

Senate Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 239

# **SENATE BILL 1423**

AN ACT

AMENDING SECTIONS 41-2180, 41-2186, 41-2189, 41-2190 AND 41-2193, ARIZONA  
REVISED STATUTES; RELATING TO MANUFACTURED HOUSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-2180, Arizona Revised Statutes, is amended to  
3 read:

4 41-2180. Trust and escrow requirements; rules; exemptions

5 A. BEGINNING JULY 1, 2012, EACH DEALER OR BROKER LICENSED PURSUANT TO  
6 THIS ARTICLE SHALL ESTABLISH AN INDEPENDENT ESCROW ACCOUNT WITH AN  
7 INDEPENDENT FINANCIAL INSTITUTION OR ESCROW AGENT AUTHORIZED TO HANDLE SUCH  
8 AN ACCOUNT IN THIS STATE AS PRESCRIBED BY TITLE 6, CHAPTER 7 OR 8, FOR EACH  
9 TRANSACTION INVOLVING:

10 1. A NEW MANUFACTURED HOME.

11 2. A NEW FACTORY-BUILT BUILDING DESIGNED FOR USE AS A RESIDENTIAL  
12 DWELLING.

13 3. A MANUFACTURED HOME, MOBILE HOME OR FACTORY-BUILT BUILDING DESIGNED  
14 FOR USE AS A RESIDENTIAL DWELLING THAT IS PREVIOUSLY OWNED AND THAT HAS A  
15 PURCHASE PRICE OF FIFTY THOUSAND DOLLARS OR MORE.

16 B. FOR THE PURPOSES OF SUBSECTION A OF THIS SECTION, A FINANCIAL  
17 INSTITUTION OR ESCROW AGENT IS INDEPENDENT IF THE INDIVIDUAL OR ENTITY IS NOT  
18 CONTROLLED BY THE LICENSEE, A FAMILY MEMBER OF THE LICENSEE OR A BUSINESS  
19 AFFILIATED WITH THE LICENSEE AND THE LICENSEE, FAMILY MEMBER OR BUSINESS  
20 AFFILIATE DOES NOT HAVE A MAJORITY INTEREST IN THE FINANCIAL INSTITUTION OR  
21 ESCROW AGENT.

22 C. THE OWNER OF A MOBILE HOME PARK WHO ALSO IS OR OWNS A DEALERSHIP  
23 LICENSED PURSUANT TO THIS ARTICLE TO SELL NEW UNITS MAY SELL A NEW  
24 MANUFACTURED HOME OR A NEW FACTORY-BUILT BUILDING DESIGNED FOR USE AS A  
25 RESIDENTIAL DWELLING AS A LICENSEE WITHOUT COMPLYING WITH SUBSECTION A OF  
26 THIS SECTION IF ALL OF THE FOLLOWING APPLY:

27 1. THE HOME WILL BE SITED IN A MOBILE HOME PARK THAT IS OWNED BY THE  
28 PARK OWNER.

29 2. AT THE TIME OF THE SALE, THE PARK OWNER HAS ON FILE AT THE OFFICE  
30 OF MANUFACTURED HOUSING THE NAME AND ADDRESS OF ALL MOBILE HOME PARKS OWNED  
31 BY THE PARK OWNER, THE NAME, ADDRESS AND LICENSE NUMBER OF THE LICENSED  
32 DEALERSHIP AND DOCUMENTATION SHOWING TO THE SATISFACTION OF THE OFFICE OF  
33 MANUFACTURED HOUSING THAT THE PARK OWNER EITHER HOLDS THE LICENSE, OWNS A  
34 MAJORITY INTEREST IN THE LICENSE OR IS CONTROLLED BY AN ENTITY THAT HOLDS A  
35 CONTROLLING INTEREST IN THE LICENSE.

36 3. AT THE TIME OF THE SALE, THE LICENSED DEALERSHIP HAS POSTED WITH  
37 THE OFFICE OF MANUFACTURED HOUSING A DEALER BOND IN AN AMOUNT OF AT LEAST ONE  
38 HUNDRED THOUSAND DOLLARS IN A FORM SATISFACTORY TO THE OFFICE OF MANUFACTURED  
39 HOUSING COVERING SALES BY PARKS SHARING COMMON CONTROL.

