House Engrossed Senate Bill

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KEN BENNETT
SECRETARY OF STATE

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CHAPTER 343

SENATE BILL 1230

AN ACT

AMENDING SECTIONS 5-505, 5-555, 41-126, 41-311, 41-312, 41-313, 41-316, 41-323, 41-328, 41-332, 41-351, 41-353, 41-355, 41-358, 41-364, 41-366, 41-1011, 41-3504, 44-1449, 44-1460.07, 44-1792 AND 44-6552, ARIZONA REVISED STATUTES; REPEALING TITLE 44, CHAPTER 24, ARIZONA REVISED STATUTES; AMENDING LAWS 2008, CHAPTER 291, SECTION 9, AS AMENDED BY LAWS 2010, CHAPTER 313, SECTION 16; RELATING TO THE SECRETARY OF STATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 5-505, Arizona Revised Statutes, is amended to read:

5-505. Apportionment of revenue

A. Not more than eighteen and one-half per cent of the total annual revenues accruing from the sale of lottery tickets or shares and from all other sources and not more than ~~fifteen~~ THIRTY-FIVE per cent of the total annual revenues from the sale of special instant games authorized under section 5-504, subsection I shall be deposited in the state lottery fund established by section 5-521 to be expended for the following:

1. The payment of costs incurred in the operation and administration of the lottery, including the expenses of the commission and the costs resulting from any contract or contracts entered into for consulting or operational services.

2. Independent audits, which shall be performed annually in addition to the audits required by section 5-524.

3. Incentive programs for lottery sales agents and lottery employees.

4. Payment of compensation to licensed sales agents necessary to provide for the adequate availability of tickets or services to prospective buyers and for the convenience of the public. Except as otherwise provided in this ~~paragraph~~ SUBSECTION, compensation of licensed sales agents shall be at least five and one-half per cent but not more than eight per cent of the price of each ticket or share that a retail sales agent sells in instant games and online games, less the price of any tickets or shares that are voided. ~~Compensation of a licensed sales agent who is designated as a charitable organization as defined in section 5-504 shall be twenty per cent of the price of each special instant game authorized under section 5-504, subsection I.~~

5. The payment of reasonable fees to redemption agents as authorized by section 5-519.

6. The purchase or lease of lottery equipment, tickets and materials.

7. COMPENSATION OF A LICENSED SALES AGENT WHO IS DESIGNATED AS A CHARITABLE ORGANIZATION AS DEFINED IN SECTION 5-504. COMPENSATION SHALL BE TWENTY PER CENT OF THE PRICE OF EACH TICKET FROM A SPECIAL INSTANT GAME AUTHORIZED UNDER SECTION 5-504, SUBSECTION I AND SHALL BE AN OFFSET AGAINST THE SALE OF THE TICKET.

B. Not less than fifty per cent of the total annual revenues accruing from the sale of lottery tickets or shares shall be deposited in the state lottery prize fund established by section 5-523 for payment of prizes to the holders of winning tickets or shares or for other purposes provided for in section 5-518.

C. All other revenues accruing from the sale of lottery tickets or shares in online games or instant games shall be deposited in the state lottery fund established by section 5-521 to be used as prescribed by section 5-522.

D. Except for monies for prizes expended as provided in section 5-504, subsection G and section 41-1505.10, monies expended under subsection A of this section shall be subject to legislative appropriation.

Sec. 2. Section 5-555, Arizona Revised Statutes, is amended to read:

5-555. Apportionment of revenue

A. Not more than eighteen and one-half per cent of the total annual revenues accruing from the sale of lottery tickets or shares and from all other sources and not more than ~~fifteen~~ THIRTY-FIVE per cent of the total annual revenues from the sale of special instant games authorized under section 5-554, subsection I shall be deposited in the state lottery fund established by section 5-571 to be expended for the following:

1. The payment of costs incurred in the operation and administration of the lottery, including the expenses of the commission and the costs resulting from any contract or contracts entered into for consulting or operational services.

2. Independent audits, which shall be performed annually in addition to the audits required by section 5-574.

3. Incentive programs for lottery sales agents and lottery employees.

4. Payment of compensation to licensed sales agents necessary to provide for the adequate availability of tickets or services to prospective buyers and for the convenience of the public. Except as otherwise provided in this ~~paragraph~~ SUBSECTION, compensation of licensed sales agents shall be at least five and one-half per cent but not more than eight per cent of the price of each ticket or share that a retail sales agent sells in instant games and online games, less the price of any tickets or shares that are voided. ~~Compensation of a licensed sales agent who is designated as a charitable organization as defined in section 5-554 shall be twenty per cent of the price of each special instant game authorized under section 5-554, subsection I.~~

5. The payment of reasonable fees to redemption agents as authorized by section 5-569.

6. The purchase or lease of lottery equipment, tickets and materials.

7. COMPENSATION OF A LICENSED SALES AGENT WHO IS DESIGNATED AS A CHARITABLE ORGANIZATION AS DEFINED IN SECTION 5-554. COMPENSATION SHALL BE TWENTY PER CENT OF THE PRICE OF EACH TICKET FROM A SPECIAL INSTANT GAME AUTHORIZED UNDER SECTION 5-554, SUBSECTION I AND SHALL BE AN OFFSET AGAINST THE SALE OF THE TICKET.

B. Not less than fifty per cent of the total annual revenues accruing from the sale of lottery tickets or shares shall be deposited in the state lottery prize fund established by section 5-573 for payment of prizes to the holders of winning tickets or shares or for other purposes provided for in section 5-568.

C. All other revenues accruing from the sale of lottery tickets or shares in online games or instant games shall be deposited in the state

lottery fund established by section 5-571 to be used as prescribed by section 5-572.

D. Except for monies for prizes expended as provided in section 5-554, subsection G and section 41-1505.10, monies expended under subsection A of this section shall be subject to legislative appropriation.

Sec. 3. Section 41-126, Arizona Revised Statutes, is amended to read:

41-126. Fees; expedited services

A. The secretary of state shall receive the following fees:

1. Making a copy of any document on file in his office, no more than ten cents for each page or partial page.

2. Filing and recording each application to become a notary public and transmitting a commission for a notary public, no more than twenty-five dollars.

3. Filing an application for registration or renewal of the registration of a trademark or recording an assignment of a trademark, fifteen dollars.

4. Filing an application for registration or renewal of the registration of a trade name or recording an assignment of a trade name, no more than ten dollars.

5. Issuing a certificate of registration of a trademark or a trade name, no more than three dollars.

6. Filing, as required by the uniform commercial code:

(a) A financing statement, no more than three dollars.

(b) An amendment to a financing statement, no more than three dollars.

(c) An assignment, no more than three dollars.

(d) A continuation statement, no more than three dollars.

(e) A statement of release, no more than two dollars.

(f) A termination statement, no more than two dollars.

