

State of Arizona  
Senate  
Fifty-fourth Legislature  
Second Regular Session  
2020

**CHAPTER 84**  
**SENATE BILL 1460**

AN ACT

AMENDING SECTIONS 10-2051, 10-2052 AND 10-2057, ARIZONA REVISED STATUTES; AMENDING TITLE 10, CHAPTER 19, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 10-2085; AMENDING SECTIONS 10-2121, 10-2122 AND 10-2127, ARIZONA REVISED STATUTES; AMENDING TITLE 10, CHAPTER 19, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 10-2151; RELATING TO ELECTRIC COOPERATIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 10-2051, Arizona Revised Statutes, is amended to  
3 read:

4 10-2051. Definitions

5 In this article, unless the context otherwise requires:

6 1. "AFFILIATE" MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH  
7 ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON  
8 CONTROL WITH ANOTHER PERSON.

9 2. "BROADBAND SERVICE" MEANS PROVIDING ACCESS AND TRANSPORT TO THE  
10 INTERNET, COMPUTER PROCESSING, INFORMATION STORAGE OR PROTOCOL CONVERSION  
11 AT A DOWNLOAD RATE OF AT LEAST TWENTY-FIVE MEGABITS PER SECOND AND AT AN  
12 UPLOAD RATE OF AT LEAST THREE MEGABITS PER SECOND.

13 ~~1.~~ 3. "Cooperative" means a corporation that is organized under  
14 this article or that becomes subject to this article in the manner  
15 provided in this article.

16 ~~2.~~ 4. "Executed by the cooperative" means executed by manual or  
17 facsimile signature on behalf of the cooperative by a duly authorized  
18 officer or, if the corporation is under the control of a receiver or  
19 trustee, by the receiver or trustee.

20 ~~3.~~ 5. "Person" means a natural person, firm, association,  
21 corporation, business trust, partnership, federal agency, state or  
22 political subdivision or agency of a state or any body politic.

23 Sec. 2. Section 10-2052, Arizona Revised Statutes, is amended to  
24 read:

25 10-2052. Purpose

26 A. Cooperative nonprofit membership corporations may be organized  
27 under this article for any of the following purposes:

28 1. Supplying, purchasing, marketing, selling, transmitting or  
29 distributing electric energy to persons and promoting and extending the  
30 use of electric energy.

31 2. Providing billing, metering, communications and other services  
32 related or incidental to supplying, providing or transmitting electric  
33 energy, whether or not the cooperative is itself supplying or transmitting  
34 that energy.

35 3. Engaging in activities designed to promote economic development  
36 of rural areas as described in section 10-2057.

37 4. Engaging in activities for any lawful purpose.

38 5. DIRECTLY OR THROUGH AN AFFILIATE, PROVIDING BROADBAND SERVICE TO  
39 AREAS IN WHICH THE COOPERATIVE PROVIDES ELECTRIC ENERGY SERVICES.

40 B. In a rural area where there is no telephone service, a  
41 cooperative ~~which~~ THAT is supplying electric energy in the area may enter  
42 into a cooperative agreement with the existing holder of a certificate of  
43 convenience and necessity for telephone service in the general area to  
44 supply telephone service in the same area.

1 C. Generation and transmission cooperatives as defined in article 4  
2 of this chapter are subject to article 4 of this chapter and not to this  
3 article.

4 Sec. 3. Section 10-2057, Arizona Revised Statutes, is amended to  
5 read:

6 10-2057. Powers of electric cooperative

7 A. A cooperative organized under this article may:

8 1. Sue and be sued in its corporate name.

9 2. Have perpetual existence.

10 3. Adopt and alter a corporate seal.

11 4. To compete more effectively with other entities in the electric  
12 energy market, engage in the generation, manufacture, purchase,  
13 acquisition, accumulation, transmission, marketing, sale, distribution,  
14 supply and disposition of electric energy, either individually or jointly  
15 in collaboration with other corporations that have loans made or  
16 guaranteed by the United States through the administrator of the rural  
17 utilities service or that are nonprofit members of the corporation.

18 5. Assist persons to whom electric energy is or will be supplied by  
19 the cooperative in wiring their premises and in acquiring and installing  
20 electrical and plumbing appliances, equipment, fixtures and apparatus by  
21 means of financing.

