencies that provide occupational, recreational and
39 professional licenses or certificates pursuant to titles 3, 4, 5, 6, 8,
40 15, 17, 20, 36 and 41 and title 28, chapter 8.

41 Sec. 29. Section 28-455, Arizona Revised Statutes, is amended to
42 read:

43 28-455. Release of personal information; fees

44 A. In accordance with section 28-458 and the driver's privacy
45 protection act of 1994 (18 United States Code sections 2721 through 2725)

1 and notwithstanding section 28-447, the department shall not knowingly
2 disclose or otherwise make available to any person:

3 1. Personal information obtained by the department in connection
4 with a motor vehicle record except as otherwise provided in this section.

5 2. Highly restricted personal information obtained by the
6 department in connection with a motor vehicle record without the express
7 consent of the person to whom the information applies except for uses
8 allowed in subsection C, paragraphs 1, 4, 6 and 9 of this section. This
9 paragraph does not affect the use of organ donation information on an
10 individual's driver license or affect the administration of organ donation
11 in this state.

12 B. The department shall disclose personal information for use in
13 connection with the following matters:

14 1. Motor vehicle or driver safety and theft.

15 2. Motor vehicle emissions.

16 3. Motor vehicle product alterations, recalls or advisories.

17 4. Performance monitoring of motor vehicles and dealers by motor
18 vehicle manufacturers.

19 5. Removal of nonowner records from the original owner records of
20 motor vehicle manufacturers to carry out the purposes of titles I and IV
21 of the anti car theft act of 1992 (18 United States Code sections 2311
22 through 2322), the automobile information disclosure act (15 United States
23 Code sections 1231, 1232 and 1233), the clean air act of 1963 (42 United
24 States Code sections 7401 through 7671q) and 49 United States Code
25 chapters 301, 305 and 321 through 331.

26 C. Subject to subsection A of this section, the department may
27 disclose personal information as follows:

28 1. For use by any government agency, including any court or law
29 enforcement agency, in carrying out its functions or any private person or
30 entity acting on behalf of a government agency in carrying out its
31 functions.

32 2. For use in connection with matters of:

33 (a) Performance monitoring of motor vehicles, motor vehicle parts
34 and dealers.

35 (b) Motor vehicle market research activities, including survey
36 research.

37 (c) Removal of nonowner records from the original owner records of
38 motor vehicle manufacturers.

39 3. For use in the normal course of business by a legitimate
40 business or its agents, employees or contractors, but only:

41 (a) To verify the accuracy of personal information submitted by the
42 individual to the business or its agents, employees or contractors.

43 (b) If the information submitted is not correct or is no longer
44 correct, to obtain the correct information for the purpose of preventing

1 fraud by, pursuing legal remedies against or recovering on a debt or
2 security interest against the individual.

3 4. For use by an attorney licensed to practice law or by a licensed
4 private investigator in connection with any civil, criminal,
5 administrative or arbitration proceeding in any court or government agency
6 or before any self-regulatory body, including the service of process,
7 investigation in anticipation of litigation and the execution or
8 enforcement of judgments and orders, or pursuant to a court order.

9 5. For use in research activities and for use in producing
10 statistical reports if the personal information is not published,
11 redisclosed or used to contact individuals.

12 6. For use by any insurer that writes automobile liability or motor
13 vehicle liability policies and that is under the jurisdiction of the
14 department of insurance ~~AND FINANCIAL INSTITUTIONS~~ or insurance support
15 organization or by a self-insured entity or its agents, employees or
16 contractors in connection with claims investigation activities, antifraud
17 activities, rating or underwriting.

18 7. For use in providing notice to the owners of towed or impounded
19 vehicles.

20 8. For use by any licensed private investigative agency or licensed
21 security service for any purpose allowed under this section.

22 9. For use by an employer or its agent or insurer to obtain or
23 verify information relating to a holder of a commercial driver license
24 that is required under 49 United States Code sections 31301 through 31317.

25 10. For use by a toll operator as defined in section 28-7751 in
26 connection with the operation of a toll facility or the enforcement of
27 tolls, administrative charges and penalties as defined in section 28-7751.

28 11. For any other use in response to requests for individual motor
29 vehicle records if the state has obtained the express consent of the
30 person to whom the personal information pertains.

31 12. For bulk distribution for surveys, marketing or solicitations
32 if the department has obtained the express consent of the person to whom
33 the personal information pertains.

34 13. For use by any requester if the requester demonstrates it has
35 obtained the written consent of the individual to whom the information
36 pertains.

37 14. For any other use that is specifically authorized by law and
38 that is related to the operation of a motor vehicle or public safety,
39 including the following:

40 (a) Use by a financial institution or enterprise under the
41 jurisdiction of the department of ~~financial institutions~~ ~~INSURANCE AND~~
42 ~~FINANCIAL INSTITUTIONS~~ or a federal monetary authority.

43 (b) Use by a motor vehicle dealer who is licensed and bonded by the
44 department or a state organization of licensed and bonded motor vehicle
45 dealers.

1 (c) Use by a person who is involved in an accident or the owner of
2 a vehicle involved in an accident if the person who requests the
3 information submits proof to the department of involvement in the
4 accident.

5 (d) Use by a person applying for a bonded title if all of the
6 following conditions exist:

7 (i) The requester verifies to the satisfaction of the director that
8 the vehicle on which the requester is requesting the record is in the
9 requester's possession.

10 (ii) The record is requested in order for the requester to notify
11 the registered owner of the requester's intent to apply to the department
12 for a bonded title.

13 (iii) The requester provides a verification of a vehicle inspection
14 that was performed by an authorized department employee or agent.

15 (e) Use by an operator of a self-service storage facility who
16 alleges both of the following:

17 (i) That the vehicle on which the operator is requesting the record
18 is in the operator's possession.

19 (ii) That the record is requested to allow the operator to notify
20 the registered owner and any lienholders of record of the operator's
21 intent to foreclose its lien and to sell the vehicle.

22 (f) For any other use as determined by the director and established
23 by rule.

24 D. The department may establish and carry out procedures under
25 which the department, on receiving a request for personal information that
26 does not fall within one of the exceptions prescribed in subsection B or C
27 of this section, may mail a copy of the request to the individual about
28 whom the information was requested. The mailing shall inform the
29 individual of the request and contain a statement that the information
30 will not be released unless the individual waives the individual's right
31 to privacy under this section.

32 E. In addition to the permissible uses prescribed in subsection C
33 of this section, the department may disclose its motor vehicle records
34 information, including personal information, as a bulk record only under
35 any of the following conditions:

36 1. If the director determines either of the following:

37 (a) The sale or release of the record is necessary for the public
38 health or safety.

39 (b) The use is for general research or general statistical purposes
40 that do not provide specific factors from a record.

41 2. For surveys, marketing or solicitations if the department has
42 obtained the express consent of the person to whom the personal
43 information pertains.

1 3. For the release of motor vehicle title and motor vehicle
2 registration information, vehicle identification numbers, title brands,
3 odometer readings and brands and title lien information to a requester if
4 the requester is in the business of preparing vehicle history reports and
5 the information is used to develop a vehicle history report.

6 F. The director shall provide in a clear and conspicuous manner on
7 forms for the issuance or renewal of driver licenses, nonoperating
8 identification licenses and title and registration the opportunity for
9 express consent so that each person who is the subject of a record of the
10 department may opt in, for any purpose as prescribed by the director.
11 Express consent shall be conveyed in a form prescribed by the director and
12 shall include at least the following:

13 1. Clear and conspicuous notice informing the person who is giving
14 express consent that by giving express consent the person is allowing the
15 department to disclose information contained in the person's motor vehicle
16 record to any person requesting information for any purpose.

17 2. A written signature or an electronic signature.

18 3. An explanation of the difference between a one-time
19 authorization and general consent or opt in.

20 G. Subject to the requirements of subsection F of this section,
21 express consent may be conveyed as either of the following:

22 1. A one-time authorization submitted by a requester on a consent
23 to release form or by other written format as prescribed by the director.

24 2. General consent or opt in on certain department forms.

25 H. Driver histories shall not be disclosed under subsection E of
26 this section.

27 I. Except as provided in subsection J of this section and section
28 28-446, subsection B, records provided pursuant to subsections B and C of
29 this section are subject to the fees prescribed in section 28-446,
30 subsections A and C.

31 J. For records searched and provided for the purposes described in
32 subsection E of this section, the director:

33 1. Shall charge a search fee that is a minimum of ~~six hundred~~
34 ~~dollars~~ \$600 per million records searched.

35 2. Shall charge a records fee that is a minimum of ~~thirty dollars~~
36 \$30 per thousand records provided.

37 3. May prorate the charge for fractional quantities that are
38 searched or provided.

39 4. May charge only the search fee if the request is in accordance
40 with subsection E, paragraph 2 of this section.

41 K. Records requests that require a database search for specific
42 criteria within a record are subject to a search fee. In addition to this
43 search fee, each motor vehicle record provided to a records requester as a
44 result of a criteria search incurs record fees in accordance with
45 subsection I of this section.

1 Sec. 30. Section 28-4301, Arizona Revised Statutes, as amended by
2 Laws 2014, chapter 81, section 1, is amended to read:

3 28-4301. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Area of responsibility" means the area surrounding an
6 individual dealer that the factory designates as that dealer's individual
7 primary geographic territory for the purpose of marketing, promoting,
8 selling and leasing new motor vehicles. In the absence of the factory
9 designated area, the area of responsibility is that geographical area
10 surrounding a dealer that lies closer to that dealer than to other dealers
11 of the same line-make.

12 2. "Automotive recycler" means a person who is engaged in the
13 business of buying or acquiring a motor vehicle solely for the purpose of
14 dismantling, selling or otherwise disposing of the parts or accessories
15 and who dismantles six or more vehicles in a calendar year.

16 3. "Branch license" means a license that is issued by the director
17 to a licensed motor vehicle dealer and that permits the licensee to sell
18 motor vehicles from an established place of business within the same
19 county but other than the original or principal place of business for
20 which the license was issued.

21 4. "Broker" means a person who for any fee, commission or other
22 valuable consideration offers to provide, provides or represents that the
23 person will provide a service of arranging or assisting in effecting the
24 purchase of a motor vehicle and who is not:

25 (a) A new motor vehicle dealer or an employee or agent of a new
26 motor vehicle dealer.

27 (b) A used motor vehicle dealer or an employee or agent of a used
28 motor vehicle dealer.

29 (c) A manufacturer or employee or agent of a manufacturer.

30 (d) An auctioneer or engaged in the auto auction business.

31 (e) A wholesale motor vehicle dealer.

32 5. "Community" means the relevant market area. For the purposes of
33 this paragraph, "relevant market area" means the incorporated city or town
34 in which the franchise is located.

35 6. "Distributor" means a person who either:

36 (a) Sells or distributes new motor vehicles to new motor vehicle
37 dealers in this state.

38 (b) Maintains distributor representatives in this state.

39 7. "Distributor branch" means a branch office maintained or availed
40 of by a distributor for either:

41 (a) The sale of new motor vehicles to new motor vehicle dealers in
42 this state.

43 (b) Directing or supervising its representatives in this state.

44 8. "Established place of business":

1 (a) Means a permanent enclosed building or structure that is owned
2 either in fee or leased with sufficient space to display two or more motor
3 vehicles of a kind and type that the dealer is licensed to sell and that
4 is devoted principally to the use of a motor vehicle dealer in the conduct
5 of the business of the dealer.

6 (b) In the case of a used motor vehicle dealer, trailer dealer or
7 semitrailer dealer:

8 (i) Need not be a permanent building or structure or part of a
9 permanent building or structure.

10 (ii) May be a vacant lot or part of a vacant lot.

11 (iii) Does not mean or include a residence, tent, temporary stand
12 or temporary quarters or permanent quarters occupied pursuant to a
13 temporary arrangement.

14 (c) In the case of an automotive recycler, means a permanent site
15 or location at which the business of an automotive recycler is or will be
16 conducted.

17 9. "Exhibitor" means a manufacturer of new motor homes that
18 exhibits new motor homes at a special event.

19 10. "Factory branch" means a branch office maintained or availed of
20 by a manufacturer for either:

21 (a) The sale of new motor vehicles to distributors or the sale of
22 new motor vehicles to new motor vehicle dealers in this state.

23 (b) Directing or supervising its representatives in this state.

24 11. "Financial institution" means a bank, trust company, savings
25 and loan association, credit union, consumer lender, international banking
26 facility or holding company that is licensed, regulated or insured by the
27 department of ~~financial institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS,
28 the federal deposit insurance corporation, the office of thrift
29 supervision, the comptroller of the currency, the national credit union
30 share insurance fund or the national credit union administration.

31 12. "Franchise" means a contract between two or more persons if all
32 of the following conditions are included:

33 (a) A commercial relationship of definite duration or continuing
34 indefinite duration is involved.

35 (b) The franchisee is granted the right to offer, sell and service
36 in this state new motor vehicles manufactured or distributed by the
37 franchisor.

38 (c) The franchisee, as a separate business, constitutes a component
39 of the franchisor's distribution system.

40 (d) The operation of the franchisee's business is substantially
41 associated with the franchisor's trademark, service mark, trade name,
42 advertising or other commercial symbol designating the franchisor.

43 (e) The operation of the franchisee's business is substantially
44 reliant on the franchisor for the continued supply of new motor vehicles,
45 parts and accessories.

- 1 13. "Franchisee" means a person who both:
2 (a) Receives new motor vehicles from the franchisor under a
3 franchise.
4 (b) Offers and sells to and services new motor vehicles for the
5 general public.
6 14. "Franchisor" means a person who both:
7 (a) Manufactures or distributes new motor vehicles.
8 (b) May enter into a franchise.
9 15. "Importer" means a person who transports or arranges for the
10 transportation of a foreign manufactured new motor vehicle into the United
11 States for sale in this state.
12 16. "Lead" means any retail consumer who satisfies all of the
13 following:
14 (a) Responds to a factory-directed program that obtains consumer
15 contact information and that provides such information to one or more
16 dealers.
17 (b) Expresses an interest to the factory in purchasing, leasing or
18 acquiring any vehicle or product, service or financing available from the
19 dealers of that factory.
20 (c) Does not qualify for any reasonable factory sponsored employee,
21 retiree or vendor new vehicle purchase program or any other reasonable
22 similar factory new vehicle purchase program.
23 17. "Line-make" means those motor vehicles that are offered for
24 sale, lease or distribution under a common name, trademark, service mark
25 or brand name of the manufacturer of those same motor vehicles.
26 18. "Major component part" includes a motor vehicle or vehicle part
27 that the manufacturer has assigned any factory, motor, serial or other
28 identification number or mark.
29 19. "Manufacturer" means any person who either:
30 (a) Manufactures or assembles new motor vehicles.
31 (b) Manufactures or installs on previously assembled truck chassis
32 special bodies or equipment that when installed forms an integral part of
33 the new motor vehicle and that constitutes a major manufacturing
34 alteration, excluding the installation of a camper on a pickup truck.
35 20. "Motor home" means a motor vehicle that is primarily designed
36 as temporary living quarters and that:
37 (a) Is built onto as an integral part of, or is permanently
38 attached to, a motor vehicle chassis.
39 (b) Contains at least four of the following independent life
40 support systems if each is permanently installed and designed to be
41 removed only for purposes of repair or replacement:
42 (i) A cooking facility with an onboard fuel source.
43 (ii) A gas or electric refrigerator.
44 (iii) A toilet with exterior evacuation.

1 (iv) A heating or air conditioning system with an onboard power or
2 fuel source separate from the vehicle engine.

3 (v) A potable water supply system that includes at least a sink, a
4 faucet and a water tank with an exterior service supply connection.

5 (vi) A 110-125 volt electric power supply.

6 21. "Motor vehicle" means an automobile, motor bus, motorcycle,
7 truck or truck tractor or any other self-propelled vehicle, trailer or
8 semitrailer.

9 22. "Motor vehicle dealer" means a new motor vehicle dealer, a used
10 motor vehicle dealer, a public consignment auction dealer, a broker or a
11 wholesale motor vehicle auction dealer, excluding a person who comes into
12 possession of a motor vehicle as an incident to the person's regular
13 business and who sells, auctions or exchanges the motor vehicle.

14 23. "New house trailer dealer" means a person who buys, sells,
15 exchanges or offers or attempts to negotiate a sale or exchange of an
16 interest in, or who is engaged in the business of selling, new house
17 trailers or used house trailers taken in trade on new house trailers. For
18 the purposes of this paragraph, "house trailer" means a vehicle, other
19 than a motor vehicle, that is built on a chassis designed for being drawn
20 on the highways by a motor vehicle and that is designed for human
21 habitation.

22 24. "New motor vehicle" means a motor vehicle, other than a used
23 motor vehicle, that is held either for:

24 (a) Sale by the franchisee who first acquired the vehicle from the
25 manufacturer or distributor of the vehicle.

26 (b) Sale by another franchisee of the same line-make.

27 25. "New motor vehicle dealer" means a person who buys, sells,
28 exchanges or offers or attempts to negotiate a sale or exchange of an
29 interest in, or who is engaged in the business of selling, new motor
30 vehicles or used motor vehicles taken in trade on new motor vehicles or
31 used vehicles purchased for resale.

32 26. "Off-premises display and sales" means a promotion or sale of
33 motor vehicles for a period of time as specified by the director that
34 both:

35 (a) Is sponsored by a licensed motor vehicle dealer, the licensed
36 motor vehicle dealer's agents or the manufacturer.

37 (b) Takes place at a location within the same county but not at the
38 licensee's established place of business.

39 27. "Off-premises exhibition" means the exhibition of a motor
40 vehicle for a period of time as specified by the director at a location
41 within the same county but not at the established place of business of a
42 licensed motor vehicle dealer and at which a solicitation or sale does not
43 occur.

44 28. "Provisional automotive recycler's license" means a license
45 that both:

1 (a) Is issued by the department only in conjunction with an
2 application for an automotive recycler's license.

3 (b) Permits the applicant or applicants to conduct the business of
4 an automotive recycler regulated by this chapter pending completion of the
5 criminal records check pursuant to section 28-4361.

6 29. "Provisional dealer's license" means a license that both:

7 (a) Is issued by the department only in conjunction with an
8 application for a dealer's license.