7. Issuing a certificate as provided in section 44-3146 naming a particular debtor, no more than six dollars.

8. Making a copy of a filed financing statement, no more than fifty cents per page.

9. Certifying a copy of a writing specified in paragraphs 6, 7 and 8 of this subsection, no more than three dollars.

10. Filing, recording or certifying any other document not specified in this section, no more than three dollars.

11. Filing the oath and bond of notary public, eighteen dollars.

12. Issuing a certificate as to official capacity of a notary public and affixing a seal to the certificate, eighteen dollars.

B. The secretary of state shall provide for and establish an expedited service for the processing of requests, applications, filings and searches as follows:

1. The expedited processing shall be a priority ~~same-day service~~ effected in a fast and efficient manner.

2. A fee shall be charged for expedited services. This fee shall not exceed twenty-five dollars per service and shall be in addition to any other fees provided by law, including those set forth in subsection A of this section.

C. The secretary of state shall adopt rules necessary to carry out subsection B of this section.

Sec. 4. Section 41-311, Arizona Revised Statutes, is amended to read:

41-311. Definitions

In this article, unless the context otherwise requires:

1. "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is proven by satisfactory evidence, appeared before the notary and acknowledged that the signer signed the document.

2. "Commission" means to authorize to perform notarial acts and the written authority to perform those acts.

3. "Copy certification" means a notarial act in which the notary certifies that the notary has made a photocopy of an original document that is neither a public record nor publicly recordable.

~~4. "Identity is personally known" means familiarity with an individual resulting from interactions with that person over a sufficient time to eliminate reasonable doubt that the individual has the identity claimed.~~

~~5.~~ 4. "Incomplete document" means a document that has not been signed where a signature line is provided or where other obvious blanks appear in the document or that lacks a notarial certificate.

~~6.~~ 5. "Jurat" means a notarial act in which the notary certifies that a signer, whose identity is proven by satisfactory evidence, has made in the notary's presence a voluntary signature and has taken an oath or affirmation vouching for the truthfulness of the signed document.

~~7.~~ 6. "Notarial act" or "notarization" means any act that a notary is authorized to perform under section 41-313.

~~8.~~ 7. "Notarial certificate" or "certificate" means the part of or attachment to a notarized document for completion by the notary that bears the notary's signature and seal and states the VENUE, DATE AND facts that are attested by the notary in a particular notarization.

~~9.~~ 8. "Notary public" or "notary" means any person commissioned to perform notarial acts under this article.

~~10.~~ 9. "Oath" or "affirmation" means a notarial act or part of a notarial act in which a person made a vow in the presence of the notary under penalty of perjury, with reference made to a supreme being in the case of an oath.

10. "PERSONAL KNOWLEDGE" MEANS FAMILIARITY WITH AN INDIVIDUAL RESULTING FROM INTERACTIONS WITH THAT INDIVIDUAL OVER A SUFFICIENT TIME TO ELIMINATE REASONABLE DOUBT THAT THE INDIVIDUAL HAS THE IDENTITY CLAIMED.

11. "Satisfactory evidence of identity" means:

(a) Proof of identity is evidenced by one of the following:

(i) An unexpired driver license that is issued by a state or territory of the United States.

(ii) An unexpired passport that is issued by the United States department of state.

(iii) An unexpired identification card that is issued by any branch of the United States armed forces.

(iv) Any other unexpired identification card that is issued by the United States government or a state or tribal government, that contains the individual's photograph, signature and physical description and that contains the individual's height, weight, color of hair and color of eyes.

(v) The oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.

(vi) The oath or affirmation of a credible person who personally knows the individual and who provides satisfactory evidence of identity pursuant to item (i), (ii), (iii) or (iv) of this subdivision.

(vii) Personal knowledge of the individual by the notary.

(b) In addition to ~~the provisions of~~ subdivision (a), for the purposes of a real estate conveyance or financing, ~~that~~ proof of identity may be evidenced by one of the following:

(i) A valid unexpired passport that is issued by the United States government.

(ii) A valid unexpired passport that is issued by a national government other than the United States government and that is accompanied by a valid unexpired visa or other documentation that is issued by the United States government and that is necessary to establish an individual's legal presence in the United States.

(iii) Any other valid unexpired identification that is deemed acceptable by the United States department of homeland security to establish an individual's legal presence in the United States and that is accompanied with supporting documents as required by the United States department of homeland security.

12. "VENUE" MEANS THIS STATE AND COUNTY WHERE A NOTARIAL ACT OCCURS.

Sec. 5. Section 41-312, Arizona Revised Statutes, is amended to read:

41-312. <u>Appointment; term; oath and bond; training courses; fee</u>

A. The secretary of state may appoint notaries public in each county to hold office for four years who shall have jurisdiction in the county in which they reside and in which they are appointed. Acknowledgments of documents may be taken and executed and oaths may be administered by a notary public in any county of the state although the commission is issued to the notary public in and for another county.

B. The secretary of state shall give notice of the appointment to the person appointed who shall take, within twenty days after receiving such notice, the oath prescribed by law and give a bond, with sureties approved by

the state, in an amount prescribed by the secretary of state and file it with the secretary of state. On filing the official oath and bond, the secretary of state shall deliver the commission to such person.

C. A notary public is a public officer commissioned by this state and the following apply without regard to whether the notary public's employer or any other person has paid the fees and costs for the commissioning of the notary public, including costs for the official seal and journals:

1. A notary public's official seal and commission and any journal that contains only public record entries remain the property of the notary public.

2. A notary public may perform notarizations outside the workplace of the notary's employer except during those times normally designated as the notary public's hours of duty for that employer. All fees received by a notary public for notarial services provided while not on duty remain the property of the notary public.

3. An employer of a notary public shall not limit the notary public's services to customers or other persons designated by the employer.

D. A notary public shall continue to serve until the notary public's commission expires, the notary public resigns the commission, the notary public dies or the secretary of state revokes the commission. An employer may not cancel the notary bond or notary commission of any notary public who is an employee and who leaves that employment.

E. A notary public shall comply with all of the following:

1. Be at least eighteen years of age.

2. Be a citizen or a legal permanent resident of the United States.

3. Be a resident of this state for income tax purposes and claim the individual's residence in this state as the individual's primary residence on state and federal tax returns.

4. Except as provided in section 41-330, subsection A, paragraph 2, never have been convicted of a felony.

5. Keep as a reference a manual that is approved by the secretary of state and that describes the duties, authority and ethical responsibilities of notaries public.

6. BE ABLE TO READ AND WRITE ENGLISH.

F. An applicant for appointment and commission as a notary public shall complete an application form prescribed by the secretary of state. Except for the applicant's name and business address, all information on the application is confidential and may not be disclosed to any person other than the applicant, the applicant's personal representative or an employee or officer of the federal, state or local government who is acting in an official capacity. The secretary of state shall use the information contained on the application only for carrying out the purposes of this article.

