

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1463

AN ACT

AMENDING SECTIONS 6-101, 6-116, 6-122, 6-123, 6-123.01, 6-124, 6-125, 6-126, 6-128, 6-129.01, 6-131.01, 6-132, 6-133, 6-135, 6-135.01, 6-137, 6-138, 6-139, 6-141, 6-142, 6-143, 6-144, 6-145, 6-146, 6-147, 6-148, 6-149, 6-150, 6-151, 6-153, 6-161, 6-162, 6-163, 6-164, 6-165, 6-181, 6-184, 6-185, 6-186, 6-187, 6-189, 6-190, 6-191, 6-192, 6-202, 6-203, 6-204, 6-205, 6-212, 6-215, 6-217, 6-234, 6-241, 6-242, 6-245, 6-271, 6-273, 6-321, 6-322, 6-325, 6-326, 6-327, 6-328, 6-329, 6-331, 6-352, 6-353, 6-384, 6-385, 6-395, 6-395.01, 6-395.02, 6-395.03, 6-395.11, 6-395.13, 6-395.14, 6-401, 6-405, 6-405.01, 6-407, 6-408, 6-409, 6-410, 6-411, 6-412, 6-413, 6-417, 6-420, 6-421, 6-423, 6-425, 6-427, 6-428, 6-434, 6-435, 6-440, 6-442, 6-444, 6-446, 6-449, 6-451, 6-453, 6-457, 6-460, 6-462, 6-463, 6-465, 6-468, 6-469, 6-472, 6-474, 6-475, 6-476, 6-477, 6-478, 6-479, 6-482, 6-486, 6-487, 6-488, 6-489, 6-490, 6-491, 6-501, 6-502, 6-503, 6-506, 6-507, 6-508, 6-509, 6-510, 6-511, 6-516, 6-532, 6-541, 6-558, 6-564, 6-577, 6-582, 6-583, 6-584, 6-585, 6-586, 6-587, 6-588, 6-595, 6-601, 6-602, 6-603, 6-604, 6-605, 6-606, 6-607, 6-608, 6-609, 6-612, 6-631, 6-635, 6-701, 6-703, 6-704, 6-705, 6-706, 6-707, 6-708, 6-709, 6-710, 6-714, 6-802, 6-813, 6-814, 6-815, 6-816, 6-817, 6-832, 6-833, 6-837, 6-838, 6-841.01, 6-841.03, 6-846.01, 6-846.03, 6-846.04, 6-853, 6-854, 6-854.01, 6-854.02, 6-856, 6-857, 6-859, 6-860, 6-861, 6-863, 6-865, 6-868, 6-869, 6-870.01, 6-870.02, 6-882, 6-903, 6-904, 6-905, 6-906, 6-907, 6-908, 6-912, 6-913, 6-943, 6-944, 6-945, 6-946, 6-949, 6-973, 6-974, 6-975, 6-976, 6-978, 6-979, 6-980, 6-981, 6-982, 6-983, 6-991.01, 6-991.02, 6-991.03, 6-991.04, 6-991.05, 6-991.07, 6-991.09, 6-991.10, 6-991.11, 6-991.12, 6-991.13, 6-991.15, 6-991.16,

6-991.17, 6-991.18, 6-991.20, 6-991.21, 6-1003, 6-1101, 6-1102, 6-1103, 6-1104, 6-1105, 6-1106, 6-1107, 6-1108, 6-1109, 6-1110, 6-1112, 6-1113, 6-1203, 6-1204, 6-1205, 6-1206, 6-1207, 6-1208, 6-1209, 6-1210, 6-1211, 6-1212, 6-1213, 6-1215, 6-1216, 6-1217 AND 6-1241, ARIZONA REVISED STATUTES; REPEALING TITLE 6, CHAPTER 12.1, ARIZONA REVISED STATUTES; AMENDING SECTIONS 6-1302 AND 6-1303, ARIZONA REVISED STATUTES; REPEALING SECTION 6-1304, ARIZONA REVISED STATUTES; AMENDING SECTIONS 6-1305, 6-1306, 6-1307, 6-1308, 6-1402, 6-1404, 6-1405, 6-1406, 6-1407, 6-1408, 6-1410, 6-1419, 10-2251, 10-2258, 10-2259, 10-2260, 10-2261, 10-2265, 13-2317, 14-3603, 14-5411, 20-466, 20-3251, 25-519, 32-1001, 32-1004, 32-1021, 32-1022, 32-1023, 32-1024, 32-1025, 32-1026, 32-1027, 32-1053, 32-3601, 32-3605, 32-3607 AND 32-3609, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 36, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3610; AMENDING SECTIONS 32-3611, 32-3613, 32-3614, 32-3614.01, 32-3614.02, 32-3615, 32-3617, 32-3618, 32-3619, 32-3620, 32-3621, 32-3622, 32-3624, 32-3625, 32-3627, 32-3628, 32-3631, 32-3632, 32-3637, 32-3638, 32-3639, 32-3652, 32-3653, 32-3654, 32-3655, 32-3661, 32-3662, 32-3663, 32-3664, 32-3666, 32-3667, 32-3668, 32-3669, 32-3671, 32-3672, 32-3677, 32-3678, 32-3679, 32-3680, 35-323, 38-871, 41-3451, 44-281, 48-101 AND 48-3204, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 6-101, Arizona Revised Statutes, is amended to
3 read:

4 6-101. Definitions

5 In this title, unless the context otherwise requires:

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

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

14 3. "Banking office" means any place of business of the bank at
15 which deposits are received, checks are paid or money is loaned but does
16 not include the premises used for computer operations, proofing, record
17 keeping, accounting, storage, maintenance or other administrative or
18 service functions.

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

21 5. "Department" means the department of insurance and financial
22 institutions.

23 6. "Deputy director" ~~or "superintendent"~~ means the deputy director
24 of the financial institutions division of the department.

25 7. "Director" has the same meaning prescribed in section 20-102.

26 8. "Division" means the financial institutions division within the
27 department.

28 9. "Enterprise" means any person under the jurisdiction of the
29 department other than a financial institution.

30 10. "Federal deposit insurance corporation" includes any successor
31 to the corporation or other agency or instrumentality of the United States
32 that undertakes to discharge the purposes of the corporation.

33 11. "Financial institution" means banks, trust companies, savings
34 and loan associations, credit unions, consumer lenders, international
35 banking facilities and financial institution holding companies under the
36 jurisdiction of the department.

37 12. "Home state" means the state that has granted the bank its
38 charter, permit or license to operate.

39 13. "Host state" means the state in which a financial institution
40 is doing business and not the state that has granted the bank its charter,
41 permit or license to operate.

42 14. "In-state financial institution" means a state or federal bank,
43 savings bank, savings and loan association or holding company with its
44 home office located in this state.

1 15. "International banking facility" means a facility that is
2 represented by a set of asset and liability accounts segregated on the
3 books and records of a commercial bank, the principal office of which is
4 located in this state, and that is incorporated and doing business under
5 the laws of the United States or of this state, a United States branch or
6 agency of a foreign bank, an edge corporation organized under section
7 25(a) of the federal reserve act (12 United States Code sections 611
8 through 631) or an agreement corporation having an agreement or
9 undertaking with the board of governors of the federal reserve system
10 under section 25 of the federal reserve act (12 United States Code
11 sections 601 through 604(a)) that includes only international banking
12 facility time deposits and international banking facility extensions of
13 credit as defined in 12 Code of Federal Regulations part 204.

14 16. "National credit union administration" includes any successor
15 to the organization or other agency or instrumentality of the United
16 States that undertakes to discharge the purposes of the organization.

17 17. "Out-of-state bank" means a bank, savings bank or savings and
18 loan association that is approved by the ~~superintendent~~ DEPUTY DIRECTOR
19 pursuant to section 6-322 and that has a charter, a permit or any other
20 license to operate that is issued by a state other than this state.

21 18. "Out-of-state financial institution" means a state or federal
22 bank, savings bank, savings and loan association or holding company with
23 its home office in a state other than this state.

24 19. "Title" includes this title, title 32, chapters 9 and 36 and
25 title 44, chapter 2.1.

26 Sec. 2. Section 6-116, Arizona Revised Statutes, is amended to
27 read:

28 6-116. Sale of securities; disclosure

29 A. A financial institution doing business in this state or any
30 other person shall not sell or offer to sell equity securities or debt
31 instruments to the public in a financial institution's retail office where
32 deposits are accepted without the prior written approval of the
33 ~~superintendent~~ DEPUTY DIRECTOR.

34 B. A financial institution or any other person that receives
35 written approval as prescribed by subsection A OF THIS SECTION and that
36 sells or offers to sell equity securities or debt instruments of the
37 financial institution or the holding company of a financial institution
38 shall disclose to the purchaser prior to any sale that the equity security
39 or debt instrument is not a federally insured deposit and shall provide to
40 the purchaser a disclosure form that is approved by the ~~superintendent~~
41 DEPUTY DIRECTOR. The ~~superintendent~~ DEPUTY DIRECTOR may by rule prescribe
42 requirements for the disclosure form.

43 C. A financial institution's or a holding company of the financial
44 institution's application for approval of the disclosure form required by
45 subsection B OF THIS SECTION shall include information describing the

1 policies and procedures that the financial institution or any other person
2 authorized to offer or sell the securities has adopted to ensure that it
3 is marketing the securities with appropriate disclosures regarding the
4 nature of the investment.

5 Sec. 3. Section 6-122, Arizona Revised Statutes, is amended to
6 read:

7 6-122. Deputy director; authority; duties

8 A. The ~~superintendent~~ DEPUTY DIRECTOR has the authority and
9 responsibility for the discharge of all duties imposed by law on the
10 division.

11 B. The ~~superintendent~~ DEPUTY DIRECTOR shall:

12 1. Examine or cause to be examined each financial institution
13 annually, except financial institution holding companies, banks, savings
14 and loan associations, credit unions and consumer lenders, and more
15 frequently if the ~~superintendent~~ DEPUTY DIRECTOR considers it necessary.

16 2. Examine or cause to be examined each bank, credit union and
17 savings and loan association at the ~~superintendent's~~ DEPUTY DIRECTOR'S
18 discretion but at least once in every twenty-four month period.

19 3. Examine or cause to be examined the business and affairs of any
20 enterprise and any consumer lender for the purpose of administering and
21 enforcing this title at the ~~superintendent's~~ DEPUTY DIRECTOR'S discretion.

22 4. Examine or cause to be examined financial institution holding
23 companies as frequently as the ~~superintendent~~ DEPUTY DIRECTOR considers
24 necessary to administer and enforce this title.

25 5. Notwithstanding paragraph 3 of this subsection, examine or cause
26 to be examined the accounts held in trust by each escrow agent at least
27 once in every two-year period and examine or cause to be examined each
28 escrow agent at least once in every four-year period or more frequently if
29 the ~~superintendent~~ DEPUTY DIRECTOR considers it necessary.

30 6. Publish a consumer information brochure that includes:

31 (a) The finance charges ~~permitted~~ ALLOWED by this state.

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

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

36 (d) Consumer rights and means of recourse from unfair
37 practitioners.

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

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

5 Sec. 4. Section 6-123, Arizona Revised Statutes, is amended to
6 read:

7 6-123. Deputy director; powers

8 In addition to the other powers, express or implied, the
9 ~~superintendent~~ DEPUTY DIRECTOR may:

10 1. Exercise all powers that are necessary for the administration
11 and enforcement of the laws and rules relating to financial institutions
12 and enterprises.

13 2. In accordance with title 41, chapter 6, adopt rules that are
14 necessary or appropriate to administer, enforce and accomplish the
15 purposes of this title and adopt rules and issue orders that limit
16 transactions between financial institutions or enterprises and the
17 directors, officers or employees of the financial institutions or
18 enterprises.

19 3. Require appropriate records, documents, information and reports
20 from any financial institution or enterprise.

21 4. Submit to the department of public safety, or the nationwide
22 mortgage licensing system and registry established by the secure and fair
23 enforcement for mortgage licensing act of 2008 (P.L. 110-289; 122 Stat.
24 2810; 12 United States Code sections 5101 through 5116) or its successor,
25 the name and fingerprints of any applicant, licensee, active manager or
26 responsible individual or the name and fingerprints of any organizer,
27 director or officer of any corporate applicant or licensee for:

28 (a) A banking permit.

29 (b) Permission to organize a savings and loan association or credit
30 union.

31 (c) Any license.

32 (d) Any certificate.

33 (e) Authority to engage in interstate banking and branching in this
34 state.

35 The department of public safety shall report the criminal record, if any,
36 of such applicant, licensee or organizer, director or officer of such
37 corporate applicant or licensee within ninety days ~~of~~ AFTER receipt of the
38 DEPUTY DIRECTOR'S request ~~of the superintendent~~.

39 5. Employ appraisers to appraise any property that is owned or held
40 as security by any financial institution or enterprise. The reasonable
41 expenses and compensation of such appraisers shall be paid by the
42 financial institution or enterprise.

43 6. Hold membership in, pay dues to and attend the convention of the
44 national and regional organizations of state officials occupying like
45 offices or performing similar functions.

1 7. Cooperate with other regulatory agencies and professional
2 associations to promote the efficient, safe and sound operation and
3 regulation of interstate banking and branching activities, including the
4 formulation of interstate examination policies and procedures and the
5 drafting of model rules and agreements.

6 8. Participate in the nationwide mortgage licensing system and
7 registry established by the secure and fair enforcement for mortgage
8 licensing act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 United States Code
9 sections 5101 through 5116) or its successor. The ~~superintendent~~ DEPUTY
10 DIRECTOR may allow the system to collect licensing fees on behalf of the
11 ~~superintendent~~ DEPUTY DIRECTOR, to collect a processing fee for the
12 services of the system directly from each applicant for a license or
13 licensee and to process and maintain records on behalf of the
14 ~~superintendent~~ DEPUTY DIRECTOR, including information collected pursuant
15 to this section and section 6-123.01. This paragraph does not affect the
16 records disclosure requirements and limitations prescribed in section
17 6-129.01.

18 Sec. 5. Section 6-123.01, Arizona Revised Statutes, is amended to
19 read:

20 6-123.01. Fingerprint requirements; fees

21 A. Before receiving and holding a license, permit, certificate or
22 permission to organize a bank, savings and loan association or credit
23 union, the ~~superintendent~~ DEPUTY DIRECTOR may require an applicant,
24 licensee, active manager or responsible individual or an organizer,
25 director or officer of any corporate applicant or licensee to submit a
26 full set of fingerprints and fees to the department. The department of
27 insurance and financial institutions shall submit the fingerprints and
28 fees to the department of public safety, or the nationwide mortgage
29 licensing system and registry established by the secure and fair
30 enforcement for mortgage licensing act of 2008 (P.L. 110-289; 122 Stat.
31 2810; 12 United States Code sections 5101 through 5116) or its successor,
32 for the purpose of obtaining a state and federal criminal records check
33 pursuant to section 41-1750 and Public Law 92-544. The department of
34 public safety may exchange this fingerprint data with the federal bureau
35 of investigation.

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

38 C. The applicant is responsible for providing the department with
39 readable fingerprints. The applicant shall pay any costs that are
40 attributable to refingerprinting due to the unreadability of any
41 fingerprints and any fees that are required for the resubmission of
42 fingerprints.

43 D. The department may issue a temporary license or certificate or
44 grant temporary permission to organize to an original applicant before the
45 department receives the results of a criminal records check if there is

1 not evidence or reasonable suspicion that the applicant has a criminal
2 history background that would be cause for denial of a license,
3 certificate or permission to organize. The department may terminate the
4 temporary license or certificate or permission to organize if a
5 fingerprint card is returned as unreadable and the applicant fails to
6 submit new fingerprints within ten days after being notified by the
7 department that the original card was unreadable or if the results of the
8 criminal records check reveal grounds for the denial of the license or
9 certificate or permission to organize. The temporary license or
10 certificate or permission to organize shall not be effective longer than
11 one hundred eighty days.

12 E. The ~~superintendent~~ DEPUTY DIRECTOR may require a current
13 licensee, organizer, director, active manager, responsible individual or
14 officer of any corporate licensee to submit a full set of fingerprints to
15 the department. The department of insurance and financial institutions
16 shall submit the fingerprints and fees to the department of public safety
17 for the purpose of obtaining a state and federal criminal records check
18 pursuant to section 41-1750 and Public Law 92-544. The department of
19 public safety may exchange this fingerprint data with the federal bureau
20 of investigation.

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

23 Sec. 6. Section 6-124, Arizona Revised Statutes, is amended to
24 read:

25 6-124. Investigations; compelling testimony and the
26 production of documents; self-incrimination

27 A. The ~~superintendent~~ DEPUTY DIRECTOR may conduct examinations and
28 investigations within or outside this state to determine whether any
29 person has engaged, is engaging or is about to engage in any act, practice
30 or transaction which constitutes an unsafe or unsound practice or a
31 violation of any law or rule applicable to persons subject to the
32 jurisdiction of the ~~superintendent~~ DEPUTY DIRECTOR or any order of the
33 ~~superintendent~~ DEPUTY DIRECTOR or to aid in the enforcement of this title
34 or to aid in adopting rules.

35 B. The ~~superintendent~~ DEPUTY DIRECTOR and any examiner or
36 administrative law judge, in the performance of the ~~superintendent's~~
37 DEPUTY DIRECTOR'S, examiner's or administrative law judge's duties, may
38 take evidence, examine on oath any person and compel the attendance of
39 witnesses and the production of documents, books and papers. ~~upon~~ ON
40 refusal to appear or produce, the ~~superintendent~~ DEPUTY DIRECTOR may apply
41 to the superior court in Maricopa county to compel appearance or
42 production.

1 C. All financial institutions and enterprises shall, ~~upon~~ ON
2 request of the ~~superintendent~~ DEPUTY DIRECTOR, make their books and
3 records available for inspection and examination by the ~~superintendent~~
4 DEPUTY DIRECTOR or the ~~superintendent's~~ DEPUTY DIRECTOR'S examiners.

5 Sec. 7. Section 6-125, Arizona Revised Statutes, is amended to
6 read:

7 6-125. Annual examination assessment of financial
8 institutions and enterprises; costs of foreign
9 examination; payment

10 A. Before August 31 of each year the ~~superintendent~~ DEPUTY DIRECTOR
11 shall make the following annual assessments:

12 1. ~~Upon~~ ON banks, the annual assessment set by the ~~superintendent~~
13 DEPUTY DIRECTOR.

14 2. ~~Upon~~ ON savings and loan associations, a charge not to exceed
15 the annual assessment set for state banks under paragraph 1 of this
16 subsection.

17 3. ~~Upon~~ ON credit unions, the annual assessment set by the
18 ~~superintendent~~ DEPUTY DIRECTOR.

19 B. The ~~superintendent~~ DEPUTY DIRECTOR shall assess against the
20 institution or enterprise examined a charge at the rate set by the
21 ~~superintendent~~ DEPUTY DIRECTOR but not to exceed ~~sixty-five dollars~~ \$65
22 per hour for each examiner employed in the following examinations:

23 1. Any examination of a trust company.

24 2. Any examination of the trust operation of a bank or a savings
25 and loan association.

26 3. Any examination of a financial institution ordered by the
27 ~~superintendent~~ DEPUTY DIRECTOR in addition to the regular examination
28 required under section 6-122.

29 4. Any examination of an enterprise ordered by the ~~superintendent~~
30 DEPUTY DIRECTOR.

31 5. Any examination of a financial institution holding company or
32 international banking facility.

33 6. Any examination of a consumer lender.

34 C. For a financial institution or enterprise maintaining an office
35 outside this state, in addition to the annual assessment or examination
36 assessment, the ~~superintendent~~ DEPUTY DIRECTOR shall make an assessment
37 equal to the travel and subsistence expense incurred in the examination of
38 the office in the foreign state or country. Notwithstanding any other
39 limitation prescribed by law, examiners engaged in examination of a
40 foreign office shall be reimbursed for their necessary travel and
41 subsistence expenses. Reimbursement for examiners' expenses shall be
42 credited to the appropriation account of the department.

43 D. Assessments under this section are due and payable to the
44 department within thirty days after notice of the assessment is mailed by
45 the department. The ~~superintendent~~ DEPUTY DIRECTOR shall assess a penalty

1 of ~~fifty dollars~~ \$50 for each day after the thirty-day period that the
2 financial institution or enterprise fails to remit the assessment, unless,
3 ~~upon~~ ON good cause shown, a written request for an extension is approved
4 by the ~~superintendent~~ DEPUTY DIRECTOR prior to the expiration of the
5 specified time. In no event shall the total penalty exceed the
6 examination assessment.

7 E. The ~~superintendent~~ DEPUTY DIRECTOR shall set the amount of the
8 annual assessment to be charged to banks and credit unions. In setting
9 the annual assessment ~~upon~~ ON banks, the ~~superintendent~~ DEPUTY DIRECTOR
10 shall consider the annual assessment set by the comptroller of currency
11 for national banks. In setting the annual assessment ~~upon~~ ON credit
12 unions the ~~superintendent~~ DEPUTY DIRECTOR shall consider the annual
13 assessment set by the national credit union administration for federal
14 credit unions.

15 Sec. 8. Section 6-126, Arizona Revised Statutes, is amended to
16 read:

17 6-126. Application fees for financial institutions and
18 enterprises

19 A. The following nonrefundable fees are payable to the department
20 with the filing of the following ~~applications~~:

- 21 1. To apply for a banking permit, ~~one thousand dollars~~ \$1,000.
- 22 2. To apply for an amendment to a banking or savings and loan
23 association permit, ~~one thousand dollars~~ \$1,000.
- 24 3. To establish each banking branch office, ~~seven hundred fifty~~
25 ~~dollars~~ \$750.
- 26 4. To move a banking office to other than an established office of
27 a bank, ~~one thousand dollars~~ \$1,000.
- 28 5. To apply for a savings and loan association permit, ~~five~~
29 ~~thousand dollars~~ \$5,000.
- 30 6. To establish each savings and loan association branch office,
31 ~~one thousand five hundred dollars~~ \$1,500.
- 32 7. To move an office of a savings and loan association to other
33 than an established office, ~~one thousand dollars~~ \$1,000.
- 34 8. To organize and establish a credit union, ~~one hundred dollars~~
35 \$100.
- 36 9. To establish each credit union branch or to move a credit union
37 office to other than an established office of a credit union, ~~two hundred~~
38 ~~fifty dollars~~ \$250.
- 39 10. To organize and establish any other financial institutions for
40 which an application or investigation fee is not otherwise provided by
41 law, ~~one thousand dollars~~ \$1,000.
- 42 11. To acquire control of a financial institution other than a
43 consumer lender, ~~five thousand dollars~~ \$5,000.

1 12. To apply for a trust company license, ~~one thousand dollars~~
2 \$1,000.

3 13. To apply for a commercial mortgage banker, mortgage banker,
4 escrow agent or consumer lender license, ~~one thousand dollars~~ \$1,000.

5 14. To apply for a mortgage broker, commercial mortgage broker,
6 sales finance company or debt management company license, ~~five hundred~~
7 dollars \$500.

8 15. To apply for a collection agency license, ~~one thousand five~~
9 hundred dollars \$1,500.

10 ~~16. To apply for a deferred presentment company license, one~~
11 ~~thousand dollars.~~

12 ~~17.~~ 16. To apply for a branch office of an escrow agent, consumer
13 lender, commercial mortgage banker, mortgage banker, ~~OR~~ trust company,
14 ~~money transmitter, collection agency or deferred presentment company, five~~
15 hundred dollars \$500.

16 ~~18.~~ 17. To apply for a branch office of a mortgage broker,
17 commercial mortgage broker, debt management company or sales finance
18 company, ~~two hundred fifty dollars~~ \$250.

19 ~~19. To apply for approval of the articles of incorporation of a~~
20 ~~business development corporation, five hundred dollars.~~

21 ~~20.~~ 18. To apply for approval for the merger or consolidation of
22 two or more financial institutions, ~~five thousand dollars~~ \$5,000 per
23 institution.

24 ~~21.~~ 19. To apply for approval to convert from a national bank or
25 federal savings and loan charter to a state chartered institution, ~~one~~
26 thousand dollars \$1,000.

27 ~~22.~~ 20. To apply for approval to convert from a federal credit
28 union to a state chartered credit union, ~~five hundred dollars~~ \$500.

29 ~~23.~~ 21. To apply for approval to merge or consolidate two or more
30 credit unions, ~~five hundred dollars~~ \$500 per credit union.

31 ~~24. To move an established office of an enterprise to other than an~~
32 ~~established office, fifty dollars.~~

33 ~~25. To issue a duplicate or replace a lost enterprise's license,~~
34 ~~one hundred dollars.~~

35 ~~26. To change a responsible person on a mortgage broker's,~~
36 ~~commercial mortgage broker's, commercial mortgage banker's or a mortgage~~
37 ~~banker's license, two hundred fifty dollars.~~

38 ~~27. To change an active manager on a collection agency license or a~~
39 ~~manager of a money transmitter branch office license, two hundred fifty~~
40 ~~dollars.~~

41 ~~28.~~ 22. To change the licensee name on a financial institution or
42 enterprise license, ~~EXCEPT FOR A LOAN ORIGINATOR OR APPRAISER LICENSE,~~ not
43 more than ~~two hundred fifty dollars~~ \$250.

1 ~~29.~~ 23. To apply for a money transmitter license, ~~one thousand~~
2 ~~five hundred dollars~~ \$1,500 plus ~~twenty-five dollars~~ \$25 for each branch
3 office and authorized delegate to a maximum of ~~four thousand five hundred~~
4 ~~dollars~~ \$4,500.

5 ~~30.~~ 24. To acquire control of any money transmitter or controlling
6 person pursuant to chapter 12 of this title, ~~two thousand five hundred~~
7 ~~dollars~~ \$2,500.

8 ~~31.~~ 25. To receive the following publications:

9 (a) Quarterly bank and savings and loan statement of condition, not
10 more than ~~ten dollars~~ \$10 per copy.

11 (b) Monthly summary of actions report, not more than ~~five dollars~~
12 \$5 per copy.

13 (c) A list of licensees, a monthly pending actions report and all
14 other in-house prepared reports or listings made available to the public,
15 not more than ~~one dollar~~ \$1 per page.

16 ~~32.~~ 26. To apply for a loan originator license, an amount to be
17 determined by the ~~superintendent~~ DEPUTY DIRECTOR.

18 ~~33.~~ 27. To apply for a loan originator license transfer, an amount
19 to be determined by the ~~superintendent~~ DEPUTY DIRECTOR.

20 ~~34.~~ 28. To apply for a conversion from a mortgage banker license
21 to a mortgage broker license, an amount to be determined by the
22 ~~superintendent~~ DEPUTY DIRECTOR.

23 29. FOR A PREMIUM FINANCE COMPANY, \$300 PLUS \$300 FOR EACH BRANCH
24 OFFICE.

25 30. FOR AN ADVANCE FEE LOAN BROKER, \$50.

26 B. ON APPLICATION FOR A LICENSE OR PERMIT FOR AN ENTERPRISE OR
27 CONSUMER LENDER, THE APPLICANT SHALL PAY THE FIRST YEAR'S ANNUAL
28 ASSESSMENT LISTED IN SUBSECTION D OF THIS SECTION, PRORATED ACCORDING TO
29 THE NUMBER OF QUARTERS REMAINING UNTIL THE DATE OF THE NEXT ANNUAL
30 ASSESSMENT OR RENEWAL. IF THE RESULT OF THE APPLICATION ENDS IN A DENIAL,
31 THE DEPARTMENT SHALL REFUND THE PRORATED ANNUAL ASSESSMENT THAT THE
32 APPLICANT PAID. ANNUAL RENEWAL FEES ARE NONREFUNDABLE.

33 ~~B.~~ C. On issuance of a license or permit for a financial
34 institution ~~or enterprise~~, the ~~superintendent~~ DEPARTMENT shall collect the
35 first year's annual assessment or renewal fee for the financial
36 institution, ~~or enterprise~~ EXCEPT FOR A CONSUMER LENDER THAT PAID ON
37 APPLICATION, prorated according to the number of quarters remaining until
38 the date of the next annual assessment or renewal.

39 ~~C.~~ D. The following annual ASSESSMENTS AND renewal fees shall be
40 paid each year:

41 1. For an escrow agent or trust company, ~~one thousand dollars~~
42 \$1,000 plus ~~two hundred fifty dollars~~ \$250 for each branch office.

43 2. For a debt management company or sales finance company, ~~five~~
44 ~~hundred dollars~~ \$500 plus ~~two hundred dollars~~ \$200 for each branch office.

1 3. For a collection agency, ~~six hundred dollars plus two hundred~~
2 ~~dollars for each branch office~~ \$600.

3 4. For an inactive mortgage broker or commercial mortgage broker,
4 ~~two hundred fifty dollars~~ \$250.

5 5. For a mortgage banker that negotiates or closes in the aggregate
6 one hundred loans or less in the immediately preceding calendar year,
7 ~~seven hundred fifty dollars~~ \$750, and for a mortgage banker that
8 negotiates or closes in the aggregate over one hundred loans in the
9 immediately preceding calendar year, ~~one thousand two hundred fifty~~
10 ~~dollars~~ \$1,250. In addition, a mortgage banker shall pay ~~two hundred~~
11 ~~fifty dollars~~ \$250 for each branch office.

12 6. For a commercial mortgage banker, ~~one thousand two hundred fifty~~
13 ~~dollars~~ \$1,250. In addition, a commercial mortgage banker shall pay ~~two~~
14 ~~hundred fifty dollars~~ \$250 for each branch office.

15 7. For a mortgage broker or commercial mortgage broker that
16 negotiates or closes in the aggregate fifty loans or less in the
17 immediately preceding calendar year, ~~two hundred fifty dollars~~ \$250 and
18 for a mortgage broker or commercial mortgage broker that negotiates or
19 closes in the aggregate more than fifty loans in the immediately preceding
20 calendar year, ~~five hundred dollars~~ \$500. In addition, a mortgage broker
21 or commercial mortgage broker shall pay ~~two hundred dollars~~ \$200 for each
22 branch office.

23 8. For a consumer lender, ~~one thousand dollars~~ \$1,000 plus ~~two~~
24 ~~hundred dollars~~ \$200 for each branch office.

25 9. For a money transmitter, ~~five hundred dollars~~ \$500 plus
26 ~~twenty-five dollars~~ \$25 for each branch office and each authorized
27 delegate to a maximum of ~~two thousand five hundred dollars~~ \$2,500.

28 ~~10. For a deferred presentment company, four hundred dollars. In~~
29 ~~addition, a deferred presentment company shall pay two hundred dollars for~~
30 ~~each branch office.~~

31 ~~11.~~ 10. For a loan originator, an amount to be determined by the
32 ~~superintendent~~ DEPUTY DIRECTOR.

33 ~~12.~~ 11. For ~~an inactive status~~ A loan originator CHANGE TO
34 INACTIVE STATUS, an amount to be determined by the ~~superintendent~~ DEPUTY
35 DIRECTOR.

36 ~~D. The license, renewal or branch office permit fee for a premium~~
37 ~~finance company for each calendar year or part of a calendar year shall~~
38 ~~not be less than one hundred dollars or more than three hundred dollars as~~
39 ~~set by the superintendent. If the license is issued or the branch office~~
40 ~~is opened after June 30 in any year, the fees shall not be less than fifty~~
41 ~~dollars or more than one hundred fifty dollars for that year.~~

42 12. FOR A PREMIUM FINANCE COMPANY, \$300 PLUS \$300 FOR EACH BRANCH
43 OFFICE.

44 13. FOR AN ADVANCE FEE LOAN BROKER, \$25.

1 Sec. 9. Section 6-128, Arizona Revised Statutes, is amended to
2 read:

3 6-128. Joint examinations; acceptance of federal regulatory
4 and other authorized examinations

5 A. The examination of a financial institution or enterprise may be
6 made in coordination with any authorized federal examination or an
7 examination by another state. The ~~superintendent~~ DEPUTY DIRECTOR in ~~his~~
8 THE DEPUTY DIRECTOR'S discretion may accept the examination report or
9 other information compiled or generated by a federal regulatory authority
10 or by another state regulatory authority that has jurisdiction over the
11 financial institution or enterprise in lieu of any examination authorized
12 or required by the laws of this state. Acceptance of the examination
13 reports shall not be a waiver of the examination assessments provided by
14 law, and reports so accepted are considered for all purposes as an
15 official report of the department.

16 B. The ~~superintendent~~ DEPUTY DIRECTOR may take any reasonable and
17 lawful action to coordinate the examination of financial institutions or
18 enterprises, including:

19 1. Negotiating and entering into cooperative agreements with an
20 agency of another state or of the federal government.

21 2. Sharing information and reports with persons as prescribed by
22 section 6-129.

23 Sec. 10. Section 6-129.01, Arizona Revised Statutes, is amended to
24 read:

25 6-129.01. Enterprise documents open to public inspection

26 All papers, documents, reports and other written instruments filed
27 with the ~~superintendent~~ DEPUTY DIRECTOR pursuant to the requirements of
28 this title by an enterprise shall be open to public inspection, except
29 that the ~~superintendent~~ DEPUTY DIRECTOR may withhold from public
30 inspection for such time as ~~he~~ THE DEPUTY DIRECTOR considers necessary any
31 information which in ~~his~~ THE DEPUTY DIRECTOR'S judgment the public welfare
32 or the welfare of the financial enterprise requires to be so withheld.

33 Sec. 11. Section 6-131.01, Arizona Revised Statutes, is amended to
34 read:

35 6-131.01. Appointment of deputy director as receiver; award
36 of property, fees and costs

37 A. The ~~superintendent~~ DEPUTY DIRECTOR may be appointed as a
38 receiver of a financial institution or enterprise under ~~his~~ THE DEPUTY
39 DIRECTOR'S supervision. No bond is required of the ~~superintendent~~ DEPUTY
40 DIRECTOR for acting as a receiver.

41 B. All reasonable expenses of the department relating or
42 apportioned to a receivership, including receiver fees and attorney fees,
43 costs of preliminary or other examinations of the person placed into
44 receivership and expenses relating to the management of any office or
45 other asset of the person placed in receivership, shall be awarded by the

1 court for payment to the department out of the assets of the
2 receivership. The department shall assess those expenses against the
3 receivership quarterly and shall deposit those amounts in the department
4 receivership revolving fund, as provided in section 6-135.01. Those
5 assessments have priority over the other creditors of the receivership.
6 Notwithstanding the other provisions of this subsection, on request by the
7 ~~superintendent~~ DEPUTY DIRECTOR, the court may award personal property of
8 the receivership to the department as partial compensation for the
9 services rendered during the administration of the receivership.

10 C. The ~~superintendent~~ DEPUTY DIRECTOR shall maintain a complete
11 accounting of each receivership in which ~~he~~ THE DEPUTY DIRECTOR is
12 appointed as receiver.

13 Sec. 12. Section 6-132, Arizona Revised Statutes, is amended to
14 read:

15 6-132. Violation of title; civil penalty

16 The ~~superintendent~~ DEPUTY DIRECTOR may assess a civil penalty in an
17 amount of not more than ~~five thousand dollars~~ \$5,000 against a person,
18 including any officer, director, employee, agent or other person who
19 participates in the conduct of the affairs of the person, for any knowing
20 violation of any provision of this title or of any rule or order adopted
21 or issued pursuant to this title. If the assessment is not paid in full
22 within thirty days after the service of the notice of the assessment on
23 the person, the attorney general, on request of the ~~superintendent~~ DEPUTY
24 DIRECTOR, shall bring an action in the superior court in the county in
25 which a violation of this section is alleged to have occurred in the same
26 manner as the filing of other actions. On the finding of a knowing
27 violation of this section by the defendant in any such action, the court
28 may enforce the civil penalty imposed by the ~~superintendent~~ DEPUTY
29 DIRECTOR or may impose a different civil penalty in an amount as it deems
30 appropriate for each violation. Each day of violation constitutes a
31 separate offense.

32 Sec. 13. Section 6-133, Arizona Revised Statutes, is amended to
33 read:

34 6-133. Violations; classification

35 A. Any person who knowingly violates any provision of this title
36 for which a different penalty is not specifically provided or knowingly
37 violates any rule, regulation or order issued or promulgated pursuant to
38 this title is guilty of a class 6 felony. Each day of violation shall
39 constitute a separate offense.

40 B. Any person who knowingly makes any false statement,
41 misrepresentation or false certification in any application, record,
42 report, plan or other document filed or required to be maintained pursuant
43 to this title or under any license, certificate, rule, regulation or order
44 issued pursuant to this title with intent to deceive the ~~superintendent~~
45 DEPUTY DIRECTOR is guilty of a class 3 felony.

1 C. Any person who knowingly makes any false entry or omits a
2 material entry in any record, report or statement of a financial
3 institution with intent to injure or defraud the financial institution or
4 to deceive the ~~superintendent~~ DEPUTY DIRECTOR or any agent or examiner
5 appointed by the ~~superintendent~~ DEPUTY DIRECTOR to examine the affairs of
6 the financial institution is guilty of a class 3 felony.

7 Sec. 14. Section 6-135, Arizona Revised Statutes, is amended to
8 read:

9 6-135. Department revolving fund; use of fund

10 A. There is established a department revolving fund to be
11 administered by the ~~superintendent~~ DEPUTY DIRECTOR under the conditions
12 and for the purposes provided by this section. Monies in the fund are
13 exempt from the provisions of section 35-190, relating to ~~the~~ lapsing of
14 appropriations.

15 B. Any investigative costs, attorney fees or civil penalties
16 recovered for the state by the attorney general or the ~~superintendent~~
17 DEPUTY DIRECTOR as a result of actions brought pursuant to this title,
18 whether by final judgment, settlement or otherwise, shall be deposited in
19 the department revolving fund. If the unencumbered portion of the fund
20 exceeds ~~two hundred thousand dollars~~ \$200,000 at the end of the fiscal
21 year, all unencumbered monies in excess of ~~two hundred thousand dollars~~
22 \$200,000 shall be deposited in the department receivership revolving fund,
23 pursuant to section 6-135.01.

24 C. The monies in the fund shall be used by the ~~superintendent~~
25 DEPUTY DIRECTOR and the attorney general for investigative proceedings or
26 for purposes of instituting and prosecuting civil actions pursuant to this
27 title.

28 D. On or before the fifteenth day of February, May, August and
29 November ~~OF EACH YEAR~~, the ~~superintendent~~ DEPUTY DIRECTOR shall file with
30 the governor, with copies to the director of the department of
31 administration, the president of the senate and the speaker of the house
32 of representatives, a full and complete account of the receipts and
33 disbursements from the fund in the previous calendar quarter.

34 Sec. 15. Section 6-135.01, Arizona Revised Statutes, is amended to
35 read:

36 6-135.01. Department receivership revolving fund; use of fund

37 A. The department receivership revolving fund is established to be
38 administered by the ~~superintendent~~ DEPUTY DIRECTOR. The fund shall
39 consist of monies from the following sources:

40 1. Monies awarded and received as fees and costs in receiverships
41 in which the ~~superintendent~~ DEPUTY DIRECTOR was the receiver, as provided
42 in section 6-131.01.

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

1 B. Monies in the fund may be used to pay any costs incurred by the
2 division arising out of the administration of a receivership in which the
3 ~~superintendent~~ DEPUTY DIRECTOR is the receiver.

4 C. The director shall submit to the legislature with the
5 department's annual budget request a full and complete account of the
6 department receivership revolving fund through the end of its most recent
7 fiscal year.

8 Sec. 16. Section 6-137, Arizona Revised Statutes, is amended to
9 read:

10 6-137. Cease and desist orders: injunctions: public
11 inspection

12 A. If it appears to the ~~superintendent~~ DEPUTY DIRECTOR that any
13 person has engaged, is engaging or is about to engage in any act, practice
14 or transaction ~~which~~ THAT constitutes a violation of this title or any
15 rule or order of the ~~superintendent~~ DEPUTY DIRECTOR or a violation of any
16 federal insurance regulation as determined by the appropriate federal
17 regulatory authority in writing, the ~~superintendent~~ DEPUTY DIRECTOR may
18 issue an order directing the person and directors, officers, employees and
19 agents of the person to cease and desist from engaging in the act,
20 practice or transaction or doing any act in furtherance of the act,
21 practice or transaction and to take appropriate affirmative action, within
22 a reasonable period of time as prescribed by the ~~superintendent~~ DEPUTY
23 DIRECTOR, to correct the conditions resulting from the act, practice or
24 transaction.

25 B. If it appears to the ~~superintendent~~ DEPUTY DIRECTOR that any
26 financial institution or enterprise or any officer, director, employee,
27 agent or other person participating in the conduct of the affairs of the
28 financial institution or enterprise has engaged, is engaging or is about
29 to engage in any act, practice or transaction ~~which~~ THAT constitutes an
30 unsafe or unsound practice or a violation of any order of the
31 ~~superintendent~~ DEPUTY DIRECTOR, applicable law or rule, written agreement
32 entered into with the ~~superintendent~~ DEPUTY DIRECTOR or condition imposed
33 in writing by the ~~superintendent~~ DEPUTY DIRECTOR in connection with the
34 granting of any application or other request by the financial institution
35 or enterprise, the ~~superintendent~~ DEPUTY DIRECTOR may issue an order
36 directing the financial institution or enterprise or any director,
37 officer, employee, agent or other person participating in the conduct of
38 the affairs of the financial institution or enterprise to cease and desist
39 from engaging in the act, practice or transaction or doing any act in
40 furtherance of the act, practice or transaction and to take appropriate
41 affirmative action, within a reasonable period of time as prescribed by
42 the ~~superintendent~~ DEPUTY DIRECTOR, to correct the conditions resulting
43 from the act, practice or transaction.

1 C. An order issued by the ~~superintendent~~ DEPUTY DIRECTOR under this
2 section becomes effective at the time of service and remains effective and
3 enforceable except to the extent that it is stayed, modified, terminated
4 or set aside by the ~~superintendent~~ DEPUTY DIRECTOR or a reviewing court
5 pursuant to this article.

6 D. A person aggrieved by an order issued by the ~~superintendent~~
7 DEPUTY DIRECTOR under this section may request a hearing pursuant to title
8 41, chapter 6, article 10. After requesting a hearing, the person may
9 move that the order be stayed or modified pending the hearing. If the
10 order is not stayed or modified or the motion is not acted on within ten
11 days, the person may apply to the superior court for an order for relief.

12 E. If it appears to the ~~superintendent~~ DEPUTY DIRECTOR that a
13 person has engaged, is engaging or is about to engage in an act, practice
14 or transaction ~~which~~ THAT constitutes a violation of this title or any
15 rule or order of the ~~superintendent~~ DEPUTY DIRECTOR or a violation of any
16 federal insurance regulation as determined by the appropriate federal
17 regulatory authority, the ~~superintendent~~ DEPUTY DIRECTOR may apply to the
18 superior court in Maricopa county for any of the following:

19 1. An injunction enjoining the person from engaging in the act,
20 practice or transaction or from doing any act in furtherance of the act,
21 practice or transaction, and ~~upon~~ ON a showing by the ~~superintendent~~
22 DEPUTY DIRECTOR that the person has engaged, is engaging or is about to
23 engage in an act, practice or transaction in violation of this title, any
24 other applicable law or any rule or order of the ~~superintendent~~ DEPUTY
25 DIRECTOR the court shall grant without bond a temporary restraining order,
26 preliminary injunction or permanent injunction.

27 2. An order granting additional relief as may be available under
28 this title.

29 F. The court shall give an action brought pursuant to this section
30 precedence over all other civil actions.

31 G. An order that is issued by the ~~superintendent~~ DEPUTY DIRECTOR
32 under this section to a person, financial institution or financial
33 enterprise that has engaged or is engaging in a violation that relates to
34 unlicensed activity shall be open to public inspection.

35 Sec. 17. Section 6-138, Arizona Revised Statutes, is amended to
36 read:

37 6-138. Hearings

38 The ~~superintendent~~ DEPUTY DIRECTOR or an administrative law judge
39 shall conduct hearings, including hearings relating to orders of the
40 ~~superintendent~~ DEPUTY DIRECTOR granting, denying, revoking or suspending a
41 permit, certificate or license provided for under this title, in
42 accordance with title 41, chapter 6, article 10.

1 Sec. 18. Section 6-139, Arizona Revised Statutes, is amended to
2 read:

3 6-139. Judicial review

4 Except as provided in section 41-1092.08, subsection H, a final
5 decision of the ~~superintendent~~ DEPUTY DIRECTOR is subject to judicial
6 review pursuant to title 12, chapter 7, article 6 if the complaint seeking
7 review is filed with the superior court in Maricopa county and served on
8 the ~~superintendent~~ DEPUTY DIRECTOR.

9 Sec. 19. Section 6-141, Arizona Revised Statutes, is amended to
10 read:

11 6-141. Definitions

12 In this article, unless the context otherwise requires:

13 1. "Acquisition of control" means any transaction whereby a person
14 obtains, directly or indirectly, control of a bank, trust company, savings
15 and loan association or controlling person.

16 2. "Control" means direct or indirect ownership of or power to vote
17 ~~fifteen per cent~~ TWENTY-FIVE PERCENT or more of the outstanding voting
18 securities of a bank, trust company, savings and loan association or
19 controlling person or to control in any manner the election of a majority
20 of the directors of a bank, trust company, savings and loan association or
21 controlling person. For the purposes of determining the percentage of
22 voting securities owned, controlled or held by a person, there shall be
23 aggregated with the voting securities attributed to such person the voting
24 securities of any other person directly or indirectly controlling,
25 controlled by or under common control with such other person or by any
26 officer, partner, employee or agent of such person, or by any spouse,
27 parent or child of such person.

28 3. "Controlling person" means any person directly or indirectly in
29 control of a bank, trust company or savings and loan association.

30 4. "Person" means an individual, corporation, partnership,
31 association, trust, ~~OR~~ agency or any similar entity.

32 5. "Voting security" means any security presently entitling the
33 owner or holder of such security to vote for the election of directors of
34 a bank, trust company, savings and loan association or controlling person,
35 excluding, in the case of a savings and loan association, votes
36 attributable to savings accounts. A specified percentage of outstanding
37 voting securities means such amount of the outstanding voting securities
38 as entitles the holder or holders of such securities to cast that
39 specified percentage of the aggregate votes ~~which~~ THAT the holders of all
40 the outstanding voting securities are entitled to cast.

41 Sec. 20. Section 6-142, Arizona Revised Statutes, is amended to
42 read:

43 6-142. Unlawful control

44 A person shall not directly or indirectly acquire control of a bank,
45 trust company, savings bank, savings and loan association or controlling

1 person, except with the approval of the ~~superintendent~~ DEPUTY DIRECTOR or
2 as otherwise ~~permitted~~ ALLOWED by this article.

3 Sec. 21. Section 6-143, Arizona Revised Statutes, is amended to
4 read:

5 6-143. Exempt persons and transactions

6 A. This article shall not apply to the following persons or
7 transactions of the type specified:

8 1. A person who controls a bank, trust company or savings and loan
9 association or controlling person on the date this article becomes law and
10 who continues to control such bank, trust company, or savings and loan
11 association.

12 2. A registered dealer who acts as an underwriter or member of a
13 selling group in a public offering of the voting securities of a bank,
14 trust company, savings and loan association or controlling person.

15 3. A person who acts as proxy for the sole purpose of voting at a
16 designated meeting of the security holders of a bank, trust company,
17 savings and loan association or controlling person.

18 4. A person who acquires control of a bank, trust company, savings
19 and loan association or controlling person by devise or descent.

20 5. A person who acquires control of a bank, trust company, savings
21 and loan association or controlling person as a personal representative,
22 custodian, guardian or conservator appointed by a court or as a trustee,
23 receiver or other officer appointed by a court.

24 6. A pledgee of a voting security of a bank, trust company, savings
25 and loan association or controlling person who does not have the right, as
26 pledgee, to vote such voting security.

27 7. A transaction approved pursuant to chapter 2, article 7 of this
28 title.

29 B. There shall be exempted from the provisions of this article any
30 person or transaction ~~which~~ THAT the ~~superintendent~~ DEPUTY DIRECTOR by
31 rule or order exempts as not being necessary or appropriate in the public
32 interest or for the protection of a bank, trust company, savings bank or
33 savings and loan association, or the depositors, beneficiaries, creditors
34 or shareholders of such bank, trust company, savings bank or savings and
35 loan association.

36 C. A person ~~may~~, prior to filing an application for approval, ~~MAY~~
37 request in writing a determination from the ~~superintendent~~ DEPUTY DIRECTOR
38 as to whether ~~such~~ THE person, ~~upon~~ ON consummation of a proposed
39 transaction, will be in control. ~~upon~~ ON such A request, the
40 ~~superintendent~~ DEPUTY DIRECTOR may enter an order that the person will not
41 be in control, in which event the proposed transaction will be an exempt
42 transaction under this article.

1 Sec. 22. Section 6-144, Arizona Revised Statutes, is amended to
2 read:

3 6-144. Acquisition of control; approval of deputy director

4 A person shall not, directly or indirectly, make a tender offer for,
5 request or invite a tender offer for, offer to exchange securities for or
6 acquire in the open market or otherwise, any voting security or any
7 security convertible into a voting security of a bank, trust company,
8 savings and loan association or controlling person if such a transaction
9 would result in the person acquiring control of a bank, trust company or
10 savings and loan association or controlling person unless the
11 ~~superintendent~~ DEPUTY DIRECTOR has approved such acquisition of control,
12 except that ~~nothing in~~ this section ~~shall~~ DOES NOT prohibit a person from
13 negotiating or entering into agreements subject to the condition that the
14 acquisition of control will not be effective until approval of the
15 ~~superintendent~~ DEPUTY DIRECTOR is obtained.

16 Sec. 23. Section 6-145, Arizona Revised Statutes, is amended to
17 read:

18 6-145. Application for approval

19 A. An application for approval of the ~~superintendent~~ DEPUTY
20 DIRECTOR shall be in writing in such form as the ~~superintendent~~ DEPUTY
21 DIRECTOR may prescribe and shall be accompanied by such information, data
22 and records as the ~~superintendent~~ DEPUTY DIRECTOR may require. For such
23 purpose the ~~superintendent~~ DEPUTY DIRECTOR shall adopt rules prescribing
24 the form and the information, data or records ~~which~~ THAT may be required.

25 B. ~~Upon~~ ON receipt of any initial application for approval or any
26 amendment or supplement to ~~such~~ THE application, the ~~superintendent~~ DEPUTY
27 DIRECTOR shall cause copies of ~~such~~ THE application, amendment or
28 supplement to be given to the bank, trust company or savings and loan
29 association concerned within three business days.

30 Sec. 24. Section 6-146, Arizona Revised Statutes, is amended to
31 read:

32 6-146. Material change of fact; filing amended statements

33 If any material change occurs in the facts set forth in the
34 application, or if for any other reason the acquiring party desires to
35 amend such application, an amendment setting forth such change, together
36 with copies of all documents and other material relevant to such change,
37 shall be filed with the ~~superintendent~~ DEPUTY DIRECTOR.

38 Sec. 25. Section 6-147, Arizona Revised Statutes, is amended to
39 read:

40 6-147. Denial of application; grounds

41 A. With respect to the proposed acquisition of control of a bank,
42 trust company, savings and loan association or controlling person, an
43 application shall be denied if the ~~superintendent~~ DEPUTY DIRECTOR finds
44 any of the following:

1 1. That the financial condition of any person who would acquire
2 control is such as may jeopardize the financial stability of the bank,
3 trust company or savings and loan association, or prejudice the interests
4 of the depositors, beneficiaries, creditors and shareholders of the bank,
5 trust company or savings and loan association.

6 2. That a plan or proposal to liquidate the bank, trust company or
7 savings and loan association, to merge or consolidate the bank, trust
8 company or savings and loan association or to make any other major change
9 in the business, corporate structure or management of the bank, trust
10 company or savings and loan association is not fair and reasonable to the
11 depositors, beneficiaries, creditors or shareholders of the bank, trust
12 company or savings and loan association.

13 3. That the overall moral character or integrity of any person who
14 would acquire control indicates that it would not be in the interest of
15 the depositors, beneficiaries, creditors or shareholders of the bank,
16 trust company or savings and loan association, or in the interest of the
17 public, to ~~permit~~ ALLOW such A person to control the bank, trust company
18 or savings and loan association.

19 4. That the applicant neglects, fails or refuses to furnish to the
20 ~~superintendent~~ DEPUTY DIRECTOR any information required by the
21 ~~superintendent~~ DEPUTY DIRECTOR.

22 5. That it is contrary to law.

23 B. The ~~superintendent~~ DEPUTY DIRECTOR may, in approving a proposal
24 to acquire control of a bank, trust company or savings and loan
25 association, impose such conditions as ~~he~~ THE DEPUTY DIRECTOR deems
26 reasonable, necessary or advisable in the public interest.

27 Sec. 26. Section 6-148, Arizona Revised Statutes, is amended to
28 read:

29 6-148. Failure to act on application as approval

30 A. Notwithstanding any other provision of this article, any
31 application for approval to acquire control of a bank, trust company,
32 savings and loan association or controlling person ~~which~~ THAT is not
33 denied or approved by the ~~superintendent~~ DEPUTY DIRECTOR within a period
34 of sixty days after such application is filed with the ~~superintendent~~
35 DEPUTY DIRECTOR or if the applicant consents to an extension of the period
36 within which the ~~superintendent~~ DEPUTY DIRECTOR may act, within such
37 extended period, shall be deemed to be approved by the ~~superintendent~~
38 DEPUTY DIRECTOR as of the first day after such period of sixty days or
39 such extended period. If the ~~superintendent~~ DEPUTY DIRECTOR gives notice
40 of a hearing, the sixty-day period shall be extended to such date as may
41 be fixed by order of the ~~superintendent~~ DEPUTY DIRECTOR.

42 B. For purposes of this section, an application for approval is
43 deemed to be filed with the ~~superintendent~~ DEPUTY DIRECTOR at the time
44 when the complete application, including any amendments or supplements,

1 containing all the information in the form required by the ~~superintendent~~
2 ~~DEPUTY DIRECTOR~~, is received by the ~~superintendent~~ ~~DEPUTY DIRECTOR~~.

3 Sec. 27. Section 6-149, Arizona Revised Statutes, is amended to
4 read:

5 6-149. Determination of control of one person by another;
6 hearing; notice

7 Before determining whether a person controls another person or
8 before denying or approving an application for approval to acquire control
9 of a bank, trust company, savings and loan association or controlling
10 person the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may hold a hearing. Notice of
11 such hearing shall be given by the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ to the
12 applicant, the bank, trust company, savings and loan association or
13 controlling person concerned and to such other persons as the
14 ~~superintendent~~ ~~DEPUTY DIRECTOR~~ determines appropriate. The date for
15 commencement of the hearing shall not be later than thirty days after the
16 date of the notice, unless the applicant consents to an extension of such
17 period.

18 Sec. 28. Section 6-150, Arizona Revised Statutes, is amended to
19 read:

20 6-150. Appointment of deputy director as agent for service of
21 process; forwarding of process; consent to
22 jurisdiction

23 Any person who is not a resident of this state, domiciled in this
24 state or authorized to do business in this state and who files an
25 application is deemed to have:

26 1. Consented to the jurisdiction of the courts of this state for
27 all actions arising under the provisions of this article.

28 2. Appointed the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ as ~~his~~ ~~THE PERSON'S~~
29 lawful agent for the purpose of accepting service of process in any
30 action, suit or proceeding that may arise under this article. Copies of
31 all such lawful process accepted by the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ as
32 an agent shall be transmitted by the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ by
33 registered mail to ~~such person at his~~ ~~THE PERSON'S~~ last known address.

34 Sec. 29. Section 6-151, Arizona Revised Statutes, is amended to
35 read:

36 6-151. Injunctions

37 If it appears to the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ that any person
38 has committed or is about to commit a violation of any provision of this
39 article or of any rule or order of the ~~superintendent~~ ~~DEPUTY DIRECTOR~~, the
40 ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may apply to the superior court for an
41 order enjoining such person from violating or continuing to violate this
42 article or any regulation or order and for injunctive or other relief as
43 the nature of the case or the interests of the bank, trust company or
44 savings and loan association, the depositors, beneficiaries, creditors or

1 shareholders of such bank, trust company or savings and loan association
2 may require.

3 Sec. 30. Section 6-153, Arizona Revised Statutes, is amended to
4 read:

5 6-153. Acquisition of voting securities in violation of
6 article; limitation on rights as shareholder;
7 injunction

8 A. With respect to any voting security acquired in violation of
9 this article or any rule or order of the ~~superintendent~~ DEPUTY DIRECTOR, a
10 person shall not be entitled to vote or give a written proxy or consent
11 for a period of five years after such acquisition except with the written
12 consent of the ~~superintendent~~ DEPUTY DIRECTOR. If a voting security of a
13 bank, trust company, savings and loan association or controlling person is
14 acquired in violation of this article or any rule or order, any
15 shareholder of such bank, trust company, savings and loan association, or
16 controlling person or the ~~superintendent~~ DEPUTY DIRECTOR may apply to the
17 superior court for injunctive or other equitable relief, including costs
18 and reasonable attorney fees, to enjoin prospectively any person from
19 voting or giving any written proxy or consent with respect to such voting
20 security for a period of five years after such acquisition except with the
21 written consent of the ~~superintendent~~ DEPUTY DIRECTOR. The ~~superintendent~~
22 DEPUTY DIRECTOR may apply to the superior court for injunctive or other
23 relief, including costs, to void any vote or any giving of a written proxy
24 or consent with respect to such security ~~which~~ THAT has occurred since
25 such acquisition, except that no vote may be voided if the court finds
26 that to void such vote would not be in the interest of the depositors,
27 beneficiaries, creditors or shareholders of the bank, trust company,
28 savings and loan association or controlling person, or in the public
29 interest.

30 B. An application for consent of the ~~superintendent~~ DEPUTY DIRECTOR
31 may be filed with the ~~superintendent~~ DEPUTY DIRECTOR by any person and
32 shall be granted or denied within thirty days. In giving consent, the
33 ~~superintendent~~ DEPUTY DIRECTOR may require such conditions as the
34 ~~superintendent~~ DEPUTY DIRECTOR deems reasonable, necessary or otherwise in
35 the public interest. Except as provided in section 41-1092.08, subsection
36 H, the action of the ~~superintendent~~ DEPUTY DIRECTOR shall be an order
37 subject to judicial review pursuant to title 12, chapter 7, article 6 if
38 the complaint seeking review is filed with the superior court in Maricopa
39 county.

40 C. A civil action shall not be brought to void any vote pursuant to
41 subsection A of this section unless commenced within one year after the
42 transaction which constituted a violation of this article or any rule or
43 order of the ~~superintendent~~ DEPUTY DIRECTOR.

1 Sec. 31. Section 6-161, Arizona Revised Statutes, is amended to
2 read:

3 6-161. Suspension, removal or prohibition; hearing; notice

4 A. The ~~superintendent~~ DEPUTY DIRECTOR, subject to the requirements
5 of this article, may remove or suspend from office or prohibit from
6 participating in any of the affairs of a financial institution or
7 enterprise any director, officer, employee, agent or other person
8 participating in the conduct of the affairs of the financial institution
9 or enterprise if he finds that the director, officer, employee, agent or
10 other person participating in the conduct of the affairs of the financial
11 institution or enterprise has engaged in any of the following:

12 1. Any act, omission or practice in any business transaction which
13 demonstrates personal dishonesty or unfitness to continue in office or
14 participate in the conduct of the affairs of the financial institution or
15 enterprise.

16 2. A wilful violation of an order of the ~~superintendent~~ DEPUTY
17 DIRECTOR.

18 3. Refusal to testify or produce records in response to a subpoena
19 issued by the ~~superintendent~~ DEPUTY DIRECTOR.

20 4. A conviction of a crime, an essential element of which is fraud,
21 misrepresentation or deceit.

22 5. Any activity described in 12 United States Code section
23 1818(e)(1). For the purposes of this paragraph, all references to the
24 appropriate federal banking agency are to the ~~superintendent~~ DEPUTY
25 DIRECTOR.

26 6. Any violation of this title relative to the financial
27 institution or enterprise.

28 7. Any act, practice or transaction ~~which~~ THAT in any way would
29 jeopardize the safety and soundness of the financial institution.

30 B. The ~~superintendent~~ DEPUTY DIRECTOR may issue and serve ~~upon~~ ON
31 the person involved, named as respondent, a written notice of the
32 ~~superintendent's~~ DEPUTY DIRECTOR'S order of suspension or intention to
33 remove ~~him~~ THE PERSON from office or to prohibit ~~him~~ THE PERSON from
34 further participation in any manner in the conduct of the affairs of the
35 financial institution or enterprise. A copy of the notice shall also be
36 served on the financial institution or enterprise. The notice shall
37 contain a statement of the alleged facts and fix a time and place at which
38 a hearing shall be held. The hearing shall be fixed for a date not
39 earlier than thirty days nor later than sixty days after the date of
40 service of the notice, unless an earlier or a later date is set for good
41 cause shown. If the respondent without excusable neglect fails to answer
42 the charges, or if on the record made at the hearing the ~~superintendent~~
43 DEPUTY DIRECTOR finds that any of the charges specified in the notice has
44 been established and constitutes grounds for suspension or removal from
45 office or prohibition from participation in the conduct of the affairs of

1 the financial institution or enterprise, the ~~superintendent~~ DEPUTY
2 DIRECTOR may issue the appropriate order. The order becomes effective at
3 the time specified in the order after service on the respondent and
4 remains effective unless stayed, modified, terminated or set aside by
5 action of the ~~superintendent~~ DEPUTY DIRECTOR or a reviewing court.

6 C. The resignation, termination of employment or participation, or
7 separation of the person involved does not affect the jurisdiction and
8 authority of the ~~superintendent~~ DEPUTY DIRECTOR to issue any notice and
9 proceed under this section against that person.

10 D. Notwithstanding section 6-129, an order issued pursuant to this
11 section ~~which~~ THAT has become final is open to public inspection, except
12 that the ~~superintendent~~ DEPUTY DIRECTOR may withhold from public
13 inspection for such time as ~~he~~ THE DEPUTY DIRECTOR considers necessary any
14 information ~~which~~ THAT in ~~his~~ THE DEPUTY DIRECTOR'S judgment the public
15 welfare or the welfare of the financial institution requires to be so
16 withheld.

17 E. If a removal order has become final, a financial institution or
18 enterprise may not employ the person against whom it was issued without
19 the prior written approval of the ~~superintendent~~ DEPUTY DIRECTOR.

20 Sec. 32. Section 6-162, Arizona Revised Statutes, is amended to
21 read:

22 6-162. Temporary prohibition; injunction

23 A. If the ~~superintendent~~ DEPUTY DIRECTOR determines from the
24 available facts that the conduct of the respondent is likely to cause the
25 financial institution or enterprise to suffer substantial financial loss
26 before an order can be issued under section 6-161, the ~~superintendent~~
27 DEPUTY DIRECTOR may issue a temporary order prohibiting the respondent
28 from further participation in any manner in the conduct of the affairs of
29 the financial institution or enterprise. The order shall contain a
30 statement of the alleged facts which form the basis of the order and
31 becomes effective on service on the respondent. A copy of the order shall
32 also be served on the financial institution or enterprise. The order
33 expires by its terms within such time after entry, not to exceed twenty
34 days, as the ~~superintendent~~ DEPUTY DIRECTOR fixes, unless the respondent
35 consents to a longer period or within the time fixed in the order it is
36 extended by supplemental order issued by the ~~superintendent~~ DEPUTY
37 DIRECTOR and served on the respondent and the financial institution or
38 enterprise. On two days' notice to the financial institution or
39 enterprise the respondent may move that the ~~superintendent~~ DEPUTY DIRECTOR
40 stay, dissolve or modify the order, and the ~~superintendent~~ DEPUTY DIRECTOR
41 shall proceed to hear and determine such motion as expeditiously as
42 justice requires.

1 B. The respondent served with a temporary order may apply to the
2 superior court for a stay of the order pending the completion of the
3 administrative proceedings under section 6-161, and the court has
4 jurisdiction to stay the order if the ~~superintendent~~ DEPUTY DIRECTOR has
5 refused to stay the order or to promptly consider the respondent's request
6 for a stay.

7 Sec. 33. Section 6-163, Arizona Revised Statutes, is amended to
8 read:

9 6-163. Judicial review

10 Except as provided in section 41-1092.08, subsection H, any party to
11 a proceeding under this article may obtain judicial review of any final
12 order pursuant to title 12, chapter 7, article 6 other than an order
13 issued with consent of the financial institution or enterprise or other
14 person concerned if the complaint seeking review is filed with the
15 superior court. The commencement of proceedings for judicial review shall
16 not, unless specifically ordered by the court, operate as a stay of the
17 order. During the pendency of the action for review, the ~~superintendent~~
18 DEPUTY DIRECTOR may not modify, terminate or set aside the order except
19 with permission of the court.

20 Sec. 34. Section 6-164, Arizona Revised Statutes, is amended to
21 read:

22 6-164. Attorney fees and expenses

23 In any proceeding instituted under this article in which a director
24 or officer is a party, and if the ~~superintendent~~ DEPUTY DIRECTOR or court
25 allows such party reasonable expenses and attorney fees, the
26 ~~superintendent~~ DEPUTY DIRECTOR or the court may provide that such expenses
27 and fees shall be paid by the financial institution or enterprise from its
28 assets with priority as an expense of administration in receivership.

29 Sec. 35. Section 6-165, Arizona Revised Statutes, is amended to
30 read:

31 6-165. Enforcement of order

32 The ~~superintendent~~ DEPUTY DIRECTOR may apply to the superior court
33 for the enforcement of any effective and outstanding order issued under
34 this article, and the court has jurisdiction to order and require
35 compliance with the order. Except as otherwise provided in this article,
36 a court has jurisdiction to affect by injunction or otherwise the issuance
37 or enforcement of any order under this article or to review, modify,
38 suspend, terminate or set aside any such order.

39 Sec. 36. Section 6-181, Arizona Revised Statutes, is amended to
40 read:

41 6-181. Declaration of purposes

42 The purposes of this chapter, which shall govern judicial and
43 administrative interpretation and application of the provisions of this
44 chapter, are to provide for:

- 1 1. Safe and sound conduct of banks.
- 2 2. Conservation of bank assets.
- 3 3. Maintenance of public confidence in banks.
- 4 4. Protection of the interests of depositors and fiduciary
- 5 beneficiaries and of the interest of the public in the soundness and
- 6 preservation of the banking system.
- 7 5. Opportunity for banks to remain competitive with each other,
- 8 with financial institutions existing under other laws of this state and
- 9 with banking and financial institutions existing under the laws of other
- 10 states, the United States and foreign countries.
- 11 6. Opportunity for banks to serve effectively the convenience and
- 12 needs of their depositors, borrowers and other customers, to participate
- 13 in and promote the economic progress of ~~Arizona~~ THIS STATE and the United
- 14 States and to improve and expand their services and facilities for those
- 15 purposes.
- 16 7. Opportunity for management of banks to exercise business
- 17 judgment in conducting banking affairs subject to ~~the provisions of~~ this
- 18 chapter.
- 19 8. Simplification and modernization of the law governing banking
- 20 and governing the exercise of fiduciary and other representative powers by
- 21 banks.
- 22 9. Implementation and execution of ~~the provisions of~~ this chapter
- 23 by the full utilization of the ~~rule making~~ RULEMAKING and administrative
- 24 discretions of the ~~superintendent~~ DEPUTY DIRECTOR.
- 25 Sec. 37. Section 6-184, Arizona Revised Statutes, is amended to
- 26 read:
- 27 6-184. General corporate and banking powers; incidental
- 28 powers; deposit insurance; federal reserve and home
- 29 loan bank membership; agency relationship
- 30 A. A corporation holding a banking permit under this chapter may:
- 31 1. Except as prohibited by law, exercise the powers derived from
- 32 its existence as an Arizona corporation.
- 33 2. Except as prohibited by law, exercise any power and engage in
- 34 any activity which it could exercise or engage in if it were a national
- 35 banking association with a banking office in this state.
- 36 3. Directly or through a bank subsidiary engage in any lawful
- 37 activity ~~which~~ THAT is reasonably related or incidental to banking. All
- 38 activities in which any bank was lawfully engaged directly or through a
- 39 subsidiary on December 31, 1971 are declared to be incidental and related
- 40 to banking for the purposes of this paragraph.
- 41 4. Do the acts necessary to obtain and maintain insurance of its
- 42 deposits by the federal deposit insurance corporation.
- 43 5. Do the acts necessary to acquire and hold membership in the
- 44 federal reserve system or the federal home loan bank.

1 6. Except as prohibited by law, directly or through a bank
2 subsidiary, make any loan or investment, offer accounts or engage in any
3 business activity authorized for national banking associations, federal
4 savings banks, or state or federally chartered or licensed savings and
5 loan associations doing business in this state. This paragraph is subject
6 to section 33-1571.

7 7. Except as prohibited by law and subject to such rules as the
8 ~~superintendent~~ DEPUTY DIRECTOR may adopt, through a bank subsidiary,
9 invest in real estate in the state or interests therein, including
10 corporations, partnerships, and joint ventures ~~which~~ THAT acquire,
11 develop, improve, hold, lease, operate and sell real estate. This
12 paragraph is subject to section 33-1571.

13 B. An in-state financial institution or an out-of-state financial
14 institution may act as an agent of any other in-state financial
15 institution or out-of-state financial institution that is a subsidiary of
16 the same holding company for purposes of conducting the activities
17 authorized by this subsection. This subsection applies regardless of
18 whether the affiliated entities share the same home state. An in-state
19 financial institution or an out-of-state financial institution entering
20 into an agency relationship shall notify the ~~superintendent~~ DEPUTY
21 DIRECTOR of that agency relationship at least ten days before the
22 effective date of that agency relationship. Agency relationships among
23 affiliates shall be consistent with safe and sound business practices and
24 shall comply with all applicable laws and rules. An in-state financial
25 institution or an out-of-state financial institution acting as an agent is
26 not deemed to be a branch of the affiliate solely because of activities
27 lawfully conducted pursuant to this subsection. An in-state financial
28 institution or an out-of-state financial institution that is acting as an
29 agent for an affiliated entity may do any of the following:

- 30 1. Receive deposits.
31 2. Renew time deposits.
32 3. Service loans.
33 4. Receive payments on loans and other obligations.
34 5. Perform other customary banking services with the prior approval
35 of the ~~superintendent~~ DEPUTY DIRECTOR.

36 C. An in-state financial institution or an out-of-state financial
37 institution acting as an agent as prescribed by subsection B of this
38 section on behalf of an affiliated financial institution may not do any of
39 the following:

- 40 1. Open demand, savings or time accounts.
41 2. Evaluate or approve loans.
42 3. Disburse loan monies.

1 4. Conduct any activity as an agent that it is prohibited from
2 conducting as a principal under any applicable law or rule.

3 D. An in-state financial institution or an out-of-state financial
4 institution that is acting as a principal as prescribed by subsection B of
5 this section may not have its affiliated entity act as an agent on its
6 behalf in conducting any of the following:

7 1. Any activity that is prohibited to the principal.

8 2. Any activity that is prohibited to the agent.

9 Sec. 38. Section 6-185, Arizona Revised Statutes, is amended to
10 read:

11 6-185. Board of directors' meetings; review; report of
12 failure of quorum to meet

13 A meeting of the board of directors of a bank shall be called each
14 month or each quarter. The ~~superintendent~~ DEPUTY DIRECTOR shall designate
15 for each bank whether the board shall meet monthly or quarterly. The
16 ~~superintendent~~ DEPUTY DIRECTOR may change the designation at any time
17 without providing the bank ~~advanced~~ ADVANCE notice. At the meetings, the
18 board shall review the loans and investments and other material activities
19 of the bank or review a report thereof prepared under the direction of the
20 board as a regular item of business. The board shall keep minutes of all
21 meetings including a record of attendance. If at any required meeting a
22 majority of the members are not present, the bank shall notify the
23 ~~superintendent~~ DEPUTY DIRECTOR in writing of that fact.

24 Sec. 39. Section 6-186, Arizona Revised Statutes, is amended to
25 read:

26 6-186. Annual audit and report

27 A. An audit of the affairs of the bank including an out-of-state
28 bank shall be made annually as of the end of its fiscal year by or under
29 the direction of the board of directors. The ~~superintendent~~ DEPUTY
30 DIRECTOR may prescribe certain minimum requirements of the audit and shall
31 require the filing of a copy of the report covering the audit with the
32 ~~superintendent~~ DEPUTY DIRECTOR. The audit shall be filed with the
33 ~~superintendent~~ DEPUTY DIRECTOR not more than one hundred twenty days after
34 the end of the bank's or out-of-state bank's fiscal year, unless the
35 ~~superintendent~~ DEPUTY DIRECTOR extends the time period for good cause
36 shown. The audit is not a substitute for or in lieu of the examination by
37 the ~~superintendent~~ DEPUTY DIRECTOR required by section 6-122.

38 B. An out-of-state bank may satisfy an audit requirement by filing
39 with the ~~superintendent~~ DEPUTY DIRECTOR a copy of the audit report that is
40 required by its home state regulator within fifteen days after filing that
41 report with the home state.

1 Sec. 40. Section 6-187, Arizona Revised Statutes, is amended to
2 read:

3 6-187. Authority to declare dividends; limitation

4 The board of directors of a bank may declare dividends as ~~permitted~~
5 ~~ALLOWED~~ by the general laws governing Arizona corporations, except that
6 dividends payable other than in the bank's own stock may be paid out of
7 capital surplus only with the approval of the ~~superintendent~~ ~~DEPUTY~~
8 ~~DIRECTOR~~.

9 Sec. 41. Section 6-189, Arizona Revised Statutes, is amended to
10 read:

11 6-189. Capital obligations; approval; convertibility

12 A. A capital obligation is an unsecured indebtedness of the bank
13 subordinate to the claims of depositors and all other creditors of the
14 bank regardless of whether the claims arose before or after the issuance
15 of the note or debenture representing the capital obligation. In the
16 event of liquidation all depositors and other creditors of the bank are to
17 be paid in full before any payment of principal or interest is made on
18 capital obligations.

19 B. No capital obligations shall be incurred without the prior order
20 of approval of the ~~superintendent~~ ~~DEPUTY~~ ~~DIRECTOR~~. Capital obligations
21 authorized by such order may be retired in accordance with the mandatory
22 payment provisions of the obligation without further authorization. No
23 payment shall be made under an optional right of payment reserved to the
24 bank without the separate authorization of the ~~superintendent~~ ~~DEPUTY~~
25 ~~DIRECTOR~~, which may be granted in ~~his~~ ~~THE~~ ~~DEPUTY~~ ~~DIRECTOR'S~~ initial order
26 of approval or by subsequent order.

27 C. Capital obligations may be convertible into shares of any class
28 of stock in accordance with their terms approved by the ~~superintendent~~
29 ~~DEPUTY~~ ~~DIRECTOR~~. No shareholder has any preemptive right to purchase
30 capital obligations or to purchase stock issued upon conversion of capital
31 obligations unless provided by the articles of incorporation or specified
32 in the corporate authority to incur the obligation.

33 Sec. 42. Section 6-190, Arizona Revised Statutes, is amended to
34 read:

35 6-190. Bank offices; standards and term of approval; closing;
36 automated teller machines

37 A. A bank may establish banking offices anywhere in the world with
38 the authorization of the ~~superintendent~~ ~~DEPUTY~~ ~~DIRECTOR~~ and ~~upon~~ ~~ON~~ such
39 conditions as ~~he~~ ~~THE~~ ~~DEPUTY~~ ~~DIRECTOR~~ may prescribe. An application for a
40 banking office shall be in writing in such form as the ~~superintendent~~
41 ~~DEPUTY~~ ~~DIRECTOR~~ prescribes supported by such information, data and records
42 as the ~~superintendent~~ ~~DEPUTY~~ ~~DIRECTOR~~ may require to make the findings
43 necessary for approval.

44 B. In granting the application for a banking office, the
45 ~~superintendent~~ ~~DEPUTY~~ ~~DIRECTOR~~ shall be guided by the standards prescribed

1 for the issuance of a banking permit insofar as such standards are
2 reasonably applicable.

3 C. The failure of a bank to open and operate a banking office
4 within one year after the ~~superintendent~~ DEPUTY DIRECTOR approves the
5 application shall automatically terminate the approval, except that the
6 ~~superintendent~~ DEPUTY DIRECTOR, for good cause shown in writing made
7 before the expiration of the ~~one-year~~ ONE-YEAR period, may extend for
8 additional periods not in excess of six months each the time in which the
9 banking office may be opened.

10 D. A bank may permanently close less than all of its banking
11 offices on compliance with such requirements of notice as have been
12 prescribed by the ~~superintendent~~ DEPUTY DIRECTOR and such closing shall
13 terminate the authority to maintain the office which is closed.

14 E. A bank may establish or maintain an automated teller machine at
15 locations other than its places of business. The bank must send a
16 notification letter to the ~~superintendent~~ DEPUTY DIRECTOR at least thirty
17 days before the automated teller machine is established pursuant to this
18 subsection.

19 F. A bank may, without the approval of the ~~superintendent~~ DEPUTY
20 DIRECTOR and through contractual agreement with one or more other banks or
21 automated teller machine providers, join in the operation of automated
22 teller machine networks.

23 Sec. 43. Section 6-191, Arizona Revised Statutes, is amended to
24 read:

25 6-191. Foreign banking offices; additional powers; separate
26 accounts; additional offices; definition

27 A. In addition to its other powers, a bank may through any foreign
28 banking office act as fiscal agent of the United States and, except as
29 prohibited or limited by regulations of the ~~superintendent~~ DEPUTY
30 DIRECTOR, exercise such powers as are usual in connection with the
31 business of banking in the places where such foreign banking office
32 transacts its business.

33 B. The accounts of each foreign banking office shall be maintained
34 independently of the accounts of all other banking offices and the profit
35 or loss of the office for each fiscal year shall be recorded as a separate
36 item in the general ledger of the bank.

37 C. A bank having a foreign banking office ~~may~~, on thirty days'
38 notice to the ~~superintendent~~ DEPUTY DIRECTOR, or such shorter notice as
39 may be approved by ~~him~~ THE DEPUTY DIRECTOR in individual cases, MAY
40 establish such additional banking office or offices as specified in the
41 notice in the same country without filing an application for approval,
42 unless otherwise ordered by the ~~superintendent~~ DEPUTY DIRECTOR,.

43 D. For the purposes of this section, the term "foreign banking
44 office" means a banking office in a foreign country or in a dependency or
45 insular possession of the United States.

1 Sec. 44. Section 6-192, Arizona Revised Statutes, is amended to
2 read:

3 6-192. Investments in international and foreign banking and
4 financing corporations; limitation; consent;
5 exceptions

6 A. No bank ~~may~~, without the consent of the ~~superintendent~~ DEPUTY
7 DIRECTOR, MAY invest in stock or other evidence of ownership in any of the
8 following:

9 1. Corporations organized under the laws of the United States or
10 any state and principally engaged in international or foreign banking or
11 in other international or foreign financial operations, or in banking or
12 other financial operations in a dependency or insular possession of the
13 United States, either directly or through the agency, ownership or control
14 of local institutions in foreign countries, or in such dependencies or
15 insular possessions.

16 2. Banks organized under the laws of a foreign country or a
17 dependency or insular possession of the United States. No investment
18 shall be made in a foreign bank if it is engaged directly or indirectly in
19 any activity in the United States unless the activity is in the judgment
20 of the ~~superintendent~~ DEPUTY DIRECTOR, incidental to the international or
21 foreign business of such bank.

22 B. The aggregate amount invested in all banks and corporations
23 described in subsection A of this section shall not exceed, at the time
24 any such investment is made, twenty-five ~~per cent~~ PERCENT of the capital
25 account of the bank as defined in section 6-351.

26 C. The consent of the ~~superintendent~~ DEPUTY DIRECTOR, for any
27 investment under subsection A of this section shall be subject to such
28 conditions as ~~he~~ THE DEPUTY DIRECTOR prescribes in ~~his~~ THE DEPUTY
29 DIRECTOR'S order of approval and the investment shall be subject to his
30 regulations.

31 D. The provisions of subsections A and B of this section shall not
32 apply to shares or evidences of ownership acquired by a bank in the
33 regular course of securing or collecting a debt contracted in good faith
34 but shares or evidence of ownership acquired in collecting a debt shall be
35 disposed of within a reasonable time unless otherwise lawfully held under
36 subsections A and B of this section.

37 Sec. 45. Section 6-202, Arizona Revised Statutes, is amended to
38 read:

39 6-202. Existing banks

40 The authority under which an existing bank is engaged in the banking
41 business or the banking and trust business under the laws of this state
42 ~~prior to the effective date of this article~~ BEFORE AUGUST 8, 1973 shall
43 continue in full force and effect. The ~~superintendent~~ DEPUTY DIRECTOR,
44 may, and shall ~~upon~~ ON request, issue a banking permit to such bank to

1 evidence such authority without any further act on the part of the bank or
2 the payment of any fee.

3 Sec. 46. Section 6-203, Arizona Revised Statutes, is amended to
4 read:

5 6-203. Application for banking permit; organizational
6 application; final application

7 A. Except as otherwise provided in this section, an application for
8 a banking permit or amendment to a banking permit shall be in writing, in
9 such form as the ~~superintendent~~ DEPUTY DIRECTOR may prescribe, and shall
10 be supported by such information, data and records as the ~~superintendent~~
11 DEPUTY DIRECTOR may require to make the findings necessary for the
12 issuance or amendment of the permit.

13 B. The ~~superintendent~~ DEPUTY DIRECTOR shall establish an
14 organizational application process and a final application process for new
15 banking permit applications. The organizational application must include:

- 16 1. The historical description of the organizing group.
- 17 2. The proposed type of regulatory filing for the bank.
- 18 3. The proposed committee structure and its membership.
- 19 4. The completed biographical and financial report for each
20 organizer.
- 21 5. The completed background permission form for each organizer.
- 22 6. The business plan summary.
- 23 7. The financial plan reflecting both the objectives of the
24 strategic plan and the bank's capital adequacy under the current capital
25 guidelines.
- 26 8. The projected organizational budget for the project.
- 27 9. The articles of incorporation and the bylaws of the organizing
28 corporation.
- 29 10. The proposed offering circular, escrow account information and
30 stock certificate.

31 C. The department may accept an organizational application for a
32 new banking permit without simultaneously filing with the federal deposit
33 insurance corporation.

34 D. The final application for a new banking permit may begin at any
35 time during the organizational phase. The required capital must be raised
36 during the final application process.

37 Sec. 47. Section 6-204, Arizona Revised Statutes, is amended to
38 read:

39 6-204. Issuance of banking permit; trust business;
40 conditional approval; hearing; banker's bank;
41 definitions

42 A. ~~Upon~~ ON the filing of an application for a banking permit, the
43 ~~superintendent~~ DEPUTY DIRECTOR shall make or cause to be made an
44 investigation and examination of the facts concerning the applicant.
45 Except as provided in subsection F OF THIS SECTION, the ~~superintendent~~

1 DEPUTY DIRECTOR shall issue the permit if, but only if, ~~he~~ THE DEPUTY
2 DIRECTOR finds:

3 1. The applicant is a corporation organized under the laws of this
4 state having powers and purposes to engage in the banking business.

5 2. The deposits of the bank will be insured by the federal deposit
6 insurance corporation when the bank commences business.

7 3. The ability and integrity of the persons involved in the
8 organization and management of the proposed bank are such as to
9 demonstrate that it will be operated in a sound and lawful manner.

10 4. The applicant has paid in capital which is adequate for its
11 prospective business.

12 5. The need for the bank in the community or area where the bank
13 will be located is such as to demonstrate the favorable prospect for a
14 sound banking operation.

15 B. An application ~~which~~ THAT is not denied or approved by the
16 ~~superintendent~~ DEPUTY DIRECTOR within ninety days after the application is
17 filed with the ~~superintendent~~ DEPUTY DIRECTOR is deemed to be approved by
18 the ~~superintendent~~ DEPUTY DIRECTOR as of the first day after the period.

19 C. A banking permit may initially or by amendment include the
20 authority of a bank to engage in the trust business.

21 D. The ~~superintendent~~ DEPUTY DIRECTOR may approve the application
22 conditioned ~~upon~~ ON specific requirements being met, but a permit shall
23 not be issued unless such conditions have been met within the time
24 specified in the order or any extension.

25 E. The permit may be granted or denied without a hearing, but the
26 ~~superintendent~~ DEPUTY DIRECTOR may, and shall at the request of the
27 applicant, fix a date for a hearing on the application. At the hearing
28 any person may be heard with reference to the facts to be investigated.

29 F. The ~~superintendent~~ DEPUTY DIRECTOR shall not issue a banking
30 permit pursuant to subsection A OF THIS SECTION for a banker's bank unless
31 all of the following apply:

32 1. The stock of the applicant is owned exclusively by one or more
33 state or nationally chartered banks or, if the stock is owned by a holding
34 company, the holding company's stock is owned exclusively by one or more
35 state or nationally chartered banks.

36 2. The applicant engages in or will engage exclusively in providing
37 banking services to or for other depository institutions or their holding
38 companies and the directors, officers or employees of the depository
39 institutions.

40 3. The applicant offers or will offer correspondent banking
41 services for other depository institutions or their holding companies.

42 4. The applicant is fully insured by the federal deposit insurance
43 corporation.

1 5. No single entity acquires or retains at any time ownership,
2 control or power to vote more than ten ~~per cent~~ PERCENT of any class of
3 voting securities of the banker's bank.

4 G. For purposes of this section:

5 1. "Banker's bank" means an entity that is owned exclusively by one
6 or more state or nationally chartered banks or bank holding companies and
7 that exclusively provides banking services to or for other depository
8 institutions and their holding companies.

9 2. "Nationally chartered bank" means a bank or savings bank
10 chartered by the office of the comptroller of the currency or the office
11 of thrift supervision.

12 Sec. 48. Section 6-205, Arizona Revised Statutes, is amended to
13 read:

14 6-205. Term of permit; surrender; revocation

15 A. A banking permit shall be valid until surrendered to the
16 ~~superintendent~~ DEPUTY DIRECTOR or revoked by ~~him~~ THE DEPUTY DIRECTOR.

17 B. ~~No~~ A banking permit may NOT be surrendered to the ~~superintendent~~
18 DEPUTY DIRECTOR until such time as the ~~superintendent~~ DEPUTY DIRECTOR
19 finds that all of the deposit liabilities of the bank have been satisfied
20 in full or assumed by another bank.

21 C. A banking permit expires automatically when a bank is placed in
22 receivership.

23 Sec. 49. Section 6-212, Arizona Revised Statutes, is amended to
24 read:

25 6-212. Resulting national bank

26 Nothing in the law of this state shall restrict the right of a state
27 bank to merge with or convert into a national bank. The action to be
28 taken by such merging or converting state bank and its rights and
29 liabilities and those of its stockholders shall be as prescribed at the
30 time of the action by the law of the United States, but the state bank
31 shall give notice to the ~~superintendent~~ DEPUTY DIRECTOR of the adoption by
32 its board of directors of any plan of merger or conversion.

33 Sec. 50. Section 6-215, Arizona Revised Statutes, is amended to
34 read:

35 6-215. Retention of nonconforming assets; permission; maximum
36 value

37 If a merging or converting bank has assets ~~which~~ THAT do not conform
38 to the requirements of law for a state bank or if assets acquired by a
39 state bank in the transaction of its assuming deposit liabilities of
40 another bank do not conform to such legal requirements, the ~~superintendent~~
41 DEPUTY DIRECTOR may ~~permit~~ ALLOW the resulting bank to retain such assets
42 for a reasonable time, but shall fix the maximum value at which the assets
43 may be carried by the resulting or assuming bank.

1 Sec. 51. Section 6-217, Arizona Revised Statutes, is amended to
2 read:

3 6-217. Emergency acquisition of in-state financial
4 institution

5 A. Notwithstanding any other provisions of law, an in-state
6 financial institution or out-of-state financial institution may acquire an
7 in-state financial institution if the ~~superintendent~~ DEPUTY DIRECTOR
8 determines that both of the following exist:

9 1. The in-state financial institution proposed to be acquired is in
10 danger of being placed in receivership by the ~~superintendent~~ DEPUTY
11 DIRECTOR or the relevant federal agency.

12 2. The acquisition is necessary to protect the financial interests
13 of the in-state financial institution's depositors and creditors.

14 B. The ~~superintendent~~ DEPUTY DIRECTOR shall make ~~his~~ THE DEPUTY
15 DIRECTOR'S final determination under this section in writing.

16 Sec. 52. Section 6-234, Arizona Revised Statutes, is amended to
17 read:

18 6-234. Deposit of minor; school saving plan

19 A. A bank may operate a deposit account in the name of a minor or
20 in the name of two or more persons, one or more of whom are minors, and
21 all rights and liabilities of the bank and any depositor arising out of
22 such account and any act of the parties in relation thereto shall be of
23 the same legal effect as if the minor is of full legal age.

24 B. Subject to such regulations as the ~~superintendent~~ DEPUTY
25 DIRECTOR may prescribe for the protection of depositors, a bank may
26 contract with the proper authorities of any elementary or secondary
27 school, or of any institution caring for minors, for the participation by
28 the bank in any school or institutional thrift or savings plan, and it may
29 accept deposits at such a school or institution, either by its own
30 collector or by any representative of the school or institution who
31 becomes the agent of the bank for such purpose.

32 Sec. 53. Section 6-241, Arizona Revised Statutes, is amended to
33 read:

34 6-241. Banking days; notice; closing

35 A. A bank is authorized to fix from time to time the days and hours
36 when each of its banking offices that are located in this state will be
37 open to the public for its banking business. The days and hours need not
38 be the same for each office. The bank shall notify the ~~superintendent~~
39 DEPUTY DIRECTOR of the days and hours of each banking office and of any
40 change in the scheduled days and hours of each office. The bank shall give
41 further notice by whatever means it selects as best calculated to advise
42 the public of any change.

43 B. In an emergency or threat of an emergency or other circumstances
44 beyond the control of the bank ~~which~~ THAT would imperil persons or
45 property or impede normal operations, all or any of its banking offices

1 that are located in this state may be or remain closed. Notice of the
2 closing shall be given to the ~~superintendent~~ DEPUTY DIRECTOR as promptly
3 as conditions will ~~permit~~ ALLOW. The ~~superintendent~~ DEPUTY DIRECTOR may
4 order the reopening of any office on ~~his~~ THE DEPUTY DIRECTOR'S finding
5 that conditions justifying the closing under this subsection do not then
6 exist.

7 C. Any day on which a bank shall pursuant to this section be or
8 remain closed shall with respect to the bank be deemed a legal holiday.