22 6. Assist persons to whom electric energy is or will be supplied by  
23 the cooperative in constructing, equipping, maintaining and operating  
24 electric cold storage or processing plants by means of financing.

25 7. Construct, purchase, lease or otherwise acquire, and equip,  
26 maintain and operate, and sell, assign, convey, lease, mortgage, pledge or  
27 otherwise dispose of or encumber electric transmission and distribution  
28 lines or systems, electric generating plants, lands, buildings,  
29 structures, dams, plants and equipment, and any other real or personal  
30 property, tangible or intangible, that is deemed necessary, convenient or  
31 appropriate to accomplish any purpose for which the cooperative is  
32 organized or that it elects to undertake.

33 8. Purchase, lease or otherwise acquire, and use, and exercise and  
34 sell, assign, convey, mortgage, pledge or otherwise dispose of or  
35 encumber, franchises, rights, privileges, licenses and easements.

36 9. Borrow money and otherwise contract indebtedness, and issue  
37 notes, bonds and other evidences of indebtedness, and secure the payment  
38 thereof by mortgage, pledge or deed of trust of, or any other encumbrance  
39 ~~upon~~ ON, any or all of its presently owned or after-acquired real or  
40 personal property, assets, franchises or revenues.

41 10. Construct, maintain and operate electric transmission and  
42 distribution lines along, ~~upon~~ ON, under and across publicly owned lands  
43 and public thoroughfares, including, ~~without limitation,~~ all roads,  
44 highways, streets, alleys, bridges and causeways, and acquire for such

1 purposes franchises, licenses, permits, easements, rights-of-way and all  
2 similar rights and privileges relating to such purposes.

3 11. Exercise the power of eminent domain in the manner and to the  
4 extent provided by the laws of this state for the exercise of such power  
5 by other corporations constructing or operating electric transmission and  
6 distribution lines or systems.

7 12. Become a member of other cooperatives or corporations or own  
8 stock in those cooperatives or corporations or otherwise financially  
9 participate and invest in those cooperatives or corporations.

10 13. Conduct its business and exercise its powers within or ~~without~~  
11 ~~OUTSIDE~~ this state.

12 14. Adopt, amend and repeal bylaws.

13 15. Do and perform other acts and things and have and exercise  
14 other powers that may be necessary, convenient or appropriate to  
15 accomplish the purpose for which the cooperative is organized or to carry  
16 out its business and affairs.

17 16. Subject to any limitation imposed by federal law, invest its  
18 own monies, make loans or guarantees or participate in rural community  
19 infrastructure projects, in job creation activities and in other  
20 activities to promote economic development in rural areas if the rural  
21 development activities are approved by the rural utilities service.

22 17. ~~DIRECTLY OR THROUGH AN AFFILIATE, CONSTRUCT, OPERATE, MAINTAIN,~~  
23 ~~LEASE AND LICENSE FIBER OPTIC CABLES AND OTHER FACILITIES TO PROVIDE~~  
24 ~~BROADBAND SERVICE OVER, UNDER, ACROSS, ON OR ALONG REAL PROPERTY, PERSONAL~~  
25 ~~PROPERTY, RIGHTS-OF-WAY, EASEMENTS AND LICENSES AND OTHER PROPERTY RIGHTS~~  
26 ~~THAT ARE OWNED, HELD OR USED BY THE COOPERATIVE, INCLUDING EASEMENT OR~~  
27 ~~OTHER PROPERTY RIGHTS OWNED, HELD OR USED BY THE COOPERATIVE TO PROVIDE~~  
28 ~~ELECTRICITY OR OTHER SERVICES.~~

29 B. The authority granted in subsection A, paragraph 16 shall be  
30 used only for economic development in rural areas, and the electric  
31 cooperative shall not use monies intended for rural economic development  
32 to purchase or acquire electrical works or electrical facilities, whether  
33 real or personal property, or both, by the exercise of the right of  
34 eminent domain or condemnation nor shall such monies be used to purchase,  
35 construct, lease or acquire any electrical works or electrical facilities  
36 or make any extensions or additions designed to serve areas or territories  
37 already being lawfully served. In subsection A, paragraph 16 and this  
38 subsection:

39 1. "Economic development" includes project feasibility studies,  
40 start-up costs, incubator projects and other reasonable expenses for the  
41 purpose of fostering rural economic development.

