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MICHELE REAGAN
SECRETARY OF STATE

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CHAPTER 128

SENATE BILL 1530

AN ACT

AMENDING SECTIONS 11-861, 17-211, 23-422, 26-306, 27-102, 27-104, 27-105 AND 27-106, ARIZONA REVISED STATUTES; AMENDING SECTION 27-106, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 27-107, ARIZONA REVISED STATUTES; AMENDING SECTION 27-107, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 27-108, ARIZONA REVISED STATUTES; REPEALING SECTION 27-109, ARIZONA REVISED STATUTES; AMENDING SECTION 27-110, ARIZONA REVISED STATUTES; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 27-111, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; REPEALING SECTION 27-112, ARIZONA REVISED STATUTES; AMENDING SECTIONS 27-515, 28-907, 28-1093, 28-1095, 28-1103 AND 28-2448, ARIZONA REVISED STATUTES; AMENDING SECTION 28-2448, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTIONS 28-4332, 28-4363, 30-801, 32-1121 AND 32-2117, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2117, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTIONS 32-2199, 32-2199.01, 32-2199.02, 32-2199.04 AND 32-2199.05, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTION 33-423, ARIZONA REVISED STATUTES; AMENDING SECTION 33-423, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTIONS 33-1242, 33-1407, 33-1409, 33-1417, 33-1432, 33-1476.01, 33-1476.02, 33-1476.04, 33-1476.05, 33-1485.01, 33-1803, 33-2102, 34-461, 35-192, 35-193.02, 36-1610, 36-1636, 36-1639 AND 36-1645, ARIZONA REVISED STATUTES; AMENDING TITLE 37, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 9; AMENDING SECTIONS 37-1303, 37-1305, 37-1307, 37-1381, 37-1382, 37-1383, 37-1388, 37-1390, 37-1401, 37-1402, 37-1403, 37-1404, 37-1405, 37-1406, 37-1408, 37-1422, 37-1423, 37-1424 AND 37-1425, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTIONS 40-201, 41-511.04 AND 41-821, ARIZONA REVISED STATUTES; AMENDING SECTION 41-821, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; REPEALING SECTION 41-827, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 41-827; AMENDING SECTION 41-827.01, ARIZONA REVISED

STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTIONS 41-1005 AND 41-1713, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-2141, 41-2147, 41-2148, 41-2152, 41-2172, 41-2198.03 AND 41-3022.13, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-4001, 41-4004, 41-4010, 41-4021, 41-4024, 41-4025, 41-4026, 41-4027, 41-4029, 41-4030, 41-4031, 41-4032, 41-4033, 41-4034, 41-4035, 41-4036, 41-4039, 41-4040, 41-4042, 41-4043, 41-4044, 41-4045, 41-4046, 41-4048 AND 41-4049, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING TITLE 41, CHAPTER 37, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; AMENDING SECTIONS 42-2003, 42-5006, 42-5075, 42-5160, 49-104, 49-353, 49-356 AND 49-455, ARIZONA REVISED STATUTES; AMENDING LAWS 2008, CHAPTER 159, SECTION 3; APPROPRIATING MONIES; RELATING TO STATE AGENCY CONSOLIDATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 11-861, Arizona Revised Statutes, is amended to read:

11-861. Adoption of codes by reference; limitations; method of adoption; fire sprinklers; fire apparatus access roads or approved routes; intent; state preemption; fire watch requirements; pool barrier gates

A. In any county that has adopted zoning pursuant to this chapter, the board of supervisors may adopt and enforce, for the unincorporated areas of the county so zoned, a building code and other related codes to regulate the quality, type of material and workmanship of all aspects of construction of buildings or structures, except that the board may authorize that areas zoned rural or unclassified may be exempt from the provisions of the code adopted. The codes may be adopted by reference after notice and hearings before the county planning and zoning commission and board of supervisors as provided in this chapter for amendments to the zoning ordinance of the county.

B. The board of supervisors may adopt a fire prevention code in the unincorporated areas of the county in which a fire district has not adopted a nationally recognized fire code pursuant to section 48-805. Any fire code adopted by a board of supervisors pursuant to this subsection shall remain in effect until a fire district is established and adopts a code applicable within the boundaries of the district.

C. For the purpose of this article, codes authorized by subsections A and B of this section shall be limited to the following:

1. Any building, electrical, plumbing or mechanical code that has been adopted by any national organization or association that is organized and conducted for the purpose of developing codes or that has been adopted by the largest city in that county. If the board of supervisors adopts a city code, it shall adopt, within ninety days after receiving a written notification of a change to the city code, the same change or shall terminate the adopted city code.

2. Any fire prevention code that has been adopted by a national organization or association organized or conducted for the purpose of developing fire prevention codes and that is as stringent as the state fire code adopted pursuant to section ~~41-2146~~ 37-1383.

D. The board of supervisors may adopt a current wildland-urban interface code. The code may be adapted from a model code adopted by a national or international organization or association for mitigating the hazard to life and property. The board must follow written public procedures in the development and adoption of the code and any revisions to the code to provide effective, early and continuous public participation through:

1. The broad dissemination and publicity of the proposed code and any revisions to the code.

2. The opportunity for submission and consideration of written public comments.

3. Open discussions, communications programs and information services.

4. Consultation with federal agencies and state and local officials.

E. The board of supervisors shall not adopt a code or ordinance or part of a uniform code or ordinance that prohibits a person or entity from choosing to install or equip or not install or equip fire sprinklers in a single family detached residence or any residential building that contains not more than two dwelling units. The board of supervisors shall not impose any fine, penalty or other requirement on any person or entity for choosing to install or equip or not install or equip fire sprinklers in such a residence. This subsection does not apply to any code or ordinance that requires fire sprinklers in a residence and that was adopted before December 31, 2009. The provisions of this subsection shall be included on all fire sprinkler permit applications that are for a single family detached residence or any residential building that contains not more than two dwelling units.

F. A fire sprinkler permit application may be in either print or electronic format.

G. A board of supervisors may not adopt any, or part of any, fire code, ordinance, stipulation or other legal requirement for an approved fire apparatus access road or a fire apparatus access road extension, or both, or an approved route or a route extension, or both, that directly or indirectly requires a one or two family residence or a utility or miscellaneous accessory building or structure to install fire sprinklers. A fire code official may increase or extend an approved fire apparatus access road or a fire apparatus access road extension, or both, or an approved route or a route extension, or both, to comply with this subsection. Compliance with this subsection is not grounds to deny or suspend a license or permit. This subsection may be enforced in a private civil action and relief, including an injunction, may be awarded against a county. The court shall award reasonable attorney fees, damages, lost opportunity costs, interest and the cost of the sprinkler system to a party that prevails in an action against a county for a violation of this subsection. The legislature finds and determines that property rights are a matter of statewide concern and a fundamental element of freedom. A property owner's right to use the property owner's property must be protected from unreasonable abridgment by county regulation and enforcement. This subsection supersedes and preempts any regulation adopted by a county regarding an approved fire apparatus access road, fire apparatus access road extension, approved route or route extension. For the purposes of this subsection:

1. "Fire code" includes the international fire code, however denominated.

2. "Utility or miscellaneous accessory building or structure" includes an agricultural building, aircraft hangar, accessory to a residence, barn, carport, fence that is more than six feet high, grain silo, greenhouse,

livestock shelter, private garage, retaining wall, shed, stable, tank or tower.

H. If a fire code adopted by a board of supervisors requires the use of a fire watch, an employee who works at the building in which a fire watch is required may serve as the fire watch. A person who is designated as a fire watch shall be equipped with means to contact the local fire department, and the person's only duty while keeping watch for fires shall be to perform constant patrols of the protected premises. The county shall provide the fire watch with printed instructions from the state fire marshal and may provide a free training session before the person's deployment as the fire watch begins. For the purposes of this subsection, "fire watch" means a person who is stationed in a building or in a place relative to a building to observe the building and its openings when the fire protection system for the building is temporarily nonoperational or absent.

I. From and after December 31, 2014, a code or ordinance or part of a uniform code or ordinance that is adopted by the board of supervisors applies to locking devices for pool barrier gates used for means of ingress or egress for semipublic swimming pools. Any new construction or major renovation of a semipublic swimming pool from and after December 31, 2014 must meet the requirements of the code or ordinance or part of the uniform code or ordinance that is adopted by the board of supervisors. This subsection does not apply to a locking device for a pool barrier gate used for means of ingress or egress for a semipublic swimming pool that was installed before January 1, 2015, if the locking device meets the requirements prescribed in section 36-1681, subsection B, paragraph 3.