9 D. Any office of a bank may be closed under subsection A or B OF
10 THIS SECTION, even though other offices of the bank are open, but any day
11 of such closing shall not be a legal holiday in respect to any acts to be
12 performed by or at the bank on such day unless the act is to be performed
13 only by or at the office which is closed.

14 E. Where pursuant to agreement or law any act is to be performed by
15 or at a bank on any day when such bank shall pursuant to this section be
16 or remain closed, the act may be performed on the next succeeding banking
17 day with the effect as though performed on the appointed day.

18 F. Nothing in any law of this state shall in any manner whatsoever
19 affect the validity of or render void or voidable the payment,
20 satisfaction or acceptance of any check or other negotiable instrument or
21 any other transaction by a bank because done or performed on any holiday
22 or partial holiday or during any time other than regular banking hours,
23 but ~~nothing in~~ this subsection ~~shall be construed to~~ DOES NOT compel a
24 bank to perform any of the acts or transactions aforesaid except at its
25 own option.

26 G. This section applies to out-of-state banks.

27 Sec. 54. Section 6-242, Arizona Revised Statutes, is amended to
28 read:

29 6-242. Preservation of bank records; regulations; disposal

30 A. Every bank shall retain its corporate and business records in
31 accordance with regulations of the ~~superintendent~~ DEPUTY DIRECTOR. The
32 regulations shall classify the records, establish ~~permissible~~ ALLOWABLE
33 methods for effective and economical preservation of information contained
34 in the records if the originals are destroyed pursuant to regulation, and
35 prescribe the minimum periods of time each record or ~~permitted~~ ALLOWED
36 substitute shall be preserved.

37 B. In issuing ~~his~~ THE regulations under subsection A OF THIS
38 SECTION, the ~~superintendent~~ DEPUTY DIRECTOR shall consider:

39 1. Actions at law and administrative proceedings in which the
40 production of bank records might be necessary or desirable.

41 2. Statutes of limitation applicable to such action or proceedings.

42 3. The availability of information contained in bank records from
43 other sources.

44 4. Such other matters as ~~he shall deem~~ THE DEPUTY DIRECTOR DEEMS
45 pertinent in order that ~~his~~ THE DEPUTY DIRECTOR'S regulations will require

1 banks to retain records for as short a period of time as is commensurate
2 with the interests of bank customers and shareholders and of the people of
3 this state in having bank records available.

4 C. A bank may dispose of any record or ~~permitted~~ ALLOWED substitute
5 ~~which~~ THAT has been retained for the applicable record prescribed in
6 accordance with the terms of this section, and shall thereafter be under
7 no duty to produce such A record in any action or proceeding.

8 Sec. 55. Section 6-245, Arizona Revised Statutes, is amended to
9 read:

10 6-245. Pledge of assets; rediscount; exception to requirement
11 of security

12 A. A bank may pledge, mortgage or otherwise hypothecate its assets:

13 1. To qualify the bank to act as a fiscal agent for any
14 governmental entity.

15 2. To secure deposits which are required by law to be secured.

16 3. To secure borrowings from one business day to the next from
17 another bank.

18 4. To secure borrowings from a federal reserve bank or any federal
19 agency.

20 5. To secure other obligations, exclusive of deposits, provided the
21 aggregate value of the assets as carried on the books of the bank
22 encumbered for purposes other than those specified in paragraphs 1 through
23 4 of this subsection shall not exceed the capital account of the bank
24 except with the approval of the ~~superintendent~~ DEPUTY DIRECTOR.

25 B. ~~The provisions of~~ Subsection A ~~shall~~ OF THIS SECTION DOES not
26 prohibit or limit the sale or rediscount of commercial paper or securities
27 with endorsement, guarantee or agreement to repurchase.

28 C. ~~Whenever~~ IF, by the law of this state, a bank is required to
29 provide security for deposits in the form of collateral, surety bond or
30 any other form, such security is not required to the extent such deposits
31 are insured by the federal deposit insurance corporation. For the
32 purposes of this subsection, acceptable security for deposits includes:

33 1. Certificates of deposit insured by an agent or instrumentality
34 of the United States.

35 2. Interest bearing savings deposits in banks and savings and loan
36 associations doing business in this state whose accounts are federally
37 insured.

38 3. United States government obligations.

39 4. Municipal bonds and bonds issued by a state, county or school
40 district.

41 5. Obligations for which the payment of principal and interest is
42 guaranteed by the United States or by an agency or instrumentality of the
43 United States.

44 6. Registered warrants if offered as security for monies of the
45 county by which they are issued.

1 7. First mortgages and trust deeds together with the promissory
2 notes or other evidences of indebtedness described in the instruments on
3 improved, otherwise unencumbered real estate located in this state if no
4 single mortgage or trust deed represents more than ten ~~per-cent~~ PERCENT of
5 the total collateral security and the promissory note or other evidence of
6 indebtedness secured by the mortgage or trust deed has been in existence
7 for at least three years and no default with respect to the promissory
8 note or other evidence of indebtedness has occurred during its existence.

9 Sec. 56. Section 6-271, Arizona Revised Statutes, is amended to
10 read:

11 6-271. Reserves against deposits; rule; limitations

12 Banks ~~which~~ THAT are not members of the federal reserve system shall
13 maintain such legal reserves as are from time to time fixed by rule of the
14 ~~superintendent~~ DEPUTY DIRECTOR, not to exceed fourteen ~~per-cent~~ PERCENT of
15 demand deposits or seven ~~per-cent~~ PERCENT of time and savings deposits.

16 Sec. 57. Section 6-273, Arizona Revised Statutes, is amended to
17 read:

18 6-273. Form of reserves; limitations

19 Legal reserves shall consist of:

20 1. Cash.

21 2. Cash items in the process of collection payable immediately ~~upon~~
22 ON presentation in the United States.

23 3. Unpledged obligations of the United States maturing not more
24 than six months ~~from~~ AFTER the date ~~such~~ THE obligation is used for
25 reserve purposes at par.

26 4. Net deposit balances with each reserve depository in this state,
27 exclusive of deposits not payable on demand unless evidenced by a
28 negotiable certificate of deposit maturing not more than six months from
29 the date the certificate is used for reserve purposes.

30 5. Net deposit balances with each out-of-state reserve depository,
31 exclusive of deposits not payable on demand unless evidenced by a
32 negotiable certificate of deposit maturing not more than six months ~~from~~
33 AFTER the date the certificate is used for reserve purposes, in an amount
34 either approved by the ~~superintendent~~ DEPUTY DIRECTOR in writing or not
35 more than the amount fully insured by the federal deposit insurance
36 corporation or the national credit union administration or any successor
37 agency.

38 Sec. 58. Section 6-321, Arizona Revised Statutes, is amended to
39 read:

40 6-321. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Acquire" as applied to an in-state financial institution means
43 any of the following actions or transactions:

44 (a) The merger or consolidation of an in-state financial
45 institution with an out-of-state financial institution.

1 (b) The acquisition by an out-of-state financial institution of the
2 direct or indirect ownership or control of voting shares of an in-state
3 financial institution if, after the acquisition, the out-of-state
4 financial institution will directly or indirectly own or control more than
5 ~~fifteen per cent~~ TWENTY-FIVE PERCENT of the outstanding voting shares of
6 the acquired in-state financial institution.

7 (c) The direct or indirect acquisition of all or substantially all
8 of the assets of an in-state financial institution.

9 (d) The taking of any other action that would result in the direct
10 or indirect control of an in-state financial institution.

11 2. "Control" means direct or indirect ownership of or power to vote
12 ~~fifteen per cent~~ TWENTY-FIVE PERCENT or more of the outstanding voting
13 shares of an in-state financial institution or to control in any manner
14 the election of a majority of the directors of an in-state financial
15 institution.

16 3. "De novo entry" means a newly established bank or savings and
17 loan association which is not created through the acquisition of or merger
18 with an in-state financial institution and control is through an
19 out-of-state financial institution.

20 4. "Filed with the ~~superintendent~~ DIVISION" means when the complete
21 application including any amendments or supplements containing all the
22 information in the form required by the ~~superintendent~~ DIVISION is
23 received by the ~~superintendent~~ DIVISION.

24 5. "In-state financial institution" means a state or federal bank,
25 savings bank or savings and loan association with its home office in this
26 state, or holding company with its home office in this state.

27 6. "Out-of-state financial institution" means a state or federal
28 bank, savings bank or savings and loan association with its home office in
29 a state other than this state, or holding company with its home office in
30 a state other than this state.

31 Sec. 59. Section 6-322, Arizona Revised Statutes, is amended to
32 read:

33 6-322. Interstate acquisitions; approval of deputy director;
34 exception

35 A. Except as otherwise expressly ~~permitted~~ ALLOWED by federal law,
36 an out-of-state financial institution shall not acquire an in-state
37 financial institution unless the ~~superintendent~~ DEPUTY DIRECTOR has
38 approved the acquisition. The ~~superintendent~~ DEPUTY DIRECTOR shall not
39 approve an acquisition unless the ~~superintendent~~ DEPUTY DIRECTOR has
40 determined that deposits held in this state will be insured by the federal
41 deposit insurance corporation when business in this state is commenced.

42 B. For those out-of-state financial institutions required to obtain
43 approval from the ~~superintendent~~ DEPUTY DIRECTOR as prescribed by
44 subsection A OF THIS SECTION, the acquiring financial institution shall
45 submit to the ~~superintendent~~ DEPUTY DIRECTOR a written application for

1 approval in the form the ~~superintendent~~ DEPUTY DIRECTOR prescribes. The
2 acquiring financial institution shall accompany the application with such
3 information, data and records as the ~~superintendent~~ DEPUTY DIRECTOR may
4 require in order to make the determination. In an interstate transaction,
5 the ~~superintendent~~ DEPUTY DIRECTOR may accept an application that is in
6 the form and manner prescribed by the state or federal agency that is the
7 primary regulator of the applicant and that is supplemented as necessary
8 to allow the ~~superintendent~~ DEPUTY DIRECTOR to determine whether to deny
9 or approve the application. The ~~superintendent~~ DEPUTY DIRECTOR shall
10 adopt rules prescribing the form and the information, data or records that
11 the ~~superintendent~~ DEPUTY DIRECTOR requires. In evaluating applications
12 for acquisition pursuant to subsection F OF THIS SECTION, the
13 ~~superintendent~~ DEPUTY DIRECTOR may give consideration to the potential
14 impact of the acquisition on the financial stability of the acquiring
15 institution.

16 C. A newly established in-state financial institution created for
17 the purpose of acquiring all or substantially all the assets of a former
18 in-state financial institution from an out-of-state financial institution
19 shall not constitute a de novo entry if the acquisition by the newly
20 established in-state financial institution is completed within ninety days
21 ~~of~~ AFTER the date on which the out-of-state financial institution acquired
22 all or substantially all of the assets of the former in-state financial
23 institution.

24 D. In the case of an out-of-state financial institution that is not
25 required to obtain the approval of the ~~superintendent~~ DEPUTY DIRECTOR, the
26 out-of-state financial institution shall give written notice of the
27 acquisition to the ~~superintendent~~ DEPUTY DIRECTOR ten days before the
28 effective date of the acquisition, unless a shorter time is prescribed by
29 federal law.

30 E. ~~From and after August 31, 2001,~~ An out-of-state financial
31 institution may acquire a branch of an in-state financial institution for
32 operation as a branch without acquiring the entire in-state financial
33 institution or its permit. A branch of an in-state financial institution
34 is not eligible to be acquired unless it has been in continuous operation
35 five or more years.

36 F. Notwithstanding subsection E OF THIS SECTION, an out-of-state
37 financial institution may acquire a branch of an in-state financial
38 institution without acquiring the entire institution if all of the
39 following apply:

40 1. The financial institution proposed to be acquired is in danger
41 of being placed in receivership.

42 2. The acquisition is necessary to protect the financial interests
43 of the in-state financial institution's depositors and creditors.

44 3. The terms of the acquisition are acceptable to the relevant
45 federal agency.

1 4. The ~~superintendent~~ DEPUTY DIRECTOR approves the acquisition
2 pursuant to this section in writing.

3 Sec. 60. Section 6-325, Arizona Revised Statutes, is amended to
4 read:

5 6-325. Failure to act on application as approval

6 The ~~superintendent~~ DEPUTY DIRECTOR shall rule on any application
7 submitted under section 6-322 not later than sixty days following the date
8 the application is filed with the ~~superintendent~~ DIVISION. If the
9 ~~superintendent~~ DEPUTY DIRECTOR fails to rule on the application within the
10 required ~~sixty day~~ SIXTY-DAY period, the failure to rule shall be deemed a
11 final decision of the ~~superintendent~~ DEPUTY DIRECTOR approving the
12 application.

13 Sec. 61. Section 6-326, Arizona Revised Statutes, is amended to
14 read:

15 6-326. Denial of application; grounds

16 The ~~superintendent~~ DEPUTY DIRECTOR shall deny an application for
17 acquisition of an in-state financial institution if the ~~superintendent~~
18 DEPUTY DIRECTOR finds any of the following:

19 1. The financial condition of the acquiring out-of-state financial
20 institution is such that it may jeopardize the financial stability of the
21 in-state financial institution or prejudice the interests of the
22 depositors, beneficiaries, creditors or shareholders of the in-state
23 financial institution.

24 2. Any plan or proposal to liquidate the in-state financial
25 institution, to merge or consolidate the in-state financial institution or
26 to make any other major change in the business, corporate structure or
27 management of the in-state financial institution is not fair and
28 reasonable to the depositors, beneficiaries, creditors or shareholders of
29 the in-state financial institution.

30 3. The applicant has exhibited, or has acquired a reputation for,
31 such ~~A~~ lack of honesty or integrity to indicate that it would not be in
32 the interest of the depositors, beneficiaries, creditors or shareholders
33 of the in-state financial institution or in the interest of the public to
34 ~~permit~~ ALLOW such ~~AN~~ applicant to control the in-state financial
35 institution.

36 4. The applicant neglects, fails or refuses to furnish to the
37 ~~superintendent~~ DEPUTY DIRECTOR any information requested by the
38 ~~superintendent~~ DEPUTY DIRECTOR.

39 5. The applicant fails to obtain any required approval from a
40 federal or state agency with authority over any of the financial
41 institutions that are participating in the transaction.

42 6. The acquisition is contrary to law.

1 Sec. 62. Section 6-327, Arizona Revised Statutes, is amended to
2 read:

3 6-327. Applicable laws and rules; cooperative agreements;
4 contracting exemption

5 A. Any bank, savings and loan association, out-of-state financial
6 institution or holding company doing business as such in this state is
7 subject to the applicable laws of this state and all the rules adopted
8 pursuant to such laws, including examination and supervision by the
9 ~~superintendent~~ DEPUTY DIRECTOR.

10 B. In the case of an acquisition to create a branch in this state,
11 the acquisition is prohibited unless the home state of the out-of-state
12 financial institution ~~permits~~ ALLOWS reciprocal acquisitions for the same
13 purposes.

14 C. An out-of-state financial institution that acquires an in-state
15 financial institution or an out-of-state financial institution that is the
16 result of a merger with an in-state financial institution may do either of
17 the following subject to applicable state and federal laws:

18 1. Continue to operate the in-state financial institution.

19 2. Convert any existing principal banking office or any or all
20 branches in this state into a branch of the out-of-state financial
21 institution.

22 D. An in-state branch of an out-of-state financial institution
23 shall comply with the laws of the institution's home state, or shall
24 comply with federal law in the case of a federally chartered institution.
25 The laws of the institution's home state apply, except as follows:

26 1. The laws of this state apply if necessary to preserve the safety
27 and sound operation of a branch in this state or to otherwise protect the
28 citizens of this state.

29 2. Any laws of this state regarding community reinvestment,
30 consumer protection, fair lending and intrastate branching apply to a
31 branch in this state of an out-of-state financial institution to the same
32 extent that those laws apply to an in-state financial institution.

33 3. An out-of-state financial institution that is authorized to
34 operate a branch in this state may engage in activity only to the extent
35 ~~permissible~~ THE ACTIVITY IS ALLOWED for an in-state financial institution.

36 E. Subsection D OF THIS SECTION does not limit the jurisdiction or
37 authority of the ~~superintendent~~ DEPUTY DIRECTOR to examine, supervise and
38 regulate an out-of-state financial institution that is operating or
39 seeking to operate a branch in this state or to take any action or issue
40 any order with respect to that branch.

41 F. An out-of-state bank that operates a branch in this state shall
42 do both of the following:

43 1. Obtain a grant of authority to transact business in this state
44 and comply with all other applicable filing requirements prescribed by

1 title 10 to the same extent as any other entity transacting business in
2 this state.

3 2. Provide written notice to the ~~superintendent~~ DEPUTY DIRECTOR of
4 the out-of-state bank's grant of authority to transact business in this
5 state.

6 G. The ~~superintendent~~ DEPUTY DIRECTOR may adopt rules, including
7 the imposition of reasonable application and examination fees, to
8 implement and administer this article.

9 H. The ~~superintendent~~ DEPUTY DIRECTOR may do any of the following:

10 1. Examine, supervise and regulate a branch operated in this state
11 by an out-of-state bank and take any action or issue any order with
12 respect to that branch.

13 2. Examine, supervise and regulate a branch operated in another
14 state by a bank and take any action or issue any order with respect to
15 that branch.

16 3. Coordinate these activities with any other state or federal
17 agency that shares jurisdiction over that financial institution.

18 4. Coordinate the examination, supervision and regulation of any
19 in-state financial institution with the examination, supervision and
20 regulation of a branch or affiliated financial institution that is
21 operating in another state by doing any of the following:

22 (a) Contracting with an agency that shares jurisdiction over the
23 financial institution to retain its examiners at a reasonable rate of
24 compensation.

25 (b) Offering the services of the department's examiners at a
26 reasonable rate of compensation to an agency that shares jurisdiction over
27 the financial institution.

28 (c) Collecting fees on behalf of or receiving payment of fees
29 through an agency that has jurisdiction over the financial institution.

30 5. Enter into cooperative agreements with federal and state
31 regulatory authorities for the examination and supervision of any acquired
32 or de novo entry bank, savings and loan association or holding company and
33 may accept reports of examination and other records from those authorities
34 instead of conducting an examination.

35 I. The department is exempt from title 41, chapter 23 in
36 contracting for examiners pursuant to subsection H, paragraph 4,
37 subdivision (a) OF THIS SECTION.

38 Sec. 63. Section 6-328, Arizona Revised Statutes, is amended to
39 read:

40 6-328. Deposit concentration limits

41 A. Neither an out-of-state financial institution nor an in-state
42 financial institution shall acquire another out-of-state financial
43 institution or in-state financial institution if either of the following
44 conditions exist:

1 1. The resulting out-of-state financial institution, in-state
2 financial institution or affiliation would control thirty ~~per cent~~ PERCENT
3 or more of the bank deposits held in this state.

4 2. One of the out-of-state financial institutions or in-state
5 financial institutions in the acquisition already controls thirty ~~per cent~~
6 PERCENT or more of the bank deposits held in this state.

7 B. Subsection A OF THIS SECTION does not apply to any interstate
8 acquisition involving only already affiliated entities.

9 C. The ~~superintendent~~ DEPUTY DIRECTOR, by order and on findings of
10 fact and conclusions of law, may waive the deposit concentration limit
11 prescribed by subsection A OF THIS SECTION. In determining whether to
12 waive the deposit concentration limit, the ~~superintendent~~ DEPUTY DIRECTOR
13 shall not discriminate against out-of-state financial institutions and
14 shall not grant a waiver unless the ~~superintendent~~ DEPUTY DIRECTOR finds
15 that the waiver will promote any of the following:

16 1. The availability of financial services.

17 2. The marketability of in-state financial institutions.

18 3. Another public interest.

19 Sec. 64. Section 6-329, Arizona Revised Statutes, is amended to
20 read:

21 6-329. Deposit production offices

22 A. Except as prescribed by subsection B of this section, a person
23 shall not establish or operate a deposit production office or similar
24 office in this state for the purpose of soliciting deposits or similar
25 evidence of indebtedness or participation interests in indebtedness.

26 B. This section does not apply to activities conducted at the main
27 office or a branch of an affiliated financial institution that is acting
28 as an agent as prescribed by section 6-184.

29 C. In determining whether an activity is prohibited by this
30 section, the ~~superintendent~~ DEPUTY DIRECTOR shall consider the factors
31 specified in the Rieggle-Neal interstate banking and branching efficiency
32 act of 1994, section 109 (c)(2) (P.L. 103-328; 108 Stat. 2338; 12 United
33 States Code section 1835a(c)(2)).

34 Sec. 65. Section 6-331, Arizona Revised Statutes, is amended to
35 read:

36 6-331. Enforcement

37 A. If the ~~superintendent~~ DEPUTY DIRECTOR determines that a branch
38 that is maintained in this state by an out-of-state bank is being operated
39 in violation of any law of this state or any rule adopted by this state or
40 that the branch is being operated in an unsafe or unsound manner, the
41 ~~superintendent~~ DEPUTY DIRECTOR has authority to take all enforcement
42 actions against that branch as if the branch were regulated pursuant to
43 section 6-201.

44 B. The ~~superintendent~~ DEPUTY DIRECTOR shall promptly notify the
45 regulatory agency of the out-of-state bank's home state of each

1 enforcement action taken against the out-of-state bank and to the extent
2 practicable shall consult and cooperate with the regulatory agencies of
3 the out-of-state bank in pursuing and resolving any enforcement actions.

4 Sec. 66. Section 6-352, Arizona Revised Statutes, is amended to
5 read:

6 6-352. Limitations of obligations to a bank; exceptions;
7 definitions

8 A. A bank may lend to a single borrower an amount equal to not more
9 than twenty ~~per cent~~ PERCENT of its capital, plus an amount equal to an
10 additional ten ~~per cent~~ PERCENT of its capital if the additional amounts
11 are fully secured by readily marketable collateral that has a market
12 value, as determined by reliable and continuously available price
13 quotations, at least equal to the amount of the loan. The calculation of
14 the total amount of all loans to a person pursuant to this subsection must
15 include any credit exposure to a person arising from a derivative
16 transaction, repurchase agreement, reverse repurchase agreement,
17 securities lending transaction or securities borrowing transaction between
18 the bank and the person.

19 B. A bank shall notify the department the first time it makes a
20 loan in an amount in excess of fifteen ~~per cent~~ PERCENT of its capital.
21 The notification to the department shall be made in writing and submitted
22 to the department within a reasonable period of time.

23 C. Each bank shall institute adequate procedures to ensure
24 compliance with subsection A of this section.

25 D. The limitations of subsection A of this section do not apply to:

26 1. Obligations incurred by the assignment, endorsement or guarantee
27 of the obligation of a third person, including an agreement to purchase
28 the third person's obligation or the collateral therefor, if the bank has
29 evaluated the financial condition and responsibility of the third person
30 and as a result of such evaluation accepts the obligation in reliance
31 primarily on the third person for payment. In such case the obligations
32 of the third person to the bank shall be the sole applicable limitation.

33 2. Obligations, whether general obligations or payable from
34 revenues or special assessment, of the United States or any agency or
35 instrumentality ~~thereof~~ OF THE UNITED STATES, a federal reserve bank, a
36 state of the United States or a subdivision, instrumentality or public
37 authority organized under the laws of such state.

38 3. Obligations to the extent they are secured by the guarantee,
39 insurance or other like commitment of the United States, an agency or
40 instrumentality of the United States, a federal reserve bank, a state of
41 the United States or a subdivision, instrumentality or public authority
42 organized under the laws of such state, whether the commitment provides
43 for payment in cash or in obligations described in paragraph 2 of this
44 subsection.

1 4. Obligations to the extent they are secured by any obligation
2 described in paragraphs 2 and 3 of this subsection at the value thereof,
3 not exceeding face value, at the time the obligation to the bank is
4 created.

5 5. Obligations to the extent they are secured by deposits in the
6 bank.

7 6. Obligations that are outstanding in the regular process of bank
8 collection or clearing transactions.

9 7. Obligations of a qualified reserve depository of the bank,
10 unless the ~~superintendent~~ DEPUTY DIRECTOR has by specific order excluded
11 or limited the obligations of such depository from the exemption of this
12 paragraph.

13 8. Any obligation created in the sale by the bank of any of its
14 property where the bank retains title, lien or security interest in the
15 property sold to secure the obligation.

16 9. Any obligation under the lease by the bank of any personal
17 property acquired by the bank in collecting an obligation to it or the
18 lease of any of its real property or banking equipment.

19 10. That portion of the obligations of a person to the bank that
20 exceeds the aggregate funds paid and the value of property delivered by
21 the bank in creating the obligation.

22 11. Any obligation exempt by rule of the ~~superintendent~~ DEPUTY
23 DIRECTOR or arising from the sale of any assets of the bank in a
24 transaction that has been approved by the ~~superintendent~~ DEPUTY DIRECTOR.

25 E. If the bank participates in an obligation with another obligee,
26 the limitations of this section shall be applicable only to the extent of
27 the bank's participation.

28 F. If the value of collateral for a loan that is required to be
29 fully secured under subsection A of this section falls below one hundred
30 ~~per cent~~ PERCENT of the outstanding loan, the loan must be brought into
31 conformance within five business days, except if judicial proceedings,
32 regulatory actions or other extraordinary occurrences prevent the bank
33 from taking action.

34 G. A renewal of a loan or a modification and extension of original
35 repayment terms are not deemed to be a new loan or an extension of credit
36 except in instances in which interest on the renewed loan or extension of
37 credit is capitalized or additional money is advanced.

38 H. Financial instruments may be denominated in foreign currencies
39 that are freely convertible to United States dollars. If denominated and
40 payable in a currency other than that of the loan or extension of credit
41 that it secures, the bank's procedures adopted pursuant to subsection C of
42 this section shall require that the collateral be revalued at least
43 monthly using appropriate foreign exchange rates in addition to being
44 valued at current market value.

45 I. For the purposes of this section:

1 1. "Derivative transaction" includes a transaction that is a
2 contract, agreement, swap, warrant, note or option that is based on, in
3 whole or in part, the value of, any interest in or any quantitative
4 measure or the occurrence of any event relating to one or more
5 commodities, securities, currencies, interest or other rates, indices or
6 other assets.

7 2. "Financial instruments" includes stocks, bonds and debentures
8 traded on a national securities exchange, over-the-counter margin stocks
9 as defined in regulation U of the federal reserve board, commercial paper,
10 notes, negotiable certificates of deposit, banker's acceptance and shares
11 in money market and mutual funds of the type in which banks may perfect a
12 security interest.

13 3. "Readily marketable collateral" means financial instruments or
14 bullion that are saleable under ordinary circumstances with reasonable
15 promptness at a fair market value determined by quotations based on actual
16 transactions of an auction or a similarly available daily bid and asked
17 price market.

18 Sec. 67. Section 6-353, Arizona Revised Statutes, is amended to
19 read:

20 6-353. Obligations of directors, officers and employees:
21 reports

22 A. No bank shall make any loan to any of its own directors,
23 officers or employees ~~which~~ THAT shall cause the outstanding loans of the
24 bank to such person to exceed one ~~per cent~~ PERCENT of the capital account
25 of the bank unless the loan is expressly authorized by the board of
26 directors with any interested director taking no part in such vote. Any
27 loan in violation of this subsection shall be payable on demand to the
28 extent required to bring the loan into compliance with this subsection.

29 B. Each bank shall include with but not as a part of each report of
30 condition to the ~~superintendent~~ DEPUTY DIRECTOR a report of the
31 obligations to the bank of each director and officer outstanding at the
32 date of the report of condition, if the aggregate obligations of such
33 person, exclusive of obligations outstanding in the regular process of
34 bank collection transactions, exceeds the lesser of ~~fifty thousand dollars~~
35 \$50,000 or one ~~per cent~~ PERCENT of the capital account of the bank.

36 Sec. 68. Section 6-384, Arizona Revised Statutes, is amended to
37 read:

38 6-384. Deposit of fiduciary funds

39 Cash held by a bank as fiduciary may be deposited to the credit of
40 the bank as such fiduciary on time or demand account with itself or with
41 any other bank the deposits of which are insured by the federal deposit
42 insurance corporation. Unless otherwise provided by the writing creating
43 the trust, if such funds are deposited with itself the bank shall secure
44 such deposits with securities described in section 6-352, subsection ~~A~~ D,
45 paragraph 2, or other security approved by the ~~superintendent~~ DEPUTY

1 ~~DIRECTOR~~ for the purpose, in the amount of the deposit, subject to
2 ~~subsection C of~~ section 6-245, ~~SUBSECTION C~~.

3 Sec. 69. Section 6-385, Arizona Revised Statutes, is amended to
4 read:

5 6-385. Substitution of corporate fiduciary

6 Any fiduciary capacity of a trust company, a bank or a savings and
7 loan association as trustee, executor, administrator, guardian,
8 conservator, registrar of stocks and bonds, assignee, receiver or any
9 other fiduciary capacity may be transferred to and assumed by a bank
10 authorized under its banking permit to conduct trust business in this
11 state or a savings and loan association authorized to conduct trust
12 business in this state, without any order or other action on the part of
13 any court or interested person, with the approval of the ~~superintendent~~
14 ~~DEPUTY DIRECTOR~~ to the extent the substitution is specified in the order
15 of approval. The ~~superintendent's~~ ~~DEPUTY DIRECTOR'S~~ order of approval
16 shall be conclusive evidence of the authority of the assuming bank or
17 savings and loan association to hold and enjoy all rights of property,
18 franchises and interests, including appointments, designations and
19 nominations, and all other rights and interests in each such fiduciary
20 capacity in the same manner and to the same extent as such rights,
21 franchises and interests were held or enjoyed by the bank, savings and
22 loan association or trust company for which the assuming bank or savings
23 and loan association has been substituted. The substitution of fiduciary
24 provided in this section is to assure a continuity of fiduciary
25 administration and is supplemental to other rights and powers of
26 substitution which require no approval by the ~~superintendent~~ ~~DEPUTY~~
27 ~~DIRECTOR~~. Substitution by order of the ~~superintendent~~ ~~DEPUTY DIRECTOR~~
28 shall not affect the authority of the court having jurisdiction over the
29 trust to determine the right of any other person to succeed to the
30 fiduciary capacity of the assuming bank or savings and loan association.

31 Sec. 70. Section 6-395, Arizona Revised Statutes, is amended to
32 read:

33 6-395. Possession by deputy director and receivership

34 If the status of a bank as an insured bank is terminated by the
35 federal deposit insurance corporation or the ~~superintendent~~ ~~DEPUTY~~
36 ~~DIRECTOR~~ finds that a bank is in such an unsafe or unsound condition that
37 it is or will become unable to meet the anticipated demands of its
38 depositors and that the condition cannot be corrected by the procedures of
39 chapter 1, article 5 of this title or section 6-137, the ~~superintendent~~
40 ~~DEPUTY DIRECTOR~~ may immediately take possession and control of the bank
41 and in such event shall, through the attorney general, apply to the
42 superior court for the appointment of a receiver for the bank. The court
43 may act ~~upon~~ ~~ON~~ the application forthwith and without notice to any
44 person. If at any time the court finds that no ground for receivership

1 exists, the receivership shall be dissolved and the ~~superintendent's~~
2 DEPUTY DIRECTOR'S possession terminated.

3 Sec. 71. Section 6-395.01, Arizona Revised Statutes, is amended to
4 read:

5 6-395.01. Powers of deputy director in possession

6 When the ~~superintendent~~ DEPUTY DIRECTOR has taken possession of a
7 bank and until the appointment and qualification of the receiver, or the
8 adjudication that no ground for the receivership exists, the
9 ~~superintendent~~ DEPUTY DIRECTOR shall be vested with the full and exclusive
10 power of management and control. The ~~superintendent~~ DEPUTY DIRECTOR shall
11 immediately close the bank for the acceptance and withdrawal of deposits,
12 but shall otherwise have the power to continue or to discontinue the
13 business, to stop or to limit the payment of its obligations, to employ
14 any necessary assistants, to execute any instrument in the name of the
15 bank, to commence, defend and conduct in its name any action or proceeding
16 in which the bank may be a party.

17 Sec. 72. Section 6-395.02, Arizona Revised Statutes, is amended to
18 read:

19 6-395.02. Federal deposit insurance corporation as receiver

20 If the court grants the application for receivership of a bank it
21 shall first tender the appointment as receiver to the federal deposit
22 insurance corporation, which is authorized to qualify and act without
23 bond. If the corporation accepts the appointment it shall have all of the
24 powers, privileges and duties as such receiver provided by the laws of
25 this state except insofar as such powers, privileges and duties are in
26 conflict with the provisions of the federal deposit insurance act as
27 amended, which act shall control. If the corporation does not accept the
28 appointment, the ~~superintendent~~ DEPUTY DIRECTOR shall be appointed
29 receiver.

30 Sec. 73. Section 6-395.03, Arizona Revised Statutes, is amended to
31 read:

32 6-395.03. Federal deposit insurance corporation power pending
33 judicial proceedings

34 The federal deposit insurance corporation may pay out and acquire
35 the insured deposit liabilities of a bank notwithstanding the possession
36 by the ~~superintendent~~ DEPUTY DIRECTOR or the pendency of receivership
37 proceedings and for such purposes shall have the use of the facilities and
38 records of the bank. The federal deposit insurance corporation and its
39 directors, officers, agents and employees, the ~~superintendent~~ DEPUTY
40 DIRECTOR and the receiver and the respective agents and employees of each,
41 shall be free from liability to the bank, its directors, stockholders and
42 creditors, for or on account of any action authorized by this section.

1 Sec. 74. Section 6-395.11, Arizona Revised Statutes, is amended to
2 read:

3 6-395.11. Priority of claims; interest

4 A. Claims allowed in a proceeding under this article shall be paid
5 in the following order:

6 1. Costs and expenses of the administration of the receivership and
7 liquidation.

8 2. Taxes due to this state.

9 3. Claims with priority under the laws of this state and under
10 federal law.

11 4. Claims of creditors that are fully secured including contract
12 claims for interest to the date of payment.

13 5. Claims of depositors.

14 6. Claims of general creditors.

15 7. Claims on obligations that are subordinated to the claims of
16 general creditors.

17 B. Claims that are approved shall bear interest calculated as
18 provided by law or by judgment from the date that the court grants the
19 ~~superintendent's~~ DEPUTY DIRECTOR'S application for the appointment of a
20 receiver for that bank to the extent that monies are available to pay that
21 interest. If monies are not available to pay interest, the interest shall
22 be prorated. Interest owed shall receive the same priority as the claim
23 on which it accrues, but interest on a claim shall not be paid until all
24 claims within that same class have received payment of the full principal
25 amount of the claim.

26 C. Any monies remaining after the payment of claims as provided in
27 this section shall be returned to the stockholders of the bank as
28 prescribed by this article.

29 Sec. 75. Section 6-395.13, Arizona Revised Statutes, is amended to
30 read:

31 6-395.13. Voluntary liquidation and dissolution

32 A bank may voluntarily dissolve and wind up its affairs as any other
33 corporation under the provisions of title 10, but ~~no~~ A plan of liquidation
34 or dissolution shall NOT be submitted to the stockholders until the
35 ~~superintendent upon~~ DEPUTY DIRECTOR ON application by the bank finds that
36 the bank has assets of such A form and amount as to ~~permit~~ ALLOW the
37 satisfaction in full of the claims of all depositors in accordance with
38 their rights and that the plan contains proper provision for ~~such~~ THE
39 satisfaction.

40 Sec. 76. Section 6-395.14, Arizona Revised Statutes, is amended to
41 read:

42 6-395.14. Voidable transactions

43 A transaction that occurs within six months ~~of~~ AFTER the date on
44 which the ~~superintendent~~ DEPUTY DIRECTOR takes possession of a bank is
45 voidable by the receiver if the transaction has the effect of enabling a

1 creditor, affiliate, officer, director, stockholder or employee, or a
2 relative of any of those persons, to obtain a preference over any other
3 creditor of the bank.

4 Sec. 77. Section 6-401, Arizona Revised Statutes, is amended to
5 read:

6 6-401. Definitions

7 In this chapter, unless the context otherwise requires:

8 1. "Account" means withdrawable capital deposited with or invested
9 in an association in accordance with any plan authorized by ~~the provisions~~
10 ~~of~~ this chapter unless such term is otherwise designated or qualified.

11 2. "Aggregate withdrawal value" means the sum of all payments made
12 on all accounts of the association, all dividends and bonuses credited or
13 allocated to such accounts and all dividends credited to "divided profits"
14 for subsequent crediting to accounts ~~upon~~ ON maturity, less all
15 withdrawals, retirements and other proper deductions from accounts and all
16 unpaid charges on the accounts.

17 3. "Association" means every association to which this chapter
18 applies as defined in the section concerning scope of chapter.

19 4. "Community" means a city, incorporated town, unincorporated
20 town, community or village.

21 5. "Continuing association" means the association ~~which~~ THAT
22 continues to exist after a merger of associations has been effected.

23 6. "Federal association" means a savings and loan association or
24 savings association operating under the laws and regulations of the United
25 States.

26 7. "Impaired" or "impairment", with respect to capital, means a
27 condition in which the value of the association's assets is less than the
28 aggregate amount of the association's liabilities to creditors, the
29 aggregate value of its accounts and the aggregate par value of its
30 guaranty capital.

31 8. "Improved real estate" means real estate which is, or which from
32 the proceeds of the loan will become, a home, combination of home and
33 business property or other improved real estate.

34 9. "Insurance corporation" means the federal deposit insurance
35 corporation or such other instrumentality of, or corporation chartered by,
36 the United States as may be established for the purpose of insuring the
37 accounts of savings and loan associations or any other equivalent deposit
38 insurer approved by the ~~superintendent~~ DEPUTY DIRECTOR.

39 10. "Insured association" means an association, the accounts of
40 which are insured wholly or in part by an insurance corporation.

41 11. "Investment" means to put funds to use in order to secure
42 profits.

1 12. "Mail" or "mailed" means, with respect to a writing or notice,
2 deposit in a United States post-office mailing facility in this state with
3 postage prepaid and correctly addressed to the proper person at ~~his~~ THE
4 PERSON'S address stated on the association's records or otherwise agreed
5 ~~upon~~ ON or if no address has been so established then to the last known
6 address.

7 13. "Merger" includes consolidation.

8 14. "Merging association" means an association ~~which~~ THAT plans or
9 effects a merger with one or more other associations in accordance with
10 the provisions of this chapter concerning merger.

11 15. "Other improved real estate" means real estate other than a home
12 or combination home and business property ~~which~~ THAT, because of its state
13 of improvement, or improvement from the proceeds of the loan, will produce
14 sufficient income to maintain the property and retire the loan in
15 accordance with the terms of the loan.

16 16. "Participating interests" means the purchase or acquisition of
17 an interest in an existing permanent mortgage loan.

18 17. "Prior act" means any statute of this state ~~which~~ THAT, before
19 June 25, 1960, has governed the formation or operation of associations of
20 the type described in the section of this chapter concerning scope of the
21 chapter.

22 18. "Profits" means, as determined by the application of proper
23 accounting principles, gross income less the aggregate of operating and
24 other expenses, losses actually sustained and not charged to reserves
25 under ~~the provisions of~~ this chapter and interest paid or accrued on
26 borrowings and non-recurring charges.

27 19. "Publication", "publish" or "published" means printed in the
28 English language in a newspaper of general circulation published in the
29 community in which the association's business office is located or if no
30 such newspaper exists in said community then in the county in which such
31 business office is located. Unless otherwise specified in this chapter
32 publication shall be made once each week for two successive weeks.

33 20. "Total assets" means the total value of all loan contracts
34 without deduction for the withdrawal value of any accounts of the
35 association held as collateral for loans and the total value of all other
36 assets of the association as determined by the application of proper
37 accounting principles.

38 21. "Withdrawal value" of an account means the sum of all payments
39 made by the holder on the account and all dividends and bonuses credited
40 or allocated to such account less all withdrawals, retirements and other
41 proper deductions from the account and all unpaid charges on the account.

1 Sec. 78. Section 6-405, Arizona Revised Statutes, is amended to
2 read:

3 6-405. Power to borrow

4 A. No insured institution shall borrow an aggregate amount
5 exceeding ~~one-half~~ ONE-HALF the amount paid in and credited on accounts,
6 except that with prior approval of the ~~superintendent~~ DEPUTY DIRECTOR, any
7 such association may borrow without limitation ~~upon~~ ON such terms and
8 conditions as may be required by the lender. No action of an insured
9 institution in obtaining funds through borrowing, in accordance with ~~the~~
10 ~~provisions of~~ this section, shall be deemed a violation hereof if its
11 aggregate borrowings exceed the limitation of this section because of a
12 subsequent reduction in the amounts paid in and credited on accounts.

13 B. A debt incurred by the association in violation of this section
14 is not invalid or illegal as to the rights of the lender.

15 Sec. 79. Section 6-405.01, Arizona Revised Statutes, is amended to
16 read:

17 6-405.01. Capital notes and debentures

18 A. With prior approval of the ~~superintendent~~ DEPUTY DIRECTOR, an
19 association may issue and sell its capital notes or debentures.

20 B. Capital notes and debentures legally issued by an association
21 may be converted into shares of guaranty capital in accordance with such
22 provision therefor as may be made in such capital notes and debentures
23 with prior approval of the ~~superintendent~~ DEPUTY DIRECTOR.

24 C. Capital notes and debentures shall be an unsecured indebtedness
25 of the association and shall be subordinate to the claims of depositors,
26 account holders and all other creditors of the association, regardless of
27 whether the claims of depositors, account holders or other creditors arose
28 before or after the issuance of such debentures or capital notes. In the
29 event of liquidation, all depositors, account holders and other creditors
30 of the association shall be entitled to be paid in full before any payment
31 shall be made on account of principal or interest on such capital notes or
32 debentures. No payment shall at any time be made on account of the
33 principal thereof if the payment is prohibited by regulation of the
34 insurance corporation.

35 D. Subject to a requirement in the articles of incorporation of the
36 association, or an amendment thereto, and if authorized by the
37 ~~superintendent~~ DEPUTY DIRECTOR, convertible capital notes and debentures
38 may be issued without offer thereof to existing stockholders.

39 E. The amounts of outstanding capital notes and debentures legally
40 issued by any association shall be treated as if guaranty capital.

41 Sec. 80. Section 6-407, Arizona Revised Statutes, is amended to
42 read:

43 6-407. Applicants and initial capital

44 A. Any five or more adult individuals, residents of this state, may
45 apply for a permit to organize an association under this article. The

1 minimum initial capital which an association must have shall be determined
 2 by the ~~superintendent~~ DEPUTY DIRECTOR, but in no event shall it be less
 3 than the amount determined by the following table, based ~~upon~~ ON the
 4 population of the community in which the association's business office is
 5 to be located:

Population		Minimum
More than	Not more than	capital
00	10,000	\$ 50,000.00
10,000	50,000	100,000.00
50,000	-----	200,000.00

11 B. If the association's business office is to be located in an
 12 unincorporated area more than five miles from the limits of any community,
 13 then the required minimum capital shall be that for a community of ten
 14 thousand population or less; otherwise, the required capital shall be that
 15 of the community to which it is adjacent, or if near several communities,
 16 that of the community with the highest population classification in the
 17 above schedule. Minimum capital to be paid in may consist of withdrawable
 18 capital and guaranty capital as provided in this chapter. If the capital
 19 of the association to be organized includes guaranty capital, the amount
 20 of minimum initial guaranty capital shall not be less than ~~fifty thousand~~
 21 ~~dollars~~ \$50,000, and not less than ~~one hundred thousand dollars~~ \$100,000
 22 if the association is to be located in a county with more than
 23 seventy-five thousand population.

24 Sec. 81. Section 6-408, Arizona Revised Statutes, is amended to
 25 read:

26 6-408. Application for permit to organize

27 The application for a permit to organize an association shall be
 28 addressed to the ~~superintendent~~ DEPUTY DIRECTOR in such form as ~~he~~ THE
 29 DEPUTY DIRECTOR shall provide, ~~;~~ ~~shall~~ be in duplicate, ~~BE~~ personally
 30 signed by each applicant and ~~BE~~ verified under oath by each applicant.
 31 The applicants shall submit with their application statements, exhibits,
 32 maps, ~~and~~ other data, which ~~data~~ shall be sufficiently detailed and
 33 comprehensive to enable the ~~superintendent~~ DEPUTY DIRECTOR to pass ~~upon~~ ON
 34 the application.

35 Sec. 82. Section 6-409, Arizona Revised Statutes, is amended to
 36 read:

37 6-409. Findings and hearings

38 If the ~~superintendent~~ DEPUTY DIRECTOR does not deny the application
 39 on the basis of the data submitted by the applicants and any other
 40 information in ~~his~~ THE DEPUTY DIRECTOR'S possession, the applicants shall
 41 publish a notice of intention to organize in such form as the
 42 ~~superintendent~~ DEPUTY DIRECTOR shall prescribe. The ~~superintendent~~ DEPUTY
 43 DIRECTOR may hear evidence to determine ~~his~~ THE DEPUTY DIRECTOR'S findings
 44 at any time prior to the issuance of a permit to organize.

1 Sec. 83. Section 6-410, Arizona Revised Statutes, is amended to
2 read:

3 6-410. Deputy director's approval and issuance of permit to
4 organize

5 The ~~superintendent~~ DEPUTY DIRECTOR shall not approve the application
6 and issue a permit to organize unless ~~he shall find~~ THE DEPUTY DIRECTOR
7 FINDS:

8 1. A need exists for an association, and that the public
9 convenience and advantage will be promoted by the proposed association, in
10 the community or area of operation stated in the application.

11 2. The proposed capital meets the requirements of this chapter.

12 3. The general character of the proposed management is such as to
13 assure reasonable probability of the success of the association.

14 4. The name of the proposed association is not the same as, or
15 deceptively similar to, the name of any other association or bank in the
16 community or area of operation.

17 5. Such association can be established without undue injury to
18 properly conducted existing associations.

19 Sec. 84. Section 6-411, Arizona Revised Statutes, is amended to
20 read:

21 6-411. Subscription to capital and temporary organization

22 ~~Upon~~ ON receipt of the permit to organize an association, the
23 applicants shall constitute the organization committee and shall perfect a
24 temporary organization by electing a chairman, vice chairman, and a
25 secretary, who shall act as the temporary officers of such association
26 until their successors are duly elected and qualified. Such temporary
27 officers ~~thereupon~~ shall proceed to:

28 1. Secure subscriptions for the required amount of capital in form
29 and manner approved by the ~~superintendent~~ DEPUTY DIRECTOR.

30 2. Call a meeting of subscribers, who shall adopt articles of
31 incorporation and elect directors to serve until the first annual meeting
32 of the association and until their successors are elected and qualified.

33 3. The directors so elected shall proceed to:

34 (a) Organize as a board and qualify as directors.

35 (b) Adopt by-laws.

36 (c) Elect officers pursuant to the by-laws.

37 (d) Collect subscriptions to the required capital, but only after
38 the persons designated to collect such subscriptions have been bonded as
39 provided in section 6-420.

40 (e) Take such other action as may be necessary to complete the
41 organization.

42 (f) Report the completion of the organization to the ~~superintendent~~
43 DEPUTY DIRECTOR. Unless such report is made to the ~~superintendent~~ DEPUTY
44 DIRECTOR within six months after the date of the permit to organize, the
45 permit shall be deemed revoked and any subscriptions collected shall be

1 refunded unless the ~~superintendent~~ DEPUTY DIRECTOR, ~~upon~~ ON good cause
2 shown, shall extend the time for filing such report for a fixed period
3 which shall not exceed three months.

4 Sec. 85. Section 6-412, Arizona Revised Statutes, is amended to
5 read:

6 6-412. Completion of organization

7 A. ~~When~~ IF the board of directors has organized as provided in this
8 chapter and the report of such organization has been filed with the
9 ~~superintendent~~ DEPUTY DIRECTOR, ~~he~~ THE DEPUTY DIRECTOR shall make a
10 thorough examination into the affairs of the proposed association, and if
11 ~~he~~ THE DEPUTY DIRECTOR approves the articles of incorporation and is
12 satisfied that all the requirements of this chapter have been complied
13 with, and that no intervening circumstance has occurred to change the
14 ~~superintendent's~~ DEPUTY DIRECTOR'S findings made pursuant to this chapter,
15 ~~upon~~ ON payment into the ~~superintendent's~~ DEPUTY DIRECTOR'S office of the
16 fees for such examination, ~~he~~ THE DEPUTY DIRECTOR shall issue a
17 certificate authorizing the filing of the articles of incorporation with
18 the corporation commission and the taking of the other steps required by
19 title 10, to complete the formation of a corporation. ~~Upon~~ ON the
20 appointment of a statutory agent and the issuance of a certificate of
21 incorporation by the corporation commission and the payment into escrow
22 with a responsible corporate escrow agent approved by the ~~superintendent~~
23 DEPUTY DIRECTOR of the amount of the initial capital required by this
24 chapter, the ~~superintendent~~ DEPUTY DIRECTOR shall issue a permit
25 conditioned ~~upon~~ ON the association securing within twelve months ~~from~~
26 AFTER the date of ~~such~~ THE permit insurance of its insurable accounts by
27 an insurance corporation and the rules and regulations of ~~such~~ THE
28 corporation.

29 B. Unless such insurance is secured within ~~such~~ THE period the
30 permit shall be deemed revoked unless the ~~superintendent~~ DEPUTY DIRECTOR,
31 ~~upon~~ ON good cause shown, shall extend the time for securing such
32 insurance for a single fixed period ~~which~~ THAT shall not exceed six
33 months. The association shall not operate as a savings and loan
34 association under the laws of this state or transact any other business
35 than that necessary to secure such insurance until it has secured such
36 insurance. If such insurance is not secured within the time provided by
37 this chapter or as extended by the ~~superintendent~~ DEPUTY DIRECTOR, all
38 amounts collected as subscriptions to the required capital shall be
39 returned to the subscribers without reduction.

40 Sec. 86. Section 6-413, Arizona Revised Statutes, is amended to
41 read:

42 6-413. Contents of articles of incorporation

43 A. The articles of incorporation shall set forth:

- 44 1. The name of the association.
45 2. The location of the principal place of business.

1 3. The general nature of the business to be transacted.

2 4. The authorization, if any, to issue withdrawable shares, the
3 aggregate amount of which may be unlimited.

4 5. The authorization, if any, to issue guaranty shares, the
5 aggregate number thereof, and the par value per share, if any.

6 6. The date of the annual meeting of the members, which shall not
7 be more than one hundred fifty days after the close of the association's
8 fiscal year.

9 7. The quorum required for action of members if a quorum other than
10 specified in this chapter is desired.

11 8. The names, residences and post-office addresses of the
12 incorporators, who shall be the individuals who made and filed with the
13 ~~superintendent~~ DEPUTY DIRECTOR the application for a permit to organize.

14 9. The time of commencement and termination of the association,
15 which shall be governed by the general corporation laws of the state, with
16 the right of renewal of existence.

17 10. By what officers the affairs of the association are to be
18 conducted and the time of their election. The number of directors shall
19 not be less than five nor more than twenty-five.

20 11. The highest amount of indebtedness or liability, direct or
21 contingent, to which the association may at any time subject itself which
22 shall not exceed one-half of the accounts and paid-in guaranty stock
23 without prior approval of the ~~superintendent~~ DEPUTY DIRECTOR.

24 12. That the private property of the shareholders is exempt from the
25 debts and obligations of the association.

26 13. Any other provision not inconsistent with law, which the
27 subscribers may desire for the internal regulation of the affairs of the
28 association.

29 14. The articles need not set forth any of the powers ~~which~~ THAT
30 this chapter confers.

31 B. The articles of incorporation may:

32 1. Provide that the guaranty shares be divided into different kinds
33 or classes.

34 2. Define the designations, preferences, rights and limitations of
35 each kind or class.

36 3. Define the voting rights of the different types of members.

37 4. Restrict the power to vote to holders of guaranty shares or to
38 one or more kinds or classes of guaranty shares.

39 Sec. 87. Section 6-417, Arizona Revised Statutes, is amended to
40 read:

41 6-417. Directors

42 The business affairs of the association shall be exercised by its
43 board of directors, which shall be elected, and shall exercise its powers,
44 as follows:

1 1. The board of directors shall consist of the number of directors
2 fixed by the articles of incorporation but shall be not less than five nor
3 more than twenty-five. ~~;~~ All directors shall be bona fide members of the
4 association, and at all times at least two-thirds of the directors shall
5 be residents of this state.

6 2. Directors shall be elected as provided in the ~~by-laws~~ BYLAWS of
7 the association and shall serve until their successors are elected and
8 qualified. In all elections of directors cumulative voting shall be
9 ~~permitted~~ ALLOWED as provided in the Constitution of Arizona.

10 3. In the event of a vacancy on the board of directors from any
11 cause, the remaining directors shall have full power and authority to
12 continue the management of the association, and to fill any such vacancy.

13 4. The board of directors shall hold regular meetings as provided
14 in the ~~by-laws~~ BYLAWS. Special meetings may be held as provided in the
15 ~~by-laws~~ BYLAWS, and also ~~upon~~ ON call by the ~~superintendent~~ DEPUTY
16 DIRECTOR after not less than twelve hours' notice by personal or mail
17 service to each director.

18 5. A majority of the board of directors shall constitute a quorum
19 for the transaction of business unless a greater number is required in the
20 ~~by-laws~~ BYLAWS. The act of the majority of the directors present at a
21 meeting at which a quorum is present shall be the act of the board of
22 directors, unless the act of a greater number is required by law, the
23 articles of incorporation, or the ~~by-laws~~ BYLAWS.

24 6. The board of directors shall have all powers ~~which~~ THAT are
25 necessary and proper to enable the association to accomplish its purpose.

26 7. The board of directors may adopt or amend ~~by-laws~~ BYLAWS, but ~~no~~
27 ~~by-laws~~ BYLAWS shall ~~NOT~~ be effective until ~~it has~~ THEY HAVE been
28 submitted to and approved by the ~~superintendent~~ DEPUTY DIRECTOR as being
29 in conformity with this chapter. Each adopted amendment shall be subject
30 to the same inquiry by the ~~superintendent~~ DEPUTY DIRECTOR as the
31 corresponding provision in the original ~~by-laws~~ BYLAWS of the
32 association. The ~~superintendent~~ DEPUTY DIRECTOR may require approval by a
33 majority vote of the members for an amendment changing the location of the
34 business office of the association.

35 Sec. 88. Section 6-420, Arizona Revised Statutes, is amended to
36 read:

37 6-420. Bonds of officers and employees

38 A. Every person appointed or elected to any position requiring the
39 receipt, payment, management or use of money belonging to an association,
40 or whose duties ~~permit him~~ ALLOW THE PERSON to have access to or custody
41 of any of ~~its~~ THE ASSOCIATION'S money or securities or whose duties ~~permit~~
42 ~~him~~ ALLOW THE PERSON regularly to make entries in the books or other
43 records of the association, before assuming ~~his~~ THE PERSON'S duties, shall
44 become bonded in some fidelity insurance company licensed to do business
45 in this state and approved by the ~~superintendent~~ DEPUTY DIRECTOR. Each

1 such bond shall be on a form or forms as the ~~superintendent~~ DEPUTY
2 DIRECTOR shall require and in such amount as the board of directors shall
3 fix and approve.

4 B. Nothing contained herein shall preclude the ~~superintendent~~
5 DEPUTY DIRECTOR from proceeding against an association as provided in this
6 chapter should ~~he~~ THE DEPUTY DIRECTOR believe that ~~it~~ THE ASSOCIATION is
7 being conducted in an unsafe manner in that the form or amount of bonds so
8 fixed and approved by the board of directors is inadequate to give
9 reasonable protection to the association.

10 Sec. 89. Section 6-421, Arizona Revised Statutes, is amended to
11 read:

12 6-421. Access to books and records; communication with
13 members

14 A. Every member or holder of capital shall have the right to
15 inspect such books and records of the association as pertain to ~~his~~ THE
16 MEMBER'S OR HOLDER'S account. Otherwise, the right of inspection and
17 examination of the books and records shall be limited to the
18 ~~superintendent~~ DEPUTY DIRECTOR, as provided in this chapter, and to any
19 federal instrumentality or agency authorized to inspect or examine the
20 books and records of an insured association, and no other person shall
21 have access to the books and records or shall be entitled to a list of the
22 members, except ~~upon~~ ON express authority of the board of directors.

23 B. If any member desires to communicate with the other members of
24 the association with reference to any question pending or to be presented
25 at a meeting of the members, the association shall give ~~him upon request~~
26 THE MEMBER, ON REQUEST, a statement of the approximate number of members
27 entitled to vote at ~~such~~ THE meeting and an estimate of the cost of
28 preparing and mailing ~~such~~ THE communication. The requesting member then
29 shall submit the communication to the ~~superintendent~~ DEPUTY DIRECTOR who,
30 if ~~he~~ THE DEPUTY DIRECTOR finds it to be appropriate and truthful, shall
31 direct that it be prepared and mailed to the members, ~~upon~~ ON the
32 requesting member's payment or adequate provision for payment of the
33 expenses of ~~such~~ THE preparation and mailing.

34 Sec. 90. Section 6-423, Arizona Revised Statutes, is amended to
35 read:

36 6-423. Accounts

37 A. An association may maintain all types of deposit accounts and
38 prescribe those terms and conditions relating to the accounts as are
39 ~~permissible~~ ALLOWABLE for the association to maintain the insurance of its
40 deposits by an insurance corporation.

41 B. Accounts are:

42 1. Withdrawable and subject to enforced retirement as provided in
43 this article. This chapter does not prevent the withdrawal of funds from
44 an association by negotiable or nonnegotiable order.

45 2. Entitled to dividends as provided in this article.

1 3. Nonassessable for either debts or losses of the association.
2 4. Issued on such plan or plans of payment and in such series or
3 classes as the bylaws may provide, which plan or plans of payment may
4 include:
5 (a) Regular installment plan with agreed weekly or monthly
6 payments, with dividends credited to or in behalf of the account until the
7 ultimate value agreed ~~upon~~ ON in the subscription is reached.
8 (b) Full paid plan with one single payment of ~~one hundred dollars~~
9 \$100 per unit and dividends payable in cash unless by agreement credited
10 to the account.
11 (c) Prepaid plan with one single payment in such amount per unit as
12 is set forth in the bylaws and dividends credited to such account until
13 the ultimate value of ~~one hundred dollars~~ \$100 per unit is reached.
14 (d) Optional plan with payments in such amount or amounts and at
15 such times as the holder may elect and dividends credited to such account
16 unless by agreement payable in cash.
17 (e) Any other plan of payment which the ~~superintendent~~ DEPUTY
18 DIRECTOR may approve as conforming to sound savings and loan practice.
19 Sec. 91. Section 6-425, Arizona Revised Statutes, is amended to
20 read:
21 6-425. Shares of guaranty capital; authorization of issuance;
22 minimum amount
23 A. An association may provide for the issuance of shares of
24 guaranty capital, either by its original articles of incorporation or by
25 an amendment ~~thereto~~ TO THE ARTICLES OF INCORPORATION.
26 B. The aggregate initial guaranty capital of an association being
27 organized under this chapter shall be not less than the minimum initial
28 guaranty capital required under ~~the provisions of~~ section 6-407.
29 C. In the case of an association ~~which~~ THAT shall at any time be
30 operating and its original articles of incorporation authorize the
31 issuance of guaranty shares but the association has issued no guaranty
32 shares, or in the case of an association already in operation ~~which~~ THAT
33 amends its articles to authorize the issuance of guaranty shares, the
34 aggregate initial guaranty capital shall be not less than either:
35 1. The initial guaranty capital required under ~~the provisions of~~
36 section 6-407.
37 2. An amount ~~which~~ THAT, together with the amount of surplus and
38 all reserves required or designated as available for losses, equals in the
39 aggregate not less than the required capital and reserves necessary to
40 obtain and maintain insurance of accounts by the insurance corporation,
41 whichever ~~shall be~~ IS greater.
42 D. In the case of an association already in operation and having
43 issued and outstanding guaranty shares, the aggregate guaranty capital
44 shall be an amount not less than an amount ~~which~~ THAT, together with the
45 amount of surplus, amount of outstanding capital notes and debentures, and

1 all reserves required or designated for use for losses, equals in the
2 aggregate not less than the required capital and reserves necessary to
3 obtain and maintain insurance of accounts by the insurance corporation.

4 E. Any plan for the issuance of shares of guaranty capital shall be
5 subject to the approval of the ~~superintendent~~ DEPUTY DIRECTOR as being in
6 conformity with ~~the provisions of~~ this chapter, and the rules and
7 regulations of the ~~superintendent~~ DEPUTY DIRECTOR pertaining thereto.

8 Sec. 92. Section 6-427, Arizona Revised Statutes, is amended to
9 read:

10 6-427. Shares of guaranty capital: advertisement: sales:
11 collection of subscription

12 A. All prospectae and advertising matter regarding the subscription
13 for shares of guaranty capital shall include a statement to the effect
14 that such shares of guaranty capital are not insured.

15 B. No association shall pay to any person any commission or other
16 compensation for obtaining any subscription to or sale of shares of
17 guaranty capital without the prior approval of the ~~superintendent~~ DEPUTY
18 DIRECTOR.

19 C. The board of directors shall establish a separate account to
20 receive all funds paid in for shares of guaranty capital, and shall
21 maintain such account until further action is authorized as follows:

22 1. When the aggregate amount of such funds equals or exceeds the
23 amount of the minimum initial guaranty capital ~~which~~ THAT the association
24 must obtain, and either the board of directors has decided by resolution
25 to proceed under the guaranty capital plan, or one year has elapsed ~~from~~
26 AFTER the date on which the issuance of shares of guaranty capital was
27 authorized and the board has taken no action, then the separate account
28 may be terminated and the funds may be transferred to the association's
29 general account.

30 2. If the aggregate amount of such funds fails to reach the amount
31 of the minimum initial guaranty capital ~~which~~ THAT the association must
32 obtain and one year has elapsed ~~from~~ AFTER the date on which the issuance
33 of shares of guaranty capital was authorized; ~~or~~ or if the board of
34 directors, within such one-year period, has decided by resolution to
35 abandon the guaranty capital plan, ~~then~~ the funds in the separate account
36 shall be returned to the respective subscribers and shall not become a
37 liability of the association or its officers or directors.

38 Sec. 93. Section 6-428, Arizona Revised Statutes, is amended to
39 read:

40 6-428. Retirement or reduction of shares of guaranty capital

41 A. The board of directors of an association operating with guaranty
42 capital may propose an amendment to the articles of incorporation
43 providing for the retirement of all of the guaranty capital, and a
44 detailed plan for effectuating such AN amendment. The resulting capital
45 of the association shall be not less than the minimum initial capital

1 ~~which~~ THAT the association, if it were being organized, would be required
2 to have under ~~the provisions of~~ this chapter concerning applicants and
3 initial capital. The proposal shall be submitted to the ~~superintendent~~
4 DEPUTY DIRECTOR for ~~his~~ THE DEPUTY DIRECTOR'S approval.

5 B. If the ~~superintendent~~ DEPUTY DIRECTOR approves the proposal, the
6 association's board of directors may request in writing an appraisal of
7 the value of the shares of guaranty capital. ~~;~~ and The ~~superintendent~~
8 DEPUTY DIRECTOR then shall cause such an appraisal to be made and receive
9 therefor the fees for a special examination as provided by section 6-125,
10 allowing proper credit to such shares from the association's segregated
11 surplus, if any exists, and from other reserves and undivided
12 profits. The value of the shares of guaranty capital so determined may be
13 considered in the further proceedings under this section.

14 C. The proposal then may be submitted to the members at an annual
15 or special meeting. ~~it~~ THE PROPOSAL shall be adopted ~~upon~~ ON receiving in
16 the affirmative the votes of the holders of two-thirds or more of the
17 outstanding shares of guaranty capital, and also two-thirds or more of the
18 total number of votes ~~which~~ THAT all other members of the association are
19 entitled to cast thereon. The proposal shall become effective ~~upon~~ ON
20 completion of the procedure provided in this chapter for the amendment of
21 articles of incorporation.

22 D. An association may amend its articles of incorporation, in
23 accordance with the procedure provided in this chapter for such
24 amendments, to reduce its shares of guaranty capital, but in no event to
25 an amount ~~which~~ THAT is less than the minimum guaranty capital ~~which~~ THAT
26 the association would be required by this chapter to issue if it were
27 newly authorized to issue guaranty capital.

28 Sec. 94. Section 6-434, Arizona Revised Statutes, is amended to
29 read:

30 6-434. Shares and accounts of certain associations as legal
31 investments; deposit of fiduciary monies

32 A. All accounts of a federal savings and loan association and all
33 accounts of a savings and loan association operating under ~~the provisions~~
34 ~~of~~ this chapter, whose accounts are insured by the federal deposit
35 insurance corporation, as provided in title IV of the national housing
36 act, as now or hereafter amended, are legal investments for the funds of
37 executors, administrators, guardians, receivers and trustees of every kind
38 and nature and insurance companies, and such associations are qualified to
39 act as trustee or custodian within the provisions of the federal
40 self-employed individual's tax retirement act of 1962, as amended.

41 B. Monies held by a savings and loan association as fiduciary may
42 be deposited to the credit of the savings and loan association on time or
43 demand account with itself or with any bank or other savings and loan
44 association the deposits of which are insured by instrumentalities of, or
45 corporations chartered by, the United States for the purpose of insuring

1 the accounts of banks or savings and loan associations. Unless otherwise
2 provided by the writing creating the trust, if the monies are deposited
3 with itself the savings and loan association shall secure the deposits
4 with securities described in section 6-446, subsection A, paragraphs 1 and
5 2 or other security approved by the ~~superintendent~~ DEPUTY DIRECTOR for
6 such a purpose, in the amount of the deposit, less the amount by which the
7 deposits are insured by the federal deposit insurance corporation or such
8 other instrumentality of, or corporation chartered by, the United States
9 as may be established for the purpose of insuring the accounts of savings
10 and loan associations.

11 Sec. 95. Section 6-435, Arizona Revised Statutes, is amended to
12 read:

13 6-435. Voluntary withdrawal of accounts

14 A. A holder of an account may make application for withdrawal of,
15 and the association may pay, all or any part of the withdrawal value
16 thereof at any time.

17 B. If the association has insufficient funds in the treasury and
18 from current receipts to pay all matured accounts and applications for
19 withdrawal within thirty days after such accounts mature or payment is
20 requested, then the board of directors shall provide by resolution:

21 1. The amount of money available in each calendar month to pay
22 maturities and withdrawals, in accordance with safe and required operating
23 procedure, ~~;~~ but after making provision for expenses, debts, obligations,
24 and cash dividends on accounts, due or to become due, not less than fifty
25 ~~per cent~~ PERCENT of the remainder of such treasury funds and current
26 receipts shall be made available for the payment of withdrawals and
27 maturities.

28 2. For a list of matured accounts in order of maturity, and if in
29 the same series, in order of issuance in such series; ~~;~~ and also of
30 applications for withdrawals in chronological order of filing. Separate
31 lists may be established for such purposes, in which event the resolution
32 shall provide the proportion of available money ~~which~~ THAT shall be
33 applied to each list.

34 3. For a maximum sum, ~~which~~ THAT shall not exceed ~~one thousand~~
35 ~~dollars~~ \$1,000, ~~which~~ THAT may be paid to any one holder at any one
36 time; ~~;~~ and if any holder's application for withdrawal or for payment of
37 matured shares exceeds the sum so fixed, then ~~he~~ THE HOLDER shall be paid
38 in ~~his~~ turn the sum so fixed, and ~~his~~ THE HOLDER'S application, reduced by
39 such payment, shall be deemed refiled in its order as if filed on the date
40 of such payment. Such limited payment may be made on a fixed date in each
41 month and such refiled and renumbering, as the case may be, may take
42 place on the same date in each subsequent month as long as any
43 applications remain unpaid.

44 4. For a maximum sum, ~~which~~ THAT shall not exceed ~~two hundred~~
45 ~~dollars~~ \$200, which may be paid on any application for withdrawal or to

1 any one holder of matured shares in any calendar month, regardless of the
2 order of application.

3 C. Accounts pledged as sole security for a loan shall be subject to
4 the withdrawal provisions of this section, but amounts available for
5 payment on the application for withdrawal shall be applied first to the
6 repayment of the loan balance.

7 D. Accounts may be accepted by the association in payment or part
8 payment for any real estate or other assets owned by the
9 association, ~~;~~ but if the association has a list of withdrawals, or
10 withdrawals and maturities, such sale of assets shall be to the highest
11 bidder, and at least ten days' notice of the proposed sale shall be given
12 by mail to all holders of accounts whose names appear on the withdrawal or
13 maturity list.

14 E. ~~No~~ A holder shall NOT have more than one application for
15 withdrawal in effect at any one time, ~~;~~ but ~~a holder~~ may cancel ~~his~~ THE
16 application or reduce the amount thereof at any time as to any amount not
17 yet paid.

18 F. The holder of accounts for which application for withdrawal has
19 been made does not become a creditor by reason of such application.

20 G. The board of directors of any association operating on the
21 serial plan or with regular installment or prepaid shares on which
22 dividends have not been credited directly to the share accounts, may
23 determine by resolution the portion of profits ~~which~~ THAT may be paid to
24 withdrawing members.

25 H. Notwithstanding any other provision of this chapter, a savings
26 and loan association may offer payment order accounts, approved for
27 federal associations doing business in this state, and authorizing
28 withdrawals therefrom by written drafts payable to third parties, subject
29 to conditions, limitations and restrictions as the ~~superintendent~~ DEPUTY
30 DIRECTOR may by rule prescribe.

31 Sec. 96. Section 6-440, Arizona Revised Statutes, is amended to
32 read:

33 6-440. Apportionment of profits

34 The board of directors may apportion the profits of the association
35 as the bylaws may prescribe, and each apportionment shall be made in
36 accordance with the following procedure:

37 1. Proper allocation first shall be made to accrued interest on
38 accounts.

39 2. Proper allocation then shall be made to any reserves required by
40 law or the ~~superintendent~~ DEPUTY DIRECTOR.

41 3. Additional allocations then may be made to such special reserves
42 as the board of directors may have established.

43 4. Dividends then may be declared if the bylaws so provide on
44 shares of guaranty capital, in accordance with ~~the provisions of~~ this
45 chapter.

1 5. The residue of such profits may be held as undivided profits.
2 Sec. 97. Section 6-442, Arizona Revised Statutes, is amended to
3 read:

4 6-442. Dividends and interest

5 A. Subject to the restrictions set forth in this section and the
6 association's bylaws, an association from time to time may determine the
7 term, rate and amount of interest to be paid on accounts, and for that
8 purpose may establish reasonable classifications of accounts, based on any
9 of the following:

- 10 1. The types or classes of such accounts.
- 11 2. The length of time accounts are continued in effect.
- 12 3. The size of initial payments on accounts.
- 13 4. The minimum balances of accounts during apportionment periods.
- 14 5. The frequency and extent of the activity of accounts.

15 6. Such other classifications as the ~~superintendent~~ DEPUTY DIRECTOR
16 may approve, and the ~~superintendent~~ DEPUTY DIRECTOR is authorized to
17 prepare model plans of classifications for adoption by associations.

18 B. An association shall determine the method of calculating the
19 amount of interest on accounts, and the date on which the interest is to
20 be declared or credited, but ~~no~~ A payment or credit shall NOT be made more
21 than ten days before the end of any apportionment period, except ~~upon~~ ON a
22 matured bonus plan account or as approved by rules of the ~~superintendent~~
23 DEPUTY DIRECTOR.

24 C. Dividends may be declared and paid on shares of guaranty capital
25 as ~~permitted~~ ALLOWED from time to time by the laws governing corporations
26 organized in this state, except that dividends payable other than in the
27 association's own stock may be paid out as a distribution, as defined in
28 section 10-140, only with the approval of the ~~superintendent~~ DEPUTY
29 DIRECTOR or as approved by rules of the ~~superintendent~~ DEPUTY DIRECTOR.

30 Sec. 98. Section 6-444, Arizona Revised Statutes, is amended to
31 read:

32 6-444. Promotional activities prohibited; definitions

33 A. After the effective date hereof, an association shall not give
34 for the opening of, or increasing the amount of, any account, any
35 ~~give-away~~ GIVEAWAY that has a monetary value in excess of the sum fixed
36 for specified classes of accounts by rule of the ~~superintendent~~ DEPUTY
37 DIRECTOR. The monetary value of any ~~give-away~~ GIVEAWAY so given shall be
38 the cost ~~thereof~~ OF THE GIVEAWAY to the association and the association
39 shall keep in its records for a period of at least two years suitable
40 evidence of such cost. If the ~~give-away~~ GIVEAWAY is purchased or obtained
41 by the association together with, in connection with, or at the same time
42 as another item or other items from the same supplier, not identical
43 therewith, such value shall be deemed to be the then current regular
44 selling price or charge of the supplier on separate sales or dispositions
45 thereof in the quantity included, and the association shall in such case

1 obtain, and keep in its records for a period of at least two years, a
2 signed statement by such supplier of such regular selling price or charge.

3 ~~As used in the foregoing provisions~~

4 B. FOR THE PURPOSES of this section:

5 1. "Account" means shares of an association of whatsoever class or
6 designation, accounts, share account, investment certificate, share
7 subscription, and credit to the account of the maker thereof other than
8 credit on account of a loan by the association. ~~, the term~~

9 2. "Give" means to give, to sell or dispose of for less than full
10 monetary value as hereinbefore defined, or with any agreement or
11 undertaking, contingent or otherwise, for repurchase or redemption,
12 whether total or partial, or to offer, promise, or agree to do any of the
13 foregoing. ~~The term "give-away"~~

14 3. "GIVEAWAY" means any money, property, service, or other thing of
15 value, whether tangible or intangible. ~~The term~~

16 Sec. 99. Section 6-446, Arizona Revised Statutes, is amended to
17 read:

18 6-446. Other investments and powers

19 A. An association may invest funds as follows:

20 1. In an account of any state or federal association, the accounts
21 of which are insured by an insurance corporation.

22 2. In obligations of or fully guaranteed by the United States, in
23 stock or obligations of federal home loan banks or in stocks or
24 obligations of the federal national mortgage association or other agencies
25 of the United States approved by rule of the ~~superintendent~~ DEPUTY
26 DIRECTOR.

27 3. In any of the following where the aggregate amount invested in
28 all such investments does not exceed twenty ~~per cent~~ PERCENT of the
29 association's total assets:

30 (a) Bonds or other direct obligations of or guaranteed as to
31 principal and interest by this state.

32 (b) Obligations ~~which~~ THAT by the laws of this state are made legal
33 investments for savings and loan associations.

34 (c) Bonds or other evidences of indebtedness ~~which~~ THAT are direct
35 general obligations of any county, incorporated city or town, school
36 district, improvement district or other political subdivision or municipal
37 corporation of this state and, subject to such rules as the ~~superintendent~~
38 DEPUTY DIRECTOR may adopt, readily marketable corporate debt securities of
39 the type commonly regarded as investment securities ~~which~~ THAT were
40 publicly distributed when issued and ~~which~~ THAT are publicly traded at the
41 time of acquisition by the association and loans or securities, which meet
42 standards of sound lending practices.

43 4. In certificates of deposit issued by any bank ~~which~~ THAT is a
44 member of the federal deposit insurance corporation, provided that the
45 purchase or renewal of certificates issued by banks ~~which~~ THAT do not have

1 their principal offices in this state are governed by such rules as the
2 ~~superintendent~~ DEPUTY DIRECTOR may prescribe.

3 5. In accordance with ~~the provisions of~~ this paragraph and any
4 rules of the ~~superintendent~~ DEPUTY DIRECTOR, any Arizona association may
5 invest in the capital stock, obligations or other securities of any
6 service corporation, under whatever laws organized, if the entire
7 corporate stock of ~~such~~ THE service corporation is available for purchase
8 only by savings and loan associations of this state and federal savings
9 and loan associations having their home office in this state, but ~~no~~ AN
10 association may NOT make any investment under this section if its
11 aggregate outstanding investment under this section, determined as
12 prescribed by the rules of the ~~superintendent~~ DEPUTY DIRECTOR, would
13 ~~thereupon~~ exceed six ~~per cent~~ PERCENT of its assets and provided that any
14 investment in excess of five ~~per cent~~ PERCENT of its assets serves
15 primarily community, inner-city or community development purposes. The
16 ~~superintendent~~ DEPUTY DIRECTOR shall prescribe rules under this authority
17 to effectuate the intent of section 6-402, subsection B. If a service
18 corporation engages in an activity ~~which~~ THAT is ~~not permissible~~
19 PROHIBITED under this section for a service corporation in which an
20 association may invest, an association having an investment in such A
21 service corporation shall dispose of such AN investment promptly unless,
22 within ninety days following notice to such AN association, the
23 ~~impermissible~~ PROHIBITED activity is discontinued. The service
24 corporation shall file a certified audit as provided in section 6-477, and
25 the ~~superintendent~~ DEPUTY DIRECTOR may examine service corporations as
26 provided in section 6-476.

27 6. With or without security, make loans, advance credit and
28 purchase obligations representing loans and advances of credit for the
29 payment of expenses of community college, college or university education,
30 but no association may have loans under this paragraph, exclusive of any
31 loan ~~which~~ THAT is or ~~which~~ THAT at the time of its making was otherwise
32 authorized, aggregating at any one time more than five ~~per cent~~ PERCENT of
33 its total assets. An association making a loan under this paragraph may
34 require a comaker or comakers, insurance, guaranty under a government
35 student loan guarantee plan or other protection against contingencies.
36 The borrower shall certify to the association that the proceeds of the
37 loan are to be used by a full-time student solely for the payment of
38 expenses of community college, college or university education at an
39 institution ~~which~~ THAT provides an education program for which it awards a
40 bachelor's degree or provides not less than a two-year program ~~which~~ THAT
41 is acceptable for full credit toward such a degree.

42 7. Notwithstanding any other provision of this article, but subject
43 to such prohibitions, limitations, conditions and restrictions as the
44 ~~superintendent~~ DEPUTY DIRECTOR may prescribe, an association may do any of
45 the following:

1 (a) Invest in primarily residential real property, including
2 interests in such real property, located within this state.

3 (b) Acquire, develop and improve such property or interests in the
4 property for primarily residential usage.

5 (c) Hold, sell or otherwise dispose of, lease, improve and operate
6 any such property or any interest in the property. An association shall
7 not make any investment under this paragraph if its aggregate outstanding
8 investment would exceed ten ~~per cent~~ PERCENT of its assets. ~~As used in~~
9 FOR THE PURPOSES OF this paragraph, "improve" ~~shall include~~ INCLUDES any
10 type of improvement other than the construction of residential housing.

11 8. Subject to chapter 1, article 4 of this title, in any class of
12 capital stock of any bank or savings and loan association, under whatever
13 laws organized, or any corporation which directly or indirectly acting
14 through one or more persons owns or has the power to vote twenty-five ~~per~~
15 cent PERCENT or more of any class of voting stock of any such bank or
16 savings and loan association.

17 9. In an amount not exceeding ten ~~per cent~~ PERCENT of the
18 association's assets, in any other investments not prohibited by rules
19 adopted by the ~~superintendent~~ DEPUTY DIRECTOR. No investment made under
20 the authority of this paragraph may be made in a service corporation
21 referred to in paragraph 5 of this subsection. An investment made under
22 the authority of this paragraph may be made or continued for the purpose
23 of creating or acquiring, directly or through any affiliate or subsidiary,
24 any obligation of a purchaser of consumer goods created in the acquisition
25 of such goods or any monetary obligation of a member of the association.

26 B. Notwithstanding any other provision of law, but except as
27 provided in subsection A, paragraphs 5 and 7 of this section, an
28 association shall have the following powers:

29 1. To offer and accept savings accounts or other accounts for
30 fixed, minimum or indefinite periods of time or in the form of demand or
31 transaction accounts including overdraft privileges incident thereto to
32 any person or entity.

33 2. To make, invest in or acquire loans or participating interests
34 in loans, secured or unsecured, of any type and for any purpose to any
35 person or entity.

36 3. To make, invest in or acquire loans ~~upon~~ ON the security of any
37 residential or nonresidential property interest, of any priority, whether
38 fee or leasehold to any person or entity.

39 4. To make or acquire loans ~~upon~~ ON the security of, or invest in,
40 commercial paper, securities and other corporate debt obligations of any
41 type.

42 5. To issue debt or equity securities for cash or other
43 consideration.

44 6. To acquire, invest in or hold real or personal property for
45 rental or sale, which at the time of such acquisition or investment would

1 not exceed twenty ~~per cent~~ PERCENT of an association's assets, and to
2 enter into or create lease financing arrangements with respect to such
3 property.

4 7. To act as trustee, executor, administrator, personal
5 representative, conservator, guardian or custodian, or in any other
6 fiduciary capacity, to offer trust or fiduciary services incident thereto
7 and to receive reasonable compensation therefor.

8 C. The association in the exercise of such powers provided herein
9 may do so without regard to geographic limitations and on terms and
10 provisions in accordance with this section unless restricted by rules of
11 the ~~superintendent~~ DEPUTY DIRECTOR.

12 D. An association shall not invest in or acquire a loan or a
13 participating interest in a loan originated or acquired by an affiliate or
14 by a subsidiary of a related holding company or companies other than a
15 service corporation qualified as provided in this section. Before making
16 an investment in or acquiring a loan or a participating interest in a loan
17 the association shall evaluate the creditworthiness of the obligor in the
18 same manner as though the association were originating the loan. The
19 association shall document and retain the credit review in the loan file.

20 E. All of the provisions of this section are subject to section
21 33-1571.

22 Sec. 100. Section 6-449, Arizona Revised Statutes, is amended to
23 read:

24 6-449. General loan contract provisions

25 A. Each loan, and any agreement for securing the same, shall be
26 evidenced by one or more written instruments, consistent with sound
27 lending practices in the locality, and whenever recording of such an
28 agreement is necessary to establish priority over the claim of any third
29 party, the agreement shall be recorded.

30 B. The loan contract terms shall afford full protection to the
31 association and shall include, among other things, provisions for:

32 1. The payment of taxes, assessments, other governmental levies,
33 maintenance and repairs, granting the association the right to make
34 payments thereon or for any other item which, if unpaid, would create a
35 lien prior to that of the loan contract.

36 2. Adequate insurance to cover the usual risks on the property
37 offered as security for the loan, and in such form, coverage and amounts
38 and in such company or companies as the board of directors may approve.

39 3. The right to repay the loan in whole or in part at any time, but
40 the association may require payment of not more than six months' advance
41 interest on that part of the aggregate amount of all prepayments on a loan
42 in one year ~~which~~ THAT exceeds the amount otherwise payable in such year
43 under the terms of the loan.

44 C. The loan contract may provide for:

45 1. An assignment of rents.

1 2. Additional or future advances to be made at the option of the
2 parties up to a total amount stated in the recorded security instrument.

3 3. Regular periodical payments to create a separate trust fund in
4 the association to pay when due all taxes, assessments, insurance
5 premiums, ground rents, and other current charges against the real estate
6 security, and the application or crediting of such payments. All such
7 funds so collected shall be promptly deposited in a separate trust bank
8 account.

9 4. The payment or deduction of a premium charge for property
10 insurance, life insurance or health and accident insurance assigned as
11 collateral, mortgage guaranty insurance or insurance of mortgages by the
12 United States or any instrumentality thereof, actual costs of title
13 examination or title insurance, appraisal, credit report, survey, drawing
14 of papers, closing of loan, and other necessary incidental services in
15 such reasonable amounts as are actually charged and as may be fixed by the
16 board of directors, all of which shall be itemized on a loan settlement
17 sheet delivered to the borrower at the time of closing the loan. ~~;~~ ~~but~~ No
18 person regularly serving the association shall receive from the
19 association or other source any fee or compensation of any kind in
20 connection with procuring a particular loan from or by such association.

21 5. A single initial service charge, premium or discount and a
22 charge or penalty for nonpayment when due of agreed payments ~~upon~~ **ON** any
23 loan, but ~~no-such~~ **THE** charges, penalties or discount ~~shall~~, when added to
24 the interest charge of ~~such~~ **THE** loan, over the contractual term of the
25 loan, **SHALL NOT** exceed in the aggregate the applicable interest rate of
26 this state, and ~~no-such~~ **THE** charge or penalty shall **NOT** be either
27 compounded or cumulated. All such charges and penalties shall be
28 accounted for as a part of the receipts of the association.

29 6. Any other covenant or agreement ~~which~~ **THAT** the association may
30 deem necessary or ~~which~~ **THAT** is customary in the locality.

31 7. The charges herein authorized to be made shall be in addition to
32 interest authorized by law and shall not be deemed as included therein,
33 except as prohibited by section 44-1205 and subsection C, paragraph 5 of
34 this section.

35 D. If any payment required to be made by the borrower to discharge
36 the performance of any obligation under the loan contract is not made, or
37 if any fund created for such payment is insufficient to discharge the
38 obligation completely, the association may advance the same and add the
39 required amount to the unpaid balance of the loan as of the first day of
40 the month during which such advance was made, and the advance and interest
41 thereon shall be secured by the security instrument.

42 E. The first payment on any regular installment loan, a
43 construction loan, insured loan, or guaranteed loan shall begin at such
44 time as fixed by rules and regulations of the ~~superintendent~~ **DEPUTY**
45 **DIRECTOR**.

1 Sec. 101. Section 6-451, Arizona Revised Statutes, is amended to
2 read:

3 6-451. Servicing of loans

4 An association may contract to service a loan in any manner unless
5 restricted by regulations prescribed by the ~~superintendent~~ DEPUTY DIRECTOR
6 and shall require sufficient compensation to reimburse the association for
7 all expenses incurred under such contract.

8 Sec. 102. Section 6-453, Arizona Revised Statutes, is amended to
9 read:

10 6-453. Purchase of real estate for office and rental purposes

11 An association may invest in land ~~upon~~ ON which to erect an office
12 building, an office building or buildings and appurtenances, for the
13 transaction of such association's business, or for the transaction of such
14 business and for rental, but no such investment may be made if the total
15 amount of all investments of the association in such building or buildings
16 exceeds the aggregate amount of the association's outstanding shares of
17 guaranty capital, reserves available for losses and surplus, unless the
18 ~~superintendent~~ DEPUTY DIRECTOR, ~~upon~~ ON a proper showing, shall approve a
19 larger amount consistent with the needs of the association's business and
20 its immediate expansion. An association shall not purchase an office
21 building, or any part ~~thereof~~ OF AN OFFICE BUILDING, or land ~~upon~~ ON which
22 to erect an office building, from an affiliated institution, from an
23 officer, director or employee of such association, or from a corporation
24 or association in which any officer, director or employee is a stockholder
25 or is an officer, director or employee, or from a partnership in which any
26 officer, director or employee is a partner, without the prior written
27 approval of the ~~superintendent~~ DEPUTY DIRECTOR.

28 Sec. 103. Section 6-457, Arizona Revised Statutes, is amended to
29 read:

30 6-457. Appraisals

31 Every appraisal or reappraisal of property ~~which~~ THAT an association
32 is required to make shall be made as follows:

33 1. In accordance with the ~~superintendent's~~ DEPUTY DIRECTOR'S rules
34 and regulations on appraisals. Each appraisal shall be filed and
35 preserved by the association during the life of the loan.

36 2. In the case of an insured or guaranteed loan, by any appraiser
37 appointed by any lending, insuring or guaranteeing agency of the United
38 States or of ~~the~~ THIS state ~~of Arizona which~~ THAT shall insure or
39 guarantee such loan, wholly or in part. A copy of any appraisal or of the
40 commitment or certificate of the insuring or guaranteeing agency shall be
41 filed and preserved by the association during the life of the loan.

42 3. The ~~superintendent may~~ DEPUTY DIRECTOR, when good cause exists,
43 MAY cause an independent appraisal to be made of any property ~~upon~~ ON
44 which a loan has been made. The reasonable travel and subsistence
45 expenses and compensation to such appraisers not in excess of comparable

1 fees paid for the same or similar appraisals in the same area shall be
2 paid by the association owning or holding such property as mortgagee.

3 Sec. 104. Section 6-460, Arizona Revised Statutes, is amended to
4 read:

5 6-460. Procedure to amend articles of incorporation

6 The procedure to effect an amendment of articles of incorporation
7 shall be as follows:

8 1. The board of directors shall adopt a resolution setting forth
9 the proposed amendment and directing that it be submitted to a vote at a
10 meeting of the members, which may be an annual or a special meeting.

11 2. The proposed amendment, or a summary of the changes to be
12 effected thereby, shall be set forth in the notice of meeting as
13 prescribed in section 6-415.

14 3. The proposed amendment will be adopted ~~upon~~ ON receiving, in the
15 affirmative, a majority or more of the total number of votes ~~which~~ THAT
16 all members of the association are entitled to cast, except that an
17 amendment effecting a retirement of all shares of guaranty capital must
18 receive the vote specified in section 6-428. A report of proceedings,
19 verified by the president or a vice president and attested by the
20 secretary and setting forth the notice given, the amendment adopted, the
21 vote thereon, and the total number of votes ~~which~~ THAT all members of the
22 association were entitled to cast thereon, shall be filed promptly with
23 the ~~superintendent~~ DEPUTY DIRECTOR.

24 4. Each adopted amendment shall be subject to the same inquiry by
25 the ~~superintendent~~ DEPUTY DIRECTOR as the corresponding provision in the
26 original articles of incorporation, including, ~~but not limited to,~~ the
27 availability of a proposed new name of the association. If the
28 ~~superintendent~~ DEPUTY DIRECTOR approves an amendment, ~~he~~ THE DEPUTY
29 DIRECTOR shall issue to the association a certificate setting forth the
30 amendment and ~~his~~ THE DEPUTY DIRECTOR'S approval thereof, which shall then
31 be filed with the corporation commission and a certified copy thereof
32 recorded in the office of the county recorder of the county where the
33 principal office of the association is located. When so filed and
34 recorded the amendment shall become effective.

35 5. No amendment of articles of incorporation shall affect any
36 existing cause of action either in favor of or against the association, or
37 any pending action in which the association shall be a party, or the
38 existing rights of persons other than members of the association. ~~;~~ ~~and~~ If
39 the amendment has changed the name of the association, no action brought
40 by or against the association under its former name shall be abated for
41 that reason.

1 Sec. 105. Section 6-462, Arizona Revised Statutes, is amended to
2 read:

3 6-462. Conversion from state to federal association

4 Any association operating under this chapter may become a federal
5 association pursuant to the laws and regulations of the United States and
6 in accordance with the following procedure:

7 1. The board of directors shall approve a plan of conversion by
8 resolution adopted by majority vote of all of the directors. The plan
9 shall set forth, among other terms:

10 (a) A financial statement of the association as of the last
11 business day of the month preceding the adoption of the plan.

