

House Engrossed Senate Bill
attorney licensing; supreme court

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1435

AN ACT

AMENDING SECTIONS 3-3122, 8-231, 11-136, 11-461, 12-109 AND 12-110, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-119.06; AMENDING SECTIONS 12-353, 12-2601, 12-2702, 13-4041, 16-442, 20-466.04, 20-1097, 20-1097.01, 23-108.02, 26-1006, 26-1026, 28-4451, 28-4456, 32-1156, 32-2199.01, 32-2199.04, 33-741, 33-803, 40-243, 41-151.18, 41-511.23, 41-1481, 41-4037, 41-4038, 41-4062, 41-4065, 42-16153 AND 44-1813, ARIZONA REVISED STATUTES; RELATING TO ATTORNEY LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-3122, Arizona Revised Statutes, is amended to
3 read:

4 3-3122. Employer and employee representation

5 Any affected employee or employer may designate any person or
6 persons to represent him for the purpose of proceedings before any hearing
7 officer under this article, regardless of the ~~person's membership in the~~
8 **PERSON BEING A LICENSED ATTORNEY IN THIS** state ~~bar~~.

9 Sec. 2. Section 8-231, Arizona Revised Statutes, is amended to
10 read:

11 8-231. Juvenile court commissioners; appointment; powers and
12 duties; compensation; qualifications

13 A. The presiding judge of the juvenile court in a county may
14 appoint juvenile court commissioners to serve at the pleasure of the
15 presiding judge, provided that the funds necessary to fill these positions
16 have been approved by the respective county board of supervisors. A
17 juvenile court commissioner has the powers and duties as are prescribed by
18 **SUPREME COURT** rule ~~of the supreme court~~.

19 B. A juvenile court commissioner shall not make ex parte orders
20 which would deprive a person of custody of his child or deprive a person
21 of his liberty, except in default hearings or for necessary temporary
22 matters preceding a hearing.

23 C. A juvenile court commissioner is entitled to receive an annual
24 salary set by the presiding juvenile court judge at an amount not to
25 exceed the maximum amount provided in section 12-213. The salary of a
26 juvenile court commissioner is a county charge.

27 D. To be eligible for appointment as a juvenile court commissioner
28 a person must meet the following qualifications:

29 1. Be a ~~member of the~~ **LICENSED ATTORNEY IN THIS** state ~~bar of~~
30 ~~Arizona~~.

31 2. For at least four years have either engaged in the general
32 practice of law, or have served as a full-time juvenile court referee or
33 hearing officer for at least four years or have a combination of both such
34 practice and service.

35 Sec. 3. Section 11-136, Arizona Revised Statutes, is amended to
36 read:

37 11-136. County formation commission

38 A. Within fifteen days ~~of receipt of~~ **AFTER RECEIVING** certification
39 of the petition pursuant to section 11-135, subsection D, the governor
40 shall appoint a county formation commission of three members, none of whom
41 may reside in an affected county and ~~no~~ **NOT** more than two of whom may be
42 members of the same political party. At least one of the appointees must
43 be a ~~member of the~~ **LICENSED ATTORNEY IN THIS** state ~~bar of Arizona~~, at
44 least one of the appointees must be a certified public accountant and at
45 least one of the appointees must have experience in property valuation and

1 appraisal procedures. The governor shall designate one member to act as
2 chairman. Members of the commission are entitled to receive compensation
3 of ~~one hundred dollars~~ \$100 for each day engaged in the service of the
4 commission plus reimbursement for travel and subsistence expenses pursuant
5 to title 38, chapter 4, article 2. The commission may employ or contract
6 for such clerical and professional staff services as may be necessary to
7 perform its functions. The initial meeting of the commission shall be
8 held at the call of the chairman within ten days after notice and
9 acceptance of the members' appointment. ~~No~~ A member, employee, agent or
10 representative of the commission may NOT use or promise to use any
11 official authority or influence for the purpose of influencing the outcome
12 of the proposed formation of new counties.

13 B. The commission shall consider and determine:

14 1. The fiscal impact of the proposed county formation and the
15 economic viability of the proposed counties, including the costs of the
16 proceedings to form the counties and potential disruptions and delays in
17 delivery of federal and state aid and payments to the proposed counties.

18 2. The comparative costs of providing services in the affected
19 county or counties and each proposed county.

20 3. The projected revenues available to the affected county or
21 counties and each proposed county.

22 4. The final boundaries of the proposed counties.

23 5. A procedure for the orderly and timely transfer of service
24 functions and responsibilities from the affected county or counties to
25 each proposed county.

26 6. The division of each proposed county into supervisorial
27 districts.

28 7. The proposed transfer, division and apportionment between the
29 proposed counties of all real and personal property, valued at replacement
30 cost less depreciation, and cash accounts owned by the affected county or
31 counties.

32 8. Bonds and other indebtedness of the affected county or counties
33 ~~which~~ THAT are outstanding or authorized and other contracts and
34 obligations of the affected county or counties ~~which~~ THAT would be
35 divided, apportioned and assumed by the proposed county or counties.

36 9. Estimated taxes, assessments or other authorized charges
37 necessary in each proposed county to meet these liabilities in the first
38 full fiscal year after the proposed county or counties are formed.

39 10. Each community college district, school district and special
40 taxing district within the affected county or counties.

41 11. The indigent population of the proposed county or counties,
42 determined as of the commission's initial meeting, for purposes of the
43 Arizona health care cost containment system.

44 C. At any time before the final commission hearing the commission
45 shall receive written requests to modify the boundaries of the proposed

1 counties from any real property owner or registered voter in a proposed
2 county. Such a request must contain sufficient information to identify
3 the property or territory affected by a proposed modification and state
4 the reasons for the request. The commission shall not change the
5 boundaries described in the petition filed with the secretary of state
6 unless modification is necessary in the interest of public convenience and
7 necessity or to maintain an existing community of interest. The
8 boundaries of a proposed county shall not pass through or divide an
9 incorporated city or town or, if practicable, a special taxing district
10 established under title 48 ~~which~~ THAT receives financial assistance from
11 the county. If possible, the boundaries shall be set along existing
12 survey lines or political or administrative boundaries. The requirements
13 of section 11-132, subsection B apply to proposed counties formed by the
14 final boundaries prescribed by the commission.

15 D. In the case of a countywide district, a district which receives
16 financial assistance from the county or which is governed by the affected
17 county's board of supervisors, the auditor general shall audit and
18 inventory the district's assets and liabilities and, if necessary,
19 determine a fair and equitable division of them between the proposed
20 counties.

21 E. All officers and employees of an affected county and all state
22 agencies shall cooperate with, perform any functions required by and
23 produce any books, records or other documents of the county requested by
24 and necessary for the commission to perform its duties.

25 F. Within one hundred eighty days after notice and acceptance of
26 the members' appointments the commission shall adopt a report and summary
27 of its findings and its determination of the final boundaries of each
28 proposed county. The commission shall transmit copies of the report to
29 the person or organization proposing the county boundary changes, the
30 secretary of state, the governor, the attorney general, the clerk of the
31 board of supervisors of each affected county, the president of the senate,
32 the speaker of the house of representatives and each legislator whose
33 district is in an affected county.

34 G. The findings and determinations of the commission are the terms
35 and conditions of the formation of the proposed counties. Except as
36 otherwise authorized by this article, those terms and conditions are final
37 and binding in each affected county and in each new county if the new
38 counties are established pursuant to this article.

39 Sec. 4. Section 11-461, Arizona Revised Statutes, is amended to
40 read:

41 11-461. Recording instruments; keeping records;
42 identification; location; social security numbers;
43 definition

44 A. The recorder shall have custody of and shall keep all records,
45 maps and papers deposited in the recorder's office.

1 B. The recorder shall record separately, in typewriting, in a
2 legible hand or by use of photostatic or photographic machines or by a
3 system of microphotography, all instruments or writings required or
4 authorized by law to be recorded. In a like manner, the recorder shall
5 record any other instrument offered for recording provided the instruments
6 meet the requirements of section 11-480.

7 C. The recorder may accept a digitized image of a recordable
8 instrument for recording if it is submitted by a title insurer or title
9 insurance agent as defined in section 20-1562, by a state chartered or
10 federally chartered bank insured by the federal deposit insurance
11 corporation, by ~~an active member of the~~ A LICENSED ATTORNEY IN THIS state
12 ~~bar of Arizona~~, by an agency, branch or instrumentality of the federal
13 government, BY a trusted submitter or by a governmental entity and the
14 instrument from which the digitized image is taken conforms to all
15 applicable laws relating to the recording of paper instruments.

16 D. Instruments shall be recorded consecutively as of the time they
17 are received. The recorder shall affix to each instrument, either by hand
18 or in a digitized form, a notation or notations sufficient to provide:

19 1. A record identification to uniquely identify each instrument and
20 to fix its position within the sequence of recordings.

21 2. A record location to enable each instrument to be retrieved for
22 purposes of inspection.

23 E. Instruments may be recorded in docket books, in separate record
24 books or in suitable containers, if the location of each instrument can be
25 determined from notations both on the instrument and in the appropriate
26 index. Reference to any recorded instrument may be made by the record
27 location without further description.

28 F. Any reference to docket and page, or book and page, or similar
29 indication means the record location as notated on each recorded
30 instrument.

31 G. ~~On or before January 1, 2009,~~ The recorder in a county with a
32 population of more than eight hundred thousand persons, shall redact
33 references to complete nine digit social security numbers that are
34 available on the recorder's website. Social security numbers may be
35 retained on instruments that are not available on a website. The recorder
36 shall also redact complete social security number references on all
37 instruments recorded but not available on the website before ~~the effective~~
38 ~~date of this amendment to this section,~~ SEPTEMBER 19, 2007 before making
39 the instruments available on the website. The recorder is not liable for
40 any errors or cases of stolen identity resulting from redactions made
41 pursuant to this subsection.

42 H. The recorder in a county with a population of less than eight
43 hundred thousand persons shall redact references to complete nine digit
44 social security numbers on instruments that are available on the
45 recorder's website at the request of the holder of the social security

1 number if the holder identifies the recorded instrument. The recorder
2 shall also redact complete social security number references on all
3 instruments recorded but not available on the website before ~~the effective~~
4 ~~date of this amendment to this section~~, SEPTEMBER 19, 2007 before making
5 the instruments available on the website. Social Security numbers may be
6 retained on instruments that are not available on the website. The
7 recorder is not liable for any errors or cases of stolen identity
8 resulting from redactions made pursuant to this subsection.

9 I. Notwithstanding the limitations of section 11-475.01, county
10 recorders may use monies in the document storage and retrieval conversion
11 and maintenance fund to accomplish the requirements of subsections G and H
12 of this section.

13 J. For the purposes of this section, "~~a~~ trusted submitter" means a
14 person or entity that has entered into a memorandum of understanding
15 regarding digitized recording with the county recorder in the county in
16 which the digitized recording is to be submitted.

17 Sec. 5. Section 12-109, Arizona Revised Statutes, is amended to
18 read:

19 12-109. Rules and administrative orders of pleading, practice
20 and procedure; adoption; prohibitions; electronic
21 signatures; distribution

22 A. The supreme court, by rules or administrative orders, shall
23 regulate pleading, practice and procedure in judicial proceedings in all
24 courts of this state to simplify pleading, practice and procedure and
25 promote speedy determination of litigation on its merits.

26 B. The rules and administrative orders shall not do any of the
27 following:

28 1. Abridge, enlarge or modify substantive rights of a litigant.

29 2. Abridge, enlarge or modify statutory, contractual or common law
30 real property rights or questions of substantive law.

31 C. The court may allow documents that require a sworn written
32 declaration, verification, certificate, statement, oath or affidavit to be
33 signed with an electronic signature.