G. This state or any of its political subdivisions may pay the fees and costs for the commissioning of a notary public who is an employee of this state or any of its political subdivisions and who performs notarial services

in the course of the notary public's employment or for the convenience of public employees.

H. The secretary of state may require that applicants ~~attend~~ AND SUSPENDED NOTARIES PRESENT PROOF OF ATTENDANCE AT a notary training course before receiving their commissions OR BEFORE REINSTATEMENT OF A SUSPENDED COMMISSION. ~~and Notaries~~ ANY APPLICANT WHO IS REQUIRED TO attend a notary training course MUST COMPLETE THE TRAINING within ninety days before renewing their commissions. The secretary of state may assess a fee prescribed by the secretary of state for administering notary training courses. The secretary of state shall deposit the fees collected in the notary education fund established by section 41-332.

Sec. 6. Section 41-313, Arizona Revised Statutes, is amended to read:

41-313. Duties

A. Notaries public shall perform the following notarial acts, when requested:

1. Take acknowledgments and give certificates of the acknowledgments endorsed on or attached to the instrument.

2. Administer oaths and affirmations.

3. Perform jurats.

4. Perform copy certification.

B. NOTARIES PUBLIC SHALL PERFORM THE NOTARIAL ACTS PRESCRIBED IN SUBSECTION A OF THIS SECTION ONLY IF:

1. THE SIGNER IS IN THE PRESENCE OF THE NOTARY AT THE TIME OF NOTARIZATION.

2. THE SIGNER SIGNS IN A LANGUAGE THAT THE NOTARY UNDERSTANDS.

3. SUBJECT TO SUBSECTION D, THE SIGNER COMMUNICATES DIRECTLY WITH THE NOTARY IN A LANGUAGE THEY BOTH UNDERSTAND OR INDIRECTLY THROUGH A TRANSLATOR WHO IS PHYSICALLY PRESENT WITH THE SIGNER AND NOTARY AT THE TIME OF THE NOTARIZATION AND COMMUNICATES DIRECTLY WITH THE SIGNER AND THE NOTARY IN LANGUAGES THE TRANSLATOR UNDERSTANDS.

4. THE NOTARIAL CERTIFICATE IS WORDED AND COMPLETED USING ONLY LETTERS, CHARACTERS AND A LANGUAGE THAT ARE READ, WRITTEN AND UNDERSTOOD BY THE NOTARY PUBLIC.

C. IF A NOTARY ATTACHES A NOTARIAL CERTIFICATE TO A DOCUMENT USING A SEPARATE SHEET OF PAPER, THE ATTACHMENT MUST CONTAIN A DESCRIPTION OF THE DOCUMENT THAT INCLUDES AT A MINIMUM THE TITLE OR TYPE OF DOCUMENT, THE DOCUMENT DATE, THE NUMBER OF PAGES OF THE DOCUMENT AND ANY ADDITIONAL SIGNERS OTHER THAN THOSE NAMED IN THE NOTARIAL CERTIFICATE.

D. A NOTARY MAY PERFORM A NOTARIAL ACT ON A DOCUMENT THAT IS A TRANSLATION OF A DOCUMENT THAT IS IN A LANGUAGE THAT THE NOTARY DOES NOT UNDERSTAND ONLY IF THE PERSON PERFORMING THE TRANSLATION SIGNS AN AFFIDAVIT CONTAINING AN OATH OR AFFIRMATION THAT THE TRANSLATION IS ACCURATE AND COMPLETE. THE NOTARIZED TRANSLATION AND AFFIDAVIT SHALL BE ATTACHED TO THE DOCUMENT AND SHALL CONTAIN ALL OF THE ELEMENTS DESCRIBED IN SUBSECTION C.

~~B.~~ E. Notaries public shall:

1. Keep, maintain and protect as a public record a journal of all official acts performed by the notary as described in section 41-319.

2. Provide and keep the official seal that is imprinted in dark ink with the words "notary public", the name of the county in which the notary is commissioned, the name of the notary as it appears on the notarial application, the great seal of the state of Arizona and the expiration date of the notarial commission.

3. Authenticate with the official seal all official acts on every certificate or acknowledgment signed and sealed by the notary.

4. Respond to any requests for information and comply with any investigations that are initiated by the secretary of state or the attorney general.

Sec. 7. Section 41-316, Arizona Revised Statutes, is amended to read:

41-316. Fees

A. The secretary of state shall establish fees that notaries public may charge for notarial acts. These fees shall be established by rules adopted pursuant to chapter 6 of this title.

B. Notaries public may be paid an amount up to the amount authorized for mileage expenses and per diem subsistence for state employees as prescribed by title 38, chapter 4, article 2.

C. A notary shall not ADVERTISE OR charge or receive a fee for performing a notarial act except as specifically authorized by rule.

Sec. 8. Section 41-323, Arizona Revised Statutes, is amended to read:

41-323. Change of address; lost journal or seal; civil penalty

A. Within thirty days after the change of a notary's mailing, BUSINESS or residential address, the notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the change that provides both the old and new addresses.

B. Within ten days after the loss or theft of an official journal or seal, the notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the loss or theft. The notary also shall inform the appropriate law enforcement agency in the case of theft.

C. If a notary fails to comply with subsection A or B, the notary has failed to fully and faithfully discharge the duties of a notary and the secretary of state may impose a civil penalty of twenty-five dollars against the notary. The notary shall pay any civil penalty imposed by the secretary of state pursuant to this subsection ~~prior to~~ BEFORE the renewal of the notary's commission.

Sec. 9. Section 41-328, Arizona Revised Statutes, is amended to read:

41-328. Prohibited conduct; incomplete documents; signatures of relatives

A. A notary public shall not perform a jurat on a document that is incomplete. If a notary public is presented with a document that the notary

knows from experience to be incomplete or if the document on its face is incomplete, the notary public shall refuse to perform the jurat.

B. A notary public is an impartial witness and shall not notarize the notary's own signature or the signatures of any person who is related TO THE NOTARY by marriage or adoption.

C. SUBJECT TO SECTION 41-320, A NOTARY PUBLIC SHALL NOT PERFORM A NOTARIZATION ON A DOCUMENT IF THE NOTARY IS AN OFFICER OF ANY NAMED PARTY, IF THE NOTARY IS A PARTY TO THE DOCUMENT OR IF THE NOTARY WILL RECEIVE ANY DIRECT MATERIAL BENEFIT FROM THE TRANSACTION THAT IS EVIDENCED BY THE NOTARIZED DOCUMENT THAT EXCEEDS IN VALUE THE FEES PRESCRIBED PURSUANT TO SECTION 41-316.

Sec. 10. Section 41-332, Arizona Revised Statutes, is amended to read:

41-332. Notary education fund

The notary education fund is established consisting of monies deposited pursuant to ~~section~~ SECTIONS 41-312 AND 41-353. The secretary of state shall administer the fund. Monies in the fund are subject to legislative appropriation.

