

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

Editor's Note: The following Notice of Exempt Rulemaking was exempt from Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1641.)

[R11-126]

PREAMBLE

- 1. Sections Affected**
R2-12-402
- Rulemaking Action**
New Section
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 41-1005(A)(5), 41-1011 through 41-1013, and 41-1057
Implementing statute: A.R.S. § 23-1326
- 3. The effective date of the rules:**
August 15, 2011
- 4. A list of all previous notices appearing in the *Register* addressing the exempt rule:**
None
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Joann Cota, Director
Address: Secretary of State, Business Services
1700 W. Washington St., 7th Floor
Phoenix, AZ 85007-2808
Telephone: (602) 542-4285
Fax: (602) 542-4366
E-mail: jcota@azsos.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**
The purpose of this rulemaking is to establish recording fees under A.R.S. § 23-1326 for the No Trespass Public Notice List. The fees are created under A.R.S. § 41-1005(A)(5) which states that a rule can be exempt if it only establishes "specific prices for particular goods or services sold by an agency."
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study and other supporting material:**
The Office requested public notice fees (per inch) of newspapers of record in Arizona counties. Based on an average of \$7 to \$10 a published inch the Office is establishing the fees to publish the list twice a year as required by the law.
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**
The Office will begin to record private property rights and create a "No Trespass Public Notice List" under A.R.S. § 23-1326. This law requires the Office to establish, publish and provide the list online and publish in a newspaper of

Notices of Exempt Rulemaking

record in which the employer is located. The Office will also provide the list to law enforcement agencies. All fees will be used to maintain and publish the list. The Fact Sheet for (SB 1363) Laws 2011, 50th Legislature, 1st Regular Session, Ch. 153 stated the “fiscal impact of this legislation, if any, is unknown.”

- 10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
Not applicable
- 11. **A summary of the comments made regarding the rule and the agency response to them:**
Not applicable
- 12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None
- 13. **Incorporations by reference and their location in the rules:**
None
- 14. **Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**
No
- 15. **The full text of the rules follows:**

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CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

ARTICLE 4. ~~REPEALED~~ NO TRESPASS PUBLIC NOTICE LIST

Section
R2-12-402. Recording Private Property Rights – Fees

ARTICLE 4. ~~REPEALED~~ NO TRESPASS PUBLIC NOTICE LIST

R2-12-402. Recording Private Property Rights – Fees

- A. The following recording fees are established under A.R.S. § 23-1326.**
 - 1. Employer’s Private Property Rights: annual recording fee, \$20.
 - 2. Employer’s Private Property Rights per address and legal description of the property to which the employer has control: annual fee, per location, \$4.
- B. An employer who records property rights under A.R.S. § 23-1326 with the Secretary of State shall do so on a form prescribed by the Office.**
- C. If more than one property is listed, a supplemental form shall be used to list the additional properties.**
- D. The form and fees, and if applicable, supplemental form shall be accompanied by the Employer’s Private Property Rights documents and filed with the Secretary of State 8:00 a.m. to 5:00 p.m., Monday through Friday except state holidays or state furlough days.**
- E. Checks or money orders shall be made payable to: Secretary of State.**
- F. The form and fees and supporting documents may be mailed or hand-delivered.**
 - 1. Mailing address: Secretary of State, Business Services, 1700 W. Washington St., Fl. 7, Phoenix, AZ 85007-2808.
 - 2. In person:
 - a. Phoenix – State Capitol Executive Tower, 1700 W. Washington St., First Floor, Room 103; or
 - b. Tucson – Arizona State Complex Building, 400 W. Congress, Second Floor, Room 252.