Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 245

HOUSE BILL 2644

AN ACT

AMENDING SECTIONS 28-4332, 33-1409, 33-1432, 33-1476.01, 33-1476.02, 33-1485.01, 34-461, 36-1639, 41-2141, 41-2142, 41-2146, 41-2147, 41-2161, 41-2163, 41-2171, 41-3012.14 AND 49-356, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2149; AMENDING TITLE 41, CHAPTER 16, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2169.01; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 16, ARIZONA REVISED STATUTES, TO "DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY"; AMENDING TITLE 41, CHAPTER 16, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6; RELATING TO THE DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-4332, Arizona Revised Statutes, is amended to read:

28-4332. Limited exemption; definitions

A. The director shall grant an exemption from the new or used house trailer dealer licensing requirements of this chapter if the person claiming the exemption furnishes satisfactory proof to the director of licensure as a dealer under title 41, chapter 16.

B. The cash deposit or bond posted by the person pursuant to section 41-2179 is subject to the same conditions and inures to the benefit of the same persons as prescribed in sections 28-4362, 28-4405, 28-4406 and 28-4408.

C. A new or used house trailer dealer who claims an exemption pursuant to subsection A of this section shall comply with all other requirements applicable to a new or used house trailer dealer licensed under this chapter. The director of the department of transportation may suspend or cancel the license issued pursuant to title 41, chapter 16 pursuant to this chapter. On issuing a final order cancelling or suspending a license issued pursuant to section 41-2176, the director of the department of transportation shall notify the director of the department of FIRE, building and ~~fire~~ LIFE safety who shall require the surrender of the license.

D. An exemption granted pursuant to subsection A of this section expires on suspension, revocation or nonrenewal of the license issued pursuant to title 41, chapter 16. The director of the department of FIRE, building and ~~fire~~ LIFE safety shall notify the director of the department of transportation of any such suspension, revocation or nonrenewal.

E. For the purposes of this section:

1. "House trailer" means a vehicle, other than a motor vehicle, that is built on a chassis designed for being drawn on the highways by a motor vehicle and that is designed for human habitation.

2. "Used house trailer dealer" means a person, other than a new house trailer dealer, who buys, sells, exchanges or offers or attempts to negotiate a sale or exchange of an interest in used house trailers or who is engaged in the business of selling used house trailers.

Sec. 2. Section 33-1409, Arizona Revised Statutes, is amended to read:

33-1409. General definitions

Subject to additional definitions which are contained in subsequent articles of this chapter and which apply to those specific articles, and unless the context otherwise requires, in this chapter:

1. "Action" includes recoupment, counterclaim, setoff, suit in equity and any other proceeding in which rights are determined, including an action for possession.

2. "Anniversary date" means an annual date applying to all tenants stated in the rental agreement on which the landlord may adjust the amount of rent.

3. "Appurtenances" means awnings, sheds, porches and other attachments to the mobile home.

4. "Building and housing codes" includes any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises, dwelling unit or mobile home space.

5. "Change in use" means either of the following:

(a) A change in the use of land from the rental of mobile home spaces in a mobile home park to some other use.

(b) The redevelopment of the mobile home park.

6. "Compatible" means a mobile home which is in a similar condition as the majority of the other mobile homes in the mobile home park, as determined by the maintenance, condition and overall appearance of the mobile home.

7. "Director" means the director of the department of FIRE, building and ~~fire~~ LIFE safety.

8. "Dwelling unit" excludes real property used to accommodate a mobile home.

9. "Educational program" means a class, workshop or educational convention that primarily instructs attendees on issues dealing with the operation of a mobile home park and that is sponsored by a nonprofit organization whose sole or primary purpose is the advocacy and promotion of the rental mobile home parks industry.

10. "Fund" means the mobile home relocation fund.

11. "Good faith" means honesty in fact in the conduct or transaction concerned.

12. "Guest" means a nonresident, over and above the occupancy limit set for the resident's space under the terms of the rental agreement or by park rules, of a mobile home park who stays at the home of a person with constructive possession of the home with the consent of the resident for one or more nights and not more than thirty days in any twelve month period.

13. "Landlord" means the owner, lessor, sublessor or operator, or any combination thereof, of a mobile home park and it also means a manager of the premises who fails to disclose as required by section 33-1432.

14. "Mobile home":

(a) Means either of the following:

(i) A residential structure manufactured on or before June 15, 1976, that is transportable in one or more sections, eight feet or more in body width, over thirty feet in body length with the hitch, built on an integral chassis, designed to be used as a dwelling when connected to the required utilities and not originally sold as a travel trailer or recreational vehicle and which includes the plumbing, heating, air conditioning and electrical systems in the structure.

(ii) A manufactured home built after June 15, 1976, originally bearing an appropriate insignia of approval issued by the United States department of housing and urban development.

(b) Does not include either of the following:

(i) A recreational vehicle such as a motor home, camping trailer, van, fifth wheel trailer or other type of recreational vehicle.

(ii) A structure known as a park model trailer that is a structure built on a single chassis, mounted on wheels and designed to be connected to the utilities necessary for the operation of installed fixtures and appliances and that has a gross interior area of not less than three hundred twenty square feet and not more than four hundred square feet when prepared for occupancy.

15. "Mobile home park" means any parcel of land that contains four or more mobile home spaces.

16. "Mobile home space" means a parcel of land for rent which has been designed to accommodate a mobile home and provide the required sewer and utility connections.

17. "Moving expenses" means the cost incurred by the tenant whose mobile home is moved for taking down, transporting and setting up the mobile home with the identical, or substantially similar, improvements as were attached to the tenant's mobile home on the mobile home space from which it was removed but does not include the cost of landscaping or the cost of utility lines, trenching or utility connections located in excess of twenty-five feet from the point of hookup on the mobile home.