40 ~~A.~~ D. Each dealer or broker who is licensed pursuant to this article  
41 and who sells manufactured homes, mobile homes or factory-built buildings  
42 designed for use as residential dwellings or A MANUFACTURED HOME, MOBILE HOME  
43 OR FACTORY-BUILT BUILDING DESIGNED FOR USE AS A RESIDENTIAL DWELLING THAT IS  
44 PREVIOUSLY OWNED AND THAT HAS A PURCHASE PRICE OF LESS THAN FIFTY THOUSAND  
45 DOLLARS shall maintain a trust account or an escrow account with a financial

1 institution or escrow agent located in this state and shall deposit all  
2 earnest money received for the sale of manufactured homes, mobile homes or  
3 factory-built buildings designed for use as residential dwellings in such  
4 account. The department shall conduct an audit of each dealer's or broker's  
5 trust or escrow account, INCLUDING ANY TRANSACTIONS WITH AN INDEPENDENT  
6 ESCROW ACCOUNT, at least once every two years. BEGINNING JULY 1, 2012, A  
7 PURCHASER UNDER THIS SUBSECTION MAY REQUEST THAT THE DEALER OR BROKER  
8 ESTABLISH AN INDEPENDENT ESCROW ACCOUNT AND IF SUCH A REQUEST IS MADE IN  
9 WRITING NO LATER THAN THE TIME THE PURCHASE CONTRACT IS SIGNED, AND THE  
10 SELLER CONSENTS, THE DEALER OR BROKER SHALL COMPLY WITH THIS SUBSECTION BY  
11 COMPLYING WITH SUBSECTION A OF THIS SECTION. A LICENSEE HANDLING A  
12 TRANSACTION UNDER THIS SUBSECTION SHALL DISCLOSE TO THE PURCHASER, IN WRITING  
13 AND BEFORE OR AT THE TIME THE PURCHASER SIGNS THE PURCHASE CONTRACT, THAT THE  
14 PURCHASER MAY REQUEST IN WRITING THE USE OF AN INDEPENDENT ESCROW ACCOUNT,  
15 AND THAT THE TRANSACTION WILL OTHERWISE BE HANDLED THROUGH A TRUST ACCOUNT  
16 CONTROLLED BY THE LICENSEE.

17 ~~B.~~ E. All dealers or brokers shall notify the deputy director in  
18 writing when the trust or escrow account has been established by indicating  
19 the name and number of the account and the name and location of the financial  
20 institution used.

21 ~~C.~~ F. The dealer or broker, in writing, shall authorize the  
22 depository to release any and all information relative to trust or escrow  
23 accounts to the deputy director or his THE DEPUTY DIRECTOR'S agent, employee  
24 or deputy.

25 ~~D.~~ G. The dealer's or broker's earnest money receipt book shall  
26 reflect all earnest monies received and shall be at the minimum in duplicate  
27 and consecutively numbered.

28 ~~E.~~ H. All earnest monies shall be deposited in the escrow account or  
29 trust fund account no later than the close of the second banking business day  
30 after receipt.

31 I. THE TERMS OR INSTRUCTIONS FOR ANY ESCROW ACCOUNT OPENED UNDER  
32 SUBSECTION A OR D OF THIS SECTION ARE DEEMED TO BE AND ENFORCEABLE AS PART OF  
33 THE PURCHASE CONTRACT. ALL PARTIES TO THE PURCHASE CONTRACT AND THE LICENSEE  
34 SHALL SIGN THE TERMS AND INSTRUCTIONS. IF PRACTICABLE, THE ESCROW TERMS OR  
35 INSTRUCTIONS SHALL BE INCLUDED IN THE PURCHASE CONTRACT OR STATED IN AN  
36 ADDENDUM TO THE PURCHASE CONTRACT. THE LICENSEE SHALL PROVIDE A COPY OF THE  
37 PURCHASE CONTRACT TO THE ESCROW AGENT EVEN IF THE ESCROW TERMS OR  
38 INSTRUCTIONS ARE CONTAINED IN A SEPARATE DOCUMENT. THE LICENSEE SHALL  
39 PROMPTLY PROVIDE THE ESCROW ACCOUNT INFORMATION TO ALL PARTIES TO THE  
40 PURCHASE CONTRACT ONCE THE ACCOUNT IS OPENED.