Sec. 2. Section 17-211, Arizona Revised Statutes, is amended to read:

17-211. <u>Director; selection; removal; powers and duties; employees</u>

A. The commission shall appoint a director of the Arizona game and fish department, who shall be the chief administrative officer of the game and fish department. The director shall receive compensation as determined pursuant to section 38-611. The director shall be selected on the basis of administrative ability and general knowledge of wildlife management. The director shall act as secretary to the commission, and shall serve at the pleasure of the commission. The director shall not hold any other office, and shall devote the entire time to the duties of office.

B. The commission shall prepare an examination for the post of director to comply with the requirements of this title. The examination shall be conducted at the offices of the commission at the capital to establish an active list of eligible applicants. The director shall be selected from those scoring satisfactory grades and having other qualities deemed advisable by the commission. The commission may call for additional examinations from time to time for selection of a new list of eligible applicants to fill a vacancy.

C. Subject to title 41, chapter 4, article 4, the director may appoint employees necessary to carry out the purposes of this title, when funds for the payment of their salaries are appropriated. Department employees shall be located in different sections of the state where their services are most needed. Compensation for persons appointed shall be as determined pursuant to section 38-611.

D. The director shall:

1. Have general supervision and control of all activities, functions and employees of the department.

2. Enforce all provisions of this title, including all commission rules.

3. Collaborate with the state forester in presentations to legislative committees on issues associated with forest management and wildfire prevention and suppression as provided by section ~~37-622~~ 37-1302, subsection B.

E. Game rangers and wildlife managers may, in addition to other duties:

1. Execute all warrants issued for a violation of this title.

2. Execute subpoenas issued in any matter arising under this title.

3. Search without warrant any aircraft, boat, vehicle, box, game bag or other package where there is sufficient cause to believe that wildlife or parts of wildlife are possessed in violation of law.

4. Inspect all wildlife taken or transported and seize all wildlife taken or possessed in violation of law, or showing evidence of illegal taking.

5. Seize as evidence devices used illegally in taking wildlife and hold them subject to the provisions of section 17-240.

6. Generally exercise the powers of peace officers with primary duties the enforcement of this title.

7. Seize devices that cannot be lawfully used for the taking of wildlife and are being so used and hold and dispose of them pursuant to section 17-240.

Sec. 3. Section 23-422, Arizona Revised Statutes, is amended to read:

23-422. Review board

A. A review board ~~shall be~~ IS established WITHIN THE COMMISSION to hear and rule on appeals of administrative law judge decisions generated in this article. The board shall consist of five members appointed by the governor. The occupational safety and health advisory committee shall submit to the governor a list of names of persons to be considered for appointment to the board who by reason of training, education or experience are qualified to carry out the powers and duties of the board. One member shall be a representative of management, one member shall be a representative of labor and three members shall be representatives of the general public. The board shall elect a chairman from ~~its~~ THE BOARD'S membership.

B. Members of the ~~review~~ board shall be appointed to five-year terms, except that of the members first appointed, one each shall serve for a term of one, two, three, four and five years. A vacancy occurring on the board other than by expiration of a term shall be filled in the manner original appointments were made, for the unexpired portion of the term. Members of the board may be removed by the governor for inefficiency, neglect of duty, malfeasance or nonfeasance in office. The ~~review~~ board shall meet as often as necessary to hold review hearings as provided in section 23-423, at ~~such~~ times and places as the chairman may determine. One member from management, one member from labor and one member from the general public shall be present in order to conduct review hearings or other business. All decisions of the board shall be determined by a majority decision.

C. The ~~review board~~ COMMISSION shall employ a staff necessary for the efficient administration of the board's activities. All ~~such~~ personnel of the ~~review~~ board shall be under the supervision of the ~~chairman of the review board. Such employees~~ DIRECTOR OF THE COMMISSION AND shall be paid from the general fund, subject to legislative appropriation.

D. Board members shall receive compensation pursuant to section 38-611, which shall be paid from the general fund, subject to legislative appropriation.

E. The ~~sums~~ MONIES appropriated to carry out the purposes of subsections C and D of this section shall be appropriated to the ~~review board and~~ COMMISSION, shall not exceed twenty thousand dollars per year and are exempt from the provisions of section 35-190 relating to lapsing of appropriations. ~~Such sums~~ THE MONIES shall be kept separate and apart from ~~any funds~~ OTHER MONIES of the ~~industrial~~ commission and shall be available only to the ~~review~~ board.

F. ~~No~~ A member of the ~~review~~ board shall NOT participate on a matter with which ~~he~~ THE MEMBER is personally associated. If a member ~~disqualifies himself~~ IS DISQUALIFIED pursuant to this subsection or is unable to participate for any other reason on a particular matter, the governor shall appoint a person as a temporary member to participate in ~~such~~ THE hearing. The occupational safety and health advisory committee shall submit to the governor a list of names of persons to be considered for a temporary appointment. ~~Such~~ THE person shall meet the qualifications of subsection A of this section, and shall be representative of the same area as that of the member for whom ~~he~~ THE PERSON is serving as alternate.

Sec. 4. Section 26-306, Arizona Revised Statutes, is amended to read:

26-306. <u>Powers and duties of the director of emergency management</u>

A. The director, subject to the approval of the adjutant general, shall:

1. Be the administrative head of the division.
2. Be the state director for emergency management.
3. Make rules necessary for the operation of the division.

4. Develop and test plans for meeting any condition constituting a state of emergency or state of war emergency, except those emergency plans specifically assigned by the governor to other state agencies. Such plans shall provide for the effective mobilization and management of personnel and equipment of the state.

5. During a state of war emergency, coordinate the emergency activities of all state agencies except the national guard.

6. During a state of emergency or a local emergency, coordinate the emergency activities of all state agencies and the national guard.

7. Coordinate the use of state personnel, equipment, services and facilities, including communication services, if requested by political subdivisions in support of emergency management activities.

8. Coordinate the use of personnel, equipment, services and facilities, including communication services, of one or more political subdivisions in support of any other political subdivision in meeting emergency needs, including search or rescue operations, on the request of the using political subdivision.

9. Develop, test and maintain a plan pursuant to section 26-305.01 for response by agencies of this state and its political subdivisions to an accident at a commercial nuclear generating station.

10. Every two years, submit a recommendation to the legislature in connection with the assessment prescribed by section 26-306.01 with supporting documentation and information.

11. Collaborate with the state forester in presentations to legislative committees on issues associated with forest management, wildfire prevention and suppression and wildfire emergency response and management as provided by section ~~37-622~~ 37-1302, subsection B.

12. Develop, implement and maintain a state hazardous materials emergency response and recovery plan as part of the hazardous materials emergency management program pursuant to section 49-123.

13. Coordinate the development, implementation and maintenance of standardized curricula for hazardous materials training and education.

B. The director, subject to the approval of the adjutant general, may:

1. Propose, develop, negotiate and consummate contractual arrangements with the federal government, state agencies and political subdivisions for technical, administrative and financial support from the federal, state and local government in connection with the emergency management activities of the state.

2. Represent the state at conferences in the development and promotion of the emergency management capability of the state.

3. Establish a disaster prevention council to plan for disaster prevention. The council shall consist of the members of the state emergency council and other members as determined by the director. The disaster prevention council shall coordinate the disaster prevention expertise of representatives of federal, state and local business and industry and promote

partnerships to substantially reduce property loss from natural and technological disasters.

Sec. 5. Section 27-102, Arizona Revised Statutes, is amended to read:

27-102. Arizona geological survey; state geologist; powers

A. The Arizona geological survey is established WITHIN THE UNIVERSITY OF ARIZONA with offices located in proximity to the university of Arizona in Tucson. The ~~governor shall appoint a~~ state geologist~~, pursuant to section 38-211, to be the administrative head of~~ SHALL ADMINISTER the Arizona geological survey and ~~to~~ SHALL serve at the pleasure of the ~~governor~~ ARIZONA BOARD OF REGENTS. The state geologist shall be ~~registered as a geologist by the state board of technical registration,~~ a graduate of an accredited institution and otherwise qualified by education and experience to direct the research and information functions of the Arizona geological survey.

~~B. The state geologist may organize the Arizona geological survey into such administrative units, and, subject to title 41, chapter 4, article 4, employ professional and support staff, as necessary to achieve the objectives and promote the policies prescribed by this article.~~

~~C.~~ B. The state geologist may:

1. ~~Retain~~ ENGAGE the services of faculty members or students, and shall have reasonable access to the data and other resources, of the university of Arizona or any other state university in this state to conduct or supervise research, experimentation or other related work of the Arizona geological survey.

2. Organize field expeditions to perform work for the Arizona geological survey using university students who are sufficiently advanced in their study of geology to be able to perform satisfactory work.

3. Establish and appoint an advisory board consisting of independent practicing geologists, university or college faculty, mining geologists and others who use and rely on data, information and other services of the Arizona geological survey.

4. ~~Employ~~ ENGAGE volunteer staff as necessary.

~~D.~~ C. The expenses of the Arizona geological survey shall be paid by annual appropriation from the state general fund and as otherwise provided by this article.