34 D. The supreme court shall print and distribute the rules and
35 administrative orders to all ~~members of the state bar~~ LICENSED ATTORNEYS
36 and to all other persons who apply.

37 E. The rules shall not become effective until sixty days after
38 distribution.

39 Sec. 6. Section 12-110, Arizona Revised Statutes, is amended to
40 read:

41 12-110. Advisory board; objections to rules

42 A. ~~The state bar, or~~ A representative group ~~selected by the bar,~~ OF
43 LICENSED ATTORNEYS shall act as an advisory board and shall either
44 voluntarily or ~~upon~~ ON request of a majority of the ~~judges~~ JUSTICES of the

1 supreme court, consult with, recommend to or advise the court on any
2 matter dealt with or proposed to be dealt with in the rules.

3 B. Any ~~member of the state bar~~ LICENSED ATTORNEY or a private
4 citizen may object in writing to a rule or part ~~thereof~~ OF A RULE and may
5 request changes. The court shall consider the objections and requests as
6 advice and information only and may act thereon at its discretion.

7 Sec. 7. Title 12, chapter 1, article 1, Arizona Revised Statutes,
8 is amended by adding section 12-119.06, to read:

9 12-119.06. Attorney licensing; requirements

10 THE SUPREME COURT SHALL LICENSE ATTORNEYS FOR THE PRACTICE OF LAW IN
11 THIS STATE. THE SUPREME COURT MAY NOT REQUIRE AN ATTORNEY TO BE A MEMBER
12 OF ANY ORGANIZATION TO BECOME OR REMAIN A LICENSED ATTORNEY IN THIS STATE.

13 Sec. 8. Section 12-353, Arizona Revised Statutes, is amended to
14 read:

15 12-353. Recovery of costs; attorney discipline
16 investigations; definition

17 A. In an attorney discipline matter, if an attorney who is the
18 subject of the charge prevails, in addition to any costs that are awarded
19 by statute, the ~~state bar of Arizona~~ SUPREME COURT is responsible to the
20 attorney for any attorney fees and court costs. Court costs include the
21 cost of all stages of the investigation and discipline process and, if
22 applicable, any court litigation and appeal.

23 B. For the purposes of this section, "attorney discipline matter"
24 means any charge that is not dismissed by the ~~state bar of Arizona~~ SUPREME
25 COURT before final disposition of the complaint by the presiding
26 disciplinary judge or the supreme court.

27 Sec. 9. Section 12-2601, Arizona Revised Statutes, is amended to
28 read:

29 12-2601. Definitions

30 In this article, unless the context otherwise requires:

31 1. "Claim" means a legal cause of action except for actions
32 relating to health care under sections 12-561, ~~through~~ 12-562 AND 12-563
33 ~~of this title~~ or under title 46, chapter 4 or an affirmative defense to
34 which all of the following apply:

35 (a) The claim is asserted against a licensed professional in a
36 complaint, answer, cross-claim, counterclaim or third party complaint.

37 (b) The claim is based on the licensed professional's alleged
38 breach of contract, negligence, misconduct, errors or omissions in
39 rendering professional services.

40 (c) Expert testimony is necessary to prove the licensed
41 professional's standard of care or liability for the claim.

42 2. "Expert" means a person who is qualified by knowledge, skill,
43 experience, training or education to express an opinion regarding a
44 licensed professional's standard of care or liability for the claim.

1 3. "Licensed professional" means a person, corporation,
2 professional corporation, partnership, limited liability company, limited
3 liability partnership or other entity that is licensed by this state to
4 practice a profession or occupation under title 20 or 32 or ~~that~~ A PERSON
5 WHO is ~~admitted to the~~ A LICENSED ATTORNEY IN THIS state ~~bar~~.

6 Sec. 10. Section 12-2702, Arizona Revised Statutes, is amended to
7 read:

8 12-2702. Representation; definition

9 A. A person desiring immigration and nationality services may be
10 represented by any of the following:

11 1. Attorneys in the United States.

12 2. A law student who is enrolled in an accredited law school or a
13 law school graduate who is not yet ~~admitted to the bar~~ A LICENSED
14 ATTORNEY, if both of the following apply:

15 (a) The student or graduate is appearing on an individual case
16 basis at the request of the person entitled to representation.

17 (b) The student or graduate is ~~permitted~~ ALLOWED to appear by the
18 official before whom the student or graduate wishes to appear including an
19 immigration judge, an immigration district director, an immigration
20 officer-in-charge, a regional immigration commission, the ~~United States~~
21 ~~commissioner of immigration and naturalization~~ ASSISTANT SECRETARY OF THE
22 UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, THE DIRECTOR OF THE
23 UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES or the immigration
24 board. If in the official's opinion special circumstances warrant it, the
25 official may require that a law student be accompanied by a supervising
26 faculty member or attorney.

27 3. Any reputable person of good moral character, if all of the
28 following apply:

29 (a) The person is appearing on an individual case basis, at the
30 request of the person entitled to representation.

31 (b) The person is appearing without direct or indirect remuneration
32 and the person files a written declaration to that effect.

33 (c) The person has a preexisting relationship or connection with
34 the person entitled to representation including a relative, neighbor,
35 clergyman, business associate or personal friend, except that this
36 requirement may be waived, as a matter of administrative discretion, in
37 cases in which adequate representation would not otherwise be available.

38 (d) If the person is appearing on behalf of a client, the person's
39 appearance is ~~permitted~~ ALLOWED by the official before whom the person
40 wishes to appear including an immigration judge, an immigration district
41 director, an immigration officer-in-charge, a regional immigration
42 commissioner, the ~~United States commissioner of immigration and~~
43 ~~naturalization~~ ASSISTANT SECRETARY OF THE UNITED STATES IMMIGRATION AND
44 CUSTOMS ENFORCEMENT, THE DIRECTOR OF THE UNITED STATES CITIZENSHIP AND
45 IMMIGRATION SERVICES or the immigration board, except that this permission

1 shall not be granted with respect to any person who regularly engages in
2 immigration and nationality practice or preparation or holds ~~himself~~
3 **ONESELF** out to the public as qualified to do so.

4 4. A person who is representing an organization accredited by the
5 board of immigration appeals and who has been accredited by the
6 immigration board.

7 5. An accredited official in the United States of the government to
8 which an alien owes allegiance, if the official appears solely in an
9 official capacity and with the alien's consent.

10 B. Except as otherwise provided in this section, no other person or
11 persons may represent others in any case, prepare applications or forms or
12 give any legal advice relating to any immigration or naturalization
13 matter.

14 C. Any person who misrepresents the services the person may provide
15 in immigration or nationality matters is in violation of this chapter.

16 D. A person or organization may not retain an original document
17 belonging to a client unless authorized by the client.

18 E. An attorney who practices immigration and nationality law in
19 this state and who is not a ~~member of the state bar of Arizona~~ **LICENSED**
20 **ATTORNEY IN THIS STATE** shall not provide advice on issues of this state's
21 law. An attorney who practices immigration and nationality law in this
22 state and who is not ~~A licensed by the state bar of Arizona~~ **ATTORNEY IN**
23 **THIS STATE** shall disclose to all persons to whom service is provided that
24 the attorney is not licensed ~~by the state bar of Arizona~~ and shall
25 disclose the state in which the attorney is licensed to practice
26 law. This disclosure must be done in writing at the time the attorney's
27 services are retained.

28 F. For the purposes of this section, "attorney" means any person
29 who is **A LICENSED ATTORNEY IN THIS STATE OR IS** a member in good standing
30 of the bar of the highest court of any state, possession, territory,
31 commonwealth or district of the United States and who is not under any
32 order of any court suspending, enjoining, restraining, disbaring or
33 otherwise restricting the person in the practice of law.

34 Sec. 11. Section 13-4041, Arizona Revised Statutes, is amended to
35 read:

36 13-4041. Fee of counsel assigned in criminal proceeding or
37 insanity hearing on appeal or in postconviction
38 relief proceedings; reimbursement

39 A. Except pursuant to subsection G of this section, if counsel is
40 appointed by the court to represent the defendant in either a criminal
41 proceeding or insanity hearing on appeal, the county in which the court
42 from which the appeal is taken presides shall pay counsel, except that in
43 those appeals where the defendant is represented by a public defender or
44 other publicly funded office, **THE COUNTY SHALL NOT SET OR PAY** compensation
45 ~~shall not be set or paid~~. Compensation for services rendered on appeal

1 shall be in an amount as the supreme court in its discretion deems
2 reasonable, considering the services performed.

3 B. After the supreme court has affirmed a defendant's conviction
4 and sentence in a capital case, the supreme court or, if authorized by the
5 supreme court, the presiding judge of the county from which the case
6 originated shall appoint counsel to represent the capital defendant in the
7 state postconviction relief proceeding.

8 C. The supreme court shall establish and maintain a list of persons
9 who are qualified to represent capital defendants in postconviction
10 proceedings. The supreme court may establish by rule more stringent
11 standards of competency for the appointment of postconviction counsel in
12 capital cases than are provided by this subsection. The supreme court may
13 refuse to certify an attorney on the list who meets the qualifications
14 established under this subsection or may remove an attorney from the list
15 who meets the qualifications established under this subsection if the
16 supreme court determines that the attorney is incapable or unable to
17 adequately represent a capital defendant. The court shall appoint counsel
18 from the list. Counsel who are appointed from the list shall meet the
19 following qualifications:

20 1. Be a ~~member in good standing of the state bar of Arizona~~
21 **LICENSED ATTORNEY IN THIS STATE** for at least five years immediately
22 preceding the appointment.

23 2. Have practiced in the area of state criminal appeals or
24 postconviction proceedings for at least three years immediately preceding
25 the appointment.

26 3. Not previously have represented the capital defendant in the
27 case either in the trial court or in the direct appeal, unless the
28 defendant and counsel expressly request continued representation and waive
29 all potential issues that are foreclosed by continued representation.

30 D. Before filing a petition, the capital defendant may personally
31 appear before the trial court and waive counsel. If the trial court finds
32 that the waiver is knowing and voluntary, appointed counsel may withdraw.
33 The time limits in which to file a petition shall not be extended due
34 solely to the change from appointed counsel to self-representation.

35 E. If at any time the trial court determines that the capital
36 defendant is not indigent, appointed counsel shall no longer be
37 compensated by public monies and may withdraw.

38 F. Unless counsel is employed by a publicly funded office, counsel
39 appointed to represent a capital defendant in state postconviction relief
40 proceedings shall be paid an hourly rate of not to exceed ~~one hundred~~
41 ~~dollars~~ **\$100** per hour. Monies shall not be paid to court appointed
42 counsel unless either:

43 1. A petition is timely filed.

44 2. If a petition is not filed, a notice is timely filed stating
45 that counsel has reviewed the record and found no meritorious claim.

1 G. The trial court shall compensate appointed counsel from county
2 funds. The court or the court's designee shall review and approve all
3 reasonable fees and costs. If the attorney believes that the court has
4 set an unreasonably low hourly rate or if the court finds that the hours
5 the attorney spent are unreasonable, the attorney may file a special
6 action with the Arizona supreme court. If counsel is appointed in
7 successive postconviction relief proceedings, compensation shall be paid
8 pursuant to section 13-4013, subsection A.

9 H. The county shall request reimbursement for fees it incurs
10 pursuant to subsections F, G and I of this section arising out of the
11 appointment of counsel to represent an indigent capital defendant in a
12 state postconviction relief proceeding. The state shall pay a portion of
13 the fees incurred by the county out of monies appropriated to the supreme
14 court for these purposes. The total amount that may be spent in any
15 fiscal year by this state for indigent capital defense in a state
16 postconviction relief proceeding may not exceed the amount appropriated in
17 the general appropriations act for this purpose, together with additional
18 amounts appropriated by any special legislative appropriation for indigent
19 capital defense. The supreme court shall approve county requests for
20 reimbursement after certification that the amount requested is owed.