Sec. 11. Section 41-351, Arizona Revised Statutes, is amended to read:

41-351. Definitions

In this article, unless the context otherwise requires:

1. "Approved time stamp provider" means a person or organization recognized by the secretary of state as capable of reliably providing time stamp services on notary service electronic documents.

2. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

3. "Electronic acknowledgment" means a notarial act in which an electronic notary electronically certifies that the signer, whose identity is proven by satisfactory evidence, either:

(a) Appeared before the electronic notary and acknowledged that the signer executed the instrument.

(b) Provided secure electronic acknowledgment that the signer executed the electronic instrument presented to the electronic notary.

4. "Electronic commission" means the written authority to perform electronic notarization acts.

5. "Electronic document" means any record created, generated, sent, communicated, received or stored by electronic means.

6. "Electronic jurat" means an electronic notarial act in which the electronic notary certifies that a signer, whose identity is proven by satisfactory evidence, has made in the electronic notary's presence a voluntary electronic signature or mark and has taken an oath or affirmation vouching for the truthfulness of the signed electronic document.

7. "Electronic notary public" or "electronic notary" means any person commissioned to perform notarial acts under this article.

8. "Electronic notary token" means the electronic attachment to a notarized electronic document that is attached by the electronic notary and that contains the notary's electronic signature. The electronic notary token is linked to the electronic document to which it relates in a manner so that if the document is changed the electronic notary token is invalidated.

9. "Electronic signature" means an electronic method or process that through the application of a security procedure allows a determination that the electronic signature at the time it was executed was all of the following:

(a) Unique to the person using it.

(b) Capable of verification.

(c) Under the sole control of the person using it.

(d) Linked to the electronic document to which it relates in a manner so that if the document is changed the electronic signature is invalidated.

10. "Notary service electronic certificate" means the materials and methods issued by an electronic notary to a prospective signer so that signer may create a notary service electronic signature.

11. "Notary service electronic signature" means an act completed by a signer using a properly issued notary service electronic certificate to sign an electronic document.

12. "Oath" or "affirmation" means an act in which a person makes a vow in the presence of the electronic notary under penalty of perjury, with reference made to a supreme being in the case of an oath.

13. "Personal knowledge ~~of identity~~" means familiarity with an individual resulting from interactions with that individual over a sufficient time to eliminate reasonable doubt that the individual has the identity claimed.

14. "Satisfactory evidence of identity" means:

(a) Proof of identity is evidenced by one of the following:

(i) An unexpired driver license that is issued by a state or territory of the United States.

(ii) An unexpired passport that is issued by the United States department of state.

(iii) An unexpired identification card that is issued by any branch of the United States armed forces.

(iv) Any other unexpired identification card that is issued by the United States government or a state or tribal government, that contains the individual's photograph, signature and physical description and that contains the individual's height, weight, color of hair and color of eyes.

(v) The oath or affirmation of a credible person who is personally known to the electronic notary and who personally knows the individual signer.

(vi) The oath or affirmation of a credible person who personally knows the individual and who provides satisfactory evidence of identity pursuant to item (i), (ii), (iii) or (iv) of this subdivision.

(vii) Personal knowledge of the individual signer by the electronic notary.

(b) In addition to ~~the provisions of paragraph 14,~~ subdivision (a) of this ~~section~~ PARAGRAPH, for the purposes of a real estate conveyance or financing, ~~that~~ proof of identity may be evidenced by one of the following:

(i) A valid unexpired passport that is issued by the United States government.

(ii) A valid unexpired passport that is issued by a national government other than the United States government and that is accompanied by a valid unexpired visa or other documentation that is issued by the United States government and that is necessary to establish an individual's legal presence in the United States.

(iii) Any other valid unexpired identification that is deemed acceptable by the United States department of homeland security to establish an individual's legal presence in the United States and that is accompanied with supporting documents as required by the United States department of homeland security.

15. "Time stamp token" means a secure electronic method to affix a statement of the time and date that the document was recognized as a valid notary service electronic document by an approved time stamp provider. A time stamp token is attached by an approved time stamp provider to the document in a way that if the document changes the time stamp token is invalidated.

Sec. 12. Section 41-353, Arizona Revised Statutes, is amended to read:

41-353. Appointment; term; bond; duties; fees; training courses

A. The secretary of state may appoint electronic notaries public to hold office for four years.

B. The secretary of state shall prescribe the application form for an electronic notary. Applicants shall submit the application to the secretary of state with a filing fee, a bond and a bond filing fee as prescribed by rule by the secretary of state.

C. The materials and methods for creating notary service electronic certificates and any other encryption based technologies used by an electronic notary shall have a maximum useful life of two years and shall not exceed the life of the electronic notary commission.

D. An electronic notary public is a public officer commissioned by this state and the following apply without regard to whether the electronic notary public's employer or any other person has paid the fees and costs for the commissioning of the electronic notary public, including costs for the materials and methods employed with the electronic notary token and the materials and methods for creating notary service electronic certificates and journals:

1. All of the following remain the property of the electronic notary:

(a) The materials and methods employed with and solely for the electronic notary token.

(b) The materials and methods used solely for creating notary service electronic certificates.

(c) Any journals containing only public information record entries.

2. Notwithstanding paragraph 1 of this subsection, an electronic notary does not gain ownership or presumptive access rights to any of an employer's assets or resources that are used or are usable for a purpose other than electronic notarial acts.

3. An electronic notary may perform electronic notarizations outside the workplace of the electronic notary's employer except during those times normally designated as the electronic notary's hours of duty for that employer. All fees received by an electronic notary for electronic notarial services provided while not on duty remain the property of the electronic notary.

4. An employer of an electronic notary shall not limit the electronic notary's services to customers or other persons designated by the employer.

E. An electronic notary public shall continue to serve until the electronic notary's commission expires, the electronic notary resigns the commission, the electronic notary dies or the secretary of state suspends or revokes the commission. An employer shall not cancel the electronic notary bond or electronic notary commission of any electronic notary who is an employee and who leaves that employment.

F. An electronic notary shall comply with all of the following:

1. Be at least eighteen years of age.

2. Be a citizen or a legal permanent resident of the United States.

3. Be a resident of this state for income tax purposes and claim the individual's residence in this state as the individual's primary residence on state and federal tax returns.

4. Except as provided in section 41-368, subsection A, paragraph 2, never have been convicted of a felony.

5. Keep as a reference a manual that is approved by the secretary of state and that describes the duties, authority and ethical responsibilities of electronic notaries public.

6. BE ABLE TO READ AND WRITE ENGLISH.

G. An applicant for appointment and commission as an electronic notary shall complete an application form prescribed by the secretary of state. Except for the applicant's name, physical business address, electronic business address and business telephone number, all other information on the application is confidential and shall not be disclosed to any person other than the applicant, the applicant's personal representative or an officer or employee of the federal government or this state or its political subdivisions who is acting in an official capacity. The secretary of state shall use the information contained on the application only for carrying out the purposes of this article.