12 (b) The disposition of withdrawable capital and guaranty capital,
13 if any.

14 (c) Adjustments, if any, in the value of accounts when exchanged
15 for comparable accounts in the federal association.

16 (d) The disposition of any segregated surplus established under ~~the~~
17 ~~provisions of~~ section 6-426.

18 (e) The disposition of any obligations or liabilities.

19 2. Such plan and resolution shall be submitted to the
20 ~~superintendent~~ DEPUTY DIRECTOR at least fifteen days prior to the members'
21 meeting at which action of members is to be taken.

22 3. If the plan of conversion provides for no adjustment in the
23 accounts of members and all obligations and liabilities are to be assumed
24 by the federal association, the ~~superintendent's~~ DEPUTY DIRECTOR'S
25 approval of the plan of conversion shall not be required.

26 4. If the plan of conversion adjusts values of any type of capital,
27 or if the association has a segregated surplus, such plan of conversion
28 shall be subject to the approval of the ~~superintendent~~ DEPUTY DIRECTOR.
29 Approval shall be given in such case if the ~~superintendent~~ DEPUTY DIRECTOR
30 finds that the plan is equitable and protects the rights of all persons
31 affected, including such contingent interests as theretofore may have been
32 created in the segregated surplus, if any.

33 5. After receipt of such approval from the ~~superintendent~~ DEPUTY
34 DIRECTOR, if required, the plan of conversion may be submitted at an
35 annual or special meeting of the members. The plan will be adopted ~~upon~~
36 ~~ON~~ receiving, in the affirmative, fifty-one ~~per-cent~~ PERCENT or more of
37 the total number of votes ~~which~~ THAT all members of the association are
38 entitled to cast. A report of proceedings at ~~such~~ THE meeting, certified
39 by the president or a vice president and attested by the secretary, shall
40 be filed promptly with the ~~superintendent~~ DEPUTY DIRECTOR.

41 6. Within ninety days after the date of ~~such~~ THE meeting, the
42 association shall take the action prescribed and authorized by the laws
43 and regulations of the United States to complete its conversion to a
44 federal association.

1 7. ~~Upon~~ ON receipt of a federal charter, the association shall file
2 promptly with the ~~superintendent~~ DEPUTY DIRECTOR and the corporation
3 commission either a copy of said charter or a certificate of the
4 appropriate federal officer setting forth the facts concerning the
5 issuance of such charter and ~~upon~~ ON recording said charter in the same
6 manner as is required for the association's articles of incorporation, the
7 association shall cease to be a state chartered association.

8 Sec. 106. Section 6-463, Arizona Revised Statutes, is amended to
9 read:

10 6-463. Conversion from federal to state association

11 A. Any federal association may become an association operating
12 under this chapter, pursuant to the laws and regulations of the United
13 States and in accordance with the following procedure:

14 1. The board of directors shall by a majority vote of all the
15 directors adopt by resolution a plan of conversion which shall set forth
16 among other terms:

17 (a) A financial statement of the association as of the last
18 business day of the month preceding the adoption of the plan.

19 (b) The disposition of the withdrawable value of all accounts,
20 general and other reserves and surplus.

21 (c) The disposition of any obligation or liabilities.

22 (d) The disposition of the assets of the association.

23 2. Such plan and resolution shall be submitted to the
24 ~~superintendent~~ DEPUTY DIRECTOR at least fifteen days prior to the members'
25 meeting at which action of the members is to be taken. If the
26 ~~superintendent~~ DEPUTY DIRECTOR, after appropriate examination, ~~shall find~~
27 FINDS that the association complies sufficiently with the requirements of
28 this chapter to entitle it to become an association operating under this
29 chapter, ~~he~~ THE DEPUTY DIRECTOR shall approve the plan of conversion. ~~He~~
30 THE DEPUTY DIRECTOR may prescribe terms and conditions, to be fulfilled
31 either prior to or after the conversion, to cause the association to
32 conform with the requirements of this chapter.

33 3. After receipt of the ~~superintendent's~~ DEPUTY DIRECTOR'S
34 approval, the plan of conversion may be submitted at an annual or special
35 meeting of the members. ~~;~~ ~~and~~ The plan will be adopted ~~upon~~ ON receiving,
36 in the affirmative, fifty-one ~~per cent~~ PERCENT or more of the total number
37 of votes ~~which~~ THAT all members of the association are entitled to cast.
38 Thereupon, such action shall be taken by the members to adopt articles of
39 incorporation, to elect directors, to adopt ~~by-laws~~ BYLAWS, and to elect
40 officers, as is prescribed for a new association in article 2 of this
41 chapter. A report of proceedings at such meeting, certified by the
42 president or a ~~vice-president~~ VICE PRESIDENT and attested by the
43 secretary, shall be filed promptly with the ~~superintendent~~ DEPUTY
44 DIRECTOR.

1 4. If the ~~superintendent~~ DEPUTY DIRECTOR finds that such
2 proceedings have been in accordance with ~~the provisions of~~ this section,
3 ~~he~~ THE DEPUTY DIRECTOR shall issue a certificate authorizing the filing of
4 the articles of incorporation with the corporation commission and the
5 taking of the other steps required by title 10, to complete the formation
6 of a corporation. ~~upon~~ ON the issuance of a certificate of incorporation
7 by the corporation commission, the ~~superintendent~~ DEPUTY DIRECTOR shall
8 issue a certificate of conversion.

9 5. The expenses of any examination made by or at the direction of
10 the ~~superintendent~~ DEPUTY DIRECTOR in connection with ~~such~~ THE conversion
11 shall be paid by the converting association as a fee for special
12 examination as authorized by section 6-125.

13 B. The conversion shall be effective ~~upon~~ ON the compliance with
14 the laws and regulations of the United States and the provisions of this
15 section.

16 Sec. 107. Section 6-465, Arizona Revised Statutes, is amended to
17 read:

18 6-465. Merger of associations or corporations

19 A. An association operating under this chapter may merge into or
20 with one or more associations, whether operating under this chapter or
21 otherwise, or into or with any other corporation, except a corporation or
22 association operating an insurance business, other than title insurance,
23 pursuant to title 20. The board of directors of each merging association
24 or corporation, by resolution adopted by a majority vote of all members of
25 such board, must approve the plan of merger, which shall set forth:

26 1. The name of each merging association or corporation, and the
27 name of the continuing association or corporation and the location of its
28 principal office.

29 2. The amount of capital, reserves, and undivided profits of the
30 continuing association or corporation, and the kinds of shares and other
31 types of capital to be issued thereby.

32 3. The articles of incorporation of the continuing association or
33 corporation.

34 4. A detailed pro forma financial statement of the assets and
35 liabilities of the continuing association or corporation.

36 5. The manner and basis of converting the capital of each merging
37 association or corporation into capital of the continuing association or
38 corporation.

39 6. The other terms and conditions of the merger and the method of
40 effectuating the same.

41 7. Such other provisions with respect to the merger as appear
42 necessary or desirable, or as the ~~superintendent~~ DEPUTY DIRECTOR may
43 reasonably require to enable ~~him~~ THE DEPUTY DIRECTOR to discharge ~~his~~ THE
44 DEPUTY DIRECTOR'S duties with respect to such merger.

B. The plan of merger adopted shall be submitted to the ~~superintendent~~ DEPUTY DIRECTOR for approval, together with a certified copy of the authorizing resolution of each board of directors, showing approval by a majority of the entire board of each merging association operating under this chapter and evidence of proper action by the board of any other merging association or corporation. The ~~superintendent~~ DEPUTY DIRECTOR may make or cause to be made an examination of the affairs of each of the merging associations or corporations. The ~~superintendent~~ DEPUTY DIRECTOR may approve the plan of merger if, after appropriate inquiry into the affairs of each of the merging associations or corporations, ~~he~~ THE DEPUTY DIRECTOR finds that:

1. If the resulting association or corporation is an association operating under this chapter, the continuing association meets the requirements of this chapter as to the organization of a new association.
2. The plan provides an adequate capital structure.
3. The plan is fair to all persons affected.
4. The plan meets the approval of the insurance corporation, if such approval is required.

C. If the ~~superintendent~~ DEPUTY DIRECTOR disapproves the plan of merger, ~~he~~ THE DEPUTY DIRECTOR shall state ~~his~~ THE DEPUTY DIRECTOR'S objections in writing and give the merging associations or corporations an opportunity to amend the plan of merger to eliminate such objections.

D. Except as provided by subsection F of this section, after approval by the ~~superintendent~~ DEPUTY DIRECTOR, the plan of merger shall be submitted to a vote of the members of each merging association operating under this chapter and to the members or stockholders of any other merging association or corporation to the extent required by the laws and rules applicable to the other merging association or corporation. Each meeting of the members of an association operating under this chapter shall be called and held in accordance with section 6-415. The plan shall be approved by the members of an association operating under this chapter if the plan receives, in the affirmative, a majority of the total number of votes ~~which~~ THAT all members of the association are entitled to cast or such greater percentage of the votes as the articles of incorporation of the association require. Each meeting of any other association or corporation shall be called and held, and the required majority must be obtained, in accordance with the law and regulations applicable to such association or corporation.

E. A report of proceedings at the meeting of the members or stockholders of each association or corporation, certified by the president or a ~~vice-president~~ VICE PRESIDENT and attested by the secretary thereof, and setting forth the notice given and time of mailing thereof, the vote on the plan of merger, and the total number of votes ~~which~~ THAT all members or stockholders of the association or corporation were entitled to cast thereon, shall be filed in duplicate with the

~~superintendent~~ DEPUTY DIRECTOR, except that if no member or stockholder vote is required by an association or corporation, the association or corporation shall file a report to that effect, in duplicate, certified by the president or ~~vice-president~~ VICE PRESIDENT and attested by the secretary of the association or corporation. Any report filed under this subsection shall be accompanied by the plan of merger, duly executed by each merging association or corporation. The ~~superintendent~~ DEPUTY DIRECTOR thereupon shall issue to the continuing association or corporation a certificate of merger, setting forth the name of each merging association or corporation and the name of the continuing association or corporation, and the articles of incorporation of the continuing association or corporation.

F. Unless required by its articles of incorporation, a vote of the members of the continuing association or corporation is not necessary to authorize a merger if either:

1. No shares of common stock are to be issued by the continuing association or corporation and no shares, securities or obligations convertible into such stock are to be issued or delivered under the plan of merger.

2. The authorized but unissued shares or the treasury shares of common stock of the continuing association or corporation to be issued or delivered under the plan of merger plus those initially issuable on conversion of any other shares, securities and obligations to be issued or delivered under the plan do not exceed twenty ~~per cent~~ PERCENT of the shares of common stock of the association or corporation outstanding immediately before the effective date of the merger. If a plan of merger is adopted pursuant to this subsection, a statement that the plan has been so adopted and that, as of the date of the statement, the outstanding shares of the continuing association or corporation were such as to render this subsection applicable shall be certified by the president or ~~vice-president~~ VICE PRESIDENT and attested by the secretary and shall be attached to the plan of merger. The plan so approved and the statement described in this subsection shall be filed in duplicate with the ~~superintendent~~ DEPUTY DIRECTOR.

G. The merger shall become effective ~~upon~~ ON the filing with the corporation commission of the certificate of merger in the same manner as articles of incorporation, and the recording of a copy ~~thereof~~ certified by the corporation commission in each county in this state in which the business office of any of the merging associations or corporations was located, and in the county in which the business office of the continuing association or corporation is located, if any.

H. The expenses of any examination made by or at the direction of the ~~superintendent~~ DEPUTY DIRECTOR in connection with a proposed merger shall be paid by the merging association or corporation in accordance with the fees fixed for special examination by section 6-125.

1 I. If the continuing association or corporation is to be governed
2 by the laws of any jurisdiction other than this state, it shall comply
3 with the applicable provisions of the laws under which it is organized and
4 shall comply with the laws of this state with respect to foreign
5 corporations if it is to transact business in this state.

6 Sec. 108. Section 6-468, Arizona Revised Statutes, is amended to
7 read:

8 6-468. Decision to liquidate; adoption of plan

9 A. At any annual or special meeting of the members, the members may
10 vote to liquidate the association, and may adopt a plan of liquidation
11 ~~which~~ THAT has been approved by the board of directors, or proposed by one
12 or more shareholders, or submitted by the ~~superintendent;~~ DEPUTY DIRECTOR
13 or may elect a committee of three persons to prepare and submit a plan,
14 and thereafter may adopt such plan. No plan except one submitted by the
15 ~~superintendent~~ DEPUTY DIRECTOR shall be adopted unless it has been filed
16 with the ~~superintendent~~ DEPUTY DIRECTOR at least ten days before the vote
17 of the members is taken thereon.

18 B. A plan will be adopted ~~upon~~ ON receiving in the affirmative
19 two-thirds or more of the total number of votes ~~which~~ THAT all members of
20 the association are entitled to cast.

21 C. The plan of voluntary liquidation shall provide for the full
22 liquidation of the association, setting forth the powers, duties, manner
23 of filling vacancies, and succession of the liquidators and authorizing
24 them to:

25 1. Advance funds of the association to preserve, protect, or
26 purchase at any sale any asset in which the association has an interest.

27 2. Sell, convey, lease, mortgage, or exchange any assets for other
28 assets.

29 3. Sell and dispose of any assets at public sale to the highest and
30 best bidder or at private sale for the highest price obtainable.

31 4. Accept withdrawable capital of the association to apply ~~upon~~ ON
32 the purchase price of any assets, but only for such relative values as may
33 be approved by the ~~superintendent~~ DEPUTY DIRECTOR from time to time.
34 Notice by single publication or by mailing, stating the time, place and
35 terms of the sale, shall be given to all holders of withdrawable capital
36 prior to the sale.

37 5. Pay out of the proceeds of liquidation all expenses and services
38 necessary to the liquidation, and also compensation of the liquidators.
39 ~~;~~ ~~but such~~ Compensation of the liquidators, exclusive of compensation for
40 legal services and other specialized employment, shall not exceed in the
41 aggregate three ~~per cent~~ PERCENT of the proceeds of liquidation.

1 Sec. 109. Section 6-469, Arizona Revised Statutes, is amended to
2 read:

3 6-469. Election of liquidators; report; supervision

4 A. ~~upon~~ ON adoption of a plan of voluntary liquidation, the members
5 shall proceed to elect, with cumulative voting ~~permitted~~ ALLOWED as in
6 elections of directors, not more than three liquidators, who shall have
7 full power to execute the plan. The procedure thereafter shall be as
8 follows:

9 1. A report of proceedings at the meeting of members, certified by
10 the presiding officer of the meeting and attested by the secretary of the
11 meeting, and setting forth the notice given and time of mailing thereof,
12 the vote on the plan of voluntary liquidation, the total number of votes
13 ~~which~~ THAT all members of the association were entitled to cast thereon,
14 and the names of the liquidators elected, shall be filed in triplicate
15 with the ~~superintendent~~ DEPUTY DIRECTOR, together with the plan.

16 2. If the ~~superintendent~~ DEPUTY DIRECTOR finds that the plan and
17 proceedings are in accordance with this article, that the bonds of the
18 liquidators are sufficient, and that the plan is not unfair to any person
19 affected, ~~he~~ THE DEPUTY DIRECTOR shall attach ~~his~~ THE DEPUTY DIRECTOR'S
20 certificate of approval to the plan and shall forward one copy to the
21 liquidators, and in the case of an insured association, one copy to the
22 insurance corporation.

23 3. The expenses of any examination made by or at the direction of
24 the ~~superintendent~~ DEPUTY DIRECTOR in connection with any voluntary
25 dissolution shall be paid as a claim by the liquidators in accordance with
26 the fees fixed for special examinations by section 6-125.

27 4. The plan shall become effective ~~upon~~ ON filing with the
28 corporation commission of the ~~superintendent's~~ DEPUTY DIRECTOR'S
29 certificate of approval.

30 B. The liquidation of the association shall be subject to the
31 supervision and examination of the ~~superintendent~~ DEPUTY DIRECTOR.

32 Sec. 110. Section 6-472, Arizona Revised Statutes, is amended to
33 read:

34 6-472. Final distribution and dissolution

35 When all assets have been liquidated and all expenses, claims and
36 holders of withdrawable capital have been paid, dissolution of the
37 association shall be accomplished in the following manner:

38 1. The liquidators shall file with the ~~superintendent~~ DEPUTY
39 DIRECTOR the duly verified final report of their acts and proposed final
40 distribution.

41 2. ~~Upon~~ ON the ~~superintendent's~~ DEPUTY DIRECTOR'S approval of the
42 final report, the liquidators shall publish notice of the proposed final
43 distribution and shall allow any holder of shares of guaranty capital to
44 examine the records of the association to ascertain ~~his~~ THE HOLDER'S
45 proper share of such distribution. Any such shareholder who fails to

1 commence, before the date fixed for final distribution, appropriate
2 judicial proceedings to contest such distribution, shall be barred from
3 contesting the same thereafter. The liquidators shall proceed to make
4 final distribution on the date fixed therefor, except that such
5 distribution shall be deferred until final disposition of any pending
6 judicial action affecting the distribution, and payment, of any judgment
7 entered therein.

8 3. When final distribution has been made, except as to any money
9 due to, but unclaimed by, any creditor, member, or other person, the
10 liquidators shall deposit such unclaimed money with the ~~superintendent~~
11 ~~DEPUTY DIRECTOR~~, for payment to the person or persons entitled thereto
12 ~~upon~~ ON application and proof of right as provided by law.

13 4. The liquidators also shall deliver to the ~~superintendent~~ ~~DEPUTY~~
14 ~~DIRECTOR~~ all books of account and other records of the association, for
15 preservation for at least two years and destruction thereafter as provided
16 by law.

17 5. ~~upon~~ ON completion of the foregoing procedure, the liquidators
18 shall be discharged. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ thereupon shall
19 issue a certificate of dissolution of the association and shall file a
20 copy thereof with the corporation commission and record a copy in the
21 office of the county recorder of each county in which the original
22 articles of incorporation were recorded. ~~upon~~ ON such filing and
23 recording, the dissolution shall be effective. No fees shall be required
24 for such filing and recording.

25 Sec. 111. Section 6-474, Arizona Revised Statutes, is amended to
26 read:

27 6-474. Accounting practices and records

28 A. Every association shall maintain in this state a detailed record
29 of all transactions of the association at its home office, or at a branch
30 office or at a central accounting or computer center servicing one or more
31 associations, provided that general accounting records and their
32 maintenance shall not be transferred by an association from its home
33 office to a branch office, or from a branch office to its home office or
34 to another branch office or to a central accounting or computer center,
35 unless and until:

36 1. The board of directors of the association has by resolution
37 authorized such transfer and maintenance.

38 2. The association has sent a certified copy of the resolution
39 required by paragraph 1 OF THIS SUBSECTION to the ~~superintendent~~ ~~DEPUTY~~
40 ~~DIRECTOR~~.

41 B. Each branch office shall keep detailed records of all
42 transactions at such branch office and shall furnish full control records
43 to the home office, or such branch office or central accounting or
44 computer center as has been designated by appropriate resolution of the

1 board of directors adopted and filed as provided in subsection A OF THIS
2 SECTION.

3 C. Every association shall observe such generally accepted
4 accounting principles and practices as are approved by the ~~superintendent~~
5 DEPUTY DIRECTOR.

6 D. ~~No~~ AN association by any system of accounting or any device of
7 bookkeeping ~~shall~~, either directly or indirectly, SHALL NOT enter any of
8 its assets ~~upon~~ ON its books in the name of any other person, partnership,
9 association or corporation, or under any title or designation that is not
10 truly descriptive of ~~such~~ THE assets.

11 E. The ~~superintendent~~ DEPUTY DIRECTOR may order that assets in the
12 aggregate, to the extent that ~~such~~ THE assets have depreciated in value,
13 be charged off or that a special reserve or reserves equal to such
14 depreciation in value be set up by transfers from undivided profits.

15 F. Except notes secured by first lien mortgages insured or
16 guaranteed, wholly or in part, by an agency of the United States
17 government, all bonds or other interest bearing obligations purchased by
18 the association shall be carried at par with provision for amortization of
19 premiums and discounts.

20 Sec. 112. Section 6-475, Arizona Revised Statutes, is amended to
21 read:

22 6-475. Branch office

23 A. A branch office is a legally established place of business of
24 the association, other than the home office, authorized by the board of
25 directors and approved by the ~~superintendent~~ DEPUTY DIRECTOR, at which
26 payments on, and withdrawal from, accounts and loan payments may be
27 accepted and applications for loans may be received, and at which account
28 books and membership certificates may be issued and loans may be closed.

29 B. Each association shall be operated from the home office, which
30 shall be the association's principal place of business. All branch
31 offices shall be subject to direction from the home office.

32 C. An association may establish or acquire a branch office in any
33 location, whether within or outside this state, with the approval of the
34 ~~superintendent~~ DEPUTY DIRECTOR. An association shall make an application
35 for establishment or acquisition of a branch office in writing in the form
36 the ~~superintendent~~ DEPUTY DIRECTOR prescribes and supported by the
37 information, data and records the ~~superintendent~~ DEPUTY DIRECTOR requires
38 to make the findings necessary for approval. Each application for
39 approval of the establishment and maintenance of a branch office shall
40 state the proposed location of the branch office, the need for the branch
41 office, the functions to be performed in the branch office, the estimated
42 annual expense of the branch office, and the mode of payment for the
43 branch office. Each such application shall be accompanied by a budget of
44 the association for the current dividend period and for the next
45 succeeding semiannual period, which reflects the estimated additional

1 expense of the maintenance of such a branch office. The ~~superintendent~~
2 ~~DEPUTY DIRECTOR~~ shall approve the application if the ~~superintendent~~ ~~DEPUTY~~
3 ~~DIRECTOR~~ finds that the prospects for a successful operation of the branch
4 office are favorable.

5 D. An association shall not establish or maintain an automated
6 teller machine without the prior written approval of the ~~superintendent~~
7 ~~DEPUTY DIRECTOR~~. An association shall accompany each application for
8 approval of the establishment and maintenance of an automated teller
9 machine with the fee prescribed by section 6-126. The application shall
10 state the proposed location of the automated teller machine, the need for
11 the automated teller machine, the functions to be performed by the
12 automated teller machine, the estimated annual expense of the automated
13 teller machine and the mode of payment by the automated teller
14 machine. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall approve the application
15 if the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ finds that the prospects for a
16 successful operation of the automated teller machine are favorable.

17 Sec. 113. Section 6-476, Arizona Revised Statutes, is amended to
18 read:

19 6-476. Examination

20 The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall make a report of each
21 examination to the board of directors of the association examined, and if
22 the affairs of the association are not being conducted in accordance with
23 this chapter, ~~he~~ ~~THE DEPUTY DIRECTOR~~ may require the directors, officers,
24 or employees to take any necessary corrective action. In the interests of
25 the members of the association, the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may
26 prepare a statement of the condition of the association, and may mail the
27 same to the members or may require a single publication thereof.

28 Sec. 114. Section 6-477, Arizona Revised Statutes, is amended to
29 read:

30 6-477. Audit by public accountant

31 An audit of the affairs of the association shall be made annually as
32 of the end of its fiscal year by or under the direction of the board of
33 directors. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may prescribe certain
34 minimum requirements of the audit and shall require the filing of a copy
35 of the report covering the audit with the ~~superintendent~~ ~~DEPUTY~~
36 ~~DIRECTOR~~. The audit shall be filed with the ~~superintendent~~ ~~DEPUTY~~
37 ~~DIRECTOR~~ not more than one hundred twenty days after the end of the
38 association's fiscal year, unless the ~~superintendent~~ ~~DEPUTY DIRECTOR~~
39 extends the time period for good cause shown. The audit is not a
40 substitute for or in lieu of the examination by the ~~superintendent~~ ~~DEPUTY~~
41 ~~DIRECTOR~~ required by section 6-122.

Sec. 115. Section 6-478, Arizona Revised Statutes, is amended to read:

6-478. Reports to deputy director and members

A. Every association operating under this chapter shall file with the ~~superintendent~~ DEPUTY DIRECTOR within sixty days following the close of each fiscal year of such association, a statement showing its financial condition at the close of the fiscal year and its operations for the year then ended. Each such statement shall be on forms prescribed by the ~~superintendent~~ DEPUTY DIRECTOR and in conformity with generally accepted accounting principles, and shall be verified under oath by the secretary and certified by a committee of three or more members who are not officers of the association, or by a licensed certified public accountant appointed by the board of directors, or by two officers of the association.

B. Every association shall file also such other reports as the ~~superintendent~~ DEPUTY DIRECTOR may require from time to time.

C. Within sixty days after the date of such statement, the association either shall mail to each member the annual statement of condition, or a condensed form thereof approved by the ~~superintendent~~ **DEPUTY DIRECTOR**, or shall publish the same at least once.

Sec. 116. Section 6-479, Arizona Revised Statutes, is amended to read:

6-479. Information to federal authorities

The ~~superintendent~~ DEPUTY DIRECTOR may give copies of reports of ~~his~~ THE DEPUTY DIRECTOR'S examinations of an association, and copies of the association's reports to ~~him~~ THE DEPUTY DIRECTOR, and any other information ~~which he~~ THAT THE DEPUTY DIRECTOR has concerning the association, to the federal home loan bank, or its successor instrumentality, of which the association is a member, or to the insurance corporation ~~which~~ THAT has insured the association's capital. No such action by the ~~superintendent~~ DEPUTY DIRECTOR shall relieve the association from compliance with any requirements of such federal instrumentality concerning examinations or reports, or limit the ~~superintendent's~~ DEPUTY DIRECTOR'S powers to examine or to require reports from the association.

Sec. 117. Section 6-482, Arizona Revised Statutes, is amended to read:

6-482. Receiver: appointment: transfer of assets: powers:
liability

A. If the court grants a petition for receivership filed by the ~~superintendent~~ DEPUTY DIRECTOR, the ~~superintendent~~ DEPUTY DIRECTOR shall be appointed as receiver and may forthwith take possession of the property and business of the association and retain possession until the association resumes business or its affairs are finally liquidated, but if the association has the insurance protection provided by title IV of the national housing act, as now or hereinafter amended, the court may tender

1 to the federal deposit insurance corporation the appointment as receiver,
2 or as co-receiver with the ~~superintendent~~ DEPUTY DIRECTOR.

3 B. ~~Upon~~ ON the acceptance by the insurance corporation of the
4 appointment as receiver or co-receiver, possession of and title to all the
5 assets, property and business of the insured association shall
6 automatically pass to and be vested in the insurance corporation as
7 receiver, or in the insurance corporation and the ~~superintendent~~ DEPUTY
8 DIRECTOR jointly as co-receivers, as the case may be. ~~Thereupon~~ The
9 insurance corporation, if it is receiver, or the insurance corporation and
10 the ~~superintendent~~ DEPUTY DIRECTOR equally and jointly, if the insurance
11 corporation is co-receiver, shall have and possess, and may exercise:

12 1. All the powers and privileges provided by the laws of this state
13 or otherwise with respect to the ~~superintendent~~ DEPUTY DIRECTOR as
14 receiver of a savings and loan association.

15 2. Accumulatively and additionally to each of the foregoing, all of
16 the rights, powers, privileges and authority ~~which~~ THAT were held or
17 possessed by the association and its officers, directors, members and
18 creditors.

19 3. All the rights, privileges, powers and authority conferred ~~upon~~
20 ON or vested in it, or intended so to be, by federal statutes.

21 C. The receiver or receivers may also make loans on the security
22 of, or may purchase at public or private sale or otherwise, bid at any
23 receiver's or liquidator's sale, and liquidate or sell, all or any part of
24 the assets of the insured association, and, in the event of the purchase
25 of any assets of an association of which it is receiver or co-receiver, it
26 shall bid for and pay a fair and reasonable price.

27 D. Except as otherwise in writing specifically agreed by the
28 receiver or receivers, no transaction, contract, undertaking or agreement,
29 and no exercise by the receiver or receivers, or either of them, of any of
30 the rights, powers, privileges or authority by this article or otherwise
31 vested in them as receivers, or with respect to any receivership or
32 liquidation, shall constitute a personal debt, obligation or liability of
33 or on the part of the receiver or receivers or either of them.

34 Sec. 118. Section 6-486, Arizona Revised Statutes, is amended to
35 read:

36 6-486. Rehabilitation of associations: definition

37 A. ~~When~~ IF the business, property and affairs of any association
38 are in the possession of the ~~superintendent~~ DEPUTY DIRECTOR for
39 liquidation, or ~~when~~ IF an association is in an unsafe or unsound
40 condition, the association may be rehabilitated, readjusted or reorganized
41 in accordance with any plan proposed and approved as provided in this
42 article.

43 ~~C.~~ B. Without limiting the generality of the foregoing provisions
44 of this article, a plan may provide in respect to all or any part of the

1 business, property or affairs of the association for any one or more of
2 the following:

3 1. The retention thereof by the ~~superintendent~~ DEPUTY DIRECTOR as a
4 conservator, if the business, property or affairs are in ~~his~~ THE DEPUTY
5 DIRECTOR'S possession for liquidation.

6 2. The delivery thereof to the ~~superintendent~~ DEPUTY DIRECTOR as a
7 conservator, or for liquidation.

8 3. The transfer thereof to any person or to a trustee.

9 ~~B. C. The term~~ FOR THE PURPOSES OF THIS ARTICLE, "plan" ~~as used in~~
10 ~~this article~~ means a plan for the rehabilitation, readjustment or
11 reorganization of an association or for the readjustment, modification or
12 reorganization of the rights or interests of any or all of the investors
13 and creditors of, or other persons, interested in the association.

14 Sec. 119. Section 6-487, Arizona Revised Statutes, is amended to
15 read:

16 6-487. Proposal of plan; petition; notice of hearing

17 A. A plan may be proposed by the ~~superintendent~~ DEPUTY DIRECTOR or
18 by an association subject to the approval of the ~~superintendent~~ DEPUTY
19 DIRECTOR. If proposed by an association, the proposal shall be through
20 its board of directors, or by the holders of accounts equal in amount to
21 not less than fifty ~~per cent~~ PERCENT of the total accounts of the
22 association, or by the holders of not less than a majority of the
23 outstanding shares of guaranty capital of the association, if any.

24 B. The plan shall be presented by the proponents to the superior
25 court of the county in which the principal place of business of the
26 association is located, with a petition that the court determine the
27 fairness of the plan and the conditions requisite to the plan becoming
28 operative. The petition shall set forth the plan and the fact that it has
29 been proposed or approved by the ~~superintendent~~ DEPUTY DIRECTOR and any
30 other facts ~~which~~ THAT are deemed material to a consideration of the
31 fairness of the plan.

32 C. ~~Upon~~ ON filing the petition, the court shall fix the time and
33 place for hearing it, and shall direct the association to deliver to the
34 proponents, or, in the discretion of the court, to the ~~superintendent~~
35 DEPUTY DIRECTOR, a list of the names and addresses of the holders of
36 accounts, holders of shares of guaranty capital, if any, creditors of the
37 association, and of all other persons affected by the plan, and the
38 association shall comply with the direction.

39 D. Thereafter the proponents of the plan, not less than twenty days
40 before the date fixed for the hearing, shall mail or cause to be mailed to
41 each of the persons shown on the list furnished pursuant to direction of
42 the court and to all other persons affected by the plan, ~~notice of the~~
43 time and place fixed by the court for the hearing and either a copy of the
44 plan or a summary thereof. Any summary shall be prepared or approved by
45 the ~~superintendent~~ DEPUTY DIRECTOR. The notices shall be mailed, postage

1 prepaid, to the respective addresses as shown on the list, or if no
2 address is there shown, to the last known available address. The
3 proponents of the plan shall also post notice of the time and place fixed
4 for the hearing in three public places in the county not less than twenty
5 days before the day fixed for the hearing and shall publish the notice at
6 least once in a newspaper of general circulation published in the county
7 not less than twenty nor more than thirty days prior to the day fixed for
8 the hearing.

9 E. A copy of the plan shall be kept by the ~~superintendent~~ DEPUTY
10 DIRECTOR available for public inspection, and ~~he~~ THE DEPUTY DIRECTOR shall
11 take other steps as ~~he~~ THE DEPUTY DIRECTOR deems necessary for making the
12 plan and all notices and facts in connection therewith available to the
13 interested parties.

14 Sec. 120. Section 6-488, Arizona Revised Statutes, is amended to
15 read:

16 6-488. Hearing; fairness of plan

17 A. At the time and place fixed for the hearing, or at the time and
18 place to which the hearing may be continued by the court, the court shall
19 hear the parties interested therein and, if it deems it necessary, may
20 take testimony relative thereto and may accept proof in affidavit form as
21 to any fact or circumstance material thereto. The hearing shall be
22 conducted, among other things, ~~upon~~ ON the fairness of the terms and
23 conditions of the issuance of all securities to be issued pursuant to the
24 plan and of the exchange thereof for outstanding shares of guaranty
25 capital, accounts, claims or property interests, or partly in ~~such~~ THE
26 exchange and partly for cash. All persons to whom it is proposed to issue
27 securities in the exchange shall have the right to appear and be heard at
28 the hearing.

29 B. ~~No plan shall be approved by~~ The ~~superintendent~~ DEPUTY DIRECTOR
30 or ~~by~~ the court SHALL NOT APPROVE A PLAN unless the ~~superintendent~~ DEPUTY
31 DIRECTOR or the court is satisfied that the plan is feasible, fair and
32 equitable and does not discriminate in favor of any class of holders of
33 accounts or of shares of guaranty capital, creditors or other persons
34 affected thereby.

35 Sec. 121. Section 6-489, Arizona Revised Statutes, is amended to
36 read:

37 6-489. Consents required for plan to operate; exceptions

38 A. After completion of the hearing provided by section 6-488, the
39 court shall approve, modify or disapprove the plan. The plan shall not
40 become operative unless and until it has been approved in its original or
41 modified form by the court, nor unless and until the plan has been
42 consented to, either in person or by a duly appointed agent, attorney or
43 committee of the following persons:

1 1. If the association has shares of guaranty capital outstanding,
2 then by the holders of a majority of the outstanding shares of guaranty
3 capital.

4 2. By the holders of two-thirds in amount of the total accounts of
5 all classes of the association.

6 3. If the association has creditors, then by two-thirds of each
7 class of creditors of the association.

8 4. By two-thirds in amount of each class of other persons, if any,
9 affected by the plan.

10 B. Consents required by subsection A ~~OF THIS SECTION~~ are not
11 required:

12 1. In the case of the holder of an account, creditor or other
13 person affected, or of any class of holders of accounts, creditors or
14 other persons affected, if the rights of the person or class are not
15 materially affected by the plan, or if the plan provides for the payment
16 in cash of the amount of the right or interest of such person or class.

17 2. From holders of shares of guaranty capital of an association if
18 the value of the assets of the association is less than the liabilities
19 thereof, including the total amount of all outstanding accounts but
20 excluding the amount of the outstanding shares of guaranty capital, or if
21 the business property and affairs of the association are then in the
22 possession of the ~~superintendent~~ ~~DEPUTY DIRECTOR~~.

23 Sec. 122. Section 6-490, Arizona Revised Statutes, is amended to
24 read:

25 6-490. Time of giving consents; jurisdiction of court

26 A. The consents required by section 6-489 may be given before the
27 plan is presented to the court, or after the presentation and before the
28 court has approved it, or after approval. If, at the time the plan is
29 approved by the court, the required consents have not been given, the
30 order of court may provide that ~~upon~~ ~~ON~~ satisfactory proof of the fact
31 that the required consents have been given, a further order may be entered
32 ex parte providing that the plan shall become operative which shall be
33 binding ~~upon~~ ~~ON~~ the ~~superintendent~~ ~~DEPUTY DIRECTOR~~, the association, all
34 holders of accounts and of shares of guaranty capital, creditors, and all
35 other persons affected thereby.

36 B. The superior court in which the petition is pending is given
37 jurisdiction to determine all questions required to be determined in
38 respect to any plan including, without limiting the generality of the
39 foregoing, the following:

40 1. Whether a plan, either in its original or modified form, is fair
41 and equitable.

42 2. Whether it discriminates in favor of any class of holders of
43 accounts, creditors or other persons affected thereby.

44 3. Whether it is feasible.

1 4. Whether the terms and conditions of the proposed issuance and
2 exchange of securities thereunder are fair and to approve or disapprove
3 the terms and conditions.

4 5. The total liabilities of the association.

5 6. The conditions requisite to the plan becoming operative,
6 including jurisdiction to determine, for the purposes of the plan and the
7 consents, the division of the creditors and other persons affected by the
8 plan into classes according to the nature of their respective claims and
9 interests.

10 Sec. 123. Section 6-491, Arizona Revised Statutes, is amended to
11 read:

12 6-491. Effect of approval and consents

13 A. When a plan has been approved by the court and the required
14 consents given, the plan shall be binding ~~upon~~ ON the ~~superintendent~~
15 ~~DEPUTY DIRECTOR~~, the association, the holders of accounts and shares of
16 guaranty capital, and creditors of the association and all other persons
17 affected thereby, and the association and such persons shall be
18 conclusively deemed to have consented to the terms and conditions of the
19 plan whether or not all of the persons have actually consented thereto and
20 whether or not all of them have received notice of the plan or the
21 hearing. Such steps shall be taken by the ~~superintendent~~ ~~DEPUTY DIRECTOR~~,
22 the association and all other persons affected by the plan, and all acts
23 shall be done, all instruments executed and all securities issued, as may
24 be required by the plan so approved and as may be necessary or desirable
25 for consummation of the plan.

26 B. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall supervise and direct,
27 subject to the order of the court, the consummation of the plan. ~~He~~ THE
28 ~~DEPUTY DIRECTOR~~ shall have and may exercise the same authority and power
29 with respect to the business, property or affairs of an association
30 retained by or delivered to ~~him~~ THE ~~DEPUTY DIRECTOR~~ pursuant to any plan
31 ~~which he~~ THAT THE ~~DEPUTY DIRECTOR~~ may have with respect to the business,
32 property and affairs of any association of which ~~he~~ THE ~~DEPUTY DIRECTOR~~
33 has taken possession. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall have and
34 may exercise the same authority and power with respect to an association
35 formed pursuant to any plan, or to which the business, property or affairs
36 may be returned or transferred pursuant to any plan, as ~~he~~ THE ~~DEPUTY~~
37 ~~DIRECTOR~~ would have of the association if it had been formed or had
38 acquired its business, property and affairs by means other than a plan.

39 Sec. 124. Section 6-501, Arizona Revised Statutes, is amended to
40 read:

41 6-501. Definitions

42 A. In this chapter, unless the context otherwise requires:

43 1. "Branch office" means a place of business of a credit union,
44 other than a principal office, at which deposits are received and checks
45 are paid, but does not include premises used for computer operations,

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

3 2. "Capital" means share accounts, reserves and undivided earnings.

4 3. "Corporate credit union" means a credit union whose field of
5 membership consists of other credit unions and organizations or
6 associations owned by or composed of credit unions and corporations or
7 associations ~~which~~ THAT primarily serve credit unions.

8 4. "Credit union" means a cooperative nonprofit association ~~which~~
9 THAT is incorporated under this chapter for the purposes of encouraging
10 thrift among its members and creating a source of credit and other
11 financial services at fair and reasonable cost.

12 5. "Deposit account" means a balance other than a share account
13 held by a credit union including balances designated as special investment
14 accounts, deposits, certificates of deposit, certificates of indebtedness,
15 demand deposit accounts or other similar names.

16 6. "Fixed asset" means land, buildings and major equipment used by
17 a credit union in the provision of services.

18 7. "Governmental unit" means a board, agency, department,
19 authority, instrumentality or other unit or organization of the federal,
20 state, county, municipal or other level of government.

21 8. "Immediate family" means persons related by blood or marriage
22 and includes foster and adopted children.

23 9. "Insolvent" means that the value of a credit union's assets is
24 less than its liabilities.

25 10. "Insuring organization" means the national credit union
26 administration or successor organization or any other equivalent insurer
27 approved by the ~~superintendent~~ DEPUTY DIRECTOR.

28 11. "Membership share" means a balance held by a credit union and
29 established by a member according to the standards prescribed by the
30 credit union.

31 12. "Organization" means any corporation, association, partnership,
32 society, firm, syndicate, trust or other legal entity.

33 13. "Reserves" means allocations of retained income and includes
34 regular and special reserves and any allowances for loan losses and
35 investment losses.

36 14. "Risk assets" includes all assets of the credit union except the
37 following:

38 (a) Cash on hand.

39 (b) Deposits or shares in federally or state insured banks, savings
40 and loan associations and credit unions ~~which~~ THAT have a remaining
41 maturity of five years or less or if the maturity is greater than five
42 years, the asset is being carried on the credit union's records at the
43 lower of cost or market or is being marked to market value monthly.

44 (c) Assets ~~which~~ THAT have a remaining maturity of five years or
45 less and are insured by, fully guaranteed as to principal and interest by

1 or due from the United States government, its agencies, the federal
2 national mortgage association, the federal home loan mortgage corporation
3 or the government national mortgage association including collateralized
4 mortgage obligations ~~which~~ THAT are comprised of government guaranteed
5 mortgage loans or if the maturity is greater than five years, the asset is
6 being carried on the credit union's records at the lower of cost or market
7 or is being marked to market value monthly.

8 (d) Loans to other credit unions ~~which~~ THAT have a remaining
9 maturity of five years or less or if the maturity is greater than five
10 years, the asset is being carried on the credit union's records at the
11 lower of cost or market or is being marked to market value monthly.

12 (e) Student loans insured under the provisions of title IV, part B
13 of the higher education act of 1965 (20 United States Code section 1071,
14 et seq.) or similar state insurance programs ~~which~~ THAT have a remaining
15 maturity of five years or less or if the maturity is greater than five
16 years, the asset is being carried on the credit union's records at the
17 lower of cost or market or is being marked to market value monthly.

18 (f) Loans ~~which~~ THAT have a remaining maturity of five years or
19 less and are fully insured or guaranteed by the federal or state
20 government or an agency of either or if the maturity is greater than five
21 years, the asset is being carried on the credit union's records at the
22 lower of cost or market or is being marked to market value monthly.

23 (g) Shares or deposits in a central or corporate credit union ~~which~~
24 THAT have a remaining maturity of five years or less or if the maturity is
25 greater than five years, the asset is being carried on the credit union's
26 records at the lower of cost or market or is being marked to market value
27 monthly.

28 (h) Common trust investments, including mutual funds, ~~which~~ THAT
29 deal exclusively in investments authorized by the federal credit union act
30 and are either carried at the lower cost or market or are marked to the
31 market value monthly.

32 (i) Prepaid expenses.

33 (j) Accrued interest on nonrisk investments.

34 (k) Loans fully secured by a pledge of shares in the lending
35 federal credit union equal to and maintained to at least the amount of the
36 loan outstanding.

37 (l) Loans that are purchased from liquidating credit unions and
38 guaranteed by the national credit union administration.

39 (m) National credit union share insurance fund guaranty accounts
40 established with the authorization of the national credit union
41 administration under the authority of section 208(a)(1) of the federal
42 credit union act.

43 (n) Investments in shares of the national credit union
44 administration central liquidity facility.

1 (o) Fixed assets as defined in section 701.36(b) of the federal
2 credit union act.

3 (p) Deposits in the national credit union share insurance fund
4 representing a federally insured credit union's capitalization account
5 balance of one ~~per cent~~ PERCENT of insured shares.

6 15. "Share account" means a balance held by a credit union and
7 established by a member according to this chapter, including balances
8 designated as shares, share certificates, share draft accounts and
9 membership shares. Ownership of a share account confers membership and
10 voting rights and represents an interest in the capital of the credit
11 union.

12 B. For the purposes of subsection A, paragraph 14, subdivision (g)
13 OF THIS SECTION, a "central or corporate credit union" means a credit
14 union whose membership primarily consists of either:

- 15 1. Other credit unions organized under state or federal law.
16 2. Officials, committee members and employees of any credit union
17 organized under state or federal law.
18 3. Any combination of the categories described in paragraphs 1 and
19 2 of this subsection.

20 Sec. 125. Section 6-502, Arizona Revised Statutes, is amended to
21 read:

22 6-502. Reports and examinations

23 A. The ~~superintendent~~ DEPUTY DIRECTOR shall examine or cause to be
24 examined each credit union at periodic intervals as provided by section
25 6-122. The ~~superintendent~~ DEPUTY DIRECTOR shall forward a report of the
26 examination to the board of directors of the credit union examined within
27 thirty days after completion of the report. Within thirty days after the
28 receipt of the report the directors shall meet to consider matters
29 contained in the report.

30 B. In lieu of the examination required by subsection A of this
31 section, the ~~superintendent~~ DEPUTY DIRECTOR may accept an examination or
32 audit report of the condition of a credit union made by the national
33 credit union administration or by a certified public accountant who is
34 licensed in this state or who has a limited reciprocity privilege pursuant
35 to section 32-725 or other qualified person or organization approved by
36 the ~~superintendent~~ DEPUTY DIRECTOR. The credit union shall bear the cost
37 of any such examination or audit. A certified public accountant or other
38 qualified person or organization making an audit to be submitted in lieu
39 of an examination by the ~~superintendent~~ DEPUTY DIRECTOR shall obtain prior
40 approval from the ~~superintendent~~ DEPUTY DIRECTOR before conducting such an
41 audit. In approving such an audit the ~~superintendent~~ DEPUTY DIRECTOR may
42 prescribe minimum requirements for the audit, including the date by which
43 the audit must be completed and a copy filed with the ~~superintendent~~
44 DEPUTY DIRECTOR.

1 C. Within thirty days after the end of each calendar quarter a
2 credit union shall report to the ~~superintendent~~ DEPUTY DIRECTOR, on forms
3 supplied by the ~~superintendent~~ DEPUTY DIRECTOR for that purpose, its
4 financial condition and the results of its operation for the quarter.

5 D. Unless excused for cause before or after the due date, a credit
6 union that fails to file a report when due shall pay the department, as
7 assessed, up to ~~one hundred dollars~~ \$100 for each day of delinquency.

8 Sec. 126. Section 6-503, Arizona Revised Statutes, is amended to
9 read:

10 6-503. Accounting and records

11 A. A credit union shall keep and use in its business those books,
12 accounts and records that will enable the ~~superintendent~~ DEPUTY DIRECTOR
13 to readily ascertain the true financial condition of the credit union and
14 whether the credit union is complying with ~~the provisions of~~ this chapter.

15 B. A credit union and any of its officers, directors, employees and
16 agents shall give the ~~superintendent~~ DEPUTY DIRECTOR full access to all
17 books, papers, securities, records and other sources of information under
18 their control. All books and records of the credit union shall be
19 maintained at the address of the credit union as filed with the
20 ~~superintendent~~ DEPUTY DIRECTOR.

21 Sec. 127. Section 6-506, Arizona Revised Statutes, is amended to
22 read:

23 6-506. Organization procedure

24 A. Any seven or more residents of this state who are of legal age
25 and who have a common bond of interest or association may apply to the
26 ~~superintendent~~ DEPUTY DIRECTOR for permission to organize a credit union
27 under this chapter.

28 B. The incorporators shall prepare, adopt and execute a certificate
29 of organization and shall agree to comply with the requirements of the
30 certificate and with all of the laws and rules applicable to credit
31 unions. The certificate shall state:

32 1. The credit union's name and the location of the proposed
33 principal place of business.

34 2. That the existence of the credit union is perpetual.

35 3. The names and addresses of the incorporators and the number of
36 shares subscribed to by each.

37 4. The purpose for which the credit union is formed.

38 C. The incorporators shall prepare, adopt and execute bylaws
39 consistent with this chapter for the general governance of the credit
40 union. The bylaws, among other things, shall provide:

41 1. The proposed field of membership ~~which~~ THAT shall be limited to
42 groups having a common bond of interest, occupation or association or to
43 groups within a well-defined neighborhood, community or rural district
44 consistent with the purposes of the credit union.

45 2. The par value of shares.

1 3. The number of directors of the credit union, which shall not be
2 fewer than five, all of whom shall be members, together with the titles of
3 the officers and the number of members of the supervisory committee, which
4 shall not be fewer than three.

5 4. The conditions under which shares may be issued, transferred or
6 withdrawn, loans MAY BE made and repaid and monies MAY BE otherwise
7 invested.

8 5. The number of members of the credit committee, which shall not
9 be fewer than three, or the authorization of a credit manager.

10 D. The incorporators shall select at least five persons who are
11 eligible for membership and who agree to become members and serve on the
12 board of directors, and at least three persons who are eligible for
13 membership and who agree to become members and serve on the supervisory
14 committee. The persons selected to serve on the board of directors and
15 the supervisory committee shall execute an agreement to serve in those
16 capacities until the first annual meeting or until the election of their
17 respective successors, whichever is later.

18 E. The incorporators shall forward to the ~~superintendent~~ DEPUTY
19 DIRECTOR such application as is required by the ~~superintendent~~ DEPUTY
20 DIRECTOR, along with the application fee provided for in section 6-126,
21 the certificate of organization, the bylaws and the agreements to serve
22 and any additional information which the ~~superintendent~~ DEPUTY DIRECTOR
23 may request.

24 F. The incorporators shall not transact any business in the name of
25 the credit union until the certificate of incorporation has been issued by
26 the corporation commission and the application and the bylaws have been
27 approved by the ~~superintendent~~ DEPUTY DIRECTOR.

28 Sec. 128. Section 6-507, Arizona Revised Statutes, is amended to
29 read:

30 6-507. Certificate of approval; filing with corporation
31 commission; certificate of incorporation

32 A. The ~~superintendent~~ DEPUTY DIRECTOR shall act on the completed
33 application within sixty days. The ~~superintendent~~ DEPUTY DIRECTOR shall
34 issue a certificate of approval if the certificate of organization and the
35 bylaws are in conformity with this chapter and the ~~superintendent~~ DEPUTY
36 DIRECTOR is satisfied that all of the following are true:

37 1. The field of membership, the bylaws and the business plan are
38 favorable to the economic viability of the proposed credit union.

39 2. The reputation, character and financial experience of the
40 initial board of directors and supervisory committee provide assurance
41 that the credit union's affairs will be properly administered.

42 3. The share and deposit accounts of the credit union will be
43 insured by an insuring organization when the credit union commences
44 business.

1 B. On receipt of the ~~superintendent's~~ DEPUTY DIRECTOR'S certificate
2 of approval the incorporators shall file the certificate of organization,
3 with the certificate of approval attached, with the corporation commission
4 and record a certified copy of the filing under the seal of the commission
5 with the county recorder of the county or counties in which the credit
6 union is to do business. On proof of the recording, the corporation
7 commission shall issue a certificate of incorporation to the credit
8 union. The credit union shall forward a certified copy of the certificate
9 of incorporation showing the filing and recording to the ~~superintendent~~
10 DEPUTY DIRECTOR.

11 C. The credit union shall also file with the corporation commission
12 the appointment of an agent on whom service of process may be made. The
13 incorporators shall then be deemed a credit union, incorporated in
14 accordance with this chapter.

15 D. If a certificate of approval is denied, the ~~superintendent~~
16 DEPUTY DIRECTOR shall notify the incorporators and set forth the reasons
17 for the denial.

18 Sec. 129. Section 6-508, Arizona Revised Statutes, is amended to
19 read:

20 6-508. Certificate of organization and bylaws

21 A. The ~~superintendent~~ DEPUTY DIRECTOR shall prepare standard forms
22 of the certificate of organization and bylaws, consistent with this
23 chapter, which may be used by credit union incorporators.

24 B. The board of directors may adopt proposed amendments to the
25 certificate of organization at a duly held meeting. The board of
26 directors shall submit the proposed amendments to the members for
27 ratification at a regular or special meeting, after which they shall be
28 submitted to the ~~superintendent~~ DEPUTY DIRECTOR for ~~his~~ THE DEPUTY
29 DIRECTOR'S approval or disapproval. If approved by the ~~superintendent~~
30 DEPUTY DIRECTOR, the board of directors shall follow the procedure for
31 organization prescribed in section 6-507, subsection B.

32 C. The board of directors may adopt proposed amendments to the
33 bylaws at any duly held meeting by a three-fourths majority vote. After
34 proposed amendments have been approved, the board shall submit the
35 proposed amendments to the ~~superintendent~~ DEPUTY DIRECTOR for ~~his~~ THE
36 DEPUTY DIRECTOR'S approval. The amendments are effective on approval of
37 the ~~superintendent~~ DEPUTY DIRECTOR. At the next regular or special
38 meeting of the membership the board shall submit all amendments to the
39 bylaws to the members for ratification.

40 Sec. 130. Section 6-509, Arizona Revised Statutes, is amended to
41 read:

42 6-509. Exclusive use of name; exception

43 A. The name of every credit union organized under this chapter
44 shall include the words "credit union". A credit union shall not adopt a

1 name either identical to the name of any other credit union doing business
2 in this state or so similar as to be misleading or cause confusion.

3 B. It is unlawful for any person to engage in this state in the
4 business of a credit union or to make use of the words "credit union" or
5 any other words in a manner reasonably calculated to convey the impression
6 that the person is engaged in the business of a credit union in this
7 state, unless the act is done by or on behalf of a person having authority
8 under this chapter, except an association of credit unions, or an
9 organization, corporation or association whose membership or ownership
10 consists primarily of credit unions or credit union organizations, may use
11 a name or title containing the words "credit union".

12 C. A credit union may change its name only on the written
13 authorization of the ~~superintendent~~ DEPUTY DIRECTOR.

14 Sec. 131. Section 6-510, Arizona Revised Statutes, is amended to
15 read:

16 6-510. Principal place of business; branch office; automated
17 teller machines

18 A. A credit union may change its principal place of business or
19 branch within this state with the prior approval of the ~~superintendent~~
20 DEPUTY DIRECTOR and the payment of the fee provided in section 6-126.

21 B. A credit union may establish a branch office with the prior
22 approval of the ~~superintendent~~ DEPUTY DIRECTOR.

23 C. A credit union may establish or maintain automated teller
24 machines at locations other than its places of business. The credit union
25 must send a notification letter to the ~~superintendent~~ DEPUTY DIRECTOR at
26 least thirty days before the automated teller machine is established
27 pursuant to this subsection. A credit union may join through contractual
28 agreement with one or more other credit unions or other financial
29 organizations in the operation of automated teller machine networks.

30 D. A credit union organized under this chapter may conduct business
31 ~~outside of this state~~ in other states or territories of the United States
32 where it is ~~permitted~~ ALLOWED to do so on approval of the ~~superintendent~~
33 DEPUTY DIRECTOR, if it is reasonably necessary to service its members.

34 Sec. 132. Section 6-511, Arizona Revised Statutes, is amended to
35 read:

36 6-511. Out-of-state credit union

37 A. A credit union organized under the laws of another state or
38 territory of the United States may conduct business as a credit union in
39 this state, subject to all laws and rules governing the operation of
40 credit unions under this title, with the prior approval of the
41 ~~superintendent~~ DEPUTY DIRECTOR if credit unions organized under this
42 chapter are allowed to do business in such other state or territory under
43 conditions substantially similar to the provisions of this section.
44 Before granting approval, the ~~superintendent~~ DEPUTY DIRECTOR must find
45 that the out-of-state credit union:

- 1 1. Is organized under laws substantially similar to this chapter.
- 2 2. Is financially solvent.
- 3 3. Has account insurance equivalent to that required for credit
- 4 unions organized under this chapter.
- 5 4. Is examined and supervised by a regulatory agency of the state
- 6 in which it is organized.
- 7 5. Needs to conduct business in this state to furnish services to
- 8 its members in this state.
- 9 6. Furnishes the ~~superintendent~~ DEPUTY DIRECTOR with a copy of the
- 10 most recent audit or examination conducted by its regulatory agency.
- 11 B. In addition to any other powers provided by law, the
- 12 ~~superintendent~~ DEPUTY DIRECTOR may revoke the approval of such a credit
- 13 union to conduct business in this state if the ~~superintendent~~ DEPUTY
- 14 DIRECTOR finds that the credit union no longer meets the requirements of
- 15 subsection A OF THIS SECTION or has violated the laws of this state or
- 16 rules or orders issued by the ~~superintendent~~ DEPUTY DIRECTOR.
- 17 Sec. 133. Section 6-516, Arizona Revised Statutes, is amended to
- 18 read:
- 19 6-516. General powers
- 20 A. In addition to the powers prescribed elsewhere in this chapter
- 21 and except as prohibited by law, a credit union may:
- 22 1. Enter into contracts of any nature.
- 23 2. Sue or be sued.
- 24 3. Adopt, use and display a corporate seal.
- 25 4. Acquire, lease, hold, assign, pledge, hypothecate, sell,
- 26 discount or otherwise dispose of property or assets, either in whole or in
- 27 part, necessary or incidental to its operations.
- 28 5. Borrow money from any source, except that a credit union shall
- 29 obtain the prior written approval of the ~~superintendent~~ DEPUTY DIRECTOR to
- 30 borrow in excess of an aggregate of fifty ~~per cent~~ PERCENT of its capital.
- 31 6. Purchase the assets of another credit union.
- 32 7. Offer financial services incidental to the business of a credit
- 33 union, including electronic fund transfers, safe deposit boxes and leasing
- 34 and correspondent arrangements with other financial institutions.
- 35 8. Hold membership in other credit unions organized under this
- 36 chapter or other laws, in the Arizona credit union league or in other
- 37 associations and organizations controlled by or fostering the interests of
- 38 credit unions.
- 39 9. Engage in activities and programs offered by any governmental
- 40 unit that are incidental or reasonably related to credit union activities.
- 41 10. Act as fiscal agent for and receive payments on share and
- 42 deposit accounts from a governmental unit.

11. Make contributions to any nonprofit civic, charitable or service organizations.

B. A credit union may exercise all incidental powers that are convenient, suitable or necessary to enable it to promote or carry out its purposes.

C. A credit union shall not delegate the management of a credit union or the exercise of any power set forth in this section to any person who is not an officer, director or employee of the credit union without the prior written approval of the ~~superintendent~~ DEPUTY DIRECTOR. The ~~superintendent~~ DEPUTY DIRECTOR may examine the books, records and business affairs of any person or entity to whom the credit union proposes to delegate any such authority.

Sec. 134. Section 6-532, Arizona Revised Statutes, is amended to read:

6-532. Election of board

A. The board shall consist of at least five directors, to be elected by and from the members. Elections shall be held at the annual meeting or in such other manner as the bylaws provide. All members of the board are entitled to hold office for the terms the bylaws provide, except that terms shall be staggered so that an approximately equal number expire each year, over a ~~three-year~~ THREE-YEAR period.

B. At a meeting held within thirty days after each annual election, the board of directors shall appoint a supervisory committee of not fewer than three persons for such terms as the bylaws provide. At the same meeting, the board of directors shall appoint a credit committee, unless the bylaws provide for a credit manager in place of a credit committee. The credit committee shall consist of not fewer than three persons whose terms shall be as the bylaws provide. Within twenty days after the meeting, the credit union shall file with the ~~superintendent~~ DEPUTY DIRECTOR a record of the names and addresses of the members of the board and such other committees and officials as required by the ~~superintendent~~ DEPUTY DIRECTOR. Within sixty days ~~of~~ AFTER any vacancies occurring in the board or supervisory or credit committee, the board shall fill the vacancies in accordance with the bylaws. A record of the names and addresses of members filling any vacancies on the board or the supervisory or credit committee shall be filed with the ~~superintendent~~ DEPUTY DIRECTOR within twenty days after their appointment.

Sec. 135. Section 6-541, Arizona Revised Statutes, is amended to read:

6-541. Audits

A. The supervisory committee shall make or cause to be made a comprehensive annual audit of the books and affairs of the credit union. The supervisory committee shall also make those supplementary examinations, audits and verifications of members' accounts as it deems necessary or as required by the ~~superintendent~~ DEPUTY DIRECTOR or the

1 board of directors. The supervisory committee shall submit a report of
2 each annual audit to the board of directors at its next meeting, and to
3 the ~~superintendent~~ DEPUTY DIRECTOR, and shall include a summary of that
4 report to the members at the next annual meeting of the credit union.

5 B. The audit shall be made using generally accepted accounting
6 procedures and standards. Each audit at a minimum shall test the credit
7 union's assets, liabilities, equity, income, expenses and internal
8 controls.

9 C. The supervisory committee shall ensure that adequate work papers
10 are prepared and maintained to support each audit. These work papers
11 shall be made available for review during examinations by the
12 ~~superintendent~~ DEPUTY DIRECTOR.

13 Sec. 136. Section 6-558, Arizona Revised Statutes, is amended to
14 read:

15 6-558. Member account insurance

16 A. Before the incorporators of a credit union forward the
17 organization documents to the ~~superintendent~~ DEPUTY DIRECTOR, as required
18 by section 6-506, they shall apply for insurance on share and deposit
19 accounts from an insuring organization.

20 B. The ~~superintendent~~ DEPUTY DIRECTOR shall not grant ~~an approved~~ A
21 certificate of ~~organization~~ APPROVAL to form a credit union unless the
22 proposed credit union has obtained a commitment for insurance on member
23 accounts.

24 C. A credit union may not begin operations as a credit union or
25 continue operations without share and deposit account insurance acceptable
26 to the ~~superintendent~~ DEPUTY DIRECTOR.

27 Sec. 137. Section 6-564, Arizona Revised Statutes, is amended to
28 read:

29 6-564. Loans to officials

30 A. A credit union may make loans to an officer, director or member
31 of its supervisory and credit committees if both of the following
32 conditions are met:

33 1. The loan complies with all requirements of this chapter and is
34 not on terms more favorable than those extended to other borrowers.

35 2. The aggregate of loans to all such officials, excepting those
36 fully secured by share or deposit accounts, does not exceed twenty ~~per~~
37 ~~cent~~ PERCENT of the credit union's capital.

38 B. A credit union may ~~permit~~ ALLOW officers, directors and members
39 of its supervisory and credit committees to act as comakers, guarantors or
40 endorsers of loans to other members, subject to the requirements of
41 subsection A OF THIS SECTION.

1 C. All applications for loans in the aggregate of ~~twenty thousand~~
2 ~~dollars~~ \$20,000 or a greater amount as determined by the ~~superintendent~~
3 ~~DEPUTY DIRECTOR~~ on which an official will be either a direct obligor or an
4 endorser, cosigner or guarantor shall be initially acted on by the board
5 of directors as provided in the bylaws.

6 Sec. 138. Section 6-577, Arizona Revised Statutes, is amended to
7 read:

8 6-577. Authorized investments

9 A. Monies not used in loans to members may be invested in:

10 1. Securities, obligations or other instruments of or issued by or
11 fully guaranteed as to principal and interest by the United States or any
12 agency or instrumentality of the United States or in any trust or mutual
13 fund established for investing directly or collectively in the same.

14 2. Securities, obligations or other instruments, whose payment is
15 guaranteed by the general taxing authority of the issuer, of any state of
16 the United States or any political subdivision of a state of the United
17 States, and on approval of the ~~superintendent~~ ~~DEPUTY DIRECTOR~~, the
18 District of Columbia, the Commonwealth of Puerto Rico and the several
19 territories organized by Congress or any political subdivision thereof.

20 3. Deposits of federally insured financial institutions organized
21 under state or federal law.

22 4. Loans to or share accounts or deposit accounts of other credit
23 unions or corporate credit unions organized under state or federal law.

24 5. Deposits in, loans to or shares of any federal reserve bank,
25 federal home loan bank or central liquidity facility established under
26 state or federal law.

27 6. Shares, obligations or preferred stock issues of any agency or
28 association organized either as a stock company, mutual association or
29 membership corporation, if the membership or stock holdings of such agency
30 or association are primarily confined or restricted to credit unions or
31 organizations of credit unions and the purpose for which such agency or
32 association is organized is to service or otherwise assist credit union
33 operations.

34 7. Stocks, bonds or other obligations of corporations organized in
35 any state of the United States, the District of Columbia, the Commonwealth
36 of Puerto Rico and the several territories organized by Congress and in
37 securities, obligations or other instruments of any state of the United
38 States or any political subdivision thereof, the District of Columbia, the
39 Commonwealth of Puerto Rico and the several territories organized by
40 congress, but not in the aggregate to exceed three percent of the credit
41 union's capital and not to exceed one percent of the credit union's
42 capital in any one corporation's stock, bonds and obligations. These
43 investments are limited to the three highest ratings established by one or
44 more national rating services of corporate securities designated by the
45 ~~superintendent~~ ~~DEPUTY DIRECTOR~~.

1 8. Pools of participation loans with other credit unions, credit
2 union organizations or other financial institutions, not to exceed five
3 percent of the credit union's capital.

4 9. Other investments as approved by the ~~superintendent~~ DEPUTY
5 DIRECTOR.

6 10. Fixed assets.

7 B. Investments authorized under subsection A, paragraph 6 of this
8 section shall not exceed five percent of the credit union's capital,
9 without the prior written approval of the ~~superintendent~~ DEPUTY DIRECTOR.
10 The action of a credit union in investing monies in accordance with
11 subsection A, paragraph 6 of this section shall not be deemed a violation
12 of this section if the aggregate investments exceed the limitation of
13 subsection A, paragraph 6 of this section because of a subsequent
14 reduction in the amount of the credit union's capital.

15 Sec. 139. Section 6-582, Arizona Revised Statutes, is amended to
16 read:

17 6-582. Use of regular reserve

18 Losses on risk assets, but not operating losses, shall be promptly
19 charged against the regular reserve when those losses occur. The credit
20 union shall not distribute the regular reserve except on liquidation of
21 the credit union or in accordance with a plan approved by the
22 ~~superintendent~~ DEPUTY DIRECTOR.

23 Sec. 140. Section 6-583, Arizona Revised Statutes, is amended to
24 read:

25 6-583. Special reserves

26 In addition to the regular reserve, special reserves for losses
27 shall be established if required by rule or if the ~~superintendent~~ DEPUTY
28 DIRECTOR or the board of directors finds it necessary. Special reserves
29 may include allowances for loan losses or investment losses.

30 Sec. 141. Section 6-584, Arizona Revised Statutes, is amended to
31 read:

32 6-584. Voluntary dissolution

33 A. A credit union may elect to dissolve voluntarily and terminate
34 its affairs in the following manner:

35 1. The board of directors shall adopt a resolution recommending
36 that the credit union be dissolved voluntarily, naming a liquidating agent
37 adequately bondable, and directing that the question of a dissolution be
38 submitted to a regular or special meeting of the members.

39 2. At a regular or special meeting called for such purpose where
40 the notice of such purpose is contained in the call, the affirmative vote
41 of a majority of the members of the credit union present shall be required
42 to dissolve the credit union.

1 3. ~~upon~~ ON the adoption of a resolution to dissolve, a statement of
2 intent to dissolve shall be executed in triplicate by the president or
3 ~~vice-president~~ VICE PRESIDENT, and attested by its secretary, which shall
4 set forth:

5 (a) The name of the corporation.

6 (b) Names and addresses of the officers and directors of the
7 corporation.

8 (c) A copy of the resolution authorizing the voluntary dissolution
9 and the name and address of the liquidating agent.

10 (d) Names and addresses of the members and the amount of the shares
11 and loan balances of members outstanding.

12 (e) A financial and statistical report as of the date the
13 resolution to dissolve is adopted.

14 B. Immediately ~~upon~~ ON the adoption of the resolution to dissolve,
15 the credit union shall furnish to the ~~superintendent~~ DEPUTY DIRECTOR
16 duplicate copies of the statement of intent to dissolve and the
17 ~~superintendent~~ DEPUTY DIRECTOR shall then determine whether or not the
18 credit union is solvent. If it is solvent, ~~he~~ THE DEPUTY DIRECTOR shall
19 issue to the credit union in quadruplicate a certificate to the effect
20 that this section has been complied with. The certificate shall be filed
21 by the credit union with the corporation commission and a duplicate copy
22 recorded in the office of the county recorder of the county in which the
23 credit union is located, whereupon the credit union shall be deemed
24 dissolved and shall cease carrying on business except for the purpose of
25 liquidation.

26 C. The credit union shall continue in existence for the purpose of
27 discharging its debts, collecting and distributing its assets and doing
28 all other acts required to completely dissolve the credit union, and may
29 sue and be sued for the purpose of enforcing such debts and obligations
30 until its affairs are fully terminated, but an action may not be filed by
31 or against such credit union more than two years after this certificate of
32 dissolution is recorded.

33 D. The credit union shall during the dissolution period furnish to
34 the ~~superintendent~~ DEPUTY DIRECTOR regular monthly progress reports of the
35 affairs of the credit union until the final dissolution of the credit
36 union.

37 E. After the expiration of two years ~~from~~ AFTER the date of final
38 dissolution, the ~~superintendent~~ DEPUTY DIRECTOR may destroy all books and
39 records of such credit union in ~~his~~ THE DEPUTY DIRECTOR'S possession.

40 Sec. 142. Section 6-585, Arizona Revised Statutes, is amended to
41 read:

42 6-585. Involuntary dissolution

43 A. The ~~superintendent~~ DEPUTY DIRECTOR may forthwith take possession
44 and control of the business and property of any credit union to which this
45 chapter is applicable whenever ~~he~~ THE DEPUTY DIRECTOR finds ~~upon~~ ON

1 examination or investigation that such credit union has committed one or
2 more of the following violations:

- 3 1. Is in violation of an order issued pursuant to section 6-137.
- 4 2. Is conducting its business in an unauthorized or unsafe manner
5 or in violation of the bylaws of the credit union.
- 6 3. Is insolvent.
- 7 4. Has an impairment of its capital.
- 8 5. Cannot with safety and expediency continue business.
- 9 6. Has suspended payment of its obligations.
- 10 7. Is, through its officers, refusing to submit its books, papers
11 and records of affairs for inspection to any examiner.
- 12 8. Is, through its officers, refusing to be examined regarding its
13 affairs.
- 14 9. Has been examined by its own supervisory committee and the
15 majority of the committee requested in writing that the ~~superintendent~~
16 ~~DEPUTY DIRECTOR~~ take possession and control.

17 10. In a proceeding for voluntary dissolution has, through its
18 liquidating agent, failed to make reasonable progress in the liquidation
19 of its affairs and distribution of its assets.

20 B. The ~~superintendent upon~~ ~~DEPUTY DIRECTOR ON~~ taking possession and
21 control of the credit union, its business and operation, together with the
22 furniture, fixtures, books, records and assets of every description, shall
23 determine whether it is practicable and feasible to reorganize the credit
24 union to continue in business or merge the credit union with another
25 operating credit union. If the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ determines
26 that the credit union cannot be reorganized, ~~or~~ merged with another
27 operating credit union, ~~he~~ ~~THE DEPUTY DIRECTOR~~ may ~~permit~~ ~~ALLOW~~ the credit
28 union to operate under ~~his~~ ~~THE DEPUTY DIRECTOR'S~~ direction and control, or
29 if ~~he~~ ~~THE DEPUTY DIRECTOR~~ determines that the credit union should be
30 liquidated through receivership, ~~he~~ ~~THE DEPUTY DIRECTOR~~ shall petition the
31 superior court for authority to liquidate such credit union, and the
32 superior court shall immediately appoint the ~~superintendent~~ ~~DEPUTY~~
33 ~~DIRECTOR~~ as the receiver of the credit union without bond, and shall make
34 such other orders, judgments and decrees as ~~is~~ ~~ARE~~ necessary to liquidate
35 such credit union. The receiver shall take possession of and, for the
36 purpose of receivership, title to the books, records and assets of every
37 description of such credit union, shall proceed to collect all debts, dues
38 and claims belonging to it, may sell or compound all bad or doubtful debts
39 and may sell the real and personal property of such credit union, on such
40 terms as the court may direct.

41 C. Such receiver may sue and defend in ~~his~~ ~~THE RECEIVER'S~~ own name
42 with respect to the affairs, assets, claims, debts, and choses in action
43 of such credit union.

1 D. The receiver shall hold all records of such receivership for a
2 period of two years after the close of the receivership, and at the
3 termination of the two years, the records may then be destroyed.

4 E. All expenses of such receivership, including reasonable receiver
5 and attorney fees, shall be paid out of the assets of such credit union,
6 and all expenses of any preliminary or other examinations into the
7 condition of any such credit union or receivership, and all expenses
8 incident to and in connection with the possession and control of any
9 credit union office, furniture and fixtures, books, records and assets of
10 every description of such credit union by the receiver for the purpose of
11 reorganization or liquidation through receivership, shall be paid out of
12 the assets of such credit union.

13 F. Notwithstanding the provisions of subsections A, B, C and D of
14 this section, ~~when~~ IF such credit union is a federally insured state
15 credit union, the court shall first tender the appointment as receiver to
16 the national credit union administration, or any succeeding organization,
17 which is authorized to qualify and act without bond. If the national
18 credit union administration or succeeding organization accepts the
19 appointment, it shall have all of the powers, privileges and duties as
20 such receiver provided by the laws of this state.

21 Sec. 143. Section 6-586, Arizona Revised Statutes, is amended to
22 read:

23 6-586. Distribution of assets of liquidating credit union

24 If there is either a voluntary or involuntary liquidation of a
25 credit union the assets of the credit union or the proceeds from any
26 disposition of the assets shall be applied and distributed in the
27 following order:

28 1. Taxes owed to the United States, this state or any other
29 governmental unit.

30 2. Secured creditors up to the fair market value of their
31 collateral, not to exceed the amount of their debt.

32 3. Costs and expenses of liquidation.

33 4. Wages due the employees of the credit union.

34 5. Costs and expenses incurred by creditors in successfully
35 opposing the release of the credit union from certain debts as allowed by
36 the ~~superintendent~~ DEPUTY DIRECTOR.

37 6. Debts owed to the United States or this state.

38 7. General creditors, secured creditors, to the extent their claims
39 exceed the fair market value of their collateral, and owners of deposit
40 accounts, to the extent the accounts are uninsured.

41 8. Members, to the extent of uninsured accounts, and the insuring
42 organization that insured the accounts of the credit union.

1 Sec. 144. Section 6-587, Arizona Revised Statutes, is amended to
2 read:

3 6-587. Merger or consolidation of credit unions

4 A. Any two or more credit unions may merge or consolidate into a
5 single credit union. The merger or consolidation may be with a credit
6 union organized under the laws of this state, the laws of any other state
7 or territory of the United States or the laws of the United States.

8 B. If two or more credit unions merge, they shall either designate
9 one of them as the continuing credit union or they shall structure a
10 totally new credit union and designate it as the new credit union. All
11 participating credit unions other than the continuing or new credit union
12 shall be designated as merging credit unions.

13 C. Any merger of credit unions shall be done according to a plan of
14 merger. After approval by the boards of directors of all participating
15 credit unions, the plan shall be submitted to the ~~superintendent~~ DEPUTY
16 DIRECTOR for preliminary approval. If the plan includes the creation of a
17 new credit union, all documents required by section 6-506 shall be
18 submitted as part of the plan. In addition, each participating credit
19 union shall submit the following:

20 1. The time and place of the meeting of the board of directors at
21 which the plan was agreed on.

22 2. The vote of the directors in favor of the adoption of the plan.

23 3. A copy of the resolution or other action by which the plan was
24 agreed on.

25 D. The ~~superintendent~~ DEPUTY DIRECTOR shall grant preliminary
26 approval if the plan has been approved properly by each board of
27 directors, if the documentation required to form a new credit union, if
28 any, complies with section 6-506 and if the ~~superintendent~~ DEPUTY DIRECTOR
29 is of the opinion that the merged or continuing credit union should be
30 approved.

31 E. After the ~~superintendent~~ DEPUTY DIRECTOR grants preliminary
32 approval, each merging credit union shall conduct a membership vote on its
33 participation in the plan. The credit union shall conduct the vote either
34 at a special membership meeting called for that purpose or by mail ballot.
35 If a majority of the members voting approves the plan, the credit union
36 shall submit a record of that fact to the ~~superintendent~~ DEPUTY DIRECTOR
37 indicating the vote by which the members approved the plan and either the
38 time and place of the membership meeting or the mailing date and closing
39 date of the mail ballot.

40 F. The ~~superintendent~~ DEPUTY DIRECTOR shall grant final approval of
41 the plan of merger after determining that the requirements of subsection E
42 of this section in the case of each merging credit union have been met and
43 if proof of insurance of accounts, as required by section 6-558, has been
44 furnished. The ~~superintendent~~ DEPUTY DIRECTOR shall notify all
45 participating credit unions of ~~his~~ THE DEPUTY DIRECTOR'S action on the

1 plan. If approved, the continuing credit union shall file copies of the
2 certificate showing the approval of the ~~superintendent~~ DEPUTY DIRECTOR
3 with the corporation commission and a certified copy of the filing under
4 the seal of the commission recorded with the county recorder of the county
5 in which each credit union participating in the merger has its principal
6 place of business with a copy filed with the ~~superintendent~~ DEPUTY
7 DIRECTOR. When the copies have been filed the merged credit union
8 terminates as a legal entity, and the continuing credit union remains and
9 continues in operation.

10 G. On final approval of the plan by the ~~superintendent~~ DEPUTY
11 DIRECTOR, all property, property rights and members' interests in each
12 merging credit union vest in the continuing or new credit union as
13 applicable without deed, endorsement or other instrument of transfer, and
14 all debts, obligations and liabilities of each merging credit union are
15 deemed to have been assumed by the continuing or new credit union. The
16 rights and privileges of the members of each participating credit union
17 remain intact, except that if a person is a member of more than one of the
18 participating credit unions that person is entitled to only a single set
19 of membership rights in the continuing or new credit union.

20 H. If the continuing or new credit union is chartered by another
21 state or territory of the United States, it is subject to the requirements
22 of section 6-511.

23 I. Notwithstanding any other law, the ~~superintendent~~ DEPUTY
24 DIRECTOR may authorize a merger or consolidation of a credit union ~~which~~
25 THAT is insolvent or is in danger of insolvency with any other credit
26 union or may authorize a credit union to purchase any of the assets or
27 assume any of the liabilities of any other credit union ~~which~~ THAT is
28 insolvent or in danger of insolvency if the ~~superintendent~~ DEPUTY DIRECTOR
29 is satisfied that:

30 1. An emergency requiring expeditious action exists with respect to
31 the other credit union.

32 2. Other alternatives are not reasonably available.

33 3. The public interest would best be served by approval of the
34 merger, consolidation, purchase or assumption.

35 Sec. 145. Section 6-588, Arizona Revised Statutes, is amended to
36 read:

37 6-588. Conversion of credit union

38 A. A credit union incorporated under the laws of this state may be
39 converted to a credit union organized under the laws of the United States,
40 or it may be converted to a credit union organized under the laws of
41 another state if the principal office has relocated to another state or
42 jurisdiction, in the following manner:

1 1. On recommendations of the board of directors, the members of a
2 credit union incorporated under the laws of this state, by an affirmative
3 majority vote of all members voting in a meeting called for that purpose
4 or by written ballot filed within fifteen days, may resolve to convert the
5 credit union into a federal credit union or a credit union organized under
6 the laws of another state.

7 2. Within twenty days after the meeting at which the members
8 determine to so convert, the credit union shall file with the
9 ~~superintendent~~ DEPUTY DIRECTOR a certificate verified by the affidavit of
10 the president or the chairman and the secretary of the credit union. The
11 certificate shall contain a copy of the minutes of the meeting and a
12 statement that the members have approved the determination to convert the
13 credit union into a federal credit union or a credit union organized under
14 the laws of another state.

15 3. The filing of the certificate required in paragraph 2 of this
16 subsection with the ~~superintendent~~ DEPUTY DIRECTOR is presumptive proof or
17 evidence of the holding of the meeting and the action taken.

18 4. After the meeting of the members, the credit union shall take
19 such action as is necessary under the federal law or the state law to
20 which it is converting as a credit union. It shall also liquidate in a
21 manner approved by the ~~superintendent~~ DEPUTY DIRECTOR any assets or
22 liabilities ~~which~~ THAT are not by reason of law capable of being
23 transferred to the converted credit union. Within ten days after the
24 receipt of the new charter or certificate of incorporation, the credit
25 union shall file with the ~~superintendent~~ DEPUTY DIRECTOR and the
26 corporation commission a copy of the instrument. On this filing, the
27 credit union ceases to be a credit union incorporated under the laws of
28 this state and is converted to one under its new jurisdiction.

29 5. At the time the conversion becomes effective, the credit union
30 ceases to be supervised by this state and all of the property of the
31 credit union, including all of its right, title and interest in and to all
32 property of every kind and character, immediately by operation of law and
33 without any conveyance or transfer and without any further act or deed is
34 vested in the converted credit union under its new name and structure and
35 under its new jurisdiction.

36 6. The converted credit union shall have, hold and enjoy the
37 property prescribed in paragraph 5 of this subsection in its own right as
38 fully and to the same extent as the property was possessed, held and
39 enjoyed by it as a credit union under the laws of this state. The
40 converted credit union continues to be responsible for all of the
41 obligations of the former credit union to the same extent as though the
42 conversion had not taken place. The converted credit union is merely a
43 continuation of the former credit union under a new name and new
44 jurisdiction and the revision of its corporate structure as is necessary
45 for its proper operation under the new jurisdiction.

1 B. A credit union organized under the laws of the United States or
2 of any other state may convert to a credit union incorporated under the
3 laws of this state in the following manner:

4 1. To effect such a conversion a credit union shall first comply
5 with all of the requirements of the jurisdiction under which it is
6 organized and file proof of the compliance with the ~~superintendent~~ DEPUTY
7 DIRECTOR.

8 2. The converting credit union through its proper officers and
9 officials shall sign and acknowledge in quintuplicate a certificate of
10 organization as required in sections 6-506 and 6-507 in which they bind
11 themselves to comply with the requirements of the certificate and with all
12 the laws and rules applicable to a state credit union. The application
13 for a certificate of organization in quintuplicate, the bylaws in
14 duplicate and the required charter fee and examination assessment shall be
15 submitted to the ~~superintendent~~ DEPUTY DIRECTOR who shall make or cause to
16 be made an appropriate investigation for the purpose of determining the
17 advisability of such a conversion. On receipt of the ~~superintendent's~~
18 DEPUTY DIRECTOR'S certificate of organization in quadruplicate, with the
19 certificate of approval, the applicants shall file the certificate of
20 approval attached in quadruplicate with the corporation commission and
21 record a certified copy of the filing under the seal of the commission
22 with the county recorder of the county or counties in which the credit
23 union is to do business. On proof of the recording, the corporation
24 commission shall issue a certificate of incorporation to the credit union.
25 The credit union shall forward a certified copy of the certificate of
26 organization showing the filing and recording to the ~~superintendent~~ DEPUTY
27 DIRECTOR. The credit union shall also file with the corporation
28 commission the appointment of an agent on whom service of process may be
29 made.

30 3. Within ten days after the receipt of the certified copy of the
31 certificate of incorporation by the credit union, the credit union shall
32 file two certified copies of the certificate with its present supervisory
33 agency and a copy of the transmittal letter with the ~~superintendent~~ DEPUTY
34 DIRECTOR.

35 4. On filing the certified copy of the certificate of organization
36 with the ~~superintendent~~ DEPUTY DIRECTOR, the converting credit union
37 ceases to be a credit union under its former jurisdiction and is a credit
38 union under the laws of this state. All of the property of the credit
39 union, including all of its right, title and interest in and to all
40 property of every kind and character, immediately, by operation of law and
41 without any conveyance or transfer and without any further act or deed, is
42 vested in the credit union under its new name and style as a state credit
43 union and under its new jurisdiction.

44 5. The converted credit union shall have, hold and enjoy the
45 property prescribed in paragraph 4 of this subsection in its own right as

1 fully and to the same extent as the property was possessed, held and
2 enjoyed by it as a credit union under its former jurisdiction and the
3 converted credit union continues to be responsible for all of the
4 obligations of the former credit union to the same extent as though
5 conversion had not taken place. The converted credit union is merely a
6 continuation of the former credit union under a new name and new
7 jurisdiction and the revision of its corporate structure as is considered
8 necessary for its proper operation under the new jurisdiction.

9 C. A credit union incorporated under the laws of this state may be
10 converted into an association, as defined in section 6-401, that is
11 incorporated under the laws of this state or of the United States if the
12 credit union complies with both of the following:

13 1. The provisions established by the national credit union
14 administration as prescribed by 12 Code of Federal Regulations part 708a.

15 2. Any rules that the ~~superintendent~~ DEPUTY DIRECTOR adopts to
16 implement this subsection.

17 Sec. 146. Section 6-595, Arizona Revised Statutes, is amended to
18 read:

19 6-595. Reserves

20 A. A corporate credit union shall establish and maintain a
21 corporate reserve in accordance with the reserve requirements of the
22 national credit union administration for federal corporate credit unions.

23 B. A corporate credit union may make charges to the corporate
24 reserve for losses on risk assets and to meet such other classes of losses
25 as approved by the ~~superintendent~~ DEPUTY DIRECTOR. A corporate credit
26 union shall not distribute the corporate reserve except on liquidation of
27 the credit union or in accordance with a plan approved by the
28 ~~superintendent~~ DEPUTY DIRECTOR.

29 Sec. 147. Section 6-601, Arizona Revised Statutes, is amended to
30 read:

31 6-601. Definitions

32 In this chapter, unless the context otherwise requires:

33 1. "Actuarial method" means the method of allocating each payment
34 between finance charges and principal pursuant to which the payment is
35 applied first to finance charges computed on the unpaid balance of
36 principal for the time the balance is outstanding, and the remainder of
37 the payment is subtracted from the unpaid principal amount.

38 2. "Amount financed" means the amount of credit extended to a
39 consumer on a consumer loan determined in accordance with the truth in
40 lending act.

41 3. "Annual percentage rate" means the measure of the cost of
42 credit, expressed as a yearly rate, that relates the amount and timing of
43 value received by the consumer to the amount and timing of payments made,
44 determined in accordance with the truth in lending act.

1 4. "Consumer" means an individual who obtains a consumer lender
2 loan for personal, family or household purposes.

3 5. "Consumer lender" means a person that advertises to make or
4 procure, solicits or holds itself out to make or procure, or makes or
5 procures consumer lender loans to consumers in this state.

6 6. "Consumer lender loans" means consumer loans, consumer revolving
7 loans and home equity revolving loans.

8 7. "Consumer loan" means the direct closed end loan of money,
9 ~~WHETHER UNSECURED OR SECURED BY PERSONAL OR REAL PROPERTY~~, in an amount of
10 ~~ten thousand dollars~~ \$10,000 or less that is subject to a finance
11 charge. ~~For the purpose of determining whether a consumer loan is ten~~
12 ~~thousand dollars or less~~ IN WHICH only the principal amount of the loan
13 ~~shall be~~ IS considered, and not any finance charges or other fees allowed
14 pursuant to section 6-635, ~~FOR THE PURPOSE OF DETERMINING WHETHER THE~~
15 ~~CONSUMER LOAN IS \$10,000 OR LESS.~~

16 8. "Consumer loan rate" means the periodic rate of finance charges
17 that applies to the outstanding principal balance of a consumer loan and
18 that remains unpaid. Consumer loan rate does not include any prepaid
19 finance charges pursuant to section 6-632, subsection E or any fees
20 pursuant to section 6-635.

21 9. "Consumer revolving loan" means an open end revolving loan that
22 is established pursuant to an agreement with an agreed on credit limit
23 that does not exceed ~~ten thousand dollars~~ \$10,000, that the consumer may
24 pay in full at any time but has the privilege of paying in installments
25 and that contemplates or provides that advances may be obtained from time
26 to time by the consumer, through checks, drafts, items, credit access
27 devices, orders for the payment of money, evidences of debt or similar
28 means, whether or not negotiable.

29 10. "Educational loan" means any loan or other aid or assistance
30 for the purpose of furthering the education of a consumer or a relative of
31 a consumer at an accredited or approved university, college, community
32 college, junior college, technical, vocational or professional school, or
33 similar institution.

34 11. "Finance charge" means the amount payable by a consumer
35 incident to or as a condition of the extension of a consumer lender loan
36 but does not include other fees allowed pursuant to section 6-635.

37 12. "Home equity revolving loan" means an open end revolving loan
38 that is made pursuant to an agreement with an agreed on credit limit that
39 is not more than ~~ten thousand dollars~~ \$10,000, that is secured by the
40 consumer's principal residence and that provides that advances may be
41 obtained from time to time by the consumer through checks, drafts, items,
42 credit access devices, orders for the payment of money, evidences of debt
43 or similar means, whether or not negotiable.

44 13. "License" means a license issued under the authority of this
45 chapter to make consumer lender loans in accordance with this chapter.

1 14. "Licensee" means a person licensed pursuant to this chapter.

2 15. "Precomputed consumer loan" means a consumer loan that is
3 payable in substantially equal, consecutive monthly installments that are
4 applied to the unpaid balance of the principal and precomputed finance
5 charges combined, subject to provisions for refund or credit in the event
6 of prepayment and for deferral or default charges in the event of deferral
7 or default.

8 16. "Regularly engaged in the business" means either:

9 (a) Advertising to or any other solicitation of a resident of this
10 state that offers a consumer loan and that occurs within this state.

11 (b) Making three or more consumer loans within a calendar year to
12 residents of this state.

13 17. "Truth in lending act" means title I of the consumer credit
14 protection act (15 United States Code sections 1601 through 1666j), as
15 amended, and the regulations promulgated under that act (12 Code of
16 Federal Regulations part 226), as amended.

17 Sec. 148. Section 6-602, Arizona Revised Statutes, is amended to
18 read:

19 6-602. Exemptions

20 A. This chapter does not apply to:

21 1. A person who does business under any other law of this state, or
22 any other state while regulated by a state agency of that other state, or
23 of the United States, relating to banks, savings banks, trust companies,
24 savings and loan associations, profit sharing and pension trusts, credit
25 unions, insurance companies or receiverships if the consumer lender loan
26 transactions are regulated by the other law or are under the jurisdiction
27 of a court.

28 2. A person who is licensed as a pawnbroker pursuant to title 44,
29 chapter 11, article 3 to the extent that the person's activities are
30 governed by that article.

31 3. A person who is not regularly engaged in the business of making
32 consumer lender loans.

33 4. A person who is licensed pursuant to chapter 9 of this title to
34 the extent that the person's activities are governed by that chapter.

35 B. The requirements of this chapter do not apply to:

36 1. Closed end loans of more than ~~ten thousand dollars~~ \$10,000.

37 2. Advances on open end revolving loans that are not secured by the
38 consumer's principal residence with an agreed on credit limit of more than
39 ~~ten thousand dollars~~ \$10,000, regardless of the amount of any advances on
40 these revolving loans.

41 3. Advances on open end revolving loans that are secured by the
42 consumer's principal residence with an agreed on credit limit of more than
43 ~~ten thousand dollars~~ \$10,000, regardless of the amount of any advances on
44 these revolving loans.

1 4. Consumer lender loans that are lawfully made to nonresidents of
2 the state in any other state under and in accordance with a regulatory
3 consumer lender law similar in principle to this chapter.

