

House Engrossed

housing department; licensure; fingerprinting; penalties

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

HOUSE BILL 2165

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 41-619.51. Definitions

5 In this article, unless the context otherwise requires:

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

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

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

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

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

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

- 33 (a) Section 3-314.
- 34 (b) Section 8-105.
- 35 (c) Section 8-322.
- 36 (d) Section 8-463.
- 37 (e) Section 8-509.
- 38 (f) Section 8-802.
- 39 (g) Section 8-804.
- 40 (h) Section 15-183.
- 41 (i) Section 15-503.
- 42 (j) Section 15-512.
- 43 (k) Section 15-534.
- 44 (l) Section 15-763.01.
- 45 (m) Section 15-782.02.

- 1 (n) Section 15-1330.
- 2 (o) Section 15-1881.
- 3 (p) Section 17-215.
- 4 (q) Section 28-3228.
- 5 (r) Section 28-3413.
- 6 (s) Section 32-122.02.
- 7 (t) Section 32-122.05.
- 8 (u) Section 32-122.06.
- 9 (v) Section 32-823.
- 10 (w) Section 32-1232.
- 11 (x) Section 32-1276.01.
- 12 (y) Section 32-1284.
- 13 (z) Section 32-1297.01.
- 14 (aa) Section 32-1904.
- 15 (bb) Section 32-1941.
- 16 (cc) Section 32-1982.
- 17 (dd) Section 32-2022.
- 18 (ee) Section 32-2063.
- 19 (ff) Section 32-2108.01.
- 20 (gg) Section 32-2123.
- 21 (hh) Section 32-2371.
- 22 (ii) Section 32-3430.
- 23 (jj) Section 32-3620.
- 24 (kk) Section 32-3668.
- 25 (ll) Section 32-3669.
- 26 (mm) Section 32-4128.
- 27 (nn) Section 36-113.
- 28 (oo) Section 36-207.
- 29 (pp) Section 36-411.
- 30 (qq) Section 36-425.03.
- 31 (rr) Section 36-446.04.
- 32 (ss) Section 36-594.01.
- 33 (tt) Section 36-594.02.
- 34 (uu) Section 36-766.01.
- 35 (vv) Section 36-882.
- 36 (ww) Section 36-883.02.
- 37 (xx) Section 36-897.01.
- 38 (yy) Section 36-897.03.
- 39 (zz) Section 36-3008.
- 40 (aaa) Section 41-619.53.
- 41 (bbb) Section 41-1964.
- 42 (ccc) Section 41-1967.01.
- 43 (ddd) Section 41-1968.
- 44 (eee) Section 41-1969.
- 45 (fff) Section 41-2814.

1 (ggg) SECTION 41-4025.

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

3 ~~(hhh)~~ (iii) Section 46-321.

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

6 41-1758. Definitions

7 In this article, unless the context otherwise requires:

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

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

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

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

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

- 35 (a) Section 3-314.
- 36 (b) Section 8-105.
- 37 (c) Section 8-322.
- 38 (d) Section 8-463.
- 39 (e) Section 8-509.
- 40 (f) Section 8-802.
- 41 (g) Section 15-183.
- 42 (h) Section 15-503.
- 43 (i) Section 15-512.
- 44 (j) Section 15-534.
- 45 (k) Section 15-763.01.

- 1 (l) Section 15-782.02.
- 2 (m) Section 15-1330.
- 3 (n) Section 15-1881.
- 4 (o) Section 17-215.
- 5 (p) Section 28-3228.
- 6 (q) Section 28-3413.
- 7 (r) Section 32-122.02.
- 8 (s) Section 32-122.05.
- 9 (t) Section 32-122.06.
- 10 (u) Section 32-823.
- 11 (v) Section 32-1232.
- 12 (w) Section 32-1276.01.
- 13 (x) Section 32-1284.
- 14 (y) Section 32-1297.01.
- 15 (z) Section 32-1904.
- 16 (aa) Section 32-1941.
- 17 (bb) Section 32-1982.
- 18 (cc) Section 32-2022.
- 19 (dd) Section 32-2063.
- 20 (ee) Section 32-2108.01.
- 21 (ff) Section 32-2123.
- 22 (gg) Section 32-2371.
- 23 (hh) Section 32-3430.
- 24 (ii) Section 32-3620.
- 25 (jj) Section 32-3668.
- 26 (kk) Section 32-3669.
- 27 (ll) Section 32-4128.
- 28 (mm) Section 36-113.
- 29 (nn) Section 36-207.
- 30 (oo) Section 36-411.
- 31 (pp) Section 36-425.03.
- 32 (qq) Section 36-446.04.
- 33 (rr) Section 36-594.01.
- 34 (ss) Section 36-594.02.
- 35 (tt) Section 36-766.01.
- 36 (uu) Section 36-882.
- 37 (vv) Section 36-883.02.
- 38 (ww) Section 36-897.01.
- 39 (xx) Section 36-897.03.
- 40 (yy) Section 36-3008.
- 41 (zz) Section 41-619.52.
- 42 (aaa) Section 41-619.53.
- 43 (bbb) Section 41-1964.
- 44 (ccc) Section 41-1967.01.
- 45 (ddd) Section 41-1968.