42 2. "Invest" means to commit monies ~~in order~~ to earn a financial  
43 return on assets ~~which~~ ~~THAT~~ are not expected to be used or useful in  
44 furnishing electric service. The total amount ~~which~~ ~~THAT~~ the electric

1 cooperative invests, loans or uses as a guarantee is limited to those  
2 monies authorized under federal law for rural development programs.

3 3. "Job creation activities" includes ~~activities such as~~ providing  
4 technical, financial and managerial assistance.

5 4. "Rural community infrastructure projects" includes ~~projects such~~  
6 ~~as~~ water and waste systems and garbage collection services.

7 C. Beginning on January 1, 1999, the indemnification of members,  
8 directors, officers, employees and agents of a cooperative shall be in  
9 accordance with chapter 31, article 5 of this title.

10 Sec. 4. Title 10, chapter 19, article 2, Arizona Revised Statutes,  
11 is amended by adding section 10-2085, to read:

12 10-2085. Expanded use for broadband service; just  
13 compensation; notice

14 A. FOR THE PURPOSES OF PROVIDING BROADBAND SERVICE, IF A  
15 COOPERATIVE, DIRECTLY OR THROUGH ITS AFFILIATE, EXPANDS THE USE OF AN  
16 EXISTING EASEMENT OR OTHER PROPERTY RIGHT THAT IS OWNED, HELD OR USED BY  
17 THE COOPERATIVE TO PROVIDE ELECTRICITY OR OTHER SERVICES AND THE EXPANDED  
18 USE REDUCES THE FAIR MARKET VALUE OF THE PROPERTY OVER WHICH THE EASEMENT  
19 OR OTHER PROPERTY RIGHT RUNS, THE PROPERTY OWNER IS ENTITLED TO JUST  
20 COMPENSATION FROM THE COOPERATIVE.

21 B. THE PROPERTY OWNER MUST COMMENCE AN ACTION IN THE SUPERIOR COURT  
22 FOR JUST COMPENSATION BASED ON DIMINUTION IN VALUE NOT LATER THAN EIGHTEEN  
23 MONTHS AFTER THE DATE THAT THE COOPERATIVE PROVIDES NOTICE TO THE PROPERTY  
24 OWNER OF THE EXPANDED USE FOR BROADBAND SERVICE. IF AN ACTION IS NOT  
25 COMMENCED WITHIN THIS TIME, THE EXPANDED USE IS DEEMED FULLY VESTED IN THE  
26 COOPERATIVE AND ITS AFFILIATE WITHOUT THE NEED TO PAY JUST COMPENSATION  
27 AND THE EXPANDED USE RUNS WITH THE LAND.

28 C. NOTICE UNDER SUBSECTION B OF THIS SECTION IS EFFECTIVE IF SENT  
29 BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE PROPERTY OWNER, BY A  
30 PRINTED INSERTION IN THE PROPERTY OWNER'S ELECTRIC BILL OR BY OTHER  
31 COMMONLY USED PUBLICATION OR COMMUNICATION CHANNELS EMPLOYED BY THE  
32 COOPERATIVE.

33 D. IN AN ACTION FOR JUST COMPENSATION BASED ON A CLAIM OF EXPANDED  
34 USE FOR BROADBAND SERVICE ALL OF THE FOLLOWING APPLY:

35 1. THE COURT OR JURY SHALL ASCERTAIN AND ASSESS THE DIMINUTION IN  
36 VALUE OF THE PROPERTY BASED ON THE DIFFERENCE BETWEEN THE FAIR MARKET  
37 VALUE OF THE ENTIRE PARCEL IMMEDIATELY BEFORE THE EXPANDED USE AND THE  
38 FAIR MARKET VALUE OF THE ENTIRE PARCEL IMMEDIATELY AFTER THE EXPANDED USE.

39 2. EVIDENCE OF REVENUES OR PROFITS DERIVED FROM OR THE RENTAL VALUE  
40 OF AN ASSEMBLED COMMUNICATIONS CORRIDOR ARE NOT ADMISSIBLE IN DETERMINING  
41 FAIR MARKET VALUE.

42 3. ON PAYMENT OF JUST COMPENSATION, THE EXPANDED USE FOR BROADBAND  
43 SERVICE IS DEEMED FULLY VESTED IN THE COOPERATIVE AND ITS AFFILIATE AND  
44 THE EXPANDED USE SHALL RUN WITH THE LAND.