4 5. Educational loans that are either:

5 (a) Made, insured or guaranteed pursuant to a program authorized by
6 the United States, this state or any other state.

7 (b) Made by a nonprofit organization that is exempt from taxation
8 under section 501(c)(3) of the internal revenue code to students who
9 attend postsecondary educational institutions in this state.

10 C. A CONSUMER LOAN MADE PURSUANT TO A CONSUMER LENDER LICENSE IS
11 NOT A SECONDARY MOTOR VEHICLE FINANCE TRANSACTION AS DEFINED IN SECTION
12 44-281.

13 Sec. 149. Section 6-603, Arizona Revised Statutes, is amended to
14 read:

15 6-603. License; contents of application; fees;
16 ~~superintendent~~ nontransferable

17 A. Unless exempt under section 6-602, a person, whether located in
18 this state or in another state, shall not engage in the business of a
19 consumer lender without first being licensed as a consumer lender by the
20 ~~superintendent~~ DEPUTY DIRECTOR.

21 B. This chapter applies to any person who seeks to avoid its
22 application by any device, subterfuge or pretense.

23 C. Each applicant for a license shall submit an application in
24 writing, under oath and in the form prescribed by the ~~superintendent~~
25 DEPUTY DIRECTOR. The ~~superintendent~~ DEPUTY DIRECTOR may require as part
26 of an application any other information that the ~~superintendent~~ DEPUTY
27 DIRECTOR deems necessary.

28 D. At the time of filing an application for a license, an applicant
29 shall pay to the ~~superintendent~~ DEPUTY DIRECTOR the fee prescribed in
30 section 6-126.

31 E. Before June 30 of each year, each licensee may obtain a renewal
32 of a license by filing an application in the form prescribed by the
33 ~~superintendent~~ DEPUTY DIRECTOR and paying the fee prescribed in section
34 6-126.

35 F. The ~~superintendent~~ DEPUTY DIRECTOR may deny a license to a
36 person if the ~~superintendent~~ DEPUTY DIRECTOR finds that an applicant:

37 1. Is insolvent as defined in section 47-1201.

38 2. Has failed to demonstrate the financial responsibility,
39 experience, character and general fitness to command the confidence of the
40 public and to warrant the belief that the business will be operated
41 lawfully, honestly, fairly and efficiently within the purposes of this
42 chapter.

43 3. Has failed to pay the license fee.

1 4. Has failed to have at least ~~twenty-five thousand dollars~~ \$25,000
2 in assets readily available for use in the conduct of the business of each
3 licensed office and branch office.

4 G. A consumer lender license is not transferable or assignable, and
5 no person may acquire control of a licensee through stock purchase or
6 other device without the prior written consent of the ~~superintendent~~
7 ~~DEPUTY DIRECTOR~~. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may refuse consent if
8 the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ finds that any of the grounds for
9 denial of renewal, revocation or suspension of a license prescribed in
10 section 6-605 are applicable to the acquiring person. For purposes of
11 this subsection, "control" means the power to vote more than twenty ~~per~~
12 ~~cent~~ ~~PERCENT~~ of the outstanding voting shares of a licensed corporation,
13 limited liability company, partnership, association or trust.

14 Sec. 150. Section 6-604, Arizona Revised Statutes, is amended to
15 read:

16 6-604. Issuance of license; license year; requirements

17 A. If the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ finds no grounds for
18 denial of a license, within one hundred twenty days after receiving a
19 complete application, the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall grant the
20 application and issue a license to the applicant.

21 B. The license year for a licensee begins on July 1 and ends on
22 June 30 of each year.

23 C. All licenses issued remain in full force until surrendered,
24 revoked or suspended.

25 D. A license remains the property of this state. On termination at
26 the request of the licensee or revocation by the ~~superintendent~~ ~~DEPUTY~~
27 ~~DIRECTOR~~, the licensee shall immediately deliver the license to the
28 ~~superintendent~~ ~~DEPUTY DIRECTOR~~. Termination of the license does not
29 affect any other liability of the licensee.

30 E. The licensee shall designate the principal location of the
31 licensed office within or outside this state. If a licensee wishes to
32 maintain more than one office location the licensee shall first obtain a
33 branch office license for each branch office from the ~~superintendent~~
34 ~~DEPUTY DIRECTOR~~. The licensee shall submit an application in the form
35 prescribed by the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ and pay the fee
36 prescribed in section 6-126 for each branch office license. If the
37 ~~superintendent~~ ~~DEPUTY DIRECTOR~~ determines that the applicant is qualified,
38 the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall issue a branch office license
39 indicating the address of the branch office.

40 F. A licensee shall prominently display the consumer lender license
41 in the office of the consumer lender and any branch office license in that
42 branch office.

1 Sec. 151. Section 6-605, Arizona Revised Statutes, is amended to
2 read:

3 6-605. Denial of renewal; suspension; revocation

4 A. The ~~superintendent~~ DEPUTY DIRECTOR may deny renewal of a license
5 or suspend or revoke a license if the ~~superintendent~~ DEPUTY DIRECTOR finds
6 that a licensee:

- 7 1. Is insolvent as defined in section 47-1201.
- 8 2. Has shown that the licensee is not a person of honesty,
9 truthfulness and good character.
- 10 3. Has failed to pay the annual renewal fees.
- 11 4. Has failed to file an annual report when due or within any
12 extension of time granted by the ~~superintendent~~ DEPUTY DIRECTOR for good
13 cause.
- 14 5. Has failed to have or maintain at least ~~twenty-five thousand~~
15 ~~dollars~~ \$25,000 in assets used or readily available for use in the conduct
16 of the business of each licensed office and branch office.
- 17 6. Either knowingly or without the exercise of due care to prevent
18 a violation, has violated any provision of this title or any rule or order
19 adopted or made pursuant to this title.
- 20 7. Has failed to operate the business of making consumer lender
21 loans for a continuous period of twelve months or more, except that the
22 ~~superintendent~~ DEPUTY DIRECTOR, on good cause shown, may extend the time
23 for operating that business for a single fixed period of not more than
24 twelve months.

25 B. The ~~superintendent~~ DEPUTY DIRECTOR may also deny renewal of a
26 license or suspend or revoke a license if the ~~superintendent~~ DEPUTY
27 DIRECTOR finds that any fact or condition exists that, if it had existed
28 at the time of the original application for the license, would have
29 clearly warranted the ~~superintendent~~ DEPUTY DIRECTOR to refuse to issue
30 the license.

31 Sec. 152. Section 6-606, Arizona Revised Statutes, is amended to
32 read:

33 6-606. Business limited to licensed locations; restrictions

34 A. Except as provided in subsection B of this section, no licensee
35 may conduct the business of making consumer lender loans pursuant to this
36 chapter under any name or at any place of business in this state other
37 than the name and place stated in the licensee's consumer lender license
38 or branch office license.

39 B. Subsection A of this section does not prohibit a licensee from:

- 40 1. Making consumer lender loans by mail or electronic means.
- 41 2. On request, making accommodations to consumers at any location
42 requested by the consumer.
- 43 3. Conducting any administrative, loan servicing or record keeping
44 activity at any other location not open to the public, if the
45 ~~superintendent~~ DEPUTY DIRECTOR is notified in advance of that activity.

1 4. Closing a consumer lender loan secured by real property at an
2 office of a financial institution, title company, licensed escrow agent,
3 licensed mortgage broker or licensed mortgage banker.

4 5. Giving a consumer an advance on a consumer revolving loan or
5 home equity revolving loan from any location.

6 C. On approval by the ~~superintendent~~ DEPUTY DIRECTOR, the licensee
7 may conduct any of the activities listed in subsection B of this section
8 outside of this state.

9 D. A licensee may change the location of its licensed office or
10 licensed branch office by giving written notice to the ~~superintendent~~
11 DEPUTY DIRECTOR, who shall amend the license accordingly.

12 E. All consumer lender loans that are made at the location of a
13 licensed office or branch office are subject to the requirements of
14 article 2 of this chapter, whether made by a licensee, any person
15 otherwise exempt from this chapter pursuant to section 6-602 or any other
16 person.

17 F. No licensee may conduct the business of making consumer lender
18 loans pursuant to this chapter from within any licensed office or branch
19 office in which any other business not licensed pursuant to this title is
20 solicited or engaged in, or in association or conjunction with any other
21 business not licensed pursuant to this title, without giving prior notice
22 to the ~~superintendent~~ DEPUTY DIRECTOR. If it appears to the
23 ~~superintendent~~ DEPUTY DIRECTOR that the other business is of such a nature
24 or is being conducted in such a manner as to conceal an evasion of this
25 chapter or is contrary to the public interest or otherwise being conducted
26 in an unlawful manner, the ~~superintendent~~ DEPUTY DIRECTOR may act pursuant
27 to section 6-137 to restrict the licensee from conducting its business in
28 conjunction with that other business. For the purposes of this
29 subsection, "public interest" means the laws of this state or of the
30 United States or rules adopted by the ~~superintendent~~ DEPUTY DIRECTOR.

31 Sec. 153. Section 6-607, Arizona Revised Statutes, is amended to
32 read:

33 6-607. Books; accounts; records; access

34 A. A licensee shall maintain books, accounts and records that
35 enable the ~~superintendent~~ DEPUTY DIRECTOR to determine whether the
36 licensee is in compliance with this chapter.

37 B. A licensee shall preserve its books, accounts and records of
38 consumer lender loans for at least two years after making the final entry
39 for any consumer lender loan. A licensee that uses an electronic record
40 keeping system is not required to keep a written copy of the accounts and
41 records if the licensee is able to generate all of the information
42 required by this section in a timely manner for examination or other
43 purposes.

44 C. Every licensee shall observe generally accepted accounting
45 principles and practices.

1 D. A licensee shall make any books, accounts and records that are
2 kept outside of this state available to the ~~superintendent~~ DEPUTY DIRECTOR
3 in this state not more than three business days after demand is made by
4 the ~~superintendent~~ DEPUTY DIRECTOR, or the ~~superintendent~~ DEPUTY DIRECTOR
5 may choose to perform the examination or investigation at the office of
6 the licensee located outside this state.

7 E. For the purposes of this chapter, the ~~superintendent~~ DEPUTY
8 DIRECTOR or the ~~superintendent's~~ DEPUTY DIRECTOR'S duly authorized
9 representatives shall have access during normal business hours to the
10 offices and places of business, files, safes and vaults of all licensees
11 regarding that business or the subject matter of any examination,
12 investigation or hearing.

13 Sec. 154. Section 6-608, Arizona Revised Statutes, is amended to
14 read:

15 6-608. Annual report of licensee; civil penalty for failure
16 to file

17 A. On or before October 1 of each year, the licensee shall file a
18 report under oath and in the form prescribed by the ~~superintendent~~ DEPUTY
19 DIRECTOR concerning the business and operations during the ~~twelve-month~~
20 TWELVE-MONTH period ending the preceding June 30. On good cause shown by
21 a licensee, the ~~superintendent~~ DEPUTY DIRECTOR may extend the time for
22 filing the report for a period of not more than sixty days.

23 B. If a licensee fails to file the annual report, the
24 ~~superintendent~~ DEPUTY DIRECTOR or any person designated by the
25 ~~superintendent~~ DEPUTY DIRECTOR may examine the books, accounts and records
26 of the licensee, prepare the annual report and charge the licensee an
27 examination fee as prescribed in section 6-125.

28 C. If a licensee fails to file the annual report within the
29 specified time, the ~~superintendent~~ DEPUTY DIRECTOR may assess a civil
30 penalty for the failure to file the annual report unless an extension of
31 time is granted by the ~~superintendent~~ DEPUTY DIRECTOR in writing before
32 the due date of the annual report. The ~~superintendent~~ DEPUTY DIRECTOR
33 shall not assess a penalty of more than ~~five-dollars~~ \$5 per day. The
34 licensee shall pay the penalty to the ~~superintendent~~ DEPUTY DIRECTOR
35 within thirty days of the assessment.

36 Sec. 155. Section 6-609, Arizona Revised Statutes, is amended to
37 read:

38 6-609. Reporting rates; change in rates; quarterly report of
39 deputy director

40 A. At the time of making its annual report to the ~~superintendent~~
41 DEPUTY DIRECTOR, each licensee shall report the licensee's standard annual
42 percentage rate or range of annual percentage rates in effect at that time
43 on the following types of loans:

44 1. A ~~five-hundred-dollar~~ \$500 unsecured consumer loan, payable in
45 twelve equal monthly installments.

2. A ~~two thousand five hundred dollar~~ \$2,500 consumer loan secured by a motor vehicle, payable in thirty-six equal monthly installments.

3. A ~~nine thousand dollar~~ \$9,000 consumer loan secured in full by real property, payable in one hundred twenty equal monthly installments.

4. A consumer revolving loan with an agreed on credit limit of ~~three thousand dollars~~ \$3,000.

5. A home equity revolving loan with an agreed on credit limit of ~~fifteen thousand dollars~~ \$15,000.

B. The amount of each of the consumer loans described in subsection A OF THIS SECTION refers to the amount financed as computed in accordance with the truth in lending act. The licensee shall also report the range of the percentage amount of any prepaid finance charges charged in connection with a home equity revolving loan described in subsection A, paragraph 5 OF THIS SECTION.

C. Within thirty days after effectuating a change in the standard rate of charge for any of the types of loans described in subsection A OF THIS SECTION, the licensee shall report that change to the ~~superintendent~~ DEPUTY DIRECTOR.

D. On at least a quarterly basis the ~~superintendent~~ DEPUTY DIRECTOR shall compile a report of the standard annual percentage rate or range of annual percentage rates of each licensee for the types of loans described in subsection A OF THIS SECTION. The ~~superintendent~~ DEPUTY DIRECTOR shall disseminate this report in a manner deemed appropriate by the ~~superintendent~~ DEPUTY DIRECTOR, and the ~~superintendent~~ DEPUTY DIRECTOR shall make the report available to the public for inspection and copying.

Sec. 156. Section 6-612, Arizona Revised Statutes, is amended to read:

6-612. Rules

The ~~superintendent~~ DEPUTY DIRECTOR may adopt rules that are necessary to regulate the proper conduct of a licensee.

Sec. 157. Section 6-631, Arizona Revised Statutes, is amended to read:

6-631. Disclosures; penalty

A. To the extent applicable, a licensee shall comply with the disclosure requirements of the truth in lending act.

B. Each note or agreement evidencing a consumer lender loan shall contain the following disclosure statement in at least ~~ten-point~~ TEN-POINT type that is in English and in Spanish and in close proximity to the consumer's signature line:

Notice: You may request that the initial disclosures prescribed in the truth in lending act (15 United States Code sections 1601 through 1666j) be provided in Spanish before signing any loan documents.

C. A licensee shall continuously and conspicuously display a sign printed in at least ~~twelve-point~~ TWELVE-POINT bold type containing the

1 notice prescribed by subsection B OF THIS SECTION and the following notice
2 at each desk in each licensed office or branch office at which consumer
3 lender loans are usually and normally closed:

4 Notice

5 Before signing any loan documents or otherwise committing to a
6 loan, you may take copies of those documents away from the
7 consumer lender's place of business for review.

8 D. A licensee shall give to the consumer a receipt or another
9 written record of the amount of any payment made in currency on any
10 consumer lender loan, either at the time the payment is made or within ten
11 days after the payment is made, or the licensee may reflect the payment on
12 the periodic statement sent to the consumer for the billing period that
13 includes the date of that payment.

14 E. A licensee shall mail periodic statements for consumer revolving
15 loans and home equity revolving loans to the consumer within fourteen days
16 after the end of each monthly billing cycle period. A billing cycle
17 period is considered monthly if the closing date of the billing cycle
18 period is the same day each month or does not vary by more than four days
19 from that day.

20 F. If the licensee fails to make the disclosure statement
21 prescribed in subsection B OF THIS SECTION, the ~~superintendent~~ DEPUTY
22 DIRECTOR shall assess the licensee a one-time penalty of up to ~~three~~
23 ~~hundred dollars~~ \$300 for every violation.

24 Sec. 158. Section 6-635, Arizona Revised Statutes, is amended to
25 read:

26 6-635. Other allowable fees; annual reporting

27 A. In addition to the finance charges authorized by section 6-632,
28 a licensee may contract for and receive, and collect finance charges on,
29 the following fees:

30 1. A delinquency charge in an amount equal to five ~~per cent~~ PERCENT
31 of the amount of any installment not paid in full within seven days after
32 its due date.

33 2. The actual costs of charges that are paid to a third party who
34 is not an employee of the licensee and that are incurred in making
35 consumer lender loans secured in whole or in part by real property,
36 including the charges for a preliminary title search, title examination
37 and report, title insurance premiums, property survey and appraisal fees.

38 3. Lawful fees for the acknowledging, filing and recording,
39 continuing or releasing in any public office of any instrument or
40 financing statement evidencing or perfecting a lien or security interest
41 in real or personal property securing a consumer lender loan or the
42 premiums paid for insurance in lieu of filing or recording that shall not
43 exceed the filing or recording fee.

1 4. A loan origination fee of not more than five ~~per cent~~ PERCENT of
2 a closed end consumer loan or the agreed credit limit of a consumer
3 revolving loan but in no event in an amount that is more than ~~one hundred~~
4 ~~fifty dollars~~ \$150. A licensee shall not charge a loan origination fee:

5 (a) For the refinancing of a closed end consumer loan or the
6 renegotiating of an agreed credit limit of a consumer revolving loan if
7 the refinancing or renegotiating occurs within one year of the collection
8 of a prior loan origination fee.

9 (b) If the licensee charges prepaid finance charges pursuant to
10 section 6-632, subsection E, paragraph 1.

11 5. Deferral fees authorized in section 6-634 for precomputed
12 consumer loans.

13 6. Insurance premiums as provided in section 6-636.

14 7. Court costs.

15 8. Reasonable attorney fees if the consumer lender loan is referred
16 for collection to an attorney other than a salaried employee of the
17 licensee.

18 9. Costs, expenses and fees authorized in section 33-813,
19 subsection B for reinstatement of a deed of trust encumbering real
20 property that secures a consumer lender loan.

21 10. Costs and expenses of exercising the power of sale in a deed of
22 trust encumbering real property that secures a consumer lender loan and
23 costs and expenses of a sale that are included in a credit bid or that are
24 applied from the proceeds of a trustee's sale pursuant to section 33-812,
25 including the payment of trustee fees and reasonable attorney fees
26 actually incurred.

27 11. Costs and expenses of retaking, holding, preparing for sale and
28 selling any personal property in accordance with title 47, chapter 9,
29 article 6.

30 B. If a licensee receives a check, draft, negotiable order of
31 withdrawal or similar instrument drawn on a depository institution that is
32 offered by a consumer in full or partial payment on a consumer lender loan
33 and the instrument is not paid or is dishonored by the depository
34 institution, the licensee may charge and collect from the consumer a
35 dishonored check service fee pursuant to section 44-6852.

36 C. In addition to the finance charges and fees provided in this
37 article, the licensee shall not directly or indirectly charge, contract
38 for or receive any further or other amount in connection with a consumer
39 lender loan.

40 D. In conjunction with the reporting requirements prescribed in
41 section 6-609, on or before October 1 each year, a licensee shall report
42 to the ~~superintendent~~ DEPUTY DIRECTOR the number of closed end consumer
43 loans and consumer revolving loans under ~~one thousand dollars~~ \$1,000 made
44 in the prior two years.

1 Sec. 159. Section 6-701, Arizona Revised Statutes, is amended to
2 read:

3 6-701. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Agency" means any business serving the public, which as part of
6 its services accepts money for and on behalf of a licensee.

7 2. "Branch office" means any office operated solely for the purpose
8 of accepting money and performing other services for a licensee.

9 3. "Creditor" means a person for whose benefit monies are being
10 collected and disbursed by a licensee.

11 4. "Debt management company" means a corporation, company, firm,
12 partnership, association or society, as well as a natural person, that for
13 compensation engages in the business of receiving money, or evidences
14 thereof, in this state or from a resident of this state as agent of a
15 debtor for the purpose of distributing the same to his creditors in
16 payment or partial payment of his obligations.

17 5. "Debtor" means a person from whom monies are being accepted for
18 disbursement to creditors.

19 6. "License" means a license issued under ~~the provisions of~~ this
20 chapter.

21 7. "Licensee" means a corporation, company, firm, partnership,
22 association or society, as well as a natural person, licensed by the
23 ~~superintendent~~ DEPUTY DIRECTOR to engage in the business of a debt
24 management company pursuant to ~~the provisions of~~ this chapter.

25 8. "Nonprofit religious, fraternal or cooperative organizations"
26 means religious, fraternal or cooperative organizations or entities whose
27 primary functions or purposes are not the provision of debt management
28 services.

29 Sec. 160. Section 6-703, Arizona Revised Statutes, is amended to
30 read:

31 6-703. License required

32 No person shall engage in the business for compensation of receiving
33 money as agent of a debtor for the purpose of distributing ~~the same~~ THAT
34 MONEY to ~~his~~ THE DEBTOR'S creditors in payment or partial payment of ~~his~~
35 THE DEBTOR'S obligations without first obtaining a license from the
36 ~~superintendent~~ DEPUTY DIRECTOR.

37 Sec. 161. Section 6-704, Arizona Revised Statutes, is amended to
38 read:

39 6-704. Application for license; bonds; contract

40 A. An application for a license shall be in writing, under oath and
41 in a form prescribed by the ~~superintendent~~ DEPUTY DIRECTOR, and shall
42 contain the name and address, both of the residence and place of business,
43 of the applicant and if the applicant is an association or society, of
44 every member thereof, and if a corporation or partnership, of every
45 officer and director thereof and a copy of the articles of incorporation,

1 and the specific address or addresses at which the business is to be
 2 conducted. The ~~superintendent~~ DEPUTY DIRECTOR may require as part of the
 3 application a credit report and such other information as ~~he~~ THE DEPUTY
 4 DIRECTOR deems necessary.

5 B. At the time of filing the application the applicant shall
 6 furnish a cash or surety bond payable to the people of the state in the
 7 sum of not less than ~~five thousand dollars~~ \$5,000 for licensees disbursing
 8 less than ~~one hundred thousand dollars~~ \$100,000 each year and for the
 9 following amounts based on the amounts disbursed by the licensee in the
 10 previous license year:

<u>Yearly disbursements</u>	<u>Amount of bond</u>
\$100,000 - \$250,000	\$10,000.00
\$250,001 - \$500,000	\$15,000.00
\$500,001 - \$1,000,000	\$20,000.00
More than \$1,000,000	\$25,000.00

16 C. Each bond prescribed in subsection B OF THIS SECTION shall be
 17 conditioned ~~upon~~ ON the faithful accounting of all monies collected ~~upon~~
 18 ON accounts entrusted to such person engaged in debt management, and their
 19 employees and agents, and ~~upon~~ ON the faithful observance of the
 20 provisions of this article and the contract between the licensee and the
 21 debtor. The bond shall be approved by the ~~superintendent~~ DEPUTY DIRECTOR
 22 and filed in the office of the ~~superintendent~~ DEPUTY DIRECTOR. The bond
 23 shall remain in force and effect until the surety is released from
 24 liability by the ~~superintendent~~ DEPUTY DIRECTOR, or until the surety bond
 25 is canceled by the surety. The surety may cancel the surety bond and be
 26 relieved of further liability by delivering thirty days' written notice to
 27 the ~~superintendent~~ DEPUTY DIRECTOR. The cancellation does not affect any
 28 liability incurred or accrued prior to the termination of the thirty-day
 29 period. Any person who suffers any loss or damage by reason of the
 30 neglect or default of a licensee or his employees or agents or by the
 31 licensee's violation of any of the provisions of this article or of the
 32 contract between ~~him~~ THE LICENSEE and the debtor shall have a right of
 33 action against the licensee and the sureties on his bond. ~~No~~ AN action
 34 may NOT be brought on the bond by any person after the expiration of two
 35 years ~~from~~ AFTER the time when the act or default occurred. When an
 36 action is commenced on the bond of a licensee, the ~~superintendent~~ DEPUTY
 37 DIRECTOR may require the filing of a new bond, and immediately ~~upon~~ ON the
 38 recovery of any action on the bond the licensee shall file a new bond.
 39 Failure to file a new bond within ten days ~~of~~ AFTER the recovery on a
 40 bond, or within ten days after notification that a bond is required,
 41 constitutes sufficient grounds for the suspension or revocation of a
 42 license.

D. In addition to the bond provided in subsection B OF THIS SECTION, the ~~superintendent~~ DEPUTY DIRECTOR may require an applicant to obtain an adequate fidelity bond for each officer, employee, or agent having access to funds collected by or for the licensee or having authority to draw against such funds. The fidelity bond required to be filed in accordance with this section shall remain in force and effect until the surety is released from liability by the ~~superintendent~~ DEPUTY DIRECTOR, or until the bond is canceled by the surety. The surety may cancel the bond and be relieved of further liability by delivering thirty days' written notice to the ~~superintendent~~ DEPUTY DIRECTOR. The cancellation shall not affect any liability incurred or accrued prior to the termination of the thirty-day period.

E. Each applicant for a license shall file with his application a blank copy of the contract intended to be used between the licensee and the debtor and shall file with the ~~superintendent~~ DEPUTY DIRECTOR a copy of all changes and amendments thereto.

Sec. 162. Section 6-705, Arizona Revised Statutes, is amended to read:

6-705. Branch offices and agencies

A licensee may establish branch offices or agencies only if it expressly assumes responsibility for the acts of any person accepting money in its name or on its behalf at such places of business. An application for a branch office or agency license shall be in writing, under oath, in a form prescribed by the ~~superintendent~~ DEPUTY DIRECTOR, and shall contain the name and address of the principal place of business of the licensee and a statement that it is a branch office.

Sec. 163. Section 6-706, Arizona Revised Statutes, is amended to read:

6-706. Fees

A. An applicant at the time of filing an application for a license under the terms of this article shall pay to the ~~superintendent~~ DEPUTY DIRECTOR the fee prescribed in section 6-126. The fee for an agency license is the same as that prescribed for a branch.

B. Prior to June 15 OF EACH YEAR, each licensee may obtain a renewal of each license without investigation by payment of the fee prescribed in section 6-126. The fee for renewal of an agency license is the same as that prescribed for a branch.

Sec. 164. Section 6-707, Arizona Revised Statutes, is amended to read:

6-707. Issuance of license; display; cancellation on termination

A. ~~Upon~~ ON the filing of the application and the payment of the fees and the approval of the bond, or bonds, the ~~superintendent~~ DEPUTY DIRECTOR shall investigate the facts, and if ~~he~~ THE DEPUTY DIRECTOR finds that the financial responsibility, experience, character and general

1 fitness of the applicant are such as to command the confidence of the
2 community to warrant belief that the business will be operated fairly and
3 honestly and within the purposes of this article, the ~~superintendent~~
4 ~~DEPUTY DIRECTOR~~ shall issue the applicant a license to do business as a
5 debt management company.

6 B. The license shall be kept conspicuously posted in the business
7 office of the licensee. The license shall not be transferable or
8 assignable.

9 C. Licenses shall expire on June 30 following the date of the
10 issuance unless sooner surrendered, revoked or suspended, but may be
11 renewed by filing an application with the ~~superintendent~~ ~~DEPUTY DIRECTOR~~
12 on or before June 15 each year. The application for renewal shall be in
13 the form prescribed by the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ and shall be
14 accompanied by the fee prescribed in section 6-126. A separate
15 application shall be made for each initial license of a principal place of
16 business, agency or branch office.

17 Sec. 165. Section 6-708, Arizona Revised Statutes, is amended to
18 read:

19 6-708. Denial; revocation or suspension of license

20 A. If the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ finds that the applicant
21 fails to meet any of the conditions set forth in this article, ~~he~~ ~~THE~~
22 ~~DEPUTY DIRECTOR~~ shall deny the application for a license. If an
23 application is denied or withdrawn, the ~~superintendent~~ ~~DEPUTY DIRECTOR~~
24 shall retain the investigation fee to cover the costs of investigating the
25 applicant and return the license fee to the applicant.

26 B. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may revoke or suspend any
27 license issued under this article for the following causes:

28 1. Conviction in any state of a felony or any crime involving
29 breach of trust or dishonesty.

30 2. Violating any of the provisions of this article or rules of the
31 department.

32 3. Fraud or deceit in procuring the issuance of the license.

33 4. Insolvency, filing in bankruptcy, receivership, or assigning for
34 the benefit of creditors by any licensee or applicant for a license.

35 5. Failure to pay the annual license fee.

36 6. Entry of an order against the licensee by an administrative
37 agency of this state, the federal government or any other state or
38 territory of the United States that involves fraud, deceit or
39 misrepresentation by the licensee and the facts relating to the order
40 indicate that it would be contrary to the interests of the public to
41 ~~permit~~ ~~ALLOW~~ that person to be licensed or to control or manage a
42 licensee.

1 Sec. 166. Section 6-709, Arizona Revised Statutes, is amended to
2 read:

3 6-709. Requirements

4 A. A licensee at all times shall maintain minimum liquid assets of
5 at least ~~two thousand five hundred dollars~~ \$2,500 in excess of ~~his~~ THE
6 LICENSEE'S business liabilities and of ~~his~~ THE LICENSEE'S liabilities on
7 account of monies received in the business of a debt management
8 company. The ~~superintendent~~ DEPUTY DIRECTOR may determine by general rule
9 what assets are liquid assets within the meaning of this section and may
10 determine by specific ruling or demand that a particular asset is or is
11 not a liquid asset within the meaning of this section.

12 B. A licensee shall make a written contract between ~~himself~~ THE
13 LICENSEE and a debtor and immediately furnish the debtor with a copy of
14 the completed contract. The licensee shall concurrently furnish the
15 debtor with a list of the creditors, as of the time of the signing of the
16 contract, with whom ~~he~~ THE LICENSEE agrees to manage the debtor's
17 obligations. All contracts shall contain a provision allowing the
18 termination of the contract by either party at any time. Such termination
19 shall be without penalty, except that the licensee shall retain the
20 retainer fee if the termination is by the debtor. Termination shall only
21 be ~~upon~~ ON a five-day notice to the other party.

22 C. The basis of fees charged to a debtor by a licensee for assuming
23 the responsibility of debt management shall be agreed ~~upon~~ ON in advance
24 and clearly stated in the contract. The fees charged to a debtor shall
25 not exceed:

26 1. A retainer fee of ~~thirty-nine dollars~~ \$39.

27 2. Three-quarters of one ~~per cent~~ PERCENT of the total indebtedness
28 or ~~fifty dollars~~ \$50, whichever is less, may be charged monthly and shall
29 be due and payable at the time such deposited funds are remitted to the
30 creditors. Unusual and necessary "out of pocket" expense items by the
31 licensee may be charged to the debtor's account if the incurrence of the
32 expense has advance written approval of the debtor and ~~superintendent~~
33 DEPUTY DIRECTOR.

34 D. The total debt shall be calculated not less often than annually
35 and the charges adjusted based on the new total debt. Any fees charged by
36 the licensee shall not be based on a total debt which includes a mortgage
37 on the residence or a rent payment as a liability or a debt.

38 E. A licensee shall not be entitled to any fee until ~~he~~ THE
39 LICENSEE has given notice of the debt management contract to all creditors
40 listed in the application form.

41 F. A licensee shall make remittances to creditors within seven days
42 after receipt of any funds, unless the reasonable payment of one or more
43 of the debtor's obligations requires that such funds be held for a longer
44 period so as to accumulate a certain sum.

1 G. A licensee shall ~~upon~~ ON request furnish the debtor with a
2 written statement of ~~his~~ THE DEBTOR'S account each month or a verbal
3 accounting at any time the debtor may request it during normal business
4 hours.

5 H. A licensee shall, if a compromise of a debt is arranged by the
6 licensee with any one or more creditors, allow the debtor the full benefit
7 of that compromise.

8 I. A licensee shall maintain a trustee checking account in a bank
9 in this state for the benefit of debtors in which all payments received
10 from the debtors shall be deposited and in which all payments shall remain
11 until disbursed by the licensee in accordance with the terms of the
12 contract.

13 J. A licensee shall keep and use in ~~his~~ THE LICENSEE'S business
14 books, accounts and records ~~which~~ THAT will enable the ~~superintendent~~
15 DEPUTY DIRECTOR to determine whether such licensee is complying with ~~the~~
16 ~~provisions of~~ this article and with the rules of the department. Each
17 licensee shall preserve such books, accounts and records for at least
18 three years after making the final entry on any transaction recorded in
19 the books, accounts or records.

20 K. If a licensee desires to change ~~his~~ THE LICENSEE'S place of
21 business or the name of the company under which the license is issued, ~~he~~
22 THE LICENSEE shall give written notice of the change within fifteen days
23 to the ~~superintendent~~ DEPUTY DIRECTOR and shall submit the license to the
24 ~~superintendent~~ DEPUTY DIRECTOR who shall enter an order ~~permitting~~
25 ~~ALLOWING~~ the change and who shall amend the license accordingly.

26 L. A licensee shall, within fifteen days after termination of a
27 debt management company, a branch office or an agency, inform the
28 ~~superintendent~~ DEPUTY DIRECTOR of the name and address of such company,
29 branch office or agency and shall surrender the license to the
30 ~~superintendent~~ DEPUTY DIRECTOR.

31 M. A licensee shall annually on or before August 15 file a report
32 with the ~~superintendent~~ DEPUTY DIRECTOR giving such relevant information
33 as the ~~superintendent~~ DEPUTY DIRECTOR may require concerning the business
34 and operations of each place of business during the preceding year
35 beginning July 1 and ending June 30. The ~~superintendent~~ DEPUTY DIRECTOR
36 may assess a penalty of ~~five dollars~~ \$5 for each day the licensee fails to
37 file such report.

38 Sec. 167. Section 6-710, Arizona Revised Statutes, is amended to
39 read:

40 6-710. Prohibitions

41 It is unlawful for a licensee to:

42 1. Accept an account unless it appears on the basis of a reasonable
43 budget analysis, reduced to writing, that the debtor can reasonably meet
44 the payments agreed ~~upon~~ ON by the licensee and the debtor and that the
45 agreed ~~upon~~ ON payment is sufficient to pay the service charges to the

1 licensee and the full amount of the proposed payments to creditors as
2 agreed ~~upon~~ ON by the licensee and debtor. The licensee shall retain the
3 written budget analysis for at least three years after the termination of
4 the contract in the files of the licensee. The licensee shall make the
5 analysis available for inspection by the ~~superintendent~~ DEPUTY DIRECTOR,
6 except that such a budget analysis is not deemed unreasonable if facts
7 ~~which~~ THAT would prove it to be such were not furnished to the licensee by
8 the debtor ~~upon~~ ON request.

9 2. Unless agreed ~~upon~~ ON by the debtor, attempt to alter any
10 scheduled payment listed on the original application from the debtor to
11 any figure other than the amount agreed ~~upon~~ ON by the debtor and
12 creditors in those cases when a contractual installment exists.
13 Acceptance of the proposed payment by the creditor shall not alter any
14 rights the creditor has under ~~his~~ THE CREDITOR'S original contract with
15 the debtor.

16 3. Purchase from a creditor any obligation of a debtor.

17 4. Operate as a collection agent and as a licensee as to the same
18 debtor's account.

19 5. Execute any contract or agreement to be signed by the debtor
20 unless the contract or agreement is fully and completely filled in.

21 6. Receive or charge any fee in the form of a promissory note or
22 other promise to pay or receive or accept any mortgage or other security
23 for any fee either as to real or personal property.

24 7. Pay any bonus or other consideration to any person for the
25 referral of a debtor to ~~his~~ THE PERSON'S business, nor accept or receive
26 any bonus, commission or other consideration for referring any debtor to
27 any person for any reason.

28 8. Advertise ~~his~~ THE LICENSEE'S services, display, distribute,
29 broadcast or televise or ~~permit~~ ALLOW to be displayed, advertised,
30 distributed, broadcasted or televised ~~his~~ THE LICENSEE'S services in any
31 manner whatsoever in which any false, misleading or deceptive statement or
32 representation IS MADE with regard to the services to be performed by the
33 licensee or the charges to be made for those services.

34 Sec. 168. Section 6-714, Arizona Revised Statutes, is amended to
35 read:

36 6-714. Advertising

37 The rules and regulations of the ~~superintendent~~ DEPUTY DIRECTOR
38 shall include standards and criteria for proper advertising and may
39 include specific prohibitions as to improper advertising by a licensee.

40 Sec. 169. Section 6-802, Arizona Revised Statutes, is amended to
41 read:

42 6-802. Acknowledgment of report of examination; penalty

43 A. The ~~superintendent~~ DEPUTY DIRECTOR shall examine or cause to be
44 examined each escrow agent as prescribed by section 6-122. The
45 ~~superintendent~~ DEPUTY DIRECTOR shall forward a report of the examination

1 to the board of directors of the escrow agent within thirty days after the
2 report is completed. Within thirty days after the report is received, the
3 directors shall meet to consider its contents. Within ten days after the
4 directors' meeting, the chairman of the board of directors shall notify
5 the ~~superintendent~~ DEPUTY DIRECTOR of its meeting, shall acknowledge that
6 each director has reviewed the report and shall describe the board's
7 responses to the recommendations of the examiners, including any remedies
8 for violations of this title. In each case, the ~~superintendent~~ DEPUTY
9 DIRECTOR may extend the time period in this subsection for a period not to
10 exceed one hundred twenty days applicable to actions by the board of
11 directors and its chairman.

12 B. Unless excused by the ~~superintendent~~ DEPUTY DIRECTOR for cause
13 before or after the date the response is due, an escrow agent who fails to
14 file a timely response to the report of examination shall pay the
15 department up to ~~one hundred dollars~~ \$100 for each day of delinquency, as
16 assessed by the department.

17 Sec. 170. Section 6-813, Arizona Revised Statutes, is amended to
18 read:

19 6-813. License of agent; nontransferable; posting

20 A. A person, except those exempt under section 6-811, shall not
21 engage in or carry on, or hold himself out as engaging in or carrying on,
22 the escrow business or act in the capacity of an escrow agent in this
23 state without first obtaining a license.

24 B. An escrow agent's license is not transferable or assignable and
25 control of a license shall not be acquired through stock purchase or other
26 devices without the prior written consent of the ~~superintendent~~ DEPUTY
27 DIRECTOR.

28 C. A license shall be kept conspicuously posted in all licensed
29 places of business of the licensee.

30 Sec. 171. Section 6-814, Arizona Revised Statutes, is amended to
31 read:

32 6-814. Procedure for licensing; surety bond

33 A. Every escrow agent before engaging in the escrow business shall
34 file with the ~~superintendent~~ DEPUTY DIRECTOR an application for a license,
35 in writing, verified by oath and in the form prescribed by the
36 ~~superintendent~~ DEPUTY DIRECTOR. It shall state the location of the
37 principal office and all branch offices in this state, the name or style
38 of doing business, the names and residence and business addresses of all
39 persons holding an interest in the business as principals, partners,
40 officers, trustees and directors, specifying as to each his capacity and
41 title, the general plan and character of operation and the length of time
42 they have been engaged in the escrow business.

43 B. The ~~superintendent~~ DEPUTY DIRECTOR may require additional
44 information ~~he~~ THE DEPUTY DIRECTOR considers necessary in connection with
45 any application for a license under this article.

1 C. At the time of filing an application for a license and at all
2 times while holding the license, the applicant shall deposit and maintain
3 with the ~~superintendent~~ DEPUTY DIRECTOR a corporate surety bond in the
4 amount of ~~one hundred thousand dollars~~ \$100,000 payable to any person
5 injured by the failure of the licensee to comply with the requirements of
6 this chapter or for the wrongful act, default, fraud or misrepresentation
7 of the licensee or ~~his~~ THE LICENSEE'S employees and to this state for the
8 benefit of the person injured and executed by a surety company qualified
9 to do business in this state.

10 D. Notwithstanding section 35-155, in lieu of the total corporate
11 surety bond required by this section, an applicant or licensee may deposit
12 with the ~~superintendent~~ DEPUTY DIRECTOR a deposit in the form of cash or
13 alternatives to cash in the amount of ~~one hundred thousand dollars~~
14 \$100,000. The ~~superintendent~~ DEPUTY DIRECTOR may accept as an alternative
15 to cash any of the following:

16 1. Certificates of deposit or investment certificates ~~which~~ THAT
17 are payable or assigned to the state treasurer, issued by banks doing
18 business in this state and fully insured by the federal deposit insurance
19 corporation or any successor institution.

20 2. Certificates of deposit, investment certificates or share
21 accounts ~~which~~ THAT are payable or assigned to the state treasurer, issued
22 by a savings and loan association doing business in this state and fully
23 insured by the federal deposit insurance corporation or any successor
24 institution.

25 3. Certificates of deposit, investment certificates or share
26 accounts ~~which~~ THAT are payable or assigned to the state treasurer, issued
27 by a credit union doing business in this state and fully insured by the
28 national credit union administration or any successor institution.

29 E. The ~~superintendent~~ DEPUTY DIRECTOR shall deposit the cash or
30 alternatives to cash received under this section with the state
31 treasurer. The state treasurer shall hold the cash or alternatives to
32 cash in the name of this state to guarantee the faithful performance of
33 all legal obligations of the person required to post the bond. The person
34 is entitled to receive any accrued interest earned from the alternatives
35 to cash. The state treasurer may impose a fee to reimburse the state
36 treasurer for administrative expenses. The fee shall not exceed ~~ten~~
37 ~~dollars~~ \$10 for each cash or alternatives to cash deposit and shall be
38 paid by the licensee. The state treasurer may prescribe rules relating to
39 the terms and conditions of each type of security provided by this
40 section.

41 F. A deposit of cash or an assignment of an alternative to cash
42 shall contain an affirmative statement by the assignor that the monies
43 assigned are not derived from any escrow deposit. In addition to such
44 other terms and conditions as the ~~superintendent~~ DEPUTY DIRECTOR
45 prescribes by rule, the principal amount of the deposit shall be released

1 only on written authorization of the ~~superintendent~~ DEPUTY DIRECTOR or on
2 the order of a court of competent jurisdiction, but in any event the
3 principal amount of the deposit shall not be released before the
4 expiration of three years ~~from~~ AFTER the date of substitution of a bond
5 for a cash alternative, the surrender of the license pursuant to section
6 6-838 or the revocation or expiration of the license, whichever occurs
7 first.

8 G. No suit may be commenced on a bond or cash or alternative to
9 cash after the expiration of three years ~~following~~ AFTER the act or acts
10 on which the suit is based, except that time for purposes of claims for
11 fraud shall be measured as provided in section 12-543, paragraph 3. If an
12 injured person commences an action for a judgement to collect from the
13 bond or cash alternative deposited in lieu of a bond, the injured person
14 shall notify the ~~superintendent~~ DEPUTY DIRECTOR of the action in writing
15 at the time of commencement of the action and shall provide copies of all
16 documents relating to the action to the ~~superintendent upon~~ DEPUTY
17 DIRECTOR ON request.

18 H. The ~~superintendent~~ DEPUTY DIRECTOR shall examine the application
19 for a license and if ~~he~~ THE DEPUTY DIRECTOR is satisfied that the
20 applicant should not be refused a license under section 6-817, ~~he~~ THE
21 DEPUTY DIRECTOR shall issue the license.

22 Sec. 172. Section 6-815, Arizona Revised Statutes, is amended to
23 read:

24 6-815. Renewal of license

25 A licensee shall make application for renewal as prescribed by the
26 ~~superintendent~~ DEPUTY DIRECTOR and pay the renewal fee prescribed in
27 section 6-126 not later than September 30 of each year. For each day
28 after September 30 that the renewal application is not received by the
29 ~~superintendent~~ DEPUTY DIRECTOR the applicant shall pay ~~twenty-five dollars~~
30 \$25 in addition to the fee prescribed by section 6-126. Licenses for
31 which renewal applications are not received by the ~~superintendent~~ DEPUTY
32 DIRECTOR by September 30 are suspended, and the licensee shall not act as
33 an escrow agent until the license is renewed or a new license is issued
34 pursuant to this article. A license of a licensee that has not filed its
35 renewal application and paid the renewal fee by October 31 expires. A
36 license shall not be granted to the holder of an expired license except as
37 provided in this article for the issuance of an original license.

38 Sec. 173. Section 6-816, Arizona Revised Statutes, is amended to
39 read:

40 6-816. Fees

41 A. Each application for a new license or a renewal license shall be
42 accompanied by the fee prescribed in section 6-126.

43 B. For each day a report required by section 6-832 is not received
44 by the department, a licensee shall pay a fee of ~~twenty-five dollars~~ \$25.

1 The ~~superintendent~~ DEPUTY DIRECTOR may excuse the fee for good cause if
2 the cause is presented before the due date of the report.

3 Sec. 174. Section 6-817, Arizona Revised Statutes, is amended to
4 read:

5 6-817. Refusal to license; suspension; revocation

6 A. The ~~superintendent may upon~~ DEPUTY DIRECTOR ON investigation MAY
7 refuse to license any applicant, or may suspend or revoke any license
8 pursuant to title 41, chapter 6, article 10 by entering an order to that
9 effect, together with findings in respect to the order and by notifying
10 the applicant or escrow agent either personally or by certified mail,
11 return receipt requested sent to the agent's stated address, ~~upon~~ ON the
12 determination by the ~~superintendent~~ DEPUTY DIRECTOR that the applicant or
13 escrow agent:

14 1. Is unable to pay debts as they fall due in the regular course of
15 business.

16 2. Has not conducted the applicant's or agent's business in
17 accordance with law or has violated this chapter or the rules relating to
18 this chapter.

19 3. Is in such financial condition that the applicant or agent
20 cannot continue in business with safety to the applicant's or agent's
21 customers or the public.

22 4. Has been found guilty of fraud in a legal or administrative
23 proceeding in this jurisdiction or any other jurisdiction.

24 5. Has made any material misrepresentations or false statements to,
25 or concealed any essential or material fact from, any person in the course
26 of the escrow business.

27 6. Has knowingly made or caused to be made to the ~~superintendent~~
28 DEPUTY DIRECTOR any false representation of a material fact, or has
29 suppressed or withheld from the ~~superintendent~~ DEPUTY DIRECTOR any
30 information ~~which~~ THAT the applicant or agent possesses, and ~~which~~ THAT if
31 submitted by the applicant or agent would have caused the issuance of a
32 license to be withheld or be grounds for the suspension or revocation of a
33 license.

34 7. Has failed to account properly for escrow property as required
35 by the terms of the escrow.

36 8. Refuses to ~~permit~~ ALLOW an examination or investigation by the
37 ~~superintendent~~ DEPUTY DIRECTOR of the applicant's or agent's books and
38 affairs, or has refused or failed within a reasonable time to furnish any
39 information or make any report required by the ~~superintendent~~ DEPUTY
40 DIRECTOR under this chapter or rules relating to this chapter.

41 9. Has been convicted of any criminal offense involving moral
42 turpitude within the last fifteen years.

43 10. Does not have the financial resources, experience, character or
44 competence to adequately serve the public or to warrant the belief that

1 the business will be operated lawfully, honestly, fairly and efficiently
2 pursuant to this chapter.

3 11. Has disbursed monies in violation of escrow instructions.

4 12. Has failed to maintain an adequate internal control structure as
5 prescribed by section 6-841.

6 13. Has caused or allowed any overdraft or returned check for
7 insufficient funds on any of the escrow agent's trust or fiduciary
8 accounts.

9 14. Has failed to authorize each financial institution with which it
10 has deposited trust or fiduciary funds to notify the ~~superintendent~~ DEPUTY
11 DIRECTOR of any overdraft or check returned for insufficient funds on any
12 trust or fiduciary accounts of the escrow agent.

13 B. It is sufficient cause for refusal, suspension or revocation of
14 a license, in case of a partnership, a corporation or any other group or
15 association, if any member of such persons, or officer or director
16 thereof, has been guilty of any act or omission ~~which~~ THAT would be cause
17 for refusing a license or suspending or revoking the license of an
18 individual agent.

19 Sec. 175. Section 6-832, Arizona Revised Statutes, is amended to
20 read:

21 6-832. Annual audit; report

22 A. The records of each escrow agent shall be audited at least once
23 each fiscal year by a certified public accountant. The audit shall
24 include an audit of the escrow, account servicing and subdivision trust
25 activities of the escrow agent and shall follow generally accepted
26 accounting principles. A copy of the audit report shall be filed with the
27 ~~superintendent~~ DEPUTY DIRECTOR not more than one hundred twenty days after
28 the end of the escrow agent's fiscal year. The audit requirement may be
29 satisfied by filing a copy of the audit report, which is prepared by a
30 certified public accountant, of the parent of the escrow agent including
31 an audit of the escrow, account servicing and subdivision trust activities
32 of the escrow agent within the prescribed time period. The ~~superintendent~~
33 DEPUTY DIRECTOR may extend the time period in this subsection up to ninety
34 days for good cause shown.

35 B. At the time required by the ~~superintendent~~ DEPUTY DIRECTOR,
36 every escrow agent shall make and file in the office of the ~~superintendent~~
37 DEPUTY DIRECTOR a true and correct report, in the form and containing the
38 data the ~~superintendent~~ DEPUTY DIRECTOR may require, of the business of
39 the agent, including the agent's escrow, account servicing and subdivision
40 trust activities. Every agent shall reply promptly in writing to an
41 inquiry from the ~~superintendent~~ DEPUTY DIRECTOR concerning the escrow
42 agent's business.

43 C. The scope of the audit shall include consideration of the escrow
44 agent's internal control structure AS DEFINED IN SECTION 6-841 in
45 accordance with generally accepted auditing standards. A separate report

shall be submitted to the ~~superintendent~~ DEPUTY DIRECTOR if reportable conditions are identified that indicate significant deficiencies in the design or operation of the internal control structure of the escrow agent ~~which~~ THAT would adversely affect the agent's ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements. If reportable conditions are identified, the report on reportable conditions shall recommend specific measures to improve the escrow agent's internal control structure.

Sec. 176. Section 6-833, Arizona Revised Statutes, is amended to read:

6-833. Seizure of property of impaired escrow agent

A. When the ~~superintendent~~ DEPUTY DIRECTOR ascertains by examination or otherwise that the assets or capital of any agent are impaired, or that the agent's affairs are in an unsafe condition, ~~he~~ THE DEPUTY DIRECTOR may immediately take possession of all the property, business and assets of the agent ~~which~~ THAT are located in this state and retain possession of them pending the further proceedings specified in this section. If the board of directors or any officer or person in charge of the offices of ~~such~~ THE agent refuses to ~~permit~~ ALLOW the ~~superintendent~~ DEPUTY DIRECTOR to take possession as prescribed by this subsection, the ~~superintendent~~ DEPUTY DIRECTOR shall communicate such fact to the attorney general, whereupon the attorney general shall immediately institute such proceedings as may be necessary to place the ~~superintendent~~ DEPUTY DIRECTOR in immediate possession of the property of the agent. The ~~superintendent~~ ~~thereupon~~ DEPUTY DIRECTOR shall make or have made an inventory of the assets and known liabilities of the agent. The ~~superintendent~~ DEPUTY DIRECTOR shall file one copy of the inventory in ~~his~~ THE DEPUTY DIRECTOR'S office and one copy in the office of the clerk of the superior court of the county in which the principal office of the agent is located. The clerk of the superior court shall mail one copy to each stockholder of the agent at ~~his~~ EACH STOCKHOLDER'S last known address, if by the exercise of reasonable diligence it can be determined. The clerk of the court with whom the copy of the inventory is filed shall file it as any other case or proceeding pending in the court.

B. The officers, directors or stockholders of the agent may have sixty days ~~from~~ AFTER the date ~~when~~ the ~~superintendent~~ DEPUTY DIRECTOR takes possession of the property, business and assets to make good any deficit ~~which~~ THAT may exist or to remedy the unsafe condition of its affairs. At the expiration of this time, if the deficiency in assets or capital has not been made good or the unsafe condition remedied, the ~~superintendent~~ DEPUTY DIRECTOR may apply to the court to be appointed receiver and proceed to liquidate the assets of the agent ~~which~~ THAT are located in this state in the same manner as provided by law for liquidation of a private corporation in receivership. The inventory made by the ~~superintendent~~ DEPUTY DIRECTOR and all claims filed by creditors

1 shall be open at all reasonable times for inspection and any action taken
2 by the receiver ~~upon~~ ON any of the claims shall be subject to the approval
3 of the court before whom the cause is pending. The expenses of the
4 receiver and compensation of counsel, as well as expenditures required in
5 the liquidation proceedings, shall be fixed by the ~~superintendent~~ DEPUTY
6 DIRECTOR, subject to the approval of the court, and ~~upon~~ ON certification
7 of the ~~superintendent~~ DEPUTY DIRECTOR shall be paid out of the funds in
8 ~~his~~ THE DEPUTY DIRECTOR'S hands as ~~such~~ receiver.

9 Sec. 177. Section 6-837, Arizona Revised Statutes, is amended to
10 read:

11 6-837. Duty of escrow agent to produce escrow records for
12 inspection; violation; classification

13 A. Any escrow agent shall produce for inspection any escrow records
14 concerning the assets, existence, condition, management and administration
15 and the names of the parties, including any or all beneficiaries, of any
16 escrow of which ~~he or she~~ THE PERSON is the escrow agent to any peace
17 officer or local, state or federal law enforcement agency, provided such
18 person requesting information signs and submits a sworn statement to the
19 escrow agent that the request is made in the lawful performance of such
20 person's duties. The peace officer or local, state or federal law
21 enforcement agency shall be prohibited from using or releasing said
22 information except in the proper performance of ~~his or her~~ THE PERSON'S
23 duties.

24 B. Any escrow agent shall produce for inspection required by law
25 any escrow records of any escrow of which he or she is the escrow agent to
26 the ~~superintendent~~ DEPUTY DIRECTOR or to any state or federal
27 administrative agency lawfully requiring such disclosure. The
28 ~~superintendent~~ DEPUTY DIRECTOR or any state or federal administrative
29 agency shall be prohibited from using or releasing said information except
30 in the proper performance of ~~his or her~~ THE DEPUTY DIRECTOR'S OR AGENCY'S
31 duties.

32 C. Any person who knowingly fails to produce records pursuant to
33 this section or who obtains information under subsection A or B OF THIS
34 SECTION and is prohibited from releasing such information but does release
35 such information is guilty of a class 2 misdemeanor.

36 Sec. 178. Section 6-838, Arizona Revised Statutes, is amended to
37 read:

38 6-838. Surrender of license

39 A licensee that desires to surrender its license shall file with the
40 ~~superintendent~~ DEPUTY DIRECTOR a certified copy of the resolution of its
41 board of directors or a verified statement of intent signifying this
42 desire, and thereafter shall not accept additional escrow business. ~~upon~~
43 ON receipt of the resolution or statement of intent, the ~~superintendent~~
44 DEPUTY DIRECTOR shall make an investigation, and if ~~he~~ THE DEPUTY DIRECTOR
45 determines that the licensee has been discharged from all duties ~~which~~

1 THAT it has undertaken as an escrow agent, ~~he~~ THE DEPUTY DIRECTOR shall
2 issue an order to the licensee certifying that it is no longer authorized
3 to exercise the powers of an escrow agent and the licensee shall
4 immediately surrender its license.

5 Sec. 179. Section 6-841.01, Arizona Revised Statutes, is amended to
6 read:

7 6-841.01. Fiduciary duty; notice of returned check

8 A. An escrow agent is the trustee of all monies received or
9 collected and held in escrow. An agent shall not knowingly or negligently
10 commingle trust monies with the escrow agent's own monies or with monies
11 held in any other capacity. Every escrow agent and every officer,
12 director and employee of an escrow agent who has actual knowledge of fraud
13 or dishonesty in the application of escrow monies, owes a fiduciary duty
14 as trustee to the owner of the monies held in escrow.

15 B. An escrow agent shall notify the ~~superintendent~~ DEPUTY DIRECTOR
16 of any returned check for insufficient funds or overdraft on any of the
17 escrow agent's trust or fiduciary accounts. The ~~superintendent~~ DEPUTY
18 DIRECTOR may revoke, suspend or refuse to renew the escrow agent's license
19 for failure to comply with this subsection.

20 Sec. 180. Section 6-841.03, Arizona Revised Statutes, is amended to
21 read:

22 6-841.03. Notice of uninsured monies; rules

23 When an escrow is established and not later than three business days
24 after an escrow agent receives any escrow monies, the escrow agent shall
25 provide a complete and accurate disclosure to each buyer and seller of a
26 residential dwelling as defined in section 6-841.02 that monies deposited
27 in an escrow account are not insured against loss from fraud or theft by
28 this state or the United States government. The ~~superintendent~~ DEPUTY
29 DIRECTOR by rule may prescribe requirements for the disclosure form.

30 Sec. 181. Section 6-846.01, Arizona Revised Statutes, is amended to
31 read:

32 6-846.01. Filing of escrow rates

33 A. Every escrow agent who is required to make escrow rates under
34 section 6-846 shall file with the ~~superintendent his~~ DEPUTY DIRECTOR THE
35 ESCROW AGENT'S schedules of fees, every manual of classifications, the
36 rules and plans pertaining to the manual and every modification of any of
37 the foregoing. The filing shall state the proposed effective date and
38 shall indicate the character and extent of the contemplated service.

39 B. The ~~superintendent~~ DEPUTY DIRECTOR shall review the filings as
40 necessary to carry out the provisions of this article.

41 C. Subject to subsection E of this section, each filing does not
42 become effective until fifteen days after the date of filing. On written
43 notice to the escrow agent making the filing, the ~~superintendent~~ DEPUTY
44 DIRECTOR may extend the waiting period for up to an additional fifteen
45 days. The waiting period may be extended further with the consent of the

1 escrow agent making the filing. On written application by the escrow
2 agent making the filing, the ~~superintendent~~ DEPUTY DIRECTOR may authorize
3 part or all of a filing to become effective before the expiration of the
4 waiting period or any extension.

5 D. Except in the case of rates filed under subsection E of this
6 section, a filing that has become effective is deemed to meet the
7 requirements of this article.

8 E. If the ~~superintendent~~ DEPUTY DIRECTOR finds that a rate for a
9 particular kind or class of escrow service cannot practicably be filed
10 before it is used or a kind of escrow service, by reason of rarity or
11 peculiar circumstances, does not lend itself to advance determination and
12 filing of rates, the ~~superintendent~~ DEPUTY DIRECTOR pursuant to rules
13 adopted by the ~~superintendent~~ DEPUTY DIRECTOR may ~~permit~~ ALLOW the rate to
14 be used without a previous filing and waiting period.

15 Sec. 182. Section 6-846.03, Arizona Revised Statutes, is amended to
16 read:

17 6-846.03. Disapproval of escrow filings

18 A. Before issuing an order of disapproval and not less than twenty
19 days after written notice, the ~~superintendent~~ DEPUTY DIRECTOR shall hold a
20 hearing on an escrow rate filing. The notice shall specify in reasonable
21 detail the matters to be considered at the hearing and shall be sent to
22 every escrow agent who made the filing. If after the hearing the
23 ~~superintendent~~ DEPUTY DIRECTOR finds that all or part of the filing does
24 not satisfy ~~the provisions of~~ this article, the ~~superintendent~~ DEPUTY
25 DIRECTOR shall issue an order that specifies what part of the filing
26 failed and, if the filing has become effective under section 6-846.01,
27 when all or part of the filing will be deemed no longer effective. At any
28 time an escrow agent may withdraw all or part of a filing. The
29 ~~superintendent~~ DEPUTY DIRECTOR shall send copies of the order to each
30 escrow agent affected. The order does not affect any escrow that was
31 contracted before the expiration of the period set forth in the order.

32 B. On written application to the ~~superintendent~~ DEPUTY DIRECTOR, a
33 person or organization other than the escrow agent who made the filing
34 that is aggrieved with respect to any rate filing that is in effect may
35 request a hearing. The application shall specify in reasonable detail the
36 grounds on which the applicant is relying. If within thirty days after
37 receipt of the application the ~~superintendent~~ DEPUTY DIRECTOR finds that
38 the application was made in good faith, that the applicant would be
39 aggrieved if ~~his~~ THE APPLICANT'S grounds are established and that the
40 grounds justify a hearing, the ~~superintendent~~ DEPUTY DIRECTOR, not less
41 than twenty days after written notice to the applicant and every escrow
42 agent who made the filing, shall hold a hearing. If after the hearing the
43 ~~superintendent~~ DEPUTY DIRECTOR finds that all or part of the filing does
44 not satisfy ~~the provisions of~~ this article, the ~~superintendent~~ DEPUTY
45 DIRECTOR shall issue an order that specifies what part of the filing

1 failed and, if the filing has become effective under section 6-846.01,
2 when all or part of the filing will be deemed no longer effective. The
3 ~~superintendent~~ DEPUTY DIRECTOR shall send copies of the order to the
4 applicant and to each escrow agent affected. The order does not affect
5 any escrow that was contracted before the expiration of the period set
6 forth in the order.

7 C. A filing or modification shall not be disapproved if the rates
8 satisfy the requirements of this article.

9 Sec. 183. Section 6-846.04, Arizona Revised Statutes, is amended to
10 read:

11 6-846.04. Deviations in escrow rates; civil penalty

12 A. An escrow agent may not deviate from his escrow rates that are
13 in effect pursuant to section 6-846.01.

14 B. If the ~~superintendent~~ DEPUTY DIRECTOR finds that an escrow rate
15 has been charged that deviates from the escrow rate in effect pursuant to
16 section 6-846.01, the escrow agent may be subject to a penalty that is
17 equal to the difference between the rate charged and the allowable rate in
18 effect pursuant to section 6-846.01.

19 C. If the ~~superintendent~~ DEPUTY DIRECTOR finds that an escrow agent
20 knowingly or with such frequency as to indicate a general business
21 practice violated subsection A of this section with respect to a
22 particular provision of the applicable escrow rate, the ~~superintendent~~
23 DEPUTY DIRECTOR, in addition to the penalty imposed under subsection B of
24 this section, may:

25 1. For each violation, impose an additional penalty of not more
26 than two times the penalty imposed under subsection B of this section.

27 2. Revoke the escrow agent's license.

28 D. In addition to penalties imposed under subsection B or C of this
29 section, the ~~superintendent~~ DEPUTY DIRECTOR may impose civil penalties
30 pursuant to section 6-132 if the ~~superintendent~~ DEPUTY DIRECTOR finds that
31 an escrow agent knowingly violated subsection A of this section with
32 respect to a particular provision of the applicable escrow rate by
33 charging rates that are greater than the rates allowable pursuant to
34 section 6-846.01.

35 Sec. 184. Section 6-853, Arizona Revised Statutes, is amended to
36 read:

37 6-853. Certificate required; exceptions

38 A. A person shall not engage in the trust business without first
39 obtaining a certificate from the ~~superintendent~~ DEPUTY DIRECTOR except as
40 provided by subsection B or C of this section, or by section 6-852,
41 subsection C.

42 B. A bank, if a member of the federal deposit insurance corporation
43 and otherwise authorized under the laws of the United States, this state
44 or any other state to engage in the trust business in this state, may
45 engage in that business as a bank without obtaining a certificate under

1 this chapter, and shall not be subject to this article, except for section
2 6-859, subsection A and section 6-860.

3 C. If a savings and loan association or savings bank is a member of
4 the federal deposit insurance corporation and is authorized under the laws
5 of the United States, this state or any other state to engage in the trust
6 business in this state, the savings and loan association or savings bank
7 may engage in that business as a savings and loan association or savings
8 bank without obtaining a certificate under this chapter and is not subject
9 to this article, except for section 6-859, subsection A and section 6-860.

10 Sec. 185. Section 6-854, Arizona Revised Statutes, is amended to
11 read:

12 6-854. Application for certificate

13 A. An application for a certificate shall be in writing, in such
14 form as the ~~superintendent~~ DEPUTY DIRECTOR shall prescribe, verified under
15 oath and supported by such information, data and records as the
16 ~~superintendent~~ DEPUTY DIRECTOR may require.

17 B. An application for a certificate shall include the applicant's
18 executed articles of incorporation and the fee prescribed in section
19 6-126.

20 Sec. 186. Section 6-854.01, Arizona Revised Statutes, is amended to
21 read:

22 6-854.01. Articles of incorporation; approval; changes

23 A. Notwithstanding title 10, chapter 2, the articles of
24 incorporation shall include:

25 1. The name of the proposed trust company.

26 2. A description of the general nature of the business to be
27 transacted and a statement authorizing the company to engage in any
28 activity or business ~~permitted~~ ALLOWED by law.

29 3. The amount of authorized capital stock, the maximum number of
30 shares of par value common stock and preferred stock, and the kind, class,
31 series, distinguishing characteristics and par value of all shares.

32 4. The amount of capital, which is at least the amount required by
33 section 6-856, the applicant will use to begin the trust company.

34 5. A statement that the company will have perpetual existence
35 unless the company is terminated pursuant to this article.

36 6. The initial street address of the main office of the trust
37 company.

38 7. The number of directors and the directors' names and addresses.

39 8. If applicable, a statement allowing preemptive rights.

40 9. A statement authorizing the board of directors to appoint
41 additional directors when necessary.

42 B. Within thirty days after receiving the executed articles of
43 incorporation, the ~~superintendent~~ DEPUTY DIRECTOR shall approve or
44 disapprove the articles. If the ~~superintendent~~ DEPUTY DIRECTOR
45 disapproves the articles, the ~~superintendent~~ DEPUTY DIRECTOR shall notify

1 the applicant of the articles' deficiencies. AFTER APPROVAL OR after
2 addressing the deficiencies, the applicant shall file the APPROVED OR
3 revised articles of incorporation with the corporation commission.

4 C. The corporate existence of a trust company begins on the date
5 the trust company files the approved or revised articles of incorporation
6 with the corporation commission. After the trust company files the
7 articles with the corporation commission, the company may perform all acts
8 necessary to perfect the organization and obtain and equip a place of
9 business.

10 D. Within seven days after proposing a change to the articles of
11 incorporation at a meeting of the board of directors, a trust company
12 shall report the proposed changes to the ~~superintendent~~ DEPUTY DIRECTOR
13 for approval. The ~~superintendent~~ DEPUTY DIRECTOR shall approve the
14 proposed changes as long as the proposed changes are consistent with this
15 chapter. The ~~superintendent~~ DEPUTY DIRECTOR shall notify the trust
16 company of any inconsistencies within thirty days after receiving the
17 proposed changes. The trust company shall have thirty days, after
18 receiving the ~~superintendent's~~ DEPUTY DIRECTOR'S notice, to correct any
19 inconsistencies and submit revised proposed changes to the ~~superintendent~~
20 DEPUTY DIRECTOR.

21 Sec. 187. Section 6-854.02, Arizona Revised Statutes, is amended to
22 read:

23 6-854.02. Board of directors; number; bylaws

24 A. A trust company shall have at least three directors. The
25 shareholders of the company shall elect all of the directors.

26 B. Unless the articles of incorporation provide otherwise, the
27 board of directors may adopt or amend the bylaws as long as the bylaws
28 adopted or amended by the board do not conflict with the bylaws adopted by
29 the shareholders. The board of directors shall file a current copy of the
30 bylaws with the ~~superintendent~~ DEPUTY DIRECTOR.

31 Sec. 188. Section 6-856, Arizona Revised Statutes, is amended to
32 read:

33 6-856. Minimum capital; dividends; other requirements

34 A. In order to obtain a certificate, a trust company shall have not
35 less than ~~five hundred thousand dollars~~ \$500,000 of liquid capital. The
36 trust company shall have additional capital in the following amounts:

37 1. For each ~~seven hundred fifty million dollars~~ \$750,000,000 of
38 nondiscretionary assets, an additional ~~two hundred fifty thousand dollars~~
39 \$250,000 of capital.

40 2. For each ~~two hundred fifty million dollars~~ \$250,000,000 of
41 discretionary assets, an additional ~~two hundred fifty thousand dollars~~
42 \$250,000 of capital.

1 3. For a trust company whose most recent composite rating from the
2 ~~superintendent~~ DEPUTY DIRECTOR was four as defined in the revised uniform
3 interagency trust rating system as published in the federal register
4 volume 63, number 197, October 13, 1998, pages 54704 through 54711, an
5 additional ~~two hundred fifty thousand dollars~~ \$250,000 of capital.

6 4. For a trust company whose most recent composite rating from the
7 ~~superintendent~~ DEPUTY DIRECTOR was five as defined in the revised uniform
8 interagency trust rating system as published in the federal register
9 volume 63, number 197, October 13, 1998, pages 54704 through 54711, an
10 additional ~~five hundred thousand dollars~~ \$500,000 of capital.

11 B. A minimum of one-half of the additional capital required under
12 subsection A, paragraphs 1 and 2 of this section shall consist of liquid
13 capital. All of the additional capital required under subsection A,
14 paragraph 3 or 4 of this section shall consist of liquid capital.

15 C. The trust company shall notify the ~~superintendent~~ DEPUTY
16 DIRECTOR of the form in which and location where the liquid capital is
17 held and its date of maturity.

18 D. A trust company that has a certificate issued before June 30,
19 2001 has until December 31, 2002 to comply with the additional capital
20 requirements prescribed in subsection A of this section.

21 E. The ~~superintendent~~ DEPUTY DIRECTOR may reduce the amount of the
22 additional capital requirement prescribed in subsection A of this section
23 if the ~~superintendent~~ DEPUTY DIRECTOR determines that the trust company is
24 a subsidiary of a financial institution or financial holding company that
25 is capable of providing sufficient support.

26 F. A trust company that has been issued a certificate by the
27 ~~superintendent~~ DEPUTY DIRECTOR shall maintain capital in the amount
28 required under subsection A of this section.

29 G. A trust company may declare a dividend to be paid from net
30 profits. A dividend shall not be declared, credited or paid if there is
31 an impairment of the liquid capital. A trust company that proposes
32 dividends in a calendar year that are more than the net profit for the
33 same calendar year shall obtain the ~~superintendent's~~ DEPUTY DIRECTOR'S
34 approval before declaring the dividends.

35 H. Notwithstanding subsection A of this section, a trust company
36 that accepts monies to be held in a savings account or time deposit
37 prescribed in section 6-882 shall comply with all of the rules and
38 requirements necessary to obtain and maintain insurance issued by the
39 federal deposit insurance corporation or its successor.

40 Sec. 189. Section 6-857, Arizona Revised Statutes, is amended to
41 read:

42 6-857. Issuance of certificate; hearing

43 A. ~~Upon~~ ON the filing of an application for a certificate the
44 ~~superintendent~~ DEPUTY DIRECTOR shall make or cause to be made an
45 investigation and examination of the facts concerning the truth of the

1 statements and the background of the management, controlling shareholder
2 or shareholders, directors and executive officers and shall issue a
3 certificate if the ~~superintendent~~ DEPUTY DIRECTOR finds:

4 1. The applicant is a corporation having powers and purposes to
5 engage in the trust business organized under the laws of this state or
6 authorized to do business in this state as a foreign corporation.

7 2. The applicant has complied with all of the applicable provisions
8 of this article.

9 3. The general character, reputation, financial standing, business
10 qualifications, ability and integrity of the persons involved in the
11 management of the applicant's business are such as to demonstrate that the
12 trust company will be operated in a safe, sound and lawful manner.

13 4. The proposed capital meets the requirements of section 6-856.

14 5. The applicant has submitted a business plan demonstrating a
15 knowledge of potential markets and the ability to generate business.

16 6. The applicant has procured a fidelity bond as prescribed in
17 section 6-868.

18 7. The applicant has procured insurance as prescribed in section
19 6-859, subsections E and F.

20 B. The ~~superintendent~~ DEPUTY DIRECTOR may conditionally accept the
21 application ~~upon~~ ON specific requirements being met, but a certificate
22 shall not be issued until such conditions have been met.

23 C. The certificate may be granted or denied without a hearing, but
24 the ~~superintendent~~ DEPUTY DIRECTOR may, and shall at the request of the
25 applicant, fix a date for a hearing on the application. At the hearing
26 any person may be heard with reference to the facts to be investigated.

27 Sec. 190. Section 6-859, Arizona Revised Statutes, is amended to
28 read:

29 6-859. Records; audits; preservation of records; protection;
30 insurance; bond; contingency plan

31 A. A bank, savings and loan association or trust company shall keep
32 and use in its business any books, accounts and records which will enable
33 the ~~superintendent~~ DEPUTY DIRECTOR to determine whether the bank, savings
34 and loan association or trust company is complying with ~~the provisions of~~
35 this article and the rules of the ~~superintendent~~ DEPUTY DIRECTOR. The
36 ~~superintendent~~ DEPUTY DIRECTOR by rule may provide the periods of time and
37 the manner in which such books, accounts and records shall be preserved.

38 B. A certified public accountant shall audit the corporate records
39 and trust business of each trust company at least once each fiscal year.
40 The trust company shall file a copy of the audit report with the
41 ~~superintendent~~ DEPUTY DIRECTOR not more than one hundred twenty days after
42 the end of the trust company's fiscal year. The audit requirement may be
43 satisfied by filing a copy of the audit report of the parent of the trust
44 company if the audit report is prepared by a certified public accountant
45 and includes a detailed examination of the trust company's assets and

1 liabilities and trust business. If the trust company shows good cause the
2 ~~superintendent~~ DEPUTY DIRECTOR may extend the time to file the audit
3 report by not more than ninety days.

4 C. The audit shall include an examination of the trust company's
5 internal control structure over the financial reporting and accounting of
6 the trust business plus any reportable conditions of the trust company's
7 internal control structure. For purposes of this subsection, "reportable
8 conditions" means significant deficiencies in the design or operation of
9 the internal control structure that would adversely affect the trust
10 company's ability to perform its business activities and carry out its
11 fiduciary duties and responsibilities consistent with the safe, sound and
12 lawful operation of the trust business.

13 D. The board of directors of a trust company shall require
14 protection and indemnity for the trust company, pursuant to section 6-868,
15 against dishonesty, fraud, defalcation, forgery, theft, embezzlement, and
16 other similar insurable losses, with corporate insurance or surety
17 companies authorized to do business in this state. Coverage against such
18 losses shall include all agents who do not otherwise provide protection
19 and indemnity for the trust company, directors, officers and employees of
20 the trust company acting independently or in collusion or combination with
21 any person or persons whether or not they draw salary or compensation.

22 E. The board of directors shall require suitable insurance to
23 protect the trust company against burglary, robbery, theft and other
24 insurable hazards to which it may be exposed in the operation of the
25 business.

26 F. The board of directors shall procure errors and omissions
27 insurance of at least ~~five hundred thousand dollars~~ \$500,000.

28 G. At least once each year the board of directors shall review the
29 fidelity bond and the errors and omissions insurance to determine the
30 adequacy of coverage in relation to the exposure. The minimum amount of
31 insurance required in this chapter does not automatically represent
32 adequate bond and insurance coverage in relation to the exposure. The
33 actions by the board of directors shall be recorded in the minutes of the
34 board. Immediately after procuring the bonds, the board of directors
35 shall file them with the ~~superintendent~~ DEPUTY DIRECTOR.

36 H. The board of directors and senior management shall:

37 1. Establish policies, procedures and responsibilities for
38 comprehensive contingency planning.

39 2. Annually review and approve the trust company's contingency
40 plans and record the actions in the minutes of the board of directors.

41 I. If the trust company receives information processing from a
42 service bureau the board of directors and senior management shall:

43 1. Evaluate the adequacy of contingency plans for its service
44 bureau.

1 2. Ensure that the trust company's contingency plan is compatible
2 with its service bureau's plan.

3 Sec. 191. Section 6-860, Arizona Revised Statutes, is amended to
4 read:

5 6-860. Duty of trustee, escrow officer or agent to produce
6 trust or escrow records for inspection; violation;
7 classification

8 A. Any trustee, escrow officer or agent shall produce for
9 inspection any trust or escrow records concerning the assets, existence,
10 condition, management and administration and the names of the parties,
11 including any or all beneficiaries, of any trust or escrow of which ~~he or~~
12 ~~she~~ THE PERSON is the trustee, escrow officer or agent, to any peace
13 officer or local, state or federal law enforcement agency, provided such
14 person requesting information signs and submits a sworn statement to the
15 trustee, escrow officer or agent that the request is made in the lawful
16 performance of such person's duties. The peace officer or local, state or
17 federal law enforcement agency shall be prohibited from using or releasing
18 said information except in the proper performance of ~~his or her~~ THE
19 PERSON'S duties.

20 B. Any trustee, escrow officer or agent shall produce for
21 inspection required by law any trust or escrow records of any trust or
22 escrow of which ~~he or she~~ THE PERSON is the trustee, escrow officer or
23 agent to the ~~superintendent~~ DEPUTY DIRECTOR or to any state or federal
24 administrative agency lawfully requiring such disclosure. The
25 ~~superintendent~~ DEPUTY DIRECTOR or any state or federal administrative
26 agency shall be prohibited from using or releasing said information except
27 in the proper performance of ~~his or her~~ THE DEPUTY DIRECTOR'S OR AGENCY'S
28 duties.

29 C. Any person who knowingly fails to produce records pursuant to
30 this section or who obtains information under subsection A or B OF THIS
31 SECTION and is prohibited from releasing such information but does release
32 such information is guilty of a class 2 misdemeanor.

33 Sec. 192. Section 6-861, Arizona Revised Statutes, is amended to
34 read:

35 6-861. Reports

36 A. The ~~superintendent~~ DEPUTY DIRECTOR may require reports of
37 financial condition and relevant information concerning the business
38 operations of each trust company, shall fix and extend the time for the
39 filing of such reports and shall assess a penalty of ~~fifty dollars~~ \$50 for
40 each day the trust company is delinquent.

41 B. The president, chief executive officer or chief operating
42 officer shall examine the books and accounts of the trust company for the
43 purpose of making the report and shall verify the report by providing an
44 affidavit stating that the information contained in the report is accurate
45 to the best of the president's or officer's knowledge or belief.

1 C. The report shall contain statements and information regarding
2 the affairs, business conditions, resources and implementation of internal
3 controls as safeguards for the protection of fiduciary beneficiaries,
4 creditors, shareholders and the public.

5 D. Excluding weekends and holidays, within forty-eight hours after
6 the date of discovery, a trust company that is the victim of a robbery,
7 the shortage of funds of more than ~~five thousand dollars~~ \$5,000 or the
8 apparent misapplication of trust funds by an officer, director, agent or
9 employee shall issue a written report to the ~~superintendent~~ DEPUTY
10 DIRECTOR explaining the loss.

11 E. Within thirty days after the service of the complaint, the trust
12 company shall issue a written report to the ~~superintendent~~ DEPUTY DIRECTOR
13 stating any adverse legal actions involving allegations of fraud, breach
14 of fiduciary duty, breach of contract or misapplication or commingling of
15 trust funds, including complaints that are dismissed within thirty days ~~of~~
16 AFTER service.

17 Sec. 193. Section 6-863, Arizona Revised Statutes, is amended to
18 read:

19 6-863. Suspension or revocation of certificate

20 A. The ~~superintendent~~ DEPUTY DIRECTOR may suspend or revoke the
21 certificate of a trust company pursuant to title 41, chapter 6, article 10
22 if the ~~superintendent~~ DEPUTY DIRECTOR determines that:

23 1. The trust company has failed or refused to comply with any order
24 issued pursuant to section 6-137.

25 2. The application for a certificate or for renewal of a
26 certificate or any report submitted to the ~~superintendent~~ DEPUTY DIRECTOR
27 contained a false representation or omission of a material fact.

28 3. Any officer or agent of the trust company, in connection with
29 the submission of any report or information to the ~~superintendent~~ DEPUTY
30 DIRECTOR or an application for a certificate or for renewal of a
31 certificate, knowingly made a false representation of a material fact or
32 failed to disclose a material fact to the ~~superintendent~~ DEPUTY DIRECTOR
33 or the duly authorized agent of the ~~superintendent~~ DEPUTY DIRECTOR.

34 4. The trust company has violated any applicable law, rule or
35 order.

36 5. The trust company is impaired or insolvent and the trust company
37 is unable to pay debts as they become due in the regular course of its
38 business.

39 6. The trust company refuses to ~~permit~~ ALLOW an examination or
40 investigation by the ~~superintendent~~ DEPUTY DIRECTOR of its books and
41 affairs or has failed or refused to furnish within thirty days any
42 information or to make any report that may be required by the
43 ~~superintendent~~ DEPUTY DIRECTOR.

1 7. The trust company is unable to maintain the amount of capital
2 required by law.

3 8. The trust company failed to conduct business in a safe, sound
4 and lawful manner.

5 9. Any officer, director, employee or agent of the trust company
6 has been convicted in any state of a felony or a crime of moral turpitude,
7 breach of trust, fraud, theft or dishonesty.

8 10. Any officer, director, employee or agent of the trust company is
9 not honest or truthful and does not demonstrate good character.

10 11. The trust company's certificate or authorization to engage in
11 trust business in any state or country has been revoked, suspended or
12 denied.

13 12. A final judgment has been entered in a civil action against any
14 officer, director, employee or agent of the trust company involving fraud,
15 deceit or misrepresentation and the conduct is contrary to the interest of
16 the public to ~~permit~~ ALLOW the person to engage in a trust business, to
17 control or manage a trust company or to work for a trust company handling
18 trust funds.

19 13. An order by an administrative agency of this state, another
20 state, the federal government, a territory of the United States or another
21 country has been entered against any officer, director, employee or agent
22 of the trust company involving fraud, deceit or misrepresentation and the
23 conduct is contrary to the interest of the public to ~~permit~~ ALLOW the
24 person to engage in a trust business, to control or manage a trust company
25 or to work for a trust company handling trust funds.

26 B. The ~~superintendent~~ DEPUTY DIRECTOR may suspend the certificate
27 if an indictment or information is issued against any officer, director,
28 employee or agent of the trust company for forgery, embezzlement,
29 retaining monies under false pretenses, extortion, criminal conspiracy to
30 defraud or a like offense and a certified copy of the indictment or
31 information or other proper evidence of the indictment or information is
32 filed with the ~~superintendent~~ DEPUTY DIRECTOR.

33 C. Pursuant to subsection A of this section, the ~~superintendent~~
34 DEPUTY DIRECTOR may suspend or revoke the certificate for the acts and
35 omissions of:

36 1. Any officer, director, employee or agent of the trust company
37 while acting in the course of the trust business.

38 2. A person entitled to vote more than fifteen ~~per cent~~ PERCENT of
39 the outstanding voting shares of the trust company.

40 Sec. 194. Section 6-865, Arizona Revised Statutes, is amended to
41 read:

42 6-865. Unsafe condition; receivership

43 If the deficiency in capital has not been made good or the trust
44 company is in an unsafe or unsound condition that is not remedied within
45 the time prescribed under an order of the ~~superintendent~~ DEPUTY DIRECTOR

issued pursuant to section 6-137, the ~~superintendent~~ DEPUTY DIRECTOR may apply to the superior court to be appointed receiver for the liquidation or rehabilitation of the company. The expense of such receivership shall be paid out of the assets of the trust company.

Sec. 195. Section 6-868, Arizona Revised Statutes, is amended to read:

6-868. Fidelity bond; requirements

A. A trust company doing business under this chapter shall obtain and maintain a fidelity bond, naming the trust company as obligee, in the following amounts:

Trust Assets (market value)	Fidelity Bond Amounts
less than \$3,000,000	\$500,000
\$3,000,000 to \$4,999,999	\$525,000
\$5,000,000 to \$7,499,999	\$550,000
\$7,500,000 to \$9,999,999	\$575,000
\$10,000,000 to \$14,999,999	\$600,000
\$15,000,000 to \$19,999,999	\$650,000
\$20,000,000 to \$24,999,999	\$700,000
\$25,000,000 to \$34,999,999	\$750,000
\$35,000,000 to \$49,999,999	\$850,000
\$50,000,000 to \$74,999,999	\$950,000
\$75,000,000 to \$99,999,999	\$1,000,000
\$100,000,000 to \$149,999,999	\$1,250,000
\$150,000,000 to \$249,999,999	\$1,600,000
\$250,000,000 to \$499,999,999	\$2,100,000
\$500,000,000 to \$999,999,999	\$2,400,000
\$1,000,000,000 to \$2,000,000,000	\$4,400,000
\$2,000,000,001 to \$3,000,000,000	\$6,000,000
for every \$1,000,000,000 over \$3,000,000,000	\$1,000,000

B. The trust company shall file a signed copy of its bond with the ~~superintendent~~ DEPUTY DIRECTOR, and the bond remains a part of the department's records. The bond company shall not cancel the bond for failure to pay the premium unless the bond company files a written notice with the department at least thirty days before canceling the bond. The bond company shall not cancel the bond for any other reason unless the bond company files a written notice with the department at least forty-five days before canceling the bond.

C. The bond may contain a deductible clause not to exceed fifteen ~~per cent~~ PERCENT of the face amount of the bond. If the deductible exceeds fifteen ~~per cent~~ PERCENT of the face amount of the bond, the deductible clause must be approved by the ~~superintendent~~ DEPUTY DIRECTOR.

1 Sec. 196. Section 6-869, Arizona Revised Statutes, is amended to
2 read:

3 6-869. Meetings; reports; report of examination; response;
4 penalties

5 A. The board of directors of a trust company shall meet at least
6 once every three months. The ~~superintendent~~ DEPUTY DIRECTOR or any
7 director may call a special meeting. A majority of the board constitutes
8 a quorum. The board shall keep minutes of each meeting, including a
9 record of attendance and a record of all votes pertaining to the trust
10 business, any officer or any shareholder.

11 B. At least once every three months the board of directors of a
12 trust company shall review written reports prepared by the president,
13 other officers of the trust company or the trust committee as prescribed
14 in section 6-870. The reports shall include the accounts that have been
15 opened or closed during the calendar quarter before the meeting and the
16 trust accounts subject to annual review during the calendar quarter before
17 the meeting.

18 C. Within thirty days after the trust company receives a report of
19 examination from the ~~superintendent~~ DEPUTY DIRECTOR, the directors shall
20 meet to consider the contents of the report. Within ten days after the
21 meeting, the chairman or the president of the board of directors shall
22 notify the ~~superintendent~~ DEPUTY DIRECTOR of the meeting and shall
23 acknowledge, on the declaration of each director attending the meeting,
24 that each director reviewed the report and the chairman or the president
25 shall file a response to the report that describes the board's responses
26 to the examiners' recommendations, including any remedies for violations
27 of this title.

28 D. Unless the ~~superintendent~~ DEPUTY DIRECTOR excuses a trust
29 company from filing a response, the trust company shall file a response to
30 the report of examination within forty days after the trust company
31 receives the report. A trust company that fails to file a timely response
32 or that is not excused from filing a timely response shall pay a penalty
33 to the department. The department shall assess a penalty of ~~one hundred~~
34 ~~dollars~~ \$100 or less for each day of the delinquency.

35 Sec. 197. Section 6-870.01, Arizona Revised Statutes, is amended to
36 read:

37 6-870.01. Acceptance of other examinations; cooperative
38 agreements

39 A. Instead of an examination prescribed by section 6-122, the
40 ~~superintendent~~ DEPUTY DIRECTOR may accept the examination report of a
41 federal or state agency that has regulatory or supervisory authority over
42 the trust company. The ~~superintendent's~~ DEPUTY DIRECTOR'S acceptance of
43 the examination report does not constitute a waiver of the licensing fees
44 and assessments provided by law. An accepted examination report becomes
45 an official report of the department.

1 B. The ~~superintendent~~ DEPUTY DIRECTOR may enter into cooperative
2 agreements and take joint action with other regulatory or supervisory
3 authorities that have concurrent jurisdiction over a trust company.

4 Sec. 198. Section 6-870.02, Arizona Revised Statutes, is amended to
5 read:

6 6-870.02. Prohibited acts

7 A. A trust company shall not ~~permit~~ ALLOW a person, other than a
8 director, officer, agent or employee of the trust company or the legal or
9 beneficial owner of the trust funds or the authorized representative of
10 the owner, to access, examine or inspect the fiduciary records of the
11 trust company.

12 B. A trust company shall not make a loan to or make other use of
13 monies from a fiduciary account to or for the benefit of another fiduciary
14 account unless the transaction is authorized by a court order or a
15 governing instrument of the fiduciary account or its amendments from which
16 the loan or use of monies is made.

17 C. A director, officer, agent or employee of a trust company shall
18 not:

19 1. Knowingly make or publish, or concur in making or publishing, a
20 written report, exhibit or statement of the trust company's affairs or
21 financial condition containing any material statement that is false.

22 2. Wilfully refuse or neglect to make a proper entry in the trust
23 company's books, wilfully refuse or neglect to exhibit the trust company's
24 books to the department or allow the department to inspect or extract the
25 trust company's books.

26 3. Knowingly make a material false promise or statement or a
27 material misrepresentation to the department or to a legal or beneficial
28 owner of trust funds or an authorized representative of the owner in the
29 course of the trust business.

30 4. Knowingly conceal an essential or material fact from the
31 department or a legal or beneficial owner of the trust funds or an
32 authorized representative of the owner in the course of the trust
33 business.

34 D. A trust company shall not directly or indirectly use funds from
35 a fiduciary account for the benefit of any officer, director or employee
36 of the trust company or any individual with whom there exists a
37 connection, or organization in which there exists an interest, as might
38 affect the exercise of the best judgment of the trust company in
39 performing its fiduciary duties, unless the transaction is authorized by a
40 court order or a governing instrument of the fiduciary account.

41 E. A trust company shall not charge a fee except in accordance with
42 a governing instrument or its amendments, a court order or a written
43 communication.

1 F. A trust company shall not refuse to disclose to the public a
2 general statement of the trust company's financial condition and its
3 assets and liabilities or the last report of financial condition submitted
4 to the ~~superintendent~~ DEPUTY DIRECTOR pursuant to section 6-861.

5 G. A person shall not receive compensation for engaging in the
6 trust business if the person is not licensed or exempt from licensing
7 pursuant to this article.

8 H. A director, officer, agent or employee of the trust company who
9 knowingly violates this article is liable for the damages the trust
10 company or the legal or beneficial owners of the trust funds sustain
11 because of the violation. A director, officer, agent or employee is
12 individually liable for the amount of a loss of trust funds if the
13 director, officer, agent or employee knowingly participates in an illegal
14 activity ~~which~~ THAT results in a loss of trust funds. A director or
15 officer of a trust company who meets the standards of conduct prescribed
16 by section 10-830 or 10-842 shall not be liable for any loss to the
17 company or to the legal or beneficial owners of the trust funds and shall
18 be entitled to indemnification to the extent ~~permitted~~ ALLOWED by ~~sections~~
19 ~~10-850 through 10-858~~ TITLE 10, CHAPTER 8, ARTICLE 5.