H. The state or any of its political subdivisions may pay the fees and costs for the commissioning of an electronic notary who is an employee of

this state or any of its political subdivisions and performs electronic notarial services in the course of the electronic notary's employment or for the convenience of public employees.

I. THE SECRETARY OF STATE MAY REQUIRE THAT APPLICANTS AND SUSPENDED NOTARIES PRESENT PROOF OF ATTENDANCE AT A NOTARY TRAINING COURSE BEFORE RECEIVING THEIR COMMISSIONS OR BEFORE REINSTATEMENT OF A SUSPENDED COMMISSION. NOTARIES SHALL ATTEND A NOTARY TRAINING COURSE WITHIN NINETY DAYS BEFORE RENEWING THEIR COMMISSIONS. THE SECRETARY OF STATE MAY ASSESS A FEE PRESCRIBED BY THE SECRETARY OF STATE FOR ADMINISTERING NOTARY TRAINING COURSES. THE SECRETARY OF STATE SHALL DEPOSIT THE FEES COLLECTED IN THE NOTARY EDUCATION FUND ESTABLISHED BY SECTION 41-332.

Sec. 13. Section 41-355, Arizona Revised Statutes, is amended to read:

41-355. <u>Duties; electronic notarization in presence of electronic notary</u>

A. Electronic notaries public shall perform the following electronic notarial acts when requested:

1. Take electronic acknowledgments.

2. Administer oaths and affirmations relating to electronic documents and electronic notarial acts.

3. Perform jurats relating to electronic documents and electronic notarial acts.

~~4. Educate notary service electronic signature certificate applicants about the responsibilities and consequences of the use of the certificate.~~

~~5. Administer an oath or affirmation that the notary service electronic signature certificate applicant understands the responsibilities and consequences of using a notary service electronic signature certificate to sign a notary service electronic document and that the electronic signature certificate has the same legal force and effect as any notarial act made before a notary public pursuant to article 2 of this chapter.~~

~~6. Register the notary service electronic signature certificate applicant for the issuance of a notary service electronic signature certificate that has a maximum useful life of two years.~~

B. NOTARIES PUBLIC SHALL PERFORM THE NOTARIAL ACTS PRESCRIBED IN SUBSECTION A OF THIS SECTION ONLY IF:

1. THE SIGNER IS IN THE PRESENCE OF THE NOTARY AT THE TIME OF NOTARIZATION.

2. THE SIGNER SIGNS IN A LANGUAGE THAT THE NOTARY UNDERSTANDS.

3. SUBJECT TO SUBSECTION D, THE SIGNER COMMUNICATES DIRECTLY WITH THE NOTARY IN A LANGUAGE THEY BOTH UNDERSTAND OR INDIRECTLY THROUGH A TRANSLATOR WHO IS PHYSICALLY PRESENT WITH THE SIGNER AND NOTARY AT THE TIME OF THE NOTARIZATION AND COMMUNICATES DIRECTLY WITH THE SIGNER AND THE NOTARY IN LANGUAGES THE TRANSLATOR UNDERSTANDS.

4. THE NOTARIAL CERTIFICATE IS WORDED AND COMPLETED USING ONLY LETTERS, CHARACTERS AND A LANGUAGE THAT ARE READ, WRITTEN AND UNDERSTOOD BY THE NOTARY PUBLIC.

C. IF A NOTARY ATTACHES A NOTARIAL CERTIFICATE TO A DOCUMENT USING A SEPARATE SHEET OF PAPER, THE ATTACHMENT MUST CONTAIN A DESCRIPTION OF THE DOCUMENT THAT INCLUDES AT A MINIMUM THE TITLE OR TYPE OF DOCUMENT, THE DOCUMENT DATE, THE NUMBER OF PAGES OF THE DOCUMENT AND ANY ADDITIONAL SIGNERS OTHER THAN THOSE NAMED IN THE NOTARIAL CERTIFICATE.

D. A NOTARY MAY PERFORM A NOTARIAL ACT ON A DOCUMENT THAT IS A TRANSLATION OF A DOCUMENT THAT IS IN A LANGUAGE THAT THE NOTARY DOES NOT UNDERSTAND ONLY IF THE PERSON PERFORMING THE TRANSLATION SIGNS AN AFFIDAVIT CONTAINING AN OATH OR AFFIRMATION THAT THE TRANSLATION IS ACCURATE AND COMPLETE. THE NOTARIZED TRANSLATION AND AFFIDAVIT SHALL BE ATTACHED TO THE DOCUMENT AND SHALL CONTAIN ALL OF THE ELEMENTS DESCRIBED IN SUBSECTION C.

~~B.~~ E. A notarized electronic document that is completed in the presence of an electronic notary consists of the following:

1. A complete electronic document.

2. A signature or mark that is affixed to the document by the signer.

3. A time and date statement that is contained within the electronic notary token.

4. An electronic notary token that is affixed by the electronic notary to the document.

~~C.~~ F. On completion of the notarized electronic document, any change to any of the elements prescribed in subsection ~~B~~ E of this section invalidates the notarized electronic document.

~~D.~~ G. An electronic notary public shall:

1. Keep, maintain and protect as a public record a journal of all official acts performed by the notary as prescribed in section 41-361 and in the form prescribed by the secretary of state.

2. Provide and keep the materials and processes to create an electronic notary token as approved by the secretary of state.

3. Authenticate with the electronic notary token all official acts and affix the date of the expiration of the notary's commission as an electronic notary on every document that the electronic notary electronically signs.

4. Respond to any requests for information and comply with any investigations that are initiated by the secretary of state or the office of the attorney general.

Sec. 14. Section 41-358, Arizona Revised Statutes, is amended to read:

41-358. <u>Fees; rules</u>

A. Electronic notaries public may receive fees for the following services:

1. Acknowledgments.

2. Oaths and affirmations.

3. Jurats.

4. Issuance of notary service electronic certificates.

B. The secretary of state shall determine by rule fees for services.

C. A NOTARY SHALL NOT ADVERTISE, CHARGE OR RECEIVE A FEE FOR PERFORMING AN ELECTRONIC NOTARIAL ACT EXCEPT AS SPECIFICALLY AUTHORIZED BY RULE.

Sec. 15. Section 41-364, Arizona Revised Statutes, is amended to read:

41-364. Change of address; lost or stolen electronic journal or seal; civil penalty

A. Within thirty days after the change of an electronic notary's mailing, BUSINESS, residential or electronic address, the electronic notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the change that provides both the old and new addresses.

B. Within ten days after the loss or theft of an official journal or any materials or processes used in creating an electronic notary token or registering notary service electronic certificate applicants, the electronic notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the loss or theft. The electronic notary also shall inform the appropriate law enforcement agency in the case of theft.

