

House Engrossed Senate Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

CHAPTER 138

# **SENATE BILL 1132**

AN ACT

AMENDING SECTION 41-4803, ARIZONA REVISED STATUTES; RELATING TO PRIVATE ATTORNEY RETENTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-4803, Arizona Revised Statutes, is amended to  
3 read:

4 41-4803. Contingent fee limitation; requirements; notices;  
5 applicability

6 A. This state may not enter into a contingency fee contract that  
7 provides for the THIS STATE'S private attorney to receive an ~~aggregate~~ A  
8 contingency fee FROM THIS STATE'S PORTION OF THE RECOVERY in excess of AN  
9 AGGREGATE OF ALL OF THE FOLLOWING:

10 1. Twenty-five per cent of ~~any~~ THE INITIAL recovery of less than ten  
11 million dollars.

12 2. Twenty per cent of THAT PORTION OF any recovery of ten million  
13 dollars or more but less than fifteen million dollars.

14 3. Fifteen per cent of THAT PORTION OF any recovery of fifteen million  
15 dollars or more but less than twenty million dollars.

16 4. Ten per cent of THAT PORTION OF any recovery of twenty million  
17 dollars or more but less than twenty-five million dollars.

18 5. Five per cent of any recovery of twenty-five million dollars or  
19 more.

20 B. The ~~aggregate~~ contingency fee RECEIVED BY THIS STATE'S PRIVATE  
21 ATTORNEY shall not exceed fifty million dollars, except for reasonable costs  
22 and expenses and regardless of the number of lawsuits filed or the number of  
23 private attorneys retained to achieve the recovery.

24 C. The state shall not enter into a contract for contingency fee  
25 attorney services unless the following requirements are met throughout the  
26 contract period and any extensions of the contract:

27 1. A government attorney retains ~~complete~~ ULTIMATE control over the  
28 course and conduct of the case.

29 2. A government attorney with supervisory authority is personally  
30 involved in overseeing the litigation.

31 3. A government attorney retains veto power over any decisions made by  
32 the private attorney.

33 4. Any ~~defendant~~ DEFENDANT'S ATTORNEY that is the subject of the  
34 litigation may contact the lead government attorney directly without having  
35 to confer with the private attorney.

36 5. A government attorney with supervisory authority for the case  
37 attends all settlement conferences. FOR THE PURPOSES OF THIS PARAGRAPH,  
38 "ATTENDS" INCLUDES ATTENDANCE BY PHONE, TELECONFERENCING OR SIMILAR  
39 ELECTRONIC DEVICES.

40 6. Decisions regarding settlement of the case ~~are reserved exclusively~~  
41 ~~to the discretion of the government attorney and this state~~ MAY NOT BE  
42 DELEGATED TO THIS STATE'S PRIVATE ATTORNEY.

43 D. The attorney general shall develop a standard addendum to every  
44 contract for contingent fee attorney services that the attorney general must  
45 use in all cases, describing in detail what is expected of both the

1 contracted private attorney and this state, including the requirements  
2 prescribed in subsection C.

3 E. The attorney general shall post copies of any executed contingency  
4 fee contract and the attorney general's written determination to enter into a  
5 contingency fee contract with the private attorney on the attorney general's  
6 website for public inspection within five business days after the date the  
7 contract is executed, which shall remain posted on the website for the  
8 duration of the contingency fee contract, including any extensions or  
9 amendments of the contract, UNLESS THE ATTORNEY GENERAL DETERMINES THAT THE  
10 POSTING MAY CAUSE DAMAGE TO THE REPUTATION OF ANY BUSINESS OR PERSON.  
11 NOTWITHSTANDING THE REQUIREMENTS OF THIS SUBSECTION, POSTING ON THE WEBSITE  
12 SHALL BE MADE NO LATER THAN WHEN A LAWSUIT IS FILED. The attorney general  
13 shall post any payment of contingency fees on the attorney general's website  
14 within fifteen days after the payment of the contingency fees to the private  
15 attorney, which shall remain posted on the website for at least three hundred  
16 sixty-five days thereafter.

17 F. Any private attorney under contract to provide services to this  
18 state on a contingency fee basis, from the inception of the contract until at  
19 least four years after the contract expires or is terminated, shall maintain  
20 detailed current records, including documentation of all expenses,  
21 disbursements, charges, credits, underlying receipts and invoices and other  
22 financial transactions that concern the provision of the attorney services.  
23 The private attorney shall make all the records available for inspection and  
24 copying on request pursuant to title 39, chapter 1, article 2. The private  
25 attorney shall maintain detailed contemporaneous time records for the  
26 attorneys and paralegals working on the matter in increments of no greater  
27 than one tenth of one hour and shall promptly provide these records to the  
28 attorney general on request.

29 G. THIS CHAPTER DOES NOT APPLY TO ANY CONTINGENT FEE CONTRACT IN WHICH  
30 THIS STATE HIRES A PRIVATE ATTORNEY TO PURSUE DEBT COLLECTION AND RESTITUTION  
31 CASES FOR THIS STATE.

32 Sec. 2. Emergency

33 This act is an emergency measure that is necessary to preserve the  
34 public peace, health or safety and is operative immediately as provided by  
35 law.

APPROVED BY THE GOVERNOR MARCH 29, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2012.

Passed the House March 22, 2012

Passed the Senate February 2, 2012

by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

0 Nays, 2 Not Voting  
*with emergency*

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

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

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

**S.B. 1132**

**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

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate March 26, 20 12

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

Steve Pierce *With Emergency*  
President of the Senate

Charmine Bellenton  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

27 day of March, 20 12

at 8:30 o'clock A M.

[Signature]  
Secretary to the Governor

Approved this 29th day of

March

at 10:05 o'clock A M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29th day of March, 20 12

S.B. 1132

at 4:58 o'clock P M.

[Signature]  
Secretary of State