Sec. 6. Section 27-104, Arizona Revised Statutes, is amended to read:

27-104. Qualifications of employees; private activities relating to geological services prohibited

Qualifications of employees ~~of~~ WORKING WITH the Arizona geological survey shall be prescribed by the ~~state geologist with the concurrence of the governor~~ ARIZONA BOARD OF REGENTS. Neither the state geologist nor any employee WORKING WITH THE ARIZONA GEOLOGICAL SURVEY shall:

1. Acquire a pecuniary interest in any mineral resources property in the state.

2. Act as broker or agent for any purchaser, owner or agent of mineral resources property, equipment or products.

3. Accept any commission or compensation for services rendered in connection with industry in this state.

4. Make an investigation or report on an individual Arizona deposit of mineral resources or metallurgical process other than pursuant to such employee's official duties.

Sec. 7. Section 27-105, Arizona Revised Statutes, is amended to read:

27-105. Immunity

Any claim or action against the Arizona geological survey, the state geologist or any other officer, employee or volunteer ~~of~~ WORKING WITH the geological survey in the person's official capacity must be brought against the state of Arizona and not against the geological survey, state geologist or officer, employee or volunteer individually.

Sec. 8. Section 27-106, Arizona Revised Statutes, is amended to read:

27-106. Duties of Arizona geological survey; mining, mineral and natural resources educational museum

A. The Arizona geological survey shall:

1. Map and describe the bedrock and related geologic materials and processes in ~~Arizona~~ THIS STATE, as follows:

(a) Prepare geologic maps that show the distribution of rock formations and surficial materials at the surface and in the subsurface.

(b) Describe the character of rock and surficial materials, including their age, origin and physical and chemical properties.

(c) Map, describe and monitor known and potential geologic hazards and limitations to land and resource management.

(d) Map and characterize energy and mineral resources and identify areas that may have potential for future discoveries.

2. Provide objective, scientific information about the geologic character of this state as follows:

(a) Provide timely, courteous responses to requests for information, advice and assistance from the public.

(b) Maintain a computerized bibliographic database of maps and reports on the geology of this state that is accessible to the public.

(c) Maintain an internet ~~web site~~ WEBSITE that includes information about the Arizona geological survey, products and services available and the geologic character of this state.

(d) Give lectures and talks, conduct workshops, lead field trips and provide information and assistance to public, educational and professional groups.

(e) Publish reports and other information, written in nontechnical terms, to inform those WHO ARE not trained in geology about the geologic character of ~~Arizona~~ THIS STATE.

3. Prepare all data files of known areas of earth fissures, produce maps of those areas with overlays showing affected counties, cities, towns, highways and streets and transmit the maps in printed and electronic format to the state real estate department for purposes of providing public access

to the earth fissure maps pursuant to this paragraph and section 32-2117. The Arizona geological survey shall provide any map to any member of the public in printed or electronic format on request. The following notice shall be displayed below each map:

Notice

The state of Arizona has made a reasonable effort to ensure the accuracy of this map when it was produced, but errors may be present and the state of Arizona does not guarantee its accuracy. The map supplements, and is not a substitute for, a professional inspection of property for defects and conditions.

4. Operate and maintain a central repository and a computerized database for reports, books, maps and other publications regarding the geology, mining and mineral resources and associated technologies. Such repository and database shall be available for the use of the public and may be located at or connected with the university of Arizona or another state university or agency of this state. All databases and other archival materials shall be maintained in a secure and retrievable format and at a location prescribed by the state geologist to protect and preserve information from damage or destruction.

~~5. Operate and maintain a central repository for rock cores, well cuttings and samples and all associated supplemental data consistent with the laws of this state requiring the deposit of such material and information. Such repository shall be available for the use of the public.~~

~~6. Receive and expend any monies arising from grants, contracts, contributions, gratuities or reimbursements payable or distributable to this state from the United States, or from state, county, municipal or other governmental sources. The Arizona geological survey shall also receive and expend any monies arising from grants, contracts, contributions, gratuities or reimbursements donated by private persons or corporations. Monies received pursuant to this paragraph shall be deposited in the geological survey fund and handled pursuant to section 27-107.~~

~~7. Contract and be contracted with.~~

~~8.~~ 5. Utilize the services and expertise of the universities of ~~the~~ THIS state at the discretion of the state geologist.

~~9.~~ 6. Cooperate with local, county, state and federal agencies.

~~10. Provide administrative and staff support for the Arizona oil and gas conservation commission.~~

~~11.~~ 7. Provide quality mining data, evaluation and assistance relating to mining and mineral development to the legislature, federal, state and local governmental agencies and the public.

~~12.~~ 8. Serve as a source of mining information and data necessary or advisable to attain its objectives. The ~~state geologist~~ ARIZONA BOARD OF REGENTS may establish reasonable fees for publications AND OTHER SERVICES OF THE ARIZONA GEOLOGICAL SURVEY.

1 ~~13.~~ 9. Cooperate with the Arizona corporation commission in its
2 investigations and administration of laws, relating to the sale of mining
3 securities.
4 B. IN COORDINATION WITH THE MINING, MINERAL AND NATURAL RESOURCES
5 EDUCATIONAL MUSEUM ADVISORY COUNCIL ESTABLISHED BY SECTION 27-111, THE
6 ARIZONA GEOLOGICAL SURVEY SHALL OPERATE AND MAINTAIN A MINING, MINERAL AND
7 NATURAL RESOURCES EDUCATIONAL MUSEUM AS THE STATE DEPOSITORY FOR COLLECTING,
8 CATALOGING AND DISPLAYING MINING, MINERAL AND NATURAL RESOURCES ARTIFACTS AND
9 SPECIMENS. IN CONNECTION WITH THE MINING, MINERAL AND NATURAL RESOURCES
10 EDUCATIONAL MUSEUM, THE STATE GEOLOGIST MAY:
11 1. PROMOTE THE RECOGNITION AND CELEBRATION OF THE HISTORICAL,
12 CULTURAL, ECONOMIC AND SOCIAL CONTRIBUTIONS TO THIS STATE MADE BY THE MINING,
13 MINERAL AND NATURAL RESOURCES INDUSTRIES IN THIS STATE, INCLUDING THE
14 LIVESTOCK AND AGRICULTURAL INDUSTRIES.
15 2. APPLY FOR AND ACCEPT GRANTS, GIFTS, BEQUESTS OF LEGACIES OF REAL OR
16 PERSONAL PROPERTY, DONATIONS, INCLUDING DONATIONS OF TIME, SERVICES AND
17 MATERIALS, OR ANY OTHER CONTRIBUTION, FINANCIAL OR OTHERWISE, FOR USE IN
18 ACCORDANCE WITH THE DIRECTION OF THE DONOR OR, IN THE ABSENCE OF AN EXPRESS
19 DIRECTION, AS PRESCRIBED BY THE ARIZONA GEOLOGICAL SURVEY. MONIES RECEIVED
20 PURSUANT TO THIS PARAGRAPH SHALL BE DEPOSITED IN A SEPARATE MINING, MINERAL
21 AND NATURAL RESOURCES EDUCATIONAL MUSEUM ACCOUNT IN THE GEOLOGICAL SURVEY
22 FUND ESTABLISHED BY SECTION 27-107 TO BE USED EXCLUSIVELY FOR THE
23 MAINTENANCE, RESTORATION AND OPERATIONS OF THE MINING, MINERAL AND NATURAL
24 RESOURCES EDUCATIONAL MUSEUM.
25 3. ACCEPT FROM THE FEDERAL OR STATE GOVERNMENT, ANY LOCAL GOVERNMENT
26 OR ANY OF THEIR AGENCIES RESTRICTED AND UNRESTRICTED MONIES MADE AVAILABLE TO
27 THIS STATE FOR THE MINING, MINERAL AND NATURAL RESOURCES EDUCATIONAL MUSEUM.
28 4. ESTABLISH AND COLLECT ENTRANCE FEES TO THE MINING, MINERAL AND
29 NATURAL RESOURCES EDUCATIONAL MUSEUM.
30 5. OPERATE A RETAIL GIFT SHOP, INCLUDING THE ACQUISITION, PURCHASE AND
31 RESALE OF MINING, MINERAL AND NATURAL RESOURCES SPECIMENS AND RELATED ITEMS.
32 6. EMPLOY A CURATOR FOR THE MINING, MINERAL AND NATURAL RESOURCES
33 EDUCATIONAL MUSEUM WHO POSSESSES KNOWLEDGE OR EXPERIENCE IN NATURAL RESOURCES
34 AND OPERATING A MUSEUM.
35 7. OPERATE EDUCATIONAL PROGRAMMING FOR THE MINING, MINERAL AND NATURAL
36 RESOURCES EDUCATIONAL MUSEUM.
37 8. ACCEPT THE SERVICES OF VOLUNTEERS AND PROVIDE OVERSIGHT FOR THEIR
38 ACTIVITIES.
39 9. PAY THE NECESSARY MAINTENANCE AND OPERATION EXPENSES OF THE MINING,
40 MINERAL AND NATURAL RESOURCES EDUCATIONAL MUSEUM.
41 C. THE ARIZONA GEOLOGICAL SURVEY:
42 1. WITH THE APPROVAL OF THE MINING, MINERAL AND NATURAL RESOURCES
43 EDUCATIONAL MUSEUM ADVISORY COUNCIL, SHALL ADOPT A COLLECTIONS MANAGEMENT
44 POLICY THAT IS CONSISTENT WITH NATIONAL STANDARDS AND BEST PRACTICES FOR

MUSEUMS IN THE UNITED STATES ESTABLISHED BY A NATIONAL ASSOCIATION OF MUSEUMS.