9 (b) Permits the applicant or applicants to conduct the business of
10 a motor vehicle dealer regulated by this chapter pending completion of the
11 criminal records check pursuant to section 28-4361.

12 30. "Public consignment auction dealer" means a person who at the
13 public consignment auction dealer's established place of business or at an
14 authorized off-premises location pursuant to the requirements of section
15 28-4401 is in the business of both of the following:

16 (a) Conducting live auctions with a licensed auctioneer verbally
17 calling for and accepting bids.

18 (b) Providing live auction services to the public on a consignment
19 contract basis.

20 31. "Retail consumer" means any person purchasing, leasing or
21 acquiring or possibly purchasing, leasing or acquiring a vehicle or
22 product, service or financing not for resale.

23 32. "Service" means any service that is sold, leased or provided to
24 retail consumers and that directly relates to the ownership or leasing of
25 a new or used motor vehicle, including extended service contracts or motor
26 vehicle warranty and nonwarranty repairs or maintenance, including both
27 parts and labor.

28 33. "Special event" means an exhibition of new motor homes by a
29 motor vehicle dealer licensed to sell new motor homes or an exhibitor for
30 a period of time specified by the director at a location in this state
31 other than the licensee's or exhibitor's established place of business.

32 34. "Used motor vehicle" means a motor vehicle that has been sold,
33 bargained, exchanged or given away or the title to the motor vehicle has
34 been transferred from the person who first acquired the vehicle from the
35 manufacturer, or importer, dealer or agent of the manufacturer or
36 importer, and that has been placed in bona fide consumer use. For the
37 purposes of this paragraph, "bona fide consumer use" means actual
38 operation by an owner who acquired a new motor vehicle both:

39 (a) For use in the owner's business or for pleasure or otherwise.

40 (b) For which a certificate of title has been issued or that has
41 been registered as provided by law.

42 35. "Used motor vehicle dealer" means a person, other than a new
43 motor vehicle dealer, who buys, sells, auctions, exchanges or offers or
44 attempts to negotiate a sale or exchange of an interest in, or who is
45 engaged in the business of selling, seven or more used motor vehicles in a

1 continuous twelve month period. Used motor vehicle dealer does not
2 include a wholesale motor vehicle auction dealer or a public consignment
3 auction dealer.

4 36. "Wholesale motor vehicle auction dealer" means a person who
5 both:

6 (a) Is in the business of providing auction services solely in
7 wholesale transactions to motor vehicle dealers licensed by this state or
8 any other jurisdiction.

9 (b) Does not buy, sell or own the motor vehicles the auction dealer
10 auctions in the ordinary course of business.

11 37. "Wholesale motor vehicle dealer" means a person who sells used
12 motor vehicles only to licensed motor vehicle dealers.

13 Sec. 31. Section 28-4301, Arizona Revised Statutes, as amended by
14 Laws 2018, chapter 298, section 6, is amended to read:

15 28-4301. Definitions

16 In this chapter, unless the context otherwise requires:

17 1. "Area of responsibility" means the area surrounding an
18 individual dealer that the factory designates as that dealer's individual
19 primary geographic territory for the purpose of marketing, promoting,
20 selling and leasing new motor vehicles. In the absence of the factory
21 designated area, the area of responsibility is that geographical area
22 surrounding a dealer that lies closer to that dealer than to other dealers
23 of the same line-make.

24 2. "Branch license" means a license that is issued by the director
25 to a licensed motor vehicle dealer and that permits the licensee to sell
26 motor vehicles from an established place of business within the same
27 county but other than the original or principal place of business for
28 which the license was issued.

29 3. "Broker" means a person who for any fee, commission or other
30 valuable consideration offers to provide, provides or represents that the
31 person will provide a service of arranging or assisting in effecting the
32 purchase of a motor vehicle and who is not:

33 (a) A new motor vehicle dealer or an employee or agent of a new
34 motor vehicle dealer.

35 (b) A used motor vehicle dealer or an employee or agent of a used
36 motor vehicle dealer.

37 (c) A manufacturer or employee or agent of a manufacturer.

38 (d) An auctioneer or engaged in the auto auction business.

39 (e) A wholesale motor vehicle dealer.

40 4. "Community" means the relevant market area. For the purposes of
41 this paragraph, "relevant market area" means the incorporated city or town
42 in which the franchise is located.

43 5. "Distributor" means a person who either:

44 (a) Sells or distributes new motor vehicles to new motor vehicle
45 dealers in this state.

- 1 (b) Maintains distributor representatives in this state.
2 6. "Distributor branch" means a branch office maintained or availed
3 of by a distributor for either:
4 (a) The sale of new motor vehicles to new motor vehicle dealers in
5 this state.
6 (b) Directing or supervising its representatives in this state.
7 7. "Established place of business":
8 (a) Means a permanent enclosed building or structure that is owned
9 either in fee or leased with sufficient space to display two or more motor
10 vehicles of a kind and type that the dealer is licensed to sell and that
11 is devoted principally to the use of a motor vehicle dealer in the conduct
12 of the business of the dealer.
13 (b) In the case of a used motor vehicle dealer, trailer dealer or
14 semitrailer dealer:
15 (i) Need not be a permanent building or structure or part of a
16 permanent building or structure.
17 (ii) May be a vacant lot or part of a vacant lot.
18 (iii) Does not mean or include a residence, tent, temporary stand
19 or temporary quarters or permanent quarters occupied pursuant to a
20 temporary arrangement.
21 (c) In the case of an automotive recycler, means a permanent site
22 or location at which the business of an automotive recycler is or will be
23 conducted.
24 8. "Exhibitor" means a manufacturer of new motor homes that
25 exhibits new motor homes at a special event.
26 9. "Factory branch" means a branch office maintained or availed of
27 by a manufacturer for either:
28 (a) The sale of new motor vehicles to distributors or the sale of
29 new motor vehicles to new motor vehicle dealers in this state.
30 (b) Directing or supervising its representatives in this state.
31 10. "Financial institution" means a bank, trust company, savings
32 and loan association, credit union, consumer lender, international banking
33 facility or holding company that is licensed, regulated or insured by the
34 department of ~~financial institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS,
35 the federal deposit insurance corporation, the office of thrift
36 supervision, the comptroller of the currency, the national credit union
37 share insurance fund or the national credit union administration.
38 11. "Franchise" means a contract between two or more persons if all
39 of the following conditions are included:
40 (a) A commercial relationship of definite duration or continuing
41 indefinite duration is involved.
42 (b) The franchisee is granted the right to offer, sell and service
43 in this state new motor vehicles manufactured or distributed by the
44 franchisor.

1 (c) The franchisee, as a separate business, constitutes a component
2 of the franchisor's distribution system.

3 (d) The operation of the franchisee's business is substantially
4 associated with the franchisor's trademark, service mark, trade name,
5 advertising or other commercial symbol designating the franchisor.

6 (e) The operation of the franchisee's business is substantially
7 reliant on the franchisor for the continued supply of new motor vehicles,
8 parts and accessories.

9 12. "Franchisee" means a person who both:

10 (a) Receives new motor vehicles from the franchisor under a
11 franchise.

12 (b) Offers and sells to and services new motor vehicles for the
13 general public.

14 13. "Franchisor" means a person who both:

15 (a) Manufactures or distributes new motor vehicles.

16 (b) May enter into a franchise.

17 14. "Importer" means a person who transports or arranges for the
18 transportation of a foreign manufactured new motor vehicle into the United
19 States for sale in this state.

20 15. "Lead" means any retail consumer who satisfies all of the
21 following:

22 (a) Responds to a factory-directed program that obtains consumer
23 contact information and that provides such information to one or more
24 dealers.

25 (b) Expresses an interest to the factory in purchasing, leasing or
26 acquiring any vehicle or product, service or financing available from the
27 dealers of that factory.

28 (c) Does not qualify for any reasonable factory sponsored employee,
29 retiree or vendor new vehicle purchase program or any other reasonable
30 similar factory new vehicle purchase program.

31 16. "Line-make" means those motor vehicles that are offered for
32 sale, lease or distribution under a common name, trademark, service mark
33 or brand name of the manufacturer of those same motor vehicles.

34 17. "Major component part" includes a motor vehicle or vehicle part
35 that the manufacturer has assigned any factory, motor, serial or other
36 identification number or mark.

37 18. "Manufacturer" means any person who either:

38 (a) Manufactures or assembles new motor vehicles.

39 (b) Manufactures or installs on previously assembled truck chassis
40 special bodies or equipment that when installed forms an integral part of
41 the new motor vehicle and that constitutes a major manufacturing
42 alteration, excluding the installation of a camper on a pickup truck.

1 19. "Motor home" means a motor vehicle that is primarily designed
2 as temporary living quarters and that:

3 (a) Is built onto as an integral part of, or is permanently
4 attached to, a motor vehicle chassis.

5 (b) Contains at least four of the following independent life
6 support systems if each is permanently installed and designed to be
7 removed only for purposes of repair or replacement:

8 (i) A cooking facility with an onboard fuel source.

9 (ii) A gas or electric refrigerator.

10 (iii) A toilet with exterior evacuation.

11 (iv) A heating or air conditioning system with an onboard power or
12 fuel source separate from the vehicle engine.

13 (v) A potable water supply system that includes at least a sink, a
14 faucet and a water tank with an exterior service supply connection.

15 (vi) A 110-125 volt electric power supply.

16 20. "Motor vehicle" means an automobile, motor bus, motorcycle,
17 truck or truck tractor or any other self-propelled vehicle, trailer or
18 semitrailer.

19 21. "Motor vehicle dealer" means a new motor vehicle dealer, a used
20 motor vehicle dealer, a public consignment auction dealer, a broker or a
21 wholesale motor vehicle auction dealer, excluding a person who comes into
22 possession of a motor vehicle as an incident to the person's regular
23 business and who sells, auctions or exchanges the motor vehicle.

24 22. "New house trailer dealer" means a person who buys, sells,
25 exchanges or offers or attempts to negotiate a sale or exchange of an
26 interest in, or who is engaged in the business of selling, new house
27 trailers or used house trailers taken in trade on new house trailers. For
28 the purposes of this paragraph, "house trailer" means a vehicle, other
29 than a motor vehicle, that is built on a chassis designed for being drawn
30 on the highways by a motor vehicle and that is designed for human
31 habitation.

32 23. "New motor vehicle" means a motor vehicle, other than a used
33 motor vehicle, that is held either for:

34 (a) Sale by the franchisee who first acquired the vehicle from the
35 manufacturer or distributor of the vehicle.

36 (b) Sale by another franchisee of the same line-make.

37 24. "New motor vehicle dealer" means a person who buys, sells,
38 exchanges or offers or attempts to negotiate a sale or exchange of an
39 interest in, or who is engaged in the business of selling, new motor
40 vehicles or used motor vehicles taken in trade on new motor vehicles or
41 used vehicles purchased for resale.

42 25. "Off-premises display and sales" means a promotion or sale of
43 motor vehicles for a period of time as specified by the director that
44 both:

1 (a) Is sponsored by a licensed motor vehicle dealer, the licensed
2 motor vehicle dealer's agents or the manufacturer.

3 (b) Takes place at a location within the same county but not at the
4 licensee's established place of business.

5 26. "Off-premises exhibition" means the exhibition of a motor
6 vehicle for a period of time as specified by the director at a location
7 within the same county but not at the established place of business of a
8 licensed motor vehicle dealer and at which a solicitation or sale does not
9 occur.

10 27. "Provisional automotive recycler's license" means a license
11 that both:

12 (a) Is issued by the department only in conjunction with an
13 application for an automotive recycler's license.

14 (b) Permits the applicant or applicants to conduct the business of
15 an automotive recycler regulated by this chapter pending completion of the
16 criminal records check pursuant to section 28-4361.

17 28. "Provisional dealer's license" means a license that both:

18 (a) Is issued by the department only in conjunction with an
19 application for a dealer's license.

20 (b) Permits the applicant or applicants to conduct the business of
21 a motor vehicle dealer regulated by this chapter pending completion of the
22 criminal records check pursuant to section 28-4361.

23 29. "Public consignment auction dealer" means a person who at the
24 public consignment auction dealer's established place of business or at an
25 authorized off-premises location pursuant to the requirements of section
26 28-4401 is in the business of both of the following:

27 (a) Conducting live auctions with a licensed auctioneer verbally
28 calling for and accepting bids.

29 (b) Providing live auction services to the public on a consignment
30 contract basis.

31 30. "Retail consumer" means any person purchasing, leasing or
32 acquiring or possibly purchasing, leasing or acquiring a vehicle or
33 product, service or financing not for resale.

34 31. "Service" means any service that is sold, leased or provided to
35 retail consumers and that directly relates to the ownership or leasing of
36 a new or used motor vehicle, including extended service contracts or motor
37 vehicle warranty and nonwarranty repairs or maintenance, including both
38 parts and labor.

39 32. "Special event" means an exhibition of new motor homes by a
40 motor vehicle dealer licensed to sell new motor homes or an exhibitor for
41 a period of time specified by the director at a location in this state
42 other than the licensee's or exhibitor's established place of business.

43 33. "Used motor vehicle" means a motor vehicle that has been sold,
44 bargained, exchanged or given away or the title to the motor vehicle has
45 been transferred from the person who first acquired the vehicle from the

1 manufacturer, or importer, dealer or agent of the manufacturer or
2 importer, and that has been placed in bona fide consumer use. For the
3 purposes of this paragraph, "bona fide consumer use" means actual
4 operation by an owner who acquired a new motor vehicle both:

5 (a) For use in the owner's business or for pleasure or otherwise.

6 (b) For which a certificate of title has been issued or that has
7 been registered as provided by law.

8 34. "Used motor vehicle dealer" means a person, other than a new
9 motor vehicle dealer, who buys, sells, auctions, exchanges or offers or
10 attempts to negotiate a sale or exchange of an interest in, or who is
11 engaged in the business of selling, seven or more used motor vehicles in a
12 continuous twelve month period. Used motor vehicle dealer does not
13 include a wholesale motor vehicle auction dealer or a public consignment
14 auction dealer.

15 35. "Wholesale motor vehicle auction dealer" means a person who
16 both:

17 (a) Is in the business of providing auction services solely in
18 wholesale transactions to motor vehicle dealers licensed by this state or
19 any other jurisdiction.

20 (b) Does not buy, sell or own the motor vehicles the auction dealer
21 auctions in the ordinary course of business.

22 36. "Wholesale motor vehicle dealer" means a person who sells used
23 motor vehicles only to licensed motor vehicle dealers.

24 Sec. 32. Section 28-4405, Arizona Revised Statutes, is amended to
25 read:

26 28-4405. Display of license; continuation date; late penalty

27 A. A license issued under this chapter:

28 1. Shall be conspicuously displayed in either:

29 (a) The established place of business for which it was obtained.

30 (b) The place of business if the licensee is a broker or a
31 wholesale vehicle dealer.

32 2. Is not transferable or subject to sale or reassignment.

33 B. The director may issue licenses with staggered continuation
34 dates to distribute the continuation workload as uniformly as practicable
35 throughout the twelve months of the calendar year. In order to initiate a
36 staggered license continuation system, the director may issue a license
37 for more or less than a ~~twelve-month~~ TWELVE-MONTH period, but not more
38 than eighteen months, and may prorate the license fee.

39 C. A motor vehicle dealer licensee shall submit its renewal
40 application, evidence of its current transaction privilege tax license and
41 applicable renewal fees to the department of transportation on or before
42 the license continuation date. For the purposes of renewal, the license
43 continuation date is as follows:

44 1. If the motor vehicle dealer is also a licensed dealer pursuant
45 to title 44, chapter 2.1, the date prescribed by the initial licensing

1 department, either the department of transportation or the department of
2 ~~financial institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS.

3 2. If the motor vehicle dealer is not also a licensed dealer
4 pursuant to title 44, chapter 2.1, the date prescribed by the department
5 of transportation.

6 D. If a licensee fails, neglects or refuses to pay the required fee
7 for the ensuing year on or before the license continuation date, the fee
8 is delinquent and a penalty equal to the fee shall be added to the fee and
9 collected.

10 Sec. 33. Section 28-5104, Arizona Revised Statutes, is amended to
11 read:

12 28-5104. Bond requirement

13 A. Except as provided in subsection F of this section and sections
14 28-5101.01 and 28-5101.02, a person who applies for authorization pursuant
15 to this article shall submit with the application a bond in a form to be
16 approved by the director and in an amount of at least ~~one hundred thousand~~
17 ~~dollars~~ \$100,000 for each location.

18 B. A surety company authorized to transact business in this state
19 shall execute the bond with the applicant as principal obligor on the bond
20 and the state as obligee. The bond shall be conditioned that the
21 applicant will faithfully comply with all of the provisions of law and
22 that the bond is noncancellable without at least sixty days' prior notice
23 to the director. Any future liability of the surety company terminates on
24 the director's termination of a third party's authorization.

25 C. The bond inures to the benefit of any person who suffers loss
26 because of any of the following:

27 1. Nonpayment by the authorized person of any fee or tax paid to
28 the third party by that person.

29 2. Insolvency or discontinuance of business.

30 3. Failure of the authorized third party to comply with the
31 authorized third party's duties pursuant to this article.

32 D. The aggregate liability of a surety company for any breach of
33 the conditions of a bond required pursuant to this section shall not
34 exceed the amount of the bond.

35 E. The bond requirement of this section does not apply to:

36 1. A department, an agency or a political subdivision of this
37 state.

38 2. ~~An Arizona~~ A court OF THIS STATE.

39 3. ~~An Arizona~~ A law enforcement agency or department OF THIS STATE.

40 4. A financial institution or enterprise under the jurisdiction of
41 the department of ~~financial institutions~~ INSURANCE AND FINANCIAL
42 INSTITUTIONS or a federal monetary authority.

43 5. The federal government or any of its agencies.

1 6. A motor vehicle dealer that is licensed and bonded by the
2 department of transportation or a state organization of licensed and
3 bonded motor vehicle dealers.

4 7. A manufacturer, an importer, a factory branch or a distributor
5 licensed by the department of transportation.

6 8. An insurer under the jurisdiction of the department of insurance
7 **AND FINANCIAL INSTITUTIONS.**

8 9. An owner or a registrant of a fleet of one hundred or more
9 vehicles.

