

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 224

HOUSE BILL 2244

AN ACT

AMENDING SECTION 14-5651, ARIZONA REVISED STATUTES; RELATING TO PRIVATE FIDUCIARIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 14-5651, Arizona Revised Statutes, is amended to
3 read:

4 14-5651. Private fiduciaries; registration; conduct; removal;
5 exemption; definitions

6 A. EXCEPT AS PROVIDED BY SUBSECTION G OF THIS SECTION, the superior
7 court shall not appoint a private fiduciary unless that person is registered
8 with the supreme court. The supreme court shall administer the registration
9 program and shall adopt rules and establish and collect fees necessary for
10 its implementation. The supreme court shall deposit, pursuant to sections
11 35-146 and 35-147, the monies collected pursuant to this subsection in the
12 confidential intermediary and private fiduciary fund established by section
13 8-135. At a minimum the rules adopted pursuant to this subsection shall
14 include the following:

15 1. A code of conduct.

16 2. ~~Except as provided in subsection B of this section,~~ A requirement
17 that private fiduciaries post a cash deposit or surety bond with the supreme
18 court.

19 3. Minimum qualifications.

20 4. Biennial registration.

21 ~~B. A financial institution or an employee of a financial institution~~
22 ~~is not required to post a cash deposit or surety bond as required by~~
23 ~~subsection A, paragraph 2 of this section, except as provided by subsection~~
24 ~~C of this section. A financial institution shall pay the supreme court~~
25 ~~within thirty days from the date the director finds a violation of any rule~~
26 ~~adopted pursuant to this section an amount up to the amount of the bond~~
27 ~~established by supreme court rule for all other fiduciaries registered~~
28 ~~pursuant to this section the costs as determined by the supreme court of any~~
29 ~~investigation and hearing conducted under subsection F of this section. A~~
30 ~~financial institution is not responsible for the costs of any investigation~~
31 ~~and hearing if the acts under investigation occurred while the fiduciary~~
32 ~~under investigation was not employed by the financial institution.~~

33 ~~C. Any financial institution that fails at any time to comply with the~~
34 ~~thirty day requirement for payment under subsection B of this section shall~~
35 ~~post a bond or cash deposit as required by subsection A, paragraph 2 of this~~
36 ~~section for payment of the costs of all subsequent investigations and~~
37 ~~hearings for which the financial institution is responsible under subsection~~
38 ~~F of this section.~~

39 ~~D.~~ B. As a condition of appointment, the supreme court shall require
40 each applicant for the position of private fiduciary to submit a full set of
41 fingerprints to the supreme court for the purpose of obtaining a state and
42 federal criminal records check to determine the suitability of the applicant
43 pursuant to section 41-1750 and Public Law 92-544. The department of public
44 safety may exchange this fingerprint data with the federal bureau of
45 investigation.

1 ~~E.~~ C. An applicant for registration shall:

2 1. Be an adult citizen of this country.

3 2. Not have been convicted of a felony.

4 3. Attest that the applicant has not been found civilly liable in an
5 action that involved fraud, misrepresentation, material omission,
6 misappropriation, theft or conversion.

7 4. Attend an initial session and thereafter biennial training sessions
8 prescribed by the supreme court on the duties of a private fiduciary.

9 ~~F.~~ D. The superior court shall, and any person may, notify the
10 supreme court if it appears that a fiduciary has violated a rule adopted
11 under this section. The supreme court shall then conduct an investigation
12 and hearing pursuant to its rules. If the supreme court determines that the
13 fiduciary committed the violation it may withdraw the fiduciary's
14 registration or impose other sanctions, including civil penalties, and shall
15 notify the superior court in each county of this action. ~~Except as provided~~
16 ~~in subsections B and C of this section,~~ The supreme court may also require
17 the fiduciary to forfeit a cash deposit or surety bond to the extent
18 necessary to compensate the court for the expenses it incurred to conduct the
19 investigation and hearing.

20 ~~G.~~ E. A person who in good faith provides information or testimony
21 regarding a private fiduciary's misconduct or lack of professionalism is not
22 subject to civil liability. Communications regarding a private fiduciary's
23 conduct are confidential.

