State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 55

HOUSE BILL 2165

AN ACT

AMENDING SECTIONS 41-619.51, 41-1758, 41-1758.01, 41-4001, 41-4009, 41-4025, 41-4026, 41-4029 AND 41-4046, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA DEPARTMENT OF HOUSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-619.51, Arizona Revised Statutes, is amended to read:

41-619.51. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of public safety, the department of transportation, the state real estate department, the department of insurance and financial institutions, the Arizona game and fish department, the Arizona department of agriculture, the board of examiners of nursing care institution administrators and assisted living facility managers, the state board of dental examiners, the Arizona state board of pharmacy, the board of physical therapy, the state board of psychologist examiners, the board of athletic training, the board of occupational therapy examiners, the state board of podiatry examiners, or the state board of technical registration OR THE ARIZONA DEPARTMENT OF HOUSING.

2. "Board" means the board of fingerprinting.

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

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

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

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

   (a) Section 3-314.
   (b) Section 8-105.
   (c) Section 8-322.
   (d) Section 8-463.
   (e) Section 8-509.
   (f) Section 8-802.
   (g) Section 8-804.
   (h) Section 15-183.
   (i) Section 15-503.
   (j) Section 15-512.
   (k) Section 15-534.
   (l) Section 15-763.01.
   (m) Section 15-782.02.
(n) Section 15-1330.
(o) Section 15-1881.
(p) Section 17-215.
(q) Section 28-3228.
(r) Section 28-3413.
(s) Section 32-122.02.
(t) Section 32-122.05.
(u) Section 32-122.06.
(v) Section 32-823.
(w) Section 32-1232.
(x) Section 32-1276.01.
(y) Section 32-1284.
(z) Section 32-1297.01.
(aa) Section 32-1904.
(bb) Section 32-1941.
(cc) Section 32-1982.
(dd) Section 32-2022.
(ee) Section 32-2063.
(ff) Section 32-2108.01.
(gg) Section 32-2123.
(hh) Section 32-2371.
(ii) Section 32-3430.
(jj) Section 32-3620.
(kk) Section 32-3668.
(ll) Section 32-3669.
(mm) Section 32-4128.
(nn) Section 36-113.
(oo) Section 36-207.
(pp) Section 36-411.
(qq) Section 36-425.03.
(rr) Section 36-446.04.
(ss) Section 36-594.01.
(tt) Section 36-594.02.
(uu) Section 36-766.01.
(vv) Section 36-882.
ww) Section 36-883.02.
(xx) Section 36-897.01.
(yy) Section 36-897.03.
(zz) Section 36-3008.
(aaa) Section 41-619.53.
(bbb) Section 41-1964.
(ccc) Section 41-1967.01.
(ddd) Section 41-1968.
(eee) Section 41-1969.
(fff) Section 41-2814.
(ggg) SECTION 41-4025.

(hhh) Section 46-141, subsection A or B.

(iii) Section 46-321.

Sec. 2. Section 41-1758, Arizona Revised Statutes, is amended to read:

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of public safety, the department of transportation, the state real estate department, the department of insurance and financial institutions, the board of fingerprinting, the Arizona game and fish department, the Arizona department of agriculture, the board of examiners of nursing care institution administrators and assisted living facility managers, the state board of dental examiners, the Arizona state board of pharmacy, the board of physical therapy, the state board of psychologist examiners, the board of athletic training, the board of occupational therapy examiners, the state board of podiatry examiners, or the state board of technical registration OR THE ARIZONA DEPARTMENT OF HOUSING.