10 10. A public utility.

11 11. A tribal government.

12 12. An employer or association that has at least five hundred
13 employees or members.

14 F. A towing company employee who conducts a level one motor vehicle
15 inspection described in section 28-2011 and who applies for authorization
16 pursuant to this article shall submit with the application a bond in a
17 form to be approved by the director and in an amount **OF** not ~~to exceed~~
18 ~~twenty-five thousand dollars~~ **MORE THAN \$25,000.** The bond issued pursuant
19 to this subsection covers every location in which the towing company is
20 located.

21 Sec. 34. Section 28-5105, Arizona Revised Statutes, is amended to
22 read:

23 28-5105. Criminal records check; denial of application;
24 immunity from costs

25 A. Except as provided by subsection B of this section, each
26 applicant who owns twenty percent or more of an entity, each partner or
27 stockholder who owns twenty percent or more of an entity and each person
28 who is an employee of an authorized third party who has access to personal
29 information as defined in section 28-440 obtained from the department or a
30 customer of the department or monies collected on behalf of this state,
31 and who seeks authorization or certification, or both, pursuant to this
32 article shall provide:

33 1. A full set of fingerprints to the department of transportation
34 for the purpose of obtaining a state and federal criminal records check
35 pursuant to section 41-1750 and Public Law 92-544. The department of
36 public safety may exchange this fingerprint data with the federal bureau
37 of investigation.

38 2. A nonrefundable fee to be paid to the department of public
39 safety for the criminal records check.

40 B. Each employee of an authorized third party who conducts vehicle
41 inspections on behalf of ~~the~~ **THIS** state, ~~—~~ shall provide:

42 1. A full set of fingerprints to the department of transportation
43 for the purpose of obtaining a state and federal criminal records check
44 pursuant to section 41-1750 and Public Law 92-544. The department of

1 public safety may exchange this fingerprint data with the federal bureau
2 of investigation.

3 2. A nonrefundable fee to be paid to the department of public
4 safety for the criminal records check.

5 C. The director may deny an application for authorization or
6 certification, or both, if any individual included in the application has
7 either:

8 1. Made a misrepresentation or misstatement in the application to
9 conceal a matter that would cause the application to be denied.

10 2. Been convicted of fraud or an ~~auto-related~~ **AUTO-RELATED** felony
11 in any state, territory or possession of the United States or any foreign
12 country within the ten years immediately preceding the date the criminal
13 records check is complete.

14 3. Been convicted of a felony, other than a felony described in
15 paragraph 2 of this subsection, in a state, territory or possession of the
16 United States or a foreign country within the five years immediately
17 preceding the date the criminal records check is complete.

18 4. Violated a rule or policy of the department.

19 5. Been involved in any activity that the director determines to be
20 inappropriate in relation to the authority granted.

21 D. The director may approve an application for provisional
22 authorization or certification, or both, pending completion of the
23 criminal records check if the applicant meets all other requirements of
24 this article. The director may revoke a provisional authorization or
25 certification, or both, for a violation of this title. A provisional
26 authorization or certification, or both, is valid unless revoked by the
27 director or until the applicant receives approval or denial of the
28 application for authorization or certification, or both.

29 E. Within twenty days of completion of the criminal records check,
30 the director shall approve or deny the application. If the application is
31 denied, the director shall advise the applicant in writing of the denial
32 and the grounds for denial. The department or its employees are not
33 liable for any costs incurred by an applicant seeking authorization or
34 certification, or both, under this article.

35 F. Within thirty days after receipt of the notice of denial, the
36 applicant may petition the director in writing for a hearing on the
37 application pursuant to section 28-5107.

38 G. If the authorized third party adds a partner or stockholder who
39 owns twenty percent or more of the entity and who was not included in the
40 criminal records check on a prior application, the authorized third party
41 shall notify the department within thirty days of the change.

42 H. At the time of notification pursuant to subsection ~~F~~ **G** of this
43 section, the third party shall submit to the department of transportation
44 an application and, if applicable, a full set of fingerprints and the fee
45 to be paid to the department of public safety for a criminal records

1 check. On completion of the investigation if the individual added or
2 changed by the authorized third party is found to be ineligible pursuant
3 to subsection ~~B~~ C of this section, the director of the department of
4 transportation shall advise the authorized third party and the individual
5 in writing of the grounds for the action and that the authorization will
6 be revoked unless the individual is removed from the position.

7 I. The requirement for a criminal records check does not apply to
8 an applicant who is seeking ~~third party~~ THIRD-PARTY authorization and who
9 is:

- 10 1. A department, agency or political subdivision of this state.
- 11 2. ~~An Arizona~~ A court OF THIS STATE.
- 12 3. ~~An Arizona~~ A law enforcement agency or department OF THIS STATE.
- 13 4. A financial institution or enterprise under the jurisdiction of
14 the department of ~~financial institutions~~ INSURANCE AND FINANCIAL
15 INSTITUTIONS or a federal monetary authority.
- 16 5. The federal government or any of its agencies.
- 17 6. A motor vehicle dealer that is licensed and bonded by the
18 department of transportation or a state organization of licensed and
19 bonded motor vehicle dealers.
- 20 7. A manufacturer, importer, factory branch or distributor licensed
21 by the department of transportation.
- 22 8. An insurer under the jurisdiction of the department of insurance
23 AND FINANCIAL INSTITUTIONS.
- 24 9. An owner or registrant of a fleet of one hundred or more
25 vehicles.
- 26 10. A public utility.
- 27 11. A tribal government.
- 28 12. An employer or association that has at least five hundred
29 employees or members.

30 J. For the purposes of this section, personal information does not
31 include information received pursuant to section 28-872.

32 Sec. 35. Section 32-1001, Arizona Revised Statutes, is amended to
33 read:

34 32-1001. Definitions

35 In this chapter, unless the context otherwise requires:

36 1. "Claim" means an obligation for the payment of money or its
37 equivalent and a sum or sums owed, due or asserted to be owed or due to
38 another, for which a person is employed to demand payment and collect or
39 enforce such payment, and includes:

40 (a) Obligations for the payment of money to another, in the form of
41 conditional sales agreements, notwithstanding the personal property sold
42 thereunder, for which payment is claimed or may be or is repossessed in
43 lieu of payment.

1 (b) An obligation for the payment of money or its equivalent and a
2 sum or sums owed, due or asserted to be owed or due which is sold or
3 assigned to a purchaser or assignee for which either:

4 (i) The final payment has not been tendered to the seller or
5 assignor.

6 (ii) Title has not yet passed.

7 (iii) The purchaser or assignee has a right of recourse against the
8 seller or assignor.

9 2. "Collection agency" means:

10 (a) All persons engaged directly or indirectly in soliciting claims
11 for collection or in collection of claims owed, due or asserted to be owed
12 or due.

13 (b) Any person who, in the process of collecting debts occurring in
14 the operation of ~~his~~ THE PERSON'S own business, uses any name other than
15 ~~his~~ THE PERSON'S own NAME, which would indicate that a third person is
16 collecting or attempting to collect such debts.

17 3. "Department" means the department of ~~financial institutions~~
18 INSURANCE AND FINANCIAL INSTITUTIONS.

19 4. "Financial institution" means a person who does business under
20 any other law of this state or law of another state or the United States
21 relating to banks, trust companies, savings and loan associations, credit
22 unions and savings banks.

23 5. "Person" means an individual, firm, partnership, association or
24 corporation.

25 6. "Superintendent" means the superintendent of THE financial
26 institutions DIVISION OF THE DEPARTMENT OF INSURANCE AND FINANCIAL
27 INSTITUTIONS.

28 Sec. 36. Section 32-1391.01, Arizona Revised Statutes, is amended
29 to read:

30 32-1391.01. Powers and duties of board

31 A. The board shall adopt rules that:

32 1. Describe or define deceptive, misleading or professionally
33 negligent practices concerning the offer or sale of prearranged funeral
34 agreements funded by trust and the handling of these funds or accounts.

35 2. Implement and interpret consumer disclosure requirements of this
36 article to provide adequate information to purchasers of prearranged
37 funerals.

38 3. Prescribe funeral establishment ~~record keeping~~ RECORDKEEPING
39 requirements concerning prearranged funeral trust sales and trust accounts
40 and the handling and disposition of trust funds.

41 4. Define terms and develop forms and procedures to implement this
42 article.

43 B. The board shall enter into an intergovernmental agreement with
44 the department of ~~financial institutions~~ INSURANCE AND FINANCIAL
45 INSTITUTIONS to examine and report on prearranged funeral trust accounts

1 of funeral establishments and to review prearranged funeral trust sales
2 and trust account forms and procedures used by funeral establishments.

3 Sec. 37. Section 32-1391.03, Arizona Revised Statutes, is amended
4 to read:

5 32-1391.03. Department of insurance and financial
6 institutions powers and duties; prearranged
7 funeral trust accounts

8 A. The department of ~~financial institutions~~ INSURANCE AND FINANCIAL
9 INSTITUTIONS shall determine all of the following in its examinations of
10 prearranged funeral trust accounts:

11 1. The names and addresses of purchasers of prearranged funerals
12 and the amount each purchaser paid to the funeral establishment.

13 2. The location and status of all monies received.

14 3. The total amount in trust accounts.

15 4. Whether a funeral establishment is complying with this article
16 and rules adopted pursuant to this article.

17 5. Whether a funeral establishment is following recognized
18 accounting procedures for prearranged funeral trust accounts and handling
19 monies received from prearranged funeral sales.

20 B. The department shall:

21 1. Conduct examinations on a random basis or in connection with an
22 investigation pursuant to procedures established by the board.

23 2. Examine the prearranged funeral trust accounts of each funeral
24 establishment at least once within the first twelve months after it begins
25 to sell prearranged funerals and at least once every three years
26 thereafter.

27 3. Include prearranged funeral trust accounts established before
28 January 1, 1985 in its examinations.

29 C. The department may examine and investigate prearranged funeral
30 trust accounts pursuant to title 6, chapter 1, article 3 and pursuant to
31 the powers of the board concerning prearranged funeral sales and trust
32 accounts.

33 D. If the department determines after investigation or examination
34 of a prearranged funeral trust account that a violation of any provision
35 of this article has occurred, it shall send a written report to the board
36 within thirty days of completion of the investigation or examination ~~which~~
37 THAT includes an identification of the violation and any relevant
38 documents.

39 E. The department shall assess each funeral establishment at the
40 rate of not ~~to exceed five hundred twenty dollars~~ MORE THAN \$520 per day
41 for each examiner employed in the examination of the establishment's
42 prearranged funeral trust accounts pursuant to the requirements of this
43 section.

1 Sec. 38. Section 32-1391.04, Arizona Revised Statutes, is amended
2 to read:

3 32-1391.04. Prearranged funeral trust accounts; books and
4 records; inspection and examination

5 A. All funeral establishments and financial institutions shall, on
6 request of the department of ~~financial institutions~~ INSURANCE AND
7 FINANCIAL INSTITUTIONS, make their prearranged funeral trust account books
8 and records available for inspection and examination by the ~~state banking~~
9 department.

10 B. All financial institutions with trust funds deposited pursuant
11 to this article shall at least quarterly send a copy to the department of
12 each cancellation request or death certificate it has received ~~which~~ THAT
13 resulted in a withdrawal of funds from the trust account.

14 C. A financial institution shall have no legal duty to inquire
15 about the disbursement of any trust funds deposited pursuant to this
16 article if the financial institution has received the properly executed
17 notifications or certifications required by this article.

18 D. A financial institution or funeral establishment operating
19 according to the trust provisions established in this article shall not be
20 considered in the trust business under title 6, chapter 8.

21 Sec. 39. Section 32-1391.05, Arizona Revised Statutes, is amended
22 to read:

23 32-1391.05. Prearranged funeral agreements funded by trusts;
24 definition

25 A. All monies paid under a prearranged funeral agreement funded by
26 trust, except as provided in subsection B OF THIS SECTION, shall be
27 deposited, within five business days after the receipt of the monies, in a
28 prearranged funeral trust account with a financial institution doing
29 business in this state. The monies shall be invested either in federally
30 insured accounts, in which case the amounts so deposited shall not exceed
31 the amount of the deposit insurance, or in direct obligations of the
32 United States government. Federally insured accounts are defined as
33 accounts insured by the federal deposit insurance corporation or the
34 national credit union administration board. If invested in direct
35 obligations of the United States government, the maturity dates of such
36 obligations shall not exceed three years, unless rules adopted by the
37 ~~superintendent of financial institutions~~ DEPARTMENT OF INSURANCE AND
38 FINANCIAL INSTITUTIONS permit a longer period and not less than five ~~per~~
39 ~~cent~~ PERCENT of the amounts so deposited shall at all times be deposited
40 in federally insured accounts.

41 B. All monies paid under a fixed price prearranged funeral
42 agreement funded by trust shall be deposited, within twenty-one calendar
43 days or fifteen business days, whichever is shorter after the receipt of
44 the monies, in a prearranged funeral trust account with a financial
45 institution doing business in this state. In investing these monies the

1 trustee shall exercise the judgment and care of a prudent investor under
2 the prevailing circumstances.

3 C. Except as provided in this article:

4 1. All monies deposited in a prearranged funeral trust account and
5 all accrued interest shall be held in the trust account for and remain the
6 property of the beneficiary during the beneficiary's life and of the
7 beneficiary's estate after the beneficiary's death.

8 2. A funeral establishment or another person shall not withdraw,
9 transfer, remove, commingle, encumber or use as collateral any monies paid
10 to the establishment under a prearranged funeral agreement funded by
11 trust.

12 3. All monies deposited and accrued interest in a prearranged
13 funeral trust account shall be exempt from attachment, garnishment,
14 execution and claims of creditors, receivers and trustees of the funeral
15 establishment other than the claims of the beneficiary or the
16 beneficiary's estate.

17 4. All monies deposited and accrued interest in a prearranged
18 funeral trust account up to a total of ~~five thousand dollars~~ \$5,000 shall
19 be exempt from attachment, garnishment, execution and claims of creditors,
20 receivers and trustees of the beneficiary other than the claims of the
21 funeral establishment.

22 D. A funeral establishment may direct the financial institution in
23 which the trust monies are deposited to transfer the trust account to
24 another financial institution after providing each participant in the
25 trust with the name and location of the institution and the new trust
26 account number.

27 E. For the purposes of this section, "prudent investor" means a
28 person who exercises the same care and expertise as a person of ordinary
29 prudence, diligence, discretion and judgment would exercise in the
30 management of the property of others, not in regard to speculation, but in
31 regard to the permanent disposition of the funds considering the probable
32 income as well as the probable safety of the capital to be invested.

33 Sec. 40. Section 32-1391.16, Arizona Revised Statutes, is amended
34 to read:

35 32-1391.16. Annual trust report

36 A. On or before May 1, each funeral establishment holding a
37 prearranged funeral sales endorsement shall file an annual report with the
38 board concerning its prearranged funeral sales and trust account
39 activities during the preceding calendar year.

40 B. The funeral establishment shall pay the annual report fee
41 prescribed in section 32-1309 when the annual report is filed.

42 C. The annual report shall contain the following information sworn
43 to by the owner or owners of the funeral establishment:

44 1. The names and addresses of persons who were sold prearranged
45 funerals funded by trust by the funeral establishment during the preceding

1 calendar year, the names of the persons who are to be the beneficiaries of
2 the prearranged funerals and the name of the registered salesperson
3 selling each prearranged funeral.

4 2. The total contract amount for each purchaser listed in paragraph
5 1 OF THIS SUBSECTION, the total monies previously paid on each contract
6 and the monies paid by and refunded to the purchaser on each contract
7 during the preceding calendar year.

8 3. The total trust funds contained in the funeral establishment's
9 prearranged funeral trust accounts as of the end of the preceding calendar
10 year and the total funds received in the trust accounts during that year.

11 4. The total monies, if any, received from purchasers but not
12 deposited in the trust accounts as of the end of the preceding calendar
13 year, excluding initial service fees received by the funeral
14 establishment.

15 5. The names, registration numbers and addresses of all
16 salespersons employed or otherwise engaged by the funeral establishment
17 during the preceding calendar year and the names and registration numbers
18 of all salespersons terminated during that year.

19 6. The names and addresses of the financial institutions where the
20 trust funds are on deposit and the account number of each account.

21 7. A statement of the owner of the funeral establishment that the
22 establishment has complied with this article and rules adopted pursuant to
23 this article.

24 8. Other information required by the board.

25 D. Each funeral establishment that does not offer or sell
26 prearranged funerals funded by trust or hold a prearranged funeral sales
27 endorsement shall file with the board the annual report described in
28 subsection C of this section concerning all prearranged funeral trust
29 accounts established before January 1, 1985 and in existence during the
30 preceding calendar year on or before May 1. For the purposes of this
31 subsection, "prearranged funeral trust account" includes all prearranged
32 funeral trust accounts or funds established pursuant to laws in existence
33 before January 1, 1985.

34 E. The board shall provide the department of ~~financial institutions~~
35 INSURANCE AND FINANCIAL INSTITUTIONS with a copy of each annual report
36 filed pursuant to this section.

37 Sec. 41. Section 32-3601, Arizona Revised Statutes, is amended to
38 read:

39 32-3601. Definitions

40 In this chapter, unless the context otherwise requires:

41 1. "Appraisal" or "real estate appraisal" means a statement that is
42 independently and impartially prepared by an individual setting forth an
43 opinion as to the market value of real property as of a specific date and
44 supported by the presentation and analysis of relevant market information.

1 2. "Appraisal assignment" means an engagement for which a real
2 estate appraiser is employed or retained to act, or would be perceived by
3 third parties or the public in acting, as a disinterested third party in
4 rendering an unbiased analysis, opinion or conclusion relating to the
5 nature, quality, value or utility of specified interests in or aspects of
6 identified real estate.

7 3. "Appraisal foundation" means the appraisal foundation
8 incorporated as an Illinois not-for-profit corporation on November 30,
9 1987.

10 4. "Appraisal report" means any communication, written or oral, of
11 an appraisal.

12 5. "Appraisal review" means the act of reviewing or the report that
13 follows a review of an appraisal assignment or appraisal report in which a
14 real estate appraiser forms an opinion as to the adequacy and
15 appropriateness of the report being reviewed.