C. If an electronic notary fails to comply with subsection A or B, the electronic notary has failed to fully and faithfully discharge the duties of an electronic notary and the secretary of state may impose against the electronic notary a civil penalty in an amount the secretary of state prescribes by rule. The electronic notary shall pay any civil penalty imposed by the secretary of state pursuant to this subsection before the renewal of the notary's commission.

Sec. 16. Section 41-366, Arizona Revised Statutes, is amended to read:

41-366. Prohibited conduct; incomplete documents; signatures of relatives

A. An electronic notary public shall not perform an electronic jurat on a document that is incomplete. If an electronic notary public is presented with a document that the electronic notary knows from experience to be incomplete or if the document on its face is incomplete, the electronic notary public shall refuse to perform the jurat.

B. An electronic notary public is an impartial witness and shall not notarize the notary's own signature or the signatures of any person who is related TO THE ELECTRONIC NOTARY by marriage or adoption.

C. SUBJECT TO SECTION 41-362, A NOTARY PUBLIC SHALL NOT PERFORM A NOTARIZATION ON A DOCUMENT IF THE NOTARY IS AN OFFICER OF ANY NAMED PARTY, IF THE NOTARY IS A PARTY TO THE DOCUMENT OR IF THE NOTARY WILL RECEIVE ANY DIRECT MATERIAL BENEFIT FROM THE TRANSACTION THAT IS EVIDENCED BY THE NOTARIZED DOCUMENT THAT EXCEEDS IN VALUE THE FEES PRESCRIBED IN SECTION 41-358.

Sec. 17. Section 41-1011, Arizona Revised Statutes, is amended to read:

41-1011. Publication and distribution of code and register; online databases

A. The secretary of state is responsible for the publication and distribution of the code and the register.

B. The secretary of state shall prescribe a uniform numbering system, form and style for all rules filed with and published by that office. The secretary of state shall reject rules if they are not in compliance with the prescribed numbering system, form and style.

C. The secretary of state shall prepare, arrange and correlate all rules and other text as necessary for the publication of the code and the register. The secretary of state may not alter the sense, meaning or effect of any rule but may renumber rules and parts of rules, rearrange rules, change reference numbers to agree with renumbered rules and parts of rules, substitute the proper rule number for "the preceding rule" and similar terms, delete figures if they are merely a repetition of written words, change capitalization for the purpose of uniformity and correct manifest clerical or typographical errors. With the consent of the attorney general the secretary of state may remove from the code a provision of a rule that a court of final appeal declares unconstitutional or otherwise invalid and a rule made by an agency that is abolished if the rule is not transferred to a successor agency.

~~D. On or before December 31, 2013, the secretary of state shall establish an online database of rules that is searchable by agency, date, topic, rule number, type of business for compliance and type of activity for compliance.~~

~~E. On or before December 31, 2014, the secretary of state shall establish an online database of codes, ordinances and business license requirements for each agency that is searchable by agency, date, topic, ordinance number, type of business for compliance and type of activity for compliance. The secretary of state shall link the county information to the searchable database prescribed in subsection D. Each county shall supply information to the secretary of state in a manner and format prescribed by the secretary of state.~~

~~F. On or before December 31, 2015, the secretary of state shall establish an online database of codes, ordinances and business license requirements for each city and town that is searchable by city or town, date, topic, ordinance or code number, type of business for compliance and type of activity for compliance. The secretary of state shall link the city or town information to the searchable database prescribed in subsection D. Each city or town shall supply information to the secretary of state in a manner and format prescribed by the secretary of state.~~

1 Sec. 18. Section 41-3504, Arizona Revised Statutes, is amended to
2 read:
3 41-3504. Powers and duties of the agency; violation;
4 classification
5 A. For budget units, the agency shall:
6 1. Develop, implement and maintain a coordinated statewide plan for
7 information technology. This includes:
8 (a) Adopting statewide technical, coordination and security standards
9 for information technology.
10 (b) Serving as statewide coordinator for information technology
11 resources.
12 (c) Developing a statewide disaster recovery plan.
13 (d) Developing a list of approved agency projects by priority
14 category.
15 (e) Developing a detailed list of information technology assets owned,
16 leased or employed by this state.
17 (f) Evaluating and either approving or disapproving budget unit
18 information technology plans. Budget units shall submit information
19 technology plans that include quality assurance plans and disaster recovery
20 plans to the agency each year on or before September 1. The legislative and
21 judicial departments of state government shall submit information technology
22 plans for information purposes.
23 (g) Evaluating specific information technology projects relating to
24 the approved budget unit and statewide information technology plans. The
25 agency shall approve or reject projects with total costs of at least
26 twenty-five thousand dollars but not more than one million dollars and may
27 establish conditional approval criteria including procurement purchase
28 authority. If the total project costs exceed one million dollars the agency
29 shall evaluate the project and make recommendations to the committee.
30 Beginning on June 1, 1998, as part of a budget request for an information
31 technology project that has total costs of at least twenty-five thousand
32 dollars, a budget unit shall indicate the status of review by the agency.
33 Projects shall not be artificially divided to avoid review by the agency.
34 2. Require that budget units incorporate life cycle analysis
35 prescribed by section 41-2553 into the information technology planning,
36 budgeting and procurement processes.
37 3. Require that budget units demonstrate expertise to carry out
38 information technology plans, either by employing staff or contracting for
39 outside services.
40 4. Monitor information technology projects that the agency considers
41 to be major or critical, including expenditure and activity reports and
42 periodic review.
43 5. Temporarily suspend the expenditure of monies if the agency
44 determines that the information technology project is at risk of failing to

1 achieve its intended results or does not comply with the requirements of this
2 section.
3 6. Continuously study emergent technology and evaluate its impact on
4 this state's system.
5 7. Advise each budget unit as necessary and report to the committee on
6 an annual basis.
7 8. Provide to budget units, information technology consulting services
8 it deems necessary, either directly or by procuring outside consulting
9 services.
10 9. Maintain all otherwise confidential information received from a
11 budget unit pursuant to this section as confidential.
12 10. Provide staff support to the committee.
13 11. Subject to section 35-149, accept, spend and account for grants,
14 monies and direct payments from public or private sources and other grants of
15 monies or property for the conduct of programs that it deems consistent with
16 the overall purposes and objectives of the agency.
17 12. Adopt rules it deems necessary or desirable to further the
18 objectives and programs of the agency.
19 13. Formulate policies, plans and programs to effectuate the purposes
20 of the agency.
21 14. Advise and make recommendations to the governor and the legislature
22 on all matters concerning its objectives.
23 15. Contract and enter into interagency and intergovernmental
24 agreements pursuant to title 11, chapter 7, article 3 with any public or
25 private party.
26 16. Have an official seal that shall be judicially noticed.
27 17. ON OR BEFORE DECEMBER 31, 2015, ESTABLISH AN INTERACTIVE ONLINE
28 DIRECTORY OF CODES, RULES, ORDINANCES, IF AVAILABLE ELECTRONICALLY, AND
29 STATUTES TO ASSIST INDIVIDUALS AND BUSINESSES WITH REGULATORY REQUIREMENTS
30 AND OBLIGATIONS. AS PROVIDED IN THIS PARAGRAPH, COUNTIES, MUNICIPALITIES AND
31 BUDGET UNITS SHALL SUBMIT INFORMATION IN A MANNER AND FORMAT PRESCRIBED BY
32 THE AGENCY.
33 B. The agency shall advise the judicial and legislative branches of
34 state government concerning information technology.
35 C. The agency may examine all books, papers, records and documents in
36 the office of any budget unit and may require any state officer of the budget
37 unit to furnish information or statements necessary to carry out the
38 provisions of this chapter.
39 D. The director, any member of the director's staff or any employee
40 who knowingly divulges or makes known in any manner not permitted by law any
41 particulars of any confidential record, document or information is guilty of
42 a class 5 felony.