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

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

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

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

(a) Section 3-314.
(b) Section 8-105.
(c) Section 8-322.
(d) Section 8-463.
(e) Section 8-509.
(f) Section 8-802.
(g) Section 15-183.
(h) Section 15-503.
(i) Section 15-512.
(j) Section 15-534.
(k) Section 15-763.01.
(l) Section 15-782.02.
(m) Section 15-1330.
(n) Section 15-1881.
(o) Section 17-215.
(p) Section 28-3228.
(q) Section 28-3413.
(r) Section 32-122.02.
(s) Section 32-122.05.
(t) Section 32-122.06.
(u) Section 32-823.
(v) Section 32-1232.
(w) Section 32-1276.01.
(x) Section 32-1284.
(y) Section 32-1297.01.
(z) Section 32-1904.
(aa) Section 32-1941.
(bb) Section 32-1982.
(cc) Section 32-2022.
(dd) Section 32-2063.
(ee) Section 32-2108.01.
(ff) Section 32-2123.
(gg) Section 32-2371.
(hh) Section 32-3430.
(ii) Section 32-3620.
(jj) Section 32-3668.
(kk) Section 32-3669.
(ll) Section 32-4128.
(mm) Section 36-113.
(nn) Section 36-207.
(oo) Section 36-411.
(pp) Section 36-425.03.
(qq) Section 36-446.04.
(rr) Section 36-594.01.
(ss) Section 36-594.02.
(tt) Section 36-766.01.
 uu) Section 36-882.
(vv) Section 36-883.02.
 (ww) Section 36-897.01.
(xx) Section 36-897.03.
(yy) Section 36-3008.
(zz) Section 41-619.52.
(aaa) Section 41-619.53.
(bbb) Section 41-1964.
(ccc) Section 41-1967.01.
(ddd) Section 41-1968.
H.B. 2165

1 (eee) Section 41-1969.
2 (fff) Section 41-2814.
3 (ggg) SECTION 41-4025.
4 (ggg) (hhh) Section 46-141, subsection A or B.
5 (hhhh) (iii) Section 46-321.
6 6. "Vulnerable adult" has the same meaning prescribed in section 13-3623.
7 Sec. 3. Section 41-1758.01, Arizona Revised Statutes, is amended to read:
8 41-1758.01. Fingerprinting division; powers and duties
9 A. The fingerprinting division is established in the department of public safety and shall:
10 1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 37628-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-823, 32-1232, 32-1276.01, 32-1284, 32-1297.01, 32-1904, 32-1941, 32-1982, 32-2022, 32-2063, 32-2108.01, 32-2123, 32-2371, 32-3430, 32-3620, 32-3668, 32-3669, 32-4128, 36-113, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-766.01, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969, 41-2814, 41-4025, section 46-141, subsection A or B and section 46-321.
11 2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.
12 3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.
13 4. Inform in writing each person who submits fingerprints for a fingerprint background check of the right to petition the board of fingerprinting for a good cause exception pursuant to section 41-1758.03, 41-1758.04 or 41-1758.07.
15 5. If after conducting a state and federal criminal history records check the division determines that it is not authorized to issue a fingerprint clearance card to a person, inform the person in writing that the division is not authorized to issue a fingerprint clearance card. The notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.
6. Notify the person in writing if the division suspends, revokes or places a driving restriction notation on a fingerprint clearance card pursuant to section 41-1758.04. The notice shall include the criminal history information on which the suspension, revocation or placement of the driving restriction notation was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

7. Administer and enforce this article.

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

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

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

Sec. 4. Section 41-4001, Arizona Revised Statutes, is amended to read:

41-4001. Definitions

In this chapter, unless the context otherwise requires:

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


3. "Alteration":

(a) Means the replacement, addition, modification or removal of any equipment or installation after the sale by a manufacturer to a dealer or distributor but before the sale by a dealer to a purchaser, which may affect compliance with the standards, construction, fire safety, occupancy, plumbing or heat-producing or electrical system. Alteration

(b) Does not mean INCLUDE:

(i) The repair or replacement of a component or appliance requiring plug-in to an electrical receptacle if the replaced item is of the same configuration and rating as the component or appliance being repaired or replaced. Alteration also does not mean
(ii) The addition of an appliance requiring plug-in to an electrical receptacle if such appliance is not provided with the unit by the manufacturer and the rating of the appliance does not exceed the rating of the receptacle to which such appliance is connected.

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

5. "Broker" means any person who acts as an agent for the sale or exchange of a used manufactured home or mobile home except as exempted in section 41-4028.