18. "Organization" includes a corporation, limited liability company, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest and any other legal or commercial entity which is a landlord, owner, manager or designated agent pursuant to section 33-1432.

19. "Owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises. The term includes a mortgagee in possession.

20. "Park manager" means the person who is primarily responsible for the day-to-day operation of a mobile home park.

21. "Person" includes a company, partnership or firm as well as a natural person.

22. "Premises" means the mobile home park and its existing facilities and appurtenances, including furniture and utilities where applicable, and grounds, areas and existing facilities held out for the use of tenants generally or whose use is promised to the tenant.

23. "Prospective tenant" means a person who desires to become a tenant.

24. "Redevelopment of the mobile home park" means that the spaces being redeveloped shall remain vacant for at least one hundred eighty days after the effective date of all change in use notices that are given to the tenants and either of the following applies:

(a) A minimum of twenty-five per cent of the spaces in the park, in groups of at least five contiguous spaces, are being changed into an upgraded mobile home park.

(b) A minimum of twenty-five of the total number of spaces in the park, in groups of at least five contiguous spaces, are being changed into an upgraded mobile home park.

25. "Rent" means payments to be made to the landlord or designated agent in full consideration for the rented premises.

26. "Rental agreement" means leases or agreements and valid rules adopted under section 33-1452 embodying the terms and conditions concerning the use and occupancy of a mobile home space and premises, and includes month-to-month tenancies that arise out of the expiration of a written rental agreement pursuant to section 33-1413.

27. "Resident" means a person entitled under a rental agreement to occupy a mobile home space to the exclusion of others and does not include a person rendering necessary live-in care under section 33-1413.03.

28. "Security" or "security deposit" means any refundable money or property given to assure payment or performance under a rental agreement.

29. "Tenant" means a person signing a rental agreement or otherwise agreeing with a landlord for the occupancy of a mobile home space.

30. "Visitor" means a nonresident of a mobile home park who stays at the home of a resident with the consent of the resident but does not stay overnight.

Sec. 3. Section 33-1432, Arizona Revised Statutes, is amended to read:

33-1432. Disclosure of written rental agreement

A. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall disclose to the tenant in writing before entering into the rental agreement each of the following:

1. The name and address of the person authorized to manage the premises.

2. The name and address of the owner of the premises.

3. If applicable, the name and address of a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

4. For a prospective tenant on an initial rental agreement, a written statement that shows the rent increases for the three full calendar years immediately preceding the prospective initial rental agreement date. This information shall be for basic space rental only and does not apply to other fees such as late charges, guest fees and utility charges. The landlord may disclose the rent history with calculations that fairly describe the rent history and that are made in any manner that reasonably informs the prospective tenant of the history of basic space rent in the mobile home park during that period. The disclosure calculation may be made in January of each year by adding the dollar amounts or percentage amounts for aggregate rental increases that became effective in the prior calendar year for every

space in the park and dividing that number by the total number of occupied revenue spaces for which rent was or could have been increased. This average amount of rental increase or average percentage of rental increase shall be posted at the rental office for three years. Disclosure calculations made pursuant to this section shall be made to the best of the landlord's ability.

B. The information required to be furnished by this section shall be kept current and refurnished to the tenant upon the tenant's request except that any successor landlord shall not be required to provide average rent disclosures relating to previous landlords.

C. When there is a new owner or operator this section extends to and is enforceable against any successor landlord, owner or manager.

D. A person who fails to comply with subsection A, paragraph 1, 2 or 3 or subsection B becomes an agent of each person who is a landlord for the following purposes:

1. Service of process and receiving and receipting for notices and demands.

2. Performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

E. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall post in a conspicuous place a copy of the current utility rates unless the tenant is charged directly by the utility company.

F. Each tenant shall be notified, in writing, of any rent increase at least ninety days prior to the increase by first class or certified mail or by personal delivery. The mobile home parks hearing officer has jurisdiction to determine whether notices have been served properly and in a timely manner.

G. Before entering into a rental agreement, the landlord or any person authorized to enter into the rental agreement shall provide to the prospective tenant a concise written summary of the Arizona mobile home parks residential landlord and tenant act that is approved by the director of the department of FIRE, building and ~~fire~~ LIFE safety annually by November 1 and that includes any legislative changes made in the preceding year. The director of the department of FIRE, building and ~~fire~~ LIFE safety shall post the approved summary on the department's web site. The landlord shall provide the summary to the tenant at no cost to the tenant. The summary shall include information regarding where a complete copy of the act may be obtained or reviewed, including listing the secretary of state's web site. This subsection does not apply to renewal of rental agreements. The secretary of state shall post the act on the secretary of state's web site.

H. The landlord shall make available to all tenants a concise written summary of the Arizona mobile home parks residential landlord and tenant act that is approved by the director of the department of FIRE, building and ~~fire~~ LIFE safety annually by November 1 and that includes any legislative changes

made in the preceding year. The summary shall include information regarding where a complete copy of the act may be obtained or reviewed, including listing the secretary of state's web site. The director of the department of FIRE, building and ~~fire~~ LIFE safety shall post the approved summary on the department's web site. The landlord shall provide the summary at no cost to the tenants.

Sec. 4. Section 33-1476.01, Arizona Revised Statutes, is amended to read:

33-1476.01. Change in use; notices; compensation for moving expenses; payments by the landlord

A. The landlord shall notify the director and all tenants in writing of a change in use at least one hundred eighty days before the change in use. The landlord may not increase rent within ninety days before giving notice of a change in use.