2. SHALL MAINTAIN THE ITEMS, ARTIFACTS AND OTHER INVENTORY RECEIVED FOR DISPLAY OR STORAGE, INCLUDING EQUIPMENT AND OUTDOOR DISPLAYS.

3. IN COORDINATION WITH THE MINING, MINERAL AND NATURAL RESOURCES EDUCATIONAL MUSEUM ADVISORY COUNCIL AND PURSUANT TO THE STANDARDS AND BEST PRACTICES ADOPTED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION, MAY SELL OR OTHERWISE DISPOSE OF MATERIALS RECEIVED FOR THE MINING, MINERAL AND NATURAL RESOURCES EDUCATIONAL MUSEUM.

Sec. 9. Section 27-106, Arizona Revised Statutes, as amended by section 8 of this act, is amended to read:

27-106. Duties of Arizona geological survey

~~A.~~ The Arizona geological survey shall:

1. Map and describe the bedrock and related geologic materials and processes in this state, as follows:

(a) Prepare geologic maps that show the distribution of rock formations and surficial materials at the surface and in the subsurface.

(b) Describe the character of rock and surficial materials, including their age, origin and physical and chemical properties.

(c) Map, describe and monitor known and potential geologic hazards and limitations to land and resource management.

(d) Map and characterize energy and mineral resources and identify areas that may have potential for future discoveries.

2. Provide objective, scientific information about the geologic character of this state as follows:

(a) Provide timely, courteous responses to requests for information, advice and assistance from the public.

(b) Maintain a computerized bibliographic database of maps and reports on the geology of this state that is accessible to the public.

(c) Maintain an internet website that includes information about the Arizona geological survey, products and services available and the geologic character of this state.

(d) Give lectures and talks, conduct workshops, lead field trips and provide information and assistance to public, educational and professional groups.

(e) Publish reports and other information, written in nontechnical terms, to inform those who are not trained in geology about the geologic character of this state.

3. Prepare all data files of known areas of earth fissures, produce maps of those areas with overlays showing affected counties, cities, towns, highways and streets and transmit the maps in printed and electronic format to the state real estate department for purposes of providing public access to the earth fissure maps pursuant to this paragraph and section 32-2117. The Arizona geological survey shall provide any map to any member of the

public in printed or electronic format on request. The following notice shall be displayed below each map:

Notice

The state of Arizona has made a reasonable effort to ensure the accuracy of this map when it was produced, but errors may be present and the state of Arizona does not guarantee its accuracy. The map supplements, and is not a substitute for, a professional inspection of property for defects and conditions.

4. Operate and maintain a central repository and a computerized database for reports, books, maps and other publications regarding the geology, mining and mineral resources and associated technologies. Such repository and database shall be available for the use of the public and may be located at or connected with the university of Arizona or another state university or agency of this state. All databases and other archival materials shall be maintained in a secure and retrievable format and at a location prescribed by the state geologist to protect and preserve information from damage or destruction.

5. Utilize the services and expertise of the universities of this state at the discretion of the state geologist.

6. Cooperate with local, county, state and federal agencies.

7. Provide quality mining data, evaluation and assistance relating to mining and mineral development to the legislature, federal, state and local governmental agencies and the public.

8. Serve as a source of mining information and data necessary or advisable to attain its objectives. The Arizona board of regents may establish reasonable fees for publications and other services of the Arizona geological survey.

9. Cooperate with the Arizona corporation commission in its investigations and administration of laws, relating to the sale of mining securities.

~~B. In coordination with the mining, mineral and natural resources educational museum advisory council established by section 27-111, the Arizona geological survey shall operate and maintain a mining, mineral and natural resources educational museum as the state depository for collecting, cataloging and displaying mining, mineral and natural resources artifacts and specimens. In connection with the mining, mineral and natural resources educational museum, the state geologist may:~~

~~1. Promote the recognition and celebration of the historical, cultural, economic and social contributions to this state made by the mining, mineral and natural resources industries in this state, including the livestock and agricultural industries.~~

~~2. Apply for and accept grants, gifts, bequests of legacies of real or personal property, donations, including donations of time, services and materials, or any other contribution, financial or otherwise, for use in accordance with the direction of the donor or, in the absence of an express~~

~~direction, as prescribed by the Arizona geological survey. Monies received pursuant to this paragraph shall be deposited in a separate mining, mineral and natural resources educational museum account in the geological survey fund established by section 27-107 to be used exclusively for the maintenance, restoration and operations of the mining, mineral and natural resources educational museum.~~

~~3. Accept from the federal or state government, any local government or any of their agencies restricted and unrestricted monies made available to this state for the mining, mineral and natural resources educational museum.~~

~~4. Establish and collect entrance fees to the mining, mineral and natural resources educational museum.~~

~~5. Operate a retail gift shop, including the acquisition, purchase and resale of mining, mineral and natural resources specimens and related items.~~

~~6. Employ a curator for the mining, mineral and natural resources educational museum who possesses knowledge or experience in natural resources and operating a museum.~~

~~7. Operate educational programming for the mining, mineral and natural resources educational museum.~~

~~8. Accept the services of volunteers and provide oversight for their activities.~~

~~9. Pay the necessary maintenance and operation expenses of the mining, mineral and natural resources educational museum.~~

~~C. The Arizona geological survey:~~

~~1. With the approval of the mining, mineral and natural resources educational museum advisory council, shall adopt a collections management policy that is consistent with national standards and best practices for museums in the united states established by a national association of museums.~~

~~2. Shall maintain the items, artifacts and other inventory received for display or storage, including equipment and outdoor displays.~~

~~3. In coordination with the mining, mineral and natural resources educational museum advisory council and pursuant to the standards and best practices adopted pursuant to paragraph 1 of this subsection, may sell or otherwise dispose of materials received for the mining, mineral and natural resources educational museum.~~

Sec. 10. Section 27-107, Arizona Revised Statutes, is amended to read:

27-107. Powers and duties; fund

A. The ~~state geologist~~ UNIVERSITY OF ARIZONA shall:

1. Establish ~~such~~ administrative functions and offices as necessary to achieve the purposes of this article.

~~2. Prescribe the number and professional disciplines of the technical staff and their office and laboratory associates.~~

~~3.~~ 2. Direct the work of the Arizona geological survey and the formulation of its program and policies.

~~4.~~ 3. Adopt ~~such~~ rules as ~~are~~ necessary to carry out the purposes of this article.

~~5. Purchase or lease necessary office and laboratory equipment and acquire facilities from the state or lease necessary office and laboratory space.~~

~~6. Apply for and accept gifts, bequests or legacies of real or personal property or any other contribution, financial or otherwise, for use pursuant to the direction of the donor or, in the absence of an express direction, to be disposed of for the best interests of this state. The state geologist shall honor any restriction imposed by the donor on divulging contributed information or tangible personal property.~~

~~7. Accept from the federal, state and local governments or their agencies monies made available to this state for the purposes of this article.~~

~~8. Enter into cooperative agreements with federal, county or municipal governments or their agencies or with any agency or governmental unit established by the law of this or any other state for the purpose of carrying out the provisions of this article.~~

~~9. Contract with persons and organizations, public or private, to provide services for the Arizona geological survey.~~

~~10. Appoint a person with a background in oil and gas conservation to act on behalf of the oil and gas conservation commission and administer and enforce the applicable provisions of chapter 4 of this title relating to the oil and gas conservation commission.~~

B. The state geologist or the geologist's designee, at any time, may enter the property and inspect wells drilled for oil, gas, geothermal resources, helium or carbon dioxide and shall control property, machinery and appliances necessary to gauge the wells.

C. ~~A~~ THE geological survey fund is established for the purposes provided in this article consisting of appropriations and all monies received pursuant to this article ~~and section 27-515~~. Monies shall be separately accounted for and used as a continuing appropriation by the ~~state geologist~~ UNIVERSITY OF ARIZONA for the purposes provided from each source. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. THE FUND INCLUDES A SEPARATE MINING, MINERAL AND NATURAL RESOURCES EDUCATIONAL MUSEUM ACCOUNT CONSISTING OF MONIES RECEIVED PURSUANT TO SECTION 27-106, SUBSECTION B TO BE USED EXCLUSIVELY FOR THE MAINTENANCE AND OPERATIONS OF THE MINING, MINERAL AND NATURAL RESOURCES EDUCATIONAL MUSEUM.