6. "Certificate" means a numbered or serialized label or seal that is issued by the director as certification of compliance with this chapter.

7. "Closed construction" means any building, building component, assembly or system manufactured in such a manner that concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage or destruction.

8. "Commercial" means a building with a use-occupancy classification other than single-family dwelling.

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

10. "Consumer" means either a purchaser or seller of a unit regulated by this chapter who utilizes the services of a person licensed by the department.

11. "Consummation of sale" means that a purchaser has received all goods and services that the dealer or broker agreed to provide at the time the contract was entered into, the transfer of title or the filing of an affidavit of affixture, if applicable, to the sale. Consummation of sale does not include warranties.

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

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

14. "Department" means the Arizona department of housing.

15. "Director" means the director of the department.

16. "Earnest monies" means all monies given by a purchaser or a financial institution to a dealer or broker before consummation of the sale.

17. "Factory-built building":

(a) Means a residential or commercial building that is:
(i) Either wholly or in substantial part manufactured using closed construction at an off-site location and transported for installation or completion, or both, on-site. 
(ii) Constructed in compliance with adopted codes, standards and procedures. 
(iii) Installed temporarily or permanently. 
(b) Does not include a manufactured home, recreational vehicle, panelized commercial building using open construction, panelized residential building using open or closed construction or domestic or light commercial storage building.

18. "HUD" means the United States department of housing and urban development.
19. "Imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury.
20. "Installation" means:
   (a) Connecting new or used mobile homes, manufactured homes or factory-built buildings to on-site utility terminals or repairing these utility connections.
   (b) Placing new or used mobile homes, manufactured homes, accessory structures or factory-built buildings on foundation systems or repairing these foundation systems.
   (c) Providing ground anchoring for new or used mobile homes or manufactured homes or repairing the ground anchoring.
21. "Installer" means any person who engages in the business of performing installations of manufactured homes, mobile homes or residential single-family factory-built buildings.
22. "Installer of accessory structures" means any person who engages in the business of installing accessory structures.
23. "Listing agreement" means a document that contains the name and address of the seller, the year, manufacturer and serial number of the listed unit, the beginning and ending dates of the time period that the agreement is in force, the name of the lender and lien amount, if applicable, the price the seller is requesting for the unit, the commission to be paid to the licensee and the signatures of the sellers and the licensee who obtains the listing.
24. "Local enforcement agency" means a zoning or building department of a city, town or county or its agents.
25. "Manufactured home" means a structure built in accordance with the act.
26. "Manufacturer" means any person THAT IS engaged in manufacturing, assembling or reconstructing any unit regulated by this chapter.
27. "Mobile home" means a structure built before June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a
dwelling when connected to on-site utilities. Mobile home does not
include recreational vehicles and factory-built buildings.
28. "Office" means the office of manufactured housing within the
department.
29. "Open construction" means any building, building component,
assembly or system manufactured in such a manner that all portions can be
readily inspected at the building site without disassembly, damage or
destruction.
30. "Purchaser" means a person purchasing a unit in good faith from
a licensed dealer or broker for purposes other than resale.
31. "Qualifying party" means a person who is an owner, employee,
corporate officer or partner of the licensed business and who has active
and direct supervision of and responsibility for all operations of that
licensed business.
32. "Reconstruction" means construction work performed for the
purpose of restoration or modification of a unit by changing or adding
structural components or electrical, plumbing or heat or air producing
systems.
33. "Recreational vehicle" means a vehicular type unit that is:
(a) A portable camping trailer mounted on wheels and constructed
with collapsible partial sidewalls that fold for towing by another vehicle
and unfold for camping.
(b) A motor home designed to provide temporary living quarters for
recreational, camping or travel use and built on or permanently attached
to a self-propelled motor vehicle chassis or on a chassis cab or van that
is an integral part of the completed vehicle.
(c) A park trailer built on a single chassis, mounted on wheels and
designed to be connected to utilities necessary for operation of installed
fixtures and appliances and has a gross trailer area of not less than
three hundred twenty square feet and not more than four hundred square
feet when it is set up, except that it does not include fifth wheel
trailers.
(d) A travel trailer mounted on wheels, designed to provide
temporary living quarters for recreational, camping or travel use, of a
size or weight that may or may not require special highway movement
permits when towed by a motorized vehicle and has a trailer area of less
than three hundred twenty square feet. This subdivision includes fifth
wheel trailers. If a unit requires a size or weight permit, it shall be
manufactured to the standards for park trailers in a 119.5 of the American
national standards institute code.
(e) A portable truck camper constructed to provide temporary living
quarters for recreational, travel or camping use and consisting of a roof,
floor and sides designed to be loaded onto and unloaded from the bed of a
pickup truck.
34. "Residential" means a building with a use-occupancy classification of a single-family dwelling or as governed by the international residential code.