Sec. 19. Section 44-1449, Arizona Revised Statutes, is amended to read:

44-1449. Classification of goods or services

A single application for registration of a mark may include ~~any or~~ all goods and services ~~upon~~ ON which the mark is actually being used ~~comprised in a single class, but in no event shall a single application include goods or services upon which the mark is being used which fall within different classes of goods or services~~ IN ONE OR MULTIPLE CLASSES. The following general classes of goods and services are established for convenience of administration of this article, but not to limit or extend the applicant's or registrant's rights:

1. Chemical products used in industry, science, photography, agriculture, horticulture or forestry; artificial and synthetic resins; plastics for industrial use in the form of powders, liquids or pastes; natural and artificial manures; fire extinguishing compositions; tempering substances and chemical preparations for soldering; chemical substances for preserving foodstuffs; tanning substances; adhesive substances used in industry.

2. Paints, varnishes and lacquers; preservatives against rust and against deterioration of wood; coloring matters and dyestuffs; mordants; natural resins; metals in foil and powder form for painters and decorators.

3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics and hair lotions; dentifrices.

4. Industrial oils and greases except oils and fats and essential oils; lubricants; dust laying and absorbing compositions; fuels, including motor spirit and illuminants; candles, tapers, night-lights and wicks.

5. Pharmaceutical, veterinary and sanitary substances; infants' and invalids' food; plasters and material for bandaging; material for stopping teeth, dental wax and disinfectants; preparations for killing weeds and destroying vermin.

6. Unwrought and partly wrought common metals and the metals' alloys; anchors, anvils, bells and rolled and cast building materials; rails and other metallic materials for railway tracks; chains, except driving chains for vehicles; nonelectric cables and wires; locksmiths' work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws; other goods in nonprecious metal that are not included in other classes; ores.

7. Machines and machine tools; motors, except motors for land vehicles; machine couplings and belting, except couplings and belting for land vehicles; large size agricultural implements; incubators.

8. Hand tools and instruments; cutlery, forks and spoons; side arms.

9. Scientific, nautical, surveying and electrical apparatus and instruments, including wireless apparatus and instruments; photographic, cinematographic, optical, weighing, measuring, signaling, checking,

supervision, life-saving and teaching apparatus and instruments; coin or counterfreed apparatus; talking machines; cash registers; calculating machines; fire extinguishing apparatus.

10. Surgical, medical, dental and veterinary instruments and apparatus, including artificial limbs, eyes and teeth.

11. Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air or water.

13. Firearms; ammunition and projectiles; explosive substances; fireworks.

14. Precious metals and the metals' alloys; goods in precious metals or coated with precious metals, except cutlery, forks and spoons; jewelry and precious stones; horological and other chronometric instruments.

15. Musical instruments except talking machines and wireless apparatus.

16. Paper and paper articles and cardboard and cardboard articles; printed matters, newspapers and periodicals and books; bookbinding material; photographs; stationery and stationery adhesive materials; artists' materials; paintbrushes; typewriters and office requisites, except furniture; instructional and teaching material, except instructional and teaching apparatus; playing cards; printers' type and cliches or stereotype.

17. Gutta percha, India rubber, balata and substitutes and articles made from these substances and not included in other classes; plastics in the form of sheets, blocks and rods for use in manufacturing; materials for packing, stopping or insulating; asbestos, mica and asbestos or mica products; nonmetallic hose pipes.

18. Leather, imitations of leather and articles made from leather and imitations of leather that are not included in other classes; skins and hides; trunks and traveling bags; umbrellas, parasols and walking sticks; whips, harnesses and saddlery.

19. Building materials, natural and artificial stone, cement, lime, mortar, plaster and gravel; pipes of earthenware or cement; roadmaking materials; asphalt, pitch and bitumen; portable buildings; stone monuments; chimney pots.

20. Furniture, mirrors and picture frames; articles of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum or celluloid, substitutes for all of these materials, or of plastics and that are not included in other classes.

21. Small domestic utensils and containers, except utensils and containers of precious metals or utensils and containers coated with precious metals; combs and sponges; brushes, except paintbrushes; brushmaking materials; instruments and material for cleaning purposes and steel wool; unworked or semiworked glass, except glass used in building; glassware, porcelain and earthenware that is not included in other classes.

22. Ropes, string, nets, tents, awnings, tarpaulins, sails and sacks; padding and stuffing materials, including hair, kapok, feathers and seaweed; raw, fibrous textile materials.

23. Yarns and threads.

24. Tissues that are piece goods; bed and table covers; textile articles that are not included in other classes.

25. Clothing, including boots, shoes and slippers.

26. Lace, embroidery, ribands and braid; buttons, press buttons, hooks, eyes, pins and needles; artificial flowers.

27. Carpets, rugs, mats and matting; linoleums and other materials for covering existing floors; nontextile wall hangings.

28. Games and playthings; gymnastic and sporting articles, except gymnastic and sporting clothes; ornaments and decorations for Christmas trees.

29. Meats, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies and jams; eggs, milk and other dairy products; edible oils and fats; preserves and pickles.

30. Coffee, tea, cocoa, sugar, rice, tapioca, sago and coffee substitutes; flour and preparations made from cereals; bread, biscuits, cakes, pastry and confectionery; ices; honey and treacle; yeast and baking powder; salt, mustard, pepper, vinegar, sauces and spices.

31. Agricultural, horticultural and forestry products and grains that are not included in other classes; living animals; fresh fruits and vegetables; seeds; live plants and flowers; foodstuffs for animals; malt.

32. Beer, ale and porter; mineral waters, aerated waters and other nonalcoholic drinks; syrups and other preparations for making beverages.