21 I. The trial court may authorize additional monies to pay for
22 investigative and expert services that are reasonably necessary to
23 adequately litigate those claims that are not precluded by section
24 13-4232.

25 Sec. 12. Section 16-442, Arizona Revised Statutes, is amended to
26 read:

27 16-442. Committee approval; adoption of vote tabulating
28 equipment; experimental use; emergency certification

29 A. The secretary of state shall appoint a committee of three
30 persons, to consist of a member of the engineering college at one of the
31 universities, a ~~member of the state bar of Arizona~~ LICENSED ATTORNEY IN
32 THIS STATE and one person familiar with voting processes in the state, ~~and~~
33 NOT more than two of whom shall be of the same political party, and at
34 least one of whom shall have at least five years of experience with and
35 shall be able to render an opinion based on knowledge of, training in or
36 education in electronic voting systems, procedures and security. The
37 committee shall investigate and test the various types of vote recording
38 or tabulating machines or devices that may be used under this article.
39 The committee shall submit its recommendations to the secretary of state
40 who shall make final adoption of the type or types, make or makes, model
41 or models to be certified for use in this state. The committee shall
42 serve without compensation.

43 B. Machines or devices used at any election for federal, state or
44 county offices may only be certified for use in this state and may only be
45 used in this state if they comply with the help America vote act of 2002

1 and if those machines or devices have been tested and approved by a
2 laboratory that is accredited pursuant to the help America vote act of
3 2002.

4 C. After consultation with the committee prescribed by subsection A
5 of this section, the secretary of state shall adopt standards that specify
6 the criteria for loss of certification for equipment that was used at any
7 election for federal, state or county offices and that was previously
8 certified for use in this state. On loss of certification, machines or
9 devices used at any election may not be used for any election for federal,
10 state or county offices in this state unless recertified for use in this
11 state.

12 D. The secretary of state may revoke the certification of any
13 voting system or device for use in a federal, state or county election in
14 this state or may prohibit for up to five years the purchase, lease or use
15 of any voting system or device leased, installed or used by a person or
16 firm in connection with a federal, state or county election in this state,
17 or both, if either of the following occurs:

18 1. The person or firm installs, uses or ~~permits~~ **ALLOWS** the use of a
19 voting system or device that is not certified for use or approved for
20 experimental use in this state pursuant to this section.

21 2. The person or firm uses or includes hardware, firmware or
22 software in a version that is not certified for use or approved for
23 experimental use pursuant to this section in a certified voting system or
24 device.

25 E. The governing body of a city or town or the board of directors
26 of an agricultural improvement district may adopt for use in elections any
27 kind of electronic voting system or vote tabulating device approved by the
28 secretary of state, and thereupon the voting or marking device and vote
29 tabulating equipment may be used at any or all elections for voting,
30 recording and counting votes cast at an election.

31 F. The secretary of state or the governing body may provide for the
32 experimental use of a voting system or device without a final adoption of
33 the voting system or device, and its use at the election is as valid as if
34 the machines had been permanently adopted.

35 G. After consultation with the committee prescribed by subsection A
36 of this section, the secretary of state may approve for emergency use an
37 upgrade or modification to a voting system or device that is certified for
38 use in this state if the governing body establishes in an open meeting
39 that the election cannot be conducted without the emergency certification.
40 Any emergency certification shall be limited to ~~no~~ **NOT** more than six
41 months. At the conclusion of the certification period the voting system
42 or device shall be decertified and unavailable for future use unless
43 certified in accordance with this section.

1 Sec. 13. Section 20-466.04, Arizona Revised Statutes, is amended to
2 read:

3 20-466.04. Referrals to other licensing agencies; definition

4 A. The director shall forward to the appropriate licensing agency
5 the name of any person who is convicted of, enjoined from or penalized for
6 violating section 20-463 or 23-1028. The director shall include any
7 information the director believes is material to the case.

8 B. A person whose name is forwarded pursuant to subsection A of
9 this section has no cause of action against the director and the
10 department's employees and agents pursuant to any administrative appeal or
11 judicial review.

12 C. For the purposes of this section, "licensing agency" means any
13 state board, commission, department or agency that issues any occupational
14 or professional license, permit or registration and the ~~state bar of~~
15 ~~Arizona~~ SUPREME COURT.

16 Sec. 14. Section 20-1097, Arizona Revised Statutes, is amended to
17 read:

18 20-1097. Definitions

19 In this article, unless the context otherwise requires:

20 1. "Administrative fee" means a fixed amount paid by a corporation
21 on a periodic basis to a contracted attorney for the contracted attorney's
22 overhead and administrative costs.

23 2. Pay or reimburse for specific legal services does not include
24 payment of an administrative fee only.

25 3. "Prepaid legal insurance contract" means a contractual
26 obligation to pay or reimburse for specific legal services rendered in the
27 normal and ordinary course of business by an ~~active member of the state~~
28 ~~bar of Arizona~~ ATTORNEY WHO IS LICENSED IN THIS STATE.

29 4. "Prepaid legal insurance corporation" or "corporation" means any
30 corporation organized for the purpose of selling prepaid legal insurance
31 contracts in this state or any insurer licensed pursuant to this title.

32 Sec. 15. Section 20-1097.01, Arizona Revised Statutes, is amended
33 to read:

34 20-1097.01. Exceptions

35 This article does not apply to:

36 1. Any lawyer referral services ~~authorized by the state bar of~~
37 ~~Arizona~~.

38 2. Retainer contracts made by attorneys-at-law with individual or
39 group clients with fees based on estimates of the nature and the amount of
40 the legal services to be provided.

41 3. The furnishing of legal assistance by employee organizations to
42 their members in matters relating to employment or occupations.

43 4. The furnishing of legal assistance to members or dependents of
44 churches, cooperatives, educational institutions, credit unions, labor
45 unions or other organizations of employees in which the organization

1 contracts directly with a lawyer or a law firm for the provision of legal
2 services.

3 Sec. 16. Section 23-108.02, Arizona Revised Statutes, is amended to
4 read:

5 23-108.02. Administrative law judges

6 A. The commission shall appoint administrative law judges of the
7 commission who shall be ~~members of the Arizona state bar~~ LICENSED
8 ATTORNEYS IN THIS STATE.

9 B. The annual compensation of the chief administrative law judge
10 and of the administrative law judges shall be as determined pursuant to
11 section 38-611.

12 Sec. 17. Section 26-1006, Arizona Revised Statutes, is amended to
13 read:

14 26-1006. State judge advocate; staff judge advocates

15 A. The adjutant general, with approval of the governor, shall
16 appoint an officer of the national guard as state judge advocate, who
17 shall be a ~~member~~ LICENSED ATTORNEY in good standing ~~of the~~ IN THIS state
18 ~~bar of Arizona~~ and shall have been a ~~member of the~~ LICENSED ATTORNEY IN
19 THIS state ~~bar of Arizona~~ and a member of the national guard for at least
20 five years immediately preceding the appointment.

21 B. The adjutant general may appoint as many assistant state judge
22 advocates as deemed necessary who shall be officers of the national guard
23 and ~~members~~ LICENSED ATTORNEYS in good standing ~~of the~~ IN THIS state ~~bar~~
24 ~~of Arizona~~.

25 C. The state judge advocate or ~~his~~ THE STATE JUDGE ADVOCATE'S
26 assistants shall make frequent inspections in the field in supervision of
27 the administration of military justice.

28 D. Convening authorities at all times shall communicate directly
29 with their staff judge advocates in matters relating to the administration
30 of military justice. The staff judge advocate of any command is entitled
31 to communicate directly with the staff judge advocate of a superior or
32 subordinate command or with the state judge advocate.

33 E. No person who has acted as a member, military judge, trial
34 counsel, assistant trial counsel, defense counsel, assistant defense
35 counsel or investigating officer, or who has been a witness for either the
36 prosecution or defense, in any case may later act as staff judge advocate
37 to any reviewing authority in the same case.

38 Sec. 18. Section 26-1026, Arizona Revised Statutes, is amended to
39 read:

40 26-1026. Military judge of a general or special court-martial

41 A. A military judge shall be detailed to each general
42 court-martial. Subject to rules of the adjutant general, a military judge
43 may be detailed to any special court-martial. The adjutant general shall
44 adopt rules providing for the manner in which military judges are detailed
45 for the courts-martial and for the persons who are authorized to detail

1 military judges for the courts-martial. The military judge shall preside
2 over each open session of the court-martial to which the military judge
3 has been detailed.

4 B. A military judge must be a ~~member~~ LICENSED ATTORNEY in good
5 standing ~~of the~~ IN THIS state ~~bar of Arizona~~ and a current or former
6 member of the United States armed forces or the armed forces of this state
7 who is appointed as a military judge by the governor after certification
8 by the state judge advocate as having met the qualifications.

9 C. Before appointment by the governor, a prospective military judge
10 shall submit a full set of fingerprints to the governor for the purpose of
11 obtaining a state and federal criminal records check pursuant to section
12 41-1750 and Public Law 92-544. The department of public safety may
13 exchange this fingerprint data with the federal bureau of investigation.

14 D. The military judge of a general court-martial shall be
15 designated by the state judge advocate, or the state judge advocate's
16 designee, for detail in accordance with rules adopted under subsection A
17 of this section. Unless the court-martial was convened by the governor,
18 neither the convening authority nor any member of the convening
19 authority's staff shall prepare or review any report concerning the
20 effectiveness, fitness or efficiency of the military judge detailed, which
21 relates to the military judge's performance of duty as a military judge.
22 A commissioned officer who is certified to be qualified for duty as a
23 military judge of a general court-martial may perform duties of a judicial
24 or nonjudicial nature other than those relating to the officer's primary
25 duty as a military judge of a general court-martial if the duties are
26 assigned to the officer by or with the approval of the state judge
27 advocate or the state judge advocate's designee.

28 E. A person is not eligible to act as military judge in a case if
29 the person is the accuser or a witness or has acted as an investigating
30 officer or a counsel in the same case.

31 F. The military judge of a court-martial may not consult with the
32 members of the court except in the presence of the accused, trial counsel
33 and defense counsel, and the military judge may not vote with the members
34 of the court.

35 Sec. 19. Section 28-4451, Arizona Revised Statutes, is amended to
36 read:

37 28-4451. Product liability; warranty obligations; audits;
38 vehicle exports; used vehicle recall obligations;
39 definition

40 A. Each manufacturer shall file with the director a copy of the
41 delivery and preparation obligations required to be performed by a new
42 motor vehicle dealer before delivery of new motor vehicles to buyers.
43 These delivery and preparation obligations constitute the new motor
44 vehicle dealer's only responsibility for the product liability as between
45 the new motor vehicle dealers and the manufacturer. The new motor vehicle

1 dealer shall furnish the buyer of a new motor vehicle with a signed copy
2 of the manufacturer's or distributor's delivery and preparation
3 requirements indicating that all of the requirements have in fact been
4 performed.

5 B. Any mechanical, body or parts defects arising from any express
6 or implied warranties of the manufacturer constitute the manufacturer's
7 product or warranty liability.

8 C. The manufacturer or distributor shall compensate an authorized
9 new motor vehicle dealer who performs work to rectify the manufacturer's
10 or distributor's warranty obligations, recall obligations or delivery and
11 preparation obligations.