16 6. "Appraisal standards board" means the appraisal standards board
17 appointed by the board of trustees of the appraisal foundation to develop,
18 interpret and amend the uniform standards of professional appraisal
19 practice.

20 7. "Appraisal subcommittee" means the subcommittee of the federal
21 financial institutions examination council created pursuant to 12 United
22 States Code section 3310 and chapter 34A, as amended.

23 8. "Appraiser qualifications board" means the appraiser
24 qualifications board that is appointed by the board of trustees of the
25 appraisal foundation to establish the minimum education, experience and
26 examination requirements for real estate appraisers.

27 9. "Complex one to four residential units" means property that is
28 atypical for the marketplace. Atypical factors may include architectural
29 style, age of improvements, size of improvements, size of lot,
30 neighborhood land use, potential environmental hazard liability, leasehold
31 interests, limited readily available comparable sales data or other
32 unusual factors.

33 10. "Course approval" means the act of the superintendent reviewing
34 course materials to form an opinion as to the adequacy and appropriateness
35 of the course for licensing pursuant to section 32-3613, certification
36 pursuant to section 32-3614 and continuing education as prescribed in
37 section 32-3625 in accordance with the appraiser qualifications board and
38 this chapter.

39 11. "Department" means the department of ~~financial institutions~~
40 **INSURANCE AND FINANCIAL INSTITUTIONS**.

41 12. "Federal financial institutions examination council" means that
42 agency of the federal government created pursuant to 12 United States Code
43 chapters 34 and 34A, as amended.

44 13. "Federally related transaction" means any real estate related
45 financial transaction that a federal financial institution's regulatory

1 agency or the resolution trust corporation engages in, contracts for or
2 regulates and that requires an appraisal.

3 14. "Property tax agent" means an individual who is designated by a
4 person or is an employee of an entity designated as an agent pursuant to
5 section 42-16001, who acts on behalf of a person who owns, controls or
6 possesses property valued by a county assessor and who receives a fee for
7 the analysis of any matter relating to the review of the valuation of the
8 person's property before the assessor. Property tax agent does not
9 include a person who is admitted to practice law in this state, an
10 employee of the person owning, controlling or possessing the property or
11 an employee of an entity designated pursuant to section 42-16001, if the
12 employee is performing a secretarial, clerical or administrative support
13 function.

14 15. "Real estate" means an identified parcel or tract of land,
15 including improvements, if any.

16 16. "Real estate related financial transaction" means any
17 transaction involving the sale of, lease of, purchase of, investment in or
18 exchange of real property, including interests in property or the
19 financing of property, the refinancing of real property or interests in
20 real property and the use of real property or interests in property as
21 security for a loan or investment, including mortgage-backed securities.

22 17. "Real property" means one or more defined interests, benefits
23 and rights inherent in the ownership of real estate.

24 18. "Registered trainee appraiser" means a person who meets both of
25 the following requirements:

26 (a) Is registered with the superintendent and meets the appraiser
27 qualifications board's qualifications for trainee appraisers to perform
28 appraisal services only under the direct supervision of a certified
29 appraiser who has met the minimum criteria to be a supervisory appraiser.

30 (b) Accepts assignments only from the registered trainee
31 appraiser's supervisory appraiser.

32 19. "Review appraiser" means a person who engages in the activity
33 of reviewing and evaluating the appraisal work of others from the
34 perspective of an appraiser, generally for compensation as a separate
35 skill. This includes the function of reviewing an appraisal report or a
36 file memorandum setting forth the results of the review process.

37 20. "Standards of professional appraisal practice" means the
38 uniform standards of professional appraisal practice adopted by the
39 superintendent.

40 21. "State-licensed or state-certified appraiser" means a person
41 who develops and communicates appraisals and who holds a current, valid
42 license or certificate issued under this chapter.

43 22. "Superintendent" means the superintendent of THE financial
44 institutions DIVISION OF THE DEPARTMENT.

1 23. "Supervisory appraiser" means a state-certified appraiser who
2 has a supervisory appraiser designation and who:

3 (a) Has been in good standing for the last three years in the
4 jurisdiction in which the registered trainee appraiser practices.

5 (b) Has not been disciplined in a manner that affects the
6 supervisory appraiser's eligibility to engage in appraisal practice in any
7 jurisdiction in the last three years.

8 (c) Directly supervises registered trainee appraisers by doing the
9 following:

10 (i) Accepting responsibility for an appraisal by signing and
11 certifying that the appraisal complies with the uniform standards of
12 professional appraisal practice.

13 (ii) Reviewing and signing all registered trainee appraiser
14 reports.

15 24. "Value" means the monetary relationship between properties and
16 those who buy, sell or use those properties.

17 Sec. 42. Section 32-3605, Arizona Revised Statutes, is amended to
18 read:

19 32-3605. Superintendent; duties; powers; immunity

20 A. The superintendent shall adopt rules in aid or in furtherance of
21 this chapter.

22 B. The superintendent shall:

23 1. In prescribing standards of professional appraisal practice,
24 adopt standards that at a minimum are equal to the standards prescribed by
25 the appraisal standards board.

26 2. In prescribing criteria for certification, adopt criteria that
27 at a minimum are equal to the minimum criteria for certification adopted
28 by the appraiser qualifications board.

29 3. In prescribing criteria for licensing and registration, adopt
30 criteria that at a minimum are equal to the minimum criteria for licensing
31 and registration adopted by the appraiser qualifications board.

32 4. Further define by rule with respect to state-licensed or
33 state-certified appraisers appropriate and reasonable educational
34 experience, appraisal experience and equivalent experience that meets the
35 statutory requirement of this chapter.

36 5. Adopt the national examination as approved by the appraiser
37 qualifications board for state-certified appraisers.

38 6. Adopt the national examination as approved by the appraiser
39 qualifications board for state-licensed appraisers.

40 7. Establish administrative procedures for:

41 (a) Processing applications for licenses and certificates,
42 including registration certificates.

43 (b) Approving or disapproving applications for registration,
44 licensure and certification.

1 (c) Issuing licenses and certificates, including registration
2 certificates.

3 8. Define by rule, with respect to registered trainee
4 appraisers, ~~AND~~ AND state-licensed and state-certified appraisers, the
5 continuing education requirements for the renewal of licenses or
6 certificates that satisfy the statutory requirements provided in this
7 chapter.

8 9. Periodically review the requirements for the development and
9 communication of appraisals provided in this chapter and adopt rules
10 explaining and interpreting the requirements.

11 10. Define and explain by rule each stage and step associated with
12 the administrative procedures for the disciplinary process pursuant to
13 this chapter, including:

14 (a) Prescribing minimum criteria for accepting a complaint against
15 a registered trainee appraiser or a licensed or certified appraiser. The
16 superintendent may not consider a complaint for administrative action if
17 the complaint either:

18 (i) Relates to an appraisal that was completed more than five years
19 before the complaint was submitted to the superintendent or more than two
20 years after final disposition of any judicial proceeding in which the
21 appraisal was an issue, whichever period of time is greater.

22 (ii) Is filed against a person who is a staff person of the
23 department ~~of financial institutions~~ and the person is a licensed or
24 certified appraiser and the complaint is against the person's license or
25 certificate and relates to the person's performance of duties. This item
26 applies to a contract investigator who is under contract with the
27 department for the performance of an appraisal review as defined by the
28 uniform standards of professional appraisal practice.

29 (b) Defining the process and procedures used in investigating the
30 allegations of the complaint. The superintendent shall consolidate
31 complaints that are filed within a six-month period of time if the
32 complaints are against the same appraiser, relate to the same appraisal
33 and property and are filed by an entity that is subject to the mandatory
34 reporting provisions of the Dodd-Frank Wall Street reform and consumer
35 protection act (P.L. 111-203; 124 Stat. 1376). Complaints that are
36 consolidated pursuant to this subdivision must be considered and
37 adjudicated as one complaint.

38 (c) Defining the process and procedures used in hearings on the
39 complaint, including a description of the rights of the superintendent and
40 any person who is alleged to have committed the violation.

41 (d) Establishing criteria to be used in determining the appropriate
42 actions for violations.

43 11. Communicate information that is useful to the public and
44 appraisers relating to actions for violations.

1 12. Issue decrees of censure, fix periods and terms of probation
2 and suspend and revoke licenses and certificates pursuant to the
3 disciplinary proceedings provided for in section 32-3631.

4 13. At least monthly transmit to the appraisal subcommittee a
5 listing of all appraisal management companies that have received a state
6 certificate of registration in accordance with this chapter.

7 14. Report on the disposition of any matter referred by the
8 appraisal subcommittee or any other federal agency or instrumentality or
9 federally recognized entity reporting any action of a state-licensed or
10 state-certified appraiser or appraisal management company that is contrary
11 to this chapter.

12 15. Transmit the national registry fee collected pursuant to
13 section 32-3607 to the appraisal subcommittee.

14 16. Establish the fees in accordance with section 32-3607.

15 17. Receive applications for state licenses and certificates.

16 18. Maintain a registry of the names and addresses of persons who
17 are registered, licensed or certified under this chapter.

18 19. Retain records and all application materials submitted to the
19 superintendent.

20 20. Publish on the department's website a current list of
21 supervisory appraisers and registered trainee appraisers.

22 21. Perform such other functions and duties as may be necessary to
23 carry out this chapter.

24 C. The superintendent may accept and spend federal monies and
25 grants, gifts, contributions and devises from any public or private source
26 to assist in carrying out the purposes of this chapter. These monies do
27 not revert to the state general fund at the end of the fiscal year.

28 D. The superintendent may impose a civil penalty pursuant to
29 section 32-3631.

30 Sec. 43. Section 32-4301, Arizona Revised Statutes, is amended to
31 read:

32 32-4301. License, certificate or registration expiration;
33 military active duty; one hundred eighty-day
34 extension

35 A. Except as otherwise provided in this section, a license,
36 certificate or registration that is issued pursuant to this title to any
37 member of the national guard or the United States armed forces reserves
38 shall not expire while the member is serving on federal active duty and
39 shall be extended one hundred eighty days after the member returns from
40 federal active duty, provided that the member, or the legal representative
41 of the member, notifies the license, certificate or registration issuing
42 authority of the federal active duty status of the member. A license,
43 certificate or registration that is issued pursuant to this title to any
44 member serving in the regular component of the United States armed forces
45 shall be extended one hundred eighty days from the date of expiration,

1 provided that the member, or the legal representative of the member,
2 notifies the license, certificate or registration issuing authority of the
3 federal active duty status of the member.

4 B. A license, certificate or registration that is issued pursuant
5 to this title to any member of the national guard, the United States armed
6 forces reserves or the regular component of the United States armed forces
7 shall not expire and shall be extended one hundred eighty days from the
8 date the military member is able to perform activities necessary under the
9 license, certificate or registration if the member both:

10 1. Is released from active duty service.

11 2. Suffers an injury as a result of active duty service that
12 temporarily prevents the member from being able to perform activities
13 necessary under the license, certificate or registration.

14 C. If the license, certificate or registration is renewed during
15 the applicable extended time period after the member returns from federal
16 active duty, the member is responsible only for normal fees and activities
17 relating to renewal of the license, certificate or registration and shall
18 not be charged any additional costs such as late fees or delinquency fees.

19 D. The member, or the legal representative of the member, shall
20 present to the authority issuing the license, certificate or registration
21 a copy of the member's official military orders, a redacted military
22 identification card or a written verification from the member's commanding
23 officer before the end of the applicable extended time period in order to
24 qualify for the extension.

25 E. This section does not apply to licenses that are issued pursuant
26 to chapter 10 of this title if a person other than the person who is a
27 member of the national guard, the United States armed forces reserves or
28 the regular component of the United States armed forces is authorized to
29 renew the license.

30 F. A license or certificate that is issued pursuant to chapter 36
31 of this title to any member of the national guard, the United States armed
32 forces reserves or the regular component of the United States armed forces
33 shall be placed in active status for ninety days after the member returns
34 from federal active duty, provided that the member, or the legal
35 representative of the member, notifies the department of ~~financial~~
36 ~~institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS of the federal active
37 duty status of the member.

38 Sec. 44. Section 35-311, Arizona Revised Statutes, is amended to
39 read:

40 35-311. State board of investment; membership; powers and
41 duties

42 A. ~~THE~~ THE state board of investment is established consisting of
43 the state treasurer, the director of the department of administration OR
44 THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION'S DESIGNEE, the
45 ~~superintendent of financial institutions~~ DIRECTOR OF THE DEPARTMENT OF

1 INSURANCE AND FINANCIAL INSTITUTIONS OR THE DIRECTOR OF THE DEPARTMENT OF
2 INSURANCE AND FINANCIAL INSTITUTIONS' DESIGNEE and two individuals
3 appointed by the state treasurer, one of whom ~~shall have~~ HAS verifiable
4 expertise in investment management and one of whom ~~shall represent~~
5 REPRESENTS a public entity with current deposits in a local government
6 investment pool. The state treasurer ~~shall be~~ IS chairman of the
7 board. The board shall keep an accurate record of its proceedings. A
8 certified copy of the record is prima facie evidence of the matters
9 appearing in the record in any court. A meeting of the board may be
10 called at any time by the chairman or a majority of the board members.

11 B. The state board of investment shall:

12 1. Hold regular monthly meetings.

13 2. Review investments of treasury monies.

14 3. Serve as trustees of the permanent state land funds and provide
15 management of the assets of the funds consistent with the requirements of
16 article X, section 7, Constitution of Arizona.

17 4. Serve as trustees of any endowments established pursuant to
18 section 35-314.03.

19 C. The state treasurer shall furnish to the board of investment at
20 its regular monthly meeting a report of the performance of current
21 investments and a report of the current investments as of the close of
22 business of the preceding month. The state treasurer shall make these
23 reports available for inspection by the public during normal working hours
24 at the office of the state treasurer for a period of time of not less than
25 two years after the date of the report.

26 D. The board of investment may order the state treasurer to sell
27 any of the securities, and any order shall specifically describe the
28 securities and fix the time period during which they are to be sold.
29 Securities so ordered to be sold shall be sold for cash by the state
30 treasurer at the current market price. The state treasurer and the
31 members of the board are not accountable for any loss occasioned by sales
32 of securities at prices lower than their book value. Any loss shall be
33 charged against earnings received from interest or capital gains on the
34 applicable treasury monies.

35 E. The board may establish standards in addition to those
36 established by section 35-317, subsection A for the qualification of
37 agents acting pursuant to section 35-317, subsection B.

38 Sec. 45. Section 35-321, Arizona Revised Statutes, is amended to
39 read:

40 35-321. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Agency pool participant" means a subdivision or an entity of a
43 subdivision that has monies maintained by the treasurer and that has the
44 authority to draw negotiable instruments on the treasurer or make other

- 1 disbursements from monies that the treasurer holds for the subdivision or
2 entity.
- 3 2. "Board of deposit" means, in the case of a county, the board of
4 supervisors, and in the case of a city or town, the common council.
- 5 3. "Capital structure" means the amount of the capital of the
6 eligible depository shown by the latest call statement of condition as
7 defined by rule of the ~~superintendent of financial institutions~~ DEPARTMENT
8 OF INSURANCE AND FINANCIAL INSTITUTIONS for the purpose of administration
9 of this article.
- 10 4. "Collecting entity" means the entity from which the treasurer
11 receives general funding including the county for collections performed by
12 a county treasurer, the city for collections performed by a city treasurer
13 or the district for collections performed by a district treasurer.
- 14 5. "Eligible depository" means any:
- 15 (a) Commercial or savings bank or savings and loan association
16 ~~having~~ THAT HAS either a branch in this state or its principal place of
17 business in this state and THAT IS insured by the federal deposit
18 insurance corporation or its successor or any other insuring
19 instrumentality of the United States according to the applicable federal
20 law.
- 21 (b) Credit union that is insured by the national credit union
22 administration or its successor.
- 23 6. "Involuntary pool participant" means a subdivision that only
24 receives the principal ratio of the monies collected, for which the
25 principal monies are mandated to be distributed on a specific date and for
26 which the interest earned on the monies between the time of collection and
27 other statutory requirements reverts to the general fund of the collecting
28 entity.
- 29 7. "Permissible rate of interest" means a rate of interest that an
30 eligible financial institution is permitted to pay by state or federal law
31 or valid state rules or federal regulations.
- 32 8. "Public deposit" means public monies deposited in an eligible
33 depository pursuant to this article.
- 34 9. "Public monies" includes subdivision monies.
- 35 10. "State monies" means all monies in the treasury of this state
36 or coming lawfully into the possession or custody of the state treasurer.
- 37 11. "Subdivision" means any county, noncharter city or town.
38 Cities governed by charter have the option of operating under this
39 article.
- 40 12. "Subdivision monies" means all monies in the treasury of a
41 subdivision or coming lawfully into the possession or custody of the
42 treasurer.
- 43 13. "Treasurer" includes the treasurer or officer exercising the
44 functions of treasurer of any subdivision but excludes the state
45 treasurer.

1 14. "Trust funds" means those monies entrusted to a public body or
2 official for preservation and investment, as prescribed by the instrument
3 establishing such funds.

4 Sec. 46. Section 35-323, Arizona Revised Statutes, is amended to
5 read:

6 35-323. Investing public monies; bidding; security and other
7 requirements

8 A. The treasurer shall invest and reinvest public monies in
9 securities and deposits with a maximum maturity of five years. All public
10 monies shall be invested in eligible investments. Eligible investments
11 are:

12 1. Certificates of deposit in eligible depositories.

13 2. Deposits in one or more federally insured banks or savings and
14 loan associations placed in accordance with the procedures prescribed in
15 section 35-323.01.

16 3. Interest bearing savings accounts in banks and savings and loan
17 institutions doing business in this state whose accounts are insured by
18 federal deposit insurance for their industry, but only if deposits in
19 excess of the insured amount are secured by the eligible depository to the
20 same extent and in the same manner as required under this article.

21 4. Repurchase agreements with a maximum maturity of one hundred
22 eighty days.

23 5. The pooled investment funds established by the state treasurer
24 pursuant to section 35-326.

25 6. Obligations issued or guaranteed by the United States or any of
26 the senior debt of its agencies, sponsored agencies, corporations,
27 sponsored corporations or instrumentalities.