41 J. AT A MINIMUM, THE ESCROW TERMS OR INSTRUCTIONS SHALL CONTAIN:

42 1. IDENTIFICATION OF THE ESCROW AGENT WITH INFORMATION CONTAINING AT  
43 LEAST THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE AGENT.

44 2. ALL CONDITIONS OR REQUIREMENTS THAT AFFECT OR PERTAIN TO CLOSING  
45 THE ESCROW ACCOUNT AND DISBURSEMENT OF THE MONIES IN THE ACCOUNT.

1           3. ANY CONDITIONS OR REQUIREMENTS WHERE MONIES ARE TO BE DISBURSED  
2 FROM THE ESCROW ACCOUNT IN ADVANCE OF THE ACCOUNT BEING CLOSED.

3           4. ANY CONDITIONS OR REQUIREMENTS WHERE ADDITIONAL MONIES OR DOCUMENTS  
4 MUST BE DEPOSITED WITH AN ESCROW AGENT AFTER THE ESCROW ACCOUNT IS OPENED.

5           ~~F~~ K. A dealer or broker may deposit and maintain up to two hundred  
6 dollars in the trust account to offset service charges that may be assessed  
7 by the financial institutions.

8           ~~G~~ L. Every deposit into a trust account shall be made with a deposit  
9 slip ~~which~~ THAT identifies each transaction as follows:

10           1. The amount of deposit.

11           2. The names of all parties involved in the transaction.

12 All receipts for monies deposited in escrow shall be made accountable by  
13 containing the same information.

14           ~~H~~ M. A complete record shall be retained by the dealer's or broker's  
15 office of all earnest monies received. The record shall contain provisions  
16 for entering:

17           1. The amount received.

18           2. From whom the money was received.

19           3. The date of receipt.

20           4. The place of deposit.

21           5. The date of deposit.

22           6. The daily balance of the trust fund account deposit of each  
23 transaction.

24           7. When the transaction has been completed.

25           8. THE date and payment for all goods and services the dealer has  
26 contracted to provide.

27           ~~I~~ N. All earnest money deposited in the trust or escrow account  
28 shall be held in such account until one of the following is completed:

29           1. An application for title transfer has been made.

30           2. The transaction involved is consummated or terminated and a  
31 complete accounting is made.

32           ~~J~~ O. ~~Upon~~ ON completion of PURSUANT TO subsection ~~I~~ N of this  
33 section, the earnest money deposit shall be conveyed to the lending  
34 institution or the dealer, broker, purchaser, seller, manufacturer or  
35 lienholder, whichever is applicable.

36           ~~K~~ P. The dealer or broker shall retain true copies of the purchase  
37 agreements, earnest money receipts, depository receipts, evidence of delivery  
38 documents and evidence of consummation of sale or termination of sale for a  
39 period of three years.

40           ~~L~~ Q. The deposits referred to in this section shall not be ~~utilized~~  
41 USED for any purpose other than the transaction for which they were provided.

42           ~~M~~ R. Notwithstanding any other provision of this section AND EXCEPT  
43 THAT THIS SUBSECTION DOES NOT APPLY TO AN INDEPENDENT ESCROW ACCOUNT  
44 ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION, before an event listed  
45 under subsection ~~I~~ N of this section is completed, a licensed dealer may

1 release trust account earnest monies to pay for flooring or inventory for the  
2 unit that is the subject of the transaction for which the earnest monies were  
3 provided. Either a licensed dealer or broker may release trust account  
4 earnest monies to pay other lawfully imposed interim loan amounts and charges  
5 imposed by a financial institution or other bona fide lender on the unit that  
6 is the subject of the transaction for which the earnest monies were provided.  
7 The dealer or broker shall not make any payment out of trust account monies  
8 pursuant to this subsection unless done in compliance with all of the  
9 following:

10 1. The payment is made no more than ten business days ~~prior to~~ BEFORE  
11 the completion date pursuant to subsection ~~I~~ N of this section.

12 2. The payment is made directly to the financial institution or other  
13 bona fide lender.

14 3. The payment is recorded in the dealer's or broker's records under  
15 this section and documented by a receipt, a payment record or any other  
16 evidence from the financial institution or lender.