20 Sec. 199. Section 6-882, Arizona Revised Statutes, is amended to
21 read:

22 6-882. Savings accounts and time deposits; insurance;
23 withdrawal; notice

24 A. If authorized by the articles of incorporation and bylaws and if
25 approved by the ~~superintendent~~ DEPUTY DIRECTOR, a trust company may
26 receive monies for the purpose of maintaining savings accounts and time
27 deposits. The trust company may pay interest on the savings accounts and
28 time deposits and may prescribe terms and conditions that are consistent
29 with the requirements of the federal deposit insurance corporation.

30 B. Before offering savings accounts and time deposits the board of
31 directors shall approve the action by a written resolution that specifies
32 the written documents to be issued representing the savings accounts and
33 time deposits. The board shall submit:

34 1. A certified copy of the approving resolution to the
35 ~~superintendent~~ DEPUTY DIRECTOR.

36 2. Copies of the written documents to the ~~superintendent~~ DEPUTY
37 DIRECTOR for approval by the ~~superintendent~~ DEPUTY DIRECTOR.

38 C. The federal deposit insurance corporation or its successor shall
39 insure all savings accounts and time deposits held by a trust company. A
40 trust company shall immediately notify the ~~superintendent~~ DEPUTY DIRECTOR
41 when the trust company applies to the federal deposit insurance
42 corporation or its successor for deposit insurance. Until final
43 disposition of the application for deposit insurance, the trust company
44 shall submit monthly reports to the ~~superintendent~~ DEPUTY DIRECTOR
45 specifying the status of the application.

1 D. A trust company may require the holder of a savings account to
2 give the trust company written notice at least seven days before an
3 intended withdrawal that is not payable on a specified date or at the
4 expiration of a specified time after the date of deposit.

5 E. A trust company may issue a transferable, nontransferable,
6 negotiable or nonnegotiable certificate, instrument, passbook or statement
7 representing a time deposit or savings account.

8 Sec. 200. Section 6-903, Arizona Revised Statutes, is amended to
9 read:

10 6-903. Licensing of mortgage brokers required:
11 qualifications; application; bond; fees; renewal

12 A. A person shall not act as a mortgage broker if the person is not
13 licensed under this article. A person who brokers only commercial
14 mortgage loans shall obtain either a mortgage broker license or a
15 commercial mortgage broker license. A person who brokers residential
16 mortgage loans shall obtain a mortgage broker license.

17 B. The ~~superintendent~~ DEPUTY DIRECTOR shall not grant a mortgage
18 broker's license or a commercial mortgage broker's license to a person,
19 other than a natural person, who is not registered to do business in this
20 state on the date of granting the license.

21 C. An applicant for an original mortgage broker's license shall:

22 1. Have not less than three years' experience as a mortgage broker
23 or loan originator or equivalent lending experience in a related business
24 during the five years immediately preceding the time of application.

25 2. Have satisfactorily completed a course of study approved by the
26 ~~superintendent~~ DEPUTY DIRECTOR during the three years immediately
27 preceding the time of application.

28 3. Have passed a mortgage broker's test, pursuant to section 6-908.

29 D. An applicant for an original commercial mortgage broker's
30 license shall:

31 1. Have not less than three years' experience in the commercial
32 mortgage broker business or equivalent lending experience in a related
33 business during the five years immediately preceding the time of
34 application.

35 2. Have made in the past or intend to make or negotiate or offer to
36 make or negotiate commercial mortgage loans.

37 3. Provide the ~~superintendent~~ DEPUTY DIRECTOR with the following:

38 (a) A balance sheet prepared within the immediately preceding six
39 months and certified by the licensee. The ~~superintendent~~ DEPUTY DIRECTOR
40 may require a more recent balance sheet.

41 (b) If the applicant has begun operations, a statement of
42 operations and retained earnings and a statement of changes in financial
43 position.

44 (c) Notes to the financial statement if applicable.

1 E. Notwithstanding subsection D, paragraph 3 of this section,
2 commercial mortgage broker licensees and commercial mortgage broker
3 license applicants whose own resources are derived exclusively from
4 correspondent contracts with institutional investors shall provide the
5 ~~superintendent~~ DEPUTY DIRECTOR with a current financial statement or that
6 of its parent company prepared according to generally accepted accounting
7 principles, including:

8 1. A balance sheet prepared within the immediately preceding six
9 months and certified by the licensee. The ~~superintendent~~ DEPUTY DIRECTOR
10 may require a more recent balance sheet.

11 2. If the applicant has begun operations, a statement of operations
12 and retained earnings and a statement of changes in financial position.

13 3. Notes to the financial statement if applicable.

14 F. A person shall make an application for a license or for a
15 renewal of a license in writing on the forms, in the manner and
16 accompanied by the information prescribed by the ~~superintendent~~ DEPUTY
17 DIRECTOR. The ~~superintendent~~ DEPUTY DIRECTOR may require additional
18 information on the experience, background, honesty, truthfulness,
19 integrity and competency of the applicant and any responsible individual
20 designated by the applicant. If the applicant is a person other than a
21 natural person, the ~~superintendent~~ DEPUTY DIRECTOR may require information
22 as to the honesty, truthfulness, integrity and competency of any officer,
23 director, shareholder or other interested party of the association,
24 corporation or group.

25 G. The nonrefundable application fee and annual renewal fee are as
26 prescribed in section 6-126. The nonrefundable application fee shall
27 accompany each application for an original license only. The
28 ~~superintendent~~ DEPUTY DIRECTOR shall deposit, pursuant to sections 35-146
29 and 35-147, the monies in the state general fund.

30 H. If a licensee is a person other than a natural person, the
31 license issued to it entitles all officers, directors, members, partners,
32 trustees and employees of the licensed corporation, partnership,
33 association or trust to engage in the mortgage business if one officer,
34 director, member, partner, employee or trustee of the person is designated
35 in the license as the individual responsible for the person under this
36 article. If a licensee is a natural person, the license entitles all
37 employees of the licensee to engage in the mortgage business. If the
38 natural person is not a resident of this state, an employee of the
39 licensee shall be designated in the license as the individual responsible
40 for the licensee under the provisions of this article. For the purposes
41 of this subsection, an employee does not include an independent
42 contractor. A responsible individual shall be a resident of this state,
43 shall be in active management of the activities of the licensee governed
44 by this article and shall meet the qualifications set forth in subsection
45 C or D of this section for a licensee.

I. A licensee shall notify the ~~superintendent~~ DEPUTY DIRECTOR that its responsible individual will cease to be in active management of the activities of the licensee within ten days ~~of~~ AFTER learning that fact. The licensee has ninety days after the notification is received by the ~~superintendent~~ DEPUTY DIRECTOR within which to replace the responsible individual with a qualified replacement and to so notify the ~~superintendent~~ DEPUTY DIRECTOR. If the license is not placed under active management of a qualified responsible individual and if notice is not given to the ~~superintendent~~ DEPUTY DIRECTOR within the ~~ninety-day~~ NINETY-DAY period, the license of the licensee expires.

J. Every person licensed as a mortgage broker or a commercial mortgage broker shall deposit with the ~~superintendent~~ DEPUTY DIRECTOR, before doing business as a mortgage broker or a commercial mortgage broker, a bond executed by the licensee as principal and a surety company authorized to do business in this state as surety. The bond shall be conditioned on the faithful compliance of the licensee, including the licensee's directors, officers, members, partners, trustees and employees, with this article. The bond is payable to any person injured by the wrongful act, default, fraud or misrepresentation of the licensee or the licensee's employees and to this state for the benefit of the person injured. Only one bond is required for any person, firm, association or corporation irrespective of the number of officers, directors, members, partners or trustees who are employed by or are members of such firm, association or corporation. No suit may be commenced on the bond after the expiration of one year following the commission of the act on which the suit is based, except that claims for fraud or mistake are limited to the limitation period provided in section 12-543, paragraph 3. If an injured person commences an action for a judgment to collect from the bond, the injured person shall notify the ~~superintendent~~ DEPUTY DIRECTOR of the action in writing at the time of the commencement of the action and shall provide copies of all documents relating to the action to the ~~superintendent~~ DEPUTY DIRECTOR on request.

K. The bond required by this section shall be ~~ten thousand dollars~~ \$10,000 for licensees whose investors are limited solely to institutional investors, and ~~fifteen thousand dollars~~ \$15,000 for licensees whose investors include any noninstitutional investors.

L. For the purposes of subsection K of this section:

1. "Institutional investor" means a state or national bank, a state or federal savings and loan association, a state or federal savings bank, a state or federal credit union, a federal government agency or instrumentality, a quasi-federal government agency, a financial enterprise, a licensed real estate broker or salesman, a profit sharing or pension trust, or an insurance company.

2. "Investor" means any person who directly or indirectly provides to a mortgage broker funds that are, or are intended to be, used in the

1 making of a loan, and any person who purchases a loan, or any interest
2 therein, from a mortgage broker or in a transaction that has been directly
3 or indirectly arranged or negotiated by a mortgage broker.

4 M. Notwithstanding section 35-155, in lieu of the bond described in
5 this section, an applicant for a license or a licensee may deposit with
6 the ~~superintendent~~ DEPUTY DIRECTOR a deposit in the form of cash or
7 alternatives to cash in the same amount as the bond required under
8 subsection J of this section. The ~~superintendent~~ DEPUTY DIRECTOR may
9 accept any of the following as an alternative to cash:

10 1. Certificates of deposits or investment certificates that are
11 payable or assigned to the state treasurer, issued by banks or savings
12 banks doing business in this state and fully insured by the federal
13 deposit insurance corporation or any successor institution.

14 2. Certificates of deposit, investment certificates or share
15 accounts that are payable or assigned to the state treasurer, issued by a
16 savings and loan association doing business in this state and fully
17 insured by the federal deposit insurance corporation or any successor
18 institution.

19 3. Certificates of deposit, investment certificates or share
20 accounts that are payable or assigned to the state treasurer, issued by a
21 credit union doing business in this state and fully insured by the
22 national credit union administration or any successor institution.

23 N. The ~~superintendent~~ DEPUTY DIRECTOR shall deposit the cash or
24 alternatives to cash received under this section with the state
25 treasurer. The state treasurer shall hold the cash or alternatives to
26 cash in the name of this state to guarantee the faithful performance of
27 all legal obligations of the person required to post bond pursuant to this
28 section. The person is entitled to receive any accrued interest earned
29 from the alternatives to cash. The state treasurer may impose a fee to
30 reimburse the state treasurer for administrative expenses. The fee shall
31 not exceed ~~ten dollars~~ \$10 for each cash or alternatives to cash deposit
32 and shall be paid by the applicant or licensee. The state treasurer may
33 prescribe rules relating to the terms and conditions of each type of
34 security provided by this section.

35 O. In addition to such other terms and conditions as the
36 ~~superintendent~~ DEPUTY DIRECTOR prescribes by rule or order, the principal
37 amount of the deposit shall be released only on written authorization of
38 the ~~superintendent~~ DEPUTY DIRECTOR or on the order of a court of competent
39 jurisdiction. The principal amount of the deposit shall not be released
40 before the expiration of three years from the first to occur of any of the
41 following:

- 42 1. The date of substitution of a bond for a cash alternative.
- 43 2. The surrender of the license.
- 44 3. The revocation of the license.
- 45 4. The expiration of the license.

1 P. A licensee or an employee of the licensee shall not advertise
2 for or solicit mortgage business in any manner without using the name and
3 license number as issued on the mortgage broker's principal place of
4 business license, except that a licensee may employ or refer to the
5 commonly used name and any trademarks or service marks of any affiliate.
6 If a license is issued in the name of a natural person, nothing in the
7 advertising or solicitation may imply the license is in the name of
8 another person or entity. For the purposes of this subsection,
9 "advertise" does not include business cards, radio and television
10 advertising directed at national or regional markets and promotional items
11 except if those items contain rates or terms on which a mortgage loan may
12 be obtained.

13 Q. A licensee shall not employ any person unless the licensee:

14 1. Conducts a reasonable investigation of the background, honesty,
15 truthfulness, integrity and competency of the employee before hiring.

16 2. Keeps a record of the investigation for not less than two years
17 after termination.

18 R. A license is not transferable or assignable and control of a
19 licensee may not be acquired through a stock purchase or other device
20 without the prior written consent of the ~~superintendent~~ DEPUTY
21 DIRECTOR. Written consent shall not be given if the ~~superintendent~~ DEPUTY
22 DIRECTOR finds that any of the grounds for denial, revocation or
23 suspension of a license as set forth in section 6-905 are applicable to
24 the acquiring person. For the purposes of this subsection, "control"
25 means the power to vote more than twenty ~~per cent~~ PERCENT of outstanding
26 voting shares of a licensed corporation, partnership, association or
27 trust.

28 S. The licensee is liable for any damage caused by any of the
29 licensee's employees while acting as an employee of the licensee.

30 T. A licensee shall comply with the requirements of section 6-114
31 relating to balloon payments.

32 U. The examination and course of study requirements of this section
33 shall be waived by the ~~superintendent~~ DEPUTY DIRECTOR for any person
34 applying for a license who, within the six months immediately prior to the
35 submission of the application, has been a licensee or a responsible person
36 pursuant to this chapter.

37 V. If the applicant for renewal of a mortgage broker license is a
38 natural person, the applicant shall have satisfactorily completed twelve
39 continuing education units by a continuing education provider approved by
40 the ~~superintendent~~ DEPUTY DIRECTOR before submitting the renewal
41 application. If the applicant is other than a natural person, the
42 designated responsible individual shall have satisfactorily completed
43 twelve continuing education units by a continuing education provider
44 approved by the ~~superintendent~~ DEPUTY DIRECTOR before submitting the
45 renewal application. An applicant for renewal of a commercial mortgage

1 broker license is not subject to the continuing education requirements
2 prescribed by this article.

3 W. A licensee who employs a loan originator shall comply with
4 section 6-991.03.

5 Sec. 201. Section 6-904, Arizona Revised Statutes, is amended to
6 read:

7 6-904. Issuance of license; renewal; inactive status; branch
8 office license; application; fee

9 A. The ~~superintendent~~ DEPUTY DIRECTOR, on determining that the
10 applicant is qualified and has paid the fees, shall issue a mortgage
11 broker's license or a commercial mortgage broker's license to the
12 applicant which is evidenced by a continuous certificate. The
13 ~~superintendent~~ DEPUTY DIRECTOR shall grant or deny a license within one
14 hundred twenty days after receipt of the completed application and
15 fees. An applicant who has been denied a license may not reapply for such
16 a license before one year from the date of the previous application.

17 B. For licenses approved on or before September 30, 2008, a
18 licensee shall pay the renewal fee on or before September 30, 2008 and on
19 or before December 31 for subsequent years beginning on or before December
20 31, 2009. Licenses not renewed by September 30, 2008 are suspended, and
21 the licensee shall not act as a mortgage broker or a commercial mortgage
22 broker until the license is renewed or a new license is issued pursuant to
23 this article. A person may renew a suspended license by paying the
24 renewal fee plus ~~twenty-five dollars~~ \$25 for each day after September 30,
25 2008 that a license renewal fee is not received by the ~~superintendent~~
26 DEPUTY DIRECTOR and making application for renewal as prescribed by the
27 ~~superintendent~~ DEPUTY DIRECTOR. Licenses which are not renewed by October
28 31, 2008 expire. A license shall not be granted to the holder of an
29 expired license except as provided in this article for the issuance of an
30 original license.

31 C. For licenses approved on or before September 30, 2008, a
32 licensee may request inactive status on or before September 30, 2008 for
33 the following license year, and the license shall be placed on inactive
34 status after payment to the ~~superintendent~~ DEPUTY DIRECTOR of the inactive
35 status renewal fee prescribed in section 6-126, ~~subsection c~~ and the
36 surrender of the license to the ~~superintendent~~ DEPUTY DIRECTOR. During
37 inactive status, an inactive licensee is not required to maintain a bond
38 and shall not act as a mortgage broker or a commercial mortgage broker. A
39 licensee may not be on inactive status for more than two consecutive
40 years, nor for more than four years in any ~~ten-year~~ TEN-YEAR period. The
41 license is deemed expired on violation of any of the limitations of this
42 subsection.

43 D. For licenses approved after or renewed on September 30, 2008, a
44 licensee shall pay the renewal fee on or before December 31, 2009 and on
45 or before December 31 of each subsequent year. Licenses not renewed by

1 December 31 are suspended, and the licensee shall not act as a mortgage
 2 broker or a commercial mortgage broker until the license is renewed or a
 3 new license is issued pursuant to this article. A person may renew a
 4 suspended license by paying the renewal fee plus ~~twenty-five dollars~~ \$25
 5 for each day after December 31 that a license renewal fee is not received
 6 by the ~~superintendent~~ DEPUTY DIRECTOR and applying for renewal as
 7 prescribed by the ~~superintendent~~ DEPUTY DIRECTOR. A license that is not
 8 renewed by January 31 expires. A license shall not be granted to the
 9 holder of an expired license except as provided in this article for the
 10 issuance of an original license.

11 E. For licenses approved after or renewed on September 30, 2008,
 12 beginning in 2009 and each subsequent year, a licensee may request
 13 inactive status for the following license year if the licensee makes the
 14 request on or before December 31. The license shall be placed on inactive
 15 status after the licensee pays to the ~~superintendent~~ DEPUTY DIRECTOR the
 16 inactive status renewal fee prescribed in section 6-126, ~~subsection C~~ and
 17 surrenders the license to the ~~superintendent~~ DEPUTY DIRECTOR. During
 18 inactive status, an inactive licensee is not required to maintain a bond
 19 and shall not act as a mortgage broker or a commercial mortgage broker. A
 20 licensee may not be on inactive status for more than two consecutive years
 21 or for more than four years in any ~~ten-year~~ TEN-YEAR period. The license
 22 expires on violation of this subsection.

23 F. An inactive licensee may return to active status notwithstanding
 24 the requirements of section 6-903, subsections C and D by making a written
 25 request to the ~~superintendent~~ DEPUTY DIRECTOR for reactivation and paying
 26 the prorated portion of the annual assessment that would have been charged
 27 to the licensee. The licensee shall also provide the ~~superintendent~~
 28 DEPUTY DIRECTOR with proof that the licensee meets all of the other
 29 requirements for acting as a mortgage broker or a commercial mortgage
 30 broker, including required bond coverage or the deposit of a cash
 31 alternative.

32 G. A licensee shall prominently display the mortgage broker license
 33 or commercial mortgage broker license in the office of the mortgage broker
 34 or commercial mortgage broker.

35 H. Every licensed mortgage broker and licensed commercial mortgage
 36 broker shall designate and maintain a principal place of business in this
 37 state for the transaction of business. The license shall specify the
 38 address of the licensee's principal place of business. If a licensee
 39 wishes to maintain one or more locations in addition to a principal place
 40 of business, the licensee shall first obtain a branch office license from
 41 the ~~superintendent~~ DEPUTY DIRECTOR and designate a person for each branch
 42 office to oversee the operations of that office. The licensee shall
 43 submit a fee as set forth in section 6-126 for each branch office license.
 44 If the ~~superintendent~~ DEPUTY DIRECTOR determines that the applicant is
 45 qualified, the ~~superintendent~~ DEPUTY DIRECTOR shall issue a branch office

1 license indicating the address of the branch office. The licensee shall
2 conspicuously display the branch office license in the branch office. If
3 the address of the principal place of business or of any branch office is
4 changed, the licensee shall immediately notify the ~~superintendent~~ DEPUTY
5 DIRECTOR of the change and the ~~superintendent~~ DEPUTY DIRECTOR shall
6 endorse the change of address on the license for a fee as prescribed in
7 section 6-126.

8 Sec. 202. Section 6-905, Arizona Revised Statutes, is amended to
9 read:

10 6-905. Denial, suspension or revocation of licenses

11 A. The ~~superintendent~~ DEPUTY DIRECTOR may deny a license to a
12 person or suspend or revoke a license if the ~~superintendent~~ DEPUTY
13 DIRECTOR finds that an applicant or licensee:

- 14 1. Is insolvent as defined in section 47-1201.
- 15 2. Has shown that ~~he~~ THE APPLICANT OR LICENSEE is not a person of
16 honesty, truthfulness and good character.
- 17 3. Has violated any applicable law, rule or order.
- 18 4. Refuses to ~~permit~~ ALLOW an examination by the ~~superintendent~~
19 DEPUTY DIRECTOR of the licensee's books and affairs or refuses or fails,
20 within a reasonable time, to furnish any information or make any report
21 that may be required by the ~~superintendent~~ DEPUTY DIRECTOR.
- 22 5. Has been convicted in any state of a felony or any crime ~~of~~
23 INVOLVING breach of trust or dishonesty.
- 24 6. Has had a final judgment entered against ~~him~~ THE APPLICANT OR
25 LICENSEE in a civil action ~~upon~~ ON grounds of fraud, deceit or
26 misrepresentation and the conduct on which the judgment is based indicates
27 that it would be contrary to the interest of the public to ~~permit~~ ALLOW
28 such A person to be licensed or to control or manage a licensee.
- 29 7. Has had an order entered against ~~him~~ THE APPLICANT OR LICENSEE
30 involving fraud, deceit or misrepresentation by an administrative agency
31 of this state, the federal government or any other state or territory of
32 the United States and that the facts relating to the order indicate that
33 it would be contrary to the interest of the public to ~~permit~~ ALLOW such A
34 person to be licensed or to control or manage a licensee.
- 35 8. Has made a material misstatement or suppressed or withheld
36 information on the application for a license or any document required to
37 be filed with the ~~superintendent~~ DEPUTY DIRECTOR.

38 B. If a person to whom a license is issued or who has applied for a
39 license under this article is indicted or informed against for forgery,
40 embezzlement, obtaining money under false pretenses, extortion, criminal
41 conspiracy to defraud or a like offense or offenses, and a certified copy
42 of the indictment or information or other proper evidence of the
43 indictment or information is filed with the ~~superintendent~~ DEPUTY
44 DIRECTOR, the ~~superintendent~~ DEPUTY DIRECTOR may suspend the license

1 issued to the licensee or refuse to grant a license to an applicant
2 pending trial on the indictment.

3 C. If a licensee is other than a natural person, it is sufficient
4 cause for the suspension or revocation of the license if an officer,
5 director, member, partner, trustee, employee, while acting in the course
6 of the mortgage broker business, or person entitled to vote more than
7 twenty ~~per cent~~ PERCENT of the outstanding voting shares of the licensed
8 corporation, partnership, association or trust has acted or failed to act
9 in the same manner as would be cause for suspending or revoking a license
10 of the party as an individual. If a licensee is a natural person, it is
11 sufficient cause for the suspension or revocation of the license if an
12 employee of the person, while acting as an employee, has acted or failed
13 to act in the course of the mortgage broker business of the licensee in
14 the same manner as would be cause for suspending or revoking a license of
15 the party as an owner.

16 Sec. 203. Section 6-906, Arizona Revised Statutes, is amended to
17 read:

18 6-906. Required accounting practices and records: escrow of
19 monies; disclosure

20 A. Every mortgage broker shall keep and maintain at all times
21 correct and complete records as prescribed by the ~~superintendent which~~
22 ~~DEPUTY DIRECTOR THAT~~ will enable ~~him~~ THE DEPUTY DIRECTOR to determine
23 whether the licensee is conducting ~~his~~ THE LICENSEE'S business in
24 accordance with this article. If the mortgage broker operates two or more
25 licensed places of business in this state, after notifying the
26 ~~superintendent~~ DEPUTY DIRECTOR, ~~he~~ THE MORTGAGE BROKER may maintain such
27 records at ~~his~~ THE MORTGAGE BROKER'S principal place of business in this
28 state, except that a mortgage broker, with the approval of the
29 ~~superintendent~~ DEPUTY DIRECTOR, may maintain the records outside of this
30 state. For records kept outside this state, a mortgage broker shall make
31 the records available to the ~~superintendent~~ DEPUTY DIRECTOR in this state
32 not more than three business days after demand and provide for the
33 acceptance of collect calls or provide a toll free telephone number to
34 borrowers to obtain information from the records if the licensed place of
35 business in this state cannot readily provide the information requested by
36 the borrowers. Every mortgage broker shall maintain original documents or
37 clearly legible copies of all mortgage loan transactions for not fewer
38 than five years ~~from~~ AFTER the date of the mortgage loan closing.

39 B. Every mortgage broker shall observe generally accepted
40 accounting principles and practices.

41 C. A mortgage broker shall immediately deposit all monies received
42 by the mortgage broker in an escrow account with an escrow agent licensed
43 pursuant to chapter 7 of this title. Withdrawals shall only be disbursed
44 according to the terms of the escrow instructions. The escrow agent shall
45 not be the mortgage broker. A mortgage broker, however, may accept an

1 appraisal fee, which the mortgage broker shall only use to obtain an
2 appraisal, a credit investigation fee and a fee in connection with an
3 application for a mortgage loan. The mortgage broker shall not commingle
4 the appraisal fee or credit investigation fee with other monies of the
5 mortgage broker. A mortgage broker shall not accept any monies or
6 documents in connection with an application for a mortgage loan in an
7 amount of ~~two hundred thousand dollars~~ \$200,000 or less, except as
8 provided in this section and pursuant to a written agreement. The parties
9 shall sign the written agreement and the agreement shall contain terms
10 pertaining to the disposition of the monies and documents, whether the
11 loan is finally consummated or not, the term for which the agreement is to
12 remain in force before return of the monies and documents for
13 nonperformance can be required and an itemized list of all estimated costs
14 to the borrower of obtaining the mortgage loan including all costs charged
15 by third parties. The licensee shall preserve all agreements between the
16 parties involved in the transaction and all contracts, agreements and
17 escrow instructions to or with the depository. All documents provided by
18 the borrower or at the expense of the borrower to the mortgage broker,
19 including any appraisals, are the property of the borrower and shall, at
20 the borrower's request, be returned to the borrower or transferred to any
21 person designated by the borrower without further expense to the borrower
22 if the loan is not consummated, provided that any such document is not
23 prohibited by law from being transferred or returned.

24 D. Before a mortgage loan closing on residential real property
25 designed principally for the occupancy of from one to four families, a
26 licensee shall fully comply, to the extent applicable, with the real
27 estate lending disclosure requirements of title I of the consumer credit
28 protection act (15 United States Code sections 1601 through 1666j), the
29 real estate settlement procedures act (12 United States Code sections 2601
30 through 2617) and the regulations promulgated under those acts.

31 Sec. 204. Section 6-907, Arizona Revised Statutes, is amended to
32 read:

33 6-907. Required disclosure to investors

34 A. Before payment of any money by an investor in connection with a
35 mortgage loan, a licensee shall provide to an investor that is not a
36 financial institution, state or national bank, state or federal savings
37 and loan association, state or federal savings bank, state or federal
38 credit union, financial enterprise, licensed real estate broker or
39 salesman, profit sharing or pension trust or insurance company:

40 1. An opinion from an independent source stating the value of the
41 property subject to the mortgage loan being made or sold. The opinion
42 shall state the value of the property as it exists on the date of the
43 opinion.

1 2. A copy of the preliminary title report that states the condition
2 of title and discloses any encumbrances, assessments and liens of record
3 on the property securing the mortgage loan being made or sold.

4 3. A disclosure statement ~~which~~ THAT includes the following
5 information:

6 (a) The name and address of the fee owner of the property securing
7 the mortgage loan being made or sold.

8 (b) Information relative to the ability of the borrower to meet the
9 obligations of the mortgage loan.

10 (c) A legal description or address of the property securing the
11 mortgage loan being made or sold.

12 (d) The existence of any improvements on the property or any
13 utilities on or adjacent to the property ~~which~~ THAT will serve the
14 property.

15 (e) The terms and conditions of the mortgage loan being made or
16 sold, including the principal balance owed and the status of principal and
17 interest payments thereon.

18 (f) The terms and conditions of all liens on the property securing
19 the mortgage loan being made or sold.

20 (g) A statement as to whether the mortgage broker is acting as
21 principal or agent in the transaction.

22 (h) Any additional information prescribed by the ~~superintendent~~
23 ~~DEPUTY DIRECTOR~~.

24 B. After using ~~his~~ THE LICENSEE'S best efforts to verify all of the
25 information required by this section, the licensee shall sign the
26 statement attesting to the validity of the information to the best of ~~his~~
27 THE LICENSEE'S knowledge and belief. The licensee shall maintain a record
28 of acknowledgment from the lender of the receipt of this information for
29 not less than two years from the date of the mortgage loan closing.

30 Sec. 205. Section 6-908, Arizona Revised Statutes, is amended to
31 read:

32 6-908. Testing committee; testing of applicants; approval by
33 deputy director; definition

34 A. The ~~superintendent~~ DEPUTY DIRECTOR shall establish a testing
35 committee to create, periodically update and establish standards for
36 passing a test for mortgage brokers. The committee shall consist of five
37 members appointed by the ~~superintendent~~ DEPUTY DIRECTOR once every two
38 years. Four of the members shall be licensees appointed from nominations
39 submitted by licensees and one of the members shall be an employee of the
40 department. Licensees who serve as members of the committee shall serve
41 without expense to this state. The test is subject to the approval of the
42 ~~superintendent~~ DEPUTY DIRECTOR.

43 B. Each applicant for an original license, before issuance of the
44 license, shall personally take and pass the written test given under the

1 supervision of the department. The test must reasonably examine the
2 applicant's knowledge of:

3 1. The obligations between principal and agent, the applicable
4 canons of business ethics, the provisions of this article and the rules
5 adopted under this article.

6 2. The arithmetical computations common to mortgage brokerage.

7 3. The principles of real estate lending.

8 4. The general purposes and legal effect of mortgages, deeds of
9 trust and security agreements.

10 C. The department shall administer the test to applicants for
11 licenses not less than once every six months. ~~THE DEPUTY DIRECTOR MAY~~
12 ~~CONTRACT FOR THE TESTING OF APPLICANTS.~~ The department ~~OR THE~~
13 ~~DEPARTMENT'S CONTRACTOR~~ shall reasonably prescribe the time, place and
14 conduct of testing and collect a fee for administration of the test to be
15 assessed to all persons taking the test. The fee is ~~fifty dollars~~ \$50 per
16 testing. ~~IF THE DEPUTY DIRECTOR CONTRACTS FOR THE TESTING OF APPLICANTS,~~
17 ~~THE TESTING FEE PURSUANT TO THIS SECTION IS PAYABLE DIRECTLY BY THE~~
18 ~~APPLICANT TO THE CONTRACTOR. THE DEPUTY DIRECTOR MAY ALLOW A CONTRACTOR~~
19 ~~TO CHARGE A REASONABLE TESTING FEE THAT IS MORE THAN THE FEE PRESCRIBED IN~~
20 ~~THIS SUBSECTION.~~ An applicant may not take the test more than two times
21 within a ~~twelve-month~~ TWELVE-MONTH period.

22 D. All tests shall be given, conducted and graded in a fair and
23 impartial manner and without unfair discrimination between individuals
24 tested. The committee shall inform the applicant of the result of the
25 test within thirty days.

26 E. For testing purposes the department shall prepare a handbook for
27 mortgage brokers and distribute it to all applicants for a fee of not to
28 exceed the actual cost of producing and distributing the handbook.

29 F. For the purposes of this section "applicant" means a person who
30 has submitted a completed application in the form prescribed by law,
31 accompanied by a letter of inquiry to a surety company authorized to do
32 business in this state regarding the procurement of a bond pursuant to
33 section 6-903, to be issued ~~upon~~ ON completion of all requirements for the
34 granting of a license.

35 Sec. 206. Section 6-912, Arizona Revised Statutes, is amended to
36 read:

37 6-912. Certificate of exemption

38 A. A person who is exempt from licensure pursuant to ~~THIS ARTICLE~~
39 ~~AND~~ articles ~~1~~, 2 and 3 of this chapter as a federally chartered savings
40 bank that is registered with the nationwide mortgage licensing system and
41 registry may file a written application with the department for a
42 certificate of exemption for the following purposes:

43 1. Registering with the department except that the registration
44 shall not affect the exempt status of the applicant.

1 2. Sponsoring one or more mortgage loan originators.

2 3. Fulfilling any reporting requirements.

3 4. Reasonably supervising the activities of a mortgage loan
4 originator who is licensed pursuant to article 4 of this chapter and who
5 is employed by or under exclusive contract with the applicant.

6 B. A person shall make an application for a certificate of
7 exemption or renewal of a certificate of exemption in writing on the
8 forms, in the manner and accompanied by the information prescribed by the
9 ~~superintendent~~ DEPUTY DIRECTOR. The ~~superintendent~~ DEPUTY DIRECTOR may
10 require additional information on the experience, background, honesty,
11 truthfulness, integrity and competency of the applicant and the
12 responsible individual designated by the applicant.

13 C. The department may charge a fee for processing the original or
14 renewal application for a certificate of exemption and for other costs
15 incurred by the department.

16 D. An exempt person shall notify the ~~superintendent~~ DEPUTY DIRECTOR
17 that the person has designated a responsible individual to actively manage
18 the activities of the mortgage loan originator licensees. The responsible
19 individual may be located in this state or in the state where the primary
20 business of the bank is conducted and shall have at least three years of
21 experience in the business of making mortgage loans or equivalent
22 experience in a related business. The responsible individual may
23 supervise one or more licensed mortgage loan originators in this state.

24 E. Within ten days after learning that a responsible individual
25 will cease managing the licensees' activities, an exempt person must
26 notify the ~~superintendent~~ DEPUTY DIRECTOR. Within ninety days after the
27 notification is received by the ~~superintendent~~ DEPUTY DIRECTOR, the exempt
28 person must replace the responsible individual with a person who meets the
29 qualifications prescribed by subsection D of this section and must notify
30 the ~~superintendent~~ DEPUTY DIRECTOR of the replacement. A certificate of
31 exemption expires if either of the following occurs:

32 1. The exempt person is not placed under active management of a
33 qualified responsible individual.

34 2. The exempt person does not provide notice of replacement of the
35 responsible individual to the ~~superintendent~~ DEPUTY DIRECTOR as prescribed
36 by this section.

37 F. After reviewing the application for a certificate of exemption
38 and after verifying the submitted information, the department shall issue
39 the certificate of exemption.

40 G. An exempt person who sponsors a loan originator on an exclusive
41 contract shall comply with section 6-991.03.

42 H. The ~~superintendent~~ DEPUTY DIRECTOR may deny a certificate of
43 exemption to a person or suspend or revoke a certificate of exemption if
44 the ~~superintendent~~ DEPUTY DIRECTOR finds that an applicant or certificate
45 holder has done any of the following:

1 1. Shown that the applicant or certificate holder is not a person
2 of honesty, truthfulness and good character.

3 2. Violated any applicable law, rule or order.

4 3. Refused or failed to furnish, within a reasonable time, any
5 information or make any report that may be required by the ~~superintendent~~
6 ~~DEPUTY DIRECTOR~~.

7 4. Had a final judgment entered against the applicant or
8 certificate holder in a civil action on grounds of fraud, deceit or
9 misrepresentation and the conduct on which the judgment is based indicates
10 that it would be contrary to the interest of the public to ~~permit~~ ~~ALLOW~~
11 the applicant or certificate holder to manage a loan originator.

12 5. Had an order entered against the applicant or certificate holder
13 involving fraud, deceit or misrepresentation by an administrative agency
14 of this state, the federal government or any other state or territory of
15 the United States and the facts relating to the order indicate that it
16 would be contrary to the interest of the public to ~~permit~~ ~~ALLOW~~ the
17 applicant or certificate holder to manage a loan originator.

18 6. Made a material misstatement or suppressed or withheld
19 information on the application for a certificate of exemption or any
20 document required to be filed with the ~~superintendent~~ ~~DEPUTY DIRECTOR~~.

21 I. If a person to whom a certificate of exemption is issued or who
22 has applied for a certificate of exemption under this article is indicted
23 or informed against for forgery, embezzlement, obtaining money under false
24 pretenses, extortion, criminal conspiracy to defraud or a like offense,
25 and a certified copy of the indictment or information or other proper
26 evidence of the indictment or information is filed with the ~~superintendent~~
27 ~~DEPUTY DIRECTOR~~, the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may suspend the
28 certificate of exemption issued to the exempt person or refuse to grant a
29 certificate of exemption to an applicant pending trial on the indictment
30 ~~OR INFORMATION~~.

31 J. Every person ~~licensed as an exempt person~~ ~~TO WHOM A~~
32 ~~CERTIFICATION OF EXEMPTION IS ISSUED~~ pursuant to this section shall
33 deposit with the ~~superintendent~~ ~~DEPUTY DIRECTOR~~, before doing business as
34 a registered exempt person, a bond executed by the registered exempt
35 person as principal and a surety company authorized to do business in this
36 state as surety. The bond shall be conditioned on the faithful compliance
37 of the registered exempt person, including the registered exempt ~~persons,~~
38 ~~PERSON'S~~ directors, officers, members, partners, trustees and employees,
39 with this article. The bond is payable to any person injured by the
40 wrongful act, default, fraud or misrepresentation of the registered exempt
41 person, or the registered exempt person's ~~DIRECTORS, OFFICERS, MEMBERS,~~
42 ~~PARTNERS, TRUSTEES AND~~ employees and to this state for the benefit of the
43 person injured. Only one bond is required for any person, firm,
44 association or corporation irrespective of the number of officers,
45 directors, members, partners or trustees who are employed by or are

members of such firm, association or corporation. No suit may be commenced on the bond after the expiration of one year following the commission of the act on which the suit is based, except that claims for fraud or mistake are limited to the limitation provided in section 12-543, paragraph 3. If an injured person commences an action for a judgment to collect from the bond, the injured person shall notify the ~~superintendent~~ DEPUTY DIRECTOR of the action in writing at the time of the commencement of the action and shall provide copies of all documents relating to the action to the ~~superintendent~~ DEPUTY DIRECTOR on request. The bond required by this section shall be ~~two hundred thousand dollars~~ \$200,000.

Sec. 207. Section 6-913, Arizona Revised Statutes, is amended to read:

6-913. Conversion to commercial mortgage broker license

Notwithstanding section 6-903, a person who holds a mortgage broker license may convert it to a commercial mortgage broker license by applying in a manner prescribed by the ~~superintendent~~ DEPUTY DIRECTOR by rule. The approval of the conversion is at the discretion of the ~~superintendent~~ DEPUTY DIRECTOR.

Sec. 208. Section 6-943, Arizona Revised Statutes, is amended to read:

6-943. Licensing of mortgage bankers required; qualifications; application; bond; fees; renewal

A. A person shall not act as a mortgage banker if ~~he~~ THE PERSON is not licensed under this article.

B. The ~~superintendent~~ DEPUTY DIRECTOR shall not grant a mortgage banker's license to a person, other than a natural person, who is not registered to do business in this state on the date of application for a license. The ~~superintendent~~ DEPUTY DIRECTOR shall not issue a mortgage banker's license or a renewal of a license to an applicant unless the applicant meets all of the requirements prescribed in subsection C of this section. The ~~superintendent~~ DEPUTY DIRECTOR shall determine whether the applicant meets the requirements based on the application and evidence presented at a hearing, if any, or any other evidence that the ~~superintendent~~ DEPUTY DIRECTOR may have regarding qualifications of the applicant.

C. In order to qualify for a mortgage banker license or a renewal of a license, an applicant shall:

1. Have not fewer than three years' experience in the business of making mortgage banking loans or equivalent lending experience in a related business. If the applicant is a person other than a natural person, the responsible individual shall meet this requirement.

2. Have engaged or intend to engage in the business of making mortgage loans or mortgage banking loans.

3. Either:

(a) Be authorized to do business with any of the following:

1 (i) The federal housing administration.
2 (ii) The United States department of veterans affairs.
3 (iii) The federal national mortgage association.
4 (iv) The federal home loan mortgage corporation.
5 (b) Notwithstanding paragraph 5 of this subsection, at all times
6 have and maintain a net worth of not less than ~~one hundred thousand~~
7 ~~dollars~~ \$100,000.
8 4. Provide the ~~superintendent~~ DEPUTY DIRECTOR with a current
9 audited financial statement or that of its parent company prepared by an
10 independent certified public accountant in accordance with generally
11 accepted accounting principles including:
12 (a) The certified public accountant's opinion as to the fairness of
13 the presentation in conformity with generally accepted accounting
14 principles.
15 (b) A balance sheet prepared within the previous six months and
16 certified by the licensee. The ~~superintendent~~ DEPUTY DIRECTOR may require
17 a more recent balance sheet.
18 (c) A statement of operations and retained earnings and a statement
19 of changes in financial position provided the applicant has commenced
20 operations.
21 (d) Notes to the financial statement if applicable.
22 5. At all times have and maintain a net worth of not less than ~~one~~
23 ~~hundred thousand dollars~~ \$100,000.
24 D. A person shall make an application for a license or for a
25 renewal of a license in writing on the forms, in the manner and
26 accompanied by the information prescribed by the ~~superintendent~~ DEPUTY
27 DIRECTOR including the requirements prescribed in subsection C of this
28 section. The ~~superintendent~~ DEPUTY DIRECTOR may require additional
29 information on the experience, background, honesty, truthfulness,
30 integrity and competency of the applicant and any responsible individual
31 designated by the applicant. If the applicant is a person other than a
32 natural person, the ~~superintendent~~ DEPUTY DIRECTOR may require information
33 as to the honesty, truthfulness, integrity and competency of any officer,
34 director, shareholder, member, partner, trustee, employee or other
35 interested party of the association, corporation or group.
36 E. The nonrefundable application fee and annual renewal fee shall
37 be as prescribed in section 6-126. The nonrefundable application fee
38 shall accompany each application for an original license only.
39 F. If a licensee is a person other than a natural person, the
40 license issued to it entitles all officers, directors, members, partners,
41 trustees and employees of the licensed corporation, partnership,
42 association or trust to engage in the mortgage banking business if one
43 officer, director, member, partner, employee or trustee of the person is
44 designated in the license as the individual responsible for the person
45 under this article. If a licensee is a natural person, the license

entitles all employees of the licensee to engage in the mortgage banking business. If the natural person is not a resident of this state, an employee of the licensee shall be designated in the license as the individual responsible for the licensee under this article. For the purposes of this article, an employee does not include an independent contractor. For the purposes of this article, a responsible individual shall be a resident of this state, shall be in active management of the activities of the licensee governed by this article and shall have not less than three years' experience in the business of making mortgage banking loans or equivalent experience in a related business.

G. A licensee shall notify the ~~superintendent~~ DEPUTY DIRECTOR that its responsible individual will cease to be in active management of the licensee within ten days ~~of~~ AFTER learning that fact. Not more than ninety days after the ~~superintendent~~ DEPUTY DIRECTOR receives the notice, the licensee shall place itself under the active management of a qualified responsible person and notify the ~~superintendent~~ DEPUTY DIRECTOR. If the licensee is not placed under active management of a qualified responsible individual and if notice is not received by the ~~superintendent~~ DEPUTY DIRECTOR within the ~~ninety-day~~ NINETY-DAY period, the license of the licensee expires.

H. Every person licensed as a mortgage banker shall deposit with the ~~superintendent~~ DEPUTY DIRECTOR, before doing business as a mortgage banker, a bond executed by the licensee as principal and a surety company authorized to do business in this state as surety. The bond shall be conditioned on the faithful compliance of the licensee, including his directors, officers, members, partners, trustees and employees, with this article. Only one bond is required for a person, firm, association or corporation irrespective of the number of officers, directors, members, partners or trustees who are employed by or are members of the firm, association or corporation. The bond is payable to any person injured by the wrongful act, default, fraud or misrepresentation of the licensee and to this state for the benefit of any injured person. The coverage shall be maintained in the minimum amount prescribed in this subsection, computed on a base consisting of the total assets of the licensee plus the unpaid balance of loans it has contracted to service for others as of the end of the licensee's fiscal year.

Base	Minimum Bond
Not over \$1,000,000	\$25,000 for the first \$500,000 plus \$5,000 for each \$100,000 or fraction thereof over \$500,000
\$1,000,001 to \$10,000,000	\$50,000 plus \$5,000 for each \$1,800,000 or fraction thereof over \$1,000,000
\$10,000,001 to \$100,000,000	\$75,000 plus \$5,000 for each \$18,000,000 or fraction thereof over \$10,000,000
\$100,000,001 and over	\$100,000

1 No suit may be commenced on the bond after the expiration of one year
 2 following the commission of the act on which the suit is based, except
 3 that claims for fraud or mistake are limited to the limitation period
 4 provided in section 12-543, paragraph 3. If any injured person commences
 5 an action for a judgment to collect on the bond, the injured person shall
 6 notify the ~~superintendent~~ DEPUTY DIRECTOR of the action in writing at the
 7 time of the commencement of the action and shall provide copies of all
 8 documents relating to the action to the ~~superintendent~~ DEPUTY DIRECTOR on
 9 request.

10 I. Notwithstanding subsection H of this section, the bond required
 11 shall be ~~twenty-five thousand dollars~~ \$25,000 for licensees whose
 12 investors are limited solely to institutional investors.

13 J. For the purposes of subsection I of this section:

14 1. "Institutional investor" means a state or national bank, a state
 15 or federal savings and loan association, a state or federal savings bank,
 16 a state or federal credit union, a federal government agency or
 17 instrumentality, a quasi-federal government agency, a financial
 18 enterprise, a licensed real estate broker or salesman, a profit sharing or
 19 pension trust, or an insurance company.

20 2. "Investor" means any person who directly or indirectly provides
 21 to a mortgage banker funds that are, or are intended to be, used in the
 22 making of a loan, and any person who purchases a loan, or any interest
 23 therein, from a mortgage banker or in a transaction that has been directly
 24 or indirectly arranged or negotiated by a mortgage banker.

25 K. Notwithstanding section 35-155, in lieu of the bond described in
 26 this section, an applicant for a license or a licensee may deposit with
 27 the ~~superintendent~~ DEPUTY DIRECTOR a deposit in the form of cash or
 28 alternatives to cash in the amount prescribed in subsection H or I of this
 29 section, as applicable. The ~~superintendent~~ DEPUTY DIRECTOR may accept any
 30 of the following as an alternative to cash:

31 1. Certificates of deposit or investment certificates that are
 32 payable or assigned to the state treasurer, issued by banks or savings
 33 banks doing business in this state and fully insured by the federal
 34 deposit insurance corporation or any successor institution.

35 2. Certificates of deposit, investment certificates or share
 36 accounts that are payable or assigned to the state treasurer, issued by a
 37 savings and loan association doing business in this state and fully
 38 insured by the federal deposit insurance corporation or any successor
 39 institution.

40 3. Certificates of deposit, investment certificates or share
 41 accounts that are payable or assigned to the state treasurer, issued by a
 42 credit union doing business in this state and fully insured by the
 43 national credit union administration or any successor institution.

44 L. The ~~superintendent~~ DEPUTY DIRECTOR shall deposit the cash or
 45 alternatives to cash received under this section with the state treasurer.

1 The state treasurer shall hold the cash or alternatives to cash in the
2 name of this state to guarantee the faithful performance of all legal
3 obligations of the person required to post bond pursuant to this section.
4 The person is entitled to receive any accrued interest earned from the
5 alternatives to cash. The state treasurer may impose a fee to reimburse
6 the state treasurer for administrative expenses. The fee shall not exceed
7 ~~ten dollars~~ \$10 for each cash or alternatives to cash deposit and shall be
8 paid by the applicant or licensee. The state treasurer may prescribe
9 rules relating to the terms and conditions of each type of security
10 provided by this section.

11 M. In addition to such other terms and conditions as the
12 ~~superintendent~~ DEPUTY DIRECTOR prescribes by rule or order, the principal
13 amount of the deposit shall be released only on written authorization of
14 the ~~superintendent~~ DEPUTY DIRECTOR or on the order of a court of competent
15 jurisdiction. The principal amount of the deposit shall not be released
16 before the expiration of three years from the first to occur of any of the
17 following:

- 18 1. The date of substitution of a bond for a cash alternative.
- 19 2. The surrender of the license.
- 20 3. The revocation of the license.
- 21 4. The expiration of the license.

22 N. A licensee or an employee of the licensee shall not advertise
23 for or solicit mortgage banking business in any manner without using the
24 name and license number as issued on the mortgage banker's principal place
25 of business license, except that a licensee may also employ or refer to
26 the commonly used name and any trademarks or service marks of any
27 affiliate. If a license is issued in the name of a natural person,
28 nothing in the advertising or solicitation may imply that the license is
29 in the name of another person or entity. For the purposes of this
30 subsection, advertise does not include business cards, radio and
31 television advertising directed at national or regional markets and
32 promotional items except if those items contain rates or terms on which a
33 mortgage loan or mortgage banking loan may be obtained.

34 O. A licensee shall not employ any person unless the licensee:

- 35 1. Conducts a reasonable investigation of the background, honesty,
36 truthfulness, integrity and competency of the employee before hiring.
- 37 2. Keeps a record of the investigation for not less than two years
38 after termination.

39 P. The licensee is liable for any damage caused by any of his
40 employees while engaged in the business of making mortgage loans or
41 mortgage banking loans.

42 Q. A licensee shall comply with the requirements of section 6-114
43 relating to balloon payments.

44 R. Notwithstanding subsection C, paragraph 4 of this section,
45 licensees and applicants whose own resources are derived exclusively from

1 correspondent contracts between mortgage bankers and banks, savings banks,
2 trust companies, savings and loan associations, credit unions, profit
3 sharing or pension trusts, consumer lenders or insurance companies shall
4 provide the ~~superintendent~~ DEPUTY DIRECTOR with a current financial
5 statement or that of its parent company prepared in accordance with
6 generally accepted accounting principles including:

7 1. A balance sheet prepared within the previous six months and
8 certified by the licensee. The ~~superintendent~~ DEPUTY DIRECTOR may require
9 a more recent balance sheet.

10 2. A statement of operations and retained earnings and a statement
11 of changes in financial position provided the applicant has commenced
12 operations.

13 3. Notes to the financial statement if applicable.

14 S. In addition to the grounds specified in section 6-945,
15 subsection A, failure of a licensee to operate the business of making
16 mortgage loans or mortgage banking loans for a continuous period of twelve
17 months or more shall constitute grounds for revocation of such license.
18 The ~~superintendent~~ DEPUTY DIRECTOR, on good cause shown, may extend the
19 time for operating such business for a single fixed period, which shall
20 not exceed twelve months.

21 T. If the applicant for renewal of a mortgage banker license is a
22 natural person, the applicant shall have satisfactorily completed twelve
23 continuing education units by a continuing education provider approved by
24 the ~~superintendent~~ DEPUTY DIRECTOR before submitting the renewal
25 application. If the applicant is other than a natural person, the
26 designated responsible individual shall have satisfactorily completed
27 twelve continuing education units by a continuing education provider
28 approved by the ~~superintendent~~ DEPUTY DIRECTOR before submitting the
29 renewal application.

30 U. A licensee who employs a loan originator shall comply with
31 section 6-991.03.

32 Sec. 209. Section 6-944, Arizona Revised Statutes, is amended to
33 read:

34 6-944. Issuance of license; renewal; branch office license;
35 application; fee

36 A. If the ~~superintendent~~ DEPUTY DIRECTOR determines that the
37 applicant has met the requirements set forth in section 6-943, subsection
38 C, is qualified and has paid the fees, the ~~superintendent~~ DEPUTY DIRECTOR
39 shall issue a mortgage banker's license to the applicant evidenced by a
40 continuous certificate. The license is not transferable or assignable.
41 An applicant who has been denied a license may not reapply for such a
42 license before one year from the date of the previous application. A
43 person may not acquire control of a licensee through a stock purchase or
44 other device without the prior written consent of the ~~superintendent~~
45 DEPUTY DIRECTOR. Written consent shall not be given if the ~~superintendent~~

1 DEPUTY DIRECTOR finds that any of the grounds for denial, revocation or
2 suspension of a license as set forth in section 6-945 are applicable to
3 the acquiring person. For the purposes of this subsection, "control"
4 means the power to vote more than twenty ~~per cent~~ PERCENT of outstanding
5 voting shares of a licensed corporation, partnership, association or
6 trust.

7 B. For licenses approved on or before March 31, 2009, a licensee
8 shall make an application and pay the renewal fee set forth in section
9 6-126 on or before March 31, 2009 but not sooner than February 1, 2009 and
10 on or before December 31 for subsequent years beginning in 2009. Licenses
11 not renewed by March 31, 2009 are suspended, and the licensee shall not
12 act as a mortgage banker until the license is renewed or a new license is
13 issued pursuant to this article. A person may renew a suspended license
14 by paying the renewal fee plus ~~twenty-five dollars~~ \$25 for each day after
15 March 31, 2009 that a license renewal fee is not received by the
16 department and making application for renewal as prescribed by the
17 ~~superintendent~~ DEPUTY DIRECTOR. Licenses which are not renewed by April
18 30, 2009 expire. A license shall not be granted to the holder of an
19 expired license except as provided in this article for the issuance of an
20 original license.

21 C. For licenses approved after or renewed on March 31, 2009, a
22 licensee shall pay the renewal fee on or before December 31, beginning in
23 2009. Licenses not renewed by December 31 are suspended, and the licensee
24 shall not act as a mortgage banker until the license is renewed or a new
25 license is issued pursuant to this article. A person may renew a
26 suspended license by paying the renewal fee plus ~~twenty-five dollars~~ \$25
27 for each day after December 31 that a license renewal fee is not received
28 by the ~~superintendent~~ DEPUTY DIRECTOR and applying for renewal as
29 prescribed by the ~~superintendent~~ DEPUTY DIRECTOR. Licenses that are not
30 renewed by January 31 expire. A license shall not be granted to the
31 holder of an expired license except as provided in this article for the
32 issuance of an original license.

33 D. A licensee shall prominently display the mortgage banker license
34 in the office of the mortgage banker.

35 E. Every licensed mortgage banker shall designate and maintain a
36 principal place of business in this state for the transaction of
37 business. The license shall specify the address of the principal place of
38 business. If a licensee wishes to maintain one or more locations in
39 addition to a principal place of business, the licensee shall first obtain
40 a branch office license from the ~~superintendent~~ DEPUTY DIRECTOR and
41 designate a person for each branch office to oversee the operations of
42 that office. The licensee shall submit a fee as prescribed in section
43 6-126 for each branch office license. If the ~~superintendent~~ DEPUTY
44 DIRECTOR determines that the applicant is qualified, the ~~superintendent~~
45 DEPUTY DIRECTOR shall issue a branch office license indicating the address

1 of the branch office. The licensee shall conspicuously display the branch
2 office license in the branch office. If the address of the principal
3 place of business or of any branch office is changed, the licensee shall
4 notify the ~~superintendent~~ DEPUTY DIRECTOR before the change and the
5 ~~superintendent~~ DEPUTY DIRECTOR shall endorse the change of address on the
6 license for a fee as prescribed in section 6-126.

7 Sec. 210. Section 6-945, Arizona Revised Statutes, is amended to
8 read:

9 6-945. Denial, suspension or revocation of licenses

10 A. The ~~superintendent~~ DEPUTY DIRECTOR may deny a license to a
11 person or suspend or revoke a license if the ~~superintendent~~ DEPUTY
12 DIRECTOR finds that an applicant or licensee:

13 1. Is insolvent as defined in section 47-1201.

14 2. Has shown that ~~he~~ THE APPLICANT OR LICENSEE is not a person of
15 honesty, truthfulness and good character.

16 3. Refuses to ~~permit~~ ALLOW an examination by the ~~superintendent~~
17 DEPUTY DIRECTOR of the licensee's books and affairs or refuses or fails,
18 within a reasonable time, to furnish any information or make any report
19 that may be required by the ~~superintendent~~ DEPUTY DIRECTOR.

20 4. Has been convicted in any state of a felony or any crime
21 involving breach of trust or dishonesty.

22 5. Has had a final judgment entered against the applicant or
23 licensee in a civil action on grounds of fraud, deceit or
24 misrepresentation and the conduct on which the judgment is based indicates
25 that it would be contrary to the interest of the public to ~~permit such~~
26 ALLOW THE person to be licensed or to control or manage a licensee.

27 6. Has had an order entered against the applicant or licensee
28 involving fraud, deceit or misrepresentation by any administrative agency
29 of this state, the federal government or any other state or territory of
30 the United States and that the facts relating to the order indicate that
31 it would be contrary to the interest of the public to ~~permit~~ ALLOW the
32 person to be licensed or to control or manage a licensee.

33 7. Has violated any applicable law, rule or order.

34 B. If any person to whom a license is issued or who has applied for
35 a license under this article is indicted or informed against for forgery,
36 embezzlement, obtaining money under false pretenses, extortion, criminal
37 conspiracy to defraud, or a like offense or offenses, and a certified copy
38 of the indictment or information or other proper evidence of such
39 indictment or information is filed with the ~~superintendent~~ DEPUTY
40 DIRECTOR, the ~~superintendent~~ DEPUTY DIRECTOR may suspend the license
41 issued to the licensee or refuse to grant a license to an applicant
42 pending trial on the indictment or information.

43 C. If a licensee is other than a natural person, it is sufficient
44 cause for the denial, suspension or revocation of the license if an
45 officer, director, member, partner, trustee, employee, while acting in the

1 course of the mortgage banker business, or person entitled to vote more
 2 than twenty ~~per cent~~ PERCENT of the outstanding voting shares of the
 3 licensed corporation, partnership, association or trust has acted or
 4 failed to act in the same manner as would be cause for suspending or
 5 revoking a license of the party as an individual. If a licensee is a
 6 natural person, it is sufficient cause for the suspension or revocation of
 7 the license if an employee of the person has acted or failed to act in the
 8 course of the mortgage banker business of the licensee in the same manner
 9 as would be cause for suspending or revoking a license of the party as an
 10 owner.

11 D. The ~~superintendent~~ DEPUTY DIRECTOR shall grant or deny a license
 12 within one hundred twenty days after receipt of the completed application
 13 and fees.

14 Sec. 211. Section 6-946, Arizona Revised Statutes, is amended to
 15 read:

16 6-946. Required accounting practices and records; refundable
 17 deposits; periodic impoundment payments; disclosure

18 A. Every mortgage banker shall keep and maintain at all times
 19 correct and complete records clearly reflecting the financial condition of
 20 the business as prescribed by the ~~superintendent~~ DEPUTY DIRECTOR that will
 21 enable ~~him~~ THE DEPUTY DIRECTOR to determine whether the licensee is
 22 conducting ~~his~~ THE LICENSEE'S business in accordance with this
 23 article. If the mortgage banker operates two or more licensed places of
 24 business in this state, after notifying the ~~superintendent~~ DEPUTY
 25 DIRECTOR, ~~he~~ THE MORTGAGE BANKER may maintain the records at ~~his~~ THE
 26 MORTGAGE BANKER'S principal place of business in this state, except that a
 27 mortgage banker, with the approval of the ~~superintendent~~ DEPUTY DIRECTOR,
 28 may maintain the records outside of this state. A mortgage banker shall,
 29 for records kept outside of this state, make the records available to the
 30 ~~superintendent~~ DEPUTY DIRECTOR in this state not more than three business
 31 days after demand and provide for the acceptance of collect calls or
 32 provide a toll free telephone number to borrowers to obtain information
 33 from the records if the licensed places of business in this state cannot
 34 readily provide the information requested by the borrowers. Every
 35 mortgage banker shall maintain original documents, or clearly legible
 36 copies, of all mortgage banking loan transactions and mortgage loan
 37 transactions, unless the mortgage banking loan or mortgage loan is paid in
 38 full or the mortgage banking loan or mortgage loan and its servicing are
 39 sold, for not fewer than two years after the date of the mortgage banking
 40 loan closing or the date of the last disbursement of monies by the
 41 licensee, whichever occurs last. With the approval of the ~~superintendent~~
 42 DEPUTY DIRECTOR, a licensee that uses a computer or mechanical record
 43 keeping system is not required to keep a written copy of the records if
 44 the licensee is able to generate all information required by this section
 45 in a timely manner for examination or for other purposes.

1 B. Every mortgage banker shall observe generally accepted
2 accounting principles and practices.

3 C. If a mortgage banker requires an advance or fee to be paid in
4 connection with an application for a mortgage banking loan or mortgage
5 loan, there shall be a written agreement. The parties shall sign the
6 written agreement, and the agreement shall contain terms pertaining to the
7 payment of the fee or disposition of the advance or fee, whether the loan
8 is finally consummated or not, and the term for which the agreement is to
9 remain in force before return of the advance or fee for nonperformance can
10 be required. Advances or fees shall be immediately deposited in a trust
11 account in a bank, savings bank or savings and loan association that is
12 fully insured by the federal deposit insurance corporation or any
13 successor agency and shall not be commingled with other monies. The trust
14 account shall designate the licensee as trustee and shall provide for
15 withdrawal of the monies without previous notice. Withdrawals shall only
16 be disbursed according to the terms of the agreement. A licensee who
17 receives advances or fees shall preserve and on request make available to
18 the ~~superintendent~~ DEPUTY DIRECTOR all deposits, withdrawal receipts and
19 statements of account rendered by the bank or savings and loan
20 association. The licensee shall further preserve all agreements between
21 the parties involved in the transaction and all contracts, agreements and
22 instructions to or with the depository and shall keep an accurate
23 accounting of each separate bank account in which the trust funds have
24 been deposited. If the loan is declined by or on behalf of the lender or
25 cancelled by the applicant, all documents provided by or at the expense of
26 the applicant, including any appraisal, are the property of the
27 applicant. At the applicant's discretion, said documents shall be
28 returned or transferred to any financial institution or enterprise so
29 designated without additional consideration except for fees for which the
30 applicant has previously contracted, provided that any such document is
31 not prohibited by law from being transferred or returned.

32 D. If periodic payments are to be collected from the mortgagor to
33 provide for payments by the mortgagee of taxes, assessments, insurance
34 premiums, ground rents or other current charges against the real estate
35 security, the estimated payment amount stated to the mortgagor by the
36 mortgage banker shall be such that the total of these payments collected
37 for each category during the tax or other period will approximate the
38 actual tax or other payment when due. All such periodic payments of
39 taxes, assessments, insurance premiums, ground rents and other current
40 charges shall be accounted for annually to the borrower and, to the extent
41 monies have been collected for payment, shall be paid promptly by the
42 mortgage banker.

43 E. Before a mortgage banking loan closing on residential real
44 property designed principally for the occupancy of from one to four
45 families, a licensee shall fully comply, to the extent they apply, with

1 the real estate lending disclosure requirements of title I of the consumer
2 credit protection act (15 United States Code sections 1601 through 1666j),
3 the real estate settlement procedures act (12 United States Code sections
4 2601 through 2617) and the regulations promulgated under those acts.

5 Sec. 212. Section 6-949, Arizona Revised Statutes, is amended to
6 read:

7 6-949. Conversion to mortgage broker license

8 Notwithstanding any other law, a licensee who funds in the aggregate
9 one hundred fifty or fewer loans in the immediately preceding calendar
10 year may apply at the time of license renewal to the department for a
11 conversion to a mortgage broker license issued pursuant to article 1 of
12 this chapter. The conversion application shall be in a manner prescribed
13 by the ~~superintendent~~ DEPUTY DIRECTOR by rule. The approval of the
14 conversion is at the discretion of the ~~superintendent~~ DEPUTY DIRECTOR.

15 Sec. 213. Section 6-973, Arizona Revised Statutes, is amended to
16 read:

17 6-973. Licensing commercial mortgage bankers required;
18 qualifications

19 A. A person shall not act as a commercial mortgage banker without a
20 license issued under this article.

21 B. A person who engages in commercial mortgage banking need not be
22 licensed under article 1 or 2 of this chapter or chapter 7 of this title
23 if the person is licensed under this article.

24 C. The ~~superintendent~~ DEPUTY DIRECTOR shall not grant a commercial
25 mortgage banker's license to a person, other than a natural person, who is
26 not registered to do business in this state on the date the license is
27 granted. The ~~superintendent~~ DEPUTY DIRECTOR shall not issue to or renew a
28 commercial mortgage banker's license of an applicant unless the applicant
29 meets all of the requirements prescribed in subsection D of this section.
30 The ~~superintendent~~ DEPUTY DIRECTOR shall determine whether the applicant
31 meets the requirements based on the application, and evidence presented at
32 a hearing, if any, or any other evidence that the ~~superintendent~~ DEPUTY
33 DIRECTOR may have regarding the applicant's qualifications.

34 D. In order to qualify for a commercial mortgage banker's license
35 or a renewal of such a license an applicant shall:

36 1. Have at least three years' experience in the commercial mortgage
37 business or equivalent experience in a related business. If the applicant
38 is not a natural person, the responsible individual AS PRESCRIBED BY
39 SECTION 6-976 shall meet this requirement.

40 2. Have made in the past or intend to make or negotiate or offer to
41 make or negotiate commercial mortgage loans.

42 3. Provide the ~~superintendent~~ DEPUTY DIRECTOR with a current
43 audited financial statement or that of its parent company prepared by an
44 independent certified public accountant according to generally accepted
45 accounting principles including:

1 (a) The certified public accountant's opinion as to the fairness of
2 the presentation according to generally accepted accounting principles.

3 (b) A balance sheet prepared within the immediately preceding six
4 months and certified by the licensee. The ~~superintendent~~ DEPUTY DIRECTOR
5 may require a more recent balance sheet.

6 (c) If the applicant has begun operations, a statement of
7 operations and retained earnings and a statement of changes in financial
8 position.

9 (d) Notes to the financial statement if applicable.

10 4. Have and maintain at all times a net worth of at least ~~one~~
11 ~~hundred thousand dollars~~ \$100,000.

12 E. Notwithstanding subsection D, paragraph 3 of this section,
13 licensees and applicants whose own resources are derived exclusively from
14 correspondent contracts with institutional investors shall provide the
15 ~~superintendent~~ DEPUTY DIRECTOR with a current financial statement or that
16 of its parent company prepared according to generally accepted accounting
17 principles including:

18 1. A balance sheet prepared within the immediately preceding six
19 months and certified by the licensee. The ~~superintendent~~ DEPUTY DIRECTOR
20 may require a more recent balance sheet.

21 2. If the applicant has begun operations, a statement of operations
22 and retained earnings and a statement of changes in financial position.

23 3. Notes to the financial statement if applicable.

24 Sec. 214. Section 6-974, Arizona Revised Statutes, is amended to
25 read:

26 6-974. Application for license; issuance or denial; fees

27 A. A person shall apply for a license or for a renewal of a license
28 in writing on the forms, in the manner and accompanied by the information
29 prescribed by the ~~superintendent~~ DEPUTY DIRECTOR. The ~~superintendent~~
30 DEPUTY DIRECTOR may require additional information on the experience,
31 background, honesty, truthfulness, integrity and competency of the
32 applicant and any responsible individual designated by the applicant. If
33 the applicant is a person other than a natural person, the ~~superintendent~~
34 DEPUTY DIRECTOR may require this information as to the honesty,
35 truthfulness, integrity and competency of any officer, director,
36 shareholder, member, partner, trustee, employee or other interested party
37 of the firm, association or corporation.

38 B. The ~~superintendent~~ DEPUTY DIRECTOR, on determining that the
39 applicant is qualified, shall issue a commercial mortgage banker's license
40 to the applicant that is evidenced by a continuous certificate. The
41 ~~superintendent~~ DEPUTY DIRECTOR shall grant or deny a license within one
42 hundred twenty days after receiving the completed application. An
43 applicant who has been denied a license may not reapply for a license
44 before one year after the date of the previous application.

1 C. The nonrefundable application fee and annual renewal fee are as
2 prescribed by the ~~superintendent~~ DEPUTY DIRECTOR. Application fees and
3 annual renewal fees shall be based ~~upon~~ ON the cost to the department to
4 process the application and regulate licensees. The nonrefundable
5 application fee shall accompany each application for an original license
6 only. The ~~superintendent~~ DEPUTY DIRECTOR shall deposit, pursuant to
7 sections 35-146 and 35-147, the monies in the state general fund.

8 Sec. 215. Section 6-975, Arizona Revised Statutes, is amended to
9 read:

10 6-975. Bond or other security

11 A. Each licensed commercial mortgage banker shall deposit with the
12 ~~superintendent~~ DEPUTY DIRECTOR, before doing business as a commercial
13 mortgage banker, a bond executed by the licensee as principal and a surety
14 company authorized to do business in this state as surety. The bond shall
15 be conditioned on the licensee's faithful compliance, including the
16 directors, officers, members, partners, trustees and employees, with this
17 article. Only one bond is required for any person, firm, association or
18 corporation regardless of the number of officers, directors, members,
19 partners or trustees who are employed by or are members of the firm,
20 association or corporation.

21 B. The bond is payable to any person who is injured by the wrongful
22 act, default, fraud or misrepresentation of the licensee or the licensee's
23 employees and to this state for the benefit of the person injured. No
24 suit may be commenced on the bond after the expiration of one year
25 following the commission of the act on which the suit is based, except
26 that claims for fraud or mistake are limited to the limitation period
27 prescribed in section 12-543, paragraph 3. If an injured person commences
28 an action for a judgment to collect on the bond, the injured person shall
29 notify the ~~superintendent~~ DEPUTY DIRECTOR of the action in writing when
30 the action is commenced and shall provide copies of all documents relating
31 to the action to the ~~superintendent~~ DEPUTY DIRECTOR on request.

32 C. The bond required by this section is ~~twenty-five thousand~~
33 ~~dollars~~ \$25,000 for licensees whose investors are limited solely to
34 institutional investors and ~~one hundred thousand dollars~~ \$100,000 for
35 licensees whose investors include any other investors.

36 D. Notwithstanding section 35-155, in lieu of the bond described in
37 this section, an applicant for a license or a licensee may deposit with
38 the ~~superintendent~~ DEPUTY DIRECTOR a deposit in the form of cash or
39 alternatives to cash in the same amount as the bond required under
40 subsection C of this section. The ~~superintendent~~ DEPUTY DIRECTOR may
41 accept any of the following as an alternative to cash:

42 1. Certificates of deposit, investment certificates or share
43 accounts that are payable or assigned to the state treasurer, issued by
44 banks, savings banks or savings and loan associations doing business in

1 this state and fully insured by the federal deposit insurance corporation
2 or any successor institution.

3 2. Certificates of deposit, investment certificates or share
4 accounts that are payable or assigned to the state treasurer, issued by a
5 credit union doing business in this state and fully insured by the
6 national credit union administration or any successor institution.

7 E. The ~~superintendent~~ DEPUTY DIRECTOR shall deposit the cash or
8 alternatives to cash received under this section with the state
9 treasurer. The state treasurer shall hold the cash or alternatives to
10 cash in the name of this state to guarantee the faithful performance of
11 all legal obligations of the person required to post bond pursuant to this
12 section. The person is entitled to receive any accrued interest earned
13 from the alternatives to cash. The state treasurer may impose a fee to
14 reimburse the state treasurer for administrative expenses. The fee shall
15 be paid by the applicant or licensee. The state treasurer may prescribe
16 rules relating to the terms and conditions of each type of security
17 provided by this section.

18 F. In addition to such other terms and conditions as the
19 ~~superintendent~~ DEPUTY DIRECTOR prescribes by rule or order, the principal
20 amount of the deposit shall be released only on written authorization of
21 the ~~superintendent~~ DEPUTY DIRECTOR or on the order of a court of competent
22 jurisdiction. The principal amount of the deposit shall not be released
23 before the expiration of three years after the first to occur of any of
24 the following:

- 25 1. The date of substitution of a bond for a cash alternative.
- 26 2. The surrender of the license.
- 27 3. The revocation of the license.
- 28 4. The expiration of the license.

29 Sec. 216. Section 6-976, Arizona Revised Statutes, is amended to
30 read:

31 6-976. Responsible individual; employees

32 A. A license entitles the licensee and all officers, directors,
33 members, partners, trustees and employees of the licensee to engage in
34 commercial mortgage banking if one officer, director, member, partner,
35 employee or trustee of the person is designated in the license as the
36 individual responsible for the licensee under this article. If the
37 natural person is not a resident of this state, an employee of the
38 licensee shall be designated in the license as the individual responsible
39 for the licensee under this article. For purposes of this subsection
40 "employee" does not include an independent contractor.

41 B. A responsible individual shall be a resident of this state,
42 shall be active in managing the activities of the licensee governed by
43 this article and shall meet the qualifications prescribed by section
44 6-973, subsection D, paragraph 1 for a licensee. A licensee shall notify
45 the ~~superintendent~~ DEPUTY DIRECTOR that its responsible individual will

1 cease to be active in managing the activities of the licensee within ten
2 days of learning of that fact. Within ninety days after the notification
3 is received by the ~~superintendent~~ DEPUTY DIRECTOR the licensee shall
4 replace the responsible individual with a qualified replacement and notify
5 the ~~superintendent~~ DEPUTY DIRECTOR. If the license is not placed under
6 active management of a qualified responsible individual and if notice is
7 not given to the ~~superintendent~~ DEPUTY DIRECTOR within the ~~ninety-day~~
8 NINETY-DAY period, the license of the licensee expires.

9 C. A licensee shall not employ any person unless the licensee:

10 1. Conducts a reasonable investigation of the background, honesty,
11 truthfulness, integrity and competency of the employee before hiring.

12 2. Keeps a record of the investigation for at least two years after
13 termination.

14 D. The licensee is liable for any damages caused by any employee
15 while acting as an employee of the licensee.

16 Sec. 217. Section 6-978, Arizona Revised Statutes, is amended to
17 read:

18 6-978. Consent of deputy director for transferring, assigning
19 or acquiring control of licensee: definition

20 A license is not transferable or assignable and control of a
21 licensee may not be acquired through a stock purchase or any other device
22 without the prior written consent of the ~~superintendent~~ DEPUTY
23 DIRECTOR. The ~~superintendent~~ DEPUTY DIRECTOR shall not give written
24 consent if ~~he~~ THE DEPUTY DIRECTOR finds that any of the grounds for
25 denial, revocation or suspension of a license as set forth in section
26 6-982 apply to the acquiring person. For the purpose of this section,
27 "control" means the power to vote more than twenty ~~per cent~~ PERCENT of the
28 outstanding voting shares of a licensed corporation, partnership,
29 association or trust.

30 Sec. 218. Section 6-979, Arizona Revised Statutes, is amended to
31 read:

32 6-979. Principal place of business; branch office license;
33 change of address

34 A. Each licensed commercial mortgage banker shall designate and
35 maintain a principal place of business in this state to transact business.
36 The license shall specify the address of ~~his~~ THE LICENSEE'S principal
37 place of business.

38 B. If a licensee wishes to maintain one or more locations in
39 addition to a principal place of business, the licensee shall first obtain
40 a branch office license from the ~~superintendent~~ DEPUTY DIRECTOR and
41 designate a person for each branch office to oversee the operations of
42 that office.

43 C. If the ~~superintendent~~ DEPUTY DIRECTOR determines that the
44 licensee is qualified, the ~~superintendent~~ DEPUTY DIRECTOR shall issue a
45 branch office license indicating the address of the branch office. The

1 licensee shall conspicuously display the branch office license in the
2 branch office.

3 D. If the address of the principal place of business or of any
4 branch office is changed, the licensee shall immediately notify the
5 ~~superintendent~~ DEPUTY DIRECTOR of the change and the ~~superintendent~~ DEPUTY
6 DIRECTOR shall endorse the change of address on the license.

7 Sec. 219. Section 6-980, Arizona Revised Statutes, is amended to
8 read:

9 6-980. Annual renewal; expiration on failure to renew

10 A. For licenses approved on or before March 31, 2009:

11 1. Licenses that are not renewed by March 31, 2009 are suspended,
12 and the licensee shall not act as a commercial mortgage banker until the
13 license is renewed or a new license is issued pursuant to this article.

14 2. A person may renew a suspended license by making an application
15 for renewal as prescribed by the ~~superintendent~~ DEPUTY DIRECTOR.

16 3. Licenses that are not renewed by April 30, 2009 expire. A
17 license shall not be granted to the holder of an expired license except as
18 provided in this article for issuing an original license.

19 B. For licenses approved after or renewed on March 31, 2009:

20 1. If a license is not renewed by December 31, 2009 and by December
21 31 of each subsequent year, the license is suspended. The licensee shall
22 not act as a commercial mortgage banker until the license is renewed or a
23 new license is issued pursuant to this article.

24 2. A person may renew a suspended license by applying for renewal
25 as prescribed by the ~~superintendent~~ DEPUTY DIRECTOR.

26 3. Licenses that are not renewed by January 31 expire. A license
27 shall not be granted to the holder of an expired license except as
28 provided in this article for issuing an original license.

29 Sec. 220. Section 6-981, Arizona Revised Statutes, is amended to
30 read:

31 6-981. Inactive status

32 A. For licenses approved on or before March 31, 2009, a licensee
33 may request inactive status for the following license year, and the
34 license shall be placed on inactive status after surrendering the license
35 to the ~~superintendent~~ DEPUTY DIRECTOR.

36 B. For licenses approved after or renewed on March 31, 2009, a
37 licensee may request inactive status on or before December 31 of each year
38 for the following license year, and the license shall be placed on
39 inactive status after surrendering the license to the ~~superintendent~~
40 DEPUTY DIRECTOR.

41 C. During inactive status, an inactive licensee is not required to
42 maintain a bond and shall not act as a commercial mortgage banker.

1 D. A licensee may not be on inactive status for more than two
2 consecutive years or for more than four years in any ~~ten-year~~ TEN-YEAR
3 period. The license is deemed expired on violation of any of the
4 limitations of this subsection.

5 E. An inactive licensee may return to active status notwithstanding
6 section 6-973, subsection D by making a written request to the
7 ~~superintendent~~ DEPUTY DIRECTOR for reactivation. The licensee shall also
8 provide the ~~superintendent~~ DEPUTY DIRECTOR with proof that the licensee
9 meets all of the other requirements for acting as a commercial mortgage
10 banker, including required bond coverage or the deposit of a cash
11 alternative.

12 Sec. 221. Section 6-982, Arizona Revised Statutes, is amended to
13 read:

14 6-982. Denial, suspension or revocation of licenses

15 A. The ~~superintendent~~ DEPUTY DIRECTOR may deny a license to a
16 person or suspend or revoke a license if the ~~superintendent~~ DEPUTY
17 DIRECTOR finds that an applicant or licensee:

18 1. Is insolvent as defined in section 47-1201.

19 2. Has shown that the licensee or any person acting under the
20 license is not a person of honesty, truthfulness and good character.

21 3. Refuses to ~~permit~~ ALLOW an examination by the ~~superintendent~~
22 DEPUTY DIRECTOR of the licensee's books and affairs or refuses or fails,
23 within a reasonable time, to furnish any information or make any report
24 that may be required by the ~~superintendent~~ DEPUTY DIRECTOR.

25 4. Has been convicted in any state of a felony or any crime of
26 breach of trust or dishonesty.

27 5. Has had a final judgment entered against the licensee in a civil
28 action ~~upon~~ ON grounds of fraud, deceit or misrepresentation and the
29 conduct on which the judgment is based indicates that it would be contrary
30 to the interest of the public to ~~permit~~ ALLOW the person to be licensed or
31 to control or manage a licensee.

32 6. Has had an order entered against the licensee involving fraud,
33 deceit or misrepresentation by any administrative agency of this state,
34 the federal government or any other state or territory of the United
35 States and that the facts relating to the order indicate that it would be
36 contrary to the interest of the public to ~~permit~~ ALLOW the person to be
37 licensed or to control or manage a licensee.

38 7. Has violated any applicable law, rule or order.

39 B. If a person to whom a license is issued or who has applied for a
40 license under this article is indicted or informed against for forgery,
41 embezzlement, obtaining money under false pretenses, extortion, criminal
42 conspiracy to defraud or a similar offense or offenses, and a certified
43 copy of the indictment or information is filed with the ~~superintendent~~
44 DEPUTY DIRECTOR, the ~~superintendent~~ DEPUTY DIRECTOR may suspend the

1 license issued to the licensee or deny a license to an applicant pending
2 trial on the indictment or information.

3 C. If a licensee is other than a natural person, it is sufficient
4 cause to suspend or revoke the license if an officer, director, member,
5 partner, trustee, ~~OR~~ employee, while acting in the course of the
6 commercial mortgage banker business, or A person entitled to vote more
7 than twenty ~~per cent~~ PERCENT of the outstanding voting shares of the
8 licensed corporation, partnership, association or trust has acted or
9 failed to act in the same manner as would be cause to suspend or revoke a
10 license of the party as an individual. If a licensee is a natural person,
11 it is sufficient cause to suspend or revoke the license if an employee of
12 the person, while acting as an employee, has acted or failed to act in the
13 course of the commercial mortgage banker business of the licensee in the
14 same manner as would be cause to suspend or revoke a license of the party
15 as an owner.

16 Sec. 222. Section 6-983, Arizona Revised Statutes, is amended to
17 read:

18 6-983. Required accounting practices and records: escrow of
19 monies; disclosure

20 A. A commercial mortgage banker shall keep and maintain at all
21 times correct and complete records as prescribed by the ~~superintendent~~
22 DEPUTY DIRECTOR that will enable the ~~superintendent~~ DEPUTY DIRECTOR to
23 determine whether the licensee is complying with this article. If the
24 commercial mortgage banker operates two or more licensed places of
25 business in this state, after notifying the ~~superintendent~~ DEPUTY
26 DIRECTOR, ~~he~~ THE COMMERCIAL MORTGAGE BANKER may maintain such records at
27 ~~his~~ THE COMMERCIAL MORTGAGE BANKER'S principal place of business in this
28 state, except that a commercial mortgage banker, with the approval of the
29 ~~superintendent~~ DEPUTY DIRECTOR, may maintain the records outside of this
30 state. For records kept outside this state, a commercial mortgage banker
31 shall make the records available to the ~~superintendent~~ DEPUTY DIRECTOR in
32 this state not more than three business days after demand and shall
33 provide for the acceptance of collect calls or provide a toll free
34 telephone number to borrowers to obtain information from the records if
35 the licensed place of business in this state cannot readily provide the
36 information requested by the borrowers. A commercial mortgage banker
37 shall maintain original documents or clearly legible copies of all
38 commercial mortgage loan transactions for at least two years ~~from~~ AFTER
39 the date of the commercial mortgage loan closing.

40 B. A commercial mortgage banker shall observe generally accepted
41 accounting principles and practices.

42 C. If a commercial mortgage banker requires an advance or fee to be
43 paid in connection with an application for a commercial mortgage loan
44 there shall be a written agreement. The parties shall sign the written
45 agreement, and the agreement shall contain terms pertaining to the payment

1 of the fee or disposition of the advance or fee, whether the loan is
2 finally consummated or not, and a term for which the agreement is to
3 remain in force before return of the advance or fee for nonperformance can
4 be required. The licensee shall immediately deposit advances or fees in a
5 trust account in a bank, savings bank or savings and loan association that
6 is fully insured by the federal deposit insurance corporation or any
7 successor agency, and the advances or fees shall not be commingled with
8 other monies. The trust account shall designate the licensee as trustee
9 and shall provide for withdrawing the monies without previous notice.
10 Withdrawals shall only be disbursed according to the terms of the
11 agreement. A licensee who receives advances or fees shall preserve and on
12 request make available to the ~~superintendent~~ DEPUTY DIRECTOR all deposits,
13 withdrawal receipts and statements of account rendered by the bank,
14 savings bank or savings and loan association. The licensee shall further
15 preserve all agreements between the parties involved in the transaction
16 and all contracts, agreements and instructions to or with the depository
17 and shall keep an accurate accounting of each separate bank account in
18 which the trust monies have been deposited. If the loan is declined by or
19 on behalf of the lender or canceled by the applicant, all documents
20 provided by or at the expense of the applicant, including any appraisal,
21 are the property of the applicant. At the applicant's discretion, the
22 documents shall be returned or transferred to any designated financial
23 institution or enterprise without additional consideration except for fees
24 for which the applicant has previously contracted, if the document is not
25 prohibited by law from being transferred or returned.

26 D. If periodic payments are to be collected from the mortgagor to
27 provide for payments by the mortgagee of taxes, assessments, insurance
28 premiums, ground rents or other current charges against the real estate
29 security, the estimated payment amount stated to the mortgagor by the
30 commercial mortgage banker shall be such that the total of these payments
31 collected for each category during the tax or other period will
32 approximate the actual tax or other payment when due. The licensee shall
33 annually account to the borrower for all such periodic payments of taxes,
34 assessments, insurance premiums, ground rents and other current charges
35 and, to the extent monies have been collected for payment, shall pay them
36 promptly.

37 Sec. 223. Section 6-991.01, Arizona Revised Statutes, is amended to
38 read:

39 6-991.01. Exemptions

40 This article does not apply to:

- 41 1. Registered loan originators.
- 42 2. An individual who offers or negotiates terms of a residential
43 mortgage loan secured by a dwelling that served as the individual's
44 residence.

1 3. A person who is a responsible individual as described in section
2 6-903, 6-943 or 6-973 and who does not act as a loan originator pursuant
3 to article 1, 2 or 3 of this chapter.

4 4. An employee of a commercial mortgage banker licensed pursuant to
5 article 3 of this chapter.

6 5. An employee of a person licensed pursuant to this chapter if the
7 licensee affirms in writing to the ~~superintendent~~ DEPUTY DIRECTOR that the
8 licensee will not originate or negotiate a mortgage loan that has security
9 in the form of a residential dwelling of one to four units.

10 6. A person who, as seller of real property, receives one or more
11 mortgages or deeds of trust as security for a purchase money obligation.

12 7. A licensed attorney who negotiates the terms of a residential
13 mortgage loan on behalf of a client as an ancillary matter to the
14 attorney's representation of the client, unless the attorney is
15 compensated by a lender, a mortgage broker or any other loan originator or
16 by any agent of the lender, mortgage broker or other loan originator.

17 8. An individual who offers to negotiate terms of a residential
18 mortgage loan with or on behalf of the individual's immediate family
19 member and who does not otherwise engage in the business of a loan
20 originator.

21 9. A manufactured home retailer and its employees if performing
22 only clerical or support duties in connection with the sale or lease of a
23 manufactured home and the manufactured home retailer and its employees
24 receive no compensation or other gain from a mortgage banker or a mortgage
25 broker for the performance of the clerical or support duties.

26 10. An individual who is employed by a residential mortgage loan
27 servicer if the individual is involved solely in loss mitigation efforts,
28 unless the United States department of housing and urban development
29 determines that the secure and fair enforcement for mortgage licensing act
30 of 2008 (P.L. 110-289; 122 Stat. 2810; 12 United States Code sections 5101
31 through 5116) requires the individual to be licensed as a mortgage loan
32 originator. For the purposes of this paragraph, "loss mitigation efforts"
33 means a residential mortgage loan borrower is in default or default is
34 reasonably foreseeable and an individual works with the borrower on behalf
35 of the residential mortgage loan servicer to modify either temporarily or
36 permanently the obligation or to otherwise mitigate loss on an existing
37 residential mortgage loan.

38 11. An employee or the person who is the responsible individual of a
39 financial institution who is licensed pursuant to article 1, 2 or 3 of
40 this chapter if the responsible individual certifies in writing to the
41 ~~superintendent~~ DEPUTY DIRECTOR that the employee or the responsible
42 individual, or both the employee and the responsible individual, will only
43 originate commercial mortgage loans as defined in section 6-901.

1 Sec. 224. Section 6-991.02, Arizona Revised Statutes, is amended to
2 read:

3 6-991.02. Prohibited acts

4 A. A loan originator acting on the loan originator's own behalf
5 shall not accept any monies or documents in connection with an application
6 for a mortgage loan.

7 B. An individual is not entitled to receive compensation in
8 connection with arranging for or negotiating a mortgage loan if the
9 individual is not licensed pursuant to this chapter. An individual who is
10 not specifically exempted from licensure pursuant to this article shall
11 not engage in the business of a loan originator with respect to any
12 dwelling in this state without first obtaining and maintaining annually a
13 license pursuant to this article. Each licensed loan originator must
14 register with and maintain a valid unique identifier issued by the
15 nationwide mortgage licensing system and registry established by the
16 secure and fair enforcement for mortgage licensing act of 2008 (P.L.
17 110-289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116)
18 or its successor.

19 C. A loan originator acting on the loan originator's own behalf
20 shall not advertise, display, distribute, broadcast or televise, or cause
21 or ~~permit~~ ALLOW to be advertised, displayed, distributed, broadcast or
22 televised, in any manner, any solicitation of mortgage business.

23 D. A loan originator shall not make, negotiate or offer to make or
24 negotiate for compensation, either directly or indirectly, a loan that is
25 either:

26 1. Less than the minimum amount that the loan originator's employer
27 is allowed to make.

28 2. Not secured by a mortgage or deed of trust or other lien
29 interest in real property unless employed by a consumer lender.

30 E. A loan originator who is employed by a mortgage broker or
31 mortgage banker to act in the capacity of the mortgage broker or mortgage
32 banker shall not be employed concurrently by any other mortgage broker or
33 mortgage banker.

34 F. A loan originator shall not collect compensation for rendering
35 services as a real estate broker or real estate salesperson licensed
36 pursuant to title 32, chapter 20 unless both of the following apply:

37 1. The loan originator is licensed pursuant to title 32,
38 chapter 20.

39 2. The employing mortgage broker or mortgage banker has disclosed
40 to the person from whom the compensation is collected at the time a
41 mortgage loan application is received that the loan originator is
42 receiving compensation both for mortgage broker or mortgage banker
43 services, if applicable, and for real estate broker or real estate
44 salesperson services.

1 G. A loan originator shall not accept any assignment of the
2 borrower's wages or salary in connection with activities governed by this
3 article.

4 H. A loan originator shall not receive or disburse monies in
5 servicing or arranging a mortgage loan.

6 I. A loan originator shall not make a false promise or
7 misrepresentation or conceal an essential or material fact in the course
8 of the mortgage broker or mortgage banker business.

9 J. A loan originator shall not fail to truthfully account for the
10 monies belonging to a party to a mortgage loan transaction or fail to
11 disburse monies in accordance with the employing mortgage broker or
12 mortgage banker agreements.

13 K. A loan originator shall not engage in illegal or improper
14 business practices.

15 L. A loan originator shall not require a person seeking a loan
16 secured by real property to obtain property insurance coverage in an
17 amount that exceeds the replacement cost of the improvements as
18 established by the property insurer.

19 M. A loan originator shall not originate a mortgage loan unless
20 employed by a mortgage broker, mortgage banker or consumer lender or under
21 an exclusive contract with an exempt person who is registered pursuant to
22 section 6-912.

23 N. A loan originator shall not advertise for or solicit mortgage
24 business in any manner without all of the following:

25 1. The name and license number as issued on the employing mortgage
26 broker's, mortgage banker's, consumer lender's or registered exempt
27 person's principal place of business license.

28 2. Approval of the employing mortgage broker, mortgage banker,
29 consumer lender or registered exempt person.

30 3. The unique identifier the loan originator maintains with the
31 nationwide mortgage licensing system and registry established by the
32 secure and fair enforcement for mortgage licensing act of 2008 (P.L.
33 110-289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116)
34 or its successor.