Sec. 11. Section 27-107, Arizona Revised Statutes, as amended by section 10 of this act, is amended to read:

27-107. Powers and duties; fund

A. The university of Arizona shall:

1. Establish administrative functions and offices as necessary to achieve the purposes of this article.

2. Direct the work of the Arizona geological survey and the formulation of its program and policies.

3. Adopt rules as necessary to carry out the purposes of this article.

B. The state geologist or the geologist's designee, at any time, may enter the property and inspect wells drilled for oil, gas, geothermal resources, helium or carbon dioxide and shall control property, machinery and appliances necessary to gauge the wells.

C. The geological survey fund is established for the purposes provided in this article consisting of appropriations and all monies received pursuant to this article. Monies shall be separately accounted for and used as a continuing appropriation by the university of Arizona for the purposes provided from each source. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. ~~The fund includes a separate mining, mineral and natural resources educational museum account consisting of monies received pursuant to section 27-106, subsection B to be used exclusively for the maintenance and operations of the mining, mineral and natural resources educational museum.~~

Sec. 12. Section 27-108, Arizona Revised Statutes, is amended to read:

27-108. Publications; deposit

A. The ~~state geologist~~ ARIZONA BOARD OF REGENTS, THROUGH THE STATE GEOLOGIST, may publish, in the form of bulletins, circulars, maps and other related series, or otherwise make available to state agencies, government officials, industry and the public the results of geological and related research and investigation undertaken by the Arizona geological survey. A publication shall not include any confidential information pursuant to section 27-522. The state geologist shall consult with the operator and obtain the approval of the scope of work for the publication before the state geologist releases any proposed publication pertaining to a project regulated by the oil and gas conservation commission.

B. The publications of the Arizona geological survey shall be printed as the ~~state geologist~~ UNIVERSITY OF ARIZONA determines and distributed or sold as the interests of this state or science demand. Money obtained by the sale of publications shall be deposited in the geological survey fund established by section 27-107 for printing further publications.

C. All materials collected, after having served the purpose of the Arizona geological survey, shall be made available to the universities, community colleges and high schools of this state.

Sec. 13. Repeal

Section 27-109, Arizona Revised Statutes, is repealed.

Sec. 14. Section 27-110, Arizona Revised Statutes, is amended to read:

27-110. Trade secrets; confidentiality; definition

A. The ~~state geologist~~ ARIZONA BOARD OF REGENTS may receive and accept geologic, engineering and feasibility studies and other economic and technical information that is considered a trade secret in the mineral industry.

B. Trade secret information obtained under this section is confidential and not subject to public disclosure.

C. For the purposes of this section, "trade secret" means information to which all of the following apply:

1. A person has taken reasonable measures to protect the information from disclosure and the person intends to continue to take those measures.

2. The information is not and has not been reasonably obtainable by legitimate means by other persons without the person's consent, other than by governmental entities and other than in discovery based on a showing of special need in a judicial or quasi-judicial proceeding.

3. A statute does not specifically require disclosure of the information to the public.

4. The person has satisfactorily shown that disclosing the information is likely to cause substantial harm to the person's competitive position.

Sec. 15. Section 41-827.01, Arizona Revised Statutes, is transferred and renumbered for placement in title 27, chapter 1, article 1, Arizona Revised Statutes, as section 27-111 and, as so renumbered, is amended to read:

27-111. Mining, mineral and natural resources educational museum advisory council; membership; duties; terms; compensation

A. The ~~centennial and~~ mining, ~~and~~ mineral AND NATURAL RESOURCES EDUCATIONAL museum advisory council is established consisting of the following members who, except for the members designated pursuant to paragraphs 1, 9 and ~~2~~ 10 of this subsection, are appointed by the governor:

~~1. The executive director of the Arizona historical society or the director's designee.~~

~~2.~~ 1. The state geologist or the state geologist's designee.

~~3.~~ 2. ~~Two members~~ ONE MEMBER representing the livestock industry.

~~4.~~ 3. Two members representing the mining industry.

~~5.~~ 4. ~~Two members~~ ONE MEMBER representing the agriculture industry.

~~6.~~ 5. ~~Two members~~ ONE MEMBER representing THE tourism ~~and other climate-related industries~~ INDUSTRY.

~~7.~~ 6. ~~Two members~~ ONE MEMBER representing the ~~specialty crops~~ TIMBER industry.

~~8.~~ 7. One member who is ~~a natural resources education professional~~ KNOWLEDGEABLE IN GEMS AND MINERALS.

~~9. One member representing a natural resources foundation.~~

~~10.~~ 8. Two members representing the public.

9. ONE MEMBER OF THE HOUSE OF REPRESENTATIVES WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

10. ONE MEMBER OF THE SENATE WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

B. The advisory council shall:

1. Select a chairperson and vice-chairperson from among its members.

2. Hold regular meetings and additional meetings at the call of the chairperson or a majority of its members.

3. Provide oversight and advice to the ~~director of the Arizona historical society~~ STATE GEOLOGIST regarding the ~~centennial museum that houses the~~ mining, ~~and~~ mineral AND NATURAL RESOURCES EDUCATIONAL museum and assist in promoting the mission of the ~~centennial~~ museum. The ~~director~~ STATE GEOLOGIST shall accept the recommendations of the advisory council if the ~~director~~ STATE GEOLOGIST finds them to be practicable and in the best interest of the MINING, MINERAL AND NATURAL RESOURCES EDUCATIONAL museum.

4. Establish a subcommittee to provide assistance and advice in the areas of educational programming, the hiring and retention of a curator and oversight of mineral collections. The advisory council may establish subcommittees to act in an advisory capacity on other matters relevant to the MINING, MINERAL AND NATURAL RESOURCES EDUCATIONAL museum and the advisory council's duties.

C. The initial members appointed pursuant to subsection A, paragraphs ~~3 through 10~~ 2, 3, 4, 5, 6 AND 7 OF THIS SECTION shall assign themselves by lot to three, four and five year terms of office. All subsequent members serve ~~five year~~ FOUR-YEAR terms of office. A member may continue to serve until the member's successor is appointed and assumes office.

D. Members of the advisory council are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2. The advisory council is a public body for purposes of title 38, chapter 3, article 3.1.

Sec. 16. Repeal

Section 27-112, Arizona Revised Statutes, is repealed.

Sec. 17. Section 27-515, Arizona Revised Statutes, is amended to read:

27-515. Administration; powers of the commission; fees

A. The commission shall administer and enforce ~~the provisions of~~ this article and other laws relating to conservation of oil and gas. The commission and administrative staff, at any time, may enter ~~upon~~ property and inspect wells drilled for oil or gas, and well records, and shall control property, machinery and appliances necessary to gauge the wells. The ~~Arizona geological survey~~ DEPARTMENT OF ENVIRONMENTAL QUALITY shall provide staff support to the commission to administer ~~the provisions of~~ this chapter.

B. The commission may:

1. Administer oaths to a witness in any hearing, investigation or proceeding held under this article or ANY other law relating to conservation of oil and gas.

2. Issue subpoenas requiring attendance and testimony of witnesses and production of books, papers and records deemed material or necessary, and direct service of subpoenas by a sheriff or other officer authorized by law to serve process.

3. Prescribe rules and do all acts necessary or advisable to carry out ~~the provisions of~~ this article.

4. Collect ~~such~~ fees ~~as will~~ TO cover the costs of ~~such~~ services ~~as, but not limited to~~, INCLUDING reproduction of records or any portion ~~thereof~~ OF RECORDS and copies of rules. The monies ~~so~~ collected ~~shall~~ ARE not ~~be~~ subject to ~~the provisions of~~ section 27-523 but shall be deposited, pursuant to sections 35-146 and 35-147, by the commission in the fund from which the expenditure was originally made.

5. Publish technical maps, cross sections and reports and sell these materials for ~~such~~ fees ~~as~~ THAT will cover the costs incurred in their preparation, reproduction and distribution.

C. The commission may enter into cooperative agreements with agencies of the United States government, with agencies of state or local government or with Indian tribes for the purpose of protection of the fresh water supplies of ~~the~~ THIS state from contamination or pollution brought about by the drilling of any well or for any other purpose of this article.

D. The commission may apply for and accept gifts, devises and donations of books, well records, maps or other materials. All donated materials shall become public records.