1 (eee) Section 41-1969.

2 (fff) Section 41-2814.

3 (ggg) SECTION 41-4025.

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

5 ~~(hhh)~~ (iii) Section 46-321.

6 6. "Vulnerable adult" has the same meaning prescribed in section
7 13-3623.

8 Sec. 3. Section 41-1758.01, Arizona Revised Statutes, is amended to
9 read:

10 41-1758.01. Fingerprinting division: powers and duties

11 A. The fingerprinting division is established in the department of
12 public safety and shall:

13 1. Conduct fingerprint background checks for persons and applicants
14 who are seeking licenses from state agencies, employment with licensees,
15 contract providers and state agencies or employment or educational
16 opportunities with agencies that require fingerprint background checks
17 pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183,
18 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215,
19 37628-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-823, 32-1232,
20 32-1276.01, 32-1284, 32-1297.01, 32-1904, 32-1941, 32-1982, 32-2022, 32-2063,
21 32-2108.01, 32-2123, 32-2371, 32-3430, 32-3620, 32-3668, 32-3669, 32-4128,
22 36-113, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02,
23 36-766.01, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52,
24 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969, ~~and~~ 41-2814, 41-4025,
25 section 46-141, subsection A or B and section 46-321.

26 2. Issue fingerprint clearance cards. On issuance, a fingerprint
27 clearance card becomes the personal property of the cardholder and the
28 cardholder shall retain possession of the fingerprint clearance card.

29 3. On submission of an application for a fingerprint clearance card,
30 collect the fees established by the board of fingerprinting pursuant to
31 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
32 monies collected in the board of fingerprinting fund.

33 4. Inform in writing each person who submits fingerprints for a
34 fingerprint background check of the right to petition the board of
35 fingerprinting for a good cause exception pursuant to section 41-1758.03,
36 41-1758.04 or 41-1758.07.

37 5. If after conducting a state and federal criminal history records
38 check the division determines that it is not authorized to issue a
39 fingerprint clearance card to a person, inform the person in writing that the
40 division is not authorized to issue a fingerprint clearance card. The notice
41 shall include the criminal history information on which the denial was
42 based. This criminal history information is subject to dissemination
43 restrictions pursuant to section 41-1750 and Public Law 92-544.

1 6. Notify the person in writing if the division suspends, revokes or
2 places a driving restriction notation on a fingerprint clearance card
3 pursuant to section 41-1758.04. The notice shall include the criminal
4 history information on which the suspension, revocation or placement of the
5 driving restriction notation was based. This criminal history information is
6 subject to dissemination restrictions pursuant to section 41-1750 and Public
7 Law 92-544.

8 7. Administer and enforce this article.

9 B. The fingerprinting division may contract for electronic or
10 internet-based fingerprinting services through an entity or entities for the
11 acquisition and transmission of applicant fingerprint and data submissions to
12 the department, including identity verified fingerprints pursuant to section
13 15-106. The entity or entities contracted by the department of public safety
14 may charge the applicant a fee for services provided pursuant to this
15 article. The entity or entities contracted by the department of public
16 safety shall comply with:

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

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

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

23 41-4001. Definitions

24 In this chapter, unless the context otherwise requires:

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

31 2. "Act" means the national manufactured housing construction and
32 safety standards act of 1974 and title VI of the housing and community
33 development act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 95-557,
34 96-153 and 96-339).