35 O. On request, a loan originator shall make available to the
36 ~~superintendent~~ DEPUTY DIRECTOR the books and records relating to the loan
37 originator's operations. The ~~superintendent~~ DEPUTY DIRECTOR may have
38 access to the books and records and interview the officers, principals,
39 employees, independent contractors, agents and customers of the loan
40 originator concerning their business. In connection with a request
41 pursuant to this subsection, a person may not knowingly withhold,
42 abstract, remove, mutilate, destroy or secrete any books, records or other
43 information.

44 P. A loan processor or underwriter who is an independent contractor
45 may not engage in the activities of a loan processor or underwriter unless

1 the loan processor or underwriter obtains and maintains a license pursuant
2 to section 6-991.03. Each independent contractor loan processor or
3 underwriter licensed as a loan originator must have and maintain a valid
4 unique identifier.

5 Q. An individual engaging solely in loan processor or underwriter
6 activities shall not represent to the public through advertising or other
7 means of communicating that the individual can or will perform any of the
8 activities of a loan originator.

9 Sec. 225. Section 6-991.03, Arizona Revised Statutes, is amended to
10 read:

11 6-991.03. Licensing; renewal; qualifications; application;
12 fees

13 A. A natural person shall not act as a loan originator unless the
14 person is licensed under this article.

15 B. The ~~superintendent~~ DEPUTY DIRECTOR shall not grant a loan
16 originator license to a person, other than a natural person. An applicant
17 for an original loan originator's license shall have done all of the
18 following:

19 1. Satisfactorily completed a course of study, including at least
20 twenty hours of education, for loan originators approved by the
21 ~~superintendent~~ DEPUTY DIRECTOR during the three-year period immediately
22 preceding the time of application. The twenty hours of education must
23 include at least all of the following:

24 (a) Three hours of federal law.

25 (b) Three hours of ethics, which shall include instruction on
26 fraud, consumer protection and fair lending issues.

27 (c) Two hours of training related to lending standards of the
28 nontraditional mortgage product marketplace.

29 (d) Four hours of the laws of this state.

30 2. Completed late continuing education for the purposes of
31 satisfying continuing education for the last year that the loan originator
32 was in renewable status.

33 3. Passed a loan originator's examination pursuant to section
34 6-991.07. The applicant shall demonstrate knowledge and understanding of
35 the following:

36 (a) Federal laws.

37 (b) Other applicable laws.

38 (c) Subjects described in section 6-991.07, subsection A.

39 4. Retaken the loan originator's examination if the licensed loan
40 originator failed to maintain a valid license for a period of five years
41 or longer, not including any time during which the applicant is a
42 registered loan originator.

43 5. Obtained a unique identifier through the nationwide mortgage
44 licensing system and registry established by the secure and fair

1 enforcement for mortgage licensing act of 2008 (P.L. 110-289; 122 Stat.
2 2810; 12 United States Code sections 5101 through 5116) or its successor.

3 6. Deposited with the ~~superintendent~~ DEPUTY DIRECTOR a bond
4 executed by the applicant's employer or registered exempt person as
5 principal and a surety company licensed to do business in this state as a
6 surety pursuant to section 6-903, 6-912 or 6-943.

7 7. Submitted fingerprints to the department for the purpose of a
8 background investigation.

9 8. Paid an amount to be determined by the ~~superintendent~~ DEPUTY
10 DIRECTOR for deposit in the mortgage recovery fund established pursuant to
11 section 6-991.09 or deposited with the ~~superintendent~~ DEPUTY DIRECTOR a
12 bond executed by the applicant's employer or registered exempt person as
13 principal and a surety company licensed or approved to do business in this
14 state for the benefit of any person aggrieved by any act, representation,
15 transaction or conduct of a licensed loan originator that violates this
16 title or the rules adopted pursuant to this title. Notwithstanding
17 section 6-903 or 6-943, the amount of the bond shall be in an amount of
18 not less than ~~two hundred thousand dollars~~ \$200,000. Loan originators
19 working under the employer or registered exempt person bond described in
20 this paragraph do not have to contribute to the mortgage recovery fund.

21 C. A person shall apply for a license or renewal of a license in
22 writing in the manner prescribed by the ~~superintendent~~ DEPUTY DIRECTOR and
23 accompanied by the information prescribed by the ~~superintendent~~ DEPUTY
24 DIRECTOR.

25 D. Before submitting a renewal application, an applicant for
26 renewal of a loan originator license shall have satisfactorily completed
27 eight approved continuing education units that include at least:

28 1. Three hours of federal law.

29 2. Two hours of ethics, including instruction on fraud, consumer
30 protection and fair lending issues.

31 3. Two hours of training related to lending standards for the
32 nontraditional mortgage product marketplace.

33 4. One hour of the laws of this state.

34 E. Education courses taken before licensure shall be reviewed and
35 approved by the nationwide mortgage licensing system and registry
36 established by the secure and fair enforcement for mortgage licensing act
37 of 2008 (P.L. 110-289; 122 Stat. 2810; 12 United States Code sections 5101
38 through 5116) or its successor.

39 F. Continuing education courses shall be reviewed and approved by
40 the nationwide mortgage licensing system and registry established by the
41 secure and fair enforcement for mortgage licensing act of 2008 (P.L.
42 110-289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116)
43 or its successor. A licensed loan originator:

44 1. May only receive credit for a continuing education course in the
45 year in which the course is taken.

1 2. May not take the same approved course in the same year or
2 successive years to meet the annual requirements for continuing education.

3 G. The nonrefundable application fee shall accompany each
4 application for an original loan originator license.

5 H. A license issued pursuant to this article is not transferable or
6 assignable.

7 I. At the ~~superintendent's~~ DEPUTY DIRECTOR'S discretion,
8 application fees may be waived if the applicant is a housing counselor
9 certified by the United States department of housing and urban development
10 and employed by a nonprofit agency.

11 J. Each mortgage broker, mortgage banker or registered exempt
12 person shall submit to the nationwide mortgage licensing system and
13 registry established by the secure and fair enforcement for mortgage
14 licensing act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 United States Code
15 sections 5101 through 5116) or its successor reports of condition that are
16 in a form and that contain information required by the nationwide mortgage
17 licensing system.

18 K. The ~~superintendent~~ DEPUTY DIRECTOR shall establish a process for
19 loan originators to challenge information that the ~~superintendent~~ DEPUTY
20 DIRECTOR enters into the nationwide mortgage licensing system and
21 registry.

22 Sec. 226. Section 6-991.04, Arizona Revised Statutes, is amended to
23 read:

24 6-991.04. Issuance of license; notice from employing mortgage
25 broker, mortgage banker or consumer lender or
26 registered exempt person; renewal; inactive
27 status; address change; fee

28 A. The ~~superintendent~~ DEPUTY DIRECTOR, on determining that an
29 applicant is qualified and has paid the required fees, shall issue a loan
30 originator's license to the applicant evidenced by a continuous
31 certificate. The ~~superintendent~~ DEPUTY DIRECTOR shall grant or deny a
32 license within one hundred twenty days after receiving the completed
33 application and fees. An applicant who has been denied a license may not
34 reapply for a license before one year ~~from~~ AFTER the date of the previous
35 application.

36 B. On issuance of the license, the ~~superintendent~~ DEPUTY DIRECTOR
37 shall keep the loan originator's license until a mortgage broker or
38 mortgage banker licensed pursuant to this chapter or a consumer lender
39 employs the loan originator and the employer provides a written notice
40 that the employer has hired the loan originator or until an exempt person
41 who is registered pursuant to section 6-912 provides a written notice that
42 the exempt person has engaged the loan originator on an exclusive contract
43 with the exempt person. The employer shall provide the notice before the
44 loan originator begins working for the employer. Exempt persons who are
45 registered pursuant to section 6-912 shall provide the notice before the

1 loan originator begins work under the exclusive contract with the exempt
2 person. The notice shall be from an officer or other person authorized by
3 the employer or registered exempt person. The notice shall contain a
4 request for the loan originator's license and shall be dated, signed and
5 notarized. On receipt of the request, the ~~superintendent~~ DEPUTY DIRECTOR
6 shall forward the loan originator's license to the employing mortgage
7 broker, mortgage banker, consumer lender or registered exempt person.

8 C. Licenses shall be issued for a one-year period.

9 D. A loan originator shall apply for renewal on forms prescribed by
10 the ~~superintendent~~ DEPUTY DIRECTOR. The application shall include
11 original certificates evidencing the loan originator's successful
12 completion of eight continuing education units during the preceding one-
13 year period by a continuing education provider approved by the
14 ~~superintendent~~ DEPUTY DIRECTOR.

15 E. A loan originator shall pay the renewal fee every year on or
16 before December 31. Licenses not renewed by December 31 are suspended,
17 and the licensee shall not act as a loan originator until the license is
18 renewed or a new license is issued pursuant to this article. A person may
19 renew a suspended license by paying the renewal fee plus a dollar amount
20 to be determined by the ~~superintendent~~ DEPUTY DIRECTOR for each day after
21 December 31 that a license renewal fee is not received by the
22 ~~superintendent~~ DEPUTY DIRECTOR.

23 F. Licenses that are not renewed by January 31 of each year expire.
24 A license shall not be granted to the holder of an expired license except
25 as provided in this article for the issuance of an original license.

26 G. From December 1 through December 31 of each renewal period, a
27 licensee may request inactive status for the following license period.
28 The license shall be placed on inactive status after the licensee pays to
29 the ~~superintendent~~ DEPUTY DIRECTOR the inactive status renewal fee and
30 surrenders the license to the ~~superintendent~~ DEPUTY DIRECTOR. During
31 inactive status, an inactive licensee shall not act as a loan originator.
32 The license expires if the licensee violates this subsection.

33 H. At renewal an inactive licensee may return to active status by
34 doing all of the following:

35 1. Providing the ~~superintendent~~ DEPUTY DIRECTOR with evidence that
36 the licensee has met the requirements of section 6-991.03, subsection B.

37 2. Making a written request to the ~~superintendent~~ DEPUTY DIRECTOR
38 for reactivation.

39 3. Paying the annual licensing fee.

40 4. Providing the ~~superintendent~~ DEPUTY DIRECTOR with proof that the
41 licensee meets all other requirements for acting as a loan originator.

42 I. The mortgage broker, mortgage banker, consumer lender or
43 registered exempt person shall keep and maintain at the principal place of
44 business in this state the loan originator's license during the loan
45 originator's employment or exclusive contract term. A copy of the loan

1 originator's license shall be available for public inspection during
2 regular business hours.

3 J. A loan originator shall immediately notify the ~~superintendent~~
4 ~~DEPUTY DIRECTOR~~ of a change in the loan originator's residence address.
5 The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall endorse the change of address on
6 the license for a fee to be determined by the ~~superintendent~~ ~~DEPUTY~~
7 ~~DIRECTOR~~.

8 K. Within five business days after any licensee's employment
9 termination, the employing mortgage broker, mortgage banker, consumer
10 lender or registered exempt person shall do both of the following:

11 1. Notify the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ of the licensee's
12 termination.

13 2. Return the license to the ~~superintendent~~ ~~DEPUTY DIRECTOR~~.

14 L. An applicant for a loan originator license who is currently
15 registered with the nationwide mortgage licensing system and registry
16 established by the secure and fair enforcement for mortgage licensing act
17 of 2008 (P.L. 110-289; 122 Stat. 2810; 12 United States Code sections 5101
18 through 5116) or its successor may be granted a temporary license for a
19 period not to exceed one hundred eighty days.

20 M. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall establish a process for
21 loan originators to challenge information that the ~~superintendent~~ ~~DEPUTY~~
22 ~~DIRECTOR~~ enters into the nationwide mortgage licensing system and
23 registry.

24 Sec. 227. Section 6-991.05, Arizona Revised Statutes, is amended to
25 read:

26 6-991.05. Denial, suspension or revocation of licenses

27 A. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may deny a license to a
28 person or suspend or revoke a license if the ~~superintendent~~ ~~DEPUTY~~
29 ~~DIRECTOR~~ finds that an applicant or licensee:

30 1. Is not a person of honesty, truthfulness or good character.

31 2. Has violated any law, rule or order.

32 3. Has been convicted of or pled guilty or nolo contendere to a
33 misdemeanor if it involved an act of fraud, dishonesty or breach of trust
34 or money laundering at any time preceding the date of application.

35 4. Has had a final judgment entered against the applicant or
36 licensee in a civil action on grounds of fraud, deceit or
37 misrepresentation, and the conduct on which the judgment is based
38 indicates that it would be contrary to the interest of the public to
39 ~~permit~~ ~~ALLOW~~ the person to be licensed.

40 5. Has had an administrative agency of this state, the federal
41 government or any other state or territory of the United States enter an
42 order against the applicant or licensee involving fraud, deceit or
43 misrepresentation, and the facts relating to the order indicate that it
44 would be contrary to the interest of the public to ~~permit~~ ~~ALLOW~~ the person
45 to be licensed.

1 6. Has made a material misstatement or suppressed or withheld
2 information on the application for a license or any document required to
3 be filed with the ~~superintendent~~ DEPUTY DIRECTOR.

4 7. Has had a loan originator license, consumer lender license,
5 mortgage broker license or mortgage banker license revoked or denied in
6 this state or any other state.

7 B. The ~~superintendent~~ DEPUTY DIRECTOR shall deny a license to a
8 person or suspend or revoke a license if the ~~superintendent~~ DEPUTY
9 DIRECTOR finds that either of the following applies:

10 1. The applicant or licensee has been convicted of or pled guilty
11 or nolo contendere to a felony in a domestic, foreign or military court
12 during the ~~seven-year~~ SEVEN-YEAR period immediately preceding the date of
13 the application or at any time preceding the date of application if the
14 felony involved an act of fraud, dishonesty or a breach of trust or money
15 laundering.

16 2. The applicant or licensee does not have the financial
17 responsibility, experience or competence to adequately serve the public or
18 to warrant the belief that the applicant or licensee will act lawfully,
19 honestly and fairly pursuant to this article.

20 C. If a licensee or applicant under this article is indicted or
21 informed against for forgery, embezzlement, obtaining money under false
22 pretenses, extortion, criminal conspiracy to defraud or a similar offense,
23 and a certified copy of the indictment or information or other proper
24 evidence of the indictment or information is filed with the ~~superintendent~~
25 DEPUTY DIRECTOR, the ~~superintendent~~ DEPUTY DIRECTOR may suspend the
26 license or refuse to grant a license to an applicant pending trial on the
27 indictment.

28 Sec. 228. Section 6-991.07, Arizona Revised Statutes, is amended to
29 read:

30 6-991.07. Examination; fee; definition

31 A. Each applicant for an original loan originator license, before
32 issuance of the license, shall take and pass an examination that is
33 developed or otherwise deemed acceptable by the nationwide mortgage
34 licensing system and registry established by the secure and fair
35 enforcement for mortgage licensing act of 2008 (P.L. 110-289; 122 Stat.
36 2810; 12 United States Code sections 5101 through 5116) or its successor
37 and that is given under the supervision of the department or its
38 designee. The examination must reasonably examine the applicant's
39 knowledge of all of the following:

- 40 1. The obligations between principal and agent.
41 2. The applicable canons of business ethics.
42 3. The arithmetical computations common to mortgage brokerage.
43 4. The principles of real estate lending.
44 5. The general purposes and legal effect of mortgages, deeds of
45 trust and security agreements.

1 6. The terms and conditions of conforming and nonconforming
2 residential mortgage products.

3 B. The examination is subject to the ~~superintendent's~~ DEPUTY
4 DIRECTOR'S approval.

5 C. An applicant may take the examination three consecutive times
6 with each consecutive taking occurring at least thirty days after the
7 preceding examination. An applicant who fails the examination on three
8 consecutive occasions must wait at least six months before taking the
9 examination again.

10 D. All examinations shall be given, conducted and graded in a fair
11 and impartial manner and without unfair discrimination between individuals
12 examined. The department's designee shall inform the applicant of the
13 result of the examination within thirty days after the examination.

14 E. The ~~superintendent~~ DEPUTY DIRECTOR shall set the fee for each
15 examination that is consistent with the requirements established by the
16 nationwide mortgage licensing system and registry established by the
17 secure and fair enforcement for mortgage licensing act of 2008 (P.L.
18 110-289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116)
19 or its successor. The ~~superintendent~~ DEPUTY DIRECTOR may contract for the
20 examination for the licensing of applicants. If the ~~superintendent~~ DEPUTY
21 DIRECTOR contracts for the examination, the fee for examination for
22 licenses pursuant to this section is payable directly to the contractor by
23 the applicant for examination.

24 F. For the purposes of this section, "applicant" means a person who
25 has submitted a completed application in the form prescribed by the
26 ~~superintendent~~ DEPUTY DIRECTOR.

27 Sec. 229. Section 6-991.09, Arizona Revised Statutes, is amended to
28 read:

29 6-991.09. Mortgage recovery fund; liability limits

30 A. The ~~superintendent~~ DEPUTY DIRECTOR shall establish and maintain
31 a mortgage recovery fund consisting of the monies received by the
32 ~~superintendent~~ DEPUTY DIRECTOR pursuant to this article for the benefit of
33 any person aggrieved by any act, representation, transaction or conduct of
34 a licensed loan originator that violates this title or the rules adopted
35 pursuant to this title.

36 B. On notice from the ~~superintendent~~ DEPUTY DIRECTOR, the state
37 treasurer shall invest and divest monies in the fund as provided by
38 section 35-313, and monies earned from investment shall be credited to the
39 fund.

40 C. Notwithstanding any other law, the ~~superintendent~~ DEPUTY
41 DIRECTOR may spend interest monies from the fund that are necessary to
42 increase public awareness of the fund, but that do not ~~to~~ exceed ~~fifty~~
43 ~~thousand dollars~~ \$50,000 in any fiscal year.

1 D. The fund shall only pay for a loss that is an actual and direct
2 out-of-pocket loss to an aggrieved person directly arising out of a
3 mortgage transaction, including reasonable attorney fees and court costs.

4 E. The mortgage recovery fund's liability shall not exceed:

5 1. ~~Two hundred thousand dollars~~ \$200,000 for each transaction,
6 regardless of the number of persons aggrieved or the number of licensees
7 or parcels of real estate involved.

8 2. ~~Five hundred thousand dollars~~ \$500,000 for each licensee.

9 F. The liability of the fund for the acts of a licensed loan
10 originator is terminated on the issuance of orders authorizing payments
11 from the fund in an aggregate amount as prescribed by subsection E of this
12 section.

13 G. The fund is liable to pay only against the license of a natural
14 person, not on that of a corporation, a partnership or any other
15 fictitious entity.

16 H. The fund is liable to pay only for damages arising out of a
17 transaction in which the defendant licensee performed acts for which a
18 loan originator license was required or when the defendant licensee
19 engaged in fraud or misrepresentation and the aggrieved person was harmed
20 due to reliance on the defendant's licensed status.

21 I. The fund shall not pay any claim until the penal sums of the
22 bonds required under section 6-903 or 6-943 have been exhausted.

23 Sec. 230. Section 6-991.10, Arizona Revised Statutes, is amended to
24 read:

25 6-991.10. Payments to the mortgage recovery fund

26 A. In addition to any other fees, applicants shall pay an amount to
27 be determined by the ~~superintendent~~ DEPUTY DIRECTOR to the mortgage
28 recovery fund on application for an original loan originator license.

29 B. If, on June 30 of any year, the balance remaining in the
30 mortgage recovery fund is less than ~~two million dollars~~ \$2,000,000, every
31 licensee when renewing a loan originator license during the following
32 license year shall pay, in addition to the license renewal fee, a fee to
33 be determined by the ~~superintendent~~ DEPUTY DIRECTOR for deposit in the
34 mortgage recovery fund.

35 Sec. 231. Section 6-991.11, Arizona Revised Statutes, is amended to
36 read:

37 6-991.11. Statute of limitations; service of summons;
38 application for payment; insufficient monies;
39 definition

40 A. An action for a judgment that subsequently results in an order
41 for payment from the mortgage recovery fund shall be started ~~no~~ NOT later
42 than five years after the accrual of the cause of action.

1 B. If an aggrieved person commences an action for a judgment that
2 may result in an order for payment from the mortgage recovery fund and the
3 defendant licensee cannot be served process personally in this state, the
4 summons may be served by the alternative methods of service provided for
5 by the Arizona rules of civil procedure, including service by publication.
6 A judgment that complies with this section and that was obtained after
7 service by publication only applies to and is enforceable against the
8 mortgage recovery fund. The department may intervene in and defend any
9 such action.

10 C. An aggrieved person may apply to the department for payment from
11 the mortgage recovery fund after the aggrieved person obtains a judgment
12 against a loan originator based on the licensee's act, representation,
13 transaction or conduct in violation of this title or the rules adopted
14 pursuant to this title. The claimant must file the original application,
15 including appendices, within two years after the termination of all
16 proceedings, reviews and appeals connected with the judgment. The
17 ~~superintendent~~ DEPUTY DIRECTOR, in the ~~superintendent's~~ DEPUTY DIRECTOR'S
18 sole discretion, may waive the ~~two-year~~ TWO-YEAR application deadline if
19 the ~~superintendent~~ DEPUTY DIRECTOR determines that the waiver best serves
20 the public interest. Delivery of the application must be by personal
21 service or by certified mail, return receipt requested.

22 D. The application must be within the limitations prescribed in
23 section 6-991.09 and for the amount that is unpaid on the judgment and
24 that represents the claimant's actual and direct loss on the transaction.

25 E. The department shall prescribe and supply an application form
26 that includes detailed instructions with respect to documentary evidence,
27 pleadings, court rulings, the products of discovery in the underlying
28 litigation and notice requirements to the judgment debtor under section
29 6-991.12. The claimant must submit the claim on an application form
30 supplied by the department. The application must include:

- 31 1. The claimant's name and address.
- 32 2. If the claimant is represented by an attorney, the attorney's
33 name, business address and telephone number.
- 34 3. The judgment debtor's name and address or, if unknown, the names
35 and addresses of persons who may know the judgment debtor's present
36 location.
- 37 4. A detailed narrative statement of the facts explaining the
38 allegations of the complaint on which the underlying judgment is based,
39 with a copy of the contracts, receipts and other documents from the
40 transaction, the last amended complaint, all existing recorded judgments,
41 documentation of actual and direct out-of-pocket losses and any offsetting
42 payment received and all collection efforts attempted.
- 43 5. The identification of the judgment, the amount of the claim and
44 an explanation of its computation, including an itemized list of actual
45 and compensatory damages awarded and claimed.

1 6. For the purpose of an application that is not based on a
2 criminal restitution order, a statement by the claimant, signed under
3 penalty of perjury, that the complaint on which the underlying judgment is
4 based was prosecuted conscientiously and in good faith. For the purposes
5 of this paragraph, "conscientiously and in good faith" means that all of
6 the following apply:

7 (a) No party who was potentially liable to the claimant in the
8 underlying transaction was intentionally and without good cause omitted
9 from the complaint.

10 (b) No party named in the complaint who otherwise reasonably
11 appeared capable of responding in damages was intentionally and without
12 good cause dismissed from the complaint.

13 (c) The claimant employed no other procedural means contrary to the
14 diligent prosecution of the complaint in order to seek to qualify for the
15 recovery fund.

16 7. For the purpose of an application that is based on a criminal
17 restitution order, all of the following statements by the claimant, signed
18 under penalty of perjury:

19 (a) The claimant has not intentionally and without good cause
20 failed to pursue any person potentially liable to the claimant in the
21 underlying transaction other than a defendant who is the subject of a
22 criminal restitution order.

23 (b) The claimant has not intentionally and without good cause
24 failed to pursue in a civil action for damages all persons who are
25 potentially liable to the claimant in the underlying transaction and who
26 otherwise reasonably appeared capable of responding in damages other than
27 a defendant who is the subject of a criminal restitution order.

28 (c) The claimant employed no other procedural means contrary to the
29 diligent prosecution of the complaint in order to seek to qualify for the
30 mortgage recovery fund.

31 8. The following statements, signed under penalty of perjury, and
32 information from the claimant:

33 (a) The claimant is not a spouse of the judgment debtor or a
34 personal representative of the spouse.

35 (b) The claimant has complied with all of the requirements of this
36 article.

37 (c) The judgment underlying the claim meets the requirements of
38 this article.

39 (d) The claimant has recorded a certified copy of the superior
40 court judgment or transcript of judgment pursuant to sections 33-961 and
41 33-962 in the county in which the judgment was obtained and in the county
42 in which all judgment debtors reside and has provided a copy of the
43 recorded judgment to the ~~superintendent~~ DEPUTY DIRECTOR.

1 (e) The claimant has caused the judgment debtor to make discovery
2 under oath, pursuant to section 12-1631, concerning the debtor's property.

3 (f) The claimant has caused a writ of execution to be issued on the
4 judgment and the officer executing the writ has made a return showing that
5 either:

6 (i) No personal or real property of the judgment debtor liable to
7 be levied on in satisfaction of the judgment could be found, sold or
8 applied.

9 (ii) The amount realized on the sale of the property, or as much of
10 the property that was found, under the execution was insufficient to
11 satisfy the judgment.

12 (g) The claimant has caused a writ of garnishment to be issued to
13 each known employer of the judgment debtor ascertained by the claimant,
14 that each garnishee defendant has complied with the respective writ and
15 any judgment or order resulting from the writ and that the amount realized
16 from all judgments against the garnishee defendants was insufficient to
17 satisfy the balance due on the judgment.

18 (h) The claimant has deducted the following amounts from the actual
19 or compensatory damages awarded by the court:

20 (i) Any amount recovered or anticipated from the judgment debtor or
21 debtors.

22 (ii) Any amount recovered through collection efforts undertaken
23 pursuant to subdivisions (d) through (g) of this paragraph and including
24 an itemized valuation of the assets discovered and amounts applied.

25 (iii) Any amount recovered or anticipated from bonding, insurance
26 or title companies, including recovery of punitive damages.

27 (iv) Any amount recovered or anticipated from in court or out of
28 court settlements.

29 (v) Any amount of tax benefits accrued or taken as deductions on
30 federal, state or local income tax returns.

31 F. If the claim is based on a judgment against a loan originator
32 and the claimant has not obtained a judgment against the loan originator's
33 employing mortgage broker, mortgage banker or consumer lender if any, or
34 has not diligently pursued the assets of the employing mortgage broker,
35 mortgage banker or consumer lender the department shall deny the claim for
36 failure to diligently pursue the assets of all other persons liable to the
37 claimant in the transaction unless the claimant demonstrates, by clear and
38 convincing evidence, that either:

39 1. The loan originator was not employed by a mortgage broker,
40 mortgage banker or consumer lender at the time of the transaction.

41 2. The loan originator's employing mortgage broker, mortgage banker
42 or consumer lender would not have been liable to the claimant because the
43 loan originator acted outside the scope of employment in the transaction.

1 G. The ~~superintendent~~ DEPUTY DIRECTOR, at the ~~superintendent's~~
2 DEPUTY DIRECTOR'S sole discretion, may waive compliance with one or more
3 of the requirements prescribed by subsection E, paragraph 8 or subsection
4 F of this section if the claim is based on an award pursuant to a criminal
5 restitution order or if the ~~superintendent~~ DEPUTY DIRECTOR is satisfied
6 that the claimant has taken all reasonable steps to collect the amount of
7 the judgment or the unsatisfied part of the judgment from all judgment
8 debtors but has been unable to collect.

9 H. If the ~~superintendent~~ DEPUTY DIRECTOR finds it is likely that
10 the total remaining liability of the recovery fund is insufficient to pay
11 in full the valid claims of all aggrieved persons who may have claims
12 against any one licensee, the ~~superintendent~~ DEPUTY DIRECTOR may petition
13 the court to initiate a proration proceeding. The court shall grant the
14 petition and order a hearing to distribute the total remaining liability
15 of the fund among the applicants in the ratio that their respective claims
16 bear to the aggregate of the valid claims or in another manner that the
17 court deems equitable. The ~~superintendent~~ DEPUTY DIRECTOR or any party
18 may file a proposed plan for equitable distribution of the available
19 monies. The distribution of monies shall be among the persons entitled to
20 share them, without regard to the order of priority in which their
21 respective judgments may have been obtained or their respective
22 applications may have been filed. The court may require all applicants
23 and prospective applicants against one licensee to be joined in one action
24 if the respective rights of all the applicants to the recovery fund may be
25 equitably adjudicated and settled. The court shall not include in the
26 claims for proration the claim of any person who has not, within ninety
27 days after the court has entered the order for proration, filed a
28 complaint with the court, served the licensee and provided written notice
29 of the claim to the ~~superintendent~~ DEPUTY DIRECTOR. The liability of the
30 fund on any application affected by a proration proceeding is based on the
31 limits in effect on the date when the last application for payment is
32 filed. The court may refuse to consider or award prorated recovery to any
33 person who fails to expeditiously prosecute a claim against the licensee
34 or promptly file an application for payment and submit supporting
35 documentation as required by this article.

36 I. If, at any time, the money deposited in the mortgage recovery
37 fund is insufficient to satisfy any duly authorized claim or portion of a
38 claim, the ~~superintendent~~ DEPUTY DIRECTOR, when sufficient money has been
39 deposited in the mortgage recovery fund, shall satisfy the unpaid claims
40 or portions of claims, in the order that the claims or portions of claims
41 were originally filed, plus accumulated interest at the rate of four ~~per~~
42 ~~cent~~ PERCENT a year.

43 J. For the purposes of this section, "complaint" means the facts of
44 the transaction on which the judgment is based.

1 Sec. 232. Section 6-991.12, Arizona Revised Statutes, is amended to
2 read:

3 6-991.12. Notice of claim to judgment debtor; response

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

9 NOTICE

10 Based on a judgment against you in favor of (enter name
11 of claimant), application is being made to the Arizona
12 department of insurance and financial institutions for payment
13 from the mortgage recovery fund.

14 If you wish to contest payment from the mortgage
15 recovery fund, you must file a written response to the
16 application. The ~~superintendent~~ DEPUTY DIRECTOR of the
17 financial institutions division of the department of insurance
18 and financial institutions must receive your response at
19 (address) within thirty-five calendar days after the date this
20 notice is (mailed, delivered, first published). You must also
21 send a copy of the response to the claimant. If you fail to
22 respond as required, you waive your right to present your
23 objections to payment.

24 B. If the judgment debtor holds a current license issued by the
25 department, the notice and copy of the application may be served by
26 certified mail, return receipt requested, addressed to the judgment
27 debtor's latest business or residence address on file with the department.
28 If the judgment debtor does not hold a current license and if personal
29 delivery cannot be effected by exercising reasonable diligence, the
30 claimant must publish the notice once a week for two consecutive weeks in
31 a newspaper of general circulation in the county in which the judgment
32 debtor was last known to reside.

33 C. If the judgment debtor fails to file a written response to the
34 application with the department within thirty-five calendar days after
35 service under subsection B of this section or after the first publication
36 of the notice, the judgment debtor is not entitled to notice of any action
37 taken or proposed to be taken by the ~~superintendent~~ DEPUTY DIRECTOR with
38 respect to the claim.

39 Sec. 233. Section 6-991.13, Arizona Revised Statutes, is amended to
40 read:

41 6-991.13. Correction of deficiencies in the application

42 A. If the ~~superintendent~~ DEPUTY DIRECTOR determines that a
43 claimant's application fails to comply substantially with the requirements
44 of section 6-991.11 or rules adopted pursuant to this article, the
45 ~~superintendent~~ DEPUTY DIRECTOR, within thirty calendar days after

1 receiving the application, shall mail an itemized list of deficiencies to
2 the claimant. For the purposes of this subsection, "comply substantially"
3 means filing with the department the documents that are minimally
4 necessary to process a claim, including at least a certified copy of the
5 judgment, legible copies of documents establishing the underlying
6 transaction and amounts of losses suffered and a statement concerning
7 amounts recovered from or on behalf of the judgment debtor.

8 B. The claimant must respond within sixty calendar days after
9 receiving the list of deficiencies by providing the information identified
10 by the ~~superintendent~~ DEPUTY DIRECTOR. If the claimant fails to correct
11 the deficiencies within sixty calendar days, the department shall close
12 the file unless the claimant requests an extension in writing. A claimant
13 whose file has been closed may submit a new application as provided by
14 section 6-991.11.

15 C. The deadline prescribed by section 6-991.15 for the
16 ~~superintendent~~ DEPUTY DIRECTOR to make a decision on the application is
17 suspended from the date the ~~superintendent~~ DEPUTY DIRECTOR mails the list
18 of deficiencies to the applicant until the date the department receives
19 the requested information.

20 Sec. 234. Section 6-991.15, Arizona Revised Statutes, is amended to
21 read:

22 6-991.15. Final decision and order on claim; notice

23 A. The ~~superintendent~~ DEPUTY DIRECTOR shall make a final written
24 decision and order on a claim within ninety calendar days after receiving
25 a completed application except in the following cases:

- 26 1. A proration hearing is pending under section 6-991.11.
- 27 2. An application is deficient or fails to comply substantially
28 with the requirements of section 6-991.11 or rules adopted pursuant to
29 this article as determined pursuant to section 6-991.13.
- 30 3. The claimant agrees in writing to extend the time for making a
31 decision.

32 B. If the ~~superintendent~~ DEPUTY DIRECTOR fails to render a written
33 decision and order on a claim within ninety calendar days after receiving
34 a completed application, or within an extended period of time provided
35 under subsection A of this section, the claim is considered to be approved
36 on the day following the final day for rendering the decision.

37 C. The ~~superintendent~~ DEPUTY DIRECTOR may approve or deny an
38 application or may enter into a compromise with the claimant to pay less
39 in settlement than the full amount of the claim. If the claimant refuses
40 to accept a settlement offered by the ~~superintendent~~ DEPUTY DIRECTOR, the
41 ~~superintendent~~ DEPUTY DIRECTOR shall deny the claim.

42 D. The ~~superintendent~~ DEPUTY DIRECTOR shall give notice of a
43 decision and order with respect to the claim to the claimant and to any
44 judgment debtor who has filed a timely response to the claim pursuant to
45 section 6-991.12 as follows:

1. If the ~~superintendent~~ **DEPUTY DIRECTOR** denies the application, the notice shall include the following:

The claimant's application has been denied. If the claimant wishes to pursue the application in court, the claimant must file the application in the court in which the underlying judgment was entered within six months after receiving this notice, pursuant to section 6-991.16, Arizona Revised Statutes.

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

The decision of the ~~superintendent~~ DEPUTY DIRECTOR of the financial institutions division of the department of insurance and financial institutions on the claim of (name of claimant) is to pay \$_____ from the mortgage recovery fund. A copy of that decision and order is enclosed. If you desire a judicial review of the ~~superintendent's~~ DEPUTY DIRECTOR'S decision and order or the termination of your licenses and license rights, you may petition the superior court, in the county in which the judgment that is the basis of this claim was rendered, for a judicial review. To be timely, you must file the petition with the court within thirty calendar days after receiving this notice.

Sec. 235. Section 6-991.16, Arizona Revised Statutes, is amended to read:

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

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

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

NOTICE

An application has been filed with the court for a payment from the mortgage recovery fund that was previously

1 denied by the ~~superintendent~~ DEPUTY DIRECTOR of the financial
2 institutions division of the department of insurance and
3 financial institutions. If you wish to defend in court
4 against this claim, you must file a written response with the
5 court within thirty calendar days after you are served with a
6 copy of the application. If you fail to file a written
7 response, you waive your right to defend against the claim.

8 C. The ~~superintendent~~ DEPUTY DIRECTOR and the judgment debtor each
9 must file a written response within thirty calendar days after being
10 served with the application under subsection B of this section. The court
11 shall set the matter for hearing on the petition of the claimant. The
12 court shall grant a request of the ~~superintendent~~ DEPUTY DIRECTOR for a
13 continuance of as much as thirty calendar days and, on a showing of good
14 cause by any party, may continue the hearing for a time that the court
15 considers to be appropriate.

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

18 E. If the judgment debtor fails to file a written response to the
19 application, the ~~superintendent~~ DEPUTY DIRECTOR may compromise or settle
20 the claim at any time during the court proceedings and, on joint petition
21 of the applicant and the ~~superintendent~~ DEPUTY DIRECTOR, the court shall
22 issue an order directing payment out of the mortgage recovery fund.

23 Sec. 236. Section 6-991.17, Arizona Revised Statutes, is amended to
24 read:

25 6-991.17. Deputy director's standing in court

26 The ~~superintendent~~ DEPUTY DIRECTOR may enter an appearance, file an
27 answer, appear at the court hearing, defend the action or take whatever
28 other action the ~~superintendent~~ DEPUTY DIRECTOR considers appropriate on
29 behalf and in the name of the mortgage recovery fund and take recourse
30 through any appropriate method of review on behalf of, and in the name of,
31 the mortgage recovery fund.

32 Sec. 237. Section 6-991.18, Arizona Revised Statutes, is amended to
33 read:

34 6-991.18. Subrogation of rights; collection

35 A. Before receiving payment from the fund, a claimant must complete
36 and execute, as judgment creditor, an assignment of judgment lien and
37 notice of subrogation and assignment of rights to the claimant's judgment
38 on a form provided by the department.

39 B. If the ~~superintendent~~ DEPUTY DIRECTOR has paid from the mortgage
40 recovery fund any sum to the judgment creditor, the ~~superintendent~~ DEPUTY
41 DIRECTOR shall be subrogated to all of the rights of the judgment creditor
42 and the judgment creditor shall assign all the rights, title and interest
43 in the judgment to the ~~superintendent~~ DEPUTY DIRECTOR. The ~~superintendent~~
44 DEPUTY DIRECTOR may record the assignment of judgment lien and notice of
45 subrogation and assignment of rights. Any amount and interest recovered

1 by the ~~superintendent~~ DEPUTY DIRECTOR on the judgment shall be deposited
2 in the fund.

3 C. If the ~~superintendent~~ DEPUTY DIRECTOR is subrogated to a
4 claimant's rights as judgment creditor, the claimant shall not file a full
5 or partial satisfaction of judgment without the ~~superintendent's~~ DEPUTY
6 DIRECTOR'S prior written consent.

7 D. The attorney general shall bring any actions to recover amounts
8 paid from the fund, including interest, attorney fees and costs of
9 collection, pursuant to this article in the name of this state in the
10 superior court in the county in which the violation occurred or in a
11 county in which the ~~superintendent~~ DEPUTY DIRECTOR maintains an office. A
12 certified copy of a ~~superintendent's~~ DEPUTY DIRECTOR'S order requiring
13 payment from the fund may be filed in the office of the clerk of the
14 superior court. The clerk shall treat the ~~superintendent's~~ DEPUTY
15 DIRECTOR'S order in the same manner as a judgment of the superior court.
16 A ~~superintendent's~~ DEPUTY DIRECTOR'S order so filed has the same effect
17 and may be recorded, enforced or satisfied in a similar manner, as a
18 judgment of the superior court. No filing fee is required under this
19 subsection.

20 Sec. 238. Section 6-991.20, Arizona Revised Statutes, is amended to
21 read:

22 6-991.20. Effect of article on disciplinary action

23 This article does not limit the authority of the ~~superintendent~~
24 DEPUTY DIRECTOR to take disciplinary action against any licensee for a
25 violation of this chapter or of the rules adopted pursuant to this
26 chapter. The repayment in full of all obligations to the fund by any
27 licensee does not nullify or modify the effect of any other disciplinary
28 proceeding brought pursuant to this chapter or the rules adopted pursuant
29 to this chapter.

30 Sec. 239. Section 6-991.21, Arizona Revised Statutes, is amended to
31 read:

32 6-991.21. Financial services fund; use of fund

33 A. The financial services fund is established consisting of loan
34 originator fees collected pursuant to this article. The ~~superintendent~~
35 DEPUTY DIRECTOR shall administer the fund for the purpose of discharging
36 the duties imposed by law on the division.

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

39 Sec. 240. Section 6-1003, Arizona Revised Statutes, is amended to
40 read:

41 6-1003. Change of location of repositories

42 A lessor may, during the term of any lease, move its repositories
43 and the contents to another location ~~upon~~ ON giving notice to the lessees
44 in the manner and time required by such regulations as the ~~superintendent~~
45 DEPUTY DIRECTOR may adopt.

1 Sec. 241. Section 6-1101, Arizona Revised Statutes, is amended to
2 read:

3 6-1101. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Acquisition of control" means a transaction by which a person
6 obtains, directly or indirectly, control of a financial institution.

7 2. "Application" means an application which is made pursuant to
8 this article for approval of the ~~superintendent~~ DEPUTY DIRECTOR to become
9 a financial institution holding company.

10 3. "Control" means direct or indirect ownership or power to vote
11 twenty-five ~~per cent~~ PERCENT or more of the outstanding voting securities
12 of a financial institution or controlling person or to control in any
13 manner the election of a majority of the directors of a financial
14 institution or controlling person. For the purposes of determining the
15 percentage of voting securities owned, controlled or held by a person,
16 there shall be aggregated with the voting securities attributed to the
17 person the voting securities of any other person directly or indirectly
18 controlling, controlled by or under common control with the other person,
19 by any officer, partner, employee or agent of the person or by any spouse,
20 parent or child of the person.

21 4. "Controlling person" means a person who is directly or
22 indirectly in control of a financial institution.

23 5. "Financial institution" means ~~banks~~ A BANK, trust ~~companies~~
24 COMPANY, savings and loan ~~associations~~ ASSOCIATION, international banking
25 ~~facilities~~, FACILITY and holding ~~companies~~ COMPANY of ~~banks~~ A BANK, trust
26 ~~companies~~ COMPANY, savings and loan ~~associations~~ ASSOCIATION and
27 international banking ~~facilities~~ FACILITY under the jurisdiction of the
28 department.

29 6. "Financial institution holding company" means a corporation,
30 trust, association, partnership or similar organization ~~which~~ THAT
31 directly or indirectly, acting through one or more persons, controls a
32 financial institution or a controlling person.

33 7. "Voting security" means any security presently entitling the
34 owner or holder of the security to vote for the election of directors of a
35 financial institution or controlling person, excluding, in the case of a
36 savings and loan association, votes attributable to savings accounts. A
37 specified percentage of outstanding voting securities is the amount of the
38 outstanding voting securities that entitles the holder or holders of the
39 securities to cast that specified percentage of the aggregate votes ~~which~~
40 THAT the holders of all outstanding voting securities are entitled to
41 cast.

1 Sec. 242. Section 6-1102, Arizona Revised Statutes, is amended to
2 read:

3 6-1102. Prohibitions

4 A person shall not directly or indirectly take any action that
5 causes or results in a company becoming a financial institution holding
6 company, except with the approval of the ~~superintendent~~ DEPUTY DIRECTOR
7 pursuant to this article or as otherwise ~~permitted~~ ALLOWED by this
8 article.

9 Sec. 243. Section 6-1103, Arizona Revised Statutes, is amended to
10 read:

11 6-1103. Exempt persons and transactions

12 A. This article does not apply to the following persons or
13 transactions of the type specified:

14 1. A registered dealer who acts as an underwriter or member of a
15 selling group in a public offering of the voting securities of a financial
16 institution or controlling person.

17 2. A person who acts as proxy for the sole purpose of voting at a
18 designated meeting of the security holders of a financial institution or
19 controlling person.

20 3. A person who acquires control of a financial institution or
21 controlling person by devise or descent, except that the person shall
22 divest himself of such control not more than two years after the date of
23 the acquisition unless the acquisition of control is approved by the
24 ~~superintendent~~ DEPUTY DIRECTOR pursuant to this article.

25 4. A person who acquires control of a financial institution or
26 controlling person as a personal representative, custodian, guardian or
27 conservator appointed by a court or as a trustee, a receiver or other
28 officer appointed by a court.

29 5. A pledgee of a voting security of a financial institution or
30 controlling person who does not have the right, as pledgee, to vote the
31 voting security.

32 6. A person who acquires control of a financial institution or
33 controlling person through the collection of a debt previously contracted
34 in good faith, except that the person shall divest himself of such control
35 not more than two years after the date of the acquisition unless the
36 acquisition of control is approved by the ~~superintendent~~ DEPUTY DIRECTOR
37 pursuant to this article.

38 B. A person or transaction that the ~~superintendent~~ DEPUTY DIRECTOR
39 by rule or order exempts as not being necessary or appropriate in the
40 public interest or for the protection of a financial institution or the
41 depositors, beneficiaries, creditors or shareholders of the financial
42 institution is exempt from this article.

43 C. A person, before filing an application for approval pursuant to
44 this article, may request in writing a determination from the
45 ~~superintendent~~ DEPUTY DIRECTOR as to whether the person, on consummation

1 of a proposed transaction, will be in control. On such a request, the
2 ~~superintendent~~ DEPUTY DIRECTOR may enter an order that the person will not
3 be in control, in which event the proposed transaction is an exempt
4 transaction under this article.

5 D. This article does not supersede, rescind or modify any
6 provision, requirement or condition of this title ~~which~~ THAT would
7 otherwise be applicable to any acquisition of a financial institution by a
8 financial institution holding company. This article does not supersede,
9 rescind or modify any provision, requirement or condition ~~which~~ THAT would
10 otherwise be applicable to any merger of financial institutions or the
11 acquisition or sale of all or substantially all of the assets of the
12 financial institution, except that an approval obtained pursuant to this
13 article satisfies the requirements of chapter 1, article 4 of this title.

14 Sec. 244. Section 6-1104, Arizona Revised Statutes, is amended to
15 read:

16 6-1104. Acquisition of control; approval by deputy director

17 A. A person shall not, directly or indirectly, make a tender offer
18 for, request or invite a tender offer for, offer to exchange securities
19 for or acquire in the open market or otherwise any voting security or any
20 security convertible into a voting security of a financial institution or
21 controlling person if the transaction would result in the person becoming
22 a financial institution holding company unless the ~~superintendent~~ DEPUTY
23 DIRECTOR has approved the acquisition of control pursuant to this article.
24 This section does not prohibit a person from negotiating or entering into
25 agreements subject to the condition that the acquisition of control is not
26 effective until approval of the ~~superintendent~~ DEPUTY DIRECTOR pursuant to
27 this article is obtained.

28 B. A person who has been approved pursuant to this article is not
29 required to make a subsequent application pursuant to this article to
30 acquire additional control or fractions of control of the financial
31 institution or controlling person for which it was approved if the person
32 has remained in continuous control of the financial institution or
33 controlling person.

34 Sec. 245. Section 6-1105, Arizona Revised Statutes, is amended to
35 read:

36 6-1105. Application for approval

37 A. An application shall be in writing, in such form as the
38 ~~superintendent~~ DEPUTY DIRECTOR may prescribe and accompanied by the
39 information, data and records the ~~superintendent~~ DEPUTY DIRECTOR requires.
40 The ~~superintendent~~ DEPUTY DIRECTOR shall prescribe by rule or order the
41 form of the application and the information, data or records ~~which~~ THAT
42 may be required.

43 B. The ~~superintendent~~ DEPUTY DIRECTOR shall cause copies of an
44 initial application and any amendment or supplement to the application to

1 be given to the financial institution concerned and the controlling
2 person, if any, within three business days.

3 Sec. 246. Section 6-1106, Arizona Revised Statutes, is amended to
4 read:

5 6-1106. Material change of fact; filing amended statements

6 If any material change occurs in the facts set forth in the
7 application, or if for any other reason the acquiring party desires to
8 amend the application, the person shall file with the ~~superintendent~~
9 ~~DEPUTY DIRECTOR~~ an amendment setting forth the change, together with
10 copies of all documents and other material relevant to the change.

11 Sec. 247. Section 6-1107, Arizona Revised Statutes, is amended to
12 read:

13 6-1107. Denial of application; grounds

14 A. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may deny an application if
15 the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ finds any of the following:

16 1. The financial condition of the financial institution holding
17 company that would acquire control will jeopardize the financial stability
18 of the financial institution or controlling person or prejudice the
19 interests of the depositors, beneficiaries, creditors and shareholders of
20 the financial institution or controlling person.

21 2. A plan or proposal to liquidate or consolidate the financial
22 institution or controlling person or to make any other major change in the
23 business, corporate structure or management of the financial institution
24 or controlling person is not fair and reasonable to the depositors,
25 beneficiaries, creditors and shareholders of the financial institution or
26 controlling person.

27 3. The overall moral character or integrity of any person who would
28 acquire control indicates that it would not be in the interest of the
29 depositors, beneficiaries, creditors and shareholders of the financial
30 institution or controlling person, and in the interest of the public, to
31 ~~permit~~ ~~ALLOW~~ the person to control the financial institution or
32 controlling person.

33 4. The applicant has neglected, failed or refused to furnish to the
34 ~~superintendent~~ ~~DEPUTY DIRECTOR~~ any required information.

35 5. It is contrary to law.

36 6. The acquisition would result in a monopoly or would be in
37 furtherance of any combination or any conspiracy to monopolize or to
38 attempt to monopolize the business of financial institutions and financial
39 institution holding companies.

40 7. The effect of the proposed acquisition will be to substantially
41 lessen competition, tend to create a monopoly or in any other manner be a
42 restraint of trade, unless the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ finds that
43 the effects of the proposed acquisition are clearly outweighed by its
44 probable effect in meeting the convenience and needs of the community to
45 be served and by the public interest.

1 8. The applicant has made a material false statement on the
2 application.

3 B. The ~~superintendent~~ DEPUTY DIRECTOR shall give the applicant
4 written notification of the granting or denial of an application together
5 with a statement in support of the decision. If the ~~superintendent~~ DEPUTY
6 DIRECTOR, based on the information available at the time, plans to deny
7 the application and no hearing has been held in accordance with title 41,
8 chapter 6, article 10, the ~~superintendent~~ DEPUTY DIRECTOR shall send the
9 applicant a written statement ~~which shall specify~~ THAT SPECIFIES the
10 reasons for such tentative denial. The applicant shall have fifteen days
11 following the date of this statement within which to file a written
12 request to amend its application. ~~Upon~~ ON the filing of ~~such~~ THE request
13 the applicant shall be given thirty days in which to amend its
14 application.

15 C. The ~~superintendent~~ DEPUTY DIRECTOR may approve an application
16 subject to conditions ~~he~~ THE DEPUTY DIRECTOR considers necessary and
17 appropriate to protect the public interest and carry out the purposes of
18 this title. The ~~superintendent~~ DEPUTY DIRECTOR shall give the applicant
19 written notification of the approval of an application which is subject to
20 conditions together with a statement in support of the decision.

21 Sec. 248. Section 6-1108, Arizona Revised Statutes, is amended to
22 read:

23 6-1108. Failure to act on application as approval

24 An application ~~which~~ THAT is not denied or approved by the
25 ~~superintendent~~ DEPUTY DIRECTOR within sixty days after the application is
26 filed with the ~~superintendent~~ DEPUTY DIRECTOR is deemed to be approved by
27 the ~~superintendent~~ DEPUTY DIRECTOR as of the first day after the period.
28 The ~~superintendent~~ DEPUTY DIRECTOR and the applicant may extend the ~~sixty~~
29 ~~day~~ SIXTY-DAY period by agreement. If the ~~superintendent~~ DEPUTY DIRECTOR
30 gives notice of a hearing, the ~~sixty-day~~ SIXTY-DAY period is extended to
31 the date fixed by order of the ~~superintendent~~ DEPUTY DIRECTOR. For the
32 purposes of this section, an application is not deemed filed until all
33 amendments, supplements and additional information required by the
34 ~~superintendent~~ DEPUTY DIRECTOR have been received.

35 Sec. 249. Section 6-1109, Arizona Revised Statutes, is amended to
36 read:

37 6-1109. Determination of control of one person by another;
38 hearing; notice

39 Before determining whether a person controls another person or
40 before denying or approving an application for approval to become a
41 financial institution holding company the ~~superintendent~~ DEPUTY DIRECTOR
42 may hold a hearing. The ~~superintendent~~ DEPUTY DIRECTOR shall give notice
43 of the hearing to the applicant, the financial institution or controlling
44 person concerned and to such other persons as the ~~superintendent~~ DEPUTY
45 DIRECTOR determines appropriate. The date for commencement of the hearing

1 shall be not later than thirty days after the date of the notice, unless
2 the applicant consents to an extension of the period.

3 Sec. 250. Section 6-1110, Arizona Revised Statutes, is amended to
4 read:

5 6-1110. Appointment of deputy director as agent for service
6 of process; forwarding of process; consent to
7 jurisdiction

8 A person who is not a resident of this state, domiciled in this
9 state or authorized to do business in this state and who files an
10 application is deemed to have:

11 1. Consented to the jurisdiction of the courts of this state for
12 all actions arising under this article.

13 2. Appointed the ~~superintendent~~ DEPUTY DIRECTOR as ~~his~~ THE PERSON'S
14 lawful agent for the purpose of accepting service of process in any
15 action, suit or proceeding that may arise under this article. The
16 ~~superintendent~~ DEPUTY DIRECTOR shall transmit copies of all such lawful
17 process accepted by the ~~superintendent~~ DEPUTY DIRECTOR as an agent by
18 certified mail to the person at ~~his~~ THE PERSON'S last known address.

19 Sec. 251. Section 6-1112, Arizona Revised Statutes, is amended to
20 read:

21 6-1112. Acquisition of voting securities in violation of
22 article; limitation on rights as shareholder;
23 injunction

24 A. With respect to any voting security acquired in violation of
25 this article or any rule or order of the ~~superintendent~~ DEPUTY DIRECTOR, a
26 person is not entitled to vote or give a written proxy or consent for a
27 period of five years after the acquisition except with the written consent
28 of the ~~superintendent~~ DEPUTY DIRECTOR. If a voting security of a
29 financial institution or controlling person is acquired in violation of
30 this article or any rule or order, any shareholder of the financial
31 institution or controlling person or the ~~superintendent~~ DEPUTY DIRECTOR
32 may apply to the superior court for injunctive or other equitable relief,
33 including costs and reasonable attorney fees, to enjoin prospectively any
34 person from voting or giving any written proxy or consent with respect to
35 the voting security for a period of five years after the acquisition
36 except with the written consent of the ~~superintendent~~ DEPUTY DIRECTOR.
37 The ~~superintendent~~ DEPUTY DIRECTOR may apply to the superior court for
38 injunctive or other relief, including costs, to void any vote or any
39 giving of a written proxy or consent with respect to the security ~~which~~
40 ~~THAT~~ has occurred since the acquisition, except that the court may not
41 void the vote if the court finds that to void the vote would not be in the
42 interest of the depositors, beneficiaries, creditors or shareholders of
43 the financial institution or controlling person or in the public interest.

44 B. A person may file an application for consent of the
45 ~~superintendent~~ DEPUTY DIRECTOR with the ~~superintendent~~ DEPUTY DIRECTOR and

1 the ~~superintendent~~ DEPUTY DIRECTOR shall grant or deny the application
2 within thirty days. In giving consent, the ~~superintendent~~ DEPUTY DIRECTOR
3 may require those conditions that the ~~superintendent~~ DEPUTY DIRECTOR deems
4 reasonable, necessary or otherwise in the public interest. Except as
5 provided in section 41-1092.08, subsection H, the final action of the
6 ~~superintendent~~ DEPUTY DIRECTOR is subject to judicial review pursuant to
7 title 12, chapter 7, article 6 if the complaint seeking review is filed
8 with the superior court in Maricopa county.

9 C. No civil action may be brought to void any vote pursuant to
10 subsection A of this section unless commenced within one year after the
11 transaction ~~which~~ THAT constituted a violation of this article or any rule
12 or order of the ~~superintendent~~ DEPUTY DIRECTOR.

13 Sec. 252. Section 6-1113, Arizona Revised Statutes, is amended to
14 read:

15 6-1113. Reports; examination; costs

16 A. The ~~superintendent~~ DEPUTY DIRECTOR may require reports from and
17 examine financial institution holding companies and each subsidiary of the
18 holding companies. The ~~superintendent~~ DEPUTY DIRECTOR shall accept the
19 examination and financial reports of the appropriate federal or state
20 holding company regulatory authority in lieu of any examination or
21 financial report authorized or required by this chapter. The reports so
22 accepted are considered for all purposes as official reports of the
23 department.

24 B. Notwithstanding subsection A of this section, the ~~superintendent~~
25 DEPUTY DIRECTOR may require reports from and examine financial institution
26 holding companies and their subsidiaries if it appears to the
27 ~~superintendent~~ DEPUTY DIRECTOR that any of these entities has engaged, is
28 engaging or is about to engage in any act, practice or transaction ~~which~~
29 THAT constitutes an unsafe or unsound practice or a violation of this
30 title or any rule or order of the ~~superintendent~~ DEPUTY DIRECTOR. This
31 section does not prohibit the department from participating with federal
32 regulators in the examinations to aid in enforcing this title.

33 C. The cost of any examination shall be assessed against and paid
34 by each financial institution holding company pursuant to section 6-125.

35 Sec. 253. Section 6-1203, Arizona Revised Statutes, is amended to
36 read:

37 6-1203. Exemptions

38 A. This chapter does not apply to:

39 1. The United States or any department or agency of the United
40 States.

41 2. This state, including any political subdivision of this state.

42 B. This chapter does not apply to the following if engaged in the
43 regular course of their respective businesses, except that the provisions
44 of article 2 of this chapter apply to:

1 1. A bank, financial institution holding company, credit union,
2 savings and loan association or savings bank, whether organized under the
3 laws of any state or the United States when the term "money transmitter"
4 is used.

5 2. A person who engages in check cashing or foreign money exchange
6 and engages in other activity regulated under this chapter only as an
7 authorized delegate of a licensee acting within the scope of the contract
8 between the authorized delegate and the licensee.

9 3. A person WHO IS licensed pursuant to chapter 5, 6, 7 or 8 of
10 this title, chapter 9, article 2 of this title, ~~chapter 12.1 of this title~~
11 or title 32, chapter 9.

12 Sec. 254. Section 6-1204, Arizona Revised Statutes, is amended to
13 read:

14 6-1204. Application for license: fees

15 A. Each application for a license shall be made in writing, under
16 oath and in the form prescribed by the ~~superintendent~~ DEPUTY
17 DIRECTOR. The application shall contain at least the following:

18 1. Copies of the articles of incorporation for the applicant, a
19 listing of all trade names or fictitious names used by the applicant and
20 other information concerning the corporate status of the applicant.

21 2. The address of the applicant's principal place of business, the
22 address of each location where the applicant intends to transact business
23 in this state, including any branch offices, and the name and address of
24 each location of any authorized delegates.

25 3. For each executive officer and director of the applicant and for
26 each executive officer and director of any controlling person, unless the
27 controlling person is a publicly traded company on a recognized national
28 exchange and has assets in excess of ~~four hundred million dollars~~
29 \$400,000,000, a statement of personal history in the form prescribed by
30 the ~~superintendent~~ DEPUTY DIRECTOR.

31 4. An identification statement for each branch manager and
32 responsible individual including all of the following:

33 (a) Name and any aliases or previous names used.

34 (b) Date and place of birth.

35 (c) Alien registration information, if applicable.

36 (d) Employment history and residence addresses for the preceding
37 fifteen years.

38 (e) Social security number.

39 (f) Criminal convictions, excluding traffic offenses.

40 5. The name and address of each authorized delegate.

41 6. The identity of any account in any financial institution through
42 which the applicant intends to conduct any business regulated under this
43 chapter.

44 7. A financial statement audited by a licensed independent
45 certified public accountant.

1 B. Each application shall be accompanied by the nonrefundable
2 application fee and an annual fee as prescribed in section 6-126.

3 Sec. 255. Section 6-1205, Arizona Revised Statutes, is amended to
4 read:

5 6-1205. Bond required; conditions; notice; cancellation;
6 substitution

7 A. Each application for a license shall be accompanied by and each
8 licensee shall maintain at all times a bond executed by the licensee as
9 principal and a surety company authorized to do business in this state as
10 surety. The bond shall be in the amount of ~~twenty-five thousand dollars~~
11 ~~\$25,000~~ for a licensee with five or fewer authorized delegates and
12 locations, ~~one hundred thousand dollars~~ ~~\$100,000~~ for a licensee with more
13 than five but fewer than twenty-one authorized delegates and locations and
14 an additional ~~five thousand dollars~~ ~~\$5,000~~ for each authorized delegate
15 and location in excess of twenty but fewer than two hundred one authorized
16 delegates and locations, to a maximum of ~~two hundred fifty thousand~~
17 ~~dollars~~ ~~\$250,000~~ and an additional ~~five thousand dollars~~ ~~\$5,000~~ for each
18 authorized delegate and location in excess of two hundred authorized
19 delegates and locations, to a maximum of ~~five hundred thousand dollars~~
20 ~~\$500,000~~.

21 B. The bond shall be conditioned on the faithful compliance of the
22 licensee, including its directors, officers, authorized delegates and
23 employees, with this chapter. The bond shall be payable to any person
24 injured by the wrongful act, default, fraud or misrepresentation of the
25 licensee, ~~his~~ ~~THE LICENSEE'S~~ authorized delegates or ~~his~~ ~~THE LICENSEE'S~~
26 employees or to the state for the benefit of the person injured. Only one
27 bond is required for any licensee irrespective of the number of officers,
28 directors, locations, employees or authorized delegates of that licensee.

29 C. The bond shall remain in effect until cancelled by the surety,
30 which cancellation may be had only after thirty days' written notice to
31 the ~~superintendent~~ ~~DEPUTY DIRECTOR~~. That cancellation does not affect any
32 liability incurred or accrued during the ~~thirty-day~~ ~~THIRTY-DAY~~ period.

33 D. In lieu of the bond prescribed in this section, an applicant for
34 a license or a licensee may deposit with the ~~superintendent~~ ~~DEPUTY~~
35 ~~DIRECTOR~~ cash or alternatives to cash acceptable to the ~~superintendent~~
36 ~~DEPUTY DIRECTOR~~ in the amount of the required bond. Notwithstanding
37 section 35-155, subsection E, the principal amount of the deposit shall be
38 released only on written authorization of the ~~superintendent~~ ~~DEPUTY~~
39 ~~DIRECTOR~~ or on the order of a court of competent jurisdiction. The
40 principal amount of the deposit shall not be released to the licensee
41 before the expiration of five years ~~from~~ ~~AFTER~~ the first occurrence of any
42 of the following:

43 1. The date of substitution of a bond for a cash alternative unless
44 the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ determines in ~~his~~ ~~THE DEPUTY DIRECTOR'S~~
45 discretion that the bond constitutes adequate security for all past,

1 present or future obligations of the licensee. After that determination,
2 the cash alternative may be immediately released.

3 2. The surrender of the license.

4 3. The revocation of the license.

5 4. The expiration of the license.

6 E. Notwithstanding subsections A through D of this section, if the
7 required amount of the bond is reduced, whether by change in the number of
8 authorized delegates or locations or by legislative action, a cash deposit
9 in lieu of that bond shall not be correspondingly reduced but shall be
10 maintained at the higher amount until the expiration of three years ~~from~~
11 ~~AFTER~~ the effective date of the reduction in the required amount of that
12 bond unless the ~~superintendent~~ DEPUTY DIRECTOR in ~~his~~ THE DEPUTY
13 DIRECTOR'S discretion determines otherwise.

14 Sec. 256. Section 6-1206, Arizona Revised Statutes, is amended to
15 read:

16 6-1206. Issuance of license; renewal

17 A. On the filing of a complete application, the ~~superintendent~~
18 DEPUTY DIRECTOR shall investigate the financial condition and
19 responsibility, financial and business experience, character and general
20 fitness of the applicant. In ~~his~~ THE DEPUTY DIRECTOR'S discretion, the
21 ~~superintendent~~ DEPUTY DIRECTOR may conduct an on-site investigation of the
22 applicant, the reasonable cost of which shall be borne by the applicant.
23 The ~~superintendent~~ DEPUTY DIRECTOR shall issue a license to an applicant
24 if the ~~superintendent~~ DEPUTY DIRECTOR finds that all of the following
25 conditions are met:

26 1. The applicant has complied with sections 6-1204, 6-1205 and
27 6-1205.01.

28 2. The competence, experience and integrity of the officers,
29 directors and controlling persons and any proposed management personnel
30 indicate that it would be in the interest of the public to ~~permit~~ ALLOW
31 such A person to participate in the affairs of a licensee.

32 3. The applicant has paid the required license fee.

33 B. The ~~superintendent~~ DEPUTY DIRECTOR shall approve or deny every
34 application for an original license within one hundred twenty days after
35 the date an application is complete, which period may be extended by the
36 written consent of the applicant. The ~~superintendent~~ DEPUTY DIRECTOR
37 shall notify the applicant of the date on which the application is
38 determined to be complete. In the absence of approval or denial of the
39 application or consent to the extension of the one hundred ~~twenty-day~~
40 TWENTY-DAY period, the application is deemed approved and the
41 ~~superintendent~~ DEPUTY DIRECTOR shall issue the license effective as of the
42 first business day after that one hundred ~~twenty-day~~ TWENTY-DAY period or
43 any extended period.

44 C. A licensee shall pay a renewal fee as prescribed in section
45 6-126 on or before November 1 of each year. The renewal fee shall be

1 accompanied by a renewal application in the form prescribed by the
 2 ~~superintendent~~ DEPUTY DIRECTOR. A license for which no renewal fee and
 3 application have been received by November 1 shall be suspended. A
 4 licensee may renew a suspended license ~~no~~ NOT later than December 1 of the
 5 year of expiration by paying the renewal fee plus ~~one hundred dollars~~ \$100
 6 for each day the renewal fee and application were not received by the
 7 ~~superintendent~~ DEPUTY DIRECTOR. A license expires on December 1 of each
 8 year, unless earlier renewed, surrendered or revoked. A license shall not
 9 be granted to the holder of an expired license or to an incorporator,
 10 director or officer of the holder of an expired license except on
 11 compliance with the requirements provided in this article for an original
 12 license.

13 Sec. 257. Section 6-1207, Arizona Revised Statutes, is amended to
 14 read:

15 6-1207. Principal and branch offices; notices

16 A. A licensee shall designate and maintain a principal place of
 17 business for the transaction of business regulated by this chapter. If a
 18 licensee maintains one or more places of business in this state, the
 19 licensee shall designate a place of business in this state as its
 20 principal place of business for purposes of this section. The license
 21 shall specify the address of the principal place of business and shall
 22 designate a responsible individual for its principal place of business.

23 B. If a licensee maintains one or more locations in this state in
 24 addition to a principal place of business, and those locations are to be
 25 under the control of the licensee and not under the control of authorized
 26 delegates as prescribed in section 6-1208, the licensee shall obtain a
 27 branch office license from the ~~superintendent~~ DEPUTY DIRECTOR for each
 28 additional location by filing an application as required by the
 29 ~~superintendent~~ DEPUTY DIRECTOR at the time the licensee files its license
 30 application. If branch offices are added by the licensee, the licensee
 31 shall file with the ~~superintendent~~ DEPUTY DIRECTOR an application for a
 32 branch office license with the licensee's next quarterly fiscal report
 33 prescribed by section 6-1211. The ~~superintendent~~ DEPUTY DIRECTOR shall
 34 issue a branch office license if the ~~superintendent~~ DEPUTY DIRECTOR
 35 determines that the licensee has complied with ~~the provisions of~~ this
 36 subsection. The license shall indicate on its face the address of the
 37 branch office and shall designate a manager for each branch office to
 38 oversee that office. The ~~superintendent~~ DEPUTY DIRECTOR may disapprove
 39 the designated manager then or at any later time if the ~~superintendent~~
 40 DEPUTY DIRECTOR finds that the competence, experience and integrity of the
 41 branch manager ~~warrants~~ WARRANT disapproval. A person may be designated
 42 as the manager for more than one branch. The licensee shall submit a fee
 43 as prescribed in section 6-126 for each branch office license.

44 C. A licensee shall prominently display the money transmitter
 45 license in its principal place of business and the branch office license

1 in each branch office. Each authorized delegate shall prominently display
2 at each location a notice in a form prescribed by the ~~superintendent~~
3 ~~DEPUTY DIRECTOR~~ that indicates that the authorized delegate is an
4 authorized delegate of a licensee under this chapter.

5 D. If the address of the principal place of business or any branch
6 office is changed, the licensee shall immediately notify the
7 ~~superintendent~~ ~~DEPUTY DIRECTOR~~ of the change. The ~~superintendent~~ ~~DEPUTY~~
8 ~~DIRECTOR~~ shall endorse the change of address on the license for a fee as
9 prescribed in section 6-126.

10 Sec. 258. Section 6-1208, Arizona Revised Statutes, is amended to
11 read:

12 6-1208. Authorized delegates of licensee; reports

13 A. A licensee may conduct the business regulated under this chapter
14 at one or more locations in this state through authorized delegates
15 designated by the licensee.

16 B. Each contract between a licensee and an authorized delegate
17 shall require the authorized delegate to operate in full compliance with
18 the law and shall contain as an appendix a current copy of this
19 chapter. The licensee shall provide each authorized delegate with
20 operating policies and procedures sufficient to ~~permit~~ ~~ALLOW~~ compliance by
21 the delegate with ~~the provisions of~~ title 13, chapter 23 and this chapter
22 and rules adopted pursuant to this chapter. The licensee shall promptly
23 update the policies and procedures to ~~permit~~ ~~ALLOW~~ compliance with those
24 laws and rules.

25 C. An authorized delegate is not liable for any obligation imposed
26 on its licensee by this chapter with respect to the business for which it
27 is a delegate. On suspension or revocation of a license or the failure of
28 a licensee to renew its license, the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall
29 notify all delegates of the licensee who are on record with the department
30 of the department's action. On receipt of this notice, an authorized
31 delegate shall immediately cease to operate as a delegate of that
32 licensee.

33 Sec. 259. Section 6-1209, Arizona Revised Statutes, is amended to
34 read:

35 6-1209. Cease and desist orders; examinations

36 A. In addition to ~~his~~ ~~THE DEPUTY DIRECTOR'S~~ authority under section
37 6-137, the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may issue an order to cease and
38 desist against a licensee, requiring the licensee to cease conducting its
39 business through an authorized delegate and to take appropriate
40 affirmative action, pursuant to section 6-137, if the ~~superintendent~~
41 ~~DEPUTY DIRECTOR~~ finds that:

42 1. The authorized delegate has violated, is violating or is about
43 to violate any applicable law or rule or order of the ~~superintendent~~
44 ~~DEPUTY DIRECTOR~~.

1 2. The authorized delegate has failed to cooperate with an
2 examination or investigation by the ~~superintendent~~ DEPUTY DIRECTOR or the
3 attorney general authorized by this title.

4 3. The competence, experience, integrity or overall moral character
5 of the authorized delegate or any controlling person of the authorized
6 delegate indicates that it would not be in the interest of the public to
7 ~~permit~~ ALLOW that person to participate in the business regulated under
8 this chapter.

9 4. The financial condition of the authorized delegate is such that
10 it might prejudice the interests of the public in the conduct of the
11 business regulated under this chapter.

12 5. The authorized delegate has engaged, is engaging or is about to
13 engage in any unsafe or unsound act, practice or transaction or an act,
14 practice or transaction that constitutes a violation of this title or of
15 any rule or order of the ~~superintendent~~ DEPUTY DIRECTOR.

16 B. Any business for which a license is required by this chapter
17 conducted by an authorized delegate outside the scope of authority
18 conferred in the contract between the authorized delegate and the licensee
19 is unlicensed activity. An authorized delegate of a licensee holds in
20 trust for the benefit of the licensee all monies received from the sale or
21 delivery of the licensee's payment instruments or monies received for
22 transmission. If an authorized delegate commingles any such monies with
23 any monies or other property owned or controlled by the authorized
24 delegate, a trust against all commingled proceeds and other monies or
25 property owned or controlled by the authorized delegate is imposed in
26 favor of the licensee in an amount equal to the amount of the proceeds due
27 the licensee.

28 C. An authorized delegate is subject to examination by the
29 ~~superintendent~~ DEPUTY DIRECTOR at the discretion of the ~~superintendent~~
30 DEPUTY DIRECTOR. The licensee is responsible for the payment of an
31 assessment for the examination of its authorized delegates to the extent
32 that the examination relates to the activities conducted by the authorized
33 delegate on behalf of the licensee. That assessment shall be made at the
34 rate set by the ~~superintendent~~ DEPUTY DIRECTOR for examination of an
35 enterprise pursuant to section 6-125, subsection B, and payment of that
36 assessment shall be made as prescribed by section 6-125.

37 Sec. 260. Section 6-1210, Arizona Revised Statutes, is amended to
38 read:

39 6-1210. Suspension or revocation of licenses

40 The ~~superintendent~~ DEPUTY DIRECTOR may suspend or revoke a license
41 if the ~~superintendent~~ DEPUTY DIRECTOR finds any of the following:

42 1. The licensee has made a material misstatement or suppressed or
43 withheld information on an application for a license or any document
44 required to be filed with the ~~superintendent~~ DEPUTY DIRECTOR.

1 2. A fact or condition exists that, if it had existed or had been
2 known at the time the licensee applied for its license, would have been
3 grounds for denying the application.

4 3. The licensee is insolvent as defined in section 47-1201.

5 4. The licensee has violated any provision of title 13, chapter 23,
6 this chapter or rules adopted pursuant to this chapter or any order of the
7 ~~superintendent~~ DEPUTY DIRECTOR.

8 5. An authorized delegate of the licensee has violated any
9 provision of title 13, chapter 23, this chapter or rules adopted
10 thereunder or any order of the ~~superintendent~~ DEPUTY DIRECTOR as a result
11 of a course of negligent failure to supervise or as a result of the wilful
12 misconduct of the licensee.

13 6. The licensee refuses to ~~permit~~ ALLOW the ~~superintendent~~ DEPUTY
14 DIRECTOR or the attorney general to make any examination authorized by
15 this title.

16 7. The licensee knowingly fails to make any report required by this
17 chapter.

18 8. The licensee fails to pay a judgment entered in favor of a
19 claimant, plaintiff or creditor in an action arising out of the licensee's
20 business regulated under this article within thirty days after the
21 judgment becomes final or within thirty days after expiration or
22 termination of a stay of execution or other stay of proceedings, whichever
23 is later. If execution on the judgment is stayed by court order,
24 operation of law or otherwise, proceedings to suspend or revoke the
25 license for failure of the licensee to comply with that judgment may not
26 be commenced by the ~~superintendent~~ DEPUTY DIRECTOR under this subsection
27 until thirty days after that stay.

28 9. The licensee has been convicted in any state of a felony or of
29 any crime involving a breach of trust or dishonesty.

30 Sec. 261. Section 6-1211, Arizona Revised Statutes, is amended to
31 read:

32 6-1211. Reports

33 Each licensee shall file with the ~~superintendent~~ DEPUTY DIRECTOR
34 within forty-five days after the end of each fiscal quarter a consolidated
35 financial statement including a balance sheet, income and expense
36 statements and a list of all authorized delegates, branch managers,
37 responsible individuals and locations within this state that have been
38 added or terminated by the licensee within the fiscal quarter.
39 Information regarding branch managers and responsible individuals shall
40 include the information prescribed in section 6-1204, subsection A,
41 paragraph 4. For locations and authorized delegates, the licensee shall
42 include the name and street address of each location and authorized
43 delegate.

1 Sec. 262. Section 6-1212, Arizona Revised Statutes, is amended to
2 read:

3 6-1212. Permissible investments

4 A. Every licensee shall maintain at all times permissible
5 investments that comply with either of the following:

6 1. A market value computed in accordance with generally accepted
7 accounting principles of not less than the aggregate amount of all of its
8 outstanding payment instruments.

9 2. A net carrying value computed in accordance with generally
10 accepted accounting principles of not less than the aggregate amount of
11 all of its outstanding payment instruments, provided the market value of
12 these permissible investments is at least ninety-five ~~per cent~~ PERCENT of
13 the net carrying value.

14 B. Notwithstanding any other provision of this chapter, the
15 ~~superintendent~~ DEPUTY DIRECTOR, with respect to any particular licensee or
16 all licensees, may limit the extent to which any class of permissible
17 investments as defined in section 6-1201 may be considered a permissible
18 investment, except for money and certificates of deposit. The
19 ~~superintendent~~ DEPUTY DIRECTOR may by rule prescribe or by order allow
20 other types of investments ~~which~~ THAT the ~~superintendent~~ DEPUTY DIRECTOR
21 determines to have substantially equivalent safety as other permissible
22 investments to be considered a permissible investment under this chapter.

23 Sec. 263. Section 6-1213, Arizona Revised Statutes, is amended to
24 read:

25 6-1213. Records

26 A. Each licensee shall keep and use ~~in~~ its business books, accounts
27 and records in accordance with generally accepted accounting principles
28 that will enable the ~~superintendent~~ DEPUTY DIRECTOR to determine whether
29 that licensee is complying with ~~the provisions of~~ this chapter. Each
30 licensee and authorized delegate shall preserve its records for at least
31 five years after making the final entry on any transaction. Each
32 authorized delegate shall keep records as required by the ~~superintendent~~
33 DEPUTY DIRECTOR.

34 B. For each authorized delegate, the licensee shall maintain
35 records that demonstrate that the licensee conducted a reasonable
36 background investigation of each authorized delegate. A licensee shall
37 preserve those records for at least five years after the authorized
38 delegate's most recent designation by the licensee. For an authorized
39 delegate designated after November 1, 1991, the records shall be available
40 at all times, and for an authorized delegate designated on or before
41 November 1, 1991, the records shall be available at all times after
42 November 1, 1992.

1 C. The records of the licensee regarding the business regulated
 2 under this chapter shall be maintained at its principal place of business
 3 or, with notice to the ~~superintendent~~ DEPUTY DIRECTOR, at another location
 4 designated by the licensee. If the records are maintained outside this
 5 state, the ~~superintendent~~ DEPUTY DIRECTOR may require that the licensee
 6 make those records available to the ~~superintendent~~ DEPUTY DIRECTOR at ~~his~~
 7 THE DEPUTY DIRECTOR'S, office not more than five business days after
 8 demand. The ~~superintendent~~ DEPUTY DIRECTOR may further require that those
 9 records be accompanied by an individual who is available to answer
 10 questions regarding those records and the business regulated under this
 11 chapter. The ~~superintendent~~ DEPUTY DIRECTOR may require the appearance of
 12 a specific individual or may request the licensee to designate an
 13 individual knowledgeable with regard to the records and the business. The
 14 individual appearing with the records shall be available to the
 15 ~~superintendent~~ DEPUTY DIRECTOR for up to three business days.

16 D. On-site examinations of records prescribed by this chapter may
 17 be conducted in conjunction with representatives of other state agencies
 18 or agencies of another state or of the federal government as determined by
 19 the ~~superintendent~~ DEPUTY DIRECTOR. In lieu of an on-site examination,
 20 the ~~superintendent~~ DEPUTY DIRECTOR may accept the examination report of an
 21 agency of this state, ~~or~~ of another state or of the federal government or
 22 a report prepared by an independent licensed certified public accountant.
 23 Joint examination or acceptance of an examination report shall not be
 24 deemed a waiver of examination assessments provided by law, and joint
 25 reports and reports accepted under this subsection are considered an
 26 official report of the department for all purposes. Information obtained
 27 by examinations prescribed by this article shall be disclosed only as
 28 provided in section 6-129.

29 Sec. 264. Section 6-1215, Arizona Revised Statutes, is amended to
 30 read:

31 6-1215. Notice of source of instrument; transaction records

32 A. Every payment instrument sold by a licensee directly or through
 33 an authorized delegate shall bear the name of the licensee and a unique
 34 consecutive number clearly stamped or imprinted on it.

35 B. For every transaction involving the receipt of money from a
 36 customer, the licensee or authorized delegate who receives the money shall
 37 maintain written records of the transaction. The records may be reduced to
 38 computer or other electronic medium. The records collectively shall
 39 contain the name of the licensee, the street address of the location where
 40 the money was received, the name and street address of the customer if
 41 reported to the licensee or authorized delegate, the approximate date of
 42 the transaction, the name or other information from which, together with
 43 other contemporaneous records, the ~~superintendent~~ DEPUTY DIRECTOR can
 44 determine the identity of those employees of the licensee or authorized
 45 delegate who may have conducted the transaction and the amount of the

1 transaction. The information required by this section shall be available
2 through the licensee or authorized delegate who received the money for at
3 least five years ~~from~~ AFTER the date of the transaction.

4 Sec. 265. Section 6-1216, Arizona Revised Statutes, is amended to
5 read:

6 6-1216. Acquisition of control

7 A. A person shall not directly or indirectly acquire control of a
8 licensee or controlling person without the prior written approval of the
9 ~~superintendent~~ DEPUTY DIRECTOR, except as otherwise provided by this
10 section.

11 B. An application for approval to acquire control of a licensee
12 shall be in writing in a form prescribed by the ~~superintendent~~ DEPUTY
13 DIRECTOR and shall be accompanied by information as the ~~superintendent~~
14 DEPUTY DIRECTOR may require. The application shall be accompanied by the
15 fee prescribed in section 6-126. The ~~superintendent~~ DEPUTY DIRECTOR shall
16 act on the application within one hundred twenty days after the date on
17 which the application is complete, unless the applicant consents in
18 writing to an extended period. An application that is not denied or
19 approved within that period shall be deemed approved as of the first
20 business day after the expiration of that period.

21 C. The ~~superintendent~~ DEPUTY DIRECTOR shall deny the application to
22 acquire control of a licensee if ~~he~~ THE DEPUTY DIRECTOR finds that the
23 acquisition of control is contrary to law or determines that disapproval
24 is reasonably necessary to protect the interest of the public. In making
25 that determination, the ~~superintendent~~ DEPUTY DIRECTOR shall consider both
26 of the following:

27 1. Whether the financial condition of the person that seeks to
28 control the licensee might jeopardize the financial condition of the
29 licensee or prejudice the interests of the public in the conduct of the
30 business regulated under this chapter.

31 2. Whether the competence, experience, integrity and overall moral
32 character of the person that seeks to control the licensee, or the
33 officers, directors and controlling persons of the person that seeks to
34 control the licensee, indicate that it would not be in the interest of the
35 public to ~~permit~~ ALLOW that person to control the licensee.

36 D. ~~Nothing in~~ This section ~~prohibits~~ DOES NOT PROHIBIT a person
37 from negotiating or entering into agreements subject to the condition that
38 the acquisition of control will not be effective until approval of the
39 ~~superintendent~~ DEPUTY DIRECTOR is obtained.

40 E. This section does not apply to any of the following persons or
41 transactions:

42 1. A registered dealer who acts as an underwriter or member of a
43 selling group in a public offering of the voting securities of a licensee
44 or controlling person of a licensee.

1 2. A person who acts as proxy for the sole purpose of voting at a
2 designated meeting of the security holders of a licensee or controlling
3 person of a licensee.

4 3. A person who acquires control of a licensee or controlling
5 person of a licensee by devise or descent.

6 4. A person who acquires control of a licensee or controlling
7 person as a personal representative, custodian, guardian, conservator,
8 trustee or any other officer appointed by a court of competent
9 jurisdiction or by operation of law.

10 5. A pledgee of a voting security of a licensee or controlling
11 person who does not have the right, as pledgee, to vote that security.

12 6. A person or transaction that the ~~superintendent~~ DEPUTY DIRECTOR
13 by rule or order exempts in the public interest.

14 F. Before filing an application for approval to acquire control, a
15 person may request in writing a determination from the ~~superintendent~~
16 DEPUTY DIRECTOR as to whether that person will be deemed in control on
17 consummation of a proposed transaction. If the ~~superintendent~~ DEPUTY
18 DIRECTOR determines in response to that request that the person will not
19 be in control within the meaning of this chapter, the ~~superintendent~~
20 DEPUTY DIRECTOR shall enter an order to that effect and the proposed
21 transaction is not subject to the requirements of this section.

22 Sec. 266. Section 6-1217, Arizona Revised Statutes, is amended to
23 read:

24 6-1217. Appointment of deputy director as agent for service
25 of process; forwarding of process; consent to
26 jurisdiction

27 A. A licensee, an authorized delegate or a person who knowingly
28 engages in business activities that are regulated under this chapter with
29 or without filing an application is deemed to have done both of the
30 following:

31 1. Consented to the jurisdiction of the courts of this state for
32 all actions arising under this chapter.

33 2. Appointed the ~~superintendent~~ DEPUTY DIRECTOR as ~~his~~ THE
34 LICENSEE'S, AUTHORIZED DELEGATE'S OR PERSON'S lawful agent for the purpose
35 of accepting service of process in any action, suit or proceeding that may
36 arise under this chapter.

37 B. Within three business days after service of process ~~upon~~ ON the
38 ~~superintendent~~ DEPUTY DIRECTOR, the ~~superintendent~~ DEPUTY DIRECTOR shall
39 transmit by certified mail copies of all lawful process accepted by the
40 ~~superintendent~~ DEPUTY DIRECTOR as an agent to that person at its last
41 known address. Service of process shall be considered complete three
42 business days after the ~~superintendent~~ DEPUTY DIRECTOR deposits the copies
43 of the documents in the United States mail.

1 Sec. 267. Section 6-1241, Arizona Revised Statutes, is amended to
2 read:

3 6-1241. Reports to the attorney general; investigation;
4 violation; classification

5 A. Within thirty days after any transaction or series or pattern of
6 transactions that is conducted or attempted by, at or through the business
7 and that involves or aggregates ~~five thousand dollars~~ \$5,000 or more in
8 funds or other assets, each licensee and authorized delegate of a licensee
9 and each money transmitter shall file with the attorney general's office
10 in a form prescribed by the attorney general a report of the transaction
11 or series or pattern of transactions if the licensee, authorized delegate
12 or money transmitter knows, suspects or has reason to suspect that the
13 activity either:

14 1. Involves funds that are derived from illegal activities, is
15 intended or conducted in order to hide or disguise funds or other assets
16 that are derived from illegal activities, including, ~~without limitation,~~
17 the ownership, nature, source, location or control of the funds or other
18 assets, as part of a plan to violate or evade any law or regulation or to
19 avoid any transaction reporting requirement under this chapter or may
20 constitute a possible money laundering violation under section 13-2317 or
21 another racketeering violation as defined in section 13-2301.

22 2. Has no business or apparent lawful purpose or is not the sort of
23 activity in which the particular customer would normally be expected to
24 engage and the licensee, authorized delegate or money transmitter knows of
25 no reasonable explanation for the activity after examining the available
26 facts, including the background and possible purpose of the activity.

27 B. A licensee, authorized delegate or money transmitter that is
28 required to file a report regarding business conducted in this state
29 pursuant to the currency and foreign transactions reporting act (31 United
30 States Code sections 5311 through 5326, including any special measures
31 that are established under 31 United States Code section 5318A, and 31
32 Code of Federal Regulations chapter X or 12 Code of Federal Regulations
33 section 21.11) shall file a duplicate of that report with the attorney
34 general.

35 C. All persons who are engaged in a trade or business and who
36 receive more than ~~ten thousand dollars~~ \$10,000 in money in one transaction
37 or who receive more than ~~ten thousand dollars~~ \$10,000 in money through two
38 or more related transactions shall complete and file with the attorney
39 general the information required by 31 United States Code section 5331 and
40 the federal regulations relating to this section concerning reports
41 relating to cash received in trade or business.

42 D. A licensee, authorized delegate or money transmitter that is
43 regulated under the currency and foreign transactions reporting act
44 (31 United States Code section 5325 and 31 Code of Federal Regulations
45 chapter X) and that is required to make available prescribed records to

1 the secretary of the United States department of treasury on request at
2 any time shall follow the same prescribed procedures and create and
3 maintain the same prescribed records relating to each transaction.

4 E. In addition to the requirements under subsection D of this
5 section and in connection with each transaction that involves transmitting
6 money in an amount of ~~one thousand dollars~~ \$1,000 or more, whether sending
7 or receiving, a licensee or, for transactions conducted through an
8 authorized delegate, an authorized delegate shall retain a record of each
9 of the following:

10 1. The name and social security or taxpayer identification number,
11 if any, of the individual presenting the transaction and the person and
12 the entity on whose behalf the transaction is to be effected.

13 2. The type and number of the customer's verified photographic
14 identification, as described in 31 Code of Federal Regulations section
15 1010.312.

16 3. The customer's current occupation.

17 4. The customer's current residential address.

18 5. The customer's signature.

19 F. Subsection E of this section does not apply to transactions by
20 which the licensee's customer is making a bill payment either to a
21 commercial creditor pursuant to a contract between the licensee and the
22 commercial creditor or to a utility company.

23 G. Each licensee shall create records that reflect the provision of
24 updated operating policies and procedures pursuant to section 6-1208,
25 subsection B and of instruction that promotes compliance with this
26 chapter, title 13, chapter 23 and 31 United States Code section 5318,
27 including the identification of the provider and the material and
28 instruction that were provided.

29 H. On request of the attorney general, a county attorney or the
30 ~~superintendent~~ DEPUTY DIRECTOR, a licensee, authorized delegate or money
31 transmitter shall make any records that are created pursuant to this
32 section available to the attorney general, a county attorney or the
33 ~~superintendent~~ DEPUTY DIRECTOR at any time.

34 I. A licensee or, for transactions conducted through an authorized
35 delegate, an authorized delegate shall maintain any customer
36 identification records that are created pursuant to subsection E of this
37 section for three years. After three years, the licensee or, for
38 transactions conducted through an authorized delegate, the authorized
39 delegate shall deliver the customer identification records to the attorney
40 general. The attorney general shall make the records available on request
41 to the ~~superintendent~~ DEPUTY DIRECTOR or a county attorney but shall not
42 otherwise distribute the customer identification records without a court
43 order. The customer identification records shall not be used for any
44 purpose other than for criminal and civil prosecution and the prevention
45 and detection of fraud and other criminal conduct.

1 J. If the ~~superintendent~~ DEPUTY DIRECTOR or the attorney general
2 finds that reasonable grounds exist for requiring additional ~~record~~
3 ~~keeping~~ RECORDKEEPING and reporting in order to carry out the purposes of
4 this chapter and to prevent the evasion of this chapter, the
5 ~~superintendent~~ DEPUTY DIRECTOR or the attorney general may:

6 1. Issue an order requiring any group of licensees, authorized
7 delegates or money transmitters in a geographic area to do any of the
8 following:

9 (a) Obtain information regarding transactions that involve total
10 dollar amounts or denominations of ~~five hundred dollars~~ \$500 or more,
11 including the names of any persons participating in those transactions and
12 any persons or entities on whose behalf they are to be effected.

13 (b) Maintain records of that information for at least five years
14 and make those records available to the attorney general and the
15 ~~superintendent~~ DEPUTY DIRECTOR.

16 (c) File a report with the attorney general and the ~~superintendent~~
17 DEPUTY DIRECTOR regarding any transaction in the manner prescribed in the
18 order.