B. The landlord shall inform all tenants in writing about the mobile home relocation fund established in section 33-1476.02.

C. If a tenant is required to move due to a change in use or redevelopment of the mobile home park, the tenant may do either of the following:

1. Collect payment from the mobile home relocation fund for the lesser of the actual moving expenses of relocating the mobile home to a new location that is within a fifty mile radius of the vacated mobile home park or five thousand dollars for a single section mobile home or ten thousand dollars for a multisection mobile home. Moving expenses include the cost of taking down, moving and setting up the mobile home in the new location.

2. Abandon the mobile home in the mobile home park and collect an amount equal to one-fourth of the maximum allowable moving expense for that mobile home from the mobile home relocation fund. To qualify for abandonment payment pursuant to this paragraph, the tenant shall deliver to the landlord the current title to the mobile home with the notarized endorsement of the owner of record together with complete releases of all liens that are shown on the title. The tenant shall provide a copy of these documents to the department of FIRE, building and ~~fire~~ LIFE safety in support of the tenant's application for payment. If the tenant chooses to abandon the mobile home pursuant to this paragraph, the landlord is exempt from making the payments to the fund prescribed in subsection D of this section.

D. Except as provided in subsection C, paragraph 2 and subsection F of this section, if there is a change in use the landlord shall pay five hundred dollars for each single section mobile home and eight hundred dollars for each multisection mobile home relocated to the fund for each tenant filing for relocation assistance with the director.

E. If a change in use occurs before the time stated in the statements of policy and the landlord does not comply with subsection A of this section and with section 33-1436 and section 33-1476, subsection H, the landlord

shall pay to the fund in addition to the monies prescribed in subsection D of this section:

1. Five hundred dollars for each mobile home space occupied by a single section mobile home.

2. Eight hundred dollars for each mobile home space occupied by a multisection mobile home.

F. The landlord is not required to make the payments prescribed in subsections D and E of this section for moving mobile homes owned by the landlord or for moving a mobile home under a contract with the tenant if the tenant does not file for relocation assistance with the director.

G. If a change in use occurs within two hundred seventy days of relocations under section 33-1476.04, the landlord shall pay to the fund in addition to the monies prescribed in subsection D of this section:

1. Five hundred dollars for each mobile home space occupied by a single section mobile home.

2. Eight hundred dollars for each mobile home space occupied by a multisection mobile home.

H. The tenant shall submit a contract for relocation of a mobile home for approval to the director within sixty days after the relocation to be eligible for payment of relocation expenses. The director must approve or disapprove the contract within fifteen days after receipt of the contract, or the contract is deemed to be approved. The payment of expenses shall be made as provided in the rules adopted by the director. If the contract is not approved, the tenant may appeal to the hearing officer.

I. If this state or a political subdivision of this state exercises eminent domain and the mobile home park is sold or a sale is made to this state or a political subdivision of this state that intends to exercise eminent domain, the state or political subdivision is responsible for the relocation costs of the tenants.

J. If a tenant is vacating the premises and has informed the landlord or manager before the change in use notice has been given, the tenant is not eligible for compensation under this section.

K. A person who purchases a mobile home already situated in a park or moves a mobile home into a park in which a change in use notice has been given is not eligible for compensation under this section.

L. This section does not apply to a change in use if the landlord moves a tenant to another space in the mobile home park at the landlord's expense.

Sec. 5. Section 33-1476.02, Arizona Revised Statutes, is amended to read:

33-1476.02. <u>Mobile home relocation fund; investment of monies</u>

A. The mobile home relocation fund is established consisting of monies collected pursuant to section 33-1476.03. The ~~department~~ DIRECTOR shall administer the fund.

B. Fund monies shall be used as prescribed in sections 33-1476.04 and 41-2157 and to pay premiums and other costs of purchasing, from a private insurer who is licensed to transact insurance business in this state, insurance coverage for tenant relocation costs due to a change in use as prescribed in section 33-1476.01. Any insurance rebates shall be deposited in the fund. If such insurance is not available, or if the insurance costs exceed the amount available from the fund, the fund shall be used to make direct payments for tenant relocation costs. Monies in the fund in excess of the amount required for these purposes shall be used, as necessary, to support the ~~department's~~ DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY'S administration of the hearing function under title 41, chapter 16, article 5.

C. On notice from the ~~department~~ DIRECTOR, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. Any unexpended and unencumbered monies remaining in the fund at the end of the fiscal year do not revert to the state general fund but remain in the fund, separately accounted for, as a contingency reserve.

D. The director may adopt, amend or repeal rules pursuant to title 41, chapter 6 for the administration of the fund. Fund monies shall be paid to the department of FIRE, building and ~~fire~~ LIFE safety to offset the costs of administering the fund, including the direct and indirect costs of processing applications for reimbursement submitted under section 41-2157. The attorney general shall review the costs charged to the fund.

Sec. 6. Section 33-1485.01, Arizona Revised Statutes, is amended to read:

33-1485.01. <u>Removal of mobile home from mobile home park; violation; joint and several liability</u>

A. A tenant or a tenant's successor in interest shall provide the landlord with a written notification of intent to remove a mobile home from a mobile home space. The notification shall include the date the mobile home will be removed from the mobile home park, ~~and~~ the name, address and telephone number of the person or entity that will be removing the mobile home from the mobile home park and the name, address and telephone number of the person or entity that will be the responsible party for restoring the mobile home space in accordance with the rental agreement and the mobile home park rules and regulations. If the responsible party is not licensed by the department of FIRE, building and ~~fire~~ LIFE safety or the registrar of contractors, the landlord may require a security deposit or surety bond of not more than one thousand dollars minus the amount of any security deposit that was collected at the beginning of the tenant's tenancy. The security deposit or surety bond shall be paid or provided before work begins on restoring the mobile home space and shall secure the cost of restoration if the responsible party fails to completely restore the mobile home space. The landlord shall provide an accounting of any security deposit as prescribed in section 33-1431, subsection C.