28 7. Bonds, notes or other evidences of indebtedness of this state or
29 any of its counties, incorporated cities or towns, school districts or
30 special taxing districts, including registered warrants, substitute checks
31 and electronic funds transfers that bear interest pursuant to section
32 11-635.

33 8. Bonds, notes or evidences of indebtedness of any county,
34 municipal district, municipal utility or special taxing district of any
35 state that are payable from revenues, earnings or a special tax
36 specifically pledged for the payment of the principal and interest on the
37 obligations, and for the payment of which a lawful sinking fund or reserve
38 fund has been established and is being maintained, but only if no default
39 in payment on principal or interest on the obligations to be purchased has
40 occurred within five years of the date of investment, or, if such
41 obligations were issued less than five years before the date of
42 investment, no default in payment of principal or interest has occurred on
43 the obligations to be purchased nor any other obligations of the issuer
44 within five years of the investment.

1 9. Bonds, notes or evidences of indebtedness issued by any county
2 improvement district or municipal improvement district of any state to
3 finance local improvements authorized by law, if the principal and
4 interest of the obligations are payable from assessments on real property
5 within the improvement district. An investment shall not be made if:

6 (a) The face value of all such obligations, and similar obligations
7 outstanding, exceeds fifty percent of the market value of the real
8 property, and if improvements on which the bonds or the assessments for
9 the payment of principal and interest on the bonds are liens inferior only
10 to the liens for general ad valorem taxes.

11 (b) A default in payment of principal or interest on the
12 obligations to be purchased has occurred within five years of the date of
13 investment, or, if the obligations were issued less than five years before
14 the date of investment, a default in the payment of principal or interest
15 has occurred on the obligations to be purchased or on any other obligation
16 of the issuer within five years of the investment.

17 10. Commercial paper of prime quality that is rated within the top
18 two ratings by a nationally recognized rating agency. All commercial
19 paper must be issued by corporations organized and doing business in the
20 United States.

21 11. Bonds, debentures, notes or other evidences of indebtedness
22 that are denominated in United States dollars and that carry at a minimum
23 an "A" or better rating, at the time of purchase, from at least two
24 nationally recognized rating agencies.

25 12. Negotiable or brokered certificates of deposit issued by a
26 nationally or state chartered bank or savings and loan association.

27 13. Securities of or any other interests in any open-end or
28 closed-end management type investment company or investment trust,
29 including exchange traded funds whose underlying investments are invested
30 in securities allowed by state law, registered under the investment
31 company act of 1940 (54 Stat. 789; 15 United States Code sections 80a-1
32 through 80a-64), as amended.

33 B. Certificates of deposit shall be purchased from the eligible
34 depository bidding the highest permissible rate of interest. ~~No~~ Monies
35 over ~~one hundred thousand dollars~~ \$100,000 may NOT be awarded at any
36 interest rate less than one hundred three percent of the equivalent bond
37 yield of the offer side of United States treasury bills having a similar
38 term. If the eligible depository offering to pay the highest rate of
39 interest has bid only for a portion of the monies to be awarded, the
40 remainder of the monies shall be awarded to eligible depositories bidding
41 the next highest rates of interest.

42 C. An eligible depository is not eligible to receive total
43 aggregate deposits from this state and all its subdivisions in an amount
44 exceeding twice its capital structure as outlined in the last call of

1 condition of the superintendent of THE financial institutions DIVISION OF
2 THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS.

3 D. If two or more eligible depositories submit bids of an identical
4 rate of interest for all or any portion of the monies to be deposited, the
5 award of the deposit of the monies shall be made to the eligible
6 depository among those submitting identical bids having, at the time of
7 the bid opening, the lowest ratio of total public deposits in relation to
8 its capital structure.

9 E. Each bid submitted, and not withdrawn ~~prior to~~ BEFORE the time
10 specified, constitutes an irrevocable offer to pay interest as specified
11 in the bid on the deposit, or portion bid for, and the award of a deposit
12 in accordance with this section obligates the depository to accept the
13 deposit and pay interest as specified in the bid pursuant to which the
14 deposit is awarded.

15 F. The treasurer shall maintain a record of all bids received and
16 shall make available to the board of deposit at its next regularly
17 scheduled meeting a correct list showing the bidders, the bids received
18 and the amount awarded. These records shall be available to the public
19 and shall be kept in the possession of the treasurer for not less than two
20 years ~~from~~ AFTER the date of the report.

21 G. Any eligible depository, before receiving a deposit in excess of
22 the insured amount under this article, shall deliver collateral for the
23 purposes of this subsection equal to at least one hundred two percent of
24 the deposit. The collateral shall be any of the following:

25 1. A bond executed by a surety company that is approved by the
26 treasury department of the United States and authorized to do business in
27 this state. The bond shall be approved as to form by the legal advisor of
28 the treasurer.

29 2. Securities or instruments of the following character:

30 (a) United States government or agency obligations.

31 (b) State, county, school district and other district municipal
32 bonds.

33 3. The safekeeping receipt of a federal reserve bank or any bank
34 located in a reserve city, or any bank authorized to do business in this
35 state, whose combined capital, surplus and outstanding capital notes and
36 debentures on the date of the safekeeping receipt are ~~ten million dollars~~
37 \$10,000,000 or more, evidencing the deposit therein of any securities or
38 instruments described in this section. A safekeeping receipt shall not
39 qualify as security, if issued by a bank to secure its own public
40 deposits, unless issued directly through its trust department. The
41 safekeeping receipt shall show on its face that it is issued for the
42 account of the treasurer and shall be delivered to the treasurer. The
43 safekeeping receipt may provide for the substitution of securities or
44 instruments that qualify under this section with the affirmative act of
45 the treasurer.

1 4. Letters of credit issued by a federal home loan bank if:

2 (a) The letter of credit has been delivered pursuant to this
3 section or chapter 10, article 1 of this title to the statewide collateral
4 pool administrator.

5 (b) The letter of credit meets the required conditions of:

6 (i) Being irrevocable.

7 (ii) Being issued, presentable and payable at a federal home loan
8 bank in United States dollars. Presentation may be made by the
9 beneficiary submitting the original letter of credit, including any
10 amendments, and the demand in writing, by overnight delivery.

11 (iii) If the letter of credit is for purposes of chapter 10,
12 article 1 of this title, containing a statement that identifies the
13 statewide collateral pool administrator as the beneficiary.

14 (iv) Containing an issue date and a date of expiration.

15 (c) For the purposes of chapter 10, article 1 of this title, the
16 eligible depository, if notified by the statewide collateral pool
17 administrator, is not allowed to use new letters of credit issued by a
18 federal home loan bank if that federal home loan bank fails to pay a draw
19 request as provided for in the letters of credit or fails to properly
20 complete a confirmation of such letters of credit.

21 H. The securities, instruments or safekeeping receipt for the
22 securities and instruments shall be accepted at market value if not above
23 par, and, if at any time their market value becomes less than the deposit
24 liability to that treasurer, additional securities or instruments required
25 to guarantee deposits shall be deposited immediately with the treasurer
26 who made the deposit and deposited by the eligible depository in which the
27 deposit was made.

28 I. The condition of the surety bond, or the deposit of securities,
29 instruments or a safekeeping receipt, must be such that the eligible
30 depository will promptly pay to the parties entitled public monies in its
31 custody, on lawful demand, and will, when required by law, pay the monies
32 to the treasurer making the deposit.

33 J. Notwithstanding the requirements of this section, any
34 institution qualifying as an eligible depository may accept deposits of
35 public monies to the total then authorized insurance of accounts, insured
36 by federal deposit insurance, without depositing a surety bond or
37 securities in lieu of the surety bond.

38 K. An eligible depository shall report monthly to the treasurer the
39 total deposits of that treasurer and the par value and the market value of
40 any pledged collateral securing those deposits.

41 L. When a security or instrument pledged as collateral matures or
42 is called for redemption, the cash received for the security or instrument
43 shall be held in place of the security until the depository has obtained a
44 written release or provided substitute securities or instruments.

1 M. The surety bond, securities, instruments or safekeeping receipt
2 of an eligible depository shall be deposited with the treasurer making the
3 deposit, and the treasurer shall be the custodian of the bond, securities,
4 instruments or safekeeping receipt. The treasurer may then deposit with
5 the depository public monies then in the treasurer's possession in
6 accordance with this article, but not in an amount in excess of the surety
7 bond, securities, instruments or safekeeping receipt deposited, except for
8 federal deposit insurance.

9 N. The following restrictions on investments are applicable:

10 1. An investment of public operating fund monies shall not be
11 invested for a maturity of longer than five years.

12 2. The board of deposit may order the treasurer to sell any of the
13 securities, and any order shall specifically describe the securities and
14 fix the date on which they are to be sold. Securities so ordered to be
15 sold shall be sold for cash by the treasurer on the date fixed in the
16 order, at the then current market price. The treasurer and the members of
17 the board are not accountable for any loss occasioned by sales of
18 securities at prices lower than their cost. Any loss or expense shall be
19 charged against earnings received from investment of public funds.

20 3. Investments shall not be made in companies identified pursuant
21 to section 35-392, subsection A, paragraph 1.

22 0. If the total amount of subdivision monies available for deposit
23 at any time is less than the maximum coverage amount of the federal
24 deposit insurance corporation, the subdivision board of deposit shall
25 award the deposit of the funds to an eligible depository in accordance
26 with an ordinance or resolution of the governing body of the subdivision.
27 Deposits of less than the maximum coverage amount of the federal deposit
28 insurance corporation are not subject to the requirements of this chapter.

29 Sec. 47. Section 35-1210, Arizona Revised Statutes, is amended to
30 read:

31 35-1210. Procedure for payment of losses

32 When the administrator determines that an eligible depository
33 securing public deposits in accordance with this section is a defaulting
34 depository, the administrator shall take steps as promptly as practicable
35 to reimburse public depositors of all uninsured public deposits held by
36 the defaulting depository using the following procedures:

37 1. The administrator shall determine the amount of uninsured public
38 deposits net of any deposit insurance held by the defaulting depository
39 either with the cooperation of the department of ~~financial institutions~~
40 **INSURANCE AND FINANCIAL INSTITUTIONS** or the receiver appointed for the
41 defaulting depository or by any other means available.

42 2. The administrator shall assess the amount of the uninsured
43 public deposits determined under paragraph 1 of this section against the
44 defaulting depository. The administrator shall promptly take possession
45 of the eligible collateral deposited by the defaulting depository with the

1 depository's qualified escrow agent, to the extent necessary to satisfy
2 the administrator's assessment, and shall liquidate the ~~same~~ ELIGIBLE
3 COLLATERAL.

4 3. On receipt of the liquidated eligible collateral, the
5 administrator shall reimburse the public depositors from the proceeds of
6 the collateral to the extent of the defaulting depository's deposit
7 liability to the depositor, net of any applicable deposit insurance.

8 Sec. 48. Section 38-871, Arizona Revised Statutes, is amended to
9 read:

10 38-871. Deferred compensation governing committee; members;
11 powers and duties

12 A. The governing committee for deferred compensation plans is
13 established that consists of the following seven members:

14 1. Three members who are appointed by the governor and who are
15 either of the following:

16 (a) Individuals who have an account balance in a deferred
17 compensation plan that is overseen by the governing committee. These
18 individuals may be contributing or noncontributing participants in a
19 deferred compensation plan and may be retired or nonretired.

20 (b) Members of the public who are not deferred compensation plan
21 participants and who have at least ten years of relevant experience in
22 either finance, investment management, pension plans or retirement plans.

23 2. The director of the department of administration or the
24 director's designee.

25 3. The superintendent of THE financial institutions DIVISION OF THE
26 DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS or the superintendent's
27 designee.

28 4. The director of insurance AND FINANCIAL INSTITUTIONS or the
29 director's designee.

30 5. The director of the Arizona state retirement system or the
31 director's designee.

32 B. Governing committee members are subject to the conflict of
33 interest provisions of ~~title 38~~, chapter 3, article 8 OF THIS TITLE.

34 C. The governing committee may:

35 1. Investigate and approve deferred compensation plans that give
36 state employees income tax benefits authorized by title 26, United States
37 Code Annotated.

38 2. In carrying out the purposes of this article, enter into
39 agreements with companies with demonstrable expertise in the areas
40 encompassed by this article.

41 3. Adopt rules.

42 D. The governing committee shall:

43 1. Arrange for consolidated billing and efficient administrative
44 services so that any plans approved operate without cost or contribution
45 from this state except for the incidental expenses of statutorily required

1 administrative duties and the administration of payroll salary deduction
2 or reduction and remittance of the monies to the administrator, trustee or
3 custodian of the plan or plans.

4 2. Meet quarterly or more frequently as the committee deems
5 necessary.

6 3. Arrange for an annual financial audit of the plans.

7 4. Arrange for a performance review of the plans or participation
8 in benchmarking surveys or studies at least every five years.

9 Sec. 49. Section 41-619.51, Arizona Revised Statutes, as amended by
10 Laws 2018, chapter 46, section 3 and chapter 296, section 12, is amended
11 to read:

12 41-619.51. Definitions

13 In this article, unless the context otherwise requires:

14 1. "Agency" means the supreme court, the department of economic
15 security, the department of child safety, the department of education, the
16 department of health services, the department of juvenile corrections, the
17 department of emergency and military affairs, the department of public
18 safety, the department of transportation, the state real estate
19 department, the department of ~~financial institutions~~ INSURANCE AND
20 FINANCIAL INSTITUTIONS, the Arizona game and fish department, THE ARIZONA
21 DEPARTMENT OF AGRICULTURE, the board of examiners of nursing care
22 institution administrators and assisted living facility managers, the
23 state board of dental examiners, the Arizona state board of pharmacy or
24 the board of physical therapy or the state board of technical
25 registration.

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

27 3. "Central registry exception" means notification to the
28 department of economic security, the department of child safety or the
29 department of health services, as appropriate, pursuant to section
30 41-619.57 that the person is not disqualified because of a central
31 registry check conducted pursuant to section 8-804.

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

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

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

40 (a) SECTION 3-314.

41 ~~(a)~~ (b) Section 8-105.

42 ~~(b)~~ (c) Section 8-322.

43 ~~(c)~~ (d) Section 8-463.

44 ~~(d)~~ (e) Section 8-509.

45 ~~(e)~~ (f) Section 8-802.

1 ~~(f)~~ (g) Section 8-804.
2 ~~(g)~~ (h) Section 15-183.
3 ~~(h)~~ (i) Section 15-503.
4 ~~(i)~~ (j) Section 15-512.
5 ~~(j)~~ (k) Section 15-534.
6 ~~(k)~~ (l) Section 15-763.01.
7 ~~(l)~~ (m) Section 15-782.02.
8 ~~(m)~~ (n) Section 15-1330.
9 ~~(n)~~ (o) Section 15-1881.
10 ~~(o)~~ (p) Section 17-215.
11 ~~(p)~~ (q) Section 28-3228.
12 ~~(q)~~ (r) Section 28-3413.
13 ~~(r)~~ (s) Section 32-122.02.
14 ~~(s)~~ (t) Section 32-122.05.
15 ~~(t)~~ (u) Section 32-122.06.
16 ~~(u)~~ (v) Section 32-1232.
17 ~~(v)~~ (w) Section 32-1276.01.
18 ~~(w)~~ (x) Section 32-1284.
19 ~~(x)~~ (y) Section 32-1297.01.
20 ~~(y)~~ (z) Section 32-1904.
21 ~~(z)~~ (aa) Section 32-1941.
22 ~~(aa)~~ (bb) Section 32-2022.
23 ~~(bb)~~ (cc) Section 32-2108.01.
24 ~~(cc)~~ (dd) Section 32-2123.
25 ~~(dd)~~ (ee) Section 32-2371.
26 ~~(ee)~~ (ff) Section 32-3620.
27 ~~(ff)~~ (gg) Section 32-3668.
28 ~~(gg)~~ (hh) Section 32-3669.
29 ~~(hh)~~ (ii) Section 36-207.
30 ~~(ii)~~ (jj) Section 36-411.
31 ~~(jj)~~ (kk) Section 36-425.03.
32 ~~(kk)~~ (ll) Section 36-446.04.
33 ~~(ll)~~ (mm) Section 36-594.01.
34 ~~(mm)~~ (nn) Section 36-594.02.
35 ~~(nn)~~ (oo) Section 36-882.
36 ~~(oo)~~ (pp) Section 36-883.02.
37 ~~(pp)~~ (qq) Section 36-897.01.
38 ~~(qq)~~ (rr) Section 36-897.03.
39 ~~(rr)~~ (ss) Section 36-3008.
40 ~~(ss)~~ (tt) Section 41-619.53.
41 ~~(tt)~~ (uu) Section 41-1964.
42 ~~(uu)~~ (vv) Section 41-1967.01.
43 ~~(vv)~~ (ww) Section 41-1968.
44 ~~(ww)~~ (xx) Section 41-1969.
45 ~~(xx)~~ (yy) Section 41-2814.

1 ~~(yy)~~ (zz) Section 46-141, subsection A.

2 ~~(zz)~~ (aaa) Section 46-321.

3 Sec. 50. Repeal

4 Section ~~41-619.51~~, Arizona Revised Statutes, as amended by Laws
5 2018, chapter 287, section 3, is repealed.

6 Sec. 51. Section 41-1502, Arizona Revised Statutes, is amended to
7 read:

8 ~~41-1502.~~ Arizona commerce authority; board of directors;
9 conduct of office; audit

10 A. The Arizona commerce authority is established. The mission of
11 the authority is to provide private sector leadership in growing and
12 diversifying the economy of this state, creating high quality employment
13 in this state through expansion, attraction and retention of businesses
14 and marketing this state for the purpose of expansion, attraction and
15 retention of businesses.

16 B. The authority ~~shall be~~ IS governed by a board of directors
17 consisting of:

18 1. The governor, who serves as chairperson.

19 2. The chief executive officer.

20 3. Seventeen private sector business leaders who are chief
21 executive officers of private, for-profit enterprises. None of these
22 members may be an elected official of any government entity. These
23 members must be appointed from geographically diverse areas of this state
24 and not all from the same county. These members shall serve staggered
25 three-year terms of office beginning and ending on the third Monday in
26 January. These members shall be appointed as follows:

27 (a) Nine members who are appointed by the governor.

28 (b) Four members who are appointed by the president of the senate.