1 E. A CLASS ACTION MAY NOT BE MAINTAINED AGAINST A COOPERATIVE OR  
2 ITS AFFILIATE IN ANY ACTION FOR JUST COMPENSATION BASED ON A CLAIM OF  
3 EXPANDED USE FOR BROADBAND SERVICE.

4 F. ACTIONS FOR JUST COMPENSATION AS DESCRIBED IN THIS SECTION  
5 INCLUDE TRESPASS, INVERSE CONDEMNATION AND OTHER SIMILAR CAUSES OF ACTION.

6 G. THIS SECTION DOES NOT PROHIBIT A COOPERATIVE OR ITS AFFILIATE  
7 FROM REACHING AN AGREEMENT WITH A PROPERTY OWNER TO WAIVE A CLAIM FOR JUST  
8 COMPENSATION RELATED TO EXPANDED USE FOR BROADBAND SERVICE OR FROM  
9 ACQUIRING THE RIGHT TO USE THE PROPERTY FOR BROADBAND SERVICE BY OTHER  
10 LAWFUL MEANS.

11 H. IF EXCAVATION IS REQUIRED TO INSTALL FIBER OPTIC CABLE OR OTHER  
12 UNDERGROUND FACILITIES TO PROVIDE BROADBAND SERVICE, THE COOPERATIVE OR  
13 ITS AFFILIATE SHALL PROVIDE WRITTEN NOTICE TO THE PROPERTY OWNER OF THE  
14 EXPANDED USE FOR BROADBAND SERVICE BEFORE EXCAVATION. THE COOPERATIVE OR  
15 ITS AFFILIATE SHALL SEND THE NOTICE BY FIRST CLASS MAIL TO THE LAST KNOWN  
16 ADDRESS OF THE PROPERTY OWNER, BY A PRINTED INSERTION IN THE PROPERTY  
17 OWNER'S ELECTRIC BILL OR BY OTHER COMMONLY USED PUBLICATION OR  
18 COMMUNICATION CHANNELS EMPLOYED BY THE COOPERATIVE OR ITS AFFILIATE. A  
19 NOTICE SENT TO A PROPERTY OWNER ENTITLED TO NOTICE UNDER THIS SUBSECTION  
20 MUST INCLUDE ALL OF THE FOLLOWING:

21 1. THE NAME AND MAILING ADDRESS OF THE COOPERATIVE OR ITS  
22 AFFILIATE.

23 2. THE MAILING ADDRESS, TELEPHONE NUMBER AND EMAIL ADDRESS FOR A  
24 REPRESENTATIVE OF THE COOPERATIVE OR ITS AFFILIATE.

25 3. A SUMMARY STATEMENT DESCRIBING THE ACTIVITIES TO BE CONDUCTED  
26 DURING THE EXCAVATION.

27 4. THE APPROXIMATE DATES WHEN THE EXCAVATION WILL START AND END.

28 I. THE NOTICE PRESCRIBED IN SUBSECTION H OF THIS SECTION IS NOT  
29 REQUIRED BEFORE A COOPERATIVE'S OR ITS AFFILIATE'S USE OF AN EASEMENT OR  
30 OTHER PROPERTY RIGHT THAT INCLUDES AN AUTHORIZATION FOR EXCAVATION FOR  
31 PURPOSES OF PROVIDING BROADBAND SERVICE. FAILURE TO PROVIDE THE NOTICE  
32 PRESCRIBED IN SUBSECTION H OF THIS SECTION:

33 1. PROHIBITS THE COOPERATIVE OR ITS AFFILIATE FROM PROCEEDING WITH  
34 AN EXCAVATION UNTIL THE NOTICE IS PROVIDED.

35 2. DOES NOT INVALIDATE OR PREVENT THE COOPERATIVE OR ITS AFFILIATE  
36 FROM EXPANDING THE USE OF THE EASEMENT OR PROPERTY RIGHT AS OTHERWISE  
37 DESCRIBED IN THIS SECTION.

38 Sec. 5. Section 10-2121, Arizona Revised Statutes, is amended to  
39 read:

40 10-2121. Definitions

41 In this article, unless the context otherwise requires:

42 1. "AFFILIATE" MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH  
43 ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON  
44 CONTROL WITH ANOTHER PERSON.