19 2. Issue an order exempting any group of licensees or authorized
20 delegates from the requirements of subsection E of this section based on
21 the geographic area, the volume of business conducted, the record of
22 compliance with the reporting requirements of this chapter and other
23 objective criteria.

24 K. An order issued pursuant to subsection J of this section is not
25 effective for more than one hundred eighty days unless renewed after
26 finding that reasonable grounds exist for continuation of the order.

27 L. The timely filing of a report required by this section with the
28 appropriate federal agency shall be deemed compliance with the reporting
29 requirements of this section, unless the attorney general has notified the
30 ~~superintendent~~ DEPUTY DIRECTOR that reports of that type are not regularly
31 and comprehensively transmitted by that federal agency to the attorney
32 general.

33 M. This chapter does not preclude a licensee, authorized delegate,
34 money transmitter, financial institution or person engaged in a trade or
35 business from instituting contact with and disclosing customer financial
36 records to appropriate state or local law enforcement agencies if the
37 licensee, authorized delegate, money transmitter, financial institution or
38 person has information that may be relevant to a possible violation of any
39 criminal statute or to the evasion or attempted evasion of any reporting
40 requirement of this chapter.

41 N. A licensee, authorized delegate, money transmitter, financial
42 institution, person engaged in a trade or business or director, officer,
43 employee, agent or authorized delegate of any of them that keeps or files
44 a record as prescribed by this section, that communicates or discloses
45 information or records under subsection M of this section or that requires

another to make any such disclosure is not liable to any person under any law or rule of this state or any political subdivision of this state or under any contract or other legally enforceable agreement, including any arbitration agreement, for the disclosure or for the failure to provide notice of the disclosure to the person who is the subject of the disclosure or to any other person who is identified in the disclosure. This subsection ~~shall be construed to be~~ IS consistent with 31 United States Code section 5318(g)(3).

O. The attorney general may report any possible violations indicated by analysis of the reports required by this chapter to any appropriate law enforcement agency for use in the proper discharge of its official duties. If an officer or employee of this state or any political subdivision of this state receives a report pursuant to 31 United States Code section 5318(g), the report shall be disclosed only as provided in 31 United States Code section 5318(g). A person who releases information received pursuant to this subsection except in the proper discharge of official duties is guilty of a class 2 misdemeanor.

P. The requirements of this section ~~shall be construed to be~~ ARE consistent with the requirements of the currency and foreign transactions reporting act (31 United States Code sections 5311 through 5326 and federal regulations prescribed under those sections) unless the context otherwise requires.

Q. A person who refuses to ~~permit~~ ALLOW any lawful investigation by the ~~superintendent~~ DEPUTY DIRECTOR, a county attorney or the attorney general or who refuses to make records available to the ~~superintendent~~ DEPUTY DIRECTOR, a county attorney or the attorney general pursuant to subsection H of this section is guilty of a class 6 felony.

Sec. 268. Repeal

Title 6, chapter 12.1, Arizona Revised Statutes, is repealed.

Sec. 269. Section 6-1302, Arizona Revised Statutes, is amended to read:

6-1302. Scope of chapter; exemptions

A. Any person who acts as an advance fee loan broker shall register with the ~~superintendent~~ DEPUTY DIRECTOR as provided in this chapter. A person who is not exempt under subsection B of this section and who advertises for, solicits or purports to be willing to make or procure a loan or extension of credit for an advance fee is presumed to be engaged in the business of an advance fee loan broker.

B. This chapter does not apply to:

1. Individuals not regularly engaged in the business of making or procuring loans or extensions of credit for an advance fee.

2. A person doing business as ~~permitted~~ ALLOWED by any law of any state or of the United States relating to banks, savings banks, trust companies, savings and loan associations, credit unions, insurance companies, consumer lenders or profit sharing and pension trusts.

1 3. A person licensed as a mortgage broker, a mortgage banker or a
2 commercial mortgage banker pursuant to chapter 9 of this title.

3 4. A person who makes a loan with the person's own money or for the
4 person's own investment.

5 5. A person licensed as a real estate broker or salesperson
6 pursuant to title 32, chapter 20, article 2.

7 6. A person who is licensed to practice law in this state but who
8 is not actively and principally engaged in the business of making or
9 procuring loans or extensions of credit, if this person renders services
10 in the course of the person's practice as an attorney.

11 7. An institutional investor as defined in section 6-971 unless the
12 institutional investor advertises for, solicits or holds himself out as
13 willing to make or procure for an advance fee a loan or extension of
14 credit other than a commercial mortgage loan as defined in section 6-971.

15 8. This state including any political subdivision of this state.

16 9. The United States or any department or agency of the United
17 States.

18 Sec. 270. Section 6-1303, Arizona Revised Statutes, is amended to
19 read:

20 6-1303. Application for registration

21 A. Application for registration as an advance fee loan broker may
22 be made by any person. An application for registration shall be signed by
23 the applicant and duly verified by oath. The application shall be filed
24 with the ~~superintendent~~ DEPUTY DIRECTOR and shall contain such information
25 as the ~~superintendent~~ DEPUTY DIRECTOR prescribes by rule and deems
26 necessary in determining whether the applicant is entitled to engage in
27 the advance fee loan broker business.

28 B. The ~~superintendent~~ DEPUTY DIRECTOR shall rule on an application
29 within sixty days following the date the application is filed with the
30 ~~superintendent~~ DEPUTY DIRECTOR.

31 Sec. 271. Repeal

32 Section 6-1304, Arizona Revised Statutes, is repealed

33 Sec. 272. Section 6-1305, Arizona Revised Statutes, is amended to
34 read:

35 6-1305. Registration; renewal; reporting requirements

36 A. The ~~superintendent~~ DEPUTY DIRECTOR shall register the applicant
37 as an advance fee loan broker when an applicant has fully complied with
38 this chapter and the rules prescribed by the ~~superintendent~~ DEPUTY
39 DIRECTOR.

40 B. The ~~superintendent~~ DEPUTY DIRECTOR shall immediately notify the
41 applicant by mail on registering the applicant as an advance fee loan
42 broker.

43 C. A registered advance fee loan broker shall apply for renewal as
44 prescribed by the ~~superintendent~~ DEPUTY DIRECTOR not later than June 30 of
45 each year. A registration for which a renewal application is not received

1 by the ~~superintendent~~ DEPUTY DIRECTOR by June 30 is suspended and the
2 registered advance fee loan broker may not act as an advance fee loan
3 broker until the registration is renewed or a new registration is issued
4 pursuant to this article. The registration of an advance fee loan broker
5 that has not filed a renewal application and paid the renewal fee by July
6 31 expires. A registration may not be granted to the holder of an expired
7 registration except as provided in this article for the issuance of an
8 original registration.

9 D. An advance fee loan broker may annually renew the broker's
10 registration by filing a supplemental statement showing any changes in the
11 facts set forth in the original application for registration or any
12 previously filed supplemental statement made at the time of annual
13 renewal.

14 E. An advance fee loan broker shall file a supplemental statement
15 showing any changes in the facts set forth in the original application or
16 in any supplemental statement made at the time of annual renewal within
17 thirty days ~~of~~ AFTER a change in any material fact.

18 Sec. 273. Section 6-1306, Arizona Revised Statutes, is amended to
19 read:

20 6-1306. Register of advance fee loan brokers

21 The names and addresses of all persons who have been registered as
22 advance fee loan brokers shall be recorded in a register of advance fee
23 loan brokers in the office of the ~~superintendent~~ DEPUTY DIRECTOR.

24 Sec. 274. Section 6-1307, Arizona Revised Statutes, is amended to
25 read:

26 6-1307. Records

27 Advance fee loan brokers shall maintain books, records and accounts
28 in connection with transactions involving the receipt and disbursement of
29 funds received by the advance fee loan broker. The books, records and
30 accounts shall be maintained in accordance with generally accepted
31 accounting practices and shall be subject to inspection at all times by
32 authorized representatives of the ~~superintendent~~ DEPUTY DIRECTOR.

33 Sec. 275. Section 6-1308, Arizona Revised Statutes, is amended to
34 read:

35 6-1308. Denial, revocation or suspension of registration

36 A. The ~~superintendent~~ DEPUTY DIRECTOR may deny, revoke or suspend
37 the registration of an advance fee loan broker if the ~~superintendent~~
38 DEPUTY DIRECTOR finds that:

39 1. The application for registration, any supplemental statement or
40 any other document filed with the ~~superintendent~~ DEPUTY DIRECTOR is
41 incomplete, inaccurate or misleading.

42 2. The advance fee loan broker is insolvent or is in an unsound
43 financial condition.

1 3. The advance fee loan broker has violated ~~any provision of~~ this
2 chapter or any rule or order of the ~~superintendent~~ DEPUTY DIRECTOR.

3 4. The advance fee loan broker has refused to ~~permit~~ ALLOW an
4 examination of the books, records and accounts in connection with
5 transactions involving the receipt and disbursement of funds received by
6 the advance fee loan broker.

7 5. The advance fee loan broker has failed to pay the original
8 application fee or any supplemental statement fees as required by this
9 chapter.

10 B. It is sufficient cause for denial, revocation or suspension of
11 registration of an advance fee loan broker as provided in this section, if
12 the advance fee loan broker is a partnership, corporation, unincorporated
13 association or trust, that a member of the partnership, an officer or a
14 director of the corporation or unincorporated association or the trustee
15 or other fiduciary of the trust or a person controlling, controlled by or
16 under common control with the broker has been guilty of any act or
17 omission ~~which~~ THAT would be sufficient grounds for denying, revoking or
18 suspending the registration of an individual broker.

19 Sec. 276. Section 6-1402, Arizona Revised Statutes, is amended to
20 read:

21 6-1402. Licensure required; contents of application; fees;
22 nontransferable; branch office permit

23 A. A person shall not engage in the business of a premium finance
24 company in this state without first being licensed as a premium finance
25 company by the ~~superintendent~~ DEPUTY DIRECTOR. A person who is not exempt
26 under section 6-1403 and who advertises for, solicits or holds himself out
27 as willing to finance premiums or enter into or acquire premium finance
28 agreements is presumed to be engaged in the business as a premium finance
29 company.

30 B. A licensee shall not establish a branch office without first
31 obtaining a branch office permit from the ~~superintendent~~ DEPUTY DIRECTOR.

32 C. An application for a license or branch office permit shall be
33 made in writing, under oath, and in the form prescribed by the
34 ~~superintendent~~ DEPUTY DIRECTOR. The ~~superintendent~~ DEPUTY DIRECTOR may
35 require as part of an application such other information as ~~he~~ THE DEPUTY
36 DIRECTOR deems necessary.

37 D. An applicant at the time of filing an application for a license
38 or branch office permit shall pay to the ~~superintendent~~ DEPUTY DIRECTOR
39 the fee prescribed in section 6-126.

40 E. Prior to December 31 OF EACH YEAR, each licensee may obtain a
41 renewal of a license or branch office permit by payment of the fee
42 prescribed in section 6-126.

43 F. A premium finance company license or branch office permit is not
44 transferable or assignable, and control shall not be acquired through
45 stock purchase or other device without the prior written consent of the

1 ~~superintendent~~ DEPUTY DIRECTOR. The ~~superintendent~~ DEPUTY DIRECTOR may
2 refuse consent if the ~~superintendent~~ DEPUTY DIRECTOR finds that any of the
3 grounds for denial, revocation or suspension of a license prescribed by
4 section 6-1404 are applicable to the acquiring person. For purposes of
5 this subsection, "control" means the power to vote more than twenty per
6 cent PERCENT of outstanding voting shares of a licensed corporation,
7 limited liability company, partnership, association or trust.

8 Sec. 277. Section 6-1404, Arizona Revised Statutes, is amended to
9 read:

10 6-1404. Denial, suspension or revocation of licenses and
11 branch office permits

12 A. The ~~superintendent~~ DEPUTY DIRECTOR may deny a license to a
13 person or suspend or revoke a license if the ~~superintendent~~ DEPUTY
14 DIRECTOR finds that an applicant or licensee:

15 1. Is insolvent as defined in section 47-1201.
16 2. Has shown that ~~he~~ THE PERSON is not a person of honesty,
17 truthfulness and good character.

18 3. Refuses to ~~permit~~ ALLOW an examination by the ~~superintendent~~
19 DEPUTY DIRECTOR of the licensee's books and affairs or refuses or fails,
20 within a reasonable time, to furnish any information or make any report
21 that may be required by the ~~superintendent~~ DEPUTY DIRECTOR.

22 4. Has been convicted in any state of a felony or any crime of
23 breach of trust or dishonesty.

24 5. Has had a final judgment entered against ~~him~~ THE PERSON in a
25 civil action on grounds of fraud, deceit or misrepresentation and the
26 conduct on which the judgment is based indicates that it would be contrary
27 to the interest of the public to ~~permit~~ ALLOW that person to be licensed
28 or to control or manage a licensee.

29 6. Has had an order entered against ~~him~~ THE PERSON involving fraud,
30 deceit or misrepresentation by any administrative agency of this state,
31 the federal government or any other state or territory of the United
32 States and that the facts relating to the order indicate that it would be
33 contrary to the interest of the public to ~~permit~~ ALLOW that person to be
34 licensed or to control or manage a licensee.

35 7. Has violated any applicable law, rule or order.

36 8. Has failed to pay the license or annual renewal fees.

37 9. Has failed to file an annual report when due or within any
38 extension of time that the ~~superintendent~~ DEPUTY DIRECTOR, for good cause,
39 may have granted.

40 10. Fails to have or maintain at least ~~twenty-five thousand dollars~~
41 \$25,000 in liquid assets available for use in the conduct of the business.

42 B. If any person to whom a license is issued or who has applied for
43 a license is indicted or informed against for forgery, embezzlement,
44 obtaining money under false pretenses, extortion, criminal conspiracy to
45 defraud, or a like offense or offenses, and a certified copy of the

1 indictment or information or other proper evidence of that indictment or
2 information is filed with the ~~superintendent~~ DEPUTY DIRECTOR, the
3 ~~superintendent~~ DEPUTY DIRECTOR may suspend the license issued to the
4 licensee or refuse to grant a license to an applicant pending trial on the
5 indictment or information.

6 C. It is sufficient cause for the suspension or revocation of the
7 license if an owner, officer, director, member, partner, trustee or
8 employee, while acting in the course of the premium finance business, or a
9 person who is entitled to vote more than twenty ~~per cent~~ PERCENT of the
10 outstanding voting shares of the licensed corporation or a person who has
11 a controlling interest in a licensed limited liability company,
12 partnership, association or trust has acted or failed to act in the same
13 manner as would be cause for suspending or revoking a license of the
14 person to whom the license was issued.

15 D. The ~~superintendent~~ DEPUTY DIRECTOR may deny a branch office
16 permit to a person or suspend or revoke a branch office permit for the
17 same reasons sufficient under this section for denial, suspension or
18 revocation of a license.

19 Sec. 278. Section 6-1405, Arizona Revised Statutes, is amended to
20 read:

21 6-1405. Issuance of license or branch office permit; license
22 year; requirements

23 A. If no grounds for denial of a license or branch office permit
24 are found to exist, the ~~superintendent~~ DEPUTY DIRECTOR shall, within one
25 hundred twenty days of receiving a complete application, grant the
26 application and issue a license or branch office permit to the applicant.

27 B. The license or branch office permit year for a licensee begins
28 January 1 and ends December 31 of each year.

29 C. All licenses and branch office permits issued shall remain in
30 full force and effect until surrendered, revoked or suspended.

31 D. A license or branch office permit remains the property of this
32 state. On termination at the request of the licensee or revocation by the
33 ~~superintendent~~ DEPUTY DIRECTOR, the licensee shall immediately deliver the
34 license or branch office permit to the ~~superintendent~~ DEPUTY DIRECTOR.

35 Sec. 279. Section 6-1406, Arizona Revised Statutes, is amended to
36 read:

37 6-1406. Books and records of premium finance company; access
38 to records

39 A. A licensee shall maintain books, accounts and records as
40 prescribed by the ~~superintendent~~ DEPUTY DIRECTOR that will enable the
41 ~~superintendent~~ DEPUTY DIRECTOR to determine whether the licensee is
42 complying with ~~the provisions of~~ this article.

43 B. A licensee shall preserve its books, accounts and records of
44 premium finance transactions for at least three years after making the
45 final entry with respect to any premium finance agreement. The

1 preservation of records in any form authorized by the ~~superintendent~~
2 ~~DEPUTY DIRECTOR~~ constitutes compliance with this section.

3 C. Every licensee shall observe generally accepted accounting
4 principles and practices.

5 D. A licensee shall make any books, accounts and records that are
6 kept outside of this state available to the ~~superintendent~~ ~~DEPUTY DIRECTOR~~
7 in this state not more than three business days after demand or the
8 ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may choose to perform the examination or
9 investigation at the office of the licensee located outside of this state.

10 E. For purposes of this article, the ~~superintendent~~ ~~DEPUTY DIRECTOR~~
11 or ~~his~~ ~~THE DEPUTY DIRECTOR'S~~ duly authorized representatives shall have
12 access to the offices and places of business, files, safes and vaults of
13 all licensees regarding that business or the subject matter of any
14 examination, investigation or hearing during business hours.

15 Sec. 280. Section 6-1407, Arizona Revised Statutes, is amended to
16 read:

17 6-1407. Removal of place of business

18 A licensee may change the licensed place of business by giving
19 written notice to the ~~superintendent~~ ~~DEPUTY DIRECTOR~~, who shall amend the
20 license accordingly.

21 Sec. 281. Section 6-1408, Arizona Revised Statutes, is amended to
22 read:

23 6-1408. Annual report of licensee: civil penalty for failure
24 to file

25 A. On or before February 1, the licensee shall annually file a
26 report under oath and in the form prescribed by the ~~superintendent~~ ~~DEPUTY~~
27 ~~DIRECTOR~~ concerning the business and operations during the preceding
28 calendar year. On good cause shown by a licensee, the ~~superintendent~~
29 ~~DEPUTY DIRECTOR~~ may extend the time for filing the report for a period not
30 to exceed sixty days.

31 B. If a licensee fails to file the annual report, the
32 ~~superintendent~~ ~~DEPUTY DIRECTOR~~ or any person designated by ~~him~~ ~~THE DEPUTY~~
33 ~~DIRECTOR~~ may examine the books, accounts and records of the licensee and
34 prepare the annual report and the licensee shall be assessed an
35 examination fee as prescribed in section 6-125.

36 C. If a licensee fails to file the annual report within the
37 specified time, the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may assess a civil
38 penalty for the failure to file unless an extension of time is granted by
39 the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ in writing prior to the due date of the
40 annual report. The penalty shall not be more than ~~twenty-five dollars~~ \$25
41 per day. The licensee shall pay the penalty to the ~~superintendent~~ ~~DEPUTY~~
42 ~~DIRECTOR~~ within thirty days ~~of~~ ~~AFTER~~ the assessment.

1 Sec. 282. Section 6-1410, Arizona Revised Statutes, is amended to
2 read:

3 6-1410. Form of premium finance agreement; notice

4 A. A premium finance agreement shall:

5 1. Be dated and signed by the insured and the printed portion of
6 the agreement shall be in at least ~~eight point~~ EIGHT-POINT type.

7 2. Contain the name, place of business and mailing address of the
8 agent or broker who is negotiating the related insurance contract, the
9 name and residence or mailing address of the insured as specified by the
10 insured, the name, place of business or mailing address of the premium
11 finance company, a brief description of the insurance contract involved
12 and the amount of the premium.

13 3. Set forth the following items if applicable:

14 (a) The total amount of the premiums.

15 (b) The amount of the down payment.

16 (c) The principal balance.

17 (d) The amount of the interest or discount.

18 (e) The balance payable by the insured.

19 (f) The number of installments required, the amount of each
20 installment expressed in dollars and the due date or period of the
21 installments.

22 (g) The amount of any service charge and if the charge is
23 refundable.

24 B. Notwithstanding ~~the provisions of~~ subsection A, paragraph 1 OF
25 THIS SECTION, if a premium finance agreement is for a renewal contract,
26 the agreement may be signed by the insured or by an authorized person on
27 behalf of the insured. The ~~superintendent~~ DEPUTY DIRECTOR may adopt rules
28 identifying persons authorized to sign premium finance agreements on
29 behalf of the insured.

30 C. The licensee may include additional information regarding
31 computations made in determining the amount to be paid by the insured.

32 D. The agent or broker who submits the premium finance agreement to
33 the licensee shall list any managing general agent to whom the submitting
34 agent or broker is required to pay insurance premiums for the policies
35 listed on the premium finance agreement.

36 E. If a managing general agent's name and address are listed on a
37 premium finance agreement submitted to a licensee, the licensee shall
38 notify the managing general agent that a premium finance agreement has
39 been executed ~~no~~ NOT later than thirty days after the licensee accepts the
40 premium finance agreement.

41 F. If an insurer or the managing general agent of an insurer gives
42 notice in writing that an agent or broker is not authorized to receive
43 premiums on behalf of the insurer, the licensee shall pay all future
44 monies advanced on policies purchased from the agent or broker to the

1 insurer or managing general agent of the insurer as directed in the
2 notice.

3 G. A licensee or an employee of a licensee shall not pay, allow or
4 offer to pay or allow any other person to pay valuable consideration or a
5 rebate of any kind ~~which~~ THAT exceeds a value of ~~ten dollars~~ \$10 to an
6 insurer, agent, broker or managing general agent, or any of its employees,
7 as an inducement to arrange the financing of an insurance policy providing
8 coverage for an individual, family or household purpose directly or
9 indirectly either before or after the issuance of the policy. Office
10 equipment loaned for the purpose of preparing and servicing premium
11 finance agreements or an article of merchandise not exceeding ~~two dollars~~
12 \$2 in value that bears the advertisement of the licensee shall not be
13 deemed an inducement or rebate in violation of this subsection. This
14 subsection does not apply to financing of policies providing coverage for
15 any entity involved in transactions solely for business purposes.

16 H. ~~Nothing in~~ This section ~~shall~~ DOES NOT prevent a licensee from
17 purchasing or otherwise acquiring a premium finance agreement ~~which~~ THAT
18 otherwise conforms to this article in all respects if the acquisition is
19 from another premium finance company with recourse against the agent,
20 broker or insurer on such terms and conditions as may be mutually agreed
21 on.

22 I. No premium finance agreement shall contain any provision by
23 which:

24 1. In the absence of default of the insured or insolvency of the
25 insurer, the licensee holding the agreement may, arbitrarily and without
26 reasonable cause, accelerate the maturing of any part or all of the amount
27 owing under the premium finance agreement.

28 2. The insured relieves the agent or broker from liability for any
29 legal rights or remedies ~~which~~ THAT the insured may otherwise have against
30 the agent or broker.

31 J. A licensee shall comply with title I of the consumer credit
32 protection act (15 United States Code sections 1601 through 1667) and the
33 regulations of the act.

34 Sec. 283. Section 6-1419, Arizona Revised Statutes, is amended to
35 read:

36 6-1419. Rules

37 The ~~superintendent~~ DEPUTY DIRECTOR may adopt rules necessary for the
38 proper conduct of a premium finance company.

39 Sec. 284. Section 10-2251, Arizona Revised Statutes, is amended to
40 read:

41 10-2251. Definitions

42 In this chapter, unless the context otherwise requires:

43 1. "Bank" means any banking corporation or national banking
44 association.

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

~~6.~~ 3. ~~"Superintendent"~~ **DEPUTY DIRECTOR** of financial institutions" means the ~~superintendent~~ **DEPUTY DIRECTOR** of the financial institutions division of the department of insurance and financial institutions.

~~5.~~ 4. "Member" means any bank or federal or state savings and loan association authorized to do business within this state ~~which~~ **THAT** shall undertake to lend money to the corporation ~~upon~~ **ON** its call and in accordance with ~~the provisions of~~ this chapter.

~~4.~~ 5. "Shareholder" means a registered owner of shares in a corporation formed under the provisions of this chapter.

~~5.~~ 6. "Shares" means units into which the shareholders' rights to participate in the control of a corporation, in its surplus or profits, or in the distribution of its assets, are divided.

Sec. 285. Section 10-2258, Arizona Revised Statutes, is amended to read:

10-2258. Board of directors

A. The affairs of a corporation shall be conducted by a board of directors, consisting of fifteen persons, who shall all be at least eighteen years of age and be citizens of the United States. In addition, the executive director of the Arizona development board or its successor, shall act as a nonvoting ex officio member of the board of directors.

B. At the first meeting of the shareholders and members of a corporation and at each annual meeting thereafter, six directors shall be elected by the shareholders and nine directors shall be elected by the members. Each member shall have one vote for each ~~one thousand dollars~~ **\$1,000** of the member's outstanding loans to the corporation and the uncalled balance of the member's loan agreement with the corporation. A member shall be entitled to cast ~~his~~ **THE MEMBER'S** votes for directors on a cumulative basis.

C. The first meeting of the shareholders and members of the corporation shall be held at a time and place to be fixed by the temporary board of directors, which shall be as soon as reasonably possible after the certificate required by section 10-2261 has been filed with the ~~superintendent~~ **DEPUTY DIRECTOR** of financial institutions.

Sec. 286. Section 10-2259, Arizona Revised Statutes, is amended to read:

10-2259. Method of incorporation

A. A corporation may be formed by five or more residents of ~~the~~ **THIS** state ~~of Arizona~~ who each subscribe to at least one share of stock of the corporation.

B. The articles of incorporation shall set forth:

1. The name of the proposed corporation, which shall include the words "business development corporation".

1 2. The purpose for which ~~it~~ THE CORPORATION is to be formed, which
2 shall be within the purposes and powers set forth in this chapter.

3 3. The location of the principal place of business of the
4 corporation, but the corporation may have offices in such other places in
5 ~~the~~ THIS state as may be fixed by the board of directors.

6 4. The term of its existence.

7 5. The authorized capital stock of the corporation.

8 6. The names and addresses of the incorporators and the amount of
9 their capital stock subscriptions.

10 7. The names and addresses of eight temporary directors.

11 8. The name and address of the treasurer.

12 9. The names and addresses of five qualified banks ~~which~~ THAT have
13 obligated themselves to become members of the corporation at the time of
14 its incorporation.

15 10. Any other provisions not inconsistent with law ~~which~~ THAT the
16 proposed corporation may adopt governing the regulation and conduct of its
17 affairs.

18 C. A corporation formed under this chapter may amend its articles
19 of incorporation provided that prior to the filing of articles of
20 amendment with the corporation commission the ~~same~~ ARTICLES OF AMENDMENT
21 shall have been approved by the ~~superintendent~~ DEPUTY DIRECTOR of
22 financial institutions in the manner and as provided for in section
23 10-2260.

24 Sec. 287. Section 10-2260, Arizona Revised Statutes, is amended to
25 read:

26 10-2260. Approval of articles of incorporation; incorporation

27 A. The articles of incorporation required by this chapter shall be
28 filed with the ~~superintendent~~ DEPUTY DIRECTOR of financial institutions.
29 Within sixty days after the receipt of the articles of incorporation, the
30 ~~superintendent~~ DEPUTY DIRECTOR shall approve or disapprove the articles of
31 incorporation.

32 B. If the ~~superintendent~~ DEPUTY DIRECTOR disapproves the articles,
33 the ~~superintendent~~ DEPUTY DIRECTOR shall promptly give notice of the
34 disapproval to the incorporators, stating in detail the reason for ~~his~~ THE
35 DEPUTY DIRECTOR'S action. ~~Upon~~ ON remedying the defect or defects, the
36 incorporators ~~may~~, in the same manner, MAY refile the articles.

37 C. If the ~~superintendent~~ DEPUTY DIRECTOR finds that the articles of
38 incorporation are in the form prescribed by this chapter or have been made
39 to conform with this chapter, the ~~superintendent~~ DEPUTY DIRECTOR shall
40 conduct any investigation deemed necessary to ascertain from the best
41 sources of information available:

42 1. Whether the name of the proposed corporation is likely to
43 mislead the public as to its character or purposes.

44 2. Whether the convenience and advantage of the public will be
45 served by the proposed corporation.

1 3. Whether the economic condition of the area in which the
2 corporation may be expected to do most of its business affords reasonable
3 promise of adequate support for the activities of such corporation.

4 4. Whether the responsibility, character and general fitness for
5 the business of the incorporators, directors and officers named in the
6 articles are such as to command confidence and to warrant the belief that
7 the business of the proposed corporation will be honestly and efficiently
8 conducted, in accordance with the intent and purpose of this chapter.

9 D. If the ~~superintendent~~ DEPUTY DIRECTOR finds, on the basis of the
10 facts disclosed by the ~~superintendent's~~ DEPUTY DIRECTOR'S investigation,
11 that the proposed incorporation meets all the requirements of this
12 chapter, the ~~superintendent~~ DEPUTY DIRECTOR shall endorse approval on the
13 articles of incorporation and the articles may then be filed with the
14 corporation commission. The corporation commission shall not issue a
15 certificate of incorporation to a business development corporation without
16 the approval by the ~~superintendent~~ DEPUTY DIRECTOR endorsed on the
17 articles of incorporation.

18 E. If the ~~superintendent~~ DEPUTY DIRECTOR finds, on the basis of the
19 facts disclosed by the ~~superintendent's~~ DEPUTY DIRECTOR'S investigation,
20 that the proposed incorporation does not meet all the requirements of this
21 chapter, the ~~superintendent~~ DEPUTY DIRECTOR shall disapprove the articles
22 and return them to the incorporators stating in detail the reasons for
23 doing so.

24 Sec. 288. Section 10-2261, Arizona Revised Statutes, is amended to
25 read:

26 10-2261. Authorization to commence business

27 A corporation formed under this chapter shall not begin the
28 transaction of any business, except such as is incident to its
29 organization or to the obtaining of members of subscriptions to or payment
30 for its shares, until it certifies to the ~~superintendent~~ DEPUTY DIRECTOR
31 of financial institutions that there has been paid into the corporate
32 treasury a minimum of ~~one hundred thousand dollars~~ \$100,000 from the sale
33 at par value of the capital stock of the corporation.

34 Sec. 289. Section 10-2265, Arizona Revised Statutes, is amended to
35 read:

36 10-2265. Supervision and reports

37 The ~~superintendent~~ DEPUTY DIRECTOR of financial institutions may
38 supervise, examine and control a corporation in the same manner as
39 financial institutions are so supervised, examined and controlled by the
40 ~~superintendent~~ DEPUTY DIRECTOR pursuant to law, except that it shall not
41 be the duty of the ~~superintendent~~ DEPUTY DIRECTOR to supervise the
42 investment or lending policies of a corporation. In addition to such
43 other reports as are required by law, a corporation shall make an annual
44 report of its condition to the ~~superintendent~~ DEPUTY DIRECTOR on or before
45 March 1 of each year. An audit report prepared by a certified public

1 accountant shall accompany the annual report of condition. The audit may
2 be accepted by the ~~superintendent~~ DEPUTY DIRECTOR in lieu of an
3 examination.

4 Sec. 290. Section 13-2317, Arizona Revised Statutes, is amended to
5 read:

6 13-2317. Money laundering; classification; definitions

7 A. A person is guilty of money laundering in the first degree if
8 the person does any of the following:

9 1. Knowingly initiates, organizes, plans, finances, directs,
10 manages, supervises or is in the business of money laundering in violation
11 of subsection B of this section.

12 2. Violates subsection B of this section in the course of or for
13 the purpose of facilitating terrorism or murder.

14 B. A person is guilty of money laundering in the second degree if
15 the person does any of the following:

16 1. Acquires or maintains an interest in, transacts, transfers,
17 transports, receives or conceals the existence or nature of racketeering
18 proceeds knowing or having reason to know that they are the proceeds of an
19 offense.

20 2. Makes property available to another by transaction,
21 transportation or otherwise knowing that it is intended to be used to
22 facilitate racketeering.

23 3. Conducts a transaction knowing or having reason to know that the
24 property involved is the proceeds of an offense and with the intent to
25 conceal or disguise the nature, location, source, ownership or control of
26 the property or the intent to facilitate racketeering.

27 4. Intentionally or knowingly makes a false statement,
28 misrepresentation or false certification or makes a false entry or omits a
29 material entry in any application, financial statement, account record,
30 customer receipt, report or other document that is filed or required to be
31 maintained or filed under title 6, chapter 12.

32 5. Intentionally or knowingly evades or attempts to evade any
33 reporting requirement under section 6-1241, whether by structuring
34 transactions as described in 31 Code of Federal Regulations chapter X, by
35 causing any financial institution, money transmitter, trade or business to
36 fail to file the report, by failing to file a required report or record or
37 by any other means.

38 6. Intentionally or knowingly provides any false information or
39 fails to disclose information that causes any licensee, authorized
40 delegate, money transmitter, trade or business to either:

41 (a) Fail to file any report or record that is required under
42 section 6-1241.

43 (b) File such a report or record that contains a material omission
44 or misstatement of fact.

1 7. Intentionally or knowingly falsifies, conceals, covers up or
2 misrepresents or attempts to falsify, conceal, cover up or misrepresent
3 the identity of any person in connection with any transaction with a
4 financial institution or money transmitter.

5 8. In connection with a transaction with a financial institution or
6 money transmitter, intentionally or knowingly makes, uses, offers or
7 presents or attempts to make, use, offer or present, whether accepted or
8 not, a forged instrument, a falsely altered or completed written
9 instrument or a written instrument that contains any materially false
10 personal identifying information.

11 9. If the person is a money transmitter, a person engaged in a
12 trade or business or any employee of a money transmitter or a person
13 engaged in a trade or business, intentionally or knowingly accepts false
14 personal identifying information from any person or otherwise knowingly
15 incorporates false personal identifying information into any report or
16 record that is required by section 6-1241.

17 10. Intentionally conducts, controls, manages, supervises, directs
18 or owns all or part of a money transmitting business for which a license
19 is required by title 6, chapter 12 unless the business is licensed
20 pursuant to title 6, chapter 12 and complies with the money transmitting
21 business registration requirements under 31 United States Code section
22 5330.

23 C. A person is guilty of money laundering in the third degree if
24 the person intentionally or knowingly does any of the following:

25 1. In the course of any transaction transmitting money, confers or
26 agrees to confer anything of value on a money transmitter or any employee
27 of a money transmitter that is intended to influence or reward any person
28 for failing to comply with any requirement under title 6, chapter 12.

29 2. Engages in the business of receiving money for transmission or
30 transmitting money, as an employee or otherwise, and receives anything of
31 value ~~upon~~ ON an agreement or understanding that it is intended to
32 influence or benefit the person for failing to comply with any requirement
33 under title 6, chapter 12.

34 D. In addition to any other criminal or civil remedy, if a person
35 violates subsection A or B of this section as part of a pattern of
36 violations that involve a total of ~~one hundred thousand dollars~~ \$100,000
37 or more in any ~~twelve-month~~ TWELVE-MONTH period, the person is subject to
38 forfeiture of substitute assets in an amount that is three times the
39 amount that was involved in the pattern, including conduct that occurred
40 before and after the ~~twelve-month~~ TWELVE-MONTH period.

41 E. Money laundering in the third degree is a class 6 felony. Money
42 laundering in the second degree is a class 3 felony. Money laundering in
43 the first degree is a class 2 felony.

44 F. For the purposes of this section:

1 1. The following terms have the same meaning prescribed in section
2 6-1201:

- 3 (a) "Authorized delegate".
- 4 (b) "Licensee".
- 5 (c) "Money accumulation business".
- 6 (d) "Money transmitter".
- 7 (e) "Trade or business".
- 8 (f) "Transmitting money".

9 2. The following terms have the same meaning prescribed in section
10 13-2001:

- 11 (a) "Falsely alters a written instrument".
- 12 (b) "Falsely completes a written instrument".
- 13 (c) "Falsely makes a written instrument".
- 14 (d) "Forged instrument".
- 15 (e) "Personal identifying information".
- 16 (f) "Written instrument".

17 3. The following terms have the same meaning prescribed in section
18 13-2301:

- 19 (a) "Financial institution".
- 20 (b) "Financial instrument".

21 (c) "Racketeering", except that for the purposes of civil remedies
22 sought by the attorney general, racketeering includes any act, regardless
23 of whether the act would be chargeable or indictable under the laws of
24 this state or whether the act is charged or indicted, that is committed
25 for financial gain, punishable by imprisonment for more than one year
26 under the laws of the United States and described in section
27 274(a)(1)(A)(i), (ii) or (iii) or (a)(2) of the immigration and
28 nationality act (8 United States Code section 1324(a)(1)(A)(i), (ii) or
29 (iii) or (a)(2)) if persons acting in concert in the conduct acquire a
30 total of more than ~~five thousand dollars~~ \$5,000 through the conduct in a
31 ~~one month~~ ONE-MONTH period. For the purpose of forfeiture of property
32 other than real property, the conduct must involve more than three aliens
33 in a ~~one month~~ ONE-MONTH period. For the purpose of forfeiture of real
34 property, the conduct must involve more than fifteen aliens in a ~~one month~~
35 ONE-MONTH period.

36 4. The following terms have the same meaning prescribed in section
37 13-2314:

- 38 (a) "Acquire".
- 39 (b) "Proceeds".

40 G. For the purposes of this section:

41 ~~2.~~ 1. ~~"Superintendent"~~ "DEPUTY DIRECTOR" has the same meaning
42 prescribed in section 6-101.

43 ~~1.~~ 2. "Offense" has the same meaning prescribed in section 13-105
44 and includes conduct for which a sentence to a term of incarceration is
45 provided by any law of the United States.

1 3. "Transaction" means a purchase, sale, trade, loan, pledge,
2 investment, gift, transfer, transmission, delivery, deposit, withdrawal,
3 payment, transfer between accounts, exchange of currency, extension of
4 credit, purchase or sale of any financial instrument or any other
5 acquisition or disposition of property by whatever means.

6 Sec. 291. Section 14-3603, Arizona Revised Statutes, is amended to
7 read:

8 14-3603. Bond required; exceptions

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

10 1. The will expressly waives the bond.

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

17 3. The personal representative is a national banking association, a
18 holder of a banking permit under the laws of this state, a savings and
19 loan association authorized to conduct trust business in this state, a
20 title insurance company that is qualified to do business under the laws of
21 this state, a trust company holding a certificate to engage in trust
22 business from the ~~superintendent~~ DEPUTY DIRECTOR of the financial
23 institutions division of the department of insurance and financial
24 institutions or the public fiduciary.

25 4. The petition for formal or informal appointment alleges that the
26 probable value of the entire estate will ~~permit~~ ALLOW summary procedures
27 under section 14-3973 and the surviving spouse, or the nominee of the
28 surviving spouse, is applying for appointment as personal representative.

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

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

1 Sec. 292. Section 14-5411, Arizona Revised Statutes, is amended to
2 read:

3 14-5411. Bond; exception

4 A. Except as otherwise provided in subsection B of this section,
5 the court shall require a conservator to furnish a bond conditioned on
6 faithful discharge of all duties according to law, with sureties as it
7 shall specify. Unless otherwise directed, the bond shall be in the amount
8 of the aggregate capital value of the property of the estate in the
9 conservator's control plus one year's estimated income minus the value of
10 securities deposited under arrangements requiring an order of the court
11 for their removal and the value of any land that the fiduciary, by express
12 limitation of power, lacks power to sell or convey without court
13 authorization. For good cause shown the court may reduce or eliminate the
14 bond to the extent of regular fixed expenses paid for the benefit of the
15 protected person. The court in lieu of sureties on a bond may accept
16 other security for the performance of the bond, including a pledge of
17 securities or a mortgage of land.

18 B. A bond is not required of a conservator that is a national
19 banking association, a holder of a banking permit under the laws of this
20 state, a savings and loan association authorized to conduct trust business
21 in this state, a title insurance company qualified to do business under
22 the laws of this state, a trust company holding a certificate to engage in
23 trust business from the ~~superintendent~~ DEPUTY DIRECTOR of the financial
24 institutions division of the department of insurance and financial
25 institutions or the public fiduciary.

26 Sec. 293. Section 20-466, Arizona Revised Statutes, is amended to
27 read:

28 20-466. Fraud unit; investigators; peace officer status;
29 powers; information sharing; assessment

30 A. The fraud unit is established in the department of insurance and
31 financial institutions. The director of the department of insurance and
32 financial institutions shall appoint an individual to operate the fraud
33 unit in conjunction with operating the automobile theft authority
34 established by section 41-3451.

35 B. The fraud unit shall work in conjunction with the department of
36 public safety.

37 C. The director may investigate any act or practice of fraud
38 prohibited by section 20-466.01 and any other act or practice of fraud
39 against an insurer or entity licensed under this title. The director
40 shall administer the fraud unit.

41 D. The director may employ investigators for the fraud unit. A
42 fraud unit investigator has and shall exercise the law enforcement powers
43 of a peace officer of this state but only while acting in the course and
44 scope of employment for the department of insurance and financial
45 institutions. The director shall adopt guidelines for the conduct of

1 investigations that are substantially similar to the investigative policy
2 and procedural guidelines of the department of public safety for peace
3 officers. Fraud unit investigators shall not preempt the authority and
4 jurisdiction of other law enforcement agencies of this state or its
5 political subdivisions. Fraud unit investigators:

6 1. Shall have at least the qualifications prescribed by the Arizona
7 peace officer standards and training board pursuant to section 41-1822.

8 2. Are not eligible to participate in the public safety personnel
9 retirement system established by title 38, chapter 5, article 4 due solely
10 to employment as fraud unit investigators.

11 E. The director may request the submission of papers, documents,
12 reports or other evidence relating to an investigation under this section.
13 The director may issue subpoenas and take other actions pursuant to
14 section 20-160. The materials are privileged and confidential until the
15 director completes the investigation. Any documents, materials or other
16 information that is provided to the director pursuant to this section is
17 not subject to discovery or subpoena until opened for public inspection by
18 the director or, after notice and a hearing, a court determines that the
19 director would not be unduly burdened by compliance with the subpoena.
20 The director shall keep the identity of an informant confidential,
21 including any information that might identify the informant, unless the
22 request for information is made by a law enforcement agency, the attorney
23 general or a county attorney for purposes of a criminal investigation or
24 prosecution. The director may use the documents, materials or other
25 information in the furtherance of any regulatory or legal action brought
26 as a part of the director's official duties.

27 F. If the documents, materials or other information the director
28 seeks to obtain by request is located outside this state, the person
29 requested to provide the documents, materials or other information shall
30 arrange for the fraud unit or a representative, including an official of
31 the state in which the documents, materials or other information is
32 located, to examine the documents, materials or other information where it
33 is located. The director may respond to similar requests from other
34 states.

35 G. An insurer that believes a fraudulent claim has been or is being
36 made shall send to the director, on a form prescribed by the director,
37 information relative to the claim including the identity of parties
38 claiming loss or damage as a result of an accident and any other
39 information the fraud unit may require. The director shall review the
40 report and determine if further investigation is necessary. If the
41 director determines that further investigation is necessary, the director
42 may conduct an independent investigation to determine if fraud, deceit or
43 intentional misrepresentation in the submission of the claim exists. If
44 the director is satisfied that fraud, deceit or intentional
45 misrepresentation of any kind has been committed in the submission of a

1 claim, the director may report the violations of the law to the reporting
2 insurer, to the appropriate licensing agency as defined in section
3 20-466.04 and to the appropriate county attorney or the attorney general
4 for prosecution.

5 H. The director may:

6 1. Share nonpublic documents, materials or other information with
7 other state, federal and international regulatory agencies, with the
8 national association of insurance commissioners and its affiliates and
9 subsidiaries and with state, federal and international law enforcement
10 authorities if the recipient agrees and warrants that it has the authority
11 to maintain the confidentiality and privileged status of the documents,
12 materials or other information.

13 2. Receive documents, materials and other information from the
14 national association of insurance commissioners and its affiliates and
15 subsidiaries and from regulatory and law enforcement officials of other
16 jurisdictions and shall maintain as confidential or privileged any
17 document, material or other information received with notice or the
18 understanding that it is confidential or privileged under the laws of the
19 jurisdiction that is the source of the document, material or other
20 information.

21 3. Enter into agreements that govern the sharing and use of
22 documents, materials and other information and that are consistent with
23 this section.

24 I. A disclosure to or by the director pursuant to this section or
25 as a result of sharing information pursuant to subsection H of this
26 section is not a waiver of any applicable privilege or claim of
27 confidentiality in the documents, materials or other information disclosed
28 or shared.

29 J. The director shall annually assess each insurer as defined in
30 section 20-441, subsection B authorized to transact business in this state
31 up to \$1,050 for the administration and operation of the fraud unit and
32 the prosecution of fraud pursuant to this section. Monies collected shall
33 be deposited, pursuant to sections 35-146 and 35-147, in the state general
34 fund **FOR APPROPRIATION TO THE FRAUD UNIT. ALL** monies appropriated to the
35 department for the fraud unit shall be included as a separate line item in
36 the general appropriations act. The department shall use all appropriated
37 monies exclusively to operate the fraud unit.

38 K. A person, or an officer, employee or agent of the person acting
39 within the scope of employment or agency of that officer, employee or
40 agent, who in good faith files a report or provides other information to
41 the fraud unit pursuant to this section is not subject to civil or
42 criminal liability for reporting that information to the fraud unit.

1 Sec. 294. Section 20-3251, Arizona Revised Statutes, is amended to
2 read:

3 20-3251. Interstate insurance product regulation compact

4 The interstate insurance product regulation compact is enacted into
5 law as follows:

6 Article I

7 Purpose

8 Under the terms and conditions of this compact, this state seeks to
9 join with other states and establish the interstate insurance product
10 regulation compact and thus become a member of the interstate insurance
11 product regulation commission. The director is hereby designated to serve
12 as the representative of this state to the commission. The purposes of
13 the compact are, through means of joint and cooperative action among the
14 compacting states:

15 1. To promote and protect the interest of consumers of individual
16 and group annuity, life insurance, disability income and long-term care
17 insurance products.

18 2. To develop uniform standards for insurance products covered
19 under the compact.

20 3. To establish a central clearinghouse to receive and provide
21 prompt review of insurance products covered under the compact and, in
22 certain cases, related advertisements, submitted by insurers authorized to
23 do business in one or more compacting states.

24 4. To give appropriate regulatory approval to those product filings
25 and advertisements satisfying the applicable uniform standard.

26 5. To improve coordination of regulatory resources and expertise
27 between state insurance departments regarding the setting of uniform
28 standards and review of insurance products covered under the compact.

29 6. To create the interstate insurance product regulation
30 commission.

31 7. To perform these and other related functions as may be
32 consistent with the state regulation of the business of insurance.

33 Article II

34 Definitions

35 In this compact, unless the context otherwise requires:

36 1. "Advertisement" means any material designed to create public
37 interest in a product or induce the public to purchase, increase, modify,
38 reinstate, borrow on, surrender, replace or retain a policy, as more
39 specifically defined in the rules and operating procedures of the
40 commission.

41 2. "Bylaws" means those bylaws established by the commission for
42 its governance or for directing or controlling the commission's actions or
43 conduct.

1 3. "Commission" means the interstate insurance product regulation
2 commission established by this compact.

3 4. "Commissioner" means the insurance director or the chief
4 insurance regulatory official of a state including commissioner,
5 ~~superintendent~~ DEPUTY DIRECTOR, director or administrator.

6 5. "Compact" means the interstate insurance product regulation
7 compact.

8 6. "Compacting state" means any state that has enacted the compact
9 and that has not withdrawn or been terminated under article XIV of this
10 compact.

11 7. "Insurer" means any entity licensed by a state to issue
12 contracts of insurance for any of the lines of insurance covered by the
13 compact.

14 8. "Member" means the person chosen by a compacting state as its
15 representative to the commission or the person's designee.

16 9. "Noncompacting state" means any state that is not at the time a
17 compacting state.

18 10. "Operating procedures" means procedures adopted by the
19 commission implementing a rule, uniform standard or compact provision.

20 11. "Product" means the form of a policy or contract, including any
21 application, endorsement or related form that is attached to and made a
22 part of the policy or contract, and any evidence of coverage or
23 certificate, for an individual or group annuity, life insurance,
24 disability income or long-term care insurance product that an insurer is
25 authorized to issue.

26 12. "Rule" means a statement of general or particular applicability
27 and future effect that is adopted by the commission, including a uniform
28 standard developed pursuant to article VII of this compact, and that is
29 designed to implement, interpret or prescribe law or policy or describes
30 the organization, procedure or practice requirements of the commission,
31 which shall have the force and effect of law in the compacting states.

32 13. "State" means any state, district or territory of the United
33 States.

34 14. "Third-party filer" means an entity that submits a product
35 filing to the commission on behalf of an insurer.

36 15. "Uniform standard" means a standard adopted by the commission
37 for a product line pursuant to article VII of this compact and includes
38 all of the product requirements in aggregate. Each uniform standard shall
39 be construed, whether express or implied, to prohibit the use of any
40 inconsistent, misleading or ambiguous provisions in a product and the form
41 of the product made available to the public shall not be unfair,
42 inequitable or against public policy as determined by the commission.

Article III

Commission Establishment and Venue

A. The compacting states hereby create and establish a joint public agency known as the interstate insurance product regulation commission. Under article IV of this compact, the commission has the power to develop uniform standards for product lines, receive and provide prompt review of products filed with the commission and give approval to those product filings satisfying applicable uniform standards. It is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. This section does not prohibit any insurer from filing its product in any state wherein the insurer is licensed to conduct the business of insurance. Any filing is subject to the laws of the state where filed.

B. The commission is a body corporate and politic, and an instrumentality of the compacting states.

C. The commission is solely responsible for its liabilities except as otherwise specifically provided in this compact.

D. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

Article IV

Commission Powers

The commission has the following powers:

1. To adopt rules pursuant to article VII of this compact that shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in the compact.

2. To exercise its rulemaking authority and establish reasonable uniform standards for products covered under the compact, and advertisement related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission. A compacting state shall have the right to opt out of the uniform standard pursuant to article VII of this compact, to the extent and in the manner provided in this compact. Any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the national association of insurance commissioners' long-term care insurance model act and long-term care insurance model regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the long-term care insurance model act or long-term care insurance model regulation adopted by the national association of insurance commissioners require amending of the uniform standards established by the commission for long-term care insurance products.

1 3. To receive and review in an expeditious manner products filed
2 with the commission, and rate filings for disability income and long-term
3 care insurance products, and give approval of those products and rate
4 filings that satisfy the applicable uniform standard, where such approval
5 shall have the force and effect of law and be binding on the compacting
6 states to the extent and in the manner provided in the compact.

7 4. To receive and review in an expeditious manner advertisement
8 relating to long-term care insurance products for which uniform standards
9 have been adopted by the commission, and give approval to all
10 advertisement that satisfies the applicable uniform standard. For any
11 product covered under this compact, other than long-term care insurance
12 products, the commission shall have the authority to require an insurer to
13 submit all or any part of its advertisement with respect to that product
14 for review or approval before use if the commission determines that the
15 nature of the product is such that an advertisement of the product could
16 have the capacity or tendency to mislead the public. The actions of the
17 commission as provided in this section shall have the force and effect of
18 law and shall be binding in the compacting states to the extent and in the
19 manner provided in the compact.

20 5. To exercise its rulemaking authority and designate products and
21 advertisement that may be subject to a self-certification process without
22 the need for prior approval by the commission.

23 6. To adopt operating procedures pursuant to article VII of this
24 compact that shall be binding in the compacting states to the extent and
25 in the manner provided in the compact.

26 7. To bring and prosecute legal proceedings or actions in its name
27 as the commission. The standing of any state insurance department to sue
28 or be sued under applicable law shall not be affected.

29 8. To issue subpoenas requiring the attendance and testimony of
30 witnesses and the production of evidence.

31 9. To establish and maintain offices.

32 10. To purchase and maintain insurance and bonds.

33 11. To borrow, accept or contract for services of personnel,
34 including employees of a compacting state.

35 12. To hire employees, professionals or specialists, and elect or
36 appoint officers, and to fix their compensation, define their duties and
37 give them appropriate authority to carry out the purposes of the compact,
38 and determine their qualifications and to establish the commission's
39 personnel policies and programs relating to, among other things, conflicts
40 of interest, rates of compensation and qualifications of personnel.

41 13. To accept any and all appropriate donations and grants of
42 money, equipment, supplies, materials and services, and to receive, use
43 and dispose of the same. The commission shall strive to avoid any
44 appearance of impropriety.

1 14. To lease, purchase, accept appropriate gifts or donations of,
2 or otherwise to own, hold, improve or use, any property, real, personal or
3 mixed. The commission shall strive to avoid any appearance of
4 impropriety.

5 15. To sell, convey, mortgage, pledge, lease, exchange, abandon or
6 otherwise dispose of any property, real, personal or mixed.

7 16. To remit filing fees to compacting states as may be set forth
8 in the bylaws, rules or operating procedures.

9 17. To enforce compliance by compacting states with rules, uniform
10 standards, operating procedures and bylaws.

11 18. To provide for dispute resolution among compacting states.

12 19. To advise compacting states on issues relating to insurers
13 domiciled or doing business in noncompacting jurisdictions, consistent
14 with the purposes of the compact.

15 20. To provide advice and training to those personnel in state
16 insurance departments responsible for product review, and to be a resource
17 for state insurance departments.

18 21. To establish a budget and make expenditures.

19 22. To borrow money.

20 23. To appoint committees, including advisory committees comprising
21 members, state insurance regulators, state legislators or their
22 representatives, insurance industry and consumer representatives and other
23 interested persons as may be designated in the bylaws.

24 24. To provide and receive information from, and to cooperate with,
25 law enforcement agencies.

26 25. To adopt and use a corporate seal.

27 26. To perform other functions as may be necessary or appropriate
28 to achieve the purposes of the compact consistent with the state
29 regulation of the business of insurance.

30 Article V

31 Commission Organization

32 A. Each compacting state shall have and be limited to one member.
33 Each member shall be qualified to serve in that capacity pursuant to
34 applicable law of the compacting state. Any member may be removed or
35 suspended from office as provided by the law of the state from which the
36 member shall be appointed. Any vacancy occurring in the commission shall
37 be filled in accordance with the laws of the compacting state wherein the
38 vacancy exists. This section does not affect the manner in which a
39 compacting state determines the election or appointment and qualification
40 of its own commissioner.

41 B. Each member shall be entitled to one vote and shall have an
42 opportunity to participate in the governance of the commission in
43 accordance with the bylaws. Notwithstanding any provision in this compact
44 to the contrary, no action of the commission with respect to the adoption

1 of a uniform standard shall be effective unless two-thirds of the members
2 vote in favor of the uniform standard.

3 C. The commission, by a majority of the members, shall prescribe
4 bylaws to govern its conduct as may be necessary or appropriate to carry
5 out the purposes, and exercise the powers, of the compact, including:

6 1. Establishing the fiscal year of the commission.

7 2. Providing reasonable procedures for appointing and electing
8 members, as well as holding meetings, of the management committee.

9 3. Providing reasonable standards and procedures for:

10 (a) The establishment and meetings of other committees.

11 (b) Governing any general or specific delegation of any authority
12 or function of the commission.

13 4. Providing reasonable procedures for calling and conducting
14 meetings of the commission that consist of a majority of commission
15 members, ensuring reasonable advance notice of each such meeting and
16 providing for the right of citizens to attend each such meeting with
17 enumerated exceptions designed to protect the public's interest, the
18 privacy of individuals and insurers' proprietary information, including
19 trade secrets. The commission may meet in camera only after a majority of
20 the entire membership votes to close a meeting. As soon as practicable,
21 the commission must make public a copy of the vote to close the meeting
22 revealing the vote of each member with no proxy votes allowed and the
23 votes taken during the meeting.

24 5. Establishing the titles, duties, authority and reasonable
25 procedures for the election of the officers of the commission.

26 6. Providing reasonable standards and procedures for the
27 establishment of the personnel policies and programs of the commission.
28 Notwithstanding any civil service or other similar laws of any compacting
29 state, the bylaws shall exclusively govern the personnel policies and
30 programs of the commission.

31 7. Adopting a code of ethics to address permissible and prohibited
32 activities of commission members and employees.

33 8. Providing a mechanism for winding up the operations of the
34 commission and the equitable disposition of any surplus funds that may
35 exist after the termination of the compact and after the payment or
36 reserving of all of its debts and obligations.

37 D. The commission shall publish its bylaws in a convenient form and
38 file a copy of the bylaws and any amendment to the bylaws with the
39 appropriate agency or officer in each of the compacting states.

40 E. A management committee comprising no more than fourteen members
41 shall be established as follows:

42 1. One member from each of the six compacting states with the
43 largest premium volume for individual and group annuities, life,
44 disability income, and long-term care insurance products, determined from

1 the records of the national association of insurance commissioners for the
2 prior year.

3 2. Four members from those compacting states with at least two
4 percent of the market based on the premium volume described in paragraph 1
5 of this subsection, other than the six compacting states with the largest
6 premium volume, selected on a rotating basis as provided in the bylaws.

7 3. Four members from those compacting states with less than two
8 percent of the market, based on the premium volume described in paragraph
9 1 of this subsection, with one selected from each of the four zone regions
10 of the national association of insurance commissioners as provided in the
11 bylaws.

12 F. The management committee shall have such authority and duties as
13 may be set forth in the bylaws, including:

14 1. Managing the affairs of the commission in a manner consistent
15 with the bylaws and purposes of the commission.

16 2. Establishing and overseeing an organizational structure within,
17 and appropriate procedures for, the commission to provide for the creation
18 of uniform standards and other rules, the receipt and review of product
19 filings, administrative and technical support functions, the review of
20 decisions regarding the disapproval of a product filing and the review of
21 elections made by a compacting state to opt out of a uniform standard.
22 However, a uniform standard shall not be submitted to the compacting
23 states for adoption unless approved by two-thirds of the members of the
24 management committee.

25 3. Overseeing the offices of the commission.

26 4. Planning, implementing and coordinating communications and
27 activities with other state, federal and local government organizations in
28 order to advance the goals of the commission.

29 G. The commission shall elect annually officers from the management
30 committee, with each having such authority and duties, as may be specified
31 in the bylaws.

32 H. The management committee, subject to the approval of the
33 commission, may appoint or retain an executive director for such period,
34 on such terms and conditions and for such compensation as the commission
35 may deem appropriate. The executive director shall serve as secretary to
36 the commission, but shall not be a member of the commission. The
37 executive director shall hire and supervise other staff as may be
38 authorized by the commission.

39 I. A legislative committee comprising state legislators or their
40 designees shall be established to monitor the operations of, and make
41 recommendations to, the commission, including the management committee.
42 However, the manner of selection and term of any legislative committee
43 member shall be as set forth in the bylaws. Before the adoption by the
44 commission of any uniform standard, revision to the bylaws, annual budget
45 or other significant matter as may be provided in the bylaws, the

1 management committee shall consult with and report to the legislative
2 committee.

3 J. The commission shall establish two advisory committees, one of
4 which shall comprise consumer representatives independent of the insurance
5 industry, and the other comprising insurance industry representatives.

6 K. The commission may establish additional advisory committees as
7 its bylaws may provide for the carrying out of its functions.

8 L. The commission shall maintain its corporate books and records in
9 accordance with the bylaws.

10 M. The members, officers, executive director, employees and
11 representatives of the commission shall be immune from suit and liability,
12 either personally or in their official capacity, for any claim for damage
13 to or loss of property or personal injury or other civil liability caused
14 by or arising out of any actual or alleged act, error or omission that
15 occurred, or that the person against whom the claim is made had a
16 reasonable basis for believing occurred within the scope of commission
17 employment, duties or responsibilities. This subsection does not protect
18 any such person from suit or liability for any damage, loss, injury or
19 liability caused by the intentional or wilful and wanton misconduct of
20 that person.

21 N. The commission shall defend any member, officer, executive
22 director, employee or representative of the commission in any civil action
23 seeking to impose liability arising out of any actual or alleged act,
24 error or omission that occurred within the scope of commission employment,
25 duties or responsibilities, or that the person against whom the claim is
26 made had a reasonable basis for believing occurred within the scope of
27 commission employment, duties or responsibilities. This subsection does
28 not prohibit that person from retaining the person's own counsel. Also,
29 the actual or alleged act, error or omission may not have resulted from
30 that person's intentional or wilful and wanton misconduct.

31 O. The commission shall indemnify and hold harmless any member,
32 officer, executive director, employee or representative of the commission
33 for the amount of any settlement or judgment obtained against that person
34 arising out of any actual or alleged act, error or omission that occurred
35 within the scope of commission employment, duties or responsibilities, or
36 that such person had a reasonable basis for believing occurred within the
37 scope of commission employment, duties or responsibilities. However, the
38 actual or alleged act, error or omission may not have resulted from the
39 intentional or wilful and wanton misconduct of that person.

40 Article VI

41 Commission Meeting and Acts

42 A. The commission shall meet and take such actions as are
43 consistent with the provisions of this compact and the bylaws.

44 B. Each member of the commission shall have the right and power to
45 cast a vote to which that compacting state is entitled and to participate

1 in the business and affairs of the commission. A member shall vote in
2 person or by such other means as provided in the bylaws. The bylaws may
3 provide for members' participation in meetings by telephone or other means
4 of communication.

5 C. The commission shall meet at least once during each calendar
6 year. Additional meetings shall be held as set forth in the bylaws.

7 Article VII

8 Rules and Operating Procedures, Rulemaking Functions
9 and Opting Out of Uniform Standards

10 A. The commission shall adopt reasonable rules, including uniform
11 standards, and operating procedures in order to effectively and
12 efficiently achieve the purposes of this compact. If the commission
13 exercises its rulemaking authority in a manner that is beyond the scope of
14 the purposes of this compact, the action by the commission shall be
15 invalid and have no force and effect.

16 B. Rules and operating procedures shall be made pursuant to a
17 rulemaking process that conforms to the model state administrative
18 procedure act of 1981 as amended, as may be appropriate to the operations
19 of the commission. Before the commission adopts a uniform standard, the
20 commission shall give written notice to the relevant state legislative
21 committees in each compacting state responsible for insurance issues of
22 its intention to adopt the uniform standard. The commission in adopting a
23 uniform standard shall consider fully all submitted materials and issue a
24 concise explanation of its decision.

25 C. A uniform standard shall become effective ninety days after its
26 adoption by the commission or such later date as the commission may
27 determine. A compacting state may opt out of a uniform standard as
28 provided in this article. "Opt out" means any action by a compacting
29 state to decline to adopt or participate in an adopted uniform standard.
30 All other rules and operating procedures, and amendments thereto, shall
31 become effective as of the date specified in each rule, operating
32 procedure or amendment.

33 D. A compacting state may opt out of a uniform standard, either by
34 legislation or rule adopted by the insurance department under the
35 compacting state's administrative procedure act. If a compacting state
36 elects to opt out of a uniform standard by rule, it must:

37 1. Give written notice to the commission no later than ten business
38 days after the uniform standard is adopted, or at the time the state
39 becomes a compacting state.

40 2. Find that the uniform standard does not provide reasonable
41 protections to the citizens of the state, given the conditions in the
42 state.

43 E. The commissioner shall make specific findings of fact and
44 conclusions of law, based on a preponderance of the evidence, detailing
45 the conditions in the state that warrant a departure from the uniform

1 standard and determining that the uniform standard would not reasonably
2 protect the citizens of the state. The commissioner must consider and
3 balance the following factors and find that the conditions in the state
4 and needs of the citizens of the state outweigh both:

5 1. The intent of the legislature to participate in, and the
6 benefits of, an interstate agreement to establish national uniform
7 consumer protections for the products subject to this compact.

8 2. The presumption that a uniform standard adopted by the
9 commission provides reasonable protections to consumers of the relevant
10 product.

11 F. A compacting state, at the time of its enactment of the compact,
12 may prospectively opt out of all uniform standards involving long-term
13 care insurance products by expressly providing for such opt out in the
14 enacted compact, and such an opt out shall not be treated as a material
15 variance in the offer or acceptance of any state to participate in the
16 compact. Such an opt out shall be effective at the time of enactment of
17 the compact by the compacting state and shall apply to all existing
18 uniform standards involving long-term care insurance products and those
19 subsequently adopted. Pursuant to this subsection, this state opts out of
20 all uniform standards involving long-term care insurance products.

21 G. If a compacting state elects to opt out of a uniform standard,
22 the uniform standard shall remain applicable in the compacting state
23 electing to opt out until the opt out legislation is enacted into law or
24 the regulation opting out becomes effective. Once the opt out of a
25 uniform standard by a compacting state becomes effective as provided under
26 the laws of that state, the uniform standard shall have no further force
27 and effect in that state unless and until the legislation or regulation
28 implementing the opt out is repealed or otherwise becomes ineffective
29 under the laws of that state. If a compacting state opts out of a uniform
30 standard after the uniform standard has been made effective in that state,
31 the opt out shall have the same prospective effect as provided under
32 article XIV of this compact for withdrawals.

33 H. If a compacting state has formally initiated the process of
34 opting out of a uniform standard by regulation, and while the regulatory
35 opt out is pending, the compacting state may petition the commission, at
36 least fifteen days before the effective date of the uniform standard, to
37 stay the effectiveness of the uniform standard in that state. The
38 commission may grant a stay if it determines the regulatory opt out is
39 being pursued in a reasonable manner and there is a likelihood of success.
40 If a stay is granted or extended by the commission, the stay or extension
41 thereof may postpone the effective date by up to ninety days, unless
42 affirmatively extended by the commission. However, a stay may not be
43 permitted to remain in effect for more than one year unless the compacting
44 state can show extraordinary circumstances that warrant a continuance of
45 the stay, including, the existence of a legal challenge that prevents the

1 compacting state from opting out. A stay may be terminated by the
2 commission on notice that the rulemaking process has been terminated.

3 I. Not later than thirty days after a rule or operating procedure
4 is adopted, any person may file a petition for judicial review of the rule
5 or operating procedure. However, the filing of such a petition shall not
6 stay or otherwise prevent the rule or operating procedure from becoming
7 effective unless the court finds that the petitioner has a substantial
8 likelihood of success. The court shall give deference to the actions of
9 the commission consistent with applicable law and shall not find the rule
10 or operating procedure to be unlawful if the rule or operating procedure
11 represents a reasonable exercise of the commission's authority.

12 Article VIII

13 Commission Records and Enforcement

14 A. The commission shall adopt rules establishing conditions and
15 procedures for public inspection and copying of its information and
16 official records, except information and records involving the privacy of
17 individuals and insurers' trade secrets. The commission may adopt
18 additional rules under which it may make available to federal and state
19 agencies, including law enforcement agencies, records and information
20 otherwise exempt from disclosure, and may enter into agreements with such
21 agencies to receive or exchange information or records subject to
22 nondisclosure and confidentiality provisions.

23 B. Except as to privileged records, data and information, the laws
24 of any compacting state pertaining to confidentiality or nondisclosure
25 shall not relieve any compacting state commissioner of the duty to
26 disclose any relevant records, data or information to the commission.
27 Disclosure to the commission does not waive or otherwise affect any
28 confidentiality requirement. Except as otherwise expressly provided in
29 this compact, the commission shall not be subject to the compacting
30 state's laws pertaining to confidentiality and nondisclosure with respect
31 to records, data and information in its possession. Confidential
32 information of the commission shall remain confidential after the
33 information is provided to any commissioner.

34 C. The commission shall monitor compacting states for compliance
35 with duly adopted bylaws, rules, including uniform standards, and
36 operating procedures. The commission shall notify any noncomplying
37 compacting state in writing of its noncompliance with commission bylaws,
38 rules or operating procedures. If a noncomplying compacting state fails
39 to remedy its noncompliance within the time specified in the notice of
40 noncompliance, the compacting state shall be deemed to be in default as
41 set forth in article XIV of this compact.

42 D. The commissioner of any state in which an insurer is authorized
43 to do business, or is conducting the business of insurance, shall continue
44 to exercise the commissioner's authority to oversee the market regulation
45 of the activities of the insurer in accordance with the provisions of the

1 state's law. The commissioner's enforcement of compliance with the
2 compact is governed by the following provisions:

3 1. With respect to the commissioner's market regulation of a
4 product or advertisement that is approved or certified to the commission,
5 the content of the product or advertisement shall not constitute a
6 violation of the provisions, standards or requirements of the compact
7 except on a final order of the commission, issued at the request of a
8 commissioner after prior notice to the insurer and an opportunity for
9 hearing before the commission.

10 2. Before a commissioner may bring an action for violation of any
11 provision, standard or requirement of the compact relating to the content
12 of an advertisement not approved or certified to the commission, the
13 commission, or an authorized commission officer or employee, must
14 authorize the action. Authorization under this paragraph does not require
15 notice to the insurer, opportunity for hearing or disclosure of requests
16 for authorization or records of the commission's action on such requests.

17 Article IX

18 Dispute Resolution

19 On the request of a member, the commission shall attempt to resolve
20 any disputes or other issues that are subject to this compact and that may
21 arise between two or more compacting states, or between compacting states
22 and noncompacting states, and the commission shall adopt an operating
23 procedure providing for resolution of such disputes.

24 Article X

25 Product Filing and Approval

26 A. Insurers and third-party filers seeking to have a product
27 approved by the commission shall file the product with, and pay applicable
28 filing fees to, the commission. This compact does not restrict or
29 otherwise prevent an insurer from filing its product with the insurance
30 department in any state wherein the insurer is licensed to conduct the
31 business of insurance, and such filing shall be subject to the laws of the
32 states where filed.

33 B. The commission shall establish appropriate filing and review
34 processes and procedures pursuant to commission rules and operating
35 procedures. The commission shall adopt rules to establish conditions and
36 procedures under which the commission will provide public access to
37 product filing information. In establishing such rules, the commission
38 shall consider the interests of the public in having access to such
39 information, as well as protection of personal medical and financial
40 information and trade secrets, that may be contained in a product filing
41 or supporting information.

42 C. Any product approved by the commission may be sold or otherwise
43 issued in those compacting states for which the insurer is legally
44 authorized to do business.

Article XI

Review of Commission Decisions Regarding Filings

A. Not later than thirty days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall adopt rules to establish procedures for appointing the review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with article III, subsection D of this compact.

B. The commission shall have authority to monitor, review and reconsider products and advertisement subsequent to their filing or approval on a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in subsection A of this article.

Article XII

Finance

A. The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the national association of insurance commissioners, compacting states and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of its duties shall not be compromised.

B. The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

C. The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in article VII of this compact.

D. The commission shall be exempt from all taxation in and by the compacting states.

E. The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

F. The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under

its bylaws. The financial accounts and reports including the system of internal controls and procedures of the commission shall be audited annually by an independent certified public accountant. On the determination of the commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and such materials may be shared with the commissioner of any compacting state on request. Any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

G. A compacting state does not have any claim to or ownership of any property held by or vested in the commission or to any commission funds held under this compact.

Article XIII

Compacting States, Effective Date and Amendment

A. Any state is eligible to become a compacting state.

B. The compact shall become effective and binding on legislative enactment of the compact into law by two compacting states. The commission shall become effective for purposes of adopting uniform standards for, reviewing and giving approval or disapproval of products filed with the commission that satisfy applicable uniform standards only after twenty-six states are compacting states or, alternatively, by states representing greater than forty percent of the premium volume for life insurance, annuity, disability income and long-term care insurance products, based on records of the national association of insurance commissioners for the prior year. Thereafter, it shall become effective and binding as to any other compacting state on enactment of the compact into law by that state.

C. Amendments to the compact may be proposed by the commission for enactment by the compacting states. An amendment does not become effective and binding on the commission and the compacting states unless and until all compacting states enact the amendment into law.

Article XIV

Withdrawal, Default and Termination

A. Once effective, the compact shall continue in force and remain binding on each and every compacting state. A compacting state may withdraw from the compact by enacting a statute specifically repealing the statute that enacted the compact into law.

B. The effective date of withdrawal is the effective date of the repealing statute. The withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement

1 of the commission and the withdrawing state unless the approval is
2 rescinded by the withdrawing state as provided in subsection E of this
3 article.

4 C. The commissioner of the withdrawing state shall immediately
5 notify the management committee in writing on the introduction of
6 legislation repealing the compact in the withdrawing state.

7 D. The commission shall notify the other compacting states of the
8 introduction of such legislation within ten days after its receipt of
9 notice thereof.

10 E. The withdrawing state is responsible for all obligations, duties
11 and liabilities incurred through the effective date of withdrawal,
12 including any obligations, the performance of which extend beyond the
13 effective date of withdrawal, except to the extent those obligations may
14 have been released or relinquished by mutual agreement of the commission
15 and the withdrawing state. The commission's approval of products and
16 advertisement before the effective date of withdrawal shall continue to be
17 effective and be given full force and effect in the withdrawing state,
18 unless formally rescinded by the withdrawing state in the same manner as
19 provided by the laws of the withdrawing state for the prospective
20 disapproval of products or advertisement previously approved under state
21 law.

22 F. Reinstatement following withdrawal of any compacting state shall
23 occur on the effective date of the withdrawing state reenacting the
24 compact.

25 G. If the commission determines that any compacting state has at
26 any time defaulted in the performance of any of its obligations or
27 responsibilities under the compact, the bylaws or adopted rules or
28 operating procedures, after notice and hearing as set forth in the bylaws,
29 all rights, privileges and benefits conferred by the compact on the
30 defaulting state shall be suspended from the effective date of default as
31 fixed by the commission. The grounds for default include failure of a
32 compacting state to perform its obligations or responsibilities and any
33 other grounds designated in commission rules. The commission shall
34 immediately notify the defaulting state in writing of the defaulting
35 state's suspension pending a cure of the default. The commission shall
36 stipulate the conditions and the time period within which the defaulting
37 state must cure its default. If the defaulting state fails to cure the
38 default within the time period specified by the commission, the defaulting
39 state shall be terminated from the compact and all rights, privileges and
40 benefits conferred by the compact shall be terminated from the effective
41 date of termination.

42 H. Product approvals by the commission or product
43 self-certifications, or any advertisement in connection with such product,
44 that are in force on the effective date of termination shall remain in

1 force in the defaulting state in the same manner as if the defaulting
2 state had withdrawn voluntarily under this article.

3 I. Reinstatement following termination of any compacting state
4 requires a reenactment of the compact.

5 J. The compact dissolves effective on the date of the withdrawal or
6 default of the compacting state that reduces membership in the compact to
7 one compacting state. On the dissolution of the compact, the compact
8 becomes null and void and shall be of no further force or effect, and the
9 business and affairs of the commission shall be wound up and any surplus
10 funds shall be distributed in accordance with the bylaws.

11 Article XV

12 Binding Effect of Compact and Other Laws

13 A. The compact does not prevent the enforcement of any other law of
14 a compacting state, except as provided in subsection B of this article.

15 B. For any product approved or certified to the commission, the
16 rules, uniform standards and any other requirements of the commission
17 shall constitute the exclusive provisions applicable to the content,
18 approval and certification of such products. For advertisement that is
19 subject to the commission's authority, any rule, uniform standard or other
20 requirement of the commission that governs the content of the
21 advertisement shall constitute the exclusive provision that a commissioner
22 may apply to the content of the advertisement. No action taken by the
23 commission shall abrogate or restrict any of the following:

24 1. The access of any person to state courts.

25 2. Remedies available under state law related to breach of
26 contract, tort or other laws not specifically directed to the content of
27 the product.

28 3. State law relating to the construction of insurance contracts.

29 4. The authority of the attorney general of the state, including
30 maintaining any actions or proceedings, as authorized by law.

31 C. All insurance products filed with individual states shall be
32 subject to the laws of those states.

33 D. All lawful actions of the commission, including all rules and
34 operating procedures adopted by the commission, are binding on the
35 compacting states.

36 E. All agreements between the commission and the compacting states
37 are binding in accordance with their terms.

38 F. On the request of a party to a conflict over the meaning or
39 interpretation of commission actions, and on a majority vote of the
40 compacting states, the commission may issue advisory opinions regarding
41 the meaning or interpretation in dispute.

42 G. If any provision of the compact exceeds the constitutional
43 limits imposed on the legislature of any compacting state, the
44 obligations, duties, powers or jurisdiction sought to be conferred by that
45 provision on the commission shall be ineffective as to that compacting

1 state, and those obligations, duties, powers or jurisdiction shall remain
2 in the compacting state and shall be exercised by the agency thereof to
3 which those obligations, duties, powers or jurisdiction are delegated by
4 law in effect at the time the compact becomes effective.

5 Article XVI

6 Severability and Construction

7 A. If any provision of this compact or its application to any
8 person or circumstance is held invalid, the remainder of the compact or
9 the application of the provision to other persons or circumstances is not
10 affected.

11 B. This compact shall be liberally construed to effectuate its
12 purposes.

13 Sec. 295. Section 25-519, Arizona Revised Statutes, is amended to
14 read:

15 25-519. Regulatory entities; suspension of license

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

17 1. All boards established under title 32.

18 2. The ~~superintendent~~ DEPUTY DIRECTOR of the financial institutions
19 division of the department of insurance and financial institutions.

20 3. The registrar of contractors.

21 4. The department of public safety.

22 5. Boards and agencies that provide occupational, recreational and
23 professional licenses or certificates pursuant to titles 3, 4, 5, 6, 8,
24 15, 17, 20, 36 and 41 and title 28, chapter 8.

25 Sec. 296. Section 32-1001, Arizona Revised Statutes, is amended to
26 read:

27 32-1001. Definitions

28 In this chapter, unless the context otherwise requires:

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

33 (a) Obligations for the payment of money to another, in the form of
34 conditional sales agreements, notwithstanding the personal property sold
35 thereunder, for which payment is claimed or may be or is repossessed in
36 lieu of payment.

37 (b) An obligation for the payment of money or its equivalent and a
38 sum or sums owed, due or asserted to be owed or due ~~which~~ THAT is sold or
39 assigned to a purchaser or assignee for which either:

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

42 (ii) Title has not yet passed.

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

1 2. "Collection agency" means:

2 (a) All persons engaged directly or indirectly in soliciting claims
3 for collection or in collection of claims owed, due or asserted to be owed
4 or due.

5 (b) Any person who, in the process of collecting debts occurring in
6 the operation of the person's own business, uses any name other than the
7 person's own name, which would indicate that a third person is collecting
8 or attempting to collect such debts.

9 3. "Department" means the department of insurance and financial
10 institutions.

11 ~~6.~~ 4. ~~"Superintendent"~~ "DEPUTY DIRECTOR" means the ~~superintendent~~
12 DEPUTY DIRECTOR of the financial institutions division of the department
13 of insurance and financial institutions.

14 ~~4.~~ 5. "Financial institution" means a person who does business
15 under any other law of this state or law of another state or the United
16 States relating to banks, trust companies, savings and loan associations,
17 credit unions and savings banks.

18 ~~5.~~ 6. "Person" means an individual, firm, partnership, association
19 or corporation.

20 Sec. 297. Section 32-1004, Arizona Revised Statutes, is amended to
21 read:

22 32-1004. Exemptions

23 A. The following persons are exempt from ~~the provisions of~~ this
24 chapter when engaged in the regular course of their respective businesses
25 but shall comply with the requirements of section 32-1051, paragraphs 2
26 through 7 and section 32-1055, subsection C and subsection D, paragraphs
27 1, 2, 3 and 5:

28 1. Attorneys-at-law.

29 2. A person regularly employed on a regular wage or salary in the
30 capacity of credit person or a similar capacity, except as an independent
31 contractor.

32 3. Banks, including trust departments of a bank, fiduciaries and
33 financing and lending institutions.

34 4. Common carriers.

35 5. Title insurers, title insurance agents and abstract companies
36 while doing an escrow business.

37 6. Licensed real estate brokers.

38 7. Employees of licensees under this chapter.

39 8. Substation payment offices employed by or serving as independent
40 contractors or public utilities.

41 9. A person licensed pursuant to title 6, chapter 7.

42 10. A person licensed pursuant to title 6, chapter 9.

43 11. A person licensed pursuant to title 6, chapter 14, article 1.

44 12. A participant in a finance transaction in which a lender
45 receives the right to collect commercial claims due the borrower by

1 assignment, by purchase or by the taking of a security interest in those
2 commercial claims.

3 13. An accounting, bookkeeping or billing service provider that
4 complies with all of the following:

5 (a) Does not accept accounts that are contractually past due at the
6 time of receipt.

7 (b) Does not initiate any contact with individual debtors except
8 for the initial written notice of the amount owing and one written
9 follow-up notice.

10 (c) Does not give or send to any debtor a written communication
11 that requests or demands payment.

12 (d) Does not receive or have access to monies paid by debtors or
13 their insurers.

14 (e) All communications with the debtors are done in the name of the
15 creditor.

16 14. A person collecting claims owed, due or asserted to be owed or
17 due to a financial institution the deposits of which are insured by an
18 agency of the federal government, or any affiliate of the financial
19 institution, if the person is related by common ownership or affiliated by
20 corporate control with the financial institution and collects the claims
21 only for the financial institution or any affiliate of the financial
22 institution.

23 15. A person who is licensed pursuant to title 20, chapter 2,
24 article 3, 3.1, 3.2, 3.3 or 3.5 and who is authorized to collect premiums
25 under an insurance policy financed by a premium finance agreement as
26 defined in section 6-1401.

27 16. A person that is licensed pursuant to title 20, chapter 2,
28 article 9, that is authorized to act as an administrator for an insurer as
29 defined in section 20-485 and that collects charges pursuant to section
30 20-485.09, subsection B.

31 B. For the purposes of subsection A, paragraph 12 of this section:

32 1. A transaction shall not be deemed a finance transaction if the
33 primary purpose is to facilitate the collection of claims.

34 2. Commercial claim does not include an account arising from the
35 purchase of a service or product intended for personal, family or
36 household use.

37 C. For the purposes of subsection A, paragraph 13, subdivision (b)
38 of this section, the initial written notice and follow-up notice may
39 contain only the following information:

40 1. The name, address and telephone and telefacsimile numbers of the
41 creditor.

42 2. The amount due and an itemization of that amount.

43 3. The date payment is due.

44 4. The address or place where payment is to be made.

45 5. If the payment is past due, that payment is past due.

D. For a person who is exempt under subsection A, paragraph 14 of this section, the ~~superintendent~~ DEPUTY DIRECTOR shall investigate complaints of residents of this state relating to any violations of section 32-1051, paragraphs 2 through 7 or section 32-1055, subsection C or subsection D, paragraph 1, 2, 3 or 5 and may examine the books, accounts, claims and files of a person that relate to the complaint. A person who is exempt and who violates ~~the provisions of~~ section 32-1051, paragraphs 2 through 7 or section 32-1055, subsection C or subsection D, paragraph 1, 2, 3 or 5 is subject to ~~the provisions of~~ sections 6-132, 6-136 and 6-137.

Sec. 298. Section 32-1021, Arizona Revised Statutes, is amended to read:

32-1021. Original application for license; financial statement; bond; definition

A. A person desiring to conduct a collection agency shall make an original application to the department ~~upon~~ ON forms prescribed by the ~~superintendent~~ DEPUTY DIRECTOR setting forth verified information to assist the ~~superintendent~~ DEPUTY DIRECTOR in determining the applicant's ability to meet the requirements of this chapter.

B. An application for an original or a renewal license shall be accompanied by:

1. A financial statement in the form provided in section 32-1022, showing the applicant's assets and liabilities and truly reflecting the applicant's net worth in cash or its equivalent.

2. A bond in the form provided in section 32-1022, computed on a base consisting of the gross annual income of the licensee generated from all business transacted in this state by the licensee during the preceding year, in the minimum amount as follows:

Base	Minimum Bond
Not over \$250,000	\$10,000
\$250,001 to \$500,000	\$15,000
\$500,001 to \$750,000	\$25,000
\$750,001 and over	\$35,000

C. The ~~superintendent~~ DEPUTY DIRECTOR may require from all applicants additional information that the ~~superintendent~~ DEPUTY DIRECTOR deems necessary in determining whether the applicant is entitled to the license sought.

D. For the purposes of this section, "all business transacted in this state" includes:

1. The collection of debts from debtors who reside in this state, regardless of where the licensee is located.

2. The collection of debts made from an office in this state, regardless of where the debtor resides.

1 3. The collection of debts made on behalf of creditors who reside
2 in this state, regardless of where the debtor and the collection agent
3 reside.

4 Sec. 299. Section 32-1022, Arizona Revised Statutes, is amended to
5 read:

6 32-1022. Contents of financial statement; bond provisions

7 A. The financial statement required by section 32-1021 shall be
8 sworn to by the applicant, if ~~he~~ THE APPLICANT is an individual, or by a
9 partner, director, manager or treasurer in its behalf if the applicant is
10 a partnership, corporation or incorporated association. The information
11 in the financial statement shall be confidential and is not a public
12 record.

13 B. The bond shall run to the people of the state and shall be
14 executed and acknowledged by the applicant as principal and by a
15 corporation, licensed by this state to transact fidelity and surety
16 insurance business, as surety. The bond shall be continuous in form and
17 shall remain in full force and effect at all times while holding a
18 license. The bond shall be conditioned that the applicant, within thirty
19 days ~~from~~ AFTER the last day of the month in which a collection is made,
20 shall make an account of and pay to the client the proceeds collected for
21 ~~him~~ THE CLIENT by the applicant, less charges for collection in accordance
22 with the agreement between the applicant and client, but when the amount
23 due the client is less than ~~five dollars~~ \$5, payment may be deferred for
24 an additional thirty days.

25 C. Any surety company intending to withdraw as surety of any
26 licensee shall give sixty days' notice of such intention to the
27 ~~superintendent~~ DEPUTY DIRECTOR, which notice shall be by registered mail
28 and shall also give sixty days' notice by registered mail to the licensee
29 addressed to ~~his~~ THE LICENSEE'S last known address. When a surety shall
30 for any cause cancel the bond of any licensee, the ~~superintendent~~ DEPUTY
31 DIRECTOR shall immediately notify such licensee by registered mail
32 addressed to ~~his~~ THE LICENSEE'S last known address as shown by the files
33 of the department. The license of any licensee shall be void unless,
34 prior to the termination, a new bond has been filed with the
35 department. A licensee changing ~~his~~ THE LICENSEE'S surety shall file a
36 new bond with the department with a surety on the new bond meeting the
37 qualifications of this section.

38 D. Notwithstanding section 35-155, in lieu of the bond described in
39 this section, an applicant for a license or renewal of a license may
40 deposit with the ~~superintendent~~ DEPUTY DIRECTOR a deposit in the form of
41 cash or alternatives to cash in the amount prescribed under section
42 32-1021. The ~~superintendent~~ DEPUTY DIRECTOR may accept any of the
43 following as an alternative to cash:

1 1. Certificates of deposit or investment certificates ~~which~~ THAT
2 are payable or assigned to the state treasurer, issued by banks doing
3 business in this state and fully insured by the federal deposit insurance
4 corporation or any successor institution.

5 2. Certificates of deposit, investment certificates or share
6 accounts ~~which~~ THAT are payable or assigned to the state treasurer, issued
7 by a savings and loan association or savings bank doing business in this
8 state and fully insured by the federal deposit insurance corporation or
9 any successor institution.

10 3. Certificates of deposit, investment certificates or share
11 accounts ~~which~~ THAT are payable or assigned to the state treasurer, issued
12 by a credit union doing business in this state and fully insured by the
13 national credit union administration or any successor institution.

14 E. The ~~superintendent~~ DEPUTY DIRECTOR shall deposit the cash or
15 alternative to cash received under this section with the state
16 treasurer. The state treasurer shall hold the cash or alternatives to
17 cash in the name of this state to guarantee the faithful performance of
18 all legal obligations of the person required to post bond pursuant to
19 section 32-1021, subsection B. The person is entitled to receive any
20 accrued interest earned from the alternatives to cash. The state
21 treasurer may impose a fee to reimburse the state treasurer for
22 administrative expenses. The fee shall not exceed ~~ten dollars~~ \$10 for
23 each cash or alternative to cash deposit and shall be paid by the
24 applicant for a license or renewal of a license. The state treasurer may
25 prescribe rules relating to the terms and conditions of each type of
26 security provided by this section.

27 F. In addition to such other terms and conditions as the
28 ~~superintendent~~ DEPUTY DIRECTOR prescribes by rule or order, the principal
29 amount of the deposit shall be released only on written authorization of
30 the ~~superintendent~~ DEPUTY DIRECTOR or on the order of a court of competent
31 jurisdiction. The principal amount of the deposit shall not be released
32 before the expiration of three years ~~from~~ AFTER the first to occur of any
33 of the following:

- 34 1. The date of substitution of a bond for a cash alternative.
- 35 2. The surrender of the license.
- 36 3. The revocation of the license.
- 37 4. The expiration of the license.

38 G. A suit may not be commenced on a bond or cash or alternatives to
39 cash later than three years following the act or acts on which the suit is
40 based, except that for claims of fraud or mistake, the period of
41 limitations shall be measured as prescribed in section 12-543,
42 paragraph 3.

1 Sec. 300. Section 32-1023, Arizona Revised Statutes, is amended to
2 read:

3 32-1023. Qualifications of applicants

4 A. An applicant for a license issued under this chapter shall:

5 1. Be a citizen of the United States and be of good moral
6 character.

7 2. Not have been convicted of a crime involving moral turpitude.

8 3. Not have defaulted on payment of money collected or received for
9 another.

10 4. Not have been a former licensee under ~~the provisions of~~ this
11 chapter whose license was suspended or revoked and not subsequently
12 reinstated.

13 B. If the applicant for a license is a firm, partnership,
14 association or corporation, the qualifications required by subsection A of
15 this section shall be required of the individual in active management of
16 the firm, partnership, association or corporation.

17 C. When a licensed agency ceases to be under the active management
18 of a qualified person, as defined in rules, notice of this fact shall be
19 given to the ~~superintendent~~ DEPUTY DIRECTOR within ten days. The licensee
20 shall have ninety days after the termination of the services of the acting
21 manager to replace the qualified person and notify the ~~superintendent~~
22 DEPUTY DIRECTOR of the qualified replacement. If the agency is not placed
23 under the active management of a new qualified person and notice ~~thereof~~
24 IS NOT given to the ~~superintendent~~ DEPUTY DIRECTOR within the ninety-day
25 period, the license of the agency expires unless a provisional license has
26 been granted under ~~the provisions of~~ section 32-1027.

27 Sec. 301. Section 32-1024, Arizona Revised Statutes, is amended to
28 read:

29 32-1024. Licensing out-of-state collection agents

30 The ~~superintendent~~ DEPUTY DIRECTOR shall issue a license to operate
31 a collection agency to a person who holds and presents with the person's
32 application a valid and subsisting license to operate a collection agency
33 issued by another state or an agency of another state if:

34 1. Requirements for securing the license were, at the time of
35 issuance, substantially the same or equal to requirements imposed by this
36 chapter.

37 2. The state concerned extends reciprocity under similar
38 circumstances to licensed collection agents of this state.

39 3. The application is accompanied by the fees and financial and
40 bonding requirements set forth in this chapter.