29 (c) Four members who are appointed by the speaker of the house of
30 representatives.

31 4. The following as ex officio members without the power to vote:

32 (a) The president of the senate.

33 (b) The speaker of the house of representatives.

34 (c) The president of the Arizona board of regents.

35 (d) The president of each state university under the jurisdiction
36 of the Arizona board of regents.

37 (e) One president of a community college who is appointed by a
38 statewide organization of community college presidents.

39 (f) The chairperson of the governor's council on small business, or
40 its successor.

41 (g) The chairperson of the workforce Arizona council established by
42 executive order pursuant to section 41-5401.

43 (h) One member of the rural business development advisory council
44 established by section 41-1505 who is appointed by the governor.

1 (i) The president of a statewide organization of incorporated
2 cities and towns who is appointed by the governor.

3 (j) The president of a statewide organization of county boards of
4 supervisors who is appointed by the governor.

5 C. For members who are appointed by the governor pursuant to
6 subsection B of this section, before appointment by the governor, a
7 prospective member of the board of directors shall submit a full set of
8 fingerprints to the governor for the purpose of obtaining a state and
9 federal criminal records check pursuant to section 41-1750 and Public Law
10 92-544. The department of public safety may exchange this fingerprint
11 data with the federal bureau of investigation.

12 D. The following shall serve as technical advisors to the board to
13 enhance collaboration among state agencies to meet infrastructure needs
14 and facilitate growth opportunities throughout this state:

15 1. The director of environmental quality.

16 2. The state land commissioner.

17 3. The director of the department of revenue.

18 4. The director of the office of tourism.

19 5. The director of the department of transportation.

20 6. The director of water resources.

21 7. The director of the department of ~~financial institutions~~
22 **INSURANCE AND FINANCIAL INSTITUTIONS.**

23 8. The director of the Arizona-Mexico commission in the governor's
24 office.

25 9. The director of the office of economic opportunity.

26 E. The governor shall appoint a cochairperson of the board of
27 directors from among the voting members. The board may establish an
28 executive committee consisting of the chairperson, the cochairperson, the
29 chief executive officer, and additional voting members of the board
30 elected by the board. The chairperson may appoint subcommittees as
31 necessary.

32 F. The board may request assistance from representatives of other
33 state agencies to maximize economic development opportunities by
34 leveraging their access to strategic assets and planning processes.

35 G. Board members serve without compensation but are eligible for
36 reimbursement of expenses pursuant to section 41-1504, subsection E,
37 paragraph 1.

38 H. A majority of the voting members, which must include the
39 chairperson and the chief executive officer, constitute a quorum for the
40 purpose of an official meeting for conducting business. An affirmative
41 vote of a majority of the members present at an official meeting is
42 sufficient for any action to be taken.

43 I. The board of directors shall keep and maintain a complete and
44 accurate record of all of its proceedings. Public access to the board's
45 records is subject to section 41-1504, subsection L.

1 J. The board of directors, executive committee, subcommittees and
2 advisory councils are subject to title 38, chapter 3, article 3.1,
3 relating to public meetings, except as follows:

4 1. In addition to section 38-431.03, the board of directors,
5 executive committee and subcommittees may meet in executive session for
6 discussion about potential business development opportunities and
7 strategies, ~~which~~ THAT, if made public, could potentially harm the
8 applicant's, the potential applicant's or this state's competitive
9 position.

10 2. Social and travel events related to the expansion, attraction
11 and retention of businesses are not public meetings if no legal action
12 involving a final vote or decision is taken.

13 3. Activities and events held in public for the purpose of
14 announcing the expansion, attraction and retention of projects are not
15 public meetings.

16 K. The board of directors and the officers and employees of the
17 authority are subject to title 38, chapter 3, article 8, relating to
18 conflicts of interest.

19 L. The board of directors shall adopt written policies, procedures
20 and guidelines for standards of conduct, including a gift policy, for
21 members of the board and for officers and employees of the authority.

22 M. The compensation of all officers and employees is considered a
23 public record pursuant to title 39, chapter 1.

24 N. The authority shall operate on the state fiscal year. The board
25 of directors shall cause an annual audit to be conducted on or before
26 October 31 of each of the authority's public funds established by this
27 chapter by an independent certified public accountant. The board shall
28 immediately file a certified copy of the audit with the auditor general.
29 The auditor general may make such further audits and examinations as
30 necessary and may take appropriate action relating to the audit or
31 examination pursuant to chapter 7, article 10.1 of this title. If the
32 auditor general takes no further action within thirty days after the audit
33 is filed, the audit is considered to be sufficient.

34 O. All state agencies shall cooperate with the authority and make
35 available data pertaining to the functions of the authority as requested
36 by the authority.

37 Sec. 52. Section 41-1758, Arizona Revised Statutes, as amended by
38 Laws 2018, chapter 46, section 4 and chapter 296, section 13, is amended
39 to read:

40 41-1758. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Agency" means the supreme court, the department of economic
43 security, the department of child safety, the department of education, the
44 department of health services, the department of juvenile corrections, the
45 department of emergency and military affairs, the department of public

1 safety, the department of transportation, the state real estate
2 department, the department of ~~financial institutions~~ INSURANCE AND
3 FINANCIAL INSTITUTIONS, the board of fingerprinting, the Arizona game and
4 fish department, THE ARIZONA DEPARTMENT OF AGRICULTURE, the board of
5 examiners of nursing care institution administrators and assisted living
6 facility managers, the state board of dental examiners, the Arizona state
7 board of pharmacy or the board of physical therapy or the state board of
8 technical registration.

9 2. "Division" means the fingerprinting division in the department
10 of public safety.

11 3. "Electronic or internet-based fingerprinting services" means a
12 secure system for digitizing applicant fingerprints and transmitting the
13 applicant data and fingerprints of a person or entity submitting
14 fingerprints to the department of public safety for any authorized purpose
15 under this title. For the purposes of this paragraph, "secure system"
16 means a system that complies with the information technology security
17 policy approved by the department of public safety.

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

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

- 22 (a) SECTION 3-314.
- 23 ~~(a)~~ (b) Section 8-105.
- 24 ~~(b)~~ (c) Section 8-322.
- 25 ~~(c)~~ (d) Section 8-463.
- 26 ~~(d)~~ (e) Section 8-509.
- 27 ~~(e)~~ (f) Section 8-802.
- 28 ~~(f)~~ (g) Section 15-183.
- 29 ~~(g)~~ (h) Section 15-503.
- 30 ~~(h)~~ (i) Section 15-512.
- 31 ~~(i)~~ (j) Section 15-534.
- 32 ~~(j)~~ (k) Section 15-763.01.
- 33 ~~(k)~~ (l) Section 15-782.02.
- 34 ~~(l)~~ (m) Section 15-1330.
- 35 ~~(m)~~ (n) Section 15-1881.
- 36 ~~(n)~~ (o) Section 17-215.
- 37 ~~(o)~~ (p) Section 28-3228.
- 38 ~~(p)~~ (q) Section 28-3413.
- 39 ~~(q)~~ (r) Section 32-122.02.
- 40 ~~(r)~~ (s) Section 32-122.05.
- 41 ~~(s)~~ (t) Section 32-122.06.
- 42 ~~(t)~~ (u) Section 32-1232.
- 43 ~~(u)~~ (v) Section 32-1276.01.
- 44 ~~(v)~~ (w) Section 32-1284.
- 45 ~~(w)~~ (x) Section 32-1297.01.

1 ~~(x)~~ (y) Section 32-1904.
2 ~~(y)~~ (z) Section 32-1941.
3 ~~(z)~~ (aa) Section 32-2022.
4 ~~(aa)~~ (bb) Section 32-2108.01.
5 ~~(bb)~~ (cc) Section 32-2123.
6 ~~(cc)~~ (dd) Section 32-2371.
7 ~~(dd)~~ (ee) Section 32-3620.
8 ~~(ee)~~ (ff) Section 32-3668.
9 ~~(ff)~~ (gg) Section 32-3669.
10 ~~(gg)~~ (hh) Section 36-207.
11 ~~(hh)~~ (ii) Section 36-411.
12 ~~(ii)~~ (jj) Section 36-425.03.
13 ~~(jj)~~ (kk) Section 36-446.04.
14 ~~(kk)~~ (ll) Section 36-594.01.
15 ~~(ll)~~ (mm) Section 36-594.02.
16 ~~(mm)~~ (nn) Section 36-882.
17 ~~(nn)~~ (oo) Section 36-883.02.
18 ~~(oo)~~ (pp) Section 36-897.01.
19 ~~(pp)~~ (qq) Section 36-897.03.
20 ~~(qq)~~ (rr) Section 36-3008.
21 ~~(rr)~~ (ss) Section 41-619.52.
22 ~~(ss)~~ (tt) Section 41-619.53.
23 ~~(tt)~~ (uu) Section 41-1964.
24 ~~(uu)~~ (vv) Section 41-1967.01.
25 ~~(vv)~~ (ww) Section 41-1968.
26 ~~(ww)~~ (xx) Section 41-1969.
27 ~~(xx)~~ (yy) Section 41-2814.
28 ~~(yy)~~ (zz) Section 46-141, subsection A.
29 ~~(zz)~~ (aaa) Section 46-321.
30 6. "Vulnerable adult" has the same meaning prescribed in section
31 13-3623.
32 Sec. 53. Repeal
33 Section 41-1758, Arizona Revised Statutes, as amended by Laws 2018,
34 chapter 287, section 4, is repealed.
35 Sec. 54. Section 41-3020.17, Arizona Revised Statutes, is amended
36 to read:
37 41-3020.17. Department of insurance and financial
38 institutions; termination July 1, 2020
39 If the voters approve a constitutional amendment repealing the
40 authority for the department of insurance **AND FINANCIAL INSTITUTIONS**
41 pursuant to article XV, section 5, Constitution of Arizona:
42 1. The department terminates on July 1, 2020.
43 2. **TITLE 6, title 20, ~~is~~ TITLE 32, CHAPTERS 9 AND 36, TITLE 41,**
44 **CHAPTER 31 AND TITLE 44, CHAPTER 2.1 ARE** repealed on January 1, 2021.

1 Sec. 55. Repeal
2 Sections 41-3022.17 and 41-3024.03, Arizona Revised Statutes, are
3 repealed.

4 Sec. 56. Section 41-3451, Arizona Revised Statutes, as amended by
5 Laws 2017, chapter 303, section 14, is amended to read:

6 41-3451. Automobile theft authority; powers and duties; fund;
7 audit

8 A. ~~At~~ THE automobile theft authority is established IN THE
9 DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS consisting of the
10 following members:

11 1. Two police chiefs who are appointed by ~~the~~ AN Arizona
12 association of chiefs of police, one of whom represents a city or town
13 with a population of one hundred thousand or more persons and one of whom
14 represents a city or town with a population of less than one hundred
15 thousand persons, or their designees.

16 2. Two sheriffs who are appointed by ~~the~~ AN Arizona sheriffs
17 association, one of whom represents a county with a population of five
18 hundred thousand or more persons and one of whom represents a county with
19 a population of less than five hundred thousand persons, or their
20 designees.

21 3. Two county attorneys who are appointed by the governor, one of
22 whom represents a county with a population of two million or more persons
23 and one of whom represents a county with a population of less than two
24 million persons, or their designees.

25 4. Two employees of insurers who are licensed to write motor
26 vehicle liability insurance in this state and who are appointed by the
27 governor.

28 5. Two members of the general public who are appointed by the
29 governor.

30 6. The assistant director for the motor vehicle division in the
31 department of transportation or the assistant director's designee.

32 7. The director of the department of public safety or the
33 director's designee.

34 B. Members serve staggered four-year terms beginning and ending on
35 the third Monday in January. At the first meeting each year, the members
36 shall select a chairman from among the members. The authority shall meet
37 at the call of the chairman or seven members.

38 C. The authority may:

39 1. Subject to chapter 4, article 4 of this title, hire staff
40 members as necessary, ~~including an executive director. The executive~~
41 ~~director's annual compensation shall not be more than one hundred thousand~~
42 ~~dollars.~~

43 2. Provide work facilities and equipment as necessary.

- 1 3. Determine the scope of the problem of motor vehicle theft,
2 including particular areas of the state where the problem is greatest.
- 3 4. Analyze the various methods of combating the problem of motor
4 vehicle theft.
- 5 5. Develop and implement a plan of operation.
- 6 6. Develop and implement a financial plan.
- 7 7. Solicit and accept gifts and grants.
- 8 8. Report by December 31 of each year to the governor, the
9 president of the senate, the speaker of the house of representatives and
10 the secretary of state on its activities during the preceding fiscal year.
- 11 D. If the chairman of the authority knows that a potential ground
12 for the removal of a member of the authority exists under this subsection,
13 the chairman shall notify the governor. The governor shall remove the
14 member if the governor finds that any of the following applies:
 - 15 1. The member was not qualified to serve at the time the member was
16 appointed.
 - 17 2. The member does not maintain the member's qualifications to
18 serve.
 - 19 3. The member cannot discharge the member's duties for a
20 substantial part of the term due to illness or other disability.
 - 21 4. The member is absent from more than one-half of the regularly
22 scheduled meetings during a calendar year unless the member's absence is
23 excused by a majority vote of the authority.
- 24 E. The automobile theft authority fund is established consisting of
25 any public or private monies that the authority may receive. The
26 automobile theft authority shall administer the fund. Subject to
27 legislative appropriation, monies in the fund shall only be used to pay
28 the expenses of the authority and to carry out the purposes of this
29 section. Monies in the fund are exempt from the provisions of sections
30 35-143.01 and 35-190 relating to lapsing of appropriations. On notice
31 from the authority, the state treasurer shall invest and divest monies in
32 the fund as provided by section 35-313, and monies earned from investment
33 shall be credited to the fund.
- 34 F. The authority may accept nonmonetary contributions, including
35 the services of individuals, office and secretarial assistance, mailings,
36 printing, office equipment, facilities and supplies, that are necessary to
37 carry out its functions. The nonmonetary contributions shall not be
38 included in the costs of administration limitation prescribed by
39 subsection H of this section.
- 40 G. The automobile theft authority shall allocate monies in the fund
41 to public agencies for the purpose of establishing, maintaining and
42 supporting programs that are designed to prevent motor vehicle theft,
43 including:

1 1. Financial support to law enforcement and prosecution agencies
2 for programs that are designed to increase the effectiveness of motor
3 vehicle theft prosecution.

4 2. Financial support for programs that are designed to educate and
5 assist the public in the prevention of motor vehicle theft.

6 H. The costs of administration shall not exceed ten percent of the
7 monies in the fund in any one year so that the greatest possible portion
8 of the monies available to the authority is expended on combating motor
9 vehicle theft.

10 I. Monies expended from the automobile theft authority fund shall
11 be used to supplement, not supplant, other monies that are available for
12 motor vehicle theft prevention.

13 J. Each insurer issuing motor vehicle liability insurance policies
14 in this state shall pay a semiannual fee of ~~fifty cents~~ \$.50 per vehicle
15 insured under a motor vehicle liability insurance policy issued by the
16 insurer. The fee shall be fully earned and nonrefundable at the time the
17 insurer collects the premium for the motor vehicle liability insurance
18 policy. Each insurer shall transmit the fee on or before January 31 and
19 on or before July 31 of each year to the automobile theft authority for
20 deposit in the automobile theft authority fund. The payment due on or
21 before January 31 shall cover vehicles insured under policies that are
22 issued during the period from July 1 through December 31 of the previous
23 year. The payment due on or before July 31 shall cover vehicles insured
24 under policies that are issued during the period from January 1 through
25 June 30 of the same year.

26 K. The authority shall cause an audit to be made of the automobile
27 theft authority fund. The audit shall be conducted by a certified public
28 accountant every two years. The authority shall file a certified copy of
29 the audit with the auditor general immediately. The auditor general may
30 make further audits and examinations as the auditor general deems
31 necessary and may take appropriate action relating to the audit pursuant
32 to chapter 7, article 10.1 of this title.

33 L. Authority members are not eligible to receive compensation but
34 are eligible for reimbursement of expenses pursuant to title 38, chapter
35 4, article 2.

36 M. This section does not apply to vehicles or vehicle combinations
37 with a declared gross weight of more than twenty-six thousand pounds.
38 Motor vehicle liability insurance policies issued in this state for
39 vehicles or vehicle combinations with a declared gross weight of more than
40 twenty-six thousand pounds are exempt from subsection J of this section.

1 Sec. 57. Section 41-3451, Arizona Revised Statutes, as amended by
2 Laws 2018, chapter 298, section 8, is amended to read:

3 41-3451. Automobile theft authority; powers and duties; fund;
4 audit

5 A. The automobile theft authority is established **IN THE DEPARTMENT**
6 **OF INSURANCE AND FINANCIAL INSTITUTIONS** consisting of the following
7 members:

8 1. Two police chiefs who are appointed by ~~the~~ **AN** Arizona
9 association of chiefs of police, one of whom represents a city or town
10 with a population of one hundred thousand or more persons and one of whom
11 represents a city or town with a population of less than one hundred
12 thousand persons, or their designees.

13 2. Two sheriffs who are appointed by ~~the~~ **AN** Arizona sheriffs
14 association, one of whom represents a county with a population of five
15 hundred thousand or more persons and one of whom represents a county with
16 a population of less than five hundred thousand persons, or their
17 designees.

18 3. Two county attorneys who are appointed by the governor, one of
19 whom represents a county with a population of two million or more persons
20 and one of whom represents a county with a population of less than two
21 million persons, or their designees.

22 4. Two employees of insurers who are licensed to write motor
23 vehicle liability insurance in this state and who are appointed by the
24 governor.

25 5. Two members of the general public who are appointed by the
26 governor.

27 6. The assistant director for the motor vehicle division in the
28 department of transportation or the assistant director's designee.

29 7. The director of the department of public safety or the
30 director's designee.

31 B. Members serve staggered four-year terms beginning and ending on
32 the third Monday in January. At the first meeting each year, the members
33 shall select a chairman from among the members. The authority shall meet
34 at the call of the chairman or seven members.

35 C. The authority may:

36 1. Subject to chapter 4, article 4 of this title, hire staff
37 members as necessary, ~~including an executive director. The executive~~
38 ~~director's annual compensation shall not be more than one hundred thousand~~
39 ~~dollars.~~

40 2. Provide work facilities and equipment as necessary.