12 D. The compensation that the manufacturer or distributor pays to a
13 new motor vehicle dealer for diagnostic work, repair service and labor
14 shall be fair and reasonable and, at the option of the new motor vehicle
15 dealer, may be determined pursuant to subsection E of this section. Time
16 allowances for the diagnosis and performance of warranty work and service
17 shall be reasonable and adequate for the work or services to be performed.
18 The compensation that the manufacturer or distributor pays to the new
19 motor vehicle dealer for parts used in warranty or recall related service
20 shall be fair and reasonable and, at the option of the new motor vehicle
21 dealer, may be determined pursuant to subsection E of this section.

22 E. The new motor vehicle dealer may declare the retail rates that
23 it customarily charges for parts or labor or both parts and labor by
24 submitting to the manufacturer or distributor the lesser of one hundred
25 sequential, nonwarranty, customer-paid service repair orders or ninety
26 consecutive days of customer-paid service repair orders for warranty-like
27 repairs made not more than one hundred eighty days before the submission.
28 The new motor vehicle dealer's retail labor rate shall be determined by
29 dividing the amount of the dealer's total labor sales contained in the
30 submitted repair orders by the total number of labor hours that generated
31 those sales. The new motor vehicle dealer's retail rate for parts shall
32 be a percentage determined by dividing the total sales for parts in the
33 submitted repair orders by the new motor vehicle dealer's total cost for
34 those parts, minus one, multiplied by one hundred to produce a percentage.
35 Declared rates are presumed to be fair and reasonable except that a
36 manufacturer or distributor, within thirty days after receiving the new
37 motor vehicle dealer's submission, may rebut the presumption by reasonably
38 substantiating that the rate or rates are inaccurate or unreasonable
39 compared to other similarly situated same line-make new motor vehicle
40 dealers in this state. The new motor vehicle dealer's declared parts,
41 labor or both parts and labor rates shall go into effect thirty days
42 following the manufacturer's or distributor's receipt of the declaration,
43 unless the manufacturer or distributor timely sends a rebuttal of the
44 declared rate or rates to the new motor vehicle dealer. If any of the
45 declared rates are rebutted, the manufacturer or distributor shall propose

1 an adjustment of the rebutted rate or rates within thirty days after
2 receiving the new motor vehicle dealer's submission. If the new motor
3 vehicle dealer does not agree with the proposed adjusted rate or rates, it
4 may file a protest with the director within thirty days after receipt of
5 the manufacturer's or distributor's proposal. If a protest is timely
6 filed, the director shall inform the manufacturer or distributor that a
7 timely protest has been filed and that a hearing will be held on the
8 protest if any available manufacturer or distributor mediation opportunity
9 has been used and was unsuccessful in reaching an agreement between the
10 parties.

11 F. In calculating the retail rate or rates that a new motor vehicle
12 dealer customarily charges for parts or labor, the following work may not
13 be included in the calculation:

14 1. Repairs for manufacturer or distributor special events, specials
15 or promotional discounts for retail customer repairs.

16 2. Parts sold at wholesale.

17 3. Engine assemblies and transmission assemblies, if the new motor
18 vehicle dealer agrees to be compensated for those assemblies with a
19 handling charge instead of a retail parts markup.

20 4. Routine maintenance not covered under any retail customer
21 warranty, such as fluids, filters and belts not provided in the course of
22 repairs.

23 5. Nuts, bolts, fasteners and similar items that do not have
24 individual part numbers.

25 6. Vehicle reconditioning.

26 G. The manufacturer, factory branch, distributor or distributor
27 branch may reasonably and periodically audit a new motor vehicle dealer to
28 determine the validity of paid claims for dealer compensation or any
29 charge-backs for warranty parts or service compensation. Audits shall
30 only be for the twelve month period immediately following the date of the
31 payment. This limitation does not apply if the manufacturer, factory
32 branch, distributor or distributor branch reasonably suspects fraud. As a
33 result of an audit that is authorized by this subsection, the manufacturer
34 or distributor has the right to charge back to the new motor vehicle
35 dealer the amount of any previously paid claim after the new motor vehicle
36 dealer has had notice and an opportunity to participate in any available
37 manufacturer or distributor mediation processes and all legal appeals have
38 been exhausted if mediation failed to result in an agreement.

39 H. The manufacturer, factory branch, distributor or distributor
40 branch shall reserve the right to reasonable periodic audits to determine
41 the validity of paid claims for dealer compensation or any charge-backs
42 for consumer or dealer incentives. Audits shall only be for a one year
43 period immediately following the date of the payment. This limitation
44 does not apply if the manufacturer, factory branch, distributor or
45 distributor branch reasonably suspects fraud. As a result of an audit

1 authorized by this subsection, the manufacturer or distributor has the
2 right to charge back to the new motor vehicle dealer the amount of any
3 previously paid claim after the new motor vehicle dealer has had notice
4 and an opportunity to participate in any available manufacturer or
5 distributor mediation processes and all legal appeals have been exhausted
6 if mediation failed to result in an agreement.

7 I. All claims by new motor vehicle dealers under this section for
8 labor and parts and all claims for compensation relative to any sales
9 incentive programs shall be paid within thirty days after approval by the
10 manufacturer or distributor subject to the manufacturer's or distributor's
11 right to audit the claims provided in subsection G or H of this section.
12 All claims shall be either approved or disapproved within thirty days
13 after receipt on forms and in the manner specified by the manufacturer or
14 distributor. Any claim not disapproved in writing or by means of
15 electronic transmission within thirty days after receipt is deemed
16 approved, and payment must be made within thirty days after approval.

17 J. If a manufacturer or distributor furnishes a part or component
18 to a new motor vehicle dealer, at no cost, to use in performing repairs
19 under a recall, campaign service action or warranty repair, the
20 manufacturer or distributor shall compensate the dealer for the part or
21 component in the same manner as warranty parts compensation under this
22 section by compensating the dealer the retail parts rate on the wholesale
23 cost for the part or component as listed in the manufacturer's or
24 distributor's price schedule, minus the wholesale cost for the part or
25 component.

26 K. A manufacturer or distributor may not require a new motor
27 vehicle dealer to establish the retail rates customarily charged by the
28 dealer for parts or labor by an unduly burdensome or time-consuming method
29 or by requiring information that is unduly burdensome or time-consuming to
30 provide calculations, including part-by-part or transaction-by-transaction
31 calculations. A new motor vehicle dealer may not declare any new retail
32 rate more than once in any twelve-month period. A manufacturer or
33 distributor may use the repair orders submitted by a new motor vehicle
34 dealer under subsection E of this section to validate any or all of a new
35 motor vehicle dealer's current warranty reimbursement rates or require a
36 new motor vehicle dealer to submit, not more than once every twelve
37 months, repair orders pursuant to this section to validate the new motor
38 vehicle dealer's retail rate or rates. If a manufacturer or distributor
39 finds that any of a new motor vehicle dealer's retail rates have declined,
40 the manufacturer or distributor may prospectively reduce the respective
41 warranty reimbursement rate.

42 L. If the new motor vehicle dealer has otherwise properly submitted
43 the claim pursuant to the manufacturer's or distributor's warranty or
44 incentive program guidelines, a manufacturer or distributor may not deny a
45 claim by a new motor vehicle dealer for reimbursement of any warranty

1 parts or service compensation or any consumer or dealer incentive
2 compensation based solely on a new motor vehicle dealer's incidental
3 failure to comply with a specific claim processing requirement that does
4 not put into question the legitimacy of the claim. If a claim is rejected
5 for such an incidental requirement the new motor vehicle dealer may
6 correct or complete and resubmit a previously submitted warranty or
7 incentive claim for a period of up to sixty days following the new motor
8 vehicle dealer's receipt of first notice of the failure from the
9 manufacturer or distributor. A manufacturer or distributor is not
10 required to approve any such warranty or incentive claim if all claim
11 processing requirements are not complied with by the new motor vehicle
12 dealer within the time periods prescribed by this section.

13 M. If a new motor vehicle dealer sells or leases a vehicle to a
14 customer who exports the vehicle to a foreign country, unless the
15 manufacturer, distributor or importer proves that the new motor vehicle
16 dealer knew or reasonably should have known that the vehicle would be
17 exported, a manufacturer, distributor or importer shall not do any of the
18 following:

19 1. Refuse to sell, allocate or deliver new motor vehicles to the
20 new motor vehicle dealer.

21 2. Charge back to or withhold payments or other things of value
22 from the new motor vehicle dealer that the new motor vehicle dealer
23 otherwise would be eligible for under an incentive program or contest.

24 3. Prevent a new motor vehicle dealer from participating in any
25 sales promotion or program.

26 4. Take an adverse action against a new motor vehicle dealer,
27 including reducing vehicle allocations or terminating or threatening to
28 terminate a dealer.

29 N. There is a rebuttable presumption that the new motor vehicle
30 dealer described in subsection M of this section did not know or should
31 not have reasonably known that the vehicle described in subsection M of
32 this section would be exported. The presumption may be rebutted by a
33 preponderance of the evidence that the new motor vehicle dealer knew or
34 should have reasonably known that the vehicle was to be exported.

35 O. If a timely protest is filed under subsection E of this section,
36 the director shall:

37 1. Enter an order fixing the time and place of a hearing on the
38 protest. The hearing shall be held within seventy-five days after the
39 date of the order.

40 2. Send by certified mail a copy of the order to the dealer and the
41 manufacturer.

42 3. Appoint a ~~member of the Arizona state bar~~ LICENSED ATTORNEY IN
43 THIS STATE who shall be designated as an administrative law judge to
44 conduct the hearing and who shall be compensated under a contractual
45 relationship.

1 P. Prehearing discovery shall be conducted pursuant to the Arizona
2 rules of civil procedure.

3 Q. Evidence that would be admissible under the issues in such an
4 action in a state or federal court is admissible in a hearing held by the
5 administrative law judge. The administrative law judge shall reasonably
6 apportion all costs between the parties, including compensation for the
7 administrative law judge's services. The administrative law judge may:

8 1. Issue subpoenas.

9 2. Administer oaths.

10 3. Compel the attendance of witnesses and the production of books,
11 papers, documents and all other evidence.

12 4. Apply to the superior court in the county in which the hearing
13 is held for a court order enforcing this section.

14 R. A transcript of the testimony of all witnesses taken at the
15 hearing shall be made and preserved. Within forty-five days after the
16 hearing the administrative law judge shall make written findings of fact
17 and conclusions of law and enter a final order.

18 S. A party to the hearing before the administrative law judge may
19 appeal pursuant to title 12, chapter 7, article 6. An appeal of a
20 decision of an administrative law judge has preference over other civil
21 matters and shall be heard at the earliest practicable date.

22 T. As a condition to the appeal, the appealing party shall file a
23 cash bond, supersedeas bond or its equivalent with the director. The bond
24 shall be sufficient in amount to cover the damages incurred by the
25 prevailing party, but the amount of the bond may not exceed the lesser of
26 fifty thousand dollars or ten percent of the appealing party's net worth.
27 The appealing party may file alternatives to cash such as certificates of
28 deposit purchased from a financial institution licensed to do business in
29 this state pursuant to title 6 or bonds of the United States government.

30 U. A manufacturer shall compensate its new motor vehicle dealers
31 for all labor and parts that are required to perform recall repairs. The
32 compensation shall be fair and reasonable and, at the option of the new
33 motor vehicle dealer, may be determined pursuant to subsection E of this
34 section. If parts or a remedy is not reasonably available to perform a
35 recall service or repair on a used motor vehicle held for sale by the new
36 motor vehicle dealer that is authorized to sell new motor vehicles of the
37 same line-make of the recalled motor vehicle within thirty days after the
38 manufacturer issues a stop-sale or do not drive notification on the used
39 motor vehicle, the manufacturer shall compensate the new motor vehicle
40 dealer at a rate of at least 1.5 percent of the value of the used motor
41 vehicle per month, or prorated portion of a month when applicable, until a
42 date when the recall parts or A remedy ~~are~~ IS delivered to the dealer or
43 when the vehicle is no longer in the new motor vehicle dealer's inventory.