B. A mobile home shall not be removed from a mobile home park by any tenant, any mobile home owner or any other person or entity unless the person or entity that is removing the mobile home has received from the landlord a written clearance for removal. The landlord shall not interfere with the removal of a mobile home for any reason other than nonpayment of monies due as of the date of removal even if the term of the rental agreement has not expired. The written clearance shall contain both of the following:

1. A statement that all monies due for space rent as of the date of removal have been paid or that the landlord and that person or entity have otherwise agreed to the removal.

2. The requirements for a mobile home space restoration as prescribed by the rental agreement and by the mobile home park rules and regulations and that shall be performed by the responsible party listed in the removal notification that is required by subsection A of this section.

C. A person or entity who violates subsection B of this section shall be liable for two times the amount of any rents due.

D. The responsible party identified in the removal notification that is removing a mobile home from a mobile home space shall also remove all accessory structures unless the landlord has agreed in writing to allow those structures to remain. The responsible party identified in the removal notification that is removing the mobile home shall also remove all construction debris, trash and personal property on the rental space from the mobile home park and shall be responsible for restoring the space in accordance with the rental agreement and the mobile home park rules and regulations. The rules and regulations may contain conditions regarding the removal of a mobile home from the mobile home park and the restoration of a mobile home space by a tenant or a tenant's successor in interest after removal of the mobile home. The conditions shall not include any provisions regarding environmental liability or environmental remediation, and any environmental liability or environmental remediation requirements shall be governed as otherwise provided by law. If a rental space does not satisfy the requirements of this section following removal of a mobile home, the landlord may provide the last tenant, the tenant's successor in interest or the mobile home owner and the responsible party identified in the removal notification with written notice that specifies what must be done to bring the space into compliance and that requests that the parties remedy the condition within ten days. If the work is not completed within ten days, the landlord may cause the work to be done and shall prepare an itemized bill for the actual and reasonable cost or the fair and reasonable value of the work and submit it to the last tenant, the tenant's successor in interest or the mobile home owner and the responsible party identified in the removal notification. All of those persons shall be jointly and severally liable for the expenses.

Sec. 7. Section 34-461, Arizona Revised Statutes, is amended to read:

34-461. Applicability of local codes; exception; definition

A. Public buildings shall be constructed in compliance with the state fire code unless a fire code has been adopted by the city, town, county or fire district in which the building is located. Public buildings shall be constructed in compliance with applicable building, plumbing, electrical, fire prevention and mechanical codes adopted by the city, town, county or fire district in which the building is located. The owner of the public building is subject to the same fees required of other persons. Public buildings are subject to inspection during construction pursuant to these codes to determine compliance.

B. If a public building is built in an area that has not adopted local codes, the building shall be designed or constructed according to the state fire code adopted by the state fire marshal and the building, plumbing, electrical, fire prevention and mechanical codes that apply in the largest city in the county in which the building is located.

C. Public buildings are subject to those codes that apply and are in effect when the building is designed or constructed and to the currently adopted codes when a building is found to be structurally unsafe, without adequate egress~~,~~ or a fire hazard or ~~are~~ IS otherwise dangerous to human life.

D. Subsections A and B do not apply to state owned buildings except for the application of the fire code in effect where a state owned building is located. State department of corrections facilities are exempt from the application of the local fire code in the absence of an intergovernmental agreement between the state department of corrections and the governmental entity responsible for enforcing any local fire code.

E. NOTWITHSTANDING SUBSECTION A, CITIES PRESCRIBED IN SECTION 41-2163, SUBSECTION A, PARAGRAPH 2 DO NOT HAVE AUTHORITY THAT SUPERSEDES AND ARE NOT EXEMPT FROM THE STATE FIRE SAFETY COMMITTEE'S ESTABLISHED FIRE CODE IN STATE OR COUNTY OWNED BUILDINGS AND PUBLIC SCHOOLS WHEREVER LOCATED THROUGHOUT THE STATE.

~~E.~~ F. ~~In~~ FOR THE PURPOSES OF this section, "public building" means a building or appurtenance to a building that is built in whole or in part with public monies.

Sec. 8. Section 36-1639, Arizona Revised Statutes, is amended to read:

36-1639. Exemptions

~~The provisions of~~ This article ~~do~~ DOES not apply to:

1. Manufactured homes as defined in section 41-2142 which were manufactured from and after June 15, 1976.

2. Factory-built buildings as defined by section 41-2142 which display an insignia of approval from the department of FIRE, building and ~~fire~~ LIFE safety, office of administration.