E. Monies collected under subsection B, paragraph 5 of this section ARE NOT SUBJECT TO SECTION 27-523 BUT shall be deposited, pursuant to sections 35-146 and 35-147, in the ~~geological survey~~ PERMIT ADMINISTRATION fund established by section ~~27-107~~ 49-455 and shall be used to prepare, reproduce and distribute further publications. ~~Monies in the fund are not subject to section 27-523.~~

Sec. 18. Section 28-907, Arizona Revised Statutes, is amended to read:

28-907. Child restraint system; civil penalty; exemptions; notice; child restraint fund; definitions

A. Except as provided in subsection H of this section, a person shall not operate a motor vehicle on the highways in this state when transporting a child who is under five years of age unless that child is properly secured in a child restraint system.

B. The operator of a motor vehicle that is designed for carrying ten or fewer passengers, that is manufactured for the model year 1972 and thereafter and that is required to be equipped with an integrated lap and shoulder belt or a lap belt pursuant to the federal motor vehicle safety standards prescribed in 49 Code of Federal Regulations section 571.208 shall require each passenger who is at least five years of age, who is under eight years of age and who is not more than four feet nine inches tall to be restrained in a child restraint system.

C. The department shall adopt standards in accordance with 49 Code of Federal Regulations section 571.213 for the performance, design and installation of child restraint systems for use in motor vehicles as prescribed in this section.

D. A person who violates this section is subject to a civil penalty of fifty dollars, except that a civil penalty shall not be imposed if the person makes a sufficient showing that the motor vehicle has been subsequently equipped with a child restraint system that meets the standards adopted pursuant to subsection C of this section. A sufficient showing may include a receipt mailed to the appropriate court officer that evidences purchase or acquisition of a child restraint system. The court imposing and collecting the civil penalty shall deposit, pursuant to sections 35-146 and 35-147, the monies, exclusive of any surcharges imposed pursuant to sections 12-116.01 and 12-116.02, in the child restraint fund.

E. If a law enforcement officer stops a vehicle for an apparent violation of this section, the officer shall determine from the driver the age and height of the child or children in the vehicle to assess whether the child or children in the vehicle should be in child restraint systems.

F. If the information given to the officer indicates that a violation of this section has not been committed, the officer shall not detain the vehicle any further unless some additional violation is involved. The stopping of a vehicle for an apparent or actual violation of this section is not probable cause for the search or seizure of the vehicle unless there is probable cause for another violation of law.

G. The requirements of this section or evidence of a violation of this section are not admissible as evidence in a judicial proceeding except in a judicial proceeding for a violation of this section.

H. This section does not apply to any of the following:

1. A person who operates a motor vehicle that was originally manufactured without passenger restraint devices.

2. A person who operates a motor vehicle that is also a recreational vehicle as defined in section ~~41-2142~~ 41-4001.

3. A person who operates a commercial motor vehicle and who holds a current commercial driver license issued pursuant to chapter 8 of this title.

4. A person who must transport a child in an emergency to obtain necessary medical care.

5. A person who operates an authorized emergency vehicle that is transporting a child for medical care.

6. A person who transports more than one child under eight years of age in a motor vehicle that because of the restricted size of the passenger area does not provide sufficient area for the required number of child restraint systems, if both of the following conditions are met:

(a) At least one child is restrained or seated as required by this section.

(b) The person has secured as many of the other children in child restraint systems pursuant to this section as is reasonable given the restricted size of the passenger area and the number of passengers being transported in the motor vehicle.

I. Before the release of any newly born child from a hospital, the hospital in conjunction with the attending physician shall provide the parents of the child with a copy of this section and information with regard to the availability of loaner or rental programs for child restraint systems that may be available in the community where the child is born.

J. A child restraint fund is established. The fund consists of all civil penalties deposited pursuant to this section and any monies donated by the public. The department of child safety shall administer the fund.

K. The department of child safety shall purchase child restraint systems that meet the requirements of this section from monies deposited in the fund. If a responsible agency requests child restraint systems and if they are available, the department of child safety shall distribute child restraint systems to the requesting responsible agency.

L. On the application of a person to a responsible agency on a finding by the responsible agency to which the application was made that the applicant is unable to acquire a child restraint system because the person is indigent and subject to availability, the responsible agency shall lend the applicant a child restraint system at no charge for as long as the applicant has a need to transport a child who is subject to this section.

M. Monies in the child restraint fund shall not exceed twenty thousand dollars. All monies collected over the twenty thousand dollar limit shall be deposited in the Arizona highway user revenue fund established by section 28-6533.

N. For the purposes of this section:

1. "Child restraint system" means an add-on child restraint system, a built-in child restraint system, a factory-installed built-in child restraint system, a rear-facing child restraint system or a booster seat as defined in 49 Code of Federal Regulations section 571.213.

2. "Indigent" means a person who is defined as an eligible person pursuant to section 36-2901.01.

3. "Responsible agency" means a licensed hospital, a public or private agency providing shelter services to victims of domestic violence, a public or private agency providing shelter services to homeless families or a health clinic.

Sec. 19. Section 28-1093, Arizona Revised Statutes, is amended to read:

28-1093. <u>Vehicle width; exceptions</u>

A. Except as otherwise provided in subsections B and C of this section and section 28-627, the total outside width of a vehicle or the load on the vehicle shall not exceed eight feet.

B. If pneumatic tires, in substitution for the same type or other type of tires, are placed on a vehicle in operation on July 1, 1950:

1. The maximum width from the outside of one wheel and tire to the outside of the opposite wheel and tire shall not exceed eight feet six inches.

2. The outside width of the body of the vehicle or the load on the vehicle shall not exceed eight feet.

C. A person may operate a vehicle with a total width of the vehicle or the load on the vehicle of not more than one hundred two inches, exclusive of safety equipment, on:

1. Any segment of the national system of interstate and defense highways.

2. Any other qualifying federal aid highway.

3. Any state highway, as designated by the director.

4. Streets that are designated by a local authority as follows:

(a) The local authority may designate the streets by signage of the allowable streets or by maintenance of a map or list of allowable streets as approved by a resolution of the local authority.

(b) In designating the streets, the local authority shall consider any reasonable restriction including such safety restrictions as structural hazards and street width and any other safety factors identified by the local authority as a hazard to the motoring public.

5. A highway that reasonably accesses interstate system highways, federal aid highways or state highways from terminals and facilities that provide food, fuel, repairs and lodging or from emergency medical facilities.

D. Notwithstanding subsections A, B and C of this section, the total outside width of a noncommercial recreational vehicle as defined in section ~~41-2142~~ 41-4001 may be more than one hundred two inches if the excess width is attributable to recreational vehicle appurtenances that do not extend beyond the exterior rearview mirrors of the recreational vehicle or tow vehicle and the rearview mirrors only extend the distance necessary to provide the appropriate field of view for the vehicle before the appurtenances are attached. For the purposes of this subsection, "recreational vehicle appurtenance":

1. Includes:

(a) An awning and its support hardware.

(b) Any appendage that is intended to be an integral part of the recreational vehicle and that is installed by the manufacturer or dealer.

2. Does not include an item that is temporarily affixed or attached to the exterior of the recreational vehicle by the vehicle's operator for the purpose of transporting the item from one location to another location.

Sec. 20. Section 28-1095, Arizona Revised Statutes, is amended to read:

28-1095. <u>Vehicle length; exceptions; permits; rules; definitions</u>

A. A vehicle, including any load on the vehicle, shall not exceed a length of forty feet extreme overall dimension, including front and rear bumpers. This subsection does not apply to any of the following:

1. A semitrailer when used in combination with a truck or a truck tractor.

2. A truck that is equipped with a conveyor bed, that is used solely as a fiber and forage module mover and that does not exceed forty-eight feet in length.

3. An articulated bus or articulated trolley coach that does not exceed a length of sixty feet.

4. A bus that is not articulated and that does not exceed a length of forty-five feet.

5. A recreational vehicle, a power unit, a farm vehicle, a horse trailer or wheeled equipment as defined in section 28-2153 if used in combination with two units and if the combination does not exceed sixty-five feet in length.

6. A recreational vehicle as defined in section ~~41-2142~~ 41-4001, paragraph 30, subdivision (b) that does not exceed a length of forty-five feet.

B. A vehicle transporter may draw only one semitrailer. A combination of vehicles, excluding a vehicle transporter and the semitrailer it draws, that is coupled together shall not consist of more than two units, except that a truck or a truck tractor and semitrailer may draw either one trailer or a forklift.

C. The following restrictions apply:

1. The length of a semitrailer operating in a truck tractor-semitrailer combination or a truck tractor-semitrailer-forklift combination shall not exceed fifty-seven feet six inches.

2. The length of a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination shall not exceed twenty-eight feet six inches.

3. The length of a trailer operating in a truck-trailer combination shall not exceed twenty-eight feet six inches.

4. If the length of a semitrailer is more than fifty-three feet, the overall length of a truck tractor-semitrailer combination shall not exceed sixty-five feet on all highways, except for the national intercity truck route network designated by the United States secretary of transportation as required by the surface transportation assistance act of 1982 or on a system of highways that is designated by a local authority. In designating the streets, the local authority shall consider any reasonable restriction including such safety restrictions as structural hazards and street width and any other safety factors identified by the local authority as a hazard to the motoring public.