41 Sec. 302. Section 32-1025, Arizona Revised Statutes, is amended to
42 read:

43 32-1025. Annual renewal of license; suspension; expiration

44 A. Except as provided in section 32-4301, a person desiring to
45 secure renewal of a collection agency license shall file a financial

statement, make a renewal application to the department and pay the fees prescribed in section 6-126 not later than January 1 of each year on forms prescribed by the ~~superintendent~~ DEPUTY DIRECTOR setting forth verified information to assist the ~~superintendent~~ DEPUTY DIRECTOR in determining whether ~~or not~~ the applicant is in default of or in violation of the terms of this chapter and whether the applicant is still meeting the requirements of this chapter. If the renewal applicant is unable to make a financial statement at the time of filing the application, the applicant may make a written request for an extension of time to file such financial report, and if the extension is granted the applicant shall file a financial statement ~~no~~ NOT later than March 1.

B. Licenses that are not renewed on or before January 1 are suspended. A licensee may renew a suspended license by submitting to the department the fees prescribed in section 6-126 along with a renewal application and any applicable late fee, as may be determined by the ~~superintendent~~ DEPUTY DIRECTOR by rule, before January 31. Licenses that are not renewed on or before January 31 expire.

Sec. 303. Section 32-1026, Arizona Revised Statutes, is amended to read:

32-1026. Issuance of licenses

A. On receipt of an original application accompanied by the fees prescribed in section 6-126 and the financial statement and bond required by this chapter, the ~~superintendent~~ DEPUTY DIRECTOR shall investigate the qualifications of the applicant and, if ~~he~~ THE APPLICANT meets the qualifications of this chapter, shall approve the application. If the application is approved, the license shall be promptly issued to the applicant.

B. A license issued under ~~the provisions of~~ this chapter shall not be transferable or assignable and control of a license may not be acquired through a stock purchase or other device without the prior written consent of the ~~superintendent~~ DEPUTY DIRECTOR. Consent shall not be given if the ~~superintendent~~ DEPUTY DIRECTOR finds that the acquiring person does not meet the qualifications of this chapter. For purposes of this subsection, "control" means the power to vote more than twenty ~~per cent~~ PERCENT of the outstanding voting shares of a licensed corporation, partnership, association or trust.

Sec. 304. Section 32-1027, Arizona Revised Statutes, is amended to read:

32-1027. Issuance of provisional license for limited purposes

In the event of the death of an individual licensee, dissolution of a licensee partnership by death or operation of law, or termination of employment of the active manager if the licensee is a firm, partnership, association or corporation, if it is shown that the financial and bonding requirements of this chapter have been met, the ~~superintendent~~ DEPUTY DIRECTOR shall issue without fee a provisional license to the personal

1 representative of the deceased or ~~his~~ THE DECEASED'S appointee, to the
2 surviving partners, or to the firm, association or corporation, as the
3 case may be, which shall be valid for the following purposes only and
4 expire at the following times:

5 1. A provisional license issued to a personal representative or ~~his~~
6 THE PERSONAL REPRESENTATIVE'S appointee shall expire one year from the
7 date of issuance and shall not be subject to renewal. Authority of the
8 provisional licensee shall be limited to those activities deemed necessary
9 to wind up the business of the former licensee.

10 2. Other provisional licenses shall expire three months ~~from~~ AFTER
11 the date of issuance unless the provisional licensee within such period
12 can qualify for a full license.

13 Sec. 305. Section 32-1053, Arizona Revised Statutes, is amended to
14 read:

15 32-1053. Denial, revocation or suspension of license

16 A. The ~~superintendent~~ DEPUTY DIRECTOR may deny a license to a
17 person or suspend or revoke a license pursuant to title 41, chapter 6,
18 article 10 if the ~~superintendent~~ DEPUTY DIRECTOR finds that an applicant
19 or licensee:

20 1. Is insolvent as defined in section 47-1201.

21 2. Has shown that the applicant or licensee is not a person of
22 honesty, truthfulness or good character.

23 3. Has violated any applicable law, rule or order.

24 4. Has been convicted in any state of any felony or other crime
25 involving breach of trust or dishonesty.

26 5. Has had an order entered against the applicant or licensee by an
27 administrative agency of this state, the federal government or any other
28 state of the United States and that order is based on conduct involving
29 fraud, deceit or misrepresentation by the licensee or applicant.

30 6. Has made a material misstatement or omission on the application
31 for a license or on any document required to be filed with the
32 ~~superintendent~~ DEPUTY DIRECTOR.

33 B. It is sufficient cause for the denial, suspension or revocation
34 of a license if an officer, director, partner, employee or controlling
35 person of the collection agency has acted or failed to act in a manner
36 that would be cause for denial, suspension or revocation of a license.
37 For purposes of this subsection, "controlling person" means a person who
38 owns more than a twenty ~~per cent~~ PERCENT equity interest in the collection
39 agency and has the power to actively participate in the conduct of the
40 collection agency.

41 Sec. 306. Section 32-3601, Arizona Revised Statutes, is amended to
42 read:

43 32-3601. Definitions

44 In this chapter, unless the context otherwise requires:

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

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

11 3. "Appraisal foundation" means the appraisal foundation
12 incorporated as an Illinois nonprofit corporation on November 30, 1987.

13 4. "Appraisal report" means any communication, written or oral, of
14 an appraisal.

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

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

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

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

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

36 10. "Course approval" means the act of the ~~superintendent~~ DEPUTY
37 DIRECTOR reviewing course materials to form an opinion as to the adequacy
38 and appropriateness of the course for licensing pursuant to section
39 32-3613, certification pursuant to section 32-3614 and continuing
40 education as prescribed in section 32-3625 in accordance with the
41 appraiser qualifications board and this chapter.

42 11. "Department" means the department of insurance and financial
43 institutions.

1 ~~22.~~ 12. "~~Superintendent~~" "DEPUTY DIRECTOR" means the
2 ~~superintendent~~ DEPUTY DIRECTOR of the financial institutions division of
3 the department.

4 ~~12.~~ 13. "Federal financial institutions examination council" means
5 that agency of the federal government created pursuant to 12 United States
6 Code chapters 34 and 34A, as amended.

7 ~~13.~~ 14. "Federally related transaction" means any real estate
8 related financial transaction that a federal financial institution's
9 regulatory agency or the resolution trust corporation engages in,
10 contracts for or regulates and that requires an appraisal.

11 ~~14.~~ 15. "Property tax agent" means an individual who is designated
12 by a person or is an employee of an entity designated as an agent pursuant
13 to section 42-16001, who acts on behalf of a person who owns, controls or
14 possesses property valued by a county assessor and who receives a fee for
15 the analysis of any matter relating to the review of the valuation of the
16 person's property before the assessor. Property tax agent does not
17 include a person who is admitted to practice law in this state, an
18 employee of the person owning, controlling or possessing the property or
19 an employee of an entity designated pursuant to section 42-16001, if the
20 employee is performing a secretarial, clerical or administrative support
21 function.

22 ~~15.~~ 16. "Real estate" means an identified parcel or tract of land,
23 including improvements, if any.

24 ~~16.~~ 17. "Real estate related financial transaction" means any
25 transaction involving the sale of, lease of, purchase of, investment in or
26 exchange of real property, including interests in property or the
27 financing of property, the refinancing of real property or interests in
28 real property and the use of real property or interests in property as
29 security for a loan or investment, including mortgage-backed securities.

30 ~~17.~~ 18. "Real property" means one or more defined interests,
31 benefits and rights inherent in the ownership of real estate.

32 ~~18.~~ 19. "Registered trainee appraiser" means a person who meets
33 both of the following requirements:

34 (a) Is registered with the ~~superintendent~~ DEPUTY DIRECTOR and meets
35 the appraiser qualifications board's qualifications for trainee appraisers
36 to perform appraisal services only under the direct supervision of a
37 certified appraiser who has met the minimum criteria to be a supervisory
38 appraiser.

39 (b) Accepts assignments only from the registered trainee
40 appraiser's supervisory appraiser.

41 ~~19.~~ 20. "Review appraiser" means a person who engages in the
42 activity of reviewing and evaluating the appraisal work of others from the
43 perspective of an appraiser, generally for compensation as a separate
44 skill. This includes the function of reviewing an appraisal report or a
45 file memorandum setting forth the results of the review process.

1 ~~20.~~ 21. "Standards of professional appraisal practice" means the
2 uniform standards of professional appraisal practice promulgated by the
3 appraisal standards board of the appraisal foundation.

4 ~~21.~~ 22. "State-licensed or state-certified appraiser" means a
5 person who develops and communicates appraisals and who holds a current,
6 valid license or certificate issued under this chapter.

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

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

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

14 (c) Directly supervises registered trainee appraisers by doing the
15 following:

16 (i) Accepting responsibility for an appraisal by signing and
17 certifying that the appraisal complies with the uniform standards of
18 professional appraisal practice.

19 (ii) Reviewing and signing all registered trainee appraiser
20 reports.

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

23 Sec. 307. Section 32-3605, Arizona Revised Statutes, is amended to
24 read:

25 32-3605. Deputy director; duties; powers; immunity

26 A. The ~~superintendent~~ DEPUTY DIRECTOR shall adopt rules in aid or
27 in furtherance of this chapter.

28 B. The ~~superintendent~~ DEPUTY DIRECTOR shall:

29 1. Adopt standards for appraisal practice that is regulated by this
30 chapter. The standards at a minimum shall be equivalent to the standards
31 of professional appraisal practice.

32 2. In prescribing criteria for certification, adopt criteria that
33 at a minimum are equal to the minimum criteria for certification adopted
34 by the appraiser qualifications board.

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

38 4. Further define by rule with respect to state-licensed or
39 state-certified appraisers appropriate and reasonable educational
40 experience, appraisal experience and equivalent experience that meets the
41 statutory requirement of this chapter.

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

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

1 7. Establish administrative procedures for:

2 (a) Processing applications for licenses and certificates,
3 including registration certificates.

4 (b) Approving or disapproving applications for registration,
5 licensure and certification.

6 (c) Issuing licenses and certificates, including registration
7 certificates.

8 8. Define by rule, with respect to registered trainee appraisers
9 and state-licensed and state-certified appraisers, the continuing
10 education requirements for the renewal of licenses or certificates that
11 satisfy the statutory requirements provided in this chapter.

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

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

18 (a) Prescribing minimum criteria for accepting a complaint against
19 a registered trainee appraiser or a licensed or certified appraiser. The
20 ~~superintendent~~ DEPUTY DIRECTOR may not consider a complaint for
21 administrative action if the complaint either:

22 (i) Relates to an appraisal that was completed more than five years
23 before the complaint was submitted to the ~~superintendent~~ DEPUTY DIRECTOR
24 or more than two years after final disposition of any judicial proceeding
25 in which the appraisal was an issue, whichever period of time is greater.

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

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

42 (c) Defining the process and procedures used in hearings on the
43 complaint, including a description of the rights of the ~~superintendent~~
44 DEPUTY DIRECTOR and any person who is alleged to have committed the
45 violation.

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

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

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

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

14. Investigate and assess potential law or order violations and discipline, suspend, terminate or deny registration renewals of appraisal management companies that violate laws or orders. The ~~superintendent~~ DEPUTY DIRECTOR shall report violations of appraisal-related laws or orders and disciplinary and enforcement actions to the appraisal subcommittee.

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

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

17. Receive applications for state licenses and certificates.

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

19. Retain records and all application materials submitted to the ~~superintendent~~ DEPUTY DIRECTOR.

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

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

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

D. The ~~superintendent~~ DEPUTY DIRECTOR may impose ~~a~~ civil ~~penalty~~ PENALTIES pursuant to section 32-3631.

Sec. 308. Section 32-3607, Arizona Revised Statutes, is amended to read:

32-3607. Fees; use of credit cards; appraisal subcommittee fund

A. The ~~superintendent~~ DEPUTY DIRECTOR shall charge and collect fees that are sufficient to fund the activities necessary to carry out this chapter. ~~These~~ THE FEES include:

1. An application fee for licensure or certification of not more than ~~four hundred dollars~~ \$400.

1 2. An application fee for a resident temporary license or
2 certificate of not more than ~~four hundred dollars~~ \$400.

3 3. An examination fee in an amount to be determined by the
4 ~~superintendent~~ DEPUTY DIRECTOR.

5 4. A fee for renewal of a license, certificate or resident
6 temporary license or certificate of not more than ~~four hundred twenty-five~~
7 ~~dollars~~ \$425.

8 5. A delinquent renewal fee in addition to the renewal fee of not
9 more than ~~twenty-five dollars~~ \$25.

10 6. A two-year national registry fee of not to exceed the actual
11 cost of twice the current annual national registry fee for a
12 state-licensed or state-certified appraiser.

13 7. A one-year national registry fee not to exceed the actual cost
14 of the current annual national registry fee for appraisal management
15 companies.

16 8. A nonresident temporary licensure or certification fee of not
17 more than ~~one hundred fifty dollars~~ \$150.

18 9. A course approval fee of not more than ~~five hundred dollars~~
19 \$500.

20 10. An application fee to be a registered trainee appraiser in an
21 amount to be determined by the ~~superintendent~~ DEPUTY DIRECTOR.

22 B. If the appraisal subcommittee raises the national registry fee
23 during the second year of a biennial license or certificate,
24 state-licensed and state-certified appraisers shall pay the additional
25 national registry fee on demand by the ~~superintendent~~ DEPUTY DIRECTOR.
26 Failure to pay the additional fee within thirty days ~~of~~ AFTER notice by
27 the ~~superintendent~~ DEPUTY DIRECTOR subjects the license or certificate
28 holder to a penalty of twice the amount owed but not to exceed ~~twenty~~
29 ~~dollars~~ \$20. The ~~superintendent~~ DEPUTY DIRECTOR shall not renew a license
30 or certificate until all outstanding obligations of the license or
31 certificate holder are paid.

32 C. Pursuant to section 35-142, subsection J, the ~~superintendent~~
33 DEPUTY DIRECTOR may accept a credit card or debit card for the payment of
34 fees established by this section. The ~~superintendent~~ DEPUTY DIRECTOR may
35 impose a convenience fee for payment made pursuant to this subsection in
36 an amount to be determined by the ~~superintendent~~ DEPUTY DIRECTOR.

37 D. The appraisal subcommittee fund is established consisting of
38 national registry fee monies collected pursuant to this section. The
39 department shall administer the fund. The department shall use the monies
40 to promptly remit the national registry fees to the appraisal subcommittee
41 for state-licensed appraisers, state-certified appraisers, registered
42 appraisal management companies or appraisal management companies that
43 operate as a subsidiary of a federally regulated financial institution.

1 Sec. 309. Section 32-3609, Arizona Revised Statutes, is amended to
2 read:

3 32-3609. Confidential records

4 Except as otherwise provided by law, the following records are
5 confidential:

6 1. Questions contained in any examination administered by or for
7 the ~~superintendent~~ DEPUTY DIRECTOR or in any examination submitted to the
8 ~~superintendent~~ DEPUTY DIRECTOR for course approval.

9 2. Questions asked and the answers of individual examinees, except
10 that the ~~superintendent~~ DEPUTY DIRECTOR shall provide the grades of each
11 examinee for public inspection and copying.

12 3. Appraisal reports or appraisal reviews and supporting
13 documentation deemed confidential under the uniform standards of
14 professional appraisal practice.

15 4. All documents associated with a complaint as prescribed by
16 section 6-129.

17 Sec. 310. Title 32, chapter 36, article 1, Arizona Revised
18 Statutes, is amended by adding section 32-3610, to read:

19 32-3610. Uniform standards of professional appraisal
20 practice; state standards; exception

21 THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE AS
22 PUBLISHED BY THE APPRAISAL STANDARDS BOARD ARE THE STANDARDS FOR THE
23 APPRAISAL PRACTICE IN THIS STATE UNLESS THE DEPUTY DIRECTOR OBJECTS.

24 Sec. 311. Section 32-3611, Arizona Revised Statutes, is amended to
25 read:

26 32-3611. Registration, licensure and certification process

27 A. Applications for original registration, licensure or
28 certification, renewals and examinations shall be made in writing to the
29 ~~superintendent~~ DEPUTY DIRECTOR on forms approved by the ~~superintendent~~
30 DEPUTY DIRECTOR.

31 B. Appropriate fees, as fixed by the ~~superintendent~~ DEPUTY DIRECTOR
32 pursuant to section 32-3607, shall accompany all applications for original
33 registration, licensure or certification, renewal and examination.

34 C. At the time of filing an application for registration, licensure
35 or certification, each applicant shall sign a pledge to comply with the
36 standards set forth in this chapter and shall state that the applicant
37 understands the types of misconduct for which disciplinary proceedings may
38 be initiated against a registered trainee appraiser or a state-licensed or
39 state-certified appraiser, as set forth in this chapter.

40 D. Except as otherwise provided in this chapter, the ~~superintendent~~
41 DEPUTY DIRECTOR shall require such other proof and request such documents,
42 through the application or otherwise, as the ~~superintendent~~ DEPUTY
43 DIRECTOR deems necessary for the interests of the public and to verify the
44 honesty, truthfulness, reputation and competency of the applicant and

1 shall require that the applicant for registration, licensure or
2 certification:

3 1. Be at least eighteen years of age and a citizen of the United
4 States or a qualified alien as defined in 8 United States Code section
5 1641.

6 2. Not have had a license or certificate denied pursuant to this
7 chapter within one year immediately preceding the application.

8 3. Not have had a license or certificate revoked pursuant to this
9 chapter within five years immediately preceding the application.

10 4. State whether or not the applicant has ever been convicted in a
11 court of competent jurisdiction in this or any other state of a felony or
12 of forgery, theft, extortion or conspiracy to defraud or any other crime
13 involving dishonesty or moral turpitude.

14 E. Applications for registration, licensure or certification by
15 persons who are charged or under indictment for fraud involving appraisal
16 of real property may be denied pending final disposition of the charge or
17 indictment. On final disposition, the ~~superintendent~~ DEPUTY DIRECTOR
18 shall review the proceedings and act on the application.

19 Sec. 312. Section 32-3613, Arizona Revised Statutes, is amended to
20 read:

21 32-3613. Application and qualification requirements for
22 licensure

23 A. An application for licensure and examination shall be made on
24 forms as prescribed by the ~~superintendent~~ DEPUTY DIRECTOR and be
25 accompanied by the required fees.

26 B. Persons filing for licensure shall meet the minimum criteria for
27 licensure established by the ~~superintendent~~ DEPUTY DIRECTOR under section
28 32-3605, subsection B, paragraph 3.

29 C. A person may not be a state-licensed appraiser unless the person
30 has achieved a passing grade on the national examination approved by the
31 appraiser qualifications board.

32 Sec. 313. Section 32-3614, Arizona Revised Statutes, is amended to
33 read:

34 32-3614. Application and qualification requirements for
35 certification

36 A. An application for certification and examination shall be made
37 on forms prescribed by the ~~superintendent~~ DEPUTY DIRECTOR and be
38 accompanied by the required fees.

39 B. Persons filing for certification shall meet the minimum criteria
40 for certification established by the ~~superintendent~~ DEPUTY DIRECTOR under
41 section 32-3605, subsection B, paragraph 2 and section 32-3615.

42 C. A person may not be a state-certified real estate appraiser
43 unless the person has achieved a passing grade on the national examination
44 approved by the appraiser qualifications board.

1 D. Persons presenting evidence showing successful completion of the
2 requirements of this section shall be recognized as having met the
3 qualifications as a state-certified real estate appraiser.

4 Sec. 314. Section 32-3614.01, Arizona Revised Statutes, is amended
5 to read:

6 32-3614.01. Application for registered trainee appraiser
7 certificates

8 An application for a registered trainee appraiser certificate shall
9 be made on a form prescribed by the ~~superintendent~~ DEPUTY DIRECTOR and be
10 accompanied by the fees prescribed by section 32-3607. An applicant must
11 complete education requirements as outlined by the appraiser
12 qualifications board. The applicant must submit proof that the applicant
13 has successfully passed the required courses that are specifically
14 oriented to the requirements and responsibilities of supervisory
15 appraisers and trainee appraisers and that comply with the specifications
16 established by the appraiser qualifications board.

17 Sec. 315. Section 32-3614.02, Arizona Revised Statutes, is amended
18 to read:

19 32-3614.02. Application for supervisory appraiser designation

20 An application for a supervisory appraiser designation shall be made
21 on a form prescribed by the ~~superintendent~~ DEPUTY DIRECTOR. The applicant
22 must submit proof of successful completion of a course that is
23 specifically oriented to the requirements and responsibilities of
24 supervisory appraisers and trainee appraisers and that complies with the
25 specifications established by the appraiser qualifications board.

26 Sec. 316. Section 32-3615, Arizona Revised Statutes, is amended to
27 read:

28 32-3615. Experience requirement for licensure or
29 certification

30 A. Each applicant for licensure or certification shall have
31 experience that was acquired within ten years immediately preceding the
32 filing of the application for licensure or certification.

33 B. Each applicant for licensure or certification shall furnish
34 under oath a detailed listing of the real estate or other appraisal
35 reports, review reports or filed memoranda for each year for which
36 experience is claimed by the applicant. On request, the applicant shall
37 make available to the ~~superintendent~~ DEPUTY DIRECTOR for examination
38 copies of appraisal reports that the applicant has prepared in the course
39 of the applicant's appraisal experience.

40 Sec. 317. Section 32-3617, Arizona Revised Statutes, is amended to
41 read:

42 32-3617. Nonresident temporary licensure or certification

43 A. Every applicant for nonresident temporary licensure or
44 certification under this chapter who is not a resident of this state shall
45 submit, with the application for nonresident temporary licensure or

1 certification, an irrevocable consent that service of process on the
2 applicant may be made by delivery of the process to the secretary of state
3 if, in an action against the applicant in a court of this state arising
4 out of the applicant's activities as a nonresident temporary
5 state-licensed or state-certified appraiser, the plaintiff cannot effect,
6 in the exercise of due diligence, personal service on the applicant.

7 B. A nonresident of this state who has complied with subsection A
8 of this section may obtain a nonresident temporary license or certificate
9 as a nonresident temporary state-licensed or state-certified appraiser by
10 conforming to all of the requirements of this chapter relating to
11 state-licensed or state-certified appraisers.

12 C. A nonresident of this state who is licensed or certified in
13 another state is entitled to nonresident temporary licensure or
14 certification by the ~~superintendent~~ DEPUTY DIRECTOR, which is valid until
15 the completion of each appraisal assignment but not for a period of more
16 than one year ~~from~~ AFTER the date of issuance, if:

17 1. The nonresident appraiser's business in this state is of a
18 temporary nature.

19 2. The nonresident appraiser applies with the ~~superintendent~~ DEPUTY
20 DIRECTOR on forms prescribed by the ~~superintendent~~ DEPUTY DIRECTOR.

21 3. The nonresident appraiser pays the nonresident temporary
22 licensure or certification fee required by the ~~superintendent~~ DEPUTY
23 DIRECTOR.

24 D. The ~~superintendent~~ DEPUTY DIRECTOR shall adopt rules in
25 furtherance of this section to avoid the abuse of the temporary practice
26 rights in this state.

27 Sec. 318. Section 32-3618, Arizona Revised Statutes, is amended to
28 read:

29 32-3618. Reciprocity

30 Reciprocity shall be granted to an appraiser if all of the following
31 conditions apply:

32 1. The appraiser holds a credential from a state that is in
33 compliance with 12 United States Code sections 3310, 3332, 3333, 3335,
34 3338, 3339, 3341, 3342, 3345, 3346, 3347, 3348, 3350, 3351, 3353, 3354 and
35 3355.

36 2. The credential requirements for the state described in paragraph
37 1 of this section meet or exceed those of this state.

38 3. The appraiser has completed an application for licensure or
39 certification on a form as prescribed by the ~~superintendent~~ DEPUTY
40 DIRECTOR and submitted the fees prescribed pursuant to section 32-3607.

41 Sec. 319. Section 32-3619, Arizona Revised Statutes, is amended to
42 read:

43 32-3619. Renewal of license or certificate; fees

44 A. Except as otherwise provided in this section and in section
45 32-4301, to renew a registration certificate as a registered trainee

1 appraiser or a license or certificate as a state-licensed or
2 state-certified appraiser, the holder of a current, valid license or
3 certificate shall apply and pay the prescribed fee to the ~~superintendent~~
4 ~~DEPUTY DIRECTOR~~ not earlier than ninety days nor later than thirty days
5 before the license or certificate expires. With the application for
6 renewal, the registered trainee appraiser or the state-licensed or
7 state-certified appraiser shall present evidence in the form prescribed by
8 the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ of having completed the continuing
9 education requirements for renewal specified in section 32-3625.

10 B. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may accept a renewal
11 application after the expiration date and within ninety days of the date
12 of expiration but shall assess a delinquent renewal fee in addition to the
13 renewal fee.

14 C. An appraiser or registered trainee appraiser who fails to seek
15 renewal within the time period specified in subsection A or B of this
16 section must reapply for licensure or certification and meet all of the
17 requirements of this chapter.

18 D. An appraiser or registered trainee appraiser shall not engage
19 in, advertise or purport to engage in real estate appraisal activity in
20 this state after a license or certificate has expired and before the
21 renewal of the expired license or certificate except as provided in
22 section 41-1092.11.

23 Sec. 320. Section 32-3620, Arizona Revised Statutes, is amended to
24 read:

25 32-3620. Basis for denial of a license or certificate

26 A. The ~~superintendent~~ ~~DEPUTY DIRECTOR~~ may deny the initial issuance
27 or renewal of a license or certificate as a registered trainee appraiser,
28 a supervisory appraiser or a state-licensed or state-certified appraiser
29 to an applicant who has been convicted of a felony or on any of the
30 grounds prescribed in this chapter.

31 B. To assist in determining whether grounds exist to deny the
32 initial issuance or renewal of a license or certificate to an applicant,
33 the ~~superintendent~~ ~~DEPUTY DIRECTOR~~ shall require the applicant to apply
34 for a valid fingerprint clearance card issued pursuant to section
35 41-1758.03.

36 C. A person who is denied the issuance of a license or certificate
37 may request, and if requested shall receive, a hearing in accordance with
38 title 41, chapter 6, article 10.

39 Sec. 321. Section 32-3621, Arizona Revised Statutes, is amended to
40 read:

41 32-3621. Addresses; telephone numbers; email addresses;
42 notification of change

43 A. Each registered trainee appraiser or state-licensed or
44 state-certified appraiser shall advise the ~~superintendent~~ ~~DEPUTY DIRECTOR~~
45 of the address of the person's principal place of business and all other

1 addresses at which the person is currently engaged in the business of
2 preparing real property appraisal reports.

3 B. Every registered trainee appraiser or state-licensed or
4 state-certified appraiser shall notify the ~~superintendent~~ DEPUTY DIRECTOR
5 of the person's current residence address. Residence addresses on file
6 with the ~~superintendent~~ DEPUTY DIRECTOR are exempt from disclosure as
7 public records.

8 C. Every registered trainee appraiser or state-licensed or
9 state-certified appraiser shall provide the person's ~~e-mail~~ EMAIL address
10 if one exists and a daytime telephone number to the ~~superintendent~~ DEPUTY
11 DIRECTOR.

12 D. If a registered trainee appraiser or a state-licensed or
13 state-certified appraiser changes the person's place of business or
14 residence, ~~e-mail~~ EMAIL address or daytime telephone number, the person
15 shall give the ~~superintendent~~ DEPUTY DIRECTOR written notification of the
16 change within ten days after the change.

17 Sec. 322. Section 32-3622, Arizona Revised Statutes, is amended to
18 read:

19 32-3622. Licenses and certificates

20 A. A license or certificate issued under this chapter shall be
21 signed on behalf of the ~~superintendent~~ DEPUTY DIRECTOR and shall bear the
22 license or certificate number assigned by the ~~superintendent~~ DEPUTY
23 DIRECTOR.

24 B. Each state-licensed or state-certified appraiser shall place the
25 appraiser's license or certificate number adjacent to or immediately below
26 the title "state-licensed appraiser" or "state-certified appraiser", and
27 the number shall be included in an appraisal report or in a contract or
28 other instrument used by the license or certificate holder in conducting
29 appraisal activities.

30 Sec. 323. Section 32-3624, Arizona Revised Statutes, is amended to
31 read:

32 32-3624. Professional corporations and partnerships:
33 appraisal assistance

34 A corporation, partnership or other business entity may provide
35 appraisal services in connection with transactions related to this chapter
36 if the appraisal is prepared by individuals who are licensed or certified
37 in accordance with this chapter. An individual who is not a
38 state-licensed or state-certified appraiser may ~~assist~~ PROVIDE CLERICAL OR
39 ADMINISTRATIVE ASSISTANCE in the preparation of an appraisal DOCUMENT. AN
40 INDIVIDUAL WHO IS A REGISTERED TRAINEE APPRAISER MAY BE INVOLVED IN
41 DEVELOPING AND REPORTING THE APPRAISAL if both of the following apply:

42 1. The ~~assistant~~ REGISTERED TRAINEE APPRAISER is under the direct
43 supervision of a state-licensed or state-certified appraiser AS PRESCRIBED
44 IN SECTION 32-3612, PARAGRAPH 4.

1 2. The final appraisal document is approved and THE CERTIFICATION
2 IS signed by an individual who is ~~licensed~~ A STATE-LICENSED or ~~certified~~
3 STATE-CERTIFIED APPRAISER.

4 Sec. 324. Section 32-3625, Arizona Revised Statutes, is amended to
5 read:

6 32-3625. Continuing education

7 A. As a prerequisite to renewal of a license or certificate, a
8 state registered trainee appraiser or a state-licensed or state-certified
9 appraiser shall present evidence satisfactory to the ~~superintendent~~ DEPUTY
10 DIRECTOR of having met the continuing education requirements of either
11 subsection B or C of this section.

12 B. The basic continuing education requirement for renewal of a
13 license or certificate is the completion by the applicant, during the
14 immediately preceding term of the license or certificate, of courses or
15 seminars that are approved by the ~~superintendent~~ DEPUTY DIRECTOR.

16 C. An applicant for reregistering, relicensing or recertification
17 may satisfy all or part of the continuing education requirements by
18 presenting evidence of the following, which shall be approved by the
19 ~~superintendent~~ DEPUTY DIRECTOR:

20 1. Completion of an education program of study determined by the
21 ~~superintendent~~ DEPUTY DIRECTOR to be equivalent, for continuing education
22 purposes, to courses approved by the ~~superintendent~~ DEPUTY DIRECTOR
23 pursuant to subsection B of this section.

24 2. Participation other than as a student in educational processes
25 and programs that are approved by the ~~superintendent~~ DEPUTY DIRECTOR and
26 that relate to appropriate appraisal theory, practices or techniques,
27 including teaching, program development and preparation of textbooks,
28 monographs, articles and other instructional materials, not to exceed
29 fifty percent of an applicant's continuing education requirements and not
30 for the same course in consecutive renewal periods.

31 D. The ~~superintendent~~ DEPUTY DIRECTOR shall adopt rules to ensure
32 that a person who renews the person's license or certificate as a
33 state-licensed or state-certified appraiser follows practices and
34 techniques that provide a high degree of service and protection to members
35 of the public with whom the person deals in the professional relationship
36 under the authority of the license or certificate. The rules shall include
37 the following:

38 1. Policies and procedures for obtaining the ~~superintendent's~~
39 DEPUTY DIRECTOR'S approval of courses and instruction pursuant to
40 subsection B of this section.

41 2. Standards, policies and procedures to be applied by the
42 ~~superintendent~~ DEPUTY DIRECTOR in evaluating an applicant's claims of
43 equivalency in accordance with subsection C of this section.

1 3. Standards, monitoring methods and systems for recording
2 attendance to be employed by course sponsors as a prerequisite to the
3 ~~superintendent's~~ DEPUTY DIRECTOR'S approval of courses for credit.

4 E. In adopting rules pursuant to subsection D, paragraph 1 of this
5 section, the ~~superintendent~~ DEPUTY DIRECTOR shall ~~give consideration to~~
6 CONSIDER courses of instruction, seminars and other appropriate appraisal
7 educational courses or programs previously or hereafter developed by or
8 under the auspices of professional appraisal organizations and used by
9 those associations for purposes of designation or indicating compliance
10 with the continuing education requirements of such organizations. A
11 person who offers these courses may not discriminate in the opportunity to
12 participate in these courses on the basis of membership or nonmembership
13 in an appraisal organization.

14 F. An amendment or repeal of a rule adopted by the ~~superintendent~~
15 DEPUTY DIRECTOR pursuant to this section may not deprive a state
16 registered trainee appraiser or a state-licensed or state-certified
17 appraiser of credit toward renewal of a license or certificate for any
18 course of instruction that the applicant either completed or enrolled in
19 before the amendment or repeal of the rule that would have qualified for
20 continuing education credit as the rule existed before the repeal or
21 amendment.

22 G. A license or certificate as a ~~state~~ registered trainee appraiser
23 or a state-licensed or state-certified appraiser that has been suspended
24 as a result of disciplinary action by the ~~superintendent~~ DEPUTY DIRECTOR
25 shall not be reinstated unless the applicant presents evidence of
26 completion of the continuing education required by this chapter.

27 H. A license or certificate that has been revoked by the
28 ~~superintendent~~ DEPUTY DIRECTOR shall not be reinstated unless the
29 applicant successfully completes the appropriate requirements of the
30 appraisal qualifications board, including education and passage of the
31 current national examination.

32 Sec. 325. Section 32-3627, Arizona Revised Statutes, is amended to
33 read:

34 32-3627. Inactive license or certificate status; reactivation
35 application; renewal application and fee;
36 continuing education

37 A. Any license or certificate holder may request that the license
38 or certificate be placed on inactive status by filing with the
39 ~~superintendent~~ DEPUTY DIRECTOR an application that includes all of the
40 following:

- 41 1. The license or certificate holder's name.
- 42 2. The license or certificate number.
- 43 3. A request for inactive status.

44 B. The period a license or certificate is on inactive status under
45 this section may not exceed two years.

1 C. A license or certificate holder who is on inactive status shall
2 not do either of the following:

3 1. Represent that the license or certificate holder is an active
4 appraiser licensed or certified in this state.

5 2. Perform real estate appraisals or appraisal reviews on real
6 estate in this state.

7 D. A license or certificate holder who is on inactive status under
8 this section must file with the ~~superintendent~~ DEPUTY DIRECTOR an
9 application for reactivation of the license or certificate before resuming
10 real estate appraisal activity.

11 E. To return to active status, the inactive license or certificate
12 holder shall do both of the following:

13 1. File with the ~~superintendent~~ DEPUTY DIRECTOR an application for
14 reactivation of the license or certificate.

15 2. Provide evidence of completion of the required continuing
16 education that the license or certificate holder would have been required
17 to meet during the period when the license or certificate holder's license
18 or certificate was on inactive status.

19 F. If the holder of an inactive license or certificate under this
20 section does not file an application for reactivation within a two-year
21 period, that person must reapply for licensure or certification pursuant
22 to the requirements of this chapter.

23 G. A license or certificate holder who is on inactive status
24 pursuant to this section remains on inactive status until the
25 ~~superintendent~~ DEPUTY DIRECTOR approves the application for reactivation
26 of the license or certificate.

27 H. The ~~superintendent~~ DEPUTY DIRECTOR may take disciplinary or
28 remedial action against a license or certificate holder who is on inactive
29 status pursuant to this section.

30 I. A license or certificate holder who places the holder's license
31 or certificate on inactive status must pay the renewal fee and complete an
32 application for renewal as prescribed in section 32-3619. The license or
33 certificate holder on inactive status is not required to provide evidence
34 of completion of the continuing education requirements until the
35 application for reactivation is filed pursuant to subsection E of this
36 section.

37 Sec. 326. Section 32-3628, Arizona Revised Statutes, is amended to
38 read:

39 32-3628. Inactive license or certificate status during
40 military duty; reactivation application; renewal
41 application and fee; continuing education

42 A. A license or certificate holder who is ordered to active
43 military duty with the United States armed forces may request that the
44 license or certificate be placed on inactive status by filing with the

1 ~~superintendent~~ DEPUTY DIRECTOR an application that includes all of the
2 following:

- 3 1. The license or certificate holder's name.
- 4 2. The license or certificate number.
- 5 3. The date that the active military duty begins.
- 6 4. A request for inactive status.
- 7 B. The license or certificate is deemed to be on inactive status
8 while the license or certificate holder is on active military duty, but
9 the period of inactive status may not exceed three years.
- 10 C. A license or certificate holder who is on inactive status
11 pursuant to this section shall not do either of the following:
 - 12 1. Represent that the holder is an active appraiser licensed or
13 certified in this state.
 - 14 2. Perform real estate appraisals or appraisal reviews on real
15 estate in this state.
- 16 D. A license or certificate holder who is on inactive status must
17 file with the ~~superintendent~~ DEPUTY DIRECTOR an application for
18 reactivation of the license or certificate within one hundred eighty days
19 after returning home from active military duty.
- 20 E. If the holder of an inactive license or certificate timely files
21 an application for reactivation of the license or certificate, the license
22 or certificate is returned to active status on the ~~superintendent's~~ DEPUTY
23 DIRECTOR'S approval of the application for reactivation. The license or
24 certificate holder shall complete the continuing education requirements
25 that would otherwise have been required when the license or certificate
26 was on inactive status within ninety days after the person's return from
27 active military duty. The license or certificate holder must submit proof
28 of completion of any continuing education requirements to the
29 ~~superintendent~~ DEPUTY DIRECTOR NOT later than one hundred twenty days
30 after completion.
- 31 F. If the holder of an inactive license or certificate under this
32 section does not timely apply for reactivation as required by subsection D
33 of this section, the holder must reapply for licensure or certification
34 meeting all of the requirements of this chapter.
- 35 G. A license or certificate holder who is on inactive status
36 pursuant to this section remains on inactive status until the
37 ~~superintendent~~ DEPUTY DIRECTOR approves the application for reactivation
38 of the license or certificate.
- 39 H. The holder of an inactive license or certificate applying for
40 reactivation of the license or certificate under this section shall
41 include with the application for reactivation a copy of the documentation
42 from the armed forces showing the period of time that the holder of the
43 inactive license or certificate was on active military duty.

1 I. Any license or certificate holder who places the holder's
2 license or certificate on inactive status under this section must pay the
3 renewal fee prescribed in section 32-3607 and complete an application for
4 renewal pursuant to section 32-3619. A license or certificate holder on
5 inactive status pursuant to this section who files an application for
6 reactivation shall provide evidence of completion of the continuing
7 education requirements pursuant to subsection E of this section.

8 J. For the purposes of this section, active military duty does not
9 include service persons performing weekend drill and annual training.

10 Sec. 327. Section 32-3631, Arizona Revised Statutes, is amended to
11 read:

12 32-3631. Disciplinary proceedings; civil penalties

13 A. The rights of an applicant or holder under a license or
14 certificate as a registered trainee appraiser or a state-licensed or
15 state-certified appraiser may be revoked or suspended, or the holder of
16 the license or certificate may otherwise be disciplined, including being
17 placed on probation as prescribed by rule, in accordance with this chapter
18 on any of the grounds set forth in this section. The ~~superintendent~~
19 ~~DEPUTY DIRECTOR~~ may investigate the actions of a registered trainee
20 appraiser or a state-licensed or state-certified appraiser in this state
21 or in any other state and may revoke or suspend the rights of a license or
22 certificate holder or otherwise discipline a registered trainee appraiser
23 or a state-licensed or state-certified appraiser for any of the following
24 acts or omissions:

25 1. Procuring or attempting to procure a license or certificate
26 pursuant to this chapter by knowingly making a false statement, submitting
27 false information, refusing to provide complete information in response to
28 a question in an application for a license or certificate or committing
29 any form of fraud or misrepresentation.

30 2. Failing to meet the minimum qualifications established by this
31 chapter.

32 3. Paying or offering to pay money or other considerations other
33 than as provided by this chapter to any member or employee of the
34 department to procure a license or certificate under this chapter.

35 4. Being convicted, including based on a plea of guilty, of a crime
36 that is substantially related to the qualifications, functions and duties
37 of a person developing appraisals and communicating appraisals to others,
38 or being convicted of any felony or any crime involving moral turpitude.

39 5. Committing an act or omission involving dishonesty, fraud or
40 misrepresentation with the intent to substantially benefit the license or
41 certificate holder or another person or with the intent to substantially
42 injure another person.

43 6. Violating any of the standards of the development or
44 communication of appraisals as provided in this chapter.

1 7. Being negligent or incompetent as a state-licensed or
2 state-certified appraiser in developing an appraisal, in preparing an
3 appraisal report or in communicating an appraisal.

4 8. Wilfully disregarding or violating any provisions of this
5 chapter or an order or rule of the ~~superintendent~~ DEPUTY DIRECTOR for the
6 administration and enforcement of this chapter.

7 9. Accepting an appraisal assignment if the employment itself is
8 contingent on the appraiser reporting a predetermined estimate, analysis
9 or opinion or if the fee to be paid is contingent on the opinion,
10 conclusion or value reached or on the consequences resulting from the
11 appraisal assignment.

12 10. Violating the confidential nature of any records to which the
13 registered trainee appraiser or the state-licensed or state-certified
14 appraiser gains access through employment or engagement as a registered
15 trainee appraiser or an appraiser.

16 11. Having a final civil judgment entered against the person on
17 grounds of fraud, misrepresentation or deceit in the making of any
18 appraisal.

19 B. In a disciplinary proceeding based on a civil judgment, a
20 registered trainee appraiser or state-licensed or state-certified
21 appraiser may present matters in mitigation and extenuation.

22 C. The ~~superintendent~~ DEPUTY DIRECTOR may issue subpoenas for the
23 attendance of witnesses and the production of books, records, documents
24 and other evidence necessary and relevant to an investigation or hearing.

25 D. The lapsing or suspension of a license or certificate by
26 operation of law or by an order or decision of the ~~superintendent~~ DEPUTY
27 DIRECTOR or a court of law, or the voluntary surrender of a license or
28 certificate by a license or certificate holder, shall not deprive the
29 ~~superintendent~~ DEPUTY DIRECTOR of jurisdiction to do either of the
30 following within twenty-four months after the expiration of the license or
31 certificate pursuant to section 32-3616:

32 1. Proceed with any investigation of or action or disciplinary
33 proceeding against the license or certificate holder.

34 2. Render a decision suspending or revoking the license or
35 certificate or denying the renewal or right of renewal of the license or
36 certificate.

37 E. If the ~~superintendent~~ DEPUTY DIRECTOR determines that a
38 state-licensed or state-certified appraiser is in violation of this
39 chapter, the ~~superintendent~~ DEPUTY DIRECTOR may take disciplinary or
40 remedial action and may impose a civil penalty not to exceed ~~three~~
41 ~~thousand dollars~~ \$3,000 per complaint filed with the ~~superintendent~~ DEPUTY
42 DIRECTOR pursuant to this chapter. All civil penalties collected pursuant
43 to this subsection shall be deposited in the department revolving fund
44 established by section 6-135.

1 Sec. 328. Section 32-3632, Arizona Revised Statutes, is amended to
2 read:

3 32-3632. Hearing and judicial review; costs and fees; appeal

4 A. The hearing on the charges shall be at a time and place
5 prescribed by the DEPUTY DIRECTOR and shall be in accordance with title
6 41, chapter 6, article 10.

7 B. If a case proceeds to a hearing before either the ~~superintendent~~
8 DEPUTY DIRECTOR or an administrative law judge, both of the following
9 apply:

10 1. If the department sustains its burden of proof and prevails on
11 the merits of the case, the department may collect from the respondent
12 applicant, registered trainee appraiser, appraiser or property tax agent
13 the department's costs and expenses associated with the formal hearing,
14 including reasonable attorney fees, expert testimony and preparation fees,
15 investigative costs and expenses and costs incurred relating to the office
16 of administrative hearings and court reporters. All monies collected
17 pursuant to this paragraph shall be deposited in the department revolving
18 fund established by section 6-135.

19 2. If the department does not sustain its burden of proof and the
20 respondent applicant, registered trainee appraiser, appraiser or property
21 tax agent prevails on the merits of the case, the respondent applicant,
22 registered trainee appraiser, appraiser or property tax agent may collect
23 from the department fees and other costs associated with the formal
24 hearing.

25 C. Except as provided in section 41-1092.08, subsection H, any
26 final decision or order of the ~~superintendent~~ DEPUTY DIRECTOR may be
27 appealed to the superior court pursuant to title 12, chapter 7, article 6.

28 Sec. 329. Section 32-3637, Arizona Revised Statutes, is amended to
29 read:

30 32-3637. Retention of records; definition

31 A. A state-licensed or state-certified appraiser shall retain a
32 work file for at least five years after preparation of the work file or at
33 least two years after final disposition of any judicial proceeding in
34 which the appraiser provided testimony related to the work file, whichever
35 period of time is greater.

36 B. A state-licensed or state-certified appraiser shall do either of
37 the following:

38 1. Have custody of the appraiser's work file.

39 2. Make appropriate work file retention, access and retrieval
40 arrangements with the party having custody of the work file.

41 C. The ~~superintendent~~ DEPUTY DIRECTOR may inspect all records
42 required to be maintained under this chapter by the state-licensed or
43 state-certified appraiser on reasonable notice to the appraiser.

44 D. For the purposes of this section, "work file" includes
45 documentation that is necessary to support an appraiser's analyses,

1 opinions and conclusions and that demonstrates compliance with the uniform
2 standards of professional appraisal practice.

3 Sec. 330. Section 32-3638, Arizona Revised Statutes, is amended to
4 read:

5 32-3638. Violation; classification

6 Any person who performs a real estate appraisal or appraisal review,
7 who is not licensed or certified under this chapter and who knowingly
8 assumes or uses any title, designation or abbreviation likely to create
9 the impression of licensure or certification by this state or any person
10 who knowingly provides false or fraudulent information to the
11 ~~superintendent~~ DEPUTY DIRECTOR is guilty of a class 1 misdemeanor.

12 Sec. 331. Section 32-3639, Arizona Revised Statutes, is amended to
13 read:

14 32-3639. Damages; injunctive relief

15 If the ~~superintendent~~ DEPUTY DIRECTOR has a reasonable basis to
16 believe, after investigation, that any person is violating any provision
17 of this chapter, the ~~superintendent~~ DEPUTY DIRECTOR may bring an action in
18 superior court for appropriate injunctive or other equitable relief,
19 damages sustained and taxable costs and reasonable attorney fees.

20 Sec. 332. Section 32-3652, Arizona Revised Statutes, is amended to
21 read:

22 32-3652. Registration; renewal; fees

23 A. An individual who wishes to act as a property tax agent shall
24 apply for registration by submitting to the ~~superintendent~~ DEPUTY DIRECTOR
25 a completed application form prescribed by the ~~superintendent~~ DEPUTY
26 DIRECTOR with the initial registration fee. The applicant shall also file
27 with the ~~superintendent~~ DEPUTY DIRECTOR an affidavit stating whether the
28 applicant has been convicted of a felony or any misdemeanor involving
29 dishonesty or moral turpitude in this or any other state within the last
30 ten years. The ~~superintendent~~ DEPUTY DIRECTOR may review the affidavit
31 and issue or deny the registration based on its findings.

32 B. Except as provided in section 32-4301, registration is valid for
33 two years. An individual may renew a registration by submitting to the
34 ~~superintendent~~ DEPUTY DIRECTOR a renewal form prescribed by the
35 ~~superintendent~~ DEPUTY DIRECTOR with the renewal fee on or before the date
36 the registration expires.

37 C. An appraiser who is licensed or certified pursuant to this
38 chapter may register and renew registration as a property tax agent
39 without paying the fee prescribed by this section.

40 D. The ~~superintendent~~ DEPUTY DIRECTOR shall issue a certificate of
41 registration to an individual if the individual complies with this section
42 and is not prohibited from registering pursuant to section 32-3654.

43 E. A person shall not act as a property tax agent if the person is
44 not registered pursuant to this section.

1 F. The ~~superintendent~~ DEPUTY DIRECTOR shall collect from each
2 individual a fee of:

- 3 1. ~~Two hundred dollars~~ \$200 for an initial registration.
- 4 2. ~~One hundred dollars~~ \$100 for a renewal.
- 5 3. ~~Five dollars~~ \$5 for a duplicate registration certificate.

6 Sec. 333. Section 32-3653, Arizona Revised Statutes, is amended to
7 read:

8 32-3653. Property tax agent conduct

9 A property tax agent:

10 1. Shall not knowingly misrepresent any information or act in a
11 fraudulent manner.

12 2. Shall not prepare documents or provide evidence in a property
13 valuation or legal classification appeal unless the agent is authorized by
14 the property owner to do so and any required agency authorization form has
15 been filed.

16 3. Shall not knowingly submit false or erroneous information in a
17 property valuation or legal classification appeal.

18 4. Shall use appraisal standards and methods that are adopted by
19 the ~~superintendent~~ DEPUTY DIRECTOR when the agent submits appraisal
20 information in a property valuation or legal classification appeal.

21 Sec. 334. Section 32-3654, Arizona Revised Statutes, is amended to
22 read:

23 32-3654. Disciplinary actions

24 A. On the complaint of any person or on the ~~superintendent's~~ DEPUTY
25 DIRECTOR'S own motion, the ~~superintendent~~ DEPUTY DIRECTOR shall
26 investigate any suspected violation of this article by a property tax
27 agent. If the ~~superintendent~~ DEPUTY DIRECTOR finds a violation, the
28 ~~superintendent~~ DEPUTY DIRECTOR may issue a letter of concern.

29 B. If the ~~superintendent~~ DEPUTY DIRECTOR finds that the property
30 tax agent committed any of the following violations, the ~~superintendent~~
31 DEPUTY DIRECTOR shall revoke or suspend the agent's registration:

- 32 1. Secured registration by fraud or deceit.
- 33 2. Committed an act or is responsible for an omission involving
34 fraud or knowing misrepresentation with the intent to obtain a benefit.
- 35 3. Knowingly violated section 32-3653.

36 C. The ~~superintendent~~ DEPUTY DIRECTOR shall:

37 1. Suspend the agent's registration for not less than six months on
38 the first finding of a violation pursuant to subsection B of this section.

39 2. Suspend the agent's registration for not less than twelve months
40 on the second finding of a violation pursuant to subsection B of this
41 section.

42 3. Revoke the agent's registration on a third or subsequent finding
43 of a violation pursuant to subsection B of this section.

44 D. The ~~superintendent~~ DEPUTY DIRECTOR shall not impose discipline
45 until the agent has been provided an opportunity for a hearing pursuant to

1 title 41, chapter 6, article 10. The ~~superintendent~~ DEPUTY DIRECTOR shall
2 notify the agent of the charges and the date and time of the hearing. The
3 notice may be personally served or sent by certified mail to the agent's
4 last known address. Except as provided in section 41-1092.08, subsection
5 H, the final decision of the ~~superintendent~~ DEPUTY DIRECTOR is subject to
6 judicial review pursuant to title 12, chapter 7, article 6.

7 E. The ~~superintendent~~ DEPUTY DIRECTOR shall not renew an agent's
8 registration during the time the registration is suspended or revoked.

9 Sec. 335. Section 32-3655, Arizona Revised Statutes, is amended to
10 read:

11 32-3655. Rules

12 The ~~superintendent~~ DEPUTY DIRECTOR may adopt rules for the purpose
13 of administering this article.

14 Sec. 336. Section 32-3661, Arizona Revised Statutes, is amended to
15 read:

16 32-3661. Definitions

17 In this article, unless the context otherwise requires:

18 1. "Appraisal" means the act or process of developing an opinion of
19 the value of real property in conformance with the uniform standards of
20 professional appraisal practice published by the appraisal foundation, or
21 any other definition used in state or federal laws.

22 2. "Appraisal management company" means a corporation, partnership,
23 sole proprietorship, subsidiary or other business entity that directly or
24 indirectly performs appraisal management services, regardless of the use
25 of the term "appraisal management company", "mortgage technology
26 provider", "lender processing services", "lender services", "loan
27 processor", "mortgage services", "real estate closing services provider",
28 "settlement services provider" or "vendor management company" or any other
29 term, and that does any of the following:

30 (a) Administers an appraiser panel of at least sixteen
31 state-licensed or state-certified appraisers in one state who are
32 independent contractors or at least twenty-five state-licensed or
33 state-certified appraisers in at least two states who perform real
34 property appraisal services in this state for clients.

35 (b) Otherwise serves as a third-party liaison of appraisal
36 management services between clients and appraisers.

37 3. "Appraisal management services" means any of the following:

38 (a) Recruiting, selecting and retaining appraisers.

39 (b) Contracting with state-licensed or state-certified appraisers
40 to perform appraisal agreements.

41 (c) Managing the process of having an appraisal performed,
42 including providing administrative services such as receiving appraisal
43 orders and appraisal reports, submitting completed appraisal reports to
44 creditors and secondary market participants, collecting fees from

1 creditors and secondary market participants for services provided and
2 paying appraisers for services performed.

3 (d) Reviewing and verifying the work of appraisers.

4 4. "Appraisal review" means the act or process of developing and
5 communicating an opinion about the quality of another appraiser's work
6 that was performed as part of an appraisal assignment, but does not
7 include an examination of an appraisal for grammatical, typographical or
8 other similar errors that do not communicate an opinion related to the
9 appraiser's data collection, analysis, opinions, conclusions, estimate of
10 value or compliance with the uniform standards of professional appraisal
11 practice.

12 5. "Appraiser" means a person who is licensed or certified as an
13 appraiser pursuant to this chapter and who performs valuation services
14 competently and in a manner that is independent, impartial and objective.

15 6. "Appraiser panel":

16 (a) Means a network, list or roster of state-licensed or
17 state-certified appraisers approved by an appraisal management company to
18 perform appraisals as independent contractors for the appraisal management
19 company. For the purposes of this subdivision, an appraiser is an
20 independent contractor if the appraisal management company treats the
21 appraiser as an independent contractor for federal income tax purposes.

22 (b) Includes both appraisers accepted by the appraisal management
23 company for consideration for future appraisal assignments in covered
24 transactions or for secondary mortgage market participants in connection
25 with covered transactions and appraisers engaged by the appraisal
26 management company to perform one or more appraisals in covered
27 transactions.

28 7. "Client" means a person that contracts with, or otherwise enters
29 into an agreement with, an appraisal management company for the
30 performance of real property appraisal services.

31 8. "Controlling person" means any of the following:

32 (a) An owner, officer or director of a corporation, partnership or
33 other business entity seeking to offer appraisal management services in
34 this state.

35 (b) An individual who is employed, appointed or authorized by an
36 appraisal management company and who has the authority to enter into a
37 contractual relationship with clients for the performance of appraisal
38 management services and to enter into agreements with independent
39 appraisers for the performance of real property appraisal services.

40 (c) An individual who possesses, directly or indirectly, the power
41 to direct or cause the direction of the management or policies of an
42 appraisal management company.

43 9. "FEDERALLY REGULATED APPRAISAL MANAGEMENT COMPANY" MEANS AN
44 APPRAISAL MANAGEMENT COMPANY THAT IS A SUBSIDIARY OWNED AND CONTROLLED BY

1 AN INSURED DEPOSITORY INSTITUTION OR AN INSURED CREDIT UNION AND REGULATED
2 BY A FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY.

3 ~~9.~~ 10. "Real property appraisal services" means the practice of
4 developing an opinion of the value of real property in conformance with
5 the uniform standards of professional appraisal practice published by the
6 appraisal foundation.

7 ~~10.~~ 11. "Relocation management company" means a business entity
8 whose exclusive business services are not for mortgage purposes and
9 include the relocation of employees as an agent or contractor for the
10 employer or the employer's agent for the purposes of determining an
11 anticipated sales price, as defined by the worldwide employee relocation
12 council, of the residence of an employee being relocated by the employer
13 in the course of its business.

14 ~~11.~~ 12. "Uniform standards of professional appraisal practice"
15 means the uniform standards of professional appraisal practice promulgated
16 by the appraisal foundation.

17 Sec. 337. Section 32-3662, Arizona Revised Statutes, is amended to
18 read:

19 ~~32-3662.~~ Registration

20 A. A person shall not directly or indirectly engage or attempt to
21 engage in business as an appraisal management company, directly or
22 indirectly perform or attempt to perform appraisal management services or
23 advertise or hold itself out as engaging in or conducting business as an
24 appraisal management company without first obtaining a registration issued
25 by the ~~superintendent~~ DEPUTY DIRECTOR pursuant to this article, regardless
26 of the entity's use of the term "appraisal management company" or
27 "mortgage technology company" or any other name.

28 B. A person who wishes to be registered as an appraisal management
29 company in this state must file a written application with the
30 ~~superintendent~~ DEPUTY DIRECTOR on a form prepared and furnished by the
31 ~~superintendent~~ DEPUTY DIRECTOR and pay a fee in an amount to be determined
32 by the ~~superintendent~~ DEPUTY DIRECTOR. The registration required by
33 subsection A of this section shall include:

34 1. The name, residence address, business address and telephone
35 number of the applicant and the location of each principal office and
36 branch office at which the appraisal management company will conduct
37 business in this state.

38 2. The name under which the applicant will conduct business as an
39 appraisal management company.

40 3. The name, residence address, business address and telephone
41 number of each person who will have at least a ten percent ownership
42 interest in the appraisal management company as a principal, partner,
43 officer, director or trustee, specifying the capacity and title of each
44 person.

1 4. If the person seeking registration is a corporation that is not
2 domiciled in this state, the name and contact information for the
3 company's agent for service of process in this state.

4 5. A certification that the person seeking registration has a
5 system and process in place to verify that a person being added to the
6 appraiser panel for the appraisal management company's appraisal
7 management services in this state holds a license or certification in good
8 standing in this state.

9 6. A certification that the person seeking registration has a
10 system in place to review the work of all independent appraisers that are
11 performing real property appraisal services for the appraisal management
12 company on a periodic basis to confirm that the real property appraisal
13 services are being conducted in accordance with uniform standards of
14 professional appraisal practice.

15 7. A certification that the person maintains a detailed record of
16 each service request that it receives and the independent appraiser that
17 performs the real property appraisal services for the appraisal management
18 company.

19 8. A certification that the person seeking registration has a
20 system in place to train those who select individual appraisers for real
21 property appraisal services in this state to ensure that the selectors
22 have appropriate training in placing appraisal assignments.

23 9. An irrevocable consent to service of process.

24 10. A certification that allows the ~~superintendent~~ DEPUTY DIRECTOR
25 to examine the books and records of the appraisal management company and a
26 written agreement that requires the appraisal management company to submit
27 reports, information and documents to the ~~superintendent~~ DEPUTY DIRECTOR
28 as required by rule.

29 11. Any other information required by the ~~superintendent~~ DEPUTY
30 DIRECTOR deemed reasonable in scope and content and necessary for the
31 implementation and administration of this chapter.

32 C. The ~~superintendent~~ DEPUTY DIRECTOR may deny the application for
33 an initial issuance or renewal of an appraisal management company
34 registration if the applicant has been convicted of a felony or as
35 otherwise prescribed by this chapter.

36 Sec. 338. Section 32-3663, Arizona Revised Statutes, is amended to
37 read:

38 32-3663. Exemptions

39 This article does not apply to:

40 1. A department or unit within a financial institution that is
41 subject to direct regulation by an agency of the United States government
42 or of this state and that receives requests for the performance of real
43 estate appraisals FROM THE FINANCIAL INSTITUTION and then assigns such
44 requests to an appraiser who is part of the financial institution's
45 appraiser panel.

2. A FEDERALLY REGULATED APPRAISAL MANAGEMENT COMPANY.

~~2.~~ 3. A corporation, partnership, sole proprietorship, subsidiary or other business entity that employs real estate appraisers exclusively on an employer and employee basis for the performance of all real property appraisal services in the normal course of its business and that is responsible for ensuring that the real property appraisal services being performed by its employees are being performed in accordance with the uniform standards of professional appraisal practice and federal and state law.

~~3.~~ 4. A relocation management company in the course of employee relocation pursuant to its relocation policy.

Sec. 339. Section 32-3664, Arizona Revised Statutes, is amended to read:

32-3664. Registration forms

An applicant for initial and renewal registration as an appraisal management company shall submit to the ~~superintendent~~ DEPUTY DIRECTOR an application on a form prescribed by the ~~superintendent~~ DEPUTY DIRECTOR.

Sec. 340. Section 32-3666, Arizona Revised Statutes, is amended to read:

32-3666. Consent to service of process

Each entity applying for registration as an appraisal management company shall complete and execute an irrevocable consent to service of process form as prescribed by the ~~superintendent~~ DEPUTY DIRECTOR.

Sec. 341. Section 32-3667, Arizona Revised Statutes, is amended to read:

32-3667. Fee; bond

A. The ~~superintendent~~ DEPUTY DIRECTOR shall establish the fee for appraisal management company registration by rule.

B. The appraisal management company shall show proof of a surety bond of at least ~~twenty thousand dollars~~ \$20,000 but not more than ~~fifty thousand dollars~~ \$50,000.

Sec. 342. Section 32-3668, Arizona Revised Statutes, is amended to read:

32-3668. Owner requirements

A. An appraisal management company applying for registration may not be owned by a person or have any principal of the company who has had any financial, real estate or mortgage lending industry license or certificate refused, denied, canceled, revoked or voluntarily surrendered in this state or in any other state. This requirement may be waived at the discretion of the ~~superintendent~~ DEPUTY DIRECTOR.

B. Each person that owns, is an officer of or has a financial interest in an appraisal management company in this state shall:

1. Be of good moral character.

2. Apply for a valid fingerprint clearance card issued pursuant to section 41-1758.03.

1 3. Certify to the ~~superintendent~~ DEPUTY DIRECTOR that the person
2 has never had any financial, real estate or mortgage lending industry
3 license or certificate refused, denied, canceled, revoked or voluntarily
4 surrendered in this state or in any other state. This requirement may be
5 waived by appeal and at the discretion of the ~~superintendent~~ DEPUTY
6 DIRECTOR.

7 Sec. 343. Section 32-3669, Arizona Revised Statutes, is amended to
8 read:

9 32-3669. Controlling person

10 A. Each appraisal management company applying to the ~~superintendent~~
11 DEPUTY DIRECTOR for registration in this state shall designate one
12 controlling person who will be the main contact for all communication
13 between the ~~superintendent~~ DEPUTY DIRECTOR and the appraisal management
14 company.

15 B. To serve as a controlling person of an appraisal management
16 company, a person shall:

17 1. Certify to the ~~superintendent~~ DEPUTY DIRECTOR that the person
18 has never had any financial, real estate or mortgage lending industry
19 license or certificate issued by this state, or any other state, refused,
20 denied, canceled, revoked or voluntarily surrendered. This requirement
21 may be waived by appeal and at the discretion of the ~~superintendent~~ DEPUTY
22 DIRECTOR.

23 2. Be of good moral character.

24 3. Apply for a valid fingerprint clearance card issued pursuant to
25 section 41-1758.03.

26 Sec. 344. Section 32-3671, Arizona Revised Statutes, is amended to
27 read:

28 32-3671. Agreements with independent appraisers; limitations

29 An appraisal management company registered in this state pursuant to
30 this article may not enter into contracts or agreements with an
31 independent appraiser for the performance of real property appraisal
32 services in this state unless that person is licensed or certified in good
33 standing with the ~~superintendent~~ DEPUTY DIRECTOR.

34 Sec. 345. Section 32-3672, Arizona Revised Statutes, is amended to
35 read:

36 32-3672. Certification on registration renewal

37 Each appraisal management company seeking registration renewal in
38 this state shall certify to the ~~superintendent~~ DEPUTY DIRECTOR on a form
39 prescribed by the ~~superintendent~~ DEPUTY DIRECTOR that the appraisal
40 management company has complied with all of the following:

41 1. Has a system and process in place to verify that a person being
42 added to the appraiser panel of the appraisal management company holds a
43 license or certificate in good standing in this state pursuant to the
44 ~~superintendent~~ DEPUTY DIRECTOR.

2. Has a system in place to review the quality of appraisals of all independent appraisers that are performing real property appraisal services for the appraisal management company on a periodic basis to confirm that the real property appraisal services are being conducted in accordance with uniform standards of professional appraisal practice.

3. Maintains a detailed record of each service request that it receives and the name of the independent appraiser that performs the real property appraisal services for the appraisal management company. The appraisal management company shall maintain a detailed record for the same time period that an appraiser is required to maintain an appraisal record for the same real property appraisal activity.

4. Has a system in place to train those who select individual appraisers for real property appraisal services in this state to ensure that the selectors have appropriate training in placing appraisal assignments.

Sec. 346. Section 32-3677, Arizona Revised Statutes, is amended to read:

32-3677. Review of disputes

A. An appraisal management company shall not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real property appraisal services to an independent appraiser, without notifying the appraiser in writing of the reasons for the appraiser being removed from the appraiser panel of the appraisal management company.

B. An independent appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, a violation of the uniform standards of professional appraisal practice or a violation of state licensing standards may file a complaint with the ~~superintendent~~ DEPUTY DIRECTOR for a review of the decision of the appraisal management company, except that the ~~superintendent~~ DEPUTY DIRECTOR may not make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company that is unrelated to the actions specified in subsection A of this section.

C. If an independent appraiser files a complaint against an appraisal management company pursuant to subsection B of this section, the ~~superintendent~~ DEPUTY DIRECTOR shall investigate the complaint within a reasonable time.

D. If the ~~superintendent~~ DEPUTY DIRECTOR determines that an independent appraiser did not commit a violation of law, a violation of the uniform standards of professional appraisal practice or a violation of state licensing standards:

1. The ~~superintendent~~ DEPUTY DIRECTOR shall order that the appraiser be added to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

1 2. The appraisal management company may request a hearing pursuant
2 to title 41, chapter 6, article 10.

3 Sec. 347. Section 32-3678, Arizona Revised Statutes, is amended to
4 read:

5 32-3678. Censure, suspension or revocation; civil penalty

6 The ~~superintendent~~ DEPUTY DIRECTOR may censure an appraisal
7 management company, conditionally or unconditionally suspend or revoke any
8 registration issued under this article or impose civil penalties not to
9 exceed ~~fifteen thousand dollars~~ \$15,000 per violation if, in the opinion
10 of the ~~superintendent~~ DEPUTY DIRECTOR, an appraisal management company is
11 attempting to perform, has performed or has attempted to perform any of
12 the following acts:

13 1. Committing any act in violation of this article.

14 2. Violating any rule adopted by the ~~superintendent~~ DEPUTY DIRECTOR
15 in the interest of the public and consistent with this article.

16 3. Knowingly making or causing to be made to the ~~superintendent~~
17 DEPUTY DIRECTOR any false representation of material fact.

18 4. Suppressing or withholding from the ~~superintendent~~ DEPUTY
19 DIRECTOR any information that the appraisal management company possesses
20 and that, if submitted by the appraisal management company, would have
21 rendered the appraisal management company ineligible to be registered
22 pursuant to rules adopted by the ~~superintendent~~ DEPUTY DIRECTOR.

23 5. Violating the federal financial institutions reform, recovery
24 and enforcement act of 1989 (P.L. 101-73; 103 Stat. 183).

25 Sec. 348. Section 32-3679, Arizona Revised Statutes, is amended to
26 read:

27 32-3679. Disciplinary hearings

28 A. The ~~superintendent~~ DEPUTY DIRECTOR or an administrative law
29 judge may conduct disciplinary proceedings in accordance with title 41,
30 chapter 6, article 10.

31 B. Before censuring any registrant, or suspending or revoking any
32 registration, the ~~superintendent~~ DEPUTY DIRECTOR shall notify the
33 registrant in writing of any charges made at least forty-five days before
34 the date set for the hearing and shall afford the registrant an
35 opportunity to be heard in person or by counsel.

36 C. The written notice shall be satisfied by personal service on the
37 controlling person of the registrant or the registrant's agent for service
38 of process in this state or by sending the notice by certified mail to the
39 controlling person of the registrant to the registrant's address on file
40 with the ~~superintendent~~ DEPUTY DIRECTOR.

41 D. The hearing shall be at a time and place prescribed by the
42 ~~superintendent~~ DEPUTY DIRECTOR. Any reasonable request for a delay of a
43 hearing shall not exceed ninety days.

1 E. The ~~superintendent~~ DEPUTY DIRECTOR may make findings of fact and
2 shall deliver or mail the findings to the registrant charged with a
3 violation of this article.

4 Sec. 349. Section 32-3680, Arizona Revised Statutes, is amended to
5 read:

6 32-3680. Rulemaking authority

7 The ~~superintendent~~ DEPUTY DIRECTOR shall adopt rules that are
8 reasonably necessary to implement, administer and enforce this article,
9 including rules for obtaining copies of appraisals and other documents
10 necessary to audit compliance with this article and rules requiring a
11 surety bond to be posted with each application.

12 Sec. 350. Section 35-323, Arizona Revised Statutes, is amended to
13 read:

14 35-323. Investment of public monies: bidding: security and
15 other requirements

16 A. The treasurer shall invest and reinvest public monies in
17 securities and deposits with a maximum maturity of five years. All public
18 monies shall be invested in eligible investments. Eligible investments
19 are:

20 1. Certificates of deposit in eligible depositories.

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

24 3. Interest bearing savings accounts in banks and savings and loan
25 institutions doing business in this state whose accounts are insured by
26 federal deposit insurance for their industry, but only if deposits of more
27 than the insured amount are secured by the eligible depository to the same
28 extent and in the same manner as required under this article.

29 4. Repurchase agreements with a maximum maturity of one hundred
30 eighty days.

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

33 6. Obligations issued or guaranteed by the United States or any of
34 the senior debt of its agencies, sponsored agencies, corporations,
35 sponsored corporations or instrumentalities.

36 7. Bonds, notes or other evidences of indebtedness of this state or
37 any of its counties, incorporated cities or towns, school districts or
38 special taxing districts, including registered warrants, substitute
39 checks, and electronic funds transfer vouchers that bear interest pursuant
40 to section 11-635.

41 8. Bonds, notes or evidences of indebtedness of any county,
42 municipal district, municipal utility or special taxing district of any
43 state that are payable from revenues, earnings or a special tax
44 specifically pledged for the payment of the principal of and interest on
45 the obligations, and for the payment of which a lawful sinking fund or

1 reserve fund has been established and is being maintained, but only if a
2 default in payment on principal or interest on the obligations to be
3 purchased has not occurred within five years after the date of investment,
4 or, if such obligations were issued less than five years before the date
5 of investment, a default in payment of principal or interest has not
6 occurred on the obligations to be purchased or any other obligations of
7 the issuer within five years after the investment.

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

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

18 (b) A default in payment of principal or interest on the
19 obligations to be purchased has occurred within five years after the date
20 of investment, or, if the obligations were issued less than five years
21 before the date of investment, a default in the payment of principal or
22 interest has occurred on the obligations to be purchased or on any other
23 obligation of the issuer within five years after the investment.

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

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

32 12. Negotiable or brokered certificates of deposit issued by a
33 nationally or state-chartered bank or savings and loan association.

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

40 B. Certificates of deposit shall be purchased from the eligible
41 depository bidding the highest permissible rate of interest. Monies over
42 \$100,000 may not be awarded at any interest rate less than one hundred
43 three percent of the equivalent bond yield of the offer side of United
44 States treasury bills having a similar term. If the eligible depository
45 offering to pay the highest rate of interest has bid only for a portion of

1 the monies to be awarded, the remainder of the monies shall be awarded to
2 eligible depositories bidding the next highest rates of interest.

3 C. An eligible depository is not eligible to receive total
4 aggregate deposits from this state and all its subdivisions in an amount
5 exceeding twice its capital structure as outlined in the last call of
6 condition of the ~~superintendent~~ DEPUTY DIRECTOR of the financial
7 institutions division of the department of insurance and financial
8 institutions.

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

15 E. Each bid that is submitted and not withdrawn before the time
16 specified constitutes an irrevocable offer to pay interest as specified in
17 the bid on the deposit, or portion bid for, and the award of a deposit in
18 accordance with this section obligates the depository to accept the
19 deposit and pay interest as specified in the bid pursuant to which the
20 deposit is awarded.

21 F. The treasurer shall maintain a record of all bids received and
22 shall make available to the board of deposit at its next regularly
23 scheduled meeting a correct list showing the bidders, the bids received
24 and the amount awarded. These records shall be available to the public
25 and shall be kept in the possession of the treasurer for at least two
26 years after the date of the report.

27 G. Any eligible depository, before receiving a deposit of more than
28 the insured amount under this article, shall deliver collateral for the
29 purposes of this subsection equal to at least one hundred two percent of
30 the deposit. The collateral shall be any of the following:

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

35 2. Securities or instruments of the following character:

36 (a) United States government or agency obligations.

37 (b) State, county, school district and other district municipal
38 bonds.

39 3. The safekeeping receipt of a federal reserve bank or any bank
40 located in a reserve city, or any bank authorized to do business in this
41 state, whose combined capital, surplus and outstanding capital notes and
42 debentures on the date of the safekeeping receipt are \$10,000,000 or more,
43 evidencing the deposit therein of any securities or instruments described
44 in this section. A safekeeping receipt shall not qualify as security, if
45 issued by a bank to secure its own public deposits, unless issued directly

1 through its trust department. The safekeeping receipt ~~does~~ SHALL show on
2 its face that it is issued for the account of the treasurer and shall be
3 delivered to the treasurer. The safekeeping receipt may provide for the
4 substitution of securities or instruments that qualify under this section
5 with the affirmative act of the treasurer.

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

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

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

11 (i) Being irrevocable.

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

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

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

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

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

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

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

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

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

5 M. The surety bond, securities, instruments or safekeeping receipt
6 of an eligible depository shall be deposited with the treasurer making the
7 deposit, and the treasurer is the custodian of the bond, securities,
8 instruments or safekeeping receipt. The treasurer may then deposit with
9 the depository public monies then in the treasurer's possession in
10 accordance with this article, but not in an amount of more than the surety
11 bond, securities, instruments or safekeeping receipt deposited, except for
12 federal deposit insurance.

13 N. The following restrictions on investments apply:

14 1. Public operating fund monies shall not be invested for a
15 maturity of longer than five years.

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

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

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

33 Sec. 351. Section 38-871, Arizona Revised Statutes, is amended to
34 read:

35 38-871. Deferred compensation governing committee; members;
36 powers and duties

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

39 1. Three members who are appointed by the governor and who are
40 either of the following:

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

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

4 2. The director of the department of administration or the
5 director's designee.

6 3. The ~~superintendent~~ DEPUTY DIRECTOR of the financial institutions
7 division of the department of insurance and financial institutions or the
8 ~~superintendent's~~ DEPUTY DIRECTOR'S designee.

9 4. The director of the department of insurance and financial
10 institutions or the director's designee.

11 5. The director of the Arizona state retirement system or the
12 director's designee.

13 B. Governing committee members are subject to the conflict of
14 interest provisions of chapter 3, article 8 of this title.

15 C. The governing committee may:

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

19 2. In carrying out the purposes of this article, enter into
20 agreements with companies with demonstrable expertise in the areas
21 encompassed by this article.

22 3. Adopt rules.

23 D. The governing committee shall:

24 1. Arrange for consolidated billing and efficient administrative
25 services so that any plans approved operate without cost or contribution
26 from this state except for the incidental expenses of statutorily required
27 administrative duties and the administration of payroll salary deduction
28 or reduction and remittance of the monies to the administrator, trustee or
29 custodian of the plan or plans.

30 2. Meet quarterly or more frequently as the committee deems
31 necessary.

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

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

35 Sec. 352. Section 41-3451, Arizona Revised Statutes, is amended to
36 read:

37 41-3451. Automobile theft authority; powers and duties; fund;
38 audit

39 A. The automobile theft authority is established in the department
40 of insurance and financial institutions consisting of the following
41 members:

42 1. Two police chiefs who are appointed by an Arizona association of
43 chiefs of police, one of whom represents a city or town with a population
44 of one hundred thousand or more persons and one of whom represents a city

1 or town with a population of less than one hundred thousand persons, or
2 their designees.

3 2. Two sheriffs who are appointed by an Arizona sheriffs
4 association, one of whom represents a county with a population of five
5 hundred thousand or more persons and one of whom represents a county with
6 a population of less than five hundred thousand persons, or their
7 designees.

8 3. Two county attorneys who are appointed by the governor, one of
9 whom represents a county with a population of two million or more persons
10 and one of whom represents a county with a population of less than two
11 million persons, or their designees.

12 4. Two employees of insurers who are licensed to write motor
13 vehicle liability insurance in this state and who are appointed by the
14 governor.

15 5. Two members of the general public who are appointed by the
16 governor.

17 6. The assistant director for the motor vehicle division in the
18 department of transportation or the assistant director's designee.

19 7. The director of the department of public safety or the
20 director's designee.

21 B. Members serve staggered four-year terms beginning and ending on
22 the third Monday in January. At the first meeting each year, the members
23 shall select a chairman from among the members. The authority shall meet
24 at the call of the chairman or seven members.

25 C. The authority may:

26 1. Subject to chapter 4, article 4 of this title, hire staff
27 members as necessary.

28 2. Provide work facilities and equipment as necessary.

29 3. Determine the scope of the problem of motor vehicle theft,
30 including particular areas of the state where the problem is greatest.

31 4. Analyze the various methods of combating the problem of motor
32 vehicle theft.

33 5. Develop and implement a plan of operation.

34 6. Develop and implement a financial plan.

35 7. Solicit and accept gifts and grants.

36 8. Report by December 31 of each year to the governor, the
37 president of the senate, the speaker of the house of representatives and
38 the secretary of state on its activities during the preceding fiscal year.

39 D. If the chairman of the authority knows that a potential ground
40 for the removal of a member of the authority exists under this subsection,
41 the chairman shall notify the governor. The governor shall remove the
42 member if the governor finds that any of the following applies:

43 1. The member was not qualified to serve at the time the member was
44 appointed.

1 2. The member does not maintain the member's qualifications to
2 serve.

3 3. The member cannot discharge the member's duties for a
4 substantial part of the term due to illness or other disability.

5 4. The member is absent from more than one-half of the regularly
6 scheduled meetings during a calendar year unless the member's absence is
7 excused by a majority vote of the authority.

8 E. The automobile theft authority fund is established consisting of
9 monies deposited pursuant to section 28-2098 and any public or private
10 monies that the authority may receive. The automobile theft authority
11 shall ~~administer~~ MAKE GRANTS AWARDED FROM the fund. Subject to
12 legislative appropriation, monies in the fund shall ~~only~~ be used ONLY to
13 pay the ADMINISTRATIVE expenses of the authority TO MAKE GRANT AWARDS and
14 to carry out the purposes of this section. Monies in the fund are exempt
15 from the provisions of sections 35-143.01 and 35-190 relating to lapsing
16 of appropriations. On notice from the authority, the state treasurer
17 shall invest and divest monies in the fund as provided by section 35-313,
18 and monies earned from investment shall be credited to the fund. ALL
19 MONIES APPROPRIATED TO THE DEPARTMENT FOR THE AUTOMOBILE THEFT AUTHORITY
20 SHALL BE USED BY THE DEPARTMENT EXCLUSIVELY FOR THE OPERATION OF THE
21 AUTOMOBILE THEFT AUTHORITY. MONIES APPROPRIATED FROM THE FUND THAT ARE
22 INCLUDED IN THE GENERAL APPROPRIATIONS ACT SHALL BE INCLUDED WITHIN THE
23 FOLLOWING SEPARATE LINE ITEMS:

- 24 1. AUTOMOBILE THEFT AUTHORITY OPERATING LUMP SUM APPROPRIATION.
- 25 2. ARIZONA VEHICLE THEFT TASK FORCE.
- 26 3. LOCAL GRANTS.

27 F. The authority may accept nonmonetary contributions, including
28 the services of individuals, office and secretarial assistance, mailings,
29 printing, office equipment, facilities and supplies, that are necessary to
30 carry out its functions. The nonmonetary contributions shall not be
31 included in the costs of administration limitation prescribed by
32 subsection H of this section.

33 G. The automobile theft authority shall allocate monies in the fund
34 to public agencies for the purpose of establishing, maintaining and
35 supporting programs that are designed to prevent motor vehicle theft,
36 including:

37 1. Financial support to law enforcement and prosecution agencies
38 for programs that are designed to increase the effectiveness of motor
39 vehicle theft prosecution.

40 2. Financial support for programs that are designed to educate and
41 assist the public in the prevention of motor vehicle theft.

42 H. PURSUANT TO SECTION 20-466, SUBSECTION A, THE DIRECTOR OF THE
43 DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS SHALL APPOINT AN
44 INDIVIDUAL TO OPERATE THE AUTOMOBILE THEFT AUTHORITY IN CONJUNCTION WITH
45 OPERATING THE FRAUD UNIT ESTABLISHED BY SECTION 20-466. SUBJECT TO

1 GENERALLY APPLICABLE DEPARTMENT STANDARDS AND PROCEDURES, THE DEPARTMENT
2 OF INSURANCE AND FINANCIAL INSTITUTIONS SHALL PROVIDE ALL ADMINISTRATIVE
3 SUPPORT FOR THE AUTHORITY. The costs of administration shall not exceed
4 ten percent of the monies in the fund in any one year so that the greatest
5 possible portion of the monies available to the authority is expended on
6 combating motor vehicle theft.

7 I. Monies expended from the automobile theft authority fund shall
8 be used to supplement, not supplant, other monies that are available for
9 motor vehicle theft prevention.

10 J. Each insurer issuing motor vehicle liability insurance policies
11 in this state shall pay a semiannual fee of \$.50 per vehicle insured under
12 a motor vehicle liability insurance policy issued by the insurer. The fee
13 shall be fully earned and nonrefundable at the time the insurer collects
14 the premium for the motor vehicle liability insurance policy. Each
15 insurer shall transmit the fee on or before January 31 and on or before
16 July 31 of each year to the automobile theft authority for deposit in the
17 automobile theft authority fund. The payment due on or before January 31
18 shall cover vehicles insured under policies that are issued during the
19 period from July 1 through December 31 of the previous year. The payment
20 due on or before July 31 shall cover vehicles insured under policies that
21 are issued during the period from January 1 through June 30 of the same
22 year.

23 K. The authority shall cause an audit to be made of the automobile
24 theft authority fund. The audit shall be conducted by a certified public
25 accountant every two years. The authority shall file a certified copy of
26 the audit with the auditor general immediately. The auditor general may
27 make further audits and examinations as the auditor general deems
28 necessary and may take appropriate action relating to the audit pursuant
29 to chapter 7, article 10.1 of this title.

30 L. Authority members are not eligible to receive compensation but
31 are eligible for reimbursement of expenses pursuant to title 38, chapter
32 4, article 2.

33 M. This section does not apply to vehicles or vehicle combinations
34 with a declared gross weight of more than twenty-six thousand pounds.
35 Motor vehicle liability insurance policies issued in this state for
36 vehicles or vehicle combinations with a declared gross weight of more than
37 twenty-six thousand pounds are exempt from subsection J of this section.

38 Sec. 353. Section 44-281, Arizona Revised Statutes, is amended to
39 read:

40 44-281. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Administrator" means the ~~superintendent~~ DEPUTY DIRECTOR of the
43 financial institutions division of the department of insurance and
44 financial institutions.

1 2. "Cash sale price" means the price stated in a retail installment
2 contract for which the seller would have sold to the buyer, and the buyer
3 would have bought from the seller, the motor vehicle that is the subject
4 matter of the retail installment contract, if such sale had been a sale
5 for cash instead of a retail installment transaction. The cash sale price
6 may include charges for accessories and their installation and for
7 delivery, and servicing, repairing or improving the motor vehicle, and for
8 charges for other costs that are necessary or incidental to the
9 transaction and that the seller furnishes or agrees to pay on behalf of
10 the buyer, including taxes, assessor's fees, license fees and fees for
11 filing, recording or otherwise perfecting or releasing a reserved title or
12 lien, and may include a reasonable charge for the seller's services.

13 3. "Finance charge" means the amount agreed on between the buyer
14 and the seller, as limited herein, which in determining the cost of the
15 motor vehicle is added to the aggregate of the following: The cash sale
16 price and the amount, if any, included for insurance and other benefits
17 where a separate cost is assigned thereto.

18 4. "Holder" of a retail installment contract means the retail
19 seller of the motor vehicle under or subject to the contract or, if the
20 contract is purchased by a sales finance company or other assignee, the
21 sales finance company or other assignee.

22 5. "Motor vehicle" means any self-propelled device in or by which
23 any person or property is or may be transported or drawn on a public
24 highway, except:

25 (a) Devices that move on or are guided by a track or travel through
26 the air.

27 (b) The following, if not designed primarily for highway
28 transportation, but that may incidentally be operated on a public highway:

29 (i) Tractors.

30 (ii) Buses.

31 (iii) Trucks.

32 (iv) Power shovels.

33 (v) Road machinery.

34 (vi) Agricultural machinery.

35 6. "Person" means an individual, partnership, association, trust,
36 corporation or other legal entity.

37 7. "Retail buyer" or "buyer" means a person who buys a motor
38 vehicle from a retail seller, not for the purpose of resale, and who
39 executes a retail installment contract in connection therewith.

40 8. "Retail installment contract" or "contract":

41 (a) Means an agreement, entered into in this state, pursuant to
42 which the title to or a lien on the motor vehicle, which is the subject
43 matter of a retail installment transaction, is retained or taken by a
44 retail seller from a retail buyer as security for the buyer's obligation.

1 (b) Includes:

2 (i) A conditional sales contract and a contract for the bailment or
3 leasing of a motor vehicle by which the bailee or lessee contracts to pay
4 as compensation for its use a sum substantially equivalent to or in excess
5 of its value and by which it is agreed that the bailee or lessee is bound
6 to become, or has the option of becoming, the owner of the motor vehicle
7 for no other or a nominal consideration on full compliance with the
8 provisions of the contract.

9 (ii) A secondary motor vehicle finance transaction.

10 9. "Retail installment transaction" means any transaction evidenced
11 by a retail installment contract entered into between a retail buyer and a
12 retail seller wherein the retail buyer buys a motor vehicle from the
13 retail seller at a cost payable in one or more deferred installments. The
14 cash sale price of the motor vehicle, the amount included for insurance if
15 a separate charge is made and the finance charge shall together constitute
16 the cost of the motor vehicle.

17 10. "Retail seller" or "seller" means a person who sells a motor
18 vehicle to a retail buyer for purposes other than resale under or subject
19 to a retail installment contract. For the purposes of paragraph 12 of
20 this section "seller" means a person who sells and retains the use of the
21 motor vehicle.

22 11. "Sales finance company":

23 (a) Means a person engaged, in whole or in part, in the business of
24 purchasing retail installment contracts from one or more retail sellers.

25 (b) Includes a person engaged, in whole or in part, in the business
26 of creating or holding retail installment contracts that exceed a total
27 aggregate outstanding indebtedness of \$50,000.

28 (c) Does not include:

29 (i) The pledgee of an aggregate number of retail installment
30 contracts to secure a bona fide loan thereon.

31 (ii) A motor vehicle dealer who creates retail installment
32 contracts and assigns the retail installment contracts to ~~third party~~
33 ~~THIRD-PARTY~~ lenders or financial institutions.

34 12. "Secondary motor vehicle finance transaction":

35 (a) Means any contract that includes provisions for either:

36 (i) Obtaining a security interest in or lien on a motor vehicle
37 other than in connection with the sale of that motor vehicle.

38 (ii) The sale or conditional sale of a motor vehicle and the
39 seller's right to retain use of the motor vehicle after the sale or
40 conditional sale.

41 (b) Includes any conditional sales contract or contract for the
42 bailment or leasing of a motor vehicle in which the bailee or lessee
43 agrees to pay for use of the motor vehicle and the bailee or lessee is
44 required to become or has the option of becoming the owner of the vehicle
45 for any or no compensation.

1 (c) Does not include any commercial transaction as defined in
2 section 44-291.

3 Sec. 354. Section 48-101, Arizona Revised Statutes, is amended to
4 read:

5 48-101. State certification board

6 A. The state certification board consists of the attorney general,
7 the director of water resources and the ~~superintendent~~ DEPUTY DIRECTOR of
8 the financial institutions division of the department of insurance and
9 financial institutions.

10 B. The board shall elect one of its members chairman, and appoint a
11 secretary who shall keep the records and minutes of the board. One or
12 more members of the board shall from time to time, as may be required,
13 designate from the member's regularly employed personnel the secretary and
14 such clerks and assistants as are necessary to perform the duties of the
15 board but without extra compensation.

16 C. The governor shall be an ex officio member of the board without
17 additional compensation. The office of the board shall be at Phoenix,
18 where records concerning all proceedings taken under this article shall be
19 kept.

20 D. The board shall meet on a call of the chairman or on the written
21 request of three of its members at a fixed time within official business
22 hours, on not less than two days' prior written notice, but notice may be
23 waived in writing. Meetings may be recessed or adjourned from time to
24 time without giving further notice and continuances may be granted for
25 good cause. A majority constitutes a quorum and matters pending before
26 the board shall be decided by majority vote. The board may adopt
27 necessary rules of procedure and regulations for the conduct of its
28 affairs and discharge of its duties under this article. Fees other than
29 for necessary stenographic services, printing or publication, may not be
30 charged or collected from the applicant by the board.

31 E. The scope and subjects of the board's examination, consideration
32 and determination are confined to the matters prescribed and embraced in
33 the record filed by the applicant in support of its application and its
34 proposed bond issue, proof offered in respect thereto, and the adequacy,
35 weight and sufficiency thereof to justify the proposed bond issue.

36 Sec. 355. Section 48-3204, Arizona Revised Statutes, is amended to
37 read:

38 48-3204. Issuance of certificate; form

39 A. When any bond of a district, including any bond authorized but
40 not sold, that is eligible for certification by the director of the
41 department of administration as provided by section 48-3202 is presented
42 to the director of the department of administration, the director of the
43 department of administration shall attach a certificate to the bond in
44 substantially the following form:

Phoenix, Arizona

(insert date)

I, _____ director of the department of administration of the state of Arizona, do hereby certify that the within bond, number _____, of series number _____ of the _____ district, issued _____ (insert date), is, in accordance with an act of the legislature of the state of Arizona, approved _____ (insert date), a legal investment for the funds of savings banks in the state of Arizona, and may be deposited to secure public monies, it being entitled to such privilege by virtue of an examination by the director of water resources, the attorney general and the ~~superintendent~~ DEPUTY DIRECTOR of the financial institutions division of the department of insurance and financial institutions of the state of Arizona in pursuance of said act.

Director of the department of
administration of the state
of Arizona.

B. A facsimile of the signature of the director of the department of administration impressed on the certificate shall be a sufficient signing thereof, provided that the imprint of the seal of the director of the department of administration shall appear on both the certificate and the bond over the facsimile signature.

Sec. 356. Retroactivity

Section 41-3451, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after June 30, 2020.