

Senate Engrossed House Bill

administrative hearings; change of judge

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

CHAPTER 127

HOUSE BILL 2451

AN ACT

AMENDING SECTION 41-1092.07, ARIZONA REVISED STATUTES; RELATING TO THE
OFFICE OF ADMINISTRATIVE HEARINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1092.07, Arizona Revised Statutes, is amended
3 to read:

4 41-1092.07. Hearings

5 A. A PARTY TO A CONTESTED CASE OR APPEALABLE AGENCY ACTION IS
6 ENTITLED TO ONE PEREMPTORY CHANGE OF ADMINISTRATIVE LAW JUDGE. A party to
7 a contested case or appealable agency action ~~may~~ SHALL ALSO BE AUTHORIZED
8 TO file a nonperemptory motion with the director to disqualify an ~~office~~
9 administrative law judge from conducting a hearing for bias, prejudice,
10 personal interest, CONFLICT OF INTEREST, BEING A MATERIAL WITNESS IN THE
11 ACTION or lack of technical expertise necessary for a hearing.

12 B. The parties to a contested case or appealable agency action have
13 the right to be represented by counsel or to proceed without counsel, to
14 submit evidence and to cross-examine witnesses.

15 C. The administrative law judge may issue subpoenas to compel the
16 attendance of witnesses and the production of documents. The subpoenas
17 shall be served and, on application to the superior court, enforced in the
18 manner provided by law for the service and enforcement of subpoenas in
19 civil matters. The administrative law judge may administer oaths and
20 affirmations to witnesses.

21 D. All parties shall have the opportunity to respond and present
22 evidence and argument on all relevant issues. All relevant evidence is
23 admissible, but the administrative law judge may exclude evidence if its
24 probative value is outweighed by the danger of unfair prejudice, by
25 confusion of the issues or by considerations of undue delay, waste of time
26 or needless presentation of cumulative evidence. The administrative law
27 judge shall exercise reasonable control over the manner and order of
28 cross-examining witnesses and presenting evidence to make the
29 cross-examination and presentation effective for ascertaining the truth,
30 avoiding needless consumption of time and protecting witnesses from
31 harassment or undue embarrassment.

32 E. All hearings shall be recorded. The administrative law judge
33 shall secure either a court reporter or an electronic means of producing a
34 clear and accurate record of the proceeding at the agency's expense. Any
35 party that requests a transcript of the proceeding shall pay the costs of
36 the transcript to the court reporter or other transcriber.

37 F. Unless otherwise provided by law, the following apply:

38 1. A hearing may be conducted in an informal manner and without
39 adherence to the rules of evidence required in judicial proceedings.
40 Neither the manner of conducting the hearing nor the failure to adhere to
41 the rules of evidence required in judicial proceedings is grounds for
42 reversing any administrative decision or order if the evidence supporting
43 the decision or order is substantial, reliable and probative.

1 2. Copies of documentary evidence may be received in the discretion
2 of the administrative law judge. On request, the parties shall be given
3 an opportunity to compare the copy with the original.

4 3. Notice may be taken of judicially cognizable facts. In
5 addition, notice may be taken of generally recognized technical or
6 scientific facts within the agency's specialized knowledge. The parties
7 shall be notified either before or during the hearing or by reference in
8 preliminary reports or otherwise of the material noticed, including any
9 staff memoranda or data and they shall be afforded an opportunity to
10 contest the material so noticed. The agency's experience, technical
11 competence and specialized knowledge may be used in the evaluation of the
12 evidence. An agency-issued license that substantially complied with the
13 applicable licensing requirements establishes a prima facie demonstration
14 that the license meets all state and federal legal and technical
15 requirements and the license would protect public health, welfare and the
16 environment. An adversely affected party may rebut a prima facie
17 demonstration by presenting clear and convincing evidence demonstrating
18 that one or more provisions in the license violate a specifically
19 applicable state or federal requirement. If an adversely affected party
20 rebuts a prima facie demonstration, the applicant or licensee and the
21 agency director may present additional evidence to support issuing the
22 license.

23 4. On application of a party or the agency and for use as evidence,
24 the administrative law judge may ~~permit~~ ALLOW a deposition to be taken, in
25 the manner and on the terms designated by the administrative law judge, of
26 a witness who cannot be subpoenaed or who is unable to attend the hearing.
27 The administrative law judge may order subpoenas for the production of
28 documents if the party seeking the discovery demonstrates that the party
29 has reasonable need of the materials being sought. All provisions of law
30 compelling a person under subpoena to testify are applicable. Fees for
31 attendance as a witness shall be the same as for a witness in court,
32 unless otherwise provided by law or agency rule. Notwithstanding section
33 12-2212, subpoenas, depositions or other discovery shall not be ~~permitted~~
34 ALLOWED except as provided by this paragraph or subsection C of this
35 section.

36 5. Informal disposition may be made by stipulation, agreed
37 settlement, consent order or default.

38 6. Findings of fact shall be based exclusively on the evidence and
39 on matters officially noticed.

40 7. A final administrative decision shall include findings of fact
41 and conclusions of law, separately stated. Findings of fact, if set forth
42 in statutory language, shall be accompanied by a concise and explicit
43 statement of the underlying facts supporting the findings. Conclusions of
44 law shall specifically address the agency's authority to make the decision
45 consistent with section 41-1030.

1 G. Except as otherwise provided by law:

2 1. At a hearing on an agency's denial of a license or permit or a
3 denial of an application or request for modification of a license or
4 permit, the applicant has the burden of persuasion.

5 2. At a hearing on an agency action to suspend, revoke, terminate
6 or modify on its own initiative material conditions of a license or
7 permit, the agency has the burden of persuasion.

8 3. At a hearing on an agency's imposition of fees or penalties or
9 any agency compliance order, the agency has the burden of persuasion.

10 4. At a hearing held pursuant to chapter 23 or 24 of this title,
11 the appellant or claimant has the burden of persuasion.

12 H. Subsection G of this section does not affect the law governing
13 burden of persuasion in an agency denial of, or refusal to issue, a
14 license renewal.

APPROVED BY THE GOVERNOR MAY 2, 2025.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2025.