41 3. Determine the scope of the problem of motor vehicle theft,
42 including particular areas of the state where the problem is greatest.

43 4. Analyze the various methods of combating the problem of motor
44 vehicle theft.

45 5. Develop and implement a plan of operation.

1 6. Develop and implement a financial plan.

2 7. Solicit and accept gifts and grants.

3 8. Report by December 31 of each year to the governor, the
4 president of the senate, the speaker of the house of representatives and
5 the secretary of state on its activities during the preceding fiscal year.

6 D. If the chairman of the authority knows that a potential ground
7 for the removal of a member of the authority exists under this subsection,
8 the chairman shall notify the governor. The governor shall remove the
9 member if the governor finds that any of the following applies:

10 1. The member was not qualified to serve at the time the member was
11 appointed.

12 2. The member does not maintain the member's qualifications to
13 serve.

14 3. The member cannot discharge the member's duties for a
15 substantial part of the term due to illness or other disability.

16 4. The member is absent from more than one-half of the regularly
17 scheduled meetings during a calendar year unless the member's absence is
18 excused by a majority vote of the authority.

19 E. The automobile theft authority fund is established consisting of
20 monies deposited pursuant to section 28-2098 and any public or private
21 monies that the authority may receive. The automobile theft authority
22 shall administer the fund. Subject to legislative appropriation, monies
23 in the fund shall only be used to pay the expenses of the authority and to
24 carry out the purposes of this section. Monies in the fund are exempt
25 from the provisions of sections 35-143.01 and 35-190 relating to lapsing
26 of appropriations. On notice from the authority, the state treasurer
27 shall invest and divest monies in the fund as provided by section 35-313,
28 and monies earned from investment shall be credited to the fund.

29 F. The authority may accept nonmonetary contributions, including
30 the services of individuals, office and secretarial assistance, mailings,
31 printing, office equipment, facilities and supplies, that are necessary to
32 carry out its functions. The nonmonetary contributions shall not be
33 included in the costs of administration limitation prescribed by
34 subsection H of this section.

35 G. The automobile theft authority shall allocate monies in the fund
36 to public agencies for the purpose of establishing, maintaining and
37 supporting programs that are designed to prevent motor vehicle theft,
38 including:

39 1. Financial support to law enforcement and prosecution agencies
40 for programs that are designed to increase the effectiveness of motor
41 vehicle theft prosecution.

42 2. Financial support for programs that are designed to educate and
43 assist the public in the prevention of motor vehicle theft.

1 H. The costs of administration shall not exceed ten percent of the
2 monies in the fund in any one year so that the greatest possible portion
3 of the monies available to the authority is expended on combating motor
4 vehicle theft.

5 I. Monies expended from the automobile theft authority fund shall
6 be used to supplement, not supplant, other monies that are available for
7 motor vehicle theft prevention.

8 J. Each insurer issuing motor vehicle liability insurance policies
9 in this state shall pay a semiannual fee of ~~fifty cents~~ \$.50 per vehicle
10 insured under a motor vehicle liability insurance policy issued by the
11 insurer. The fee shall be fully earned and nonrefundable at the time the
12 insurer collects the premium for the motor vehicle liability insurance
13 policy. Each insurer shall transmit the fee on or before January 31 and
14 on or before July 31 of each year to the automobile theft authority for
15 deposit in the automobile theft authority fund. The payment due on or
16 before January 31 shall cover vehicles insured under policies that are
17 issued during the period from July 1 through December 31 of the previous
18 year. The payment due on or before July 31 shall cover vehicles insured
19 under policies that are issued during the period from January 1 through
20 June 30 of the same year.

21 K. The authority shall cause an audit to be made of the automobile
22 theft authority fund. The audit shall be conducted by a certified public
23 accountant every two years. The authority shall file a certified copy of
24 the audit with the auditor general immediately. The auditor general may
25 make further audits and examinations as the auditor general deems
26 necessary and may take appropriate action relating to the audit pursuant
27 to chapter 7, article 10.1 of this title.

28 L. Authority members are not eligible to receive compensation but
29 are eligible for reimbursement of expenses pursuant to title 38, chapter
30 4, article 2.

31 M. This section does not apply to vehicles or vehicle combinations
32 with a declared gross weight of more than twenty-six thousand pounds.
33 Motor vehicle liability insurance policies issued in this state for
34 vehicles or vehicle combinations with a declared gross weight of more than
35 twenty-six thousand pounds are exempt from subsection J of this section.

36 Sec. 58. Section 41-3453, Arizona Revised Statutes, is amended to
37 read:

38 41-3453. Failure to pay fee; definitions

39 A. The automobile theft authority shall notify the director ~~of the~~
40 ~~department of insurance~~ of an insurer's failure to pay the fee prescribed
41 by section 41-3451, subsection J. On receiving notice of an insurer's
42 failure to pay the fee, the director may suspend the insurer's certificate
43 of authority or impose a civil penalty of not more than one hundred twenty
44 ~~per cent~~ PERCENT of the amount due, or both. The insurer shall pay the
45 civil penalty to the director. The director shall deposit, pursuant to

1 sections 35-146 and 35-147, the civil penalty in the automobile theft
2 authority fund.

3 B. For the purposes of this section:

4 1. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND
5 FINANCIAL INSTITUTIONS.

6 2. "Insurer" means an insurer that writes motor vehicle insurance
7 in this state, including reciprocal insurers, mutual companies, mutual
8 associations and Lloyd's plans.

9 Sec. 59. Section 44-281, Arizona Revised Statutes, is amended to
10 read:

11 44-281. Definitions

12 In this article, unless the context otherwise requires:

13 1. "Administrator" means the superintendent of THE financial
14 institutions DIVISION OF THE DEPARTMENT OF INSURANCE AND FINANCIAL
15 INSTITUTIONS.

16 2. "Cash sale price" means the price stated in a retail installment
17 contract for which the seller would have sold to the buyer, and the buyer
18 would have bought from the seller, the motor vehicle ~~which~~ THAT is the
19 subject matter of the retail installment contract, if such sale had been a
20 sale for cash instead of a retail installment transaction. The cash sale
21 price may include charges for accessories and their installation and for
22 delivery, and servicing, repairing or improving the motor vehicle, and for
23 charges for other costs that are necessary or incidental to the
24 transaction and that the seller furnishes or agrees to pay on behalf of
25 the buyer, including taxes, assessor's fees, license fees and fees for
26 filing, recording or otherwise perfecting or releasing a reserved title or
27 lien, and may include a reasonable charge for the seller's services.

28 3. "Finance charge" means the amount agreed ~~upon~~ ON between the
29 buyer and the seller, as limited herein, which in determining the cost of
30 the motor vehicle is added to the aggregate of the following: The cash
31 sale price and the amount, if any, included for insurance and other
32 benefits where a separate cost is assigned thereto.

33 4. "Holder" of a retail installment contract means the retail
34 seller of the motor vehicle under or subject to the contract or, if the
35 contract is purchased by a sales finance company or other assignee, the
36 sales finance company or other assignee.

37 5. "Motor vehicle" means any self-propelled device in or by which
38 any person or property is or may be transported or drawn on a public
39 highway, except:

40 (a) Devices that move ~~upon~~ ON or are guided by a track or travel
41 through the air.

1 (b) The following, if not designed primarily for highway
2 transportation, but ~~which~~ THAT may incidentally be operated on a public
3 highway:

- 4 (i) Tractors.
- 5 (ii) Buses.
- 6 (iii) Trucks.
- 7 (iv) Power shovels.
- 8 (v) Road machinery.
- 9 (vi) Agricultural machinery.

10 6. "Person" means an individual, partnership, association, trust,
11 corporation, or other legal entity.

12 7. "Retail buyer" or "buyer" means a person who buys a motor
13 vehicle from a retail seller, not for the purpose of resale, and who
14 executes a retail installment contract in connection therewith.

15 8. "Retail installment contract" or "contract":

16 (a) Means an agreement, entered into in this state, pursuant to
17 which the title to or a lien ~~upon~~ ON the motor vehicle, which is the
18 subject matter of a retail installment transaction, is retained or taken
19 by a retail seller from a retail buyer as security for the buyer's
20 obligation.

21 (b) Includes:

22 (i) A conditional sales contract and a contract for the bailment or
23 leasing of a motor vehicle by which the bailee or lessee contracts to pay
24 as compensation for its use a sum substantially equivalent to or in excess
25 of its value and by which it is agreed that the bailee or lessee is bound
26 to become, or has the option of becoming, the owner of the motor vehicle
27 for no other or a nominal consideration ~~upon~~ ON full compliance with the
28 provisions of the contract.

29 (ii) A secondary motor vehicle finance transaction.

30 9. "Retail installment transaction" means any transaction evidenced
31 by a retail installment contract entered into between a retail buyer and a
32 retail seller wherein the retail buyer buys a motor vehicle from the
33 retail seller at a cost payable in one or more deferred installments. The
34 cash sale price of the motor vehicle, the amount included for insurance if
35 a separate charge is made and the finance charge shall together constitute
36 the cost of the motor vehicle.

37 10. "Retail seller" or "seller" means a person who sells a motor
38 vehicle to a retail buyer for purposes other than resale under or subject
39 to a retail installment contract. For the purposes of paragraph 12 of
40 this section "seller" means a person who sells and retains the use of the
41 motor vehicle.

42 11. "Sales finance company":

43 (a) Means a person engaged, in whole or in part, in the business of
44 purchasing retail installment contracts from one or more retail sellers.

1 (b) Includes a person engaged, in whole or in part, in the business
2 of creating or holding retail installment contracts that exceed a total
3 aggregate outstanding indebtedness of ~~fifty thousand dollars~~ \$50,000.

4 (c) Does not include:

5 (i) The pledgee of an aggregate number of retail installment
6 contracts to secure a bona fide loan thereon.

7 (ii) A motor vehicle dealer who creates retail installment
8 contracts and assigns the retail installment contracts to third party
9 lenders or financial institutions.

10 12. "Secondary motor vehicle finance transaction":

11 (a) Means any contract that includes provisions for either:

12 (i) Obtaining a security interest in or lien on a motor vehicle
13 other than in connection with the sale of that motor vehicle.

14 (ii) The sale or conditional sale of a motor vehicle and the
15 seller's right to retain use of the motor vehicle after the sale or
16 conditional sale.

17 (b) Includes any conditional sales contract or contract for the
18 bailment or leasing of a motor vehicle in which the bailee or lessee
19 agrees to pay for use of the motor vehicle and the bailee or lessee is
20 required to become or has the option of becoming the owner of the vehicle
21 for any or no compensation.

22 (c) Does not include any commercial transaction as defined in
23 section 44-291.

24 Sec. 60. Section 44-282, Arizona Revised Statutes, is amended to
25 read:

26 44-282. Licensing of sales finance companies required;
27 penalty

28 A. ~~No~~ A person shall NOT engage in the business of a sales finance
29 company in this state without a SALES FINANCE COMPANY license ~~therefor~~ as
30 provided in this article. A motor vehicle dealer shall not sell or
31 transfer any contract to a person in ~~Arizona~~ THIS STATE not licensed under
32 the terms of this chapter.

33 B. The application for a license shall be in writing, under oath
34 and in the form prescribed by the administrator. The application shall
35 contain the name of the applicant, the date of incorporation if
36 incorporated, the address where the business is or is to be conducted and
37 similar information as to any branch office of the applicant, the name and
38 resident address of the owners or partners or, if a corporation or
39 association, of the directors, trustees and principal officers, and such
40 other pertinent information the administrator may require.

41 C. The license fee for a sales finance company is the fee
42 prescribed in section 6-126.

43 D. To coincide with the licensing of motor vehicle dealers pursuant
44 to title 28, chapter 10, the administrator may issue a sales finance
45 company license pursuant to this article with staggered continuation dates

1 to distribute the continuation workload as uniformly as practicable
2 throughout the twelve months of the calendar year. In order to initiate a
3 staggered license continuation system, the administrator may issue a
4 license for more or less than a ~~twelve month~~ TWELVE-MONTH period, but not
5 more than eighteen months, and may prorate the license fee.

6 E. A licensee shall submit its renewal application and applicable
7 renewal fees to the department of ~~financial institutions~~ INSURANCE AND
8 FINANCIAL INSTITUTIONS on or before the license continuation date. For
9 the purposes of renewal, the license continuation date is as follows:

10 1. If the licensee is also a licensed motor vehicle dealer pursuant
11 to title 28, chapter 10, the date prescribed by the initial licensing
12 department, either the department of transportation or the department of
13 ~~financial institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS.

14 2. If the licensee is not also a licensed motor vehicle dealer
15 pursuant to title 28, chapter 10, the date prescribed by the department of
16 ~~financial institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS.

17 F. A penalty of ~~twenty-five dollars~~ \$25 per day shall be assessed
18 against any licensee for each day after the license continuation date that
19 the licensee's renewal application and fee are not received by the
20 department of ~~financial institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS.
21 Licenses not renewed within thirty days after their license continuation
22 date expire.

23 G. A license shall be obtained for each separate place of business
24 at or from which a licensee transacts business. Each license shall
25 specify the location of the office or branch and must be conspicuously
26 displayed there. In case such location is changed, the administrator
27 shall endorse the change of location on the license on the payment of the
28 fee prescribed in section 6-126, subsection A.

29 H. On the filing of the application and the payment of the required
30 fee the administrator shall issue a license to the applicant to engage in
31 the business of a sales finance company under and in accordance with this
32 article. All licenses issued under this article shall remain in full
33 force and effect until surrendered, revoked, suspended or canceled by
34 failure to renew under this article. ~~No~~ A licensee shall NOT transact any
35 business provided for by this article under any other name.

36 I. A license is not transferable or assignable and control of a
37 licensee may not be acquired through a stock purchase or any other device
38 without the prior written consent of the administrator. Written consent
39 shall not be given if the administrator finds that any of the grounds for
40 denial, revocation or suspension of a license as set forth in section
41 44-283 are applicable to the acquiring person. For the purposes of this
42 subsection, "control" means the power to vote more than twenty percent of
43 the outstanding voting shares of a licensed corporation, partnership,
44 association or trust.

1 J. A person doing business under the laws of this state or the
2 United States as a bank, savings bank, savings and loan association or
3 credit union is exempt from the licensing requirements of this section but
4 shall comply with all other requirements of this chapter, except that
5 affiliates of banks, savings banks, savings and loan associations or
6 credit unions shall comply with this section. For the purposes of this
7 subsection, "affiliate" means an entity that directly or indirectly,
8 through one or more intermediaries, controls, is controlled by or is under
9 common control with the entity specified.

10 Sec. 61. Section 44-287, Arizona Revised Statutes, is amended to
11 read:

12 44-287. Contents of contract

13 A. The contract shall contain the names of the seller and the
14 buyer, the place of business of the seller, the residence or place of
15 business of the buyer as specified by the buyer and a description of the
16 motor vehicle including its make, year, model and identification number or
17 marks.

18 B. The contract shall contain the following items:

19 1. The cash sale price of the motor vehicle.

20 2. The amount of the buyer's down payment, and whether made in
21 money or goods, or partly in money and partly in goods.

22 3. The difference between paragraphs 1 and 2 **OF THIS SUBSECTION**.

23 4. The amount, if any, included for insurance specifying the term
24 and types of coverage. If the contract does not include liability
25 insurance coverage for bodily injuries and property damage, such fact
26 shall be so set forth in capital letters immediately above the signatures
27 of the parties to the contract.

28 5. The final cash price balance, which is the sum of ~~paragraph~~
29 **PARAGRAPHS 3 and paragraph 4 OF THIS SUBSECTION**.

30 6. The amount of the finance charge and the rate at which it is
31 computed.

32 7. The time balance, which is the sum of paragraphs 5 and 6 **OF THIS**
33 **SUBSECTION**, payable in installments by the buyer to the seller, the number
34 of installments, the amount of each installment and the due date or period
35 ~~thereof~~ **OF EACH INSTALLMENT**.

36 8. A statement, adjacent to the signature line of the contract, in
37 bold-faced type, setting forth the telephone number and address of the
38 department of ~~financial institutions~~ **INSURANCE AND FINANCIAL INSTITUTIONS**
39 and stating that the seller is regulated by the department of ~~financial~~
40 ~~institutions~~ **INSURANCE AND FINANCIAL INSTITUTIONS** and that any complaints
41 concerning the contract may be addressed to the department of ~~financial~~
42 ~~institutions~~ **INSURANCE AND FINANCIAL INSTITUTIONS**.

43 C. The items set forth in subsection B **OF THIS SECTION** need not be
44 stated in the sequence or order set forth, and additional items may be

1 included to explain the calculations involved in determining the stated
2 time balance to be paid by the buyer.

3 D. Notwithstanding any other law, in the case of motor vehicles,
4 trailers or semitrailers, a transaction does not create a sale or security
5 interest merely because it provides that the rental price is permitted or
6 required to be adjusted under the agreement either upward or downward by
7 reference to the amount realized ~~upon~~ ON sale or other disposition of the
8 motor vehicle, trailer or semitrailer.

9 Sec. 62. Section 44-1601, Arizona Revised Statutes, is amended to
10 read:

11 44-1601. Definitions

12 In this article, unless the context otherwise requires:

13 1. "Dealer" means a person engaged in conducting, managing or
14 carrying on the business of purchasing solely precious items or precious
15 items in addition to other tangible personal property. Dealer does not
16 include:

17 (a) Investment brokerage houses.

18 (b) Financial institutions regulated by the department of ~~financial~~
19 ~~institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS.

20 (c) Securities brokerage houses regulated by a recognized national
21 stock exchange.

22 2. "Investment brokerage house" means a house with commissioned
23 agents who execute buy and sell orders for their customers and who:

24 (a) Execute orders for investment items.

25 (b) Do not assume the risks of ownership in the normal course of
26 providing their brokerage services.

27 (c) Do not maintain or deal from an inventory of investment items.

28 3. "Investment items" means commodities ~~which~~ THAT possess the
29 characteristics of those items commonly traded in internationally
30 recognized markets.

31 4. "Local law enforcement agency" means the police department of an
32 incorporated city or town or, in areas outside of incorporated cities and
33 towns, the county sheriff.