33. Wines, spirits and liqueurs.

34. Raw or manufactured tobacco; smokers' articles; matches.

35. Computers and computer software.

36. Advertising and business.

37. Insurance and financial.

38. Construction and repair.

39. Communication.

40. Transportation and storage.

41. Material treatment.

42. Education and entertainment.

43. Miscellaneous.

Sec. 20. Section 44-1460.07, Arizona Revised Statutes, is amended to read:

44-1460.07. <u>Trade name registration cancellation; release for use</u>

A. The secretary of state shall cancel a trade name registration if:

1. The secretary of state receives a voluntary request for cancellation from the registrant or the assignee of record.

2. The registration is not renewed in accordance with this article.

3. A court of competent jurisdiction orders the cancellation on any grounds.

4. The registration was obtained fraudulently by containing false or misleading information.

B. THE SECRETARY OF STATE MAY RELEASE A TRADE NAME FOR USE PURSUANT TO THIS ARTICLE SIX MONTHS AFTER THE TRADE NAME'S CORPORATE OWNER HAS BEEN ADMINISTRATIVELY DISSOLVED.

Sec. 21. Section 44-1792, Arizona Revised Statutes, is amended to read:

44-1792. Exemption

This article does not apply to:

1. Any private club owned and operated by its members, any facility owned or operated by the state of Arizona or any of its political subdivisions, any health spa operated by a fraternal or benevolent society organized under title 10, chapter 19, article 3 or a nonprofit corporation organized under title 10, chapters 24 through 40, or any health care institution licensed pursuant to title 36, chapter 4.

2. Any health spa ~~which by January 15 of every even-numbered year files a declaration, executed under penalty of perjury by the owner or manager of the health spa, with the secretary of state which states that the health spa~~ THAT does not require or in the ordinary course of business receive prepayment for services. For the purposes of this paragraph, payment for health spa services received within the thirty-one days in which the services are to be rendered does not constitute prepayment. A health spa ~~which has filed a declaration under this paragraph and which~~ THAT intends to begin requiring or receiving prepayment for health spa services shall comply with this article.

Sec. 22. Section 44-6552, Arizona Revised Statutes, is amended to read:

44-6552. Charitable organizations; registration; late registration penalty

A. Except as provided in subsection E of this section and section 44-6553, before soliciting its first contribution, whether through a contracted fund raiser or otherwise, a charitable organization shall file a registration statement with the secretary of state in a format prescribed and adopted by the secretary of state by rule.

B. A charitable organization must file an annual registration statement between September 1 and September 30 of each year following the calendar year in which the charitable organization files its initial registration statement with the secretary of state in a format that is prescribed and adopted by the secretary of state by rule. IN THE REGISTRATION STATEMENT FILED WITH THE SECRETARY OF STATE'S OFFICE, A CHARITABLE ORGANIZATION MAY INDICATE WHETHER THEY PARTICIPATE AS A LICENSED SALES AGENT PURSUANT TO SECTION 5-504.

C. If the internal revenue service determines that a person is a charitable organization exempt from federal income taxes pursuant to section 501(c)(3) of the internal revenue code, at the time of its initial registration under this section, the organization shall submit to the secretary of state a copy of the internal revenue service's written determination that it is exempt from taxes.

D. The secretary of state shall file and preserve all information required to be filed with the secretary of state pursuant to this section for five years from the date of filing, after which the information may be destroyed. This information is public information and is open to public inspection.

E. If a charitable organization is delinquent in filing its annual registration statement, the secretary may assess a late registration penalty of twenty-five dollars when the charitable organization files its registration statement.

F. Instead of filing any financial disclosure information prescribed by the secretary of state pursuant to this section, a tax exempt organization pursuant to section 501(c)(3) of the internal revenue code may either:

1. File with the secretary of state a copy of the organization's annual information return for the preceding fiscal year as defined in the internal revenue code and applicable regulations.

2. Provide the secretary of state with the address on the internet where the organization's annual information return is available.

G. Any charitable organization that is a bona fide and duly constituted religious institution and any other entity that is an integral part of a religious institution shall file the registration statement prescribed in this section but is not required to file any financial disclosure information prescribed by the secretary of state pursuant to this section if all of the following apply:

1. The religious institution or entity is a tax exempt institution or entity pursuant to the internal revenue code.

2. No part of the religious institution's or entity's net income inures to the direct benefit of any individual.

3. The religious institution or entity only solicits monies from the institution's or entity's membership, congregation or previous donors and the institution's or entity's conduct and fees charged for services are primarily supported and paid through government grants or contracts.

H. The secretary of state may deny an application for registration of the name of a charitable organization if:

1. The name might mislead the public or is not readily distinguishable from one or more names that are currently registered under this article.

2. The name is the same as or deceptively similar to:

(a) An existing corporate name or a corporate name reserved pursuant to title 10, chapter 4, 18 or 27.

(b) The name of a limited partnership organized under the laws of this state or licensed or registered as a foreign limited liability company, authorized to transact business in the state or a name that is registered pursuant to chapter 10, article 3 or 3.1 of this title.

I. The secretary of state may deny an application for registration or may revoke the registration of a charitable organization for any of the following reasons:

1. Substantial and material misstatement or omission in the submitted application.

2. Conviction of a felony substantially related to solicitation by any employee, member, officer or director who has any solicitation responsibilities on behalf of the organization or any other person holding any proprietary or beneficial interest in the charitable organization, unless the civil rights have been restored.

3. An order or judgment by a court in any jurisdiction that the charitable organization has engaged in deceptive, fraudulent or unlawful business practices that substantially relate to solicitation.

4. The violation of any provision of this article.

5. The return of a check issued to the order of the secretary of state due to insufficient funds or any other reason for nonpayment.

J. If the secretary of state denies an application, the secretary of state shall notify the applicant within ten days after receiving the application and shall state the reasons for the denial.

Sec. 23. Effective date

Section 5-555, Arizona Revised Statutes, as amended by this act is effective from and after June 30, 2012.

Sec. 24. Repeal

Title 44, chapter 24, Arizona Revised Statutes, is repealed.

Sec. 25. Laws 2008, chapter 291, section 9, as amended by Laws 2010, chapter 313, section 16, is amended to read:

Sec. 9. Delayed implementation; professional employer organization registration; retroactivity

A. Notwithstanding any other law, the secretary of state shall not implement title 23, chapter 3, article 4, Arizona Revised Statutes, relating to professional employer organization registration, or any rules adopted pursuant to title 23, chapter 3, article 4, Arizona Revised Statutes, until July 1, ~~2012~~ 2013.

B. This section is effective retroactively to from and after February 29, 2008.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

Passed the House April 13, 20 11,

by the following vote: 51 Ayes,

7 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate February 17, 20 11,

by the following vote: 21 Ayes,

8 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

S.B. 1230

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 14, 2011

by the following vote: 29 Ayes,

3 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

15 day of April, 2011

at 8:50 o'clock A M.

Secretary to the Governor

Approved this 29th day of

April

at 2:10 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29th day of April, 2011

at 7:30 o'clock P M.

Secretary of State

S.B. 1230