35 3. "Alteration":

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

41 (b) Does not ~~mean~~ INCLUDE:

42 (i) The repair or replacement of a component or appliance requiring
43 plug-in to an electrical receptacle if the replaced item is of the same
44 configuration and rating as the component or appliance being repaired or
45 replaced. ~~Alteration also does not mean~~

- 1 (ii) The addition of an appliance requiring plug-in to an
2 electrical receptacle if ~~such~~ THE appliance is not provided with the unit
3 by the manufacturer and the rating of the appliance does not exceed the
4 rating of the receptacle to which ~~such~~ THE appliance is connected.
- 5 4. "Board" means the board of manufactured housing.
- 6 5. "Broker" means any person who acts as an agent for the sale or
7 exchange of a used manufactured home or mobile home except as exempted in
8 section 41-4028.
- 9 6. "Certificate" means a numbered or serialized label or seal that
10 is issued by the director as certification of compliance with this
11 chapter.
- 12 7. "Closed construction" means any building, building component,
13 assembly or system manufactured in such a manner that concealed parts or
14 processes of manufacture cannot be inspected before installation at the
15 building site without disassembly, damage or destruction.
- 16 8. "Commercial" means a building with a use-occupancy
17 classification other than single-family dwelling.
- 18 9. "Component" means any part, material or appliance that is
19 built-in as an integral part of the unit during the manufacturing process.
- 20 10. "Consumer" means either a purchaser or seller of a unit
21 regulated by this chapter who ~~utilizes~~ USES the services of a person
22 licensed by the department.
- 23 11. "Consummation of sale" means that a purchaser has received all
24 goods and services that the dealer or broker agreed to provide at the time
25 the contract was entered into, the transfer of title or the filing of an
26 affidavit of affixture, if applicable, to the sale. Consummation of sale
27 does not include warranties.
- 28 12. "Dealer" means any person who sells, exchanges, buys, offers or
29 attempts to negotiate or WHO acts as an agent for the sale or exchange of
30 factory-built buildings, manufactured homes or mobile homes except as
31 exempted in section 41-4028. A lease or rental agreement by which the
32 user acquired ownership of the unit with or without additional
33 remuneration is considered a sale under this chapter.
- 34 13. "Defect" means any defect in the performance, construction,
35 components or material of a unit that renders the unit or any part of the
36 unit unfit for the ordinary use for which it was intended.
- 37 14. "Department" means the Arizona department of housing.
- 38 15. "Director" means the director of the department.
- 39 16. "Earnest monies" means all monies given by a purchaser or a
40 financial institution to a dealer or broker before consummation of the
41 sale.
- 42 17. "Factory-built building":
43 (a) Means a residential or commercial building that is:

- 1 (i) Either wholly or in substantial part manufactured ~~using closed~~
2 ~~construction~~ at an off-site location and transported for installation or
3 completion, or both, on-site.
- 4 (ii) Constructed in compliance with adopted codes, standards and
5 procedures.
- 6 (iii) Installed temporarily or permanently.
- 7 (b) Does not include a manufactured home, recreational vehicle,
8 panelized commercial building using open construction, panelized
9 residential building using open or closed construction or domestic or
10 light commercial storage building.
- 11 18. "HUD" means the United States department of housing and urban
12 development.
- 13 19. "Imminent safety hazard" means an imminent and unreasonable
14 risk of death or severe personal injury.
- 15 20. "Installation" means:
- 16 (a) Connecting new or used mobile homes, manufactured homes or
17 factory-built buildings to on-site utility terminals or repairing these
18 utility connections.
- 19 (b) Placing new or used mobile homes, manufactured homes, accessory
20 structures or factory-built buildings on foundation systems or repairing
21 these foundation systems.
- 22 (c) Providing ground anchoring for new or used mobile homes or
23 manufactured homes or repairing the ground anchoring.
- 24 21. "Installer" means any person who engages in the business of
25 performing installations of manufactured homes, mobile homes or
26 ~~residential single family~~ factory-built buildings.
- 27 22. "Installer of accessory structures" means any person who
28 engages in the business of installing accessory structures.
- 29 23. "Listing agreement" means a document that contains the name and
30 address of the seller, the year, manufacturer and serial number of the
31 listed unit, the beginning and ending dates of the time period that the
32 agreement is in force, the name of the lender and lien amount, if
33 applicable, the price the seller is requesting for the unit, the
34 commission to be paid to the licensee and the signatures of the sellers
35 and the licensee who obtains the listing.
- 36 24. "Local enforcement agency" means a zoning or building
37 department of a city, town or county or its agents.
- 38 25. "Manufactured home" means a structure built in accordance with
39 the act.
- 40 26. "Manufacturer" means any person **THAT IS** engaged in
41 manufacturing, assembling or reconstructing any unit regulated by this
42 chapter.
- 43 27. "Mobile home" means a structure built before June 15, 1976, on
44 a permanent chassis, capable of being transported in one or more sections
45 and designed to be used with or without a permanent foundation as a

1 dwelling when connected to on-site utilities. Mobile home does not
2 include recreational vehicles and factory-built buildings.

3 28. "Office" means the office of manufactured housing within the
4 department.

5 29. "Open construction" means any building, building component,
6 assembly or system manufactured in such a manner that all portions can be
7 readily inspected at the building site without disassembly, damage or
8 destruction.