34 5. "Person" means an individual, partnership, corporation,
35 association or any other entity of whatever kind or nature.

36 6. "Precious item" means:

37 (a) Secondhand gold, silver, platinum or jewelry, flatware or
38 holloware containing gold, silver or platinum.

39 (b) Secondhand precious or semiprecious stones whether mounted or
40 unmounted.

41 (c) Secondhand pearls. Precious item does not include coins and
42 unmounted gemstones accompanied by a certificate from an independent,
43 internationally recognized gem grading laboratory.

44 7. "Purchase" means to buy, trade, exchange or receive a precious
45 item.

1 8. "Secondhand" means that the precious item has previously been
2 owned by someone other than the manufacturer or dealer whose business it
3 is to sell such items to the public.

4 Sec. 63. Section 44-3101, Arizona Revised Statutes, is amended to
5 read:

6 44-3101. Definitions

7 In this chapter, unless the context otherwise requires:

8 1. "Closed-end company" means any management company other than an
9 open-end company or unit investment trust.

10 2. "Depository institution" means a bank, savings and loan
11 association or trust company whose business is supervised and regulated by
12 an agency of this state or the United States, or an employee, as defined
13 in title 10, chapter 1, of any such bank, savings and loan association or
14 trust company while acting within the scope of the employee's employment.

15 3. "Federal covered adviser" means an investment adviser registered
16 under the investment advisers act of 1940.

17 4. "IARD" means the investment adviser registration depository
18 operated by the national association of securities dealers.

19 5. "Investment adviser" means any person who, for compensation,
20 engages in the business of advising others, either directly or through
21 publications or writings, as to the value of securities or as to the
22 advisability of investing in, purchasing or selling securities or who, for
23 compensation and as a part of a regular business, issues or promulgates
24 analyses or reports concerning securities. Investment adviser includes
25 financial planners and other persons who, as an integral component of
26 other financially related services, provide the foregoing investment
27 advisory services to others for compensation and as part of a business or
28 who hold themselves out as providing the foregoing investment advisory
29 services to others for compensation. Investment adviser does not include:

30 (a) An investment adviser representative.

31 (b) A depository institution.

32 (c) A lawyer, law firm, certified public accountant or accounting
33 firm whose performance of the investment advisory services is solely
34 incidental to the practice of the person's profession or who does not do
35 any of the following:

36 (i) Exercise investment discretion with respect to the assets of
37 clients or maintain custody of the assets of clients for the purpose of
38 investing the assets, except if the person is acting in a bona fide
39 fiduciary capacity such as an executor, trustee, personal representative,
40 estate or trust agent, guardian or conservator.

41 (ii) Accept or receive directly or indirectly any commission, fee
42 or other remuneration contingent on the purchase or sale of any specific
43 security by a client of the person.

44 (iii) Give advice on the purchase or sale of specific securities
45 other than advice about specific securities that is based on financial

1 statement analysis or tax considerations that are reasonably related to
2 and in connection with the person's profession.

3 (d) A publisher, employee or columnist of any newspaper, news
4 column, newsletter, news magazine or business or financial publication or
5 service, whether communicated in hard copy form, by electronic means or
6 otherwise, that does not consist of the rendering of advice on the basis
7 of the specific investment situation of each client.

8 (e) An insurance company or insurance producer that is licensed or
9 authorized by the department of insurance AND FINANCIAL INSTITUTIONS to
10 transact the business of insurance, including the sale of annuities, whose
11 performance of the investment advisory services is solely incidental to
12 the conduct of business as an insurance company or insurance producer and
13 that receives no special compensation for providing investment advisory
14 services.

15 (f) A real estate salesperson or real estate broker who is licensed
16 or authorized by the state real estate department to transact the business
17 of real estate, whose performance as an investment adviser is solely
18 incidental to the conduct of the individual's business as a broker or
19 salesman and who receives no special compensation for providing investment
20 advisory services.

21 (g) Any officer, director, partner or employee of an entity engaged
22 in selling interest in entities that invest in real property, including
23 partnerships, corporations or sole proprietorships, if such transactions
24 are otherwise subject to the securities laws of the United States or this
25 state.

26 (h) Mortgage brokers or mortgage bankers who are licensed by the
27 department of ~~financial institutions~~ INSURANCE AND FINANCIAL INSTITUTIONS
28 to transact the business of a mortgage broker or mortgage banker, and
29 their employees, whose performance of any investment advisory service is
30 solely incidental to the conduct of the business of a mortgage broker or
31 mortgage banker and who receives no special compensation for providing
32 investment advisory services.

33 6. "Investment adviser representative" means any partner, officer
34 or director of an investment adviser, any individual who occupies a status
35 or performs functions similar to a partner, officer or director of an
36 investment adviser or any other individual who is employed by or
37 associated with an investment adviser, except clerical or ministerial
38 personnel, and who does any of the following:

39 (a) Makes any recommendations or otherwise renders advice regarding
40 securities.

41 (b) Manages accounts or portfolios of clients.

42 (c) Determines which recommendation or advice regarding securities
43 should be given to a client if the individual is a member of the
44 investment adviser's investment committee that determines general
45 investment advice to be given to clients or the individual determines

1 general client advice if the investment adviser has no investment
2 committee, except that if an investment adviser has more than five
3 individuals who make recommendations or give advice, only the supervisors
4 of those individuals are investment adviser representatives.

5 (d) Solicits, offers or negotiates for the sale of or sells
6 investment advisory services.

7 (e) Directly supervises employees who perform any of the acts
8 described in this paragraph.

9 7. "Investment advisers act of 1940" means the act of Congress
10 known as the investment advisers act of 1940 (15 United States Code
11 section 80b).

12 8. "Investment company" means any company that is registered under
13 the investment company act of 1940.

14 9. "Investment company act of 1940" means the act of Congress known
15 as the investment company act of 1940 (15 United States Code section 80a).

16 10. "Licensed investment adviser" means an investment adviser
17 licensed under this chapter.

18 11. "Licensed investment adviser representative" means an
19 investment adviser representative licensed under this chapter.

20 12. "Open-end company" means a management company that is offering
21 for sale or has outstanding any redeemable security of which it is the
22 issuer.

23 13. "Solely incidental to the practice of the person's profession"
24 and "solely incidental to the conduct of the person's business" means that
25 the person does not hold itself out to the public as a provider of
26 investment advisory services, the investment advisory services are
27 rendered in connection with and reasonably related to the professional
28 services or business transactions being provided or consummated and the
29 fee charged for the investment advisory services is based on the same
30 factors used by the person to determine the fees for the person's
31 professional or business services.

32 14. "Unit investment trust" means an investment company that is
33 organized under a trust indenture, contract of custodianship or agency or
34 similar instrument, that does not have a board of directors and that
35 issues only redeemable securities, each of which represents an undivided
36 interest in a unit of specified securities, but does not include a voting
37 trust.

38 Sec. 64. Section 46-300.03, Arizona Revised Statutes, is amended to
39 read:

40 46-300.03. Individual development accounts; definition

41 A. A financial instrument known as an individual development
42 account is established. An individual development account shall be in the
43 name of an individual account holder who is a member of an assistance unit
44 that is receiving cash assistance benefits.

45 B. Deposits to an individual development account may be made by:

- 1 1. The individual account holder.
- 2 2. A member of the individual account holder's assistance unit.
- 3 3. A nonprofit organization.
- 4 4. Individual contributors.

5 C. The department shall:

- 6 1. Adopt rules regarding:

7 (a) The establishment and administration of the individual
8 development accounts. These rules shall include provisions ~~which~~ **THAT**
9 stipulate that the department may not qualify an assistance unit for
10 benefits by prospectively budgeting the availability of an individual
11 development account.

12 (b) The criteria a nonprofit organization must satisfy before
13 making deposits to individual development accounts.

14 (c) Penalties for fraud or abuse with respect to the individual
15 development account.

16 2. Not approve more than one individual development account per
17 assistance unit.

18 3. Issue a request for proposals to financial institutions to
19 establish and, together with the department, administer individual
20 development accounts.

21 4. Not approve an individual development account for any recipient
22 who has been found by either the department or a court of law to have
23 committed any act of fraud or abuse with respect to any cash or in-kind
24 benefit program including aid to families with dependent children, food
25 stamps or medicaid.

26 5. Investigate all cases for possible fraud or abuse when there is
27 evidence or other reason to believe that income sources for an account
28 holder's deposits were previously available to the account holder but
29 undeclared during application or subsequent redetermination for
30 assistance, or that individual contributions to an account should have
31 been declared as income or child support payments or represent proceeds
32 from illegal activities.

33 D. The individual development accounts shall be administered by a
34 financial institution that is licensed by the department of ~~financial~~
35 ~~institutions~~ **INSURANCE AND FINANCIAL INSTITUTIONS**. These accounts shall
36 earn interest at rates that are competitive with savings account rates.

37 E. The balance of an individual development account at any one time
38 may not exceed ~~nine thousand dollars~~ **\$9,000**. Total deposits to an
39 individual development account over the life of the account shall not
40 exceed ~~twelve thousand dollars~~ **\$12,000**. Deposits from income earned by a
41 member or members of an assistance unit may not exceed ~~two hundred dollars~~
42 **\$200** per month.

43 F. The account holder whose assistance unit is receiving cash
44 assistance benefits from the department may withdraw monies from ~~his~~ **THE**
45 **ACCOUNT HOLDER'S** individual development account for:

1 1. Educational costs at an accredited institution of higher
2 education that are paid directly to the institution.

3 2. Training costs for an accredited, licensed or certified training
4 program that are paid directly to an eligible education institution.

5 3. Purchase costs for a first home to be used as a qualified
6 principal residence by the account holder. These costs shall be paid
7 directly to the persons or organizations to which the amounts are due.

8 4. Business capitalization expenses paid directly to a business
9 capitalization account, which is held in a federally insured financial
10 institution. The business capitalization account shall be restricted to
11 use solely for qualified business capitalization expenses.

12 G. Unless the monies would have been otherwise disregarded from an
13 income calculation, the department shall consider withdrawals from an
14 individual development account, for purposes other than those established
15 in subsection F OF THIS SECTION, by an account holder whose assistance
16 unit is receiving cash assistance or both cash assistance and food stamp
17 program benefits, as income to the assistance unit in the month that it is
18 withdrawn.

19 H. The department shall disregard from an assistance unit's earned
20 income calculation fifty per cent of a deposit made to an individual
21 development account from the proceeds of an account holder's or assistance
22 unit member's earned income. The maximum monthly disregard under this
23 subsection shall not exceed ~~one hundred dollars~~ \$100.

24 I. Subject to the limitations prescribed in this section, deposits
25 made into an individual development account and the account balance,
26 including interest earned, shall be disregarded by the department in
27 determining the account holder's and the assistance unit's eligibility for
28 the cash assistance and food stamp programs as well as any other
29 assistance or services in which eligibility for receipt is directly linked
30 to eligibility for THE cash assistance and food stamp programs. If an
31 assistance unit with an individual development account experiences any
32 break in eligibility for cash assistance, and then subsequently reapplies
33 for either cash assistance or food stamp program benefits, the department
34 shall consider any remaining account monies, unless otherwise excludable,
35 as countable assets and shall not disregard, for purposes of eligibility
36 in either program, future deposits into an individual development account.

37 J. The account holder shall name contingent beneficiaries ~~at the~~
38 ~~time he~~ WHEN THE ACCOUNT HOLDER establishes the account and may change
39 beneficiaries at any time after the account is established. If the named
40 beneficiary is deceased or otherwise cannot accept the transfer, the
41 monies shall be deemed unclaimed property.

42 K. A holder of an individual development account whose assistance
43 unit is no longer receiving cash assistance benefits from the department
44 may withdraw ~~his~~ THE HOLDER'S deposited monies from ~~his~~ THE HOLDER'S
45 account for any purpose. The account holder is responsible to abide by

1 any regulations or guidelines regarding the use of any monies contained in
2 the account ~~which~~ THAT are from a nonprofit or governmental organization.

3 L. For the purposes of this section "department" means the
4 department of economic security.

5 M. The legislature intends by this section to address the problem
6 faced by many assistance beneficiaries of being unable to either achieve
7 educational goals or accumulate resources during a stay on welfare due to
8 the effects of financial eligibility criteria. The inability to meet
9 educational goals or accumulate some financial resources is a significant
10 reason why many beneficiaries do not permanently transition off of welfare
11 programs and instead shuttle back and forth between periods of eligibility
12 and ineligibility. The purpose of the individual development accounts is
13 to provide an additional tool to ~~assistance~~ ASSIST beneficiaries to use
14 during and after a stay on welfare, in order to help facilitate a
15 permanent transition off of welfare programs and into self-sufficiency.

16 Sec. 65. Section 48-101, Arizona Revised Statutes, is amended to
17 read:

18 48-101. State certification board

19 A. The state certification board ~~shall consist~~ CONSISTS of the
20 attorney general, the director of water resources and the superintendent
21 of THE financial institutions DIVISION OF THE DEPARTMENT OF INSURANCE AND
22 FINANCIAL INSTITUTIONS.

23 B. The board shall elect one of its members chairman, and appoint a
24 secretary who shall keep the records and minutes of the board. One or
25 more members of the board shall from time to time, as may be required,
26 designate from ~~his or their~~ THE MEMBER'S regularly employed personnel the
27 secretary and such clerks and assistants as are necessary to perform the
28 duties of the board but without extra compensation.

29 C. The governor shall be an ex officio member of the board without
30 additional compensation. The office of the board shall be at Phoenix,
31 where records concerning all proceedings taken under this article shall be
32 kept.

33 D. The board shall meet on a call of the chairman or on the written
34 request of three of its members at a fixed time within official business
35 hours, on not less than two days' prior written notice, but notice may be
36 waived in writing. Meetings may be recessed or adjourned from time to
37 time without giving further notice and continuances may be granted for
38 good cause. A majority ~~shall constitute~~ CONSTITUTES a quorum and matters
39 pending before the board shall be decided by majority vote. The board
40 ~~shall be authorized to~~ MAY adopt ~~and promulgate~~ necessary rules of
41 procedure and regulations for the conduct of its affairs and discharge of
42 its duties under this article. ~~No~~ Fees other than for necessary
43 stenographic services, printing or publication, ~~shall~~ MAY NOT be charged
44 or collected from the applicant by the board.

1 E. The scope and subjects of the board's examination, consideration
2 and determination ~~shall be~~ ARE confined to the matters prescribed and
3 embraced in the record filed by the applicant in support of its
4 application and its proposed bond issue, proof offered in respect thereto,
5 and the adequacy, weight and sufficiency thereof to justify the proposed
6 bond issue.

7 Sec. 66. Section 48-3204, Arizona Revised Statutes, is amended to
8 read:

9 48-3204. Issuance of certificate; form

10 A. When any bond of a district, including any bond authorized but
11 not sold, ~~which~~ THAT is eligible for certification by the director of the
12 department of administration as provided by section 48-3202 is presented
13 to the director of the department of administration, ~~he~~ THE DIRECTOR OF
14 THE DEPARTMENT OF ADMINISTRATION shall attach a certificate to the bond in
15 substantially the following form:

16 Phoenix, Arizona

17 _____
18 (insert date)

19 I, _____ director of the department
20 of administration of the state of Arizona, do hereby certify
21 that the within bond, number _____, of series number
22 _____ of the _____ district, issued
23 _____ (insert date), is, in accordance with
24 an act of the legislature of the state of Arizona, approved
25 _____ (insert date), a legal investment for
26 the funds of savings banks in the state of Arizona, and may be
27 deposited to secure public monies, it being entitled to such
28 privilege by virtue of an examination by the director of water
29 resources, the attorney general and the superintendent of THE
30 financial institutions DIVISION OF THE DEPARTMENT OF INSURANCE
31 AND FINANCIAL INSTITUTIONS of the state of Arizona in
32 pursuance of said act.

33 _____
34 Director of the department of
35 administration of the state
36 of Arizona.

37 B. A facsimile of the signature of the director of the department
38 of administration impressed ~~upon~~ ON the certificate shall be a sufficient
39 signing thereof, provided that the imprint of the seal of the director of
40 the department of administration shall appear ~~upon~~ ON both the certificate
41 and the bond over the facsimile signature.

42 Sec. 67. Retention of rules

43 All rules adopted by the department of financial institutions remain
44 in full force until amended by the department of insurance and financial
45 institutions.

1 Sec. 68. Transfer; effect; succession

2 A. As provided by this act, the department of insurance and
3 financial institutions succeeds to the authority, powers, duties and
4 responsibilities of the department of financial institutions and the
5 automobile theft authority.

6 B. This act does not alter the effect of any actions that were
7 taken or impair the valid obligations of the department of financial
8 institutions and the automobile theft authority in existence before
9 July 1, 2020.

10 C. All administrative matters, contracts and judicial and
11 quasi-judicial actions, whether completed, pending or in process, of the
12 department of financial institutions and the automobile theft authority on
13 July 1, 2020 are transferred to and retain the same status with the
14 department of insurance and financial institutions.

15 D. All certificates, licenses, registrations, permits and other
16 indicia of qualification and authority that were issued by the department
17 of financial institutions and the automobile theft authority retain their
18 validity for the duration of their terms of validity as provided by law.

19 E. All equipment, records, furnishings and other property, all data
20 and investigative findings, all obligations and all appropriated monies
21 that remain unexpended and unencumbered on July 1, 2020 of the department
22 of financial institutions and the automobile theft authority are
23 transferred to the department of insurance and financial institutions.

24 Sec. 69. Conforming legislation

25 The legislative council staff shall prepare proposed legislation
26 conforming the Arizona Revised Statutes to the provisions of this act for
27 consideration in the fifty-fifth legislature, first regular session.

28 Sec. 70. Effective date; conditional enactment

29 This act is effective from and after June 30, 2020, except section
30 28-4301, Arizona Revised Statutes, as amended by Laws 2018, chapter 298,
31 section 6 and this act, and section 41-3451, Arizona Revised Statutes, as
32 amended by Laws 2018, chapter 298, section 8 and this act, become
33 effective on the date prescribed by Laws 2018, chapter 298, section 12 but
34 only on the occurrence of the condition prescribed by Laws 2018, chapter
35 298, section 12.

APPROVED BY THE GOVERNOR MAY 23, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 23, 2019.