1 V. The value of the used motor vehicle that is subject to a
2 stop-sale or do not drive notification shall be the average trade-in value
3 for used vehicles as determined by reference to a nationally recognized
4 publication that reports on used motor vehicle values.

5 W. It is a violation of this section for a manufacturer to reduce
6 the amount of compensation that is otherwise owed to a new motor vehicle
7 dealer, whether through a chargeback, removal from an incentive program,
8 reduction in amount owed under an incentive program or any other means,
9 because the new motor vehicle dealer has submitted a claim for
10 compensation under subsection U of this section or was otherwise
11 compensated for a vehicle that is subject to a recall if a stop-sale or do
12 not drive notification has been issued.

13 X. All reimbursement claims that are made by a new motor vehicle
14 dealer pursuant to subsection U of this section for recall remedies or
15 repairs or for compensation if no part or repair is reasonably available
16 and the used motor vehicle is subject to a stop-sale or do not drive
17 notification shall be made in compliance with at least one of the
18 following:

19 1. In a like manner as a warranty reimbursement claim under this
20 section.

21 2. At a rate set forth in a national compensation program that the
22 manufacturer manages if the compensation provided to the new motor vehicle
23 dealer equals or exceeds the reimbursement level for a claim that is
24 determined as a warranty reimbursement claim pursuant to paragraph 1 of
25 this subsection.

26 3. At the level set forth in the national compensation program
27 without further consideration if the manufacturer and new motor vehicle
28 dealer agree.

29 Y. The manufacturer shall approve or disapprove a claim within
30 thirty days after it is submitted to the manufacturer in the manner and on
31 the forms the manufacturer reasonably prescribes. The manufacturer shall
32 pay a claim within thirty days after approval of the claim. Any claim
33 that is not specifically disapproved in writing by the manufacturer within
34 thirty days following the manufacturer's receipt of the claim is deemed
35 approved.

36 Z. Subsections U through Y of this section apply only to used motor
37 vehicles that are subject to safety or emissions recalls pursuant to and
38 recalled in accordance with federal law and for which a stop-sale or do
39 not drive notification has been issued and to motor vehicle manufacturers
40 and new motor vehicle dealers with used motor vehicles of the line-make
41 that the new motor vehicle dealer is franchised to sell or on which the
42 new motor vehicle dealer is authorized to perform recall repairs.

43 AA. Subsections U through Y of this section apply only to new motor
44 vehicle dealers holding an affected used motor vehicle for sale that was
45 any of the following:

1 1. In inventory at the time the stop-sale or do not drive
2 notification was issued.

3 2. Taken in the used motor vehicle inventory of the new motor
4 vehicle dealer as a consumer trade-in incident to the purchase of a new
5 motor vehicle from the new motor vehicle dealer after the stop-sale or do
6 not drive notification was issued.

7 3. Properly taken in the used motor vehicle inventory of the new
8 motor vehicle dealer as a lease return vehicle returned to the new motor
9 vehicle dealer in accordance with the terms of the applicable contract.

10 BB. For the purposes of this section, "stop-sale or do not drive
11 notification" means a notification that is issued by a manufacturer to
12 some or all of its franchised dealerships and that states that certain
13 used motor vehicles in the dealerships' inventories shall not be sold or
14 leased, either at retail or wholesale, due to a federal safety defect or
15 noncompliance recall or a federal or California emissions recall.

16 Sec. 20. Section 28-4456, Arizona Revised Statutes, is amended to
17 read:

18 28-4456. Hearing on objection; appeal

19 A. If a timely objection has been filed and, if the objection is to
20 the establishment of a new motor vehicle dealership, the objection meets
21 both of the reasons prescribed by section 28-4454, subsection B, the
22 director shall:

23 1. Enter an order fixing the time and place of a hearing on the
24 objection. The hearing shall be held within seventy-five days after the
25 date of the order.

26 2. Send by certified mail, ~~with~~ return receipt requested, a copy of
27 the order to the same persons entitled to receive a copy of the notice
28 provided for in section 28-4453.

29 3. Appoint a ~~member of the Arizona~~ LICENSED ATTORNEY IN THIS state
30 ~~bar~~ who shall be designated as an administrative law judge to conduct the
31 hearing and who shall be compensated under a contractual relationship.

32 B. Prehearing discovery shall be conducted pursuant to the Arizona
33 rules of civil procedure.

34 C. At the hearing the franchisor has the burden of proof to
35 establish that good cause exists to terminate or not renew the
36 franchise. If there is an objection to the establishment of a new motor
37 vehicle dealership, the administrative law judge shall determine that good
38 cause does or does not exist to establish the proposed dealership.

39 D. Evidence that would be admissible under the issues in such an
40 action in a state or federal court is admissible in a hearing held by the
41 administrative law judge. The administrative law judge shall reasonably
42 apportion all costs between the parties, including compensation for the
43 administrative law judge's services.

44 E. The administrative law judge may:

45 1. Issue subpoenas.

1 2. Administer oaths.

2 3. Compel the attendance of witnesses and the production of books,
3 papers, documents and all other evidence.

4 4. Apply to the superior court in the county in which the hearing
5 is held for a court order enforcing this article.

6 F. A transcript of the testimony of all witnesses taken at the
7 hearing shall be made and preserved. Within forty-five days after the
8 hearing the administrative law judge shall make written findings of fact
9 and conclusions and enter a final order.

10 G. A party to the hearing before the administrative law judge may
11 appeal pursuant to title 12, chapter 7, article 6. An appeal of a
12 decision of an administrative law judge has preference over other civil
13 matters and shall be heard at the earliest practicable date.

14 H. As a condition to the appeal, the appealing party shall file a
15 cash bond, supersedeas bond or its equivalent with the director. The bond
16 shall be sufficient in amount to cover the damages incurred by the
17 prevailing party, but the amount of the bond shall not exceed the lesser
18 of ~~fifty thousand dollars~~ \$50,000 or ten ~~per cent~~ PERCENT of the appealing
19 party's net worth. The party may file alternatives to cash such as
20 certificates of deposit purchased from a financial institution licensed to
21 do business in this state or bonds of the United States government.

22 Sec. 21. Section 32-1156, Arizona Revised Statutes, is amended to
23 read:

24 32-1156. Hearings

25 A. Title 41, chapter 6, article 10 applies to hearings under this
26 chapter.

27 B. In a hearing or rehearing conducted pursuant to this section a
28 company may be represented by an officer or employee who is not a ~~member~~
29 ~~of the~~ LICENSED ATTORNEY IN THIS state ~~bar~~ if both:

30 1. The company has specifically authorized the officer or employee
31 to represent it.

32 2. The representation is not the officer's or employee's primary
33 duty to the company but is secondary to the officer's or employee's duties
34 relating to the management or operation of the company.

35 Sec. 22. Section 32-2199.01, Arizona Revised Statutes, is amended
36 to read:

37 32-2199.01. Hearing; rights and procedures

38 A. For a dispute between an owner and a condominium association or
39 planned community association that is regulated pursuant to title 33,
40 chapter 9 or 16, the owner or association may petition the department for
41 a hearing concerning violations of condominium documents or planned
42 community documents or violations of the statutes that regulate
43 condominiums or planned communities. The petitioner shall file a petition
44 with the department and pay a filing fee in an amount to be established by
45 the commissioner. The filing fee shall be deposited in the condominium

1 and planned community hearing office fund established by section
2 32-2199.05. On dismissal of a petition at the request of the petitioner
3 before a hearing is scheduled or by stipulation of the parties before a
4 hearing is scheduled, the filing fee shall be refunded to the petitioner.
5 The department does not have jurisdiction to hear:

6 1. Any dispute among or between owners to which the association is
7 not a party.

8 2. Any dispute between an owner and any person, firm, partnership,
9 corporation, association or other organization that is engaged in the
10 business of designing, constructing or selling a condominium as defined in
11 section 33-1202 or any property or improvements within a planned community
12 as defined in section 33-1802, including any person, firm, partnership,
13 corporation, association or other organization licensed pursuant to this
14 chapter, arising out of or related to the design, construction, condition
15 or sale of the condominium or any property or improvements within a
16 planned community.

17 B. The petition shall be in writing on a form approved by the
18 department, shall list the complaints and shall be signed by or on behalf
19 of the persons filing and include their addresses, stating that a hearing
20 is desired, and shall be filed with the department.

21 C. On receipt of the petition and the filing fee the department
22 shall mail by certified mail a copy of the petition along with notice to
23 the named respondent that a response is required within twenty days after
24 mailing of the petition showing cause, if any, why the petition should be
25 dismissed.

26 D. After receiving the response, the commissioner or the
27 commissioner's designee shall promptly review the petition for hearing
28 and, if justified, refer the petition to the office of administrative
29 hearings. The commissioner may dismiss a petition for hearing if it
30 appears to the commissioner's satisfaction that the disputed issue or
31 issues have been resolved by the parties.

32 E. Failure of the respondent to answer is deemed an admission of
33 the allegations made in the petition, and the commissioner shall issue a
34 default decision.

35 F. Informal disposition may be made of any contested case.

36 G. Either party or the party's authorized agent may inspect any
37 file of the department that pertains to the hearing, if the authorization
38 is filed in writing with the department.

39 H. At a hearing conducted pursuant to this section, a corporation
40 may be represented by a corporate officer, employee or contractor of the
41 corporation who is not a ~~member of the~~ LICENSED ATTORNEY IN THIS state ~~bar~~
42 if:

43 1. The corporation has specifically authorized the officer,
44 employee or contractor of the corporation to represent it.

1 2. The representation is not the officer's, employee's or
2 contractor of the corporation's primary duty to the corporation but is
3 secondary or incidental to the officer's, employee's or contractor of the
4 corporation's, limited liability company's, limited liability
5 partnership's, sole proprietor's or other lawfully formed and operating
6 entity's duties relating to the management or operation of the
7 corporation.

8 Sec. 23. Section 32-2199.04, Arizona Revised Statutes, is amended
9 to read:

10 32-2199.04. Rehearing; appeal

11 A. A person aggrieved by a decision of the administrative law judge
12 may apply for a rehearing by filing with the commissioner a petition in
13 writing pursuant to section 41-1092.09. Within ten days after filing such
14 petition, the commissioner shall serve notice of the request on the other
15 party by mailing a copy of the petition in the manner prescribed in
16 section 32-2199.01 for notice of hearing.

17 B. The filing of a petition for rehearing temporarily suspends the
18 operation of the administrative law judge's action. If the petition is
19 granted, the administrative law judge's action is suspended pending the
20 decision on the rehearing.

21 C. In the order granting or denying a rehearing, the commissioner
22 shall include a statement of the particular grounds and reasons for the
23 commissioner's action on the petition and shall promptly mail a copy of
24 the order to the parties who have appeared in support of or in opposition
25 to the petition for rehearing.

26 D. In a rehearing conducted pursuant to this section, a corporation
27 may be represented by a corporate officer or employee who is not a ~~member~~
28 ~~of the~~ LICENSED ATTORNEY IN THIS state ~~bar~~ if:

29 1. The corporation has specifically authorized such officer or
30 employee to represent it.

31 2. Such representation is not the officer's or employee's primary
32 duty to the corporation but is secondary or incidental to such officer's
33 or employee's duties relating to the management or operation of the
34 corporation.

35 Sec. 24. Section 33-741, Arizona Revised Statutes, is amended to
36 read:

37 33-741. Definitions

38 In this article, unless the context otherwise requires:

39 1. "Account servicing agent" means a joint agent of seller and
40 purchaser, appointed under the contract or under a separate agreement
41 executed by the seller and the purchaser, to hold documents and collect
42 monies due under the contract, who does business under the laws of this
43 state as a bank, trust company, escrow agent, savings and loan
44 association, insurance company or real estate broker, or who is licensed,
45 chartered or regulated by the federal deposit insurance corporation or the

1 comptroller of the currency, or who is a ~~member of the~~ LICENSED ATTORNEY
2 IN THIS state ~~bar of Arizona~~.