1 Sec. 9. Heading change
2 The chapter heading of title 41, chapter 16, Arizona Revised Statutes,
3 is changed from "DEPARTMENT OF BUILDING AND FIRE SAFETY" to "DEPARTMENT OF
4 FIRE, BUILDING AND LIFE SAFETY".
5 Sec. 10. Section 41-2141, Arizona Revised Statutes, is amended to
6 read:
7 41-2141. Department of fire, building and life safety;
8 establishment; purposes; components
9 A. The department of FIRE, building and ~~fire~~ LIFE safety is
10 established to further the public interest of safety and welfare by
11 maintaining and enforcing standards of quality and safety for manufactured
12 homes, mobile homes and factory-built buildings and by reducing hazards to
13 life and property through the maintenance and enforcement of the state fire
14 code BY PROVIDING FIRE TRAINING, FIRE INVESTIGATIONS AND PUBLIC LIFE SAFETY
15 EDUCATION AS PROVIDED FOR IN THIS CHAPTER. It is also the purpose of the
16 department to establish a procedure to protect the consumer of such products
17 and services.
18 B. The department of FIRE, building and ~~fire~~ LIFE safety consists of
19 the board of manufactured housing, the installation standards committee, the
20 state fire safety committee and the director of the department. The
21 director's office consists of the DEPUTY DIRECTOR, THE office of manufactured
22 housing, the office of state fire marshal and the office of administration.
23 C. The attorney general shall act for the department in all legal
24 actions or proceedings and shall advise the department on all questions of
25 law arising out of the administration of this chapter.
26 Sec. 11. Section 41-2142, Arizona Revised Statutes, is amended to
27 read:
28 41-2142. Definitions
29 In this chapter, unless the context otherwise requires:
30 1. "Accessory structure" means the installation, assembly, connection
31 or construction of any one-story habitable room, storage room, patio, porch,
32 garage, carport, awning, skirting, retaining wall, evaporative cooler,
33 refrigeration air conditioning system, solar system or wood decking attached
34 to a new or used manufactured home, mobile home or residential single family
35 factory-built building.
36 2. "Act" means the national manufactured home construction and safety
37 standards act of 1974 and title VI of the housing and community development
38 act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 95-557, 96-153 and
39 96-339).
40 3. "Alteration of units" means the replacement, addition, modification
41 or removal of any equipment or installation after the sale by a manufacturer
42 to a dealer or distributor but prior to the sale by a dealer to a purchaser,
43 which may affect compliance with the standards, construction, fire safety,
44 occupancy, plumbing or heat-producing or electrical system. Alteration does
45 not mean the repair or replacement of a component or appliance requiring

plug-in to an electrical receptacle if the replaced item is of the same configuration and rating as the component or appliance being repaired or replaced. Alteration also does not mean the addition of an appliance requiring plug-in to an electrical receptacle if such appliance is not provided with the unit by the manufacturer and the rating of the appliance does not exceed the rating of the receptacle to which such appliance is connected.

4. "Board" means the board of manufactured housing.

5. "Broker" means any person who, on behalf of another, sells, exchanges, buys, offers or attempts to negotiate or acts as an agent for the sale or exchange of a used manufactured home or mobile home except as exempted in section 41-2178.

6. "Component" means any part, material or appliance which is built-in as an integral part of the unit during the manufacturing process.

7. "Consumer" means either a purchaser or seller of a unit regulated by this chapter who utilizes the services of a person licensed by the department.

8. "Consummation of sale" means that a purchaser has received all goods and services that the dealer or broker agreed to provide at the time the contract was entered into or the transfer of title. Consummation of sale does not include warranties.

9. "Dealer" means any person who sells, exchanges, buys, offers or attempts to negotiate or acts as an agent for the sale or exchange of factory-built buildings, subassemblies, manufactured homes or mobile homes except as exempted in section 41-2178. A lease or rental agreement by which the user acquired ownership of the unit with or without additional remuneration is considered a sale under ~~the provisions of~~ this chapter.

10. "Defect" means any defect in the performance, construction, components or material of a unit that renders the unit or any part of the unit unfit for the ordinary use for which it was intended.

11. "Department" means the department of FIRE, building and ~~fire~~ LIFE safety.

12. "Director" means the director of the department.

13. "Earnest monies" means all monies given by a purchaser or a financial institution to a dealer or broker before consummation of the sale.

14. "Factory-built building" means a residential or nonresidential building including a dwelling unit or habitable room thereof which is either wholly or in substantial part manufactured at an off-site location to be assembled on-site, except that it does not include a manufactured home, recreational vehicle or mobile home as defined in this section.

15. "HUD" means the United States department of housing and urban development.

16. "Imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury.

17. "Insignia of approval" means a numbered or serialized label or seal issued by the assistant director of the office of administration as certification of compliance with ~~the provisions of~~ this chapter.

18. "Installation" means:

(a) Connecting new or used mobile homes, manufactured homes or factory-built buildings to on-site utility terminals or repairing these utility connections.

(b) Placing new or used mobile homes, manufactured homes, accessory structures or factory-built buildings on foundation systems or repairing these foundation systems.

(c) Providing ground anchoring for new or used mobile homes or manufactured homes or repairing the ground anchoring.

19. "Installation supervision" means that the installer may act as an installer of accessory structures for manufactured homes, mobile homes or residential single family factory-built buildings and may also contract with the purchaser or owner of a unit, or a dealer licensed under this chapter, to arrange for, control and supervise all aspects of the installation of a unit and accessory structures, including retaining and supervising persons whose activities are licensed under this chapter. A licensed installer may not contract with the purchaser or owner of a unit or with a dealer licensed under this chapter, to arrange for, retain and supervise a person who is licensed or regulated by an agency other than the office of manufactured housing, unless the licensed installer is also licensed by the same agency which licenses or regulates the person whom the installer retains and supervises. Installation supervision also includes the installer's right, if authorized by the purchaser, owner or dealer, to seek and obtain recourse, remedies or relief against all persons whose activities are supervised. If requested by a licensed installer or an applicant for an installer's license, and approved by the assistant director pursuant to sections 41-2175 and 41-2176, an installer may obtain a license that includes installation supervision.

20. "Installer" means any person who engages in the business of performing installations of manufactured homes, mobile homes or residential single family factory-built buildings.