5. A vehicle transporter and the semitrailer it draws shall not exceed a length of seventy-five feet.

6. A truck-semitrailer combination shall not exceed an overall length of sixty-five feet.

D. Subsection B and subsection C, paragraphs 1 through 6 of this section do not apply to damaged, disabled or abandoned vehicles or combinations of vehicles while being towed by a tow truck in compliance with section 41-1830.51.

E. Notwithstanding subsections B and C of this section, extensions of not more than three feet beyond the foremost part and six feet beyond the rear bed or body of a vehicle or combination of vehicles used to transport manufactured vehicles or fiber and forage shall not be included in measuring the length of the vehicle or combination of vehicles when loaded.

F. Pursuant to a permit issued pursuant to section 28-1103, a truck or a truck tractor-semitrailer may draw not more than two additional trailers or semitrailers. The department shall adopt rules governing the movement and safety of a combination of vehicles under this subsection and authorizing the issuance in advance of prepaid permits. The rules shall include the adoption of minimum speeds on grades, lighting, signing, identification and braking requirements and any other rules the department deems necessary. The permit issued pursuant to this subsection is limited to the following highways:

1. An interstate highway that connects with two states if both states allow such combinations of trailers or semitrailers and if the interstate highway does not exceed forty miles between the connecting states.

2. A state route or highway that is located within four miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semitrailers.

3. A state route or highway that extends at least ten miles through an Indian reservation, that does not cross the Colorado river and that is located within twenty miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semitrailers.

G. Notwithstanding subsections B and C of this section:

1. A motor vehicle may draw one single axle tow dolly on which a motor vehicle may be transported. A person shall secure the raised end of any motor vehicle being transported pursuant to this paragraph to the tow dolly by two separate chains, cables or equivalent devices adequate to prevent shifting or separation of the drawn vehicle and the tow dolly. For the purposes of this paragraph, "single axle tow dolly" means a vehicle drawn by a motor vehicle and designed and used exclusively to transport another motor vehicle by which the front or rear wheels of the drawn motor vehicle are mounted on the tow dolly while the other wheels of the drawn motor vehicle remain in contact with the ground.

2. A truck or a truck tractor may draw a trailer or semitrailer that does not exceed a length of fifty-seven feet only on an interstate highway or on a highway that is within ten miles of an interstate highway if the trailer or semitrailer is manufactured in this state and is traveling with or without a load from its place of manufacture to be delivered for use outside this state.

3. A recreational vehicle may pull two units if all of the following conditions are met:

(a) The middle unit is equipped with a fifth wheel and brakes. The middle unit may be a farm vehicle or a horse trailer and shall have a weight equal to or greater than the rear unit.

(b) If the rear unit has a gross weight of three thousand pounds or more, it is equipped with brakes.

(c) The total combined gross weight of the towed units does not exceed the manufacturer's stated gross vehicle weight of the towing unit.

H. For the purposes of this section:

1. "Farm vehicle" has the same meaning prescribed in section 28-2514.

2. "Recreational vehicle" means a motor vehicle that is designed and customarily used for private pleasure, including vehicles commonly called motor homes, pickup trucks with campers and pickup trucks with a fifth wheel trailing device.

Sec. 21. Section 28-1103, Arizona Revised Statutes, is amended to read:

28-1103. Excess size and weight special permits; definition

A. Subject to section 28-1104, subsection E, on application in writing and for good cause, the director with respect to highways under the jurisdiction of the department and a local authority with respect to highways under its jurisdiction may issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this article or otherwise not in conformity with this chapter on any highway under the jurisdiction of the party granting the permit and for the maintenance of which the party is responsible.

B. A special permit may be issued for the movement of overdimensional and overweight loads that is subject to department rules for overdimensional and overweight loads. The director shall adopt rules for overdimensional and overweight loads. The director may establish fees to cover all or part of the cost of review and analysis of requests for overdimensional and overweight load permits. The department shall collect the fees, in addition to the special permit fee provided by this section or section 28-1105.

C. Subject to this section, the director or local authority may issue the following special permits that are valid for thirty days or one year and that may be limited by the director or local authority:

1. A special permit authorizing the applicant to transport a load by means of a truck-semitrailer, truck-trailer, truck tractor-semitrailer-semitrailer or truck tractor-semitrailer-trailer combination, if all of the following conditions are met:

(a) The overall length of the cargo carrying unit of the vehicle combination does not exceed ninety-five feet.

(b) The axle weight limitations are subject to sections 28-1099 and 28-1100.

(c) The overall gross weight of the vehicle combination does not exceed one hundred twenty-nine thousand pounds.

(d) The vehicle combination is traveling within twenty miles of the borders of this state and an adjacent state that allows such combinations of length and gross vehicle weight.

2. Except on the national intercity truck route network designated by the United States secretary of transportation as required by the surface transportation assistance act of 1982, a special permit authorizing the applicant to transport a load by means of a truck and two trailing units or a truck tractor, a semitrailer and two trailing units if all of the following conditions are met:

(a) The overall length of the cargo carrying unit of the vehicle combination does not exceed ninety-five feet.

(b) The axle weight limitations conform to sections 28-1099 and 28-1100.

(c) The overall gross weight of the vehicle combination does not exceed one hundred twenty-three thousand five hundred pounds.

(d) The vehicle combination is traveling on either:

(i) A state route or highway that is located within four miles of and extends to the border of this state and an adjacent state that allows vehicle combinations of a truck or a truck tractor-semitrailer and not more than two additional trailers or semitrailers.

(ii) A state route or highway that extends at least ten miles through an Indian reservation, does not cross the Colorado river and is located within twenty miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semitrailers.

3. On application in writing by an owner of a watercraft as defined in section 5-301 and on good cause shown, a special excess width permit for a fee of forty-five dollars for each watercraft covered by the permit that:

(a) Authorizes the owner to move a vehicle loaded with the watercraft on a highway under the jurisdiction of the issuer if all of the following conditions exist:

(i) The total outside width of the vehicle and watercraft does not exceed ten feet.

(ii) The vehicle loaded with the watercraft is otherwise in conformity with the limitations prescribed by this chapter.

(iii) The watercraft is properly registered with the Arizona game and fish department.

(b) Contains the watercraft registration number.

D. The director may issue a special excess width permit for the operation of a vehicle with a reducible load only if both:

1. The load exceeds the width limitation prescribed in section 28-1093.

2. The load does not exceed ten feet in width.

E. Subject to this section and on receipt of an application, the director or local authority shall issue a permit that is valid for thirty days or one year and that authorizes the commercial movement of recreational vehicles as defined in section ~~41-2142~~ 41-4001 that exceed the size restrictions prescribed in this article. There is no limit on the number of movements generated or the number of vehicles moved by the permittee under a permit issued pursuant to this subsection. Notwithstanding section 28-1104, additional permit requirements shall not be imposed on the commercial movement of these recreational vehicles if the recreational vehicles comply with section 28-1093, subsection D.

F. If a local authority issues permits pursuant to this section, the local authority shall provide to the department in a timely manner in an electronic format prescribed by the director all current ordinances and rules of the local authority relating to the permits. The department shall make the ordinances and rules available to the public in an electronic format.

G. The department is immune from liability for providing to the public a local authority's ordinances or rules relating to permits issued by the local authority pursuant to this section if the department relies on the information submitted by the local authority in good faith.

H. For the purposes of this section, "cargo carrying unit" means any portion of a commercial motor vehicle combination used for the carrying of cargo, including a trailer, a semitrailer or the cargo carrying section of a single unit truck. Cargo carrying unit does not include the cab portion of a truck or truck tractor.

Sec. 22. Section 28-2448, Arizona Revised Statutes, is amended to read:

28-2448. <u>Arizona centennial special plates; fund</u>

A. The department shall issue Arizona centennial special plates. The department shall use thirty-two thousand dollars from the state highway fund, established by section 28-6991, to implement this section. The office of tourism shall design the Arizona centennial special plates. The design and color of the Arizona centennial special plates are subject to the approval of the department. The director of the department of transportation may allow a request for Arizona centennial special plates to be combined with a request for personalized special plates. If the director of the department of transportation allows such a combination, the request shall be in a form prescribed by the director of the department of transportation and is subject to the fees for the personalized special plates in addition to the fees required for the Arizona centennial special plates.

B. Of the twenty-five dollar fee required by section 28-2402 for the original special plates and for renewal of special plates, eight dollars is a special plate administration fee and seventeen dollars is an annual donation.

C. The department shall deposit, pursuant to sections 35-146 and 35-147, all special plate administration fees in the state highway fund established by section 28-6991 and all donations collected pursuant to this

section in the Arizona centennial special plate fund established by this section.