17 4. If the transaction is terminated, the dealer or broker replaces the  
18 amount of the payment in the trust account within three business days after  
19 receiving written notification of the termination.

20 This subsection does not affect any other rights or obligations between the  
21 purchaser and the licensed dealer or broker.

22 ~~H~~ S. The board shall adopt separate rules for dealer trust and  
23 escrow accounts and broker trust and escrow accounts. At a minimum, these  
24 rules shall contain trust and escrow account requirements for the following:

25 1. Record keeping.

26 2. Administration.

27 3. Service fees or charges.

28 4. Deposits.

29 5. Advances or payments out of trust and escrow accounts.

30 6. Closing or termination of sales transactions.

31 7. Auditing or investigation of trust or escrow account complaints.

32 ~~θ~~ T. This section shall not apply to a real estate broker or  
33 salesperson licensed pursuant to section 32-2122 and pursuant to this article  
34 when the unit is sold in conjunction with real estate.

35 Sec. 2. Section 41-2186, Arizona Revised Statutes, is amended to read:

36 41-2186. Grounds for disciplinary action

37 The deputy director may, ~~upon~~ ON the deputy director's own motion, and  
38 shall, ~~upon~~ ON the complaint in writing of any person, cause to be  
39 investigated by the office the acts of any manufacturer, dealer, broker,  
40 salesperson or installer licensed with the office and may temporarily suspend  
41 or permanently revoke any license issued under this article, impose an  
42 administrative penalty or place on probation any licensee, if the holder of  
43 the license, while a licensee, is guilty of or commits any of the following  
44 acts or omissions:

- 1           1. Failure in any material respect to comply with this article or  
2 article 2 of this chapter.
- 3           2. Violation of any rule that is adopted by the board and that  
4 pertains to the construction of any unit or of any rule that is adopted by  
5 the board and that is necessary to effectively carry out the intent of this  
6 article, article 2 of this chapter or the laws of the United States or of  
7 this state.
- 8           3. Misrepresentation of a material fact by the applicant in obtaining  
9 a license.
- 10          4. Aiding or abetting an unlicensed person or knowingly combining or  
11 conspiring with an unlicensed person to evade this article or article 2 of  
12 this chapter, or allowing one's license to be used by an unlicensed person or  
13 acting as an agent, partner or associate of an unlicensed person with intent  
14 to evade this article or article 2 of this chapter.
- 15          5. Conviction of a felony.
- 16          6. The doing of a wrongful or fraudulent act by a licensee ~~which~~ THAT  
17 relates to this article or article 2 of this chapter, INCLUDING, BEGINNING  
18 JULY 1, 2012, FAILURE TO COMPLY WITH SECTION 41-2180, SUBSECTION A.
- 19          7. Departure from or disregard of any code or any rule adopted by the  
20 board.
- 21          8. Failure to disclose or subsequent discovery by the office of facts  
22 ~~which~~ THAT, if known at the time of issuance of a license or the renewal of a  
23 license, would have been grounds to deny the issuance or renewal of a  
24 license.
- 25          9. Knowingly entering into a contract with a person not duly licensed  
26 in the required classification for work to be performed for which a license  
27 is required.
- 28          10. Acting in the capacity of a licensee under any license issued under  
29 this article in a name other than as set forth ~~upon~~ ON the license.
- 30          11. Acting as a licensee while the license is under suspension OR IN  
31 ANY OTHER INVALID STATUS.
- 32          12. Failure to respond relative to a verified complaint after notice of  
33 such complaint.
- 34          13. Violation of title 28, chapter 10 or rules adopted pursuant to  
35 title 28, chapter 10, except for the licensing requirements of sections  
36 28-4334, 28-4335, 28-4361, 28-4362, 28-4364, 28-4401 and 28-4402.
- 37          14. False, misleading or deceptive sales practices by a licensee in the  
38 sale or offer of sale of any unit regulated by this article or article 2 of  
39 this chapter.
- 40          15. Failure to remit the consumer recovery fund fee pursuant to section  
41 41-2189.
- 42          16. Acting as a salesperson while not employed by a dealer or broker.
- 43          17. As a salesperson, representing or attempting to represent a dealer  
44 or broker other than by whom the salesperson is employed.