21. "Installer of accessory structures" means any person who engages in the business of installing accessory structures.

22. "Listing agreement" means a document which contains the name and address of the seller, a description of the unit to be listed and the terms which include the period of time that the agreement is in force, the price the seller is requesting for the unit, the commission to be paid to the licensee and the signatures of the sellers and the licensee who obtains the listing.

23. "Local enforcement agency" means a zoning or building department of a city, town or county or its agents.

24. "Manufactured home" means a structure built in accordance with the act.

25. "Manufacturer" means any person engaged in manufacturing, assembling or reconstructing any unit regulated by this chapter.

26. "Mobile home" means a structure built prior to June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling when connected to on-site utilities except recreational vehicles and factory-built buildings.

27. "Purchaser" means a person purchasing a unit in good faith from a licensed dealer or broker for purposes other than resale.

28. "Qualifying party" means a person who is an owner, employee, corporate officer or partner of the licensed business and who has active and direct supervision of and responsibility for all operations of that licensed business.

29. "Reconstruction of a unit" means construction work performed for the purpose of restoration or modification of a unit by changing or adding structural components or electrical, plumbing or heat or air producing systems.

30. "Recreational vehicle" means a vehicular type unit which is:

(a) A portable camping trailer mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold for camping.

(b) A motor home designed to provide temporary living quarters for recreational, camping or travel use and built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.

(c) A park trailer built on a single chassis, mounted on wheels and designed to be connected to utilities necessary for operation of installed fixtures and appliances and has a gross trailer area of not less than three hundred twenty square feet and not more than four hundred square feet when it is set up, except that it does not include fifth wheel trailers.

(d) A travel trailer mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of a size or weight that may or may not require special highway movement permits when towed by a motorized vehicle and has a trailer area of less than three hundred twenty square feet. This subdivision includes fifth wheel trailers. If a unit requires a size or weight permit, it shall be manufactured to the standards for park trailers in A 119.5 of the American national standards institute code.

(e) A portable truck camper constructed to provide temporary living quarters for recreational, travel or camping use and consisting of a roof, floor and sides designed to be loaded onto and unloaded from the bed of a pickup truck.

31. "Salesperson" means any person who, for a salary, commission or compensation of any kind, is employed by or acts on behalf of any dealer or broker of manufactured homes, mobile homes or factory-built buildings to sell, exchange, buy, offer or attempt to negotiate or act as an agent for the sale or exchange of an interest in a manufactured home, mobile home or factory-built building.

32. "Seller" means a natural person who enters into a listing agreement with a licensed dealer or broker for the purpose of resale.

33. "Site development" means the development of an area for the installation of the unit's or units' locations, parking, surface drainage, driveways, on-site utility terminals and property lines at a proposed construction site or area.

34. "Statutory agent" means an adult person who has been a bona fide resident of this state for at least three years and has agreed to act as agent for a licensee.

35. "Subassembly" means a prefabricated wall, floor, ceiling, roof or similar combination of components.

36. "Title transfer" means a true copy of the application for title transfer which is stamped or validated by the appropriate government agency.

37. "Unit" means a manufactured home, mobile home, factory-built building, subassembly or accessory structures.

38. "Unit safety" means the performance of a unit in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such unit, or any unreasonable risk of death or injury to the user or to the public if such accidents occur.

39. "Used unit" means any unit which is regulated by this chapter and which has been sold, bargained, exchanged or given away from a purchaser who first acquired the unit which was titled in the name of such purchaser.

40. "Workmanship" means a minimum standard of construction or installation reflecting a journeyman quality of the work of the various trades.

Sec. 12. Section 41-2146, Arizona Revised Statutes, is amended to read:

41-2146. <u>State fire safety committee; members; terms; powers and duties; compensation</u>

A. A state fire safety committee is established consisting of seven members WHO ARE appointed for three year terms by the governor pursuant to section 38-211. The governor may remove any member from the committee for incompetency, improper conduct, disability or neglect of duty. Membership on the committee is as follows:

1. Two members, not from the same municipality, ~~who~~ EACH OF WHOM shall be a fire chief or fire marshal of a paid municipal fire department of a city with a population of one hundred thousand persons or more.

2. One member shall be a fire chief of a paid municipal fire department of a town with a population of less than one hundred thousand persons.

3. One member shall be a member of the Arizona fire chiefs' association.

4. One member shall be a registered architect.

5. One member shall be a chief building official of a city, town or county.

6. One member shall be a member of the public.

B. The state fire safety committee shall annually select from its membership a chairman for the committee. The committee shall meet on the call of the chairman or on the request of at least four members.

C. The state fire safety committee shall adopt by rule a state fire code establishing minimum standards for:

1. Safeguarding life and property from fire and fire hazards.

2. Prevention of fires and alleviation of fire hazards.

3. Storage, sale, distribution and use of dangerous chemicals, combustibles, flammable liquids, explosives and radioactive materials.

4. Installation, maintenance and use of fire escapes, fire protection equipment, fire alarm systems, smoke detectors and fire extinguishing equipment.

5. The means and adequacy of fire protection and exit in case of fire in places in which numbers of persons work, live or congregate, excluding family dwellings which have fewer than five residential dwelling units.

6. Other matters relating to fire prevention and control which are considered necessary by the committee.

D. The state fire safety committee ~~may~~ SHALL adopt rules and a schedule of fees ~~which shall not exceed ninety dollars~~ for a permit, ~~twenty dollars~~ for a plan submission, ~~forty dollars an hour~~ for plan review and ~~thirty dollars an hour~~ for reinspections ~~which~~ THAT are payable by persons regulated under article 3 of this chapter.