1           2. "BROADBAND SERVICE" MEANS PROVIDING ACCESS AND TRANSPORT TO THE  
2 INTERNET, COMPUTER PROCESSING, INFORMATION STORAGE OR PROTOCOL CONVERSION  
3 AT A DOWNLOAD RATE OF AT LEAST TWENTY-FIVE MEGABITS PER SECOND AND AT AN  
4 UPLOAD RATE OF AT LEAST THREE MEGABITS PER SECOND.

5           ~~1.~~ 3. "Electric utility" means any corporation, governmental  
6 agency, political subdivision or other entity or combination of such  
7 entities ~~which~~ THAT produces, generates, purchases, sells, transmits or  
8 distributes electricity to another electric utility or to a user of  
9 electricity.

10           ~~2.~~ 4. "Executed by the cooperative" means executed by manual or  
11 facsimile signature on behalf of the cooperative by a duly authorized  
12 officer or, if the corporation is under the control of a receiver or  
13 trustee, by the receiver or trustee.

14           ~~3.~~ 5. "Generation and transmission cooperative" means a  
15 corporation that is organized under this article or that becomes subject  
16 to this article as provided in this article.

17           ~~4.~~ 6. "Person" means a natural person, firm, association,  
18 corporation, business trust or partnership or any agency or political  
19 subdivision of the United States or of this state or any other political  
20 body.

21           Sec. 6. Section 10-2122, Arizona Revised Statutes, is amended to  
22 read:

23           10-2122. Purpose

24           Nonprofit electric generation and transmission cooperative  
25 corporations may be organized under this article for the purpose of:

26           1. Producing and generating, purchasing, marketing or selling  
27 electric energy or transmitting such energy to other electric utilities or  
28 persons.

29           2. Providing services relating to producing and generating,  
30 purchasing, marketing or selling electric energy or transmitting this  
31 energy to other electric utilities or persons or services relating to any  
32 other lawful purpose.

33           3. DIRECTLY OR THROUGH AN AFFILIATE, PROVIDING BROADBAND SERVICE TO  
34 AREAS IN WHICH THE COOPERATIVE PROVIDES ELECTRIC ENERGY SERVICES.

35           Sec. 7. Section 10-2127, Arizona Revised Statutes, is amended to  
36 read:

37           10-2127. Powers of a generation and transmission cooperative

38           A. A generation and transmission cooperative may:

39           1. Sue and be sued and complain and defend in its corporate name.

40           2. Have perpetual existence by its corporate name.

41           3. Adopt a corporate seal and alter the seal at its pleasure, and  
42 use the seal by causing it, or a facsimile of it, to be impressed or  
43 affixed or in any other manner reproduced, but failure to have or to affix  
44 a corporate seal does not affect the validity of any instrument or any  
45 action taken in pursuance of OR in reliance on the seal.

1           4. Own, operate, lease or control plants, property and facilities  
2 for the generation or transmission, sale or furnishing of electricity for  
3 light, heat or power or other uses, and generate, manufacture, purchase,  
4 acquire, accumulate and transmit electric energy.

5           5. To compete more effectively with other entities in the electric  
6 energy market, engage in, individually or jointly in collaboration with  
7 other corporations that have loans made or guaranteed by the United States  
8 through the administrator of the rural utilities service or that are  
9 nonprofit members of the corporation, the acquisition, purchase,  
10 marketing, sale, supply and disposition of electric energy to or for its  
11 members and persons, entities, governmental agencies and political  
12 subdivisions and other electric utilities.

13           6. Purchase, take, receive, subscribe for or otherwise acquire,  
14 own, hold, vote, exercise rights arising out of the ownership or  
15 possession, use, employ, sell, assign, transfer, convey, mortgage, lend,  
16 pledge, hypothecate or otherwise use and deal in and with shares, rights,  
17 memberships or other interests in, or notes, bonds, debentures, mortgages,  
18 passbooks, certificates of deposit or other obligations of other domestic  
19 or foreign corporations, associations, partnerships, limited partnerships  
20 or individuals, or direct or indirect obligations or securities of  
21 individuals, associations, cooperatives, partnerships, corporations or of  
22 the United States or of any other government, state, territory,  
23 governmental district or municipality or of any instrumentality thereof.