35. "Salesperson" means any person who, for a salary, commission or compensation of any kind, is employed by or acts on behalf of any dealer or broker of manufactured homes, mobile homes or factory-built buildings to sell, exchange, buy, offer or attempt to negotiate or act as an agent for the sale or exchange of an interest in a manufactured home, mobile home or factory-built building.

36. "Seller" means a natural person who enters into a listing agreement with a licensed dealer or broker for the purpose of resale.

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

38. "Statutory agent" means a person who is on file with the corporation commission as the statutory agent.

39. "Title transfer" means a true copy of the application for title transfer that is stamped or validated by the appropriate government agency.

40. "Unit" means a manufactured home, mobile home, factory-built building or accessory structures.

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

42. "Workmanship" means a minimum standard of construction or installation reflecting a journeyman quality of the work of the various trades.

Sec. 5. Section 41-4009, Arizona Revised Statutes, is amended to read:

41-4009. Board of manufactured housing; members; meetings
A. The board of manufactured housing is established. The board shall consist of the following nine members who are appointed by the governor pursuant to section 38-211: __
1. One member shall represent the manufacturers of manufactured homes. __
2. One shall represent the installer industry. __
3. One shall represent manufactured home park owners. __
4. One shall represent financial institutions. __
5. One shall represent the manufacturers of residential factory-built buildings. __
6. One shall represent the dealers and brokers.

7. Three members of the public, at least one of whom has as his residence a mobile or manufactured home and is a resident of a mobile home park or manufactured home park, shall represent the consumers of this state.

8. Each member shall be appointed for a term of three years. The governor may remove any member from the board for incompetency, improper conduct, disability or neglect of duty. Members are eligible to receive compensation pursuant to section 38-611 and are eligible for reimbursement for expenses incurred while attending meetings called by the board pursuant to title 38, chapter 4, article 2.

9. The board annually shall select from its membership a chairperson for the board.

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

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

41-4025. Qualifications and requirements for licensure

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

B. The director shall:

1. Qualify applicants for a license.

2. Conduct investigations as the director deems necessary.

3. Establish and administer written examinations for the applicable license classifications.

C. The director may establish experience requirements for installers of manufactured homes, mobile homes, residential factory-built buildings and accessory structures.

D. To obtain a license pursuant to this article, the applicant shall submit to the director a notarized application on forms prescribed by the department together with the required license fee. Such application shall contain the following information:

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

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

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

4. If the applicant is a corporation, association or other organization, the names, birth dates and addresses of the president, vice president, secretary and treasurer.

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

6. If the applicant is a corporation, association or other organization, evidence that the corporation, association or other organization is in good standing with the Arizona corporation commission.

7. Whether the owner, if the applicant is a sole proprietorship, all partners, if the applicant is a partnership, all officers, if the applicant is a corporation or other type of association, the managers or managing members, if the applicant is a limited liability company, the general partner, if the applicant is a limited partnership, or the individual, if the applicant is a salesperson, has ever been charged or convicted of a felony, or has ever received an adverse final decision in a civil action alleging fraud or misrepresentation, and, if so, the nature of the action and the final disposition of the case.

