Senate Engrossed House Bill

*technical correction; bingo license; transfer*

*(now: video services providers; enforcement; jurisdiction)*

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

CHAPTER 293

HOUSE BILL 2391

AN ACT

AMENDING SECTIONS 9-1451 AND 11-1951, ARIZONA REVISED STATUTES; RELATING TO THE OFFICE OF ADMINISTRATIVE HEARINGS.

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

Section 1. Section 9-1451, Arizona Revised Statutes, is amended to read:

9-1451. Enforcement; office of administrative hearings; fees;

fund

A. A local government may file a written complaint against a video
service provider and a video service provider may file a written complaint
against a local government alleging a violation of this chapter or the
uniform video service license agreement. UNLESS THE MATTER ARISES UNDER
THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES, INCLUDING THE
COMMUNICATIONS ACT OF 1934 (P.L. 73-416; 47 UNITED STATES CODE SECTIONS
151 THROUGH 615b) AND ALL OTHER APPLICABLE FEDERAL LAW, THE OFFICE OF
ADMINISTRATIVE HEARINGS HAS ORIGINAL JURISDICTION OVER ALL MATTERS UNDER
THIS CHAPTER. Unless otherwise provided in section 9-1445, subsections F,
G and H or this section:

1. TO THE EXTENT ALLOWED BY FEDERAL LAW, all complaints must be
filed with the office of administrative hearings. IF A MATTER ARISES
UNDER THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES, THE
COMPLAINT MAY BE BROUGHT BEFORE THE FEDERAL COMMUNICATIONS COMMISSION OR A
FEDERAL COURT OF COMPETENT JURISDICTION.

2. The complainant must serve a copy of the complaint on the party
that is the subject of the complaint by personal delivery or certified
mail, return receipt requested, or by any other method reasonably
calculated to effect actual notice to the local government's last address
of record for the party that is the subject of the complaint.

3. The party that is the subject of the complaint may file a
response to the complaint with the office of administrative hearings
within twenty days after service pursuant to paragraph 2 of this
subsection. Responses shall be served pursuant to paragraph 2 of this
subsection.

B. Before filing a complaint pursuant to this section both of the
following apply:

1. The complainant must provide notice of the alleged violation of
this chapter to the party that is the subject of the complaint.

2. The party that is the subject of the complaint must have a
period of not less than twenty days after the date it receives the notice
to resolve the alleged violation.

C. Subsection B of this section does not apply to a complaint made
in a written demand pursuant to section 9-1445, subsection G.

D. A hearing before the office of administrative hearings shall be
held if a complaint that complies with this section is filed with the
office of administrative hearings. Unless other deadlines are established
for a particular complaint, all of the following apply:
1. The hearing shall be held within two months after the date that the complaint is filed and service is completed pursuant to subsection A of this section.

2. The date scheduled for the hearing may be advanced or delayed on the agreement of the parties or on a showing of good cause.

E. The office of administrative hearings shall prepare and serve a notice of hearing on all parties at least one month before the hearing that states the time and place of the hearing.

F. A prehearing conference may be held pursuant to section 41-1092.05.

G. Unless it conflicts with the requirements of this section, the hearing shall be conducted pursuant to section 41-1092.07.

H. The complainant has the burden of persuasion at a hearing under this section.

I. The decision of the administrative law judge is the final administrative decision with respect to the complaint. The office of administrative hearings shall serve a copy of the administrative law judge's decision on all parties. The final administrative decision may be appealed to the superior court pursuant to title 12, chapter 7, article 6. The superior court proceeding shall be a trial de novo.

J. A party may move for rehearing pursuant to section 41-1092.09 and the office of administrative hearings shall rule on the motion. Moving for rehearing or review is not necessary for the party to seek judicial review of the decision of the administrative law judge under subsection I of this section.

K. Service is complete on personal service or five days after the date that the office of administrative hearings mails the final administrative decision to each party's last known address of record with the local government.

L. The office of administrative hearings shall adopt rules pursuant to title 41, chapter 6 to administer hearings under this chapter and title 11, chapter 14. The rules shall apply uniformly to hearings involving local governments and counties.

M. The office of administrative hearings shall establish, administer and collect fees in an amount to be determined by the director of the office of administrative hearings. The director shall deposit, pursuant to sections 35-146 and 35-147, all monies in the video service provider complaint fund established by subsection N of this section.