9 30. "Purchaser" means a person purchasing a unit in good faith from
10 a licensed dealer or broker for purposes other than resale.

11 31. "Qualifying party" means a person who is an owner, employee,
12 corporate officer or partner of the licensed business and who has active
13 and direct supervision of and responsibility for all operations of that
14 licensed business.

15 32. "Reconstruction" means construction work performed for the
16 purpose of restoration or modification of a unit by changing or adding
17 structural components or electrical, plumbing or heat or air producing
18 systems.

19 33. "Recreational vehicle" means a vehicular type unit that is:

20 (a) A portable camping trailer mounted on wheels and constructed
21 with collapsible partial sidewalls that fold for towing by another vehicle
22 and unfold for camping.

23 (b) A motor home designed to provide temporary living quarters for
24 recreational, camping or travel use and built on or permanently attached
25 to a self-propelled motor vehicle chassis or on a chassis cab or van that
26 is an integral part of the completed vehicle.

27 (c) A park trailer built on a single chassis, mounted on wheels and
28 designed to be connected to utilities necessary for operation of installed
29 fixtures and appliances and has a gross trailer area of not less than
30 three hundred twenty square feet and not more than four hundred square
31 feet when it is set up, except that it does not include fifth wheel
32 trailers.

33 (d) A travel trailer mounted on wheels, designed to provide
34 temporary living quarters for recreational, camping or travel use, of a
35 size or weight that may or may not require special highway movement
36 permits when towed by a motorized vehicle and has a trailer area of less
37 than three hundred twenty square feet. This subdivision includes fifth
38 wheel trailers. If a unit requires a size or weight permit, it shall be
39 manufactured to the standards for park trailers in a 119.5 of the American
40 national standards institute code.

41 (e) A portable truck camper constructed to provide temporary living
42 quarters for recreational, travel or camping use and consisting of a roof,
43 floor and sides designed to be loaded onto and unloaded from the bed of a
44 pickup truck.

1 34. "Residential" means a building with a use-occupancy
2 classification of a single-family dwelling or as governed by the
3 international residential code.

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

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

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

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

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

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

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

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

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

32 41-4009. Board of manufactured housing; members; meetings

33 A. The board of manufactured housing is established. The board
34 ~~shall consist~~ CONSISTS of THE FOLLOWING nine members WHO ARE appointed by
35 the governor pursuant to section 38-211: ~~;~~

36 1. One member ~~shall represent~~ WHO REPRESENTS the manufacturers of
37 manufactured homes. ~~;~~

38 2. One ~~shall represent~~ MEMBER WHO REPRESENTS the installer
39 industry. ~~;~~

40 3. One ~~shall represent~~ MEMBER WHO REPRESENTS manufactured home park
41 owners. ~~;~~

42 4. One ~~shall represent~~ MEMBER WHO REPRESENTS financial
43 institutions. ~~;~~

44 5. One ~~shall represent~~ MEMBER WHO REPRESENTS the manufacturers of
45 ~~residential~~ factory-built buildings. ~~;~~

1 6. One ~~shall represent~~ MEMBER WHO REPRESENTS the dealers and
2 brokers. ~~and~~

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

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

13 ~~B.~~ C. The board annually shall select from its membership a
14 chairperson for the board.

15 ~~C.~~ D. The board shall meet on call of the chairperson or on the
16 request of at least four members.

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

19 41-4025. Qualifications and requirements for licensure

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

22 B. The director shall:

23 1. Qualify applicants for a license.

24 2. Conduct ~~such~~ investigations as the director deems necessary.

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

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

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

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

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

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

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

42 5. For all licenses, except those for salespersons, the name, birth
43 date and address of the qualifying party. The qualifying party must
44 reside within the state of the principal place of the licensee's business

1 and shall not act in the capacity of a qualifying party for more than one
2 license in the same classification.

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

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

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

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

23 10. Other information as the director may deem necessary.

24 E. Before ~~the issuance of any~~ RECEIVING AND HOLDING A license
25 ISSUED pursuant to this article, the owner, if the applicant is a sole
26 proprietorship, all partners, if the applicant is a partnership, the
27 general partner, if the applicant is a limited partnership, the president,
28 vice president, secretary, and treasurer, if the applicant is a
29 corporation or other type of association, the manager or managing members,
30 if the applicant is a limited liability company, the individual, if the
31 applicant is a salesperson, and the qualifying party shall be of good
32 character and reputation and shall submit a ~~fingerprint card for~~
33 ~~background analysis. Lack of good character and reputation may be~~
34 ~~established by showing that such person has committed any act that, if~~
35 ~~committed by any licensee, would be grounds for suspension or revocation~~
36 ~~of such license~~ VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO
37 SECTION 41-1758.03. THE APPLICANT IS RESPONSIBLE FOR PROVIDING THE
38 DEPARTMENT WITH A VALID FINGERPRINT CLEARANCE CARD.