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

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

10. Other information as the director may deem necessary.

E. Before the issuance of any receiving and holding a license pursuant to this article, the owner, if the applicant is a sole proprietorship, all partners, if the applicant is a partnership, the general partner, if the applicant is a limited partnership, the president, vice president, secretary, and treasurer, if the applicant is a corporation or other type of association, the manager or managing members, if the applicant is a limited liability company, the individual, if the applicant is a salesperson, and the qualifying party shall be of good character and reputation and shall submit a fingerprint card for background analysis. Lack of good character and reputation may be established by showing that such person has committed any act that, if committed by any licensee, would be grounds for suspension or revocation of such license valid fingerprint clearance card issued pursuant to section 41-1758.03. The applicant is responsible for providing the department with a valid fingerprint clearance card.

F. The department shall not issue a license to an applicant before receiving a valid fingerprint clearance card pursuant to this section. The department shall suspend the license if the fingerprint clearance card is determined to be invalid and an applicant who was issued a license fails to submit a new fingerprint clearance card within ten days after being notified by the department. This section does not affect the department's
ABILITY TO OTHERWISE ISSUE, DENY, CANCEL, TERMINATE, SUSPEND OR REVOKE A LICENSE.

G. To obtain a license pursuant to this article, a person shall not have had a license refused or revoked within one year before the date of the application nor, SHALL NOT have engaged in the business without first having been licensed nor AND shall a person NOT act as a licensee between the filing of the application and actual issuance of the license. For the purposes of this subsection, "person" means an applicant, an individual, a qualifying party, any partner of a partnership, any manager or managing member of a limited liability company, or any officer, director, qualifying party or owner of forty percent or more of the stock or beneficial interest of a corporation.

H. Before issuance of a dealer, broker or installer license, the qualifying party, in addition to meeting the requirements provided in subsection D of this section, shall successfully show, by written examination within three attempts, qualification in the kind of work or business in which the applicant proposes to engage. Before the issuance of an installer license, the qualifying party shall also provide the department with evidence of successful completion of the online installer course that is administered by the manufactured housing educational institute and proof of three years of practical or field experience or training that is deemed acceptable by the department.

I. A license shall not be issued to a minor or to any partnership in which one of the partners is a minor.

J. Every salesperson who holds an active license shall maintain on file with the department a current residence address and shall notify the department within five working days of any change of address, of any discontinued employment, and where, if anywhere, the salesperson is currently working.

K. The license of a salesperson who is no longer employed by the dealer of record is deemed inactive. The salesperson shall turn the license into the department until the salesperson is employed by another dealer and a written notification of the change has been received by the department. On notification, the department shall return the license to the salesperson.

Sec. 7. Section 41-4026, Arizona Revised Statutes, is amended to read:

41-4026. Issuance of a license

A. On receipt by the director of the nonrefundable fee required by this article and an application furnishing complete information as required by the director and on the applicant taking and passing the applicable examination required by section 41-4025, the director shall issue a conditional license to the applicant, pending completion of the background analysis, permitting ALLOWING the applicant to engage in business pursuant to this article for one year.
B. Pursuant to the agreement for conditional license, the applicant shall agree to a revocation of the conditional license if it appears, on review of the background analysis, that the applicant has misrepresented its background. The applicant shall also agree to waive any right the applicant may have to a stay of the effectiveness of any order of revocation of the conditional license, the right to notice of hearing and the right to a hearing before the revocation of the license.

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

D. Depending on the results of the background analysis, the director may either revoke the conditional license or deem the license as granted without further condition.

E. License certificates issued pursuant to this article shall be signed by the director or the director's designated representative. The license is nontransferable and satisfactory evidence of the possession shall be exhibited by the licensee on demand. The license held by the licensee shall be posted in a conspicuous place on the premises where any business is being performed. The license number shall be written on any contract entered into by the licensee.