1 18. Failure by a salesperson to promptly place all cash, checks and  
2 other items of value and any related documents received in connection with a  
3 sales transaction in the care of the employing dealer or broker.

4 19. Failure to provide all agreed on goods and services.

5 20. Failure to manufacture or install in a workmanlike manner all  
6 subassemblies, units and accessory structures which THAT are suitable for  
7 their intended purpose.

8 21. Failure of the licensee to work only within the scope of the  
9 license held.

10 22. An action by a licensee, who is also a mobile home park owner,  
11 manager, agent or representative, that restricts a resident's or prospective  
12 resident's access to buyers, sellers or licensed dealers or brokers in  
13 connection with the sale of a home or the rental of a space, that the  
14 department finds constitutes a violation of section 33-1434, subsection B or  
15 section 33-1452, subsection E or that violates any law or regulation relating  
16 to fair housing or credit practices.

17 Sec. 3. Section 41-2189, Arizona Revised Statutes, is amended to read:

18 41-2189. Funding and assessments

19 A. A dealer or broker of manufactured homes, mobile homes or  
20 factory-built buildings designed for use as residential dwellings shall pay,  
21 in addition to the license or renewal fee, a fee established by the board of  
22 not to exceed ~~thirty~~ FIFTY dollars for each unit THAT IS sold AND THAT IS  
23 SUBJECT TO SECTION 41-2180, SUBSECTION D, for deposit into the consumer  
24 recovery fund. The fee is payable to the office by the fifteenth day of the  
25 month following the month in which the sale is consummated.

26 ~~B. If the balance remaining in the consumer recovery fund is less than~~  
27 ~~two hundred thousand dollars, a dealer or broker of manufactured homes,~~  
28 ~~mobile homes or factory built buildings designed for use as residential units~~  
29 ~~shall, when renewing a license for the following calendar year, pay in~~  
30 ~~addition to the renewal fee a fee of not to exceed fifty dollars for deposit~~  
31 ~~into the fund. If the balance in the consumer recovery fund exceeds four~~  
32 ~~hundred thousand dollars, the board may relieve licensees of the per unit~~  
33 ~~fee.~~

34 ~~C. Chapter 6 of this title does not apply to the setting of fees~~  
35 ~~under this section.~~

36 ~~D. C. An amount not to exceed seventy-five per cent of the previous~~  
37 ~~fiscal year's interest earned on the consumer recovery fund may be expended~~  
38 ~~by the director, with the approval of the board. The expenditure shall be~~  
39 ~~used for consumer and licensee education in connection with the manufactured~~  
40 ~~housing and factory-built building industry, and all monies up to a maximum~~  
41 ~~of fifty thousand dollars remaining unexpended and unencumbered at the end of~~  
42 ~~each fiscal year may be used for consumer and licensee education in~~  
43 ~~succeeding fiscal years and do not revert to the consumer recovery fund.~~

1           Sec. 4. Section 41-2190, Arizona Revised Statutes, is amended to read:  
2           41-2190. Recovery from fund; claim against licensee;  
3                           subrogation; appeal; statute of limitations

4           A. If any consumer who is buying or selling the consumer's home uses  
5 the services of a licensed dealer or broker of manufactured homes, mobile  
6 homes or factory-built buildings designed for use as residential buildings  
7 and is damaged as a result of an act or omission by a licensed dealer or  
8 broker of manufactured homes, mobile homes or factory-built buildings  
9 designed for use as residential buildings ~~which~~ THAT constitutes a violation  
10 of section 41-2180, or rules adopted pursuant to that section, AND THE SALE  
11 IS SUBJECT TO SECTION 41-2180, SUBSECTION D, that consumer may file a claim  
12 with the office for payment from the consumer recovery fund. The claim shall  
13 be verified by the office.

14           B. If any consumer of manufactured homes, mobile homes or  
15 factory-built buildings designed for use as residential buildings is damaged  
16 by the failure of the principal to perform a sales agreement or to perform  
17 repairs under a warranty,— the consumer may file a claim with the office for  
18 payment from the consumer recovery fund. The claim shall be verified by the  
19 office.

20           C. ~~Upon~~ ON verification of the claim for payment, the deputy director  
21 shall provide for a hearing pursuant to chapter 6, article 10 of this  
22 title.