24 ~~H.~~ F. Members of the private fiduciary advisory board, the program
25 coordinator and all investigators, auditors, staff and hearing officers are
26 immune from civil liability for conduct in good faith that relates to their
27 official duties.

28 ~~I.~~ G. THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO A FINANCIAL
29 INSTITUTION. THIS EXEMPTION DOES NOT PREVENT THE SUPERIOR COURT FROM
30 APPOINTING A FINANCIAL INSTITUTION AS A PRIVATE FIDUCIARY. The supreme court
31 may exempt a private fiduciary from the requirements of this section for good
32 cause.

33 ~~J.~~ H. This section does not grant any private fiduciary or any
34 applicant for a private fiduciary the right to a direct appeal to the supreme
35 court.

36 ~~K.~~ I. The supreme court may receive and expend monies from the
37 confidential intermediary and private fiduciary fund established pursuant to
38 section 8-135 for the purposes of performing the duties related to private
39 fiduciaries pursuant to this section.

40 ~~L.~~ J. For the purposes of this section:

41 1. "Financial institution" means a bank insured by the federal deposit
42 insurance corporation and chartered under the laws of the United States or
43 any state, a trust company owned by a bank holding company that is regulated
44 by the federal reserve board or a trust company chartered under the laws of
45 the United States or this state.

- 1 2. "Private fiduciary" or "fiduciary" means:
2 (a) A person who for a fee serves as a court appointed guardian or
3 conservator for one or more persons who are unrelated to the fiduciary.
4 (b) A person who for a fee serves as a court appointed personal
5 representative and who is not related to the decedent, is not nominated in
6 a will or by a power conferred in a will and is not a devisee in the will.
7 (c) ~~A person who is employed by a financial institution and who
8 supervises or makes substantive decisions about the administration of a
9 decedent's estate, conservatorship or guardianship, but not an employee of
10 a financial institution who completes tasks in the administration of the
11 decedent's estate, conservatorship or guardianship under the direction or
12 control of the supervising employee.~~

APPROVED BY THE GOVERNOR APRIL 23, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2001.

Passed the House February 19, 2001,

Passed the Senate April 10, 2001,

by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

0 Nays, 2 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,
at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of
_____, 20____,
at _____ o'clock _____ M.

Governor of Arizona

H.B. 2244

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,
at _____ o'clock _____ M.

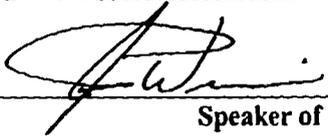
Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

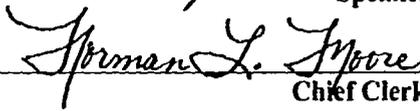
April 17, 2001,

by the following vote: 53 Ayes,

0 Nays, 7 Not Voting



Speaker of the House



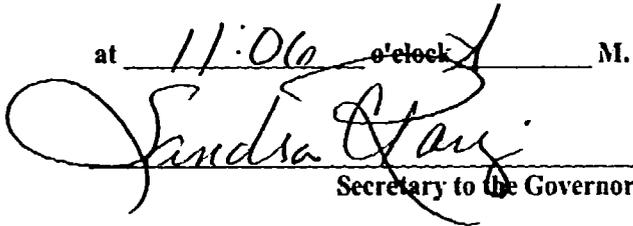
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17 day of April, 2001,

at 11:06 o'clock A M.



Secretary to the Governor

Approved this 23 day of

April, 2001,

at 5:26 o'clock P M.



Governor of Arizona

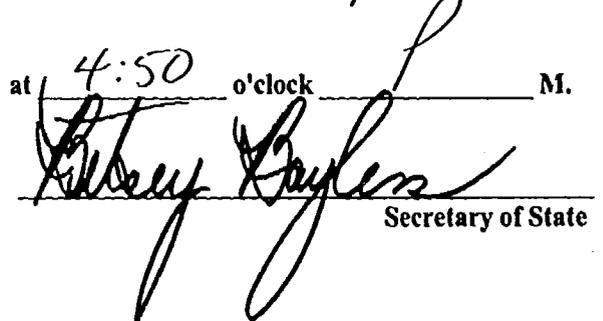
H.B. 2244

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of April, 2001,

at 4:50 o'clock P M.



Secretary of State