24           7. Construct, purchase, take, receive, lease as lessee or otherwise  
25 acquire, and own, hold, improve, use, equip, maintain and operate, and  
26 sell, assign, transfer, convey, exchange, lease as lessor, mortgage,  
27 pledge or otherwise dispose of or encumber electric transmission lines and  
28 systems, electric generating plants, lands, buildings, structures, dams,  
29 plants and equipment, and any and all kinds and classes of real or  
30 personal property, tangible or intangible, that are deemed necessary,  
31 convenient or appropriate to accomplish the purpose for which the  
32 generation and transmission cooperative is organized or that it elects to  
33 undertake.

34           8. Purchase or otherwise acquire, and own, hold, use and exercise  
35 and sell, assign, transfer, convey, mortgage, pledge, hypothecate or  
36 otherwise dispose of or encumber franchises, rights, privileges, licenses,  
37 rights-of-way and easements.

38           9. Make contracts and guarantees and incur liabilities, borrow  
39 money and otherwise contract indebtedness, and issue its notes, bonds and  
40 other evidence of indebtedness, and secure the payment of any indebtedness  
41 by mortgage, pledge, deed of trust, assignment, security agreement or any  
42 other hypothecation or encumbrance on any or all of its real or personal  
43 property, assets, franchises, revenue or income.

44           10. Construct, maintain and operate electric transmission lines  
45 along, on, under and across publicly owned lands and public thoroughfares,



1 including all roads, highways, streets, alleys, bridges and causeways, and  
2 acquire for such purposes franchises, licenses, permits, easements,  
3 rights-of-way, and all similar rights and privileges relating to such  
4 purposes.

5 11. Exercise the power of eminent domain in the manner and to the  
6 extent provided by the laws of this state for the exercise of such power  
7 by other corporations constructing or operating electric transmission  
8 lines or systems.

9 12. Become a member of other cooperative organizations or  
10 corporations or own stock in or otherwise financially participate and  
11 invest in those other organizations or corporations.

12 13. Conduct its business, carry on its operations, have offices and  
13 exercise the powers granted ~~it~~ by this article in any state, territory,  
14 district or possession of the United States or in any foreign country.

15 14. Adopt, amend and repeal bylaws consistent with this article.

16 15. Cease its corporate activities and surrender its corporate  
17 franchise.

18 16. Do and perform other acts and things, and have and exercise  
19 other powers, that may be necessary, convenient or appropriate to  
20 accomplish the purpose for which the generation and transmission  
21 cooperative is organized or to carry out its business and affairs.

22 17. DIRECTLY OR THROUGH AN AFFILIATE, CONSTRUCT, OPERATE, MAINTAIN,  
23 LEASE AND LICENSE FIBER OPTIC CABLES AND OTHER FACILITIES TO PROVIDE  
24 BROADBAND SERVICE OVER, UNDER, ACROSS, ON OR ALONG REAL PROPERTY, PERSONAL  
25 PROPERTY, RIGHTS-OF-WAY, EASEMENTS AND LICENSES AND OTHER PROPERTY RIGHTS  
26 OWNED, HELD OR USED BY THE GENERATION AND TRANSMISSION COOPERATIVE,  
27 INCLUDING EASEMENT OR OTHER PROPERTY RIGHTS THAT ARE OWNED, HELD OR USED  
28 BY THE COOPERATIVE TO PROVIDE ELECTRICITY OR OTHER SERVICES.

29 B. Beginning on January 1, 1999, the indemnification of members,  
30 directors, officers, employees and agents of a cooperative shall be in  
31 accordance with chapter 31, article 5 of this title.

32 Sec. 8. Title 10, chapter 19, article 4, Arizona Revised Statutes,  
33 is amended by adding section 10-2151, to read:

34 10-2151. Expanded use for broadband service; notice; just  
35 compensation actions

36 A. FOR THE PURPOSES OF PROVIDING BROADBAND SERVICE, IF A GENERATION  
37 AND TRANSMISSION COOPERATIVE, DIRECTLY OR THROUGH ITS AFFILIATE, EXPANDS  
38 THE USE OF AN EXISTING EASEMENT OR OTHER PROPERTY RIGHT THAT IS OWNED,  
39 HELD OR USED BY THE COOPERATIVE TO PROVIDE ELECTRICITY OR OTHER SERVICES  
40 AND THE EXPANDED USE REDUCES THE FAIR MARKET VALUE OF THE PROPERTY OVER  
41 WHICH THE EASEMENT OR OTHER PROPERTY RIGHT RUNS, THE PROPERTY OWNER IS  
42 ENTITLED TO JUST COMPENSATION FROM THE COOPERATIVE.