3 2. "Contract" means a contract for conveyance of real property, a
4 contract for deed, a contract to convey, an agreement for sale or any
5 similar contract through which a seller has conveyed to a purchaser
6 equitable title in property and under which the seller is obligated to
7 convey to the purchaser the remainder of the seller's title in the
8 property, whether legal or equitable, on payment in full of all monies due
9 under the contract. This article does not apply to purchase contracts and
10 receipts, escrow instructions or similar executory contracts ~~which~~ THAT
11 are intended to control the rights and obligations of the parties to
12 executory contracts pending the closing of a sale or purchase transaction.

13 3. "Monies due under the contract" means:

14 (a) Any principal and interest payments ~~which~~ THAT are currently
15 due and payable to the seller.

16 (b) Any principal and interest payments ~~which~~ THAT are currently
17 due and payable to other persons who hold existing liens and encumbrances
18 on the property, the unpaid principal portion of which constitutes a
19 portion of the purchase price, as stated in the contract, if the principal
20 and interest payments were paid by the seller pursuant to the terms of the
21 contract and to protect ~~his~~ THE SELLER'S interest in the property.

22 (c) Any delinquent taxes and assessments, including interest and
23 penalty, due and payable to any governmental entity authorized to impose
24 liens on the property ~~which~~ THAT are the purchaser's obligations under the
25 contract, if the taxes and assessments were paid by the seller pursuant to
26 the terms of the contract and to protect ~~his~~ THE SELLER'S interest in the
27 property.

28 (d) Any unpaid premiums for any policy or policies of insurance
29 ~~which~~ THAT are the obligation of the purchaser to maintain under the
30 contract, if the premiums were paid by the seller pursuant to the terms of
31 the contract and to protect ~~his~~ THE SELLER'S interest in the property.

32 4. "Payoff deed" means the deed that the seller is obligated to
33 deliver to the purchaser on payment in full of all monies due under the
34 contract to convey to the purchaser the remainder of the seller's title in
35 the property, whether legal or equitable, as prescribed by the terms of
36 the contract.

37 5. "Property" means the real property described in the contract and
38 any personal property included under the contract.

39 6. "Purchaser" means the person or any successor in interest to the
40 person who has contracted to purchase the seller's title to the property
41 ~~which~~ THAT is the subject of the contract.

42 7. "Seller" means the person or any successor in interest to the
43 person who has contracted to convey his title to the property ~~which~~ THAT
44 is the subject of the contract.

1 Sec. 25. Section 33-803, Arizona Revised Statutes, is amended to
2 read:

3 33-803. Trustee of trust deed; qualifications

4 A. Except as provided in subsection B **OF THIS SECTION**, the trustee
5 of a trust deed shall be:

6 1. An association or corporation doing business under the laws of
7 this state as a bank, trust company, savings and loan association, credit
8 union, insurance company, escrow agent or consumer lender.

9 2. A person who is a ~~member of the~~ **LICENSED ATTORNEY IN THIS** state
10 ~~bar of Arizona~~.

11 3. A person who is a licensed real estate broker under the laws of
12 this state.

13 4. A person who is a licensed insurance producer under the laws of
14 this state.

15 5. An association or corporation that is licensed, chartered or
16 regulated by the federal deposit insurance corporation, the comptroller of
17 the currency, the federal home loan bank, the national credit union
18 administration, the farm credit administration, the federal reserve board
19 or any successors.

20 6. The parent corporation of any association or corporation
21 referred to in this subsection or any corporation all the stock of which
22 is owned by or held solely for the benefit of any such association or
23 corporation referred to in this subsection.

24 B. An individual trustee of a trust deed who qualifies under
25 subsection A **OF THIS SECTION** shall not be the beneficiary of the trust,
26 but such restriction shall not preclude a corporate or association trustee
27 that qualifies under subsection A **OF THIS SECTION** and while acting in good
28 faith from being the beneficiary, or after appointment from acquiring the
29 interest of the beneficiary by succession, conveyance, grant, descent or
30 devise.

31 C. A trustee of a trust deed who qualifies under subsection A **OF**
32 **THIS SECTION** shall not lend or delegate the trustee's name or corporate
33 capacity to any individual or entity that does not qualify as a trustee of
34 a trust deed. An individual, company, association or corporation shall
35 not circumvent the requirements of subsection A **OF THIS SECTION** by acting
36 in concert with a nonqualifying trustee.

37 Sec. 26. Section 40-243, Arizona Revised Statutes, is amended to
38 read:

39 40-243. Conduct of hearings and investigations;
40 representation by corporate officer or employee;
41 arbitration

42 A. All hearings and investigations before the commission or a
43 commissioner shall be governed by this article, ~~and~~ and by rules of practice
44 and procedure adopted by the commission. Neither the commission nor a
45 commissioner shall be bound by technical rules of evidence, and no

1 informality in any proceeding or in the manner of taking testimony before
2 the commission or a commissioner shall invalidate any order, decision,
3 rule or regulation made, approved or confirmed by the commission.

4 B. In a hearing or rehearing conducted pursuant to this article, a
5 public service corporation may be represented by a corporate officer or
6 employee who is not a ~~member of the~~ LICENSED ATTORNEY IN THIS state ~~bar~~
7 if:

8 1. The corporation has specifically authorized the officer or
9 employee to represent it.

10 2. The representation is not the officer's or employee's primary
11 duty for the corporation but is secondary or incidental to ~~such~~ THE
12 officer's or employee's duties relating to the management or operation of
13 the corporation.

14 C. The commission may adopt or administer arbitration procedures to
15 resolve complaints or disputes brought by a party against a
16 telecommunications company, except that the commission shall not subject a
17 wireless provider to arbitration unless the wireless provider and customer
18 consent in writing. This section does not prohibit the commission from
19 arbitrating disputes or complaints against a wireline service provider,
20 involving telecommunications services contained in the bundle of services,
21 to the extent the commission has jurisdiction as authorized pursuant to
22 this chapter.

23 Sec. 27. Section 41-151.18, Arizona Revised Statutes, is amended to
24 read:

25 41-151.18. Arizona uniform laws commission; membership;
26 duties

27 A. The Arizona uniform laws commission is established consisting of
28 four members who are ~~members of a~~ LICENSED ATTORNEYS IN THIS state ~~bar~~
29 ~~association~~ and who are appointed by the governor. These members are in
30 addition to the members who have attained life membership in the national
31 conference of commissioners on uniform state laws. The term of office of
32 the members is six years except for lifetime members. An appointment to
33 fill a vacancy caused other than by expiration of a term is for the
34 remainder of the unexpired term.

35 B. Members of the Arizona uniform laws commission are not eligible
36 for compensation but are eligible for reimbursement of expenses pursuant
37 to title 38, chapter 4, article 2.

38 C. The Arizona uniform laws commission shall review efforts
39 nationally to enact uniform laws and recommend to the governor and the
40 legislature the adoption of uniform legislation that the commission deems
41 desirable.

42 D. The secretary of state may maintain membership on the Arizona
43 uniform laws commission. On or before October 1 of each year, the Arizona
44 uniform laws commission shall submit a letter to each member of the
45 legislature that includes a website link to the current list of the

1 uniform acts that is prepared by the national conference of commissioners
2 on uniform state laws for the purpose of informing the members of the
3 legislature about current model legislation that is available to the
4 legislators.

5 Sec. 28. Section 41-511.23, Arizona Revised Statutes, is amended to
6 read:

7 41-511.23. Conservation acquisition board; land conservation
8 fund; conservation donation and public
9 conservation accounts; livestock and crop
10 conservation fund

11 A. The conservation acquisition board is established, as an
12 advisory body to the Arizona state parks board, consisting of the
13 following members who are appointed by the governor, at least one of whom
14 shall be experienced in soliciting money from private sources:

- 15 1. One state land lessee.
- 16 2. One member who is qualified by experience in managing large
17 holdings of private land for income production or conservation purposes.
- 18 3. One member ~~of the~~ WHO IS A LICENSED ATTORNEY IN THIS state ~~bar~~
19 ~~of Arizona~~ AND who is experienced in the practice of private real estate
20 law.
- 21 4. One real estate appraiser who is licensed or certified under
22 title 32, chapter 36.
- 23 5. One member who is qualified by experience in marketing real
24 estate.
- 25 6. One representative of a conservation organization.
- 26 7. One representative of a state public educational institution.

27 B. The governor shall designate a presiding member of the
28 board. The term of office is five years except that initial members shall
29 assign themselves by lot to terms of one, two, three, two members for four
30 and two members for five years in office.

31 C. The conservation acquisition board shall:

- 32 1. Solicit donations to the conservation donation account.
- 33 2. Consult with entities such as private land trusts, state land
34 lessees, the state land department, the Arizona state parks board and
35 others to identify conservation areas that are reclassified pursuant to
36 section 37-312 and that are suitable for funding.
- 37 3. Recommend to the Arizona state parks board appropriate grants
38 from the land conservation fund.

39 D. The land conservation fund is established consisting of the
40 following accounts:

- 41 1. The conservation donation account consisting of monies received
42 as donations. Donations to the account are subject to any lawful
43 conditions the donor may prescribe, including any conditions on the use of
44 the money or reversion to the donor. Monies in the account are exempt

1 from the provisions of section 35-190 relating to lapsing of
2 appropriations.

3 2. The public conservation account consisting of monies
4 appropriated to the account from the state general fund and monies from
5 any other designated source. In fiscal years 2000-2001 through 2010-2011,
6 the sum of twenty million dollars is appropriated each fiscal year from
7 the state general fund to the public conservation account in the land
8 conservation fund for the purposes of this section. Monies in the account
9 are appropriated for the purposes of this section, and the Arizona state
10 parks board may spend monies in the account without further legislative
11 authorization. Each expenditure of monies from the public conservation
12 account for purposes listed under subsection G, paragraph 2 of this
13 section shall be matched by an equal expenditure of monies from the
14 conservation donation account or from other private or governmental
15 sources.

16 E. If the legislature fails to appropriate monies to the public
17 conservation account in a fiscal year, and if there are no other monies in
18 the public conservation account, the Arizona state parks board may either
19 grant nothing from the fund in that year or, on recommendation by the
20 conservation acquisition board, may grant available monies in the
21 conservation donation account for purposes authorized in subsection G of
22 this section.

23 F. The monies in the fund are exempt from the provisions of section
24 35-190 relating to lapsing of appropriations.

25 G. Monies in the public conservation account, with matching monies
26 from the conservation donation account, are appropriated as follows:

27 1. A total of ~~two million dollars~~ \$2,000,000 each fiscal year to
28 the livestock and crop conservation fund. The fund is established for the
29 purposes of this paragraph. Monies in the fund are continuously
30 appropriated to the Arizona department of agriculture for the exclusive
31 purpose of granting monies to individual landowners and grazing and
32 agricultural lessees of state or federal land who contract with the
33 Arizona department of agriculture to implement conservation based
34 management alternatives using livestock or crop production practices, or
35 reduce livestock or crop production, to provide wildlife habitat or other
36 public benefits that preserve open space and for administrative expenses
37 as provided by this paragraph. The department shall administer the fund.
38 On notice from the director of the department, the state treasurer shall
39 invest and divest monies in the fund as provided by section 35-313, and
40 monies earned from investment shall be credited to the fund. Monies in
41 the fund are exempt from the provisions of section 35-190 relating to
42 lapsing of appropriations. For the purposes of granting monies from the
43 fund pursuant to this paragraph, the department:

1 (a) Shall develop guidelines and criteria for implementation of
2 this program that shall include requiring as part of the application a
3 letter describing the intended use for the grant money.

