

Senate Engrossed House Bill

~~technical correction; bingo license; transfer~~  
(now: video services providers; enforcement; jurisdiction)

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

# HOUSE BILL 2391

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 9-1451. Enforcement; office of administrative hearings; fees;  
5 fund

6 A. A local government may file a written complaint against a video  
7 service provider and a video service provider may file a written complaint  
8 against a local government alleging a violation of this chapter or the  
9 uniform video service license agreement. **UNLESS THE MATTER ARISES UNDER**  
10 **THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES, INCLUDING THE**  
11 **COMMUNICATIONS ACT OF 1934 (P.L. 73-416; 47 UNITED STATES CODE SECTIONS**  
12 **151 THROUGH 615b) AND ALL OTHER APPLICABLE FEDERAL LAW, THE OFFICE OF**  
13 **ADMINISTRATIVE HEARINGS HAS ORIGINAL JURISDICTION OVER ALL MATTERS UNDER**  
14 **THIS CHAPTER.** Unless otherwise provided in section 9-1445, subsections F,  
15 G and H or this section:

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

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

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

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

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

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

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

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

1           1. The hearing shall be held within two months after the date that  
2 the complaint is filed and service is completed pursuant to subsection A  
3 of this section.

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

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

9           F. A prehearing conference may be held pursuant to section  
10 41-1092.05.

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

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

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

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

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

30           L. The office of administrative hearings shall adopt rules pursuant  
31 to title 41, chapter 6 to administer hearings under this chapter and title  
32 11, chapter 14. The rules shall apply uniformly to hearings involving  
33 local governments and counties.

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

39           N. The video service provider complaint fund is established  
40 consisting of monies collected pursuant to subsection M of this section  
41 and section 11-1951, subsection M. The office of administrative hearings  
42 shall administer the fund. Monies in the fund are continuously  
43 appropriated. The office of administrative hearings shall use the monies  
44 in the fund for the purpose of administering the duties specified in this  
45 article and title 11, chapter 14, article 5.

1           Sec. 2. Section 11-1951, Arizona Revised Statutes, is amended to  
2 read:

3           11-1951. Enforcement; office of administrative hearings; fees

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

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

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

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

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

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

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

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

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

42           1. The hearing shall be held within two months after the date that  
43 the complaint is filed and service is completed pursuant to subsection A  
44 of this section.

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

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

6           F. A prehearing conference may be held pursuant to section  
7 41-1092.05.

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

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

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

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

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

27          L. The office of administrative hearings shall adopt rules pursuant  
28 to title 41, chapter 6 to administer hearings under this chapter and title  
29 9, chapter 13. The rules shall apply uniformly to hearings involving  
30 local governments as defined in section 9-1401 and counties.

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