23           D. The board shall pay from the consumer recovery fund whatever sum  
24 the administrative law judge finds payable ~~upon~~ ON the claim. A decision  
25 granting a claim shall include an order suspending the license of the  
26 licensee ~~upon~~ ON whose account the claim was filed. Such a license shall  
27 remain on suspension until the licensee has repaid in full, plus interest at  
28 the rate of ten per cent per year, the amount paid from the consumer recovery  
29 fund on the licensee's account.

30           E. Any party aggrieved by the administrative law judge's decision may  
31 apply for a rehearing by filing with the deputy director a motion in writing  
32 pursuant to chapter 6, article 10 of this title. The filing of a motion for  
33 rehearing shall suspend the operation of the administrative law judge's order  
34 pending the decision of the director ~~upon~~ ON the rehearing.

35           F. Except as provided in section 41-1092.08, subsection H, any person  
36 aggrieved by a final administrative decision may seek judicial review  
37 pursuant to title 12, chapter 7, article 6.

38           G. The consumer recovery fund has a claim against the licensee on  
39 whose account a claim was granted OR ANY OTHER PERSON WHO CAUSED OR  
40 CONTRIBUTED TO A CLAIM PAID BY THE CONSUMER RECOVERY FUND for the amount paid  
41 plus costs, necessary expenses and reasonable attorney fees.

42           H. The deputy director is subrogated to the claim of the consumer  
43 recovery fund against the bond and other assets of the licensee. The deputy  
44 director shall deposit any amount recovered into the consumer recovery fund.

1 I. If, at any time, the money deposited in the consumer recovery fund  
2 is insufficient to satisfy any duly authorized claim or portion of a claim,  
3 the board ~~shall~~, when sufficient money has been deposited in the consumer  
4 recovery fund, SHALL satisfy such unpaid claims or portions of claims in the  
5 order that such claims or portions of claims were originally filed.

6 J. A consumer pursuant to subsection A or B of this section is barred  
7 from commencing an application for payment from the consumer recovery fund  
8 later than two years from the date of sale or date of installation, whichever  
9 is later.

10 Sec. 5. Section 41-2193, Arizona Revised Statutes, is amended to read:  
11 41-2193. Enforcement powers of deputy director and office  
12 personnel; civil and administrative penalties

13 A. The deputy director, personnel of the office and personnel under  
14 contract to the office, ~~upon~~ ON presentation of credentials, shall be  
15 permitted to enter and inspect premises where units regulated by this chapter  
16 are manufactured, sold or installed as the deputy director may deem  
17 appropriate to determine if any person has violated this chapter. No person  
18 licensed by the office may refuse to admit the deputy director or the  
19 personnel of the office or personnel under contract if the proper credentials  
20 are presented and the inspection is made at a reasonable time.

21 B. If the deputy director has reasonable cause to believe a unit is  
22 being offered for sale by a party required to be licensed but not licensed as  
23 a dealer or broker by the office or is in violation of this chapter, or the  
24 rules, regulations or standards ~~promulgated~~ ADOPTED pursuant to this chapter,  
25 the office shall serve ~~upon~~ ON the manufacturer, dealer, broker or installer  
26 a notice of violation, which may be affixed to the unit in violation and, if  
27 affixed to the unit, shall not be removed by anyone without the authorization  
28 of the office.

29 C. If there is reasonable cause to believe, from information furnished  
30 to the deputy director or from an investigation instituted by the deputy  
31 director, that any person is engaged in a business regulated by this article  
32 without being licensed as required by law, the deputy director shall issue  
33 and serve ~~upon~~ ON the person, by certified mail, a cease and desist order  
34 requiring the person immediately, ~~upon~~ ON receipt of the notice, to cease and  
35 desist from engaging in such business. ~~Upon~~ ON failure of such person to  
36 comply with the order, the deputy director shall file an action in the  
37 superior court in Maricopa county restraining and enjoining the person from  
38 engaging in such business. The court in the action shall proceed as in other  
39 actions for injunctions.