4 (b) Shall give priority to lessees of state or federal land who
5 reduce livestock production to provide public benefits such as wildlife
6 species conservation or wildlife habitat.

7 (c) Shall not grant more than fifty ~~per cent~~ PERCENT of the monies
8 in the fund with respect to land in one county in any fiscal year.

9 (d) Is exempt from chapter 6 of this title with respect to adopting
10 rules, except that the department shall provide for public notice and
11 sixty days for public comment on the annual grant guidelines and criteria,
12 including public hearings.

13 (e) Shall award all grants pursuant to chapter 24, article 1 of
14 this title.

15 (f) Shall require each grantee to submit to the department, within
16 twelve months after receiving the grant, a written report detailing how
17 grant monies were used to achieve the project described in the letter
18 submitted as part of the application. If the project is longer than one
19 year, a written report shall be submitted to the department on an annual
20 basis until the project is complete.

21 (g) May use not more than ten ~~per cent~~ PERCENT of the monies
22 appropriated to the fund in any fiscal year for the purposes of
23 administering the program.

24 (h) Shall prepare a report of the disposition of monies
25 appropriated to the fund each fiscal year and provide a copy of the report
26 to the governor, to the Arizona state parks board and to any person who
27 requests a copy.

28 2. The remainder of the monies to the Arizona state parks board for
29 the exclusive purpose of granting monies to the state or any of its
30 political subdivisions, or to a nonprofit organization that is exempt from
31 federal income taxation under section 501(c) of the internal revenue code
32 and that has the purpose of preserving open space, for the following
33 purposes only:

34 (a) To purchase or lease state trust lands that are classified as
35 suitable for conservation purposes pursuant to title 37, chapter 2,
36 article 4.2. A grant of money under this subdivision to a nonprofit
37 organization is conditioned on the organization providing reasonable
38 public access to any land that is wholly or partly purchased with that
39 money. The organization shall agree with the Arizona state parks board
40 that it will impose a restrictive covenant, running with the title to the
41 land, granting such access and providing for reversion to this state of
42 any interest in the property acquired with money granted under this
43 subdivision on the failure to comply with the terms of the covenant. The
44 Arizona state parks board and the state land commissioner have standing to
45 either enforce the covenant or recover the amount of the grant from the

1 current owner, with interest from the date the grant was awarded to the
2 nonprofit organization.

3 (b) To purchase the development rights of state trust lands
4 throughout this state under the following conditions:

5 (i) The development rights shall be sold at public auction as
6 provided in section 37-258.01.

7 (ii) The lessee of the state trust land at the time the development
8 rights are purchased shall be notified of the purchase in writing.

9 (iii) The purchase of the development rights shall not result in
10 cancellation or modification of the current lease.

11 (iv) The purchase of the development rights shall not affect the
12 existing lessee's current economic use of the land and rights pursuant to
13 title 37, chapter 2, article 4.2.

14 (v) As a condition of the sale of the development rights, the
15 purchaser shall agree in perpetuity not to exercise the development rights
16 and that the land shall remain as open space.

17 (vi) The state trust land shall retain any other rights and
18 attributes as prescribed by law at the time of the purchase.

19 H. For the purposes of subsection G, paragraph 2 of this section:

20 1. The Arizona state parks board shall not grant more than fifty
21 ~~per cent~~ PERCENT of the monies with respect to land in one county in any
22 fiscal year.

23 2. A grant of money is valid for eighteen months and may be
24 extended one time for twelve additional months if a required public
25 auction has not been held.

26 3. The Arizona state parks board may adopt rules to establish
27 qualifications of nonprofit organizations for purposes of applying for and
28 receiving money granted.

29 4. The owner of property that is wholly or partly acquired with
30 money granted shall not restrict or unreasonably limit access to private
31 lands. Any sale of land with money granted shall include a condition
32 requiring that permanent access to private lands be allowed.

33 I. The Arizona state parks board shall administer the land
34 conservation fund. On notice from the board, the state treasurer shall
35 invest and divest monies in either account in the fund as provided by
36 section 35-313, and monies earned from investments shall be credited to a
37 separate administration account to pay the board's expenses of
38 administering the land conservation and acquisition program under
39 subsection G, paragraph 2 of this section, which shall not exceed five
40 ~~per cent~~ PERCENT of the amount deposited in the public conservation
41 account in any fiscal year or ~~five hundred thousand dollars~~ \$500,000,
42 whichever is less. Investment earnings in excess of ~~five hundred thousand~~
43 ~~dollars~~ \$500,000 are appropriated to the Arizona state parks board for the
44 purpose of operating state parks.

1 J. Members of the conservation acquisition board may be reimbursed
2 for travel and lodging expenses and per diem subsistence allowances
3 incurred while on public business for the board. Reimbursement amounts
4 shall not exceed those allowed under title 38, chapter 4, article 2.

5 Sec. 29. Section 41-1481, Arizona Revised Statutes, is amended to
6 read:

7 41-1481. Filing charges; investigation; findings;
8 conciliation; compliance proceedings; appeals;
9 attorney fees; violation; classification

10 A. A charge under this section shall be filed within one hundred
11 eighty days after the alleged unlawful employment practice occurred. A
12 charge is deemed filed on receipt by the division from or on behalf of a
13 person claiming to be aggrieved or, if filed by a member of the division,
14 when executed by the member on oath or affirmation. A charge is deemed
15 filed by or on behalf of a person claiming to be aggrieved if received
16 from the United States equal employment opportunity commission. A charge
17 shall be in writing on oath or affirmation and shall contain the
18 information, including the date, place and circumstances of the alleged
19 unlawful employment practice, and be in the form as the division
20 requires. The division shall not make charges public.

21 B. Whenever a charge is filed by or on behalf of a person claiming
22 to be aggrieved or by a member of the division, referred to as the
23 charging party, alleging that an employer, employment agency, labor
24 organization or joint labor-management committee controlling
25 apprenticeship or other training or retraining programs, including
26 on-the-job training programs, has engaged in an unlawful employment
27 practice, the division shall serve notice of and a copy of the charge on
28 the employer, employment agency, labor organization or joint
29 labor-management committee, referred to as the respondent, within ten days
30 and shall investigate the charge. If the division determines after the
31 investigation that there is not reasonable cause to believe that the
32 charge is true, the division shall enter an order determining the same and
33 dismissing the charge and shall notify the charging party and the
34 respondent of its action. If the division determines after the
35 investigation that there is reasonable cause to believe that the charge is
36 true, the division shall enter an order containing its findings of fact
37 and shall endeavor to eliminate the alleged unlawful employment practice
38 by informal methods of conference, conciliation and persuasion. Any party
39 to the informal proceeding may be represented by counsel. Counsel need
40 not be a ~~member of the~~ LICENSED ATTORNEY IN THIS state ~~bar~~ if counsel is
41 licensed to practice law in any other state or territory of the United
42 States. Nothing said or done during and as a part of the informal
43 endeavors may be made public by the division or its officers or employees
44 or used as evidence in a subsequent proceeding without the written consent
45 of the persons concerned. If a civil action resulting from a charge is

1 commenced in any federal or state court, evidence collected by or
2 submitted to the division during the investigation of the charge and the
3 source of the evidence shall be subject to discovery by the parties to the
4 civil action. Any person who makes public information in violation of
5 this subsection is guilty of a class 1 misdemeanor. The division shall
6 make its determination on reasonable cause as promptly as possible and as
7 far as practicable not later than sixty days ~~from~~ AFTER the filing of the
8 charge. If more than two years have elapsed after the alleged unlawful
9 employment practice occurred, and if the charging party has received a
10 notice of right to sue, the division may cease investigation of a charge
11 without reaching a determination.

12 C. All conciliation agreements shall provide that the charging
13 party waives, releases and covenants not to sue the respondent or claim
14 against the respondent in any forum with respect to the matters ~~which~~ THAT
15 were alleged as charges filed with the division, subject to performance by
16 the respondent of the promises and representations contained in the
17 conciliation agreement. The charging party or the respondent may prepare
18 a conciliation agreement that the division shall submit to the other party
19 and that, if accepted by the other party, shall be accepted by the
20 division.

21 D. If within thirty days after the division has made a
22 determination that reasonable cause exists to believe that the charge is
23 true the division has not accepted a conciliation agreement to which the
24 charging party and the respondent are parties, the division may bring a
25 civil action against the respondent, other than the state, named in the
26 charge. The charging party shall have the right to intervene in a civil
27 action brought by the division. If a charge filed with the division
28 pursuant to subsection A of this section is dismissed by the division or
29 if within ninety days ~~from~~ AFTER the filing of such charge the division
30 has not filed a civil action under this section or has not entered into a
31 conciliation agreement with the charging party, the division shall so
32 notify the charging party. After providing the notice a civil action may
33 be brought against the respondent named in the charge by the charging
34 party or, if that charge was filed by a member of the division, by any
35 person whom the charge alleges was aggrieved by the alleged unlawful
36 employment practice. ~~In no event shall any~~ AN action MAY NOT be brought
37 pursuant to this article more than one year after the charge to which the
38 action relates has been filed. On application by the complainant and in
39 the circumstances as the court may deem just, the court may appoint an
40 attorney for such complainant and may authorize the commencement of the
41 action without the payment of fees, costs or security. On timely
42 application, the court may in its discretion allow the division to
43 intervene in civil actions in which the state is not a defendant on
44 certification that the case is of general public importance. ~~Upon~~ ON
45 request the court may stay further proceedings for not more than sixty

1 days pending the further efforts of the parties or the division to obtain
2 voluntary compliance.

3 E. Whenever a charge is filed with the division and the division
4 concludes on the basis of a preliminary investigation that prompt judicial
5 action is necessary to carry out the purposes of this article or article 4
6 of this chapter, the division may bring an action for appropriate
7 temporary or preliminary relief pending final disposition of the
8 charge. Any temporary restraining order or other order granting
9 preliminary or temporary relief shall be issued in accordance with the
10 Arizona rules of civil procedure. The court having jurisdiction over the
11 proceedings shall assign such action for hearing at the earliest
12 practicable date and cause the action to be expedited in every way.

13 F. The court shall assign any action brought under this article for
14 hearing at the earliest practicable date and cause the action to be in
15 every way expedited. If the action has not been scheduled for trial
16 within one hundred twenty days after issue has been joined, the judge may
17 appoint a master pursuant to rule 53 of the Arizona rules of civil
18 procedure.

19 G. If the court finds that the defendant has intentionally engaged
20 in or is intentionally engaging in an unlawful employment practice alleged
21 in the complaint, the court may enjoin the defendant from engaging in the
22 unlawful employment practice and order the affirmative action as may be
23 appropriate. Affirmative action may include, but is not limited to,
24 reinstatement or hiring of employees with or without back pay payable by
25 the employer, employment agency or labor organization responsible for the
26 unlawful employment practice or any other equitable relief as the court
27 deems appropriate. Back pay liability shall not accrue from a date more
28 than two years before the filing of the charge with the division. Interim
29 earnings or amounts earnable with reasonable diligence by the person or
30 persons discriminated against shall reduce the back pay otherwise
31 allowable. An order of the court shall not require the admission or
32 reinstatement of an individual as a member of a union or the hiring,
33 reinstatement or promotion of an individual as an employee or the payment
34 to the individual of any back pay if the individual was refused admission,
35 suspended or expelled or was refused employment or advancement or was
36 suspended or discharged for any reason other than discrimination on
37 account of race, color, religion, sex, age, disability or national origin
38 or a violation of section 41-1464.