E. The state fire safety committee shall adopt rules for the allocation of monies from the arson detection reward fund established in section 41-2167. The rules shall be consistent with the purposes set forth in section 41-2167 and shall promote the effective and efficient use of the fund monies.

F. Members of the committee are not eligible to receive compensation for service on the committee but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Sec. 13. Section 41-2147, Arizona Revised Statutes, is amended to read:

41-2147. <u>Director; qualifications; appointment; salary; assistants; powers and duties</u>

A. The governor shall appoint a director of the department pursuant to section 38-211. The director shall serve at the pleasure of the governor.

B. The director shall be experienced in administration and the technical knowledge necessary to administer this chapter.

C. The compensation of the director shall be as determined pursuant to section 38-611.

D. The director with the approval of the governor shall appoint A DEPUTY DIRECTOR, an assistant director of the office of manufactured housing, the state fire marshal of the office of fire marshal, THE STATE FIRE TRAINING OFFICER, THE FIRE RESOURCE COORDINATOR and an assistant director of the office of administration, all of whom serve at the pleasure of the director and are exempt from ~~the provisions of~~ chapter 4, article 5 of this title. Compensation for the assistant directors and the fire marshal shall be as determined pursuant to section 38-611.

E. The director shall establish and have authority over the functions of the office of manufactured housing, the office of state fire marshal and the office of administration and shall appoint employees necessary to perform the duties of articles 2, 3 ~~and~~, 4 AND 6 of this chapter.

F. The director shall employ any deputies, investigators and assistants and shall procure all equipment and records that are necessary to enforce this chapter. With respect to the enforcement of section 41-2194, the director or ~~his~~ THE DIRECTOR'S designees are vested with the authority to issue a citation in accordance with section 13-3903 or to issue a cease and desist order to any violators of this chapter. When the director or ~~his~~ THE DIRECTOR'S designees conduct investigations they may receive criminal history record information from the department of public safety and other law enforcement entities.

G. In order to protect public health, safety and welfare, the director may revoke or suspend a license.

H. The director may issue citations to licensees for alleged violations of any of the provisions of this chapter or rules adopted pursuant to this chapter.

I. The director, on ~~his~~ THE DIRECTOR'S motion or on the written request of the licensee, may reduce, at ~~his~~ THE DIRECTOR'S discretion, the amount of any administrative penalty imposed.

Sec. 14. Section 41-2161, Arizona Revised Statutes, is amended to read:

41-2161. <u>Office of state fire marshal; purpose; qualifications</u>

To promote public health and safety and to reduce hazards to life, limb and property, the office of state fire marshal is established within the department. THE OFFICE SHALL PERFORM ITS DUTIES BY PERFORMING INSPECTIONS AND FIRE INVESTIGATIONS, BY PROVIDING PUBLIC EDUCATION AND BY ADOPTING FIRE PROTECTION CODES. The person appointed as state fire marshal shall have extensive experience in the field of fire prevention and fire protection including administrative experience in such capacity.

Sec. 15. Section 41-2163, Arizona Revised Statutes, is amended to read:

41-2163. Powers and duties; arson investigators

A. The state fire marshal shall, under the authority and direction of the director:

1. Assist in the enforcement of state laws and ordinances of cities and counties relating to fire prevention and fire protection.

2. Enforce compliance with the fire code ~~promulgated~~ ADOPTED by the state fire safety committee throughout the state except in any city having a population of one hundred thousand persons or more which has in effect a nationally recognized fire code, whether modified or unmodified, and which has enacted an ordinance to assume such jurisdiction from the state fire safety committee. Such cities ~~shall~~ DO not have authority ~~superceding or be exempted~~ THAT SUPERSEDES AND ARE NOT EXEMPT from the state fire safety committee's established fire ~~prevention standards~~ CODE in state or county owned buildings and public schools wherever located throughout the state.

3. Cooperate and coordinate with other state agencies in the administration of the state fire code.

4. Establish a regularly scheduled fire safety inspection program for all state and county owned public buildings and all public and private school buildings wherever located throughout the state, except for private school buildings in cities with a population of one hundred thousand or more persons according to the last decennial census.

5. Inspect as necessary all other occupancies located throughout this state, except family dwellings having fewer than five residential dwelling units and occupancies located in cities with a population of one hundred thousand or more persons according to the last decennial census.

6. At the written request of county or municipal authorities, make and provide to them a written report of the examination made by the state fire marshal of any fire within their jurisdiction.

7. Compile, update as necessary and make available to the public a fully indexed and cross-referenced list of all rules adopted by state agencies and departments and agencies and departments of political subdivisions of this state relating to the control of all hazardous materials as defined in section 28-5201 and all federal regulations relating to the control of hazardous materials as defined in section 28-5201 for which there is no state regulation.

8. Establish and maintain a library of all rules and regulations identified in the index required by paragraph 7 of this subsection and support the regulated industry's request for information through research or referral to the agency adopting the specific rule for technical information or other assistance as circumstances dictate.

9. Administer the arson detection reward fund established by section 41-2167.

B. The state fire marshal and this state are not liable for damages caused by information which is omitted from the rules and federal regulations compiled pursuant to subsection A, paragraph 7 of this section.

C. All plans and specifications for new construction, remodeling, alterations and additions for state, county and public school buildings and grounds shall be submitted to the director for review and approval by the state fire marshal prior to construction. The plans and specifications shall be reviewed and approved or disapproved within sixty days of submission. No construction shall commence until the plans have been approved and a permit has been issued.

D. The state fire marshal may, under the authority and direction of the director:

1. Conduct or participate in investigations of causes, origins and circumstances of fires, including cases of possible arson.