43 B. THE PROPERTY OWNER MUST COMMENCE AN ACTION IN THE SUPERIOR COURT  
44 FOR JUST COMPENSATION BASED ON DIMINUTION IN VALUE NOT LATER THAN EIGHTEEN  
45 MONTHS AFTER THE DATE THE GENERATION AND TRANSMISSION COOPERATIVE PROVIDES

1 NOTICE TO THE PROPERTY OWNER OF THE EXPANDED USE FOR BROADBAND SERVICE.  
2 IF AN ACTION IS NOT COMMENCED WITHIN THIS TIME, THE EXPANDED USE IS DEEMED  
3 FULLY VESTED IN THE GENERATION AND TRANSMISSION COOPERATIVE AND ITS  
4 AFFILIATE WITHOUT THE NEED TO PAY JUST COMPENSATION AND THE EXPANDED USE  
5 RUNS WITH THE LAND.

6 C. NOTICE UNDER SUBSECTION B OF THIS SECTION IS EFFECTIVE IF SENT  
7 BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE PROPERTY OWNER OR BY  
8 OTHER COMMONLY USED PUBLICATION OR COMMUNICATION CHANNELS EMPLOYED BY THE  
9 GENERATION AND TRANSMISSION COOPERATIVE.

10 D. IN AN ACTION FOR JUST COMPENSATION BASED ON A CLAIM OF EXPANDED  
11 USE FOR BROADBAND SERVICE ALL OF THE FOLLOWING APPLY:

12 1. THE COURT OR JURY SHALL ASCERTAIN AND ASSESS THE DIMINUTION IN  
13 VALUE OF THE PROPERTY BASED ON THE DIFFERENCE BETWEEN THE FAIR MARKET  
14 VALUE OF THE ENTIRE PARCEL IMMEDIATELY BEFORE THE EXPANDED USE AND THE  
15 FAIR MARKET VALUE OF THE ENTIRE PARCEL IMMEDIATELY AFTER THE EXPANDED USE.

16 2. EVIDENCE OF REVENUES OR PROFITS DERIVED FROM OR THE RENTAL VALUE  
17 OF AN ASSEMBLED COMMUNICATIONS CORRIDOR ARE NOT ADMISSIBLE IN DETERMINING  
18 FAIR MARKET VALUE.

19 3. ON PAYMENT OF JUST COMPENSATION, THE EXPANDED USE FOR BROADBAND  
20 SERVICE SHALL BE DEEMED FULLY VESTED IN THE GENERATION AND TRANSMISSION  
21 COOPERATIVE AND ITS AFFILIATE AND THE EXPANDED USE SHALL RUN WITH THE  
22 LAND.

23 E. A CLASS ACTION MAY NOT BE MAINTAINED AGAINST A GENERATION AND  
24 TRANSMISSION COOPERATIVE OR ITS AFFILIATE IN ANY ACTION FOR JUST  
25 COMPENSATION BASED ON A CLAIM OF EXPANDED USE FOR BROADBAND SERVICE.

26 F. ACTIONS FOR JUST COMPENSATION AS DESCRIBED IN THIS SECTION  
27 INCLUDE TRESPASS, INVERSE CONDEMNATION AND OTHER SIMILAR CAUSES OF ACTION.

28 G. THIS SECTION DOES NOT PROHIBIT A GENERATION AND TRANSMISSION  
29 COOPERATIVE OR ITS AFFILIATE FROM REACHING AN AGREEMENT WITH A PROPERTY  
30 OWNER TO WAIVE A CLAIM FOR JUST COMPENSATION RELATED TO EXPANDED USE FOR  
31 BROADBAND SERVICE OR FROM ACQUIRING THE RIGHT TO USE THE PROPERTY FOR  
32 BROADBAND SERVICE BY OTHER LAWFUL MEANS.

APPROVED BY THE GOVERNOR JUNE 5, 2020.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 5, 2020.