39 H. In any case in which an employer, employment agency or labor
40 organization fails to comply with an order of a court issued in a civil
41 action brought under this section, a party to the action or the division
42 on the written request of a person aggrieved by such failure may commence
43 proceedings to compel compliance with the order.

1 I. Any civil action brought under this section and any proceedings
2 brought under subsection H of this section are subject to appeal as
3 provided in sections 12-120.21, 12-120.22 and 12-120.24.

4 J. In any action or proceeding under this section the court may
5 allow the prevailing party, other than the division, a reasonable attorney
6 fee as part of the costs.

7 Sec. 30. Section 41-4037, Arizona Revised Statutes, is amended to
8 read:

9 41-4037. Hearing; representation

10 In a hearing conducted pursuant to this article, a corporation may
11 be represented by a corporate officer or employee who is not a ~~member of~~
12 ~~the~~ LICENSED ATTORNEY IN THIS state ~~bar~~ if:

13 1. The corporation has specifically authorized the officer or
14 employee to represent it.

15 2. The representation is not the officer's or employee's primary
16 duty to the corporation but is secondary or incidental to the officer's or
17 employee's duties relating to the management or operation of the
18 corporation.

19 Sec. 31. Section 41-4038, Arizona Revised Statutes, is amended to
20 read:

21 41-4038. Rehearing

22 A. Any party may apply for a rehearing by filing with the director
23 a motion pursuant to chapter 6, article 10 of this title.

24 B. The filing of a motion for rehearing shall suspend the operation
25 of the administrative law judge's action, except for an action ~~which~~ THAT
26 upholds a cease and desist order, ~~and~~ permits the licensee or the person
27 who was issued a citation to continue to do business pending denial or
28 granting of the petition. If the motion is granted, the administrative
29 law judge's action is suspended pending the decision of the director ~~upon~~
30 ~~ON~~ the rehearing.

31 C. In the order granting or denying a rehearing, the director shall
32 include a statement of the particular grounds and reasons for the
33 director's action on the petition and shall promptly mail a copy of the
34 order to the parties who have appeared in support of or in opposition to
35 the petition for rehearing. If a rehearing is granted, the administrative
36 law judge shall set the matter for further hearing on due notice to the
37 parties. After submission of the matter ~~upon~~ ~~ON~~ rehearing, the
38 administrative law judge shall render a decision in writing and give
39 notice of the decision in the same manner as of a decision rendered ~~upon~~
40 ~~ON~~ an original hearing.

41 D. A rehearing may be granted for any of the following reasons
42 materially affecting the moving party's rights:

43 1. Irregularity in the proceedings before the director, or any
44 order or abuse of discretion ~~which~~ THAT deprived the moving party of a
45 fair hearing.

1 2. Misconduct by the director, the director's employees or the
2 administrative law judge.

3 3. Accident or surprise that could not have been prevented by
4 ordinary prudence.

5 4. Newly discovered material evidence that could not with
6 reasonable diligence have been discovered and produced at the original
7 hearing.

8 5. Excessive or insufficient penalties.

9 6. Error in the admission or rejection of evidence or other errors
10 of law occurring at the hearing.

11 7. That the decision is not justified by the evidence or is
12 contrary to law.

13 E. If an order denying a rehearing or a decision given ~~upon~~ ON a
14 rehearing results in immediate suspension or revocation of a license, ~~then~~
15 THE operation of such order or decision shall be suspended until ten days
16 after service of notice of the suspension or revocation.

17 F. In a rehearing pursuant to this section, a corporation may be
18 represented by a corporate officer or employee who is not a ~~member of the~~
19 LICENSED ATTORNEY IN THIS state ~~bar~~ if:

20 1. The corporation has specifically authorized the officer or
21 employee to represent it.

22 2. The representation is not the officer's or employee's primary
23 duty to the corporation but is secondary or incidental to the officer's or
24 employee's duties relating to the management or operation of the
25 corporation.

26 Sec. 32. Section 41-4062, Arizona Revised Statutes, is amended to
27 read:

28 41-4062. Hearing; rights and procedures; definitions

29 A. A person that is subject to title 33, chapter 11 or a party to a
30 rental agreement entered into pursuant to title 33, chapter 11 may
31 petition the department for a hearing concerning violations of the Arizona
32 mobile home parks residential landlord and tenant act by filing a petition
33 with the department and paying a nonrefundable filing fee in an amount to
34 be established by the director. All monies collected shall be deposited
35 in the Arizona department of housing program fund established by section
36 41-3957 and are not refundable.

37 B. The petition shall be in writing on a form approved by the
38 department, list the complaints, be signed by or on behalf of the persons
39 filing and include their addresses, state that a hearing is desired and be
40 filed with the department.

41 C. On receipt of the petition and the filing fee, the department
42 shall mail to the named respondent by certified mail a copy of the
43 petition along with notice that a response showing cause, if any, why the
44 petition should be dismissed is required within twenty days after mailing
45 of the petition.

1 D. After receiving the response, the director or the director's
2 designee shall promptly review the petition for hearing and, if justified,
3 refer the petition to the office of administrative hearings. The director
4 may dismiss a petition for hearing if it appears to the director's
5 satisfaction that the disputed issue or issues have been resolved by the
6 parties.

7 E. Failure of the respondent to answer is deemed an admission of
8 the allegations made in the petition, and the director shall issue a
9 default decision.

10 F. Informal disposition may be made of any contested case.

11 G. Either party or the party's authorized agent may inspect any
12 file of the department that pertains to the hearing if the authorization
13 is filed in writing with the department.

14 H. At a hearing conducted pursuant to this section, a corporation
15 may be represented by a corporate officer, employee or contractor of the
16 corporation who is not a ~~member of the~~ LICENSED ATTORNEY IN THIS state ~~bar~~
17 if:

18 1. The corporation has specifically authorized the officer,
19 employee or contractor of the corporation to represent it.

20 2. The representation is not the officer's, employee's or
21 contractor of the corporation's primary duty to the corporation but is
22 secondary or incidental to the officer's, employee's or contractor of the
23 corporation's, limited liability company's, limited liability
24 partnership's, sole proprietor's or other lawfully formed and operating
25 entity's duties relating to the management or operation of the
26 corporation.

27 I. For the purposes of this section:

28 1. "Department" means the Arizona department of housing.

29 2. "Director" means the director of the department.

30 Sec. 33. Section 41-4065, Arizona Revised Statutes, is amended to
31 read:

32 41-4065. Rehearing; appeal; definition

33 A. A person aggrieved by a decision of the administrative law judge
34 may apply for a rehearing by filing with the director a petition in
35 writing pursuant to section 41-1092.09. Within ten days after filing ~~such~~
36 ~~THE~~ petition, the director shall serve notice of the request on the other
37 party by mailing a copy of the petition in the manner prescribed in
38 section 41-4062 for notice of hearing.

39 B. The filing of a petition for rehearing temporarily suspends the
40 operation of the administrative law judge's action. If the petition is
41 granted, the administrative law judge's action is suspended pending the
42 decision on the rehearing.

43 C. In the order granting or denying a rehearing, the director shall
44 include a statement of the particular grounds and reasons for the
45 director's action on the petition and shall promptly mail a copy of the

1 order to the parties who have appeared in support of or in opposition to
2 the petition for rehearing.

3 D. In a rehearing conducted pursuant to this section, a corporation
4 may be represented by a corporate officer or employee who is not a ~~member~~
5 ~~of the~~ LICENSED ATTORNEY IN THIS state ~~bar~~ if:

6 1. The corporation has specifically authorized such officer or
7 employee to represent it.

8 2. Such representation is not the officer's or employee's primary
9 duty to the corporation but is secondary or incidental to such officer's
10 or employee's duties relating to the management or operation of the
11 corporation.

12 E. For the purposes of this section, "director" means the director
13 of the Arizona department of housing.

14 Sec. 34. Section 42-16153, Arizona Revised Statutes, is amended to
15 read:

16 42-16153. Members

17 A. The state board of equalization consists of:

18 1. Ten members who are appointed by the board of supervisors of
19 each county with a population of more than five hundred thousand persons
20 according to the most recent United States decennial census.

21 2. Ten members who are appointed by the governor from each county
22 with a population of more than five hundred thousand persons according to
23 the most recent United States decennial census.

24 3. An additional member who is appointed by the governor, who is
25 designated as chairman and who serves in a full-time capacity.

26 B. Other than the chairman, members of the state board of
27 equalization shall be selected on the basis of their work experience and
28 other qualifications in at least one of the following categories:

29 1. Experience in at least three of the preceding eight years in
30 property valuation, property tax appeals or appraising real property.

31 2. A certified general appraiser under section 32-3612.

32 3. A property valuation hearing officer or member of the state
33 board of equalization, or any predecessor to the board, for at least three
34 of the preceding eight years.

35 4. A ~~member of the~~ LICENSED ATTORNEY IN THIS state ~~bar of Arizona~~
36 with at least three years of experience in property valuation or
37 condemnation practice.

38 5. Experience in at least three of the preceding eight years as a
39 real estate broker.

40 C. Members who are appointed by the county board of supervisors
41 serve at the pleasure of the county board for terms that expire at the
42 same time as the elective term of the county supervisors. Members who are
43 appointed by the governor serve a term of five years. Members may be
44 reappointed.

1 D. Except as provided in section 42-16154, subsection A, members of
2 the state board are eligible to receive:

3 1. Not more than ~~three hundred dollars~~ \$300 per day for time spent
4 in performing official duties, prorated for partial days spent on official
5 duty.

6 2. Reimbursement for travel and other expenses as provided by law
7 for other state officers.

8 E. Members who are appointed by a county shall be paid by the
9 county. Members who are appointed by the governor shall be paid by the
10 state.

11 F. A member of the state board of equalization shall not:

12 1. Hold any other public office under the laws of this state or a
13 political subdivision of this state except a position on a board or
14 commission that does not regularly interact with the state board of
15 equalization.

16 2. Be a candidate for an elective office under the laws of this or
17 any other state.

18 3. Hold any position of trust nor provide or engage in any
19 occupation or business that would conflict with the duties of a member of
20 the board.

21 4. Other than the chairman, have been employed by a county assessor
22 or county attorney or by the department of revenue or the department of
23 law within two years before appointment.

24 G. The governor may remove any member of the state board who was
25 not appointed by a county board of supervisors for any of the following
26 reasons:

27 1. Cause.

28 2. Failure to carry out the duties and responsibilities of the
29 position.

30 3. Failure to follow the rules of the board.

31 4. Failure to follow the directions of the chairman as provided by
32 law.

33 Sec. 35. Section 44-1813, Arizona Revised Statutes, is amended to
34 read:

35 44-1813. Employment of personnel; criminal records check

36 A. The director, with the approval of the commission, may employ
37 from time to time examiners, investigators who are commissioned peace
38 officers, clerical employees and other officers and employees necessary
39 for the administration of this chapter, and regulatory officers and
40 employees who are ~~members of the~~ ATTORNEYS LICENSED IN THIS state ~~bar of~~
41 ~~Arizona~~ who shall be paid at the same rate as the rate established by the
42 department of administration for attorneys, and who shall perform the
43 duties the director requires.

1 B. The director may obtain criminal history record information
2 regarding applicants for employment for the purpose of hiring personnel.
3 Before making a final offer of employment, the director shall require the
4 preferred applicants to submit a full set of fingerprints. The director
5 shall submit the fingerprints to the department of public safety for the
6 purpose of obtaining a state and federal criminal records check pursuant
7 to section 41-1750 and Public Law 92-544. The department of public safety
8 may exchange this fingerprint data with the federal bureau of
9 investigation.

10 C. The director shall not disclose information obtained pursuant to
11 subsection B of this section except to the director's or the commission's
12 staff solely for the purpose of the director's employment of the
13 applicant.