2. Prescribe a uniform system of reporting fires and their causes and effects.

3. Provide and coordinate training in fire fighting and fire prevention and cooperate with educational institutions to provide and further such training.

4. Impound necessary evidence in conjunction with investigations of causes, origins and circumstances of fires, in the event that such evidence might be lost, destroyed or otherwise altered if not so impounded.

5. Employ specialized testing services to evaluate evidence and conditions involved in fire investigations.

6. Designate certain members of the state fire marshal's staff as arson investigators.

E. The primary duty of investigators designated pursuant to subsection D, paragraph 6 of this section is the investigation, detection~~,~~ and apprehension of persons who have violated or are suspected of violating any provision of title 13, chapter 17. A person designated as an arson investigator, while engaged in arson investigation in this state, possesses and may exercise law enforcement powers of peace officers of this state. This subsection does not grant any powers of peace officers of this state to arson investigators other than those necessary for the investigation, detection and apprehension authority granted by ~~the provisions of~~ this subsection. Any individual designated as an arson investigator shall have law enforcement training under ~~the provisions of~~ section 41-1822.

Sec. 16. Title 41, chapter 16, article 3, Arizona Revised Statutes, is amended by adding section 41-2169.01, to read:

41-2169.01. Safety standards in fire training

ALL TRAINING PROVIDED BY THE DEPARTMENT SHALL COMPLY WITH THE SAFETY STANDARDS PRESCRIBED BY THE NATIONAL FIRE PROTECTION ASSOCIATION AND THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION REGULATIONS OF THIS STATE.

Sec. 17. Section 41-2171, Arizona Revised Statutes, is amended to read:

41-2171. Office of administration; purpose

The purpose of the office of administration within the department of FIRE, building and ~~fire~~ LIFE safety is to provide the administrative services necessary to facilitate the operation of the office of manufactured housing and the office of state fire marshal, including procedures to ensure compliance with laws and rules relating to ~~such~~ THESE offices.

Sec. 18. Section 41-3012.14, Arizona Revised Statutes, is amended to read:

41-3012.14. Department of fire, building and life safety; termination July 1, 2012

A. The department of FIRE, building and LIFE safety terminates on July 1, 2012.

B. Title 41, chapter 16 is repealed on January 1, 2013.

Sec. 19. Section 49-356, Arizona Revised Statutes, is amended to read:

49-356. Water systems; designating lead agency; coordinating council

A. The department of environmental quality is designated as the lead agency to review the operations of water systems and the practices of governmental agencies which oversee and regulate them.

B. A water systems coordinating council is established in the department of environmental quality consisting of representatives of at least the following governmental entities and agencies or private water systems:

1. The department of environmental quality.
2. The corporation commission.
3. The state real estate department.
4. The department of water resources.
5. The department of health services.
6. The office of state fire marshal in the department of FIRE, building and ~~fire~~ LIFE safety.
7. One representative of the health department of a county having a population exceeding one million five hundred thousand persons according to the most recent United States decennial census.
8. One representative of the health department of a county having a population exceeding five hundred thousand but not exceeding one million five hundred thousand persons according to the most recent United States decennial census.
9. One member~~,~~ WHO IS appointed by the director ~~to represent~~ AND WHO REPRESENTS county planning and zoning departments.
10. One member~~,~~ WHO IS appointed by the director~~, to represent~~ AND WHO REPRESENTS a city or town with a population of less than ten thousand.
11. One member~~,~~ WHO IS appointed by the director~~, to represent~~ AND WHO REPRESENTS investor owned water systems.

C. The determination of the number and appointment of representatives for the departments ~~designed~~ DESIGNATED in subsection B, paragraphs 1, 4 and 5~~,~~ shall be made by the director of the respective departments. The determination of the number and appointment of representatives of the state real estate department shall be made by the real estate commission. The determination of the number and appointment of representatives of the office of state fire marshal shall be made by the state fire marshal. The appointment of representatives under subsection B, paragraphs 7 and 8~~,~~ shall be made by the director of the department of health ~~servces~~ SERVICES.

D. Additional members may be appointed at the discretion of the council. A representative from the department of environmental quality, selected by the director, shall serve as chairman of the council. The council shall meet at least quarterly and may meet more often to conduct its business.

E. The council shall:

1. Develop public education and information programs for owners, operators and customers of water systems.

2. Identify programs to advise and assist owners and operators of water systems in management, accounting, engineering and other technical areas.

3. Integrate and coordinate information ~~data bases~~ DATABASES among member agencies.

4. Evaluate the statutory and regulatory authority of governmental entities regarding water systems and recommend appropriate changes.

5. Develop any other programs and recommendations which would benefit the owners, operators and customers of water systems and the statutory and regulatory practices of government agencies.

6. Identify sources of funding to accomplish the purposes of this section.

7. Investigate mechanisms to ensure the financial viability of new water systems before they begin operation.

Sec. 20. Effective date

This act is effective from and after June 30, 2006.

APPROVED BY THE GOVERNOR MAY 2, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2005.

Passed the House March 8, 2005, by the following vote: 59 Ayes, 0 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 18, 2005, by the following vote: 20 Ayes, 9 Nays, 1 Not Voting

President of the Senate

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

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

H.B. 2644

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 25, 2005,

by the following vote: 52 Ayes,

1 Nays, 7 Not Voting

Speaker of the House
Pro Tempore

Cheryl Laube
Asst Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21th day of April, 2005

at 8:45 o'clock a. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 2 day of

May, 2005,

at 1:30 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of May, 2005,

at 4:55 o'clock P. M.

Jeanne H. Brewer
Secretary of State

H.B. 2644