39 F. THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO AN APPLICANT BEFORE
40 RECEIVING A VALID FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION. THE
41 DEPARTMENT SHALL SUSPEND THE LICENSE IF THE FINGERPRINT CLEARANCE CARD IS
42 DETERMINED TO BE INVALID AND AN APPLICANT WHO WAS ISSUED A LICENSE FAILS
43 TO SUBMIT A NEW FINGERPRINT CLEARANCE CARD WITHIN TEN DAYS AFTER BEING
44 NOTIFIED BY THE DEPARTMENT. THIS SECTION DOES NOT AFFECT THE DEPARTMENT'S

1 ABILITY TO OTHERWISE ISSUE, DENY, CANCEL, TERMINATE, SUSPEND OR REVOKE A
2 LICENSE.

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

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

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

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

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

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

38 41-4026. Issuance of a license

39 A. On receipt by the director of the nonrefundable fee required by
40 this article and an application furnishing complete information as
41 required by the director and on the applicant taking and passing the
42 applicable examination required by section 41-4025, the director shall
43 issue a conditional license to the applicant, pending completion of the
44 background analysis, ~~permitting~~ ALLOWING the applicant to engage in
45 business pursuant to this article for one year.

1 ~~B.~~ Pursuant to the agreement for conditional license, the applicant
2 shall agree to a revocation of the conditional license if it appears, on
3 review of the background analysis, that the applicant has misrepresented
4 its background. The applicant shall also agree to waive any right the
5 applicant may have to a stay of the effectiveness of any order of
6 revocation of the conditional license, the right to notice of hearing and
7 the right to a hearing before the revocation of the license.

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

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

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

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

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

39 ~~H.~~ G. The licensee may not engage in the sale of units, either new
40 or used, unless the licensee maintains an office where the records are
41 available for inspection and the location is listed on the license
42 application as the principal place of business.

1 Sec. 8. Section 41-4029, Arizona Revised Statutes, is amended to
2 read:

3 41-4029. Bonds and cash deposits; requirements; fund

4 A. Before granting an original license, the director shall require
5 of the applicant, except an applicant for salesperson or broker of
6 manufactured homes, ~~OR mobile homes or factory-built buildings designed~~
7 ~~for use as residential buildings~~, a surety bond in a form acceptable to
8 the director or a cash deposit pursuant to this section. A separate bond
9 or cash deposit shall be required for each branch location of any licensed
10 manufacturer or installer. ~~No~~ A license shall NOT be renewed unless the
11 applicant's surety bond or cash deposit is in full force and effect. A
12 change of location of a licensee's principal place of business requires a
13 rider or endorsement to the existing bond and payment of the
14 administrative function fee. The rider or endorsement shall indicate the
15 new location and acceptance of claims for the previous location.

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

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

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

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

42 2. The director, if the principal fails to pay any of the fees or
43 costs that the principal owes the department.

1 E. Any person claiming against the bond or deposit, except the
2 department, may maintain an action against the principal and the surety.
3 ~~Such~~ THE principal's bond or deposit may be sued on in successive actions
4 until the full amount is exhausted. ~~No~~ A suit may NOT be commenced on the
5 bond or deposit after the expiration of two years after the date of sale
6 or installation of the unit, whichever is later, on which the suit is
7 based, except that the time for purposes of the claim for fraud shall be
8 measured pursuant to section 12-543.

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

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

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

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

40 41-4046. Enforcement powers of director; civil and
41 administrative penalties

42 A. The director, personnel of the department and personnel under
43 contract to the department, on presentation of credentials, shall be
44 ~~permitted~~ ALLOWED to enter and inspect premises where units regulated by
45 this chapter are manufactured, sold or installed as the director may deem

1 appropriate to determine if any person has violated this chapter. ~~NO~~ A
2 person WHO IS licensed by the department may NOT refuse to admit the
3 director or the personnel of the department or personnel under contract if
4 the proper credentials are presented and the inspection is made at a
5 reasonable time.

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

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

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

43 E. In any investigation, proceeding or hearing that the director
44 may institute, conduct or hold under this article, the director, or a
45 representative designated by the director, may administer oaths, certify

1 to official acts, issue subpoenas for attendance of witnesses and
2 production of books, papers and records and exercise the same powers in
3 this regard as conferred on public officers by section 12-2212.

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

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

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

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