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

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

H. The licensee may not engage in the sale of units, either new or used, unless the licensee maintains an office where the records are available for inspection and the location is listed on the license application as the principal place of business.
Sec. 8. Section 41-4029, Arizona Revised Statutes, is amended to read:

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

A. Before granting an original license, the director shall require of the applicant, except an applicant for salesperson or broker of manufactured homes, OR mobile homes or factory-built buildings designed for use as residential buildings, a surety bond in a form acceptable to the director or a cash deposit pursuant to this section. A separate bond or cash deposit shall be required for each branch location of any licensed manufacturer or installer. A license shall NOT be renewed unless the applicant's surety bond or cash deposit is in full force and effect. A change of location of a licensee's principal place of business requires a rider or endorsement to the existing bond and payment of the administrative function fee. The rider or endorsement shall indicate the new location and acceptance of claims for the previous location.

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

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

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

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

2. The director, if the principal fails to pay any of the fees or costs that the principal owes the department.
E. Any person claiming against the bond or deposit, except the department, may maintain an action against the principal and the surety. Such principal's bond or deposit may be sued on in successive actions until the full amount is exhausted. No suit may NOT be commenced on the bond or deposit after the expiration of two years after the date of sale or installation of the unit, whichever is later, on which the suit is based, except that the time for purposes of the claim for fraud shall be measured pursuant to section 12-543.

F. The surety bond or deposit shall be continuous in form and shall contain the condition that the total aggregate liability of the surety or depository for all claims shall be limited to the face amount of the bond or depository irrespective of the number of years the bond or depository is in force. If the corporate surety desires to make payment without awaiting court action, the amount of the bond filed shall be reduced to the extent of any payment or payments made by the corporate surety in good faith. Any such payments shall be based on priority of written claims received by the corporate surety prior to BEFORE court action. The surety bond or depository shall be continuous as long as the corporate surety or the depositor maintains the face amount of the bond or deposit. Failure to maintain the face amount of the bond or deposit constitutes a suspension of such THE license until the face amount of the bond or deposit is restored.

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

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

Sec. 9. Section 41-4046, Arizona Revised Statutes, is amended to read:

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

A. The director, personnel of the department and personnel under contract to the department, on presentation of credentials, shall be permitted ALLOWED to enter and inspect premises where units regulated by this chapter are manufactured, sold or installed as the director may deem
appropriate to determine if any person has violated this chapter. No A person WHO IS licensed by the department may NOT refuse to admit the director or the personnel of the department or personnel under contract if the proper credentials are presented and the inspection is made at a reasonable time.

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

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

D. If in the judgment of the director any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of this chapter, the rules, regulations or standards adopted pursuant to this chapter or an order issued pursuant to this chapter, the director may make application to the appropriate court for an order enjoining such THOSE acts or practices. On a showing by the director that such THE person has engaged in, or is about to engage in, any such acts or practices, an injunction, restraining order or such other order as may be appropriate shall be granted by such THE court without bond. On a showing by the director that a licensee has wrongfully withdrawn, or is about to wrongfully withdraw, funds required to be held in the licensee's trust account, an injunction, restraining order or such other order as may be appropriate to prevent a licensee from wrongfully withdrawing trust account monies shall be granted by the court. On granting a permanent injunction, the court may impose a civil penalty OF not exceeding one-thousand dollars MORE THAN THE CIVIL PENALTY AS DETERMINED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT for each violation.

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

F. After any hearing that the director may institute, conduct or hold under this article, the director or a representative designated by the director may impose an administrative penalty in an amount of not to exceed one thousand dollars MORE THAN THE CIVIL PENALTY AS DETERMINED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT for each violation. All monies collected pursuant to this subsection shall be deposited in the state general fund.

G. The director may refer to the attorney general or a county attorney for criminal or civil investigation the results of any investigation that indicate the existence of the elements of fraud, including investigative information regarding any person or entity that, although not a licensee under this article, has a business or other relationship to a licensee or to a manufactured home transaction under this article.

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

I. If construction, rebuilding or any other work is performed in violation of this chapter or any rule adopted pursuant to this chapter, the department may order the work stopped. The order to stop work shall be served on the person doing the work or on the person causing the work to be done. The person served with the order shall immediately cease the work until authorized by the department to continue.

APPROVED BY THE GOVERNOR MARCH 24, 2022.