40 D. If in the judgment of the deputy director any person has engaged,  
41 or is about to engage, in any acts or practices ~~which~~ THAT constitute, or  
42 will constitute, a violation of this chapter, the rules, regulations or  
43 standards ~~promulgated~~ ADOPTED pursuant to this chapter or an order issued  
44 pursuant to this chapter, the deputy director may make application to the  
45 appropriate court for an order enjoining such acts or practices. ~~Upon~~ ON a

1 showing by the deputy director that such person has engaged in, or is about  
2 to engage in, any such acts or practices, an injunction, restraining order or  
3 such other order as may be appropriate shall be granted by such court without  
4 bond. On a showing by the deputy director that a licensee has wrongfully  
5 withdrawn, or is about to wrongfully withdraw, funds required to be held in  
6 the licensee's trust account, an injunction, restraining order or such other  
7 order as may be appropriate to prevent a licensee from wrongfully withdrawing  
8 trust account funds MONIES shall be granted by the court. ~~Upon~~ ON granting a  
9 permanent injunction, the court may impose a civil penalty not exceeding one  
10 thousand dollars for each violation.

11 E. In any investigation, proceeding or hearing ~~which~~ THAT the deputy  
12 director may institute, conduct or hold under this article, the deputy  
13 director, or a representative designated by the deputy director, may  
14 administer oaths, certify to official acts, issue subpoenas for attendance of  
15 witnesses and production of books, papers and records and exercise the same  
16 powers in this regard as conferred ~~upon~~ ON public officers by ~~the provisions~~  
17 of section 12-2212.

18 F. After any hearing ~~which~~ THAT the deputy director may institute,  
19 conduct or hold under this article, the deputy director or a representative  
20 designated by the deputy director may impose an administrative penalty in an  
21 amount of not to exceed one thousand dollars for each violation. All monies  
22 collected pursuant to this subsection shall be deposited in the STATE general  
23 fund.

24 G. BEGINNING JULY 1, 2012, THE DIRECTOR OR DEPUTY DIRECTOR MAY REFER  
25 TO THE ATTORNEY GENERAL OR A COUNTY ATTORNEY FOR CRIMINAL OR CIVIL  
26 INVESTIGATION THE RESULTS OF ANY INVESTIGATION THAT INDICATE THE EXISTENCE OF  
27 THE ELEMENTS OF FRAUD, INCLUDING INVESTIGATIVE INFORMATION REGARDING ANY  
28 PERSON OR ENTITY THAT, ALTHOUGH NOT A LICENSEE UNDER THIS ARTICLE, HAS A  
29 BUSINESS OR OTHER RELATIONSHIP TO A LICENSEE OR TO A MANUFACTURED HOME  
30 TRANSACTION UNDER THIS ARTICLE.

31 ~~G.~~ H. If an inspection reveals that a mobile home entering this state  
32 for sale or installation is in violation of this chapter, the office may  
33 order its use discontinued and the mobile home or any portion of the mobile  
34 home vacated. The order to vacate shall be served on the person occupying  
35 the mobile home and copies of the order shall be posted at or on each exit of  
36 the mobile home. The order to vacate shall include a reasonable period of  
37 time in which the violation can be corrected. A person shall not occupy or  
38 use a mobile home in violation of an order to vacate.

39 ~~H.~~ I. If construction, rebuilding or any other work is performed in  
40 violation of this chapter or any rule adopted pursuant to this chapter, the  
41 office may order the work stopped. The order to stop work shall be served on  
42 the person doing the work or on the person causing the work to be done. The  
43 person served with the order shall immediately cease the work until  
44 authorized by the office to continue.

APPROVED BY THE GOVERNOR APRIL 25, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2011.

Passed the House April 18, 2011,

by the following vote: 38 Ayes,

21 Nays, 1 Not Voting

[Signature]  
Speaker of the House

Cheryl Laube  
Chief Clerk of the House

Passed the Senate March 1, 2011,

by the following vote: 18 Ayes,

11 Nays, 1 Not Voting

[Signature]  
President of the Senate

Charmine Bellamy  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19 day of April, 2011,

at 9:15 o'clock A. M.

[Signature]  
Secretary to the Governor

Approved this 25<sup>th</sup> day of

April, 2011,

at 12:46 o'clock P. M.

[Signature]  
Governor of Arizona

S.B. 1423

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25<sup>th</sup> day of April, 2011,

at 2:45 o'clock  M.

[Signature]  
Secretary of State