N. The video service provider complaint fund is established consisting of monies collected pursuant to subsection M of this section and section 11-1951, subsection M. The office of administrative hearings shall administer the fund. Monies in the fund are continuously appropriated. The office of administrative hearings shall use the monies in the fund for the purpose of administering the duties specified in this article and title 11, chapter 14, article 5.
Sec. 2. Section 11-1951, Arizona Revised Statutes, is amended to read:

11-1951. Enforcement; office of administrative hearings; fees

A. A county may file a written complaint against a video service provider and a video service provider may file a written complaint against a county alleging a violation of this chapter or the uniform video service license agreement. UNLESS THE MATTER ARISES UNDER THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES, INCLUDING THE COMMUNICATIONS ACT OF 1934 (P.L. 73-416; 47 UNITED STATES CODE SECTIONS 151 THROUGH 615b) AND ALL OTHER APPLICABLE FEDERAL LAW, THE OFFICE OF ADMINISTRATIVE HEARINGS HAS ORIGINAL JURISDICTION OVER ALL MATTERS UNDER THIS CHAPTER. Unless otherwise provided in section 11-1945, subsections F, G and H or this section:

1. TO THE EXTENT ALLOWED BY FEDERAL LAW, all complaints must be filed with the office of administrative hearings. IF A MATTER ARISES UNDER THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES, THE COMPLAINT MAY BE BROUGHT BEFORE THE FEDERAL COMMUNICATIONS COMMISSION OR A FEDERAL COURT OF COMPETENT JURISDICTION.

2. The complainant must serve a copy of the complaint on the party that is the subject of the complaint by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice to the county's last address of record for the party that is the subject of the complaint.

3. The party that is the subject of the complaint may file a response to the complaint with the office of administrative hearings within twenty days after service pursuant to paragraph 2 of this subsection. Responses shall be served pursuant to paragraph 2 of this subsection.

B. Before filing a complaint pursuant to this section both of the following apply:

1. The complainant must provide notice of the alleged violation of this chapter to the party that is the subject of the complaint.

2. The party that is the subject of the complaint must have a period of not less than twenty days after the date it receives the notice to resolve the alleged violation.

C. Subsection B of this section does not apply to a complaint made in a written demand pursuant to section 11-1945, subsection G.

D. A hearing before the office of administrative hearings shall be held if a complaint that complies with this section is filed with the office of administrative hearings. Unless other deadlines are established for a particular complaint, all of the following apply:

1. The hearing shall be held within two months after the date that the complaint is filed and service is completed pursuant to subsection A of this section.
2. The date scheduled for the hearing may be advanced or delayed on the agreement of the parties or on a showing of good cause.

E. The office of administrative hearings shall prepare and serve a notice of hearing on all parties at least one month before the hearing that states the time and place of the hearing.

F. A prehearing conference may be held pursuant to section 41-1092.05.

G. Unless it conflicts with the requirements of this section, the hearing shall be conducted pursuant to section 41-1092.07.

H. The complainant has the burden of persuasion at a hearing under this section.

I. The decision of the administrative law judge is the final administrative decision with respect to the complaint. The office of administrative hearings shall serve a copy of the administrative law judge's decision on all parties. The final administrative decision may be appealed to the superior court pursuant to title 12, chapter 7, article 6. The superior court proceeding shall be a trial de novo.

J. A party may move for rehearing pursuant to section 41-1092.09, and the office of administrative hearings shall rule on the motion. Moving for rehearing or review is not necessary for the party to seek judicial review of the decision of the administrative law judge under subsection I of this section.

K. Service is complete on personal service or five days after the date that the office of administrative hearings mails the final administrative decision to each party's last known address of record with the county.

L. The office of administrative hearings shall adopt rules pursuant to title 41, chapter 6 to administer hearings under this chapter and title 9, chapter 13. The rules shall apply uniformly to hearings involving local governments as defined in section 9-1401 and counties.

M. The office of administrative hearings shall establish, administer and collect fees in an amount to be determined by the director of the office of administrative hearings. The director shall deposit, pursuant to sections 35-146 and 35-147, all monies in the video service provider complaint fund established by section 9-1451, subsection N.