D. The Arizona centennial special plate fund is established consisting of monies deposited pursuant to this section. The director shall administer the fund. The first thirty-two thousand dollars in the fund shall be reimbursed to the state highway fund established by section 28-6991. Not more than ten ~~per cent~~ PERCENT of monies deposited in the fund annually shall be used for the cost of administering the fund. Monies in the fund are continuously appropriated.

E. ~~In fiscal year 2011-2012, the director shall quarterly allocate monies in the fund to the office of tourism to pay costs related to Arizona centennial projects and events. In fiscal year 2012-2013 and in each fiscal year thereafter,~~ The director shall annually allocate monies in the fund to the Arizona ~~historical society~~ GEOLOGICAL SURVEY to pay costs related to the maintenance and operations of the ~~centennial museum that houses the~~ mining, ~~and~~ mineral AND NATURAL RESOURCES EDUCATIONAL museum.

F. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

Sec. 23. Section 28-2448, Arizona Revised Statutes, as amended by section 22 of this act, is amended to read:

28-2448. <u>Arizona centennial special plates; fund</u>

A. The department shall issue Arizona centennial special plates. The department shall use thirty-two thousand dollars from the state highway fund, established by section 28-6991, to implement this section. The office of tourism shall design the Arizona centennial special plates. The design and color of the Arizona centennial special plates are subject to the approval of the department. The director of the department of transportation may allow a request for Arizona centennial special plates to be combined with a request for personalized special plates. If the director of the department of transportation allows such a combination, the request shall be in a form prescribed by the director of the department of transportation and is subject to the fees for the personalized special plates in addition to the fees required for the Arizona centennial special plates.

B. Of the twenty-five dollar fee required by section 28-2402 for the original special plates and for renewal of special plates, eight dollars is a special plate administration fee and seventeen dollars is an annual donation.

C. The department shall deposit, pursuant to sections 35-146 and 35-147, all special plate administration fees in the state highway fund established by section 28-6991 and all donations collected pursuant to this section in the Arizona centennial special plate fund established by this section.

D. The Arizona centennial special plate fund is established consisting of monies deposited pursuant to this section. The director shall administer the fund. The first thirty-two thousand dollars in the fund shall be

reimbursed to the state highway fund established by section 28-6991. Not more than ten percent of monies deposited in the fund annually shall be used for the cost of administering the fund. Monies in the fund are continuously appropriated.

E. The director shall annually allocate monies in the fund to the Arizona ~~geological survey~~ HISTORICAL SOCIETY to pay costs related to the maintenance and operations of the CENTENNIAL MUSEUM THAT HOUSES THE mining, AND mineral ~~and natural resources educational~~ museum.

F. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

Sec. 24. Section 28-4332, Arizona Revised Statutes, is amended to read:

28-4332. Limited exemption; definitions

A. The director shall grant an exemption from the new or used house trailer dealer licensing requirements of this chapter if the person claiming the exemption furnishes satisfactory proof to the director of licensure as a dealer under title 41, chapter ~~16~~ 37, ARTICLE 4.

B. The cash deposit or bond posted by the person pursuant to section ~~41-2179~~ 41-4029 is subject to the same conditions and inures to the benefit of the same persons as prescribed in sections 28-4362, 28-4405, 28-4406 and 28-4408.

C. A new or used house trailer dealer who claims an exemption pursuant to subsection A of this section shall comply with all other requirements applicable to a new or used house trailer dealer licensed under this chapter. The director of the department of transportation may suspend or cancel the license issued pursuant to title 41, chapter ~~16~~ 37, ARTICLE 4 pursuant to this chapter. On issuing a final order cancelling or suspending a license issued pursuant to section ~~41-2176~~ 41-4026, the director of the department of transportation shall notify the director of the ARIZONA department of ~~fire, building and life safety~~ HOUSING who shall require the surrender of the license.

D. An exemption granted pursuant to subsection A of this section expires on suspension, revocation or nonrenewal of the license issued pursuant to title 41, chapter ~~16~~ 37, ARTICLE 4. The director of the ARIZONA department of ~~fire, building and life safety~~ HOUSING shall notify the director of the department of transportation of any such suspension, revocation or nonrenewal.

E. For the purposes of this section:

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

2. "Used house trailer dealer" means a person, other than a new house trailer dealer, who buys, sells, exchanges or offers or attempts to negotiate

a sale or exchange of an interest in used house trailers or who is engaged in the business of selling used house trailers.

Sec. 25. Section 28-4363, Arizona Revised Statutes, is amended to read:

28-4363. Franchises; filing agreement; violation; classification

A. At the time a franchisee applies for a license, the franchisee shall file with the director a certified copy of the franchisee's written agreement with the manufacturer and a certificate of appointment as dealer or distributor.

B. The certificate of appointment shall be signed as follows:

1. By an authorized agent of the manufacturer of domestic vehicles on direct manufacturer-dealer agreements.

2. If the manufacturer is wholesaling through an appointed distributorship, by an authorized agent of the distributor on indirect distributor-dealer agreements.

3. By an authorized agent of the importer on direct importer-dealer agreements of foreign made vehicles.

4. By an authorized agent of the distributor on indirect distributor-dealer agreements.

5. For a distributor's certificate of appointment, by an authorized agent of the manufacturer of domestically manufactured vehicles or by an authorized agent of the manufacturer or importer of foreign made vehicles.

C. A franchisee is not required to file a written agreement or certificate of appointment if the manufacturer on direct dealerships, the distributor on indirect dealerships or the importer on direct dealerships meets all of the following conditions:

1. Utilizes the identical basic agreement for all of its franchised dealers or distributors in this state.

2. Certifies in the certificate of appointment that this blanket agreement is on file and the written agreement with the dealer or distributor, respectively, is identical with the filed blanket agreement.

3. Has filed with the director one such agreement together with a list of franchised dealers or distributors.

D. The manufacturer, distributor or importer shall notify the director at least forty-five days before any proposed revisions of or additions to the basic agreement on file or of any franchisee supplements to the agreement.

E. A manufacturer, other than a manufacturer of a recreational vehicle as defined in section ~~41-2142~~ 41-4001, shall not modify a franchise during the term of the franchise or on the renewal of a franchise if the modification substantially and adversely affects the new motor vehicle dealer's rights, obligations, investment or return on the investment without giving at least forty-five days' notice of the proposed modification to the new motor vehicle dealer unless the change is required by law. Within the forty-five day period, the new motor vehicle dealer may file with the

director and serve notice on the manufacturer of an objection requesting a determination pursuant to article 5 of this chapter of whether there is good cause for permitting the proposed modification.

F. Annual renewal of certificates filed as provided in this section is not required.

G. A manufacturer on direct dealerships, a distributor on indirect dealerships or an importer on direct dealerships who has filed with the director an agreement used by all of its franchisees in this state together with a list of all such franchisees and who knowingly fails to notify the director at least forty-five days before any proposed revisions, changes or additions to the materials filed is guilty of a class 2 misdemeanor.

Sec. 26. Section 30-801, Arizona Revised Statutes, is amended to read:

30-801. Definitions

In this chapter, unless the context otherwise requires:

1. "Ancillary services" means those services designated as ancillary services in federal energy regulatory commission order 888 adopted in 1996 including the services necessary to support the transmission of electricity from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice.

2. "Appliance application" means central space heating, clothes drying, water heating and indoor cooking.

3. "Bundled service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electricity used by consumers.

4. "Buy-through" means a purchase of electricity by a public power entity at wholesale for a particular retail consumer or aggregate of consumers or at the direction of a particular retail consumer or aggregate of consumers.

5. "Commission" means the Arizona corporation commission.

6. "Electric distribution facilities" means all property used in connection with the distribution of electricity from an electric generating plant to retail electric customers except electric transmission facilities.

7. "Electric distribution service" means the distribution of electricity to retail electric customers through the use of electric distribution facilities.

8. "Electric distribution utility" means a public service corporation or public power entity that operates, controls or maintains electric distribution facilities.

9. "Electric generation plant" means all property used in connection with the generation for sale of electricity to retail electric customers but excluding any services provided by electric transmission facilities or electric distribution facilities.

10. "Electric generation service" means the provision of electricity for sale to retail electric customers but does not include electric distribution or transmission service or generation that is necessary for the reliable operation of the electric distribution or transmission system.

11. "Electric transmission facilities" means all property so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

12. "Electric transmission service" means the transmission of electricity to retail electric customers or to electric distribution facilities that is so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

13. "Electricity" means electric energy, electric capacity or electric capacity and energy.

14. "Electricity supplier" means a person, whether acting in a principal, agent or other capacity, that offers to sell electricity to a retail electric customer in this state.

15. "Other services" means metering, meter reading, billing and collecting services.

16. "Public power entity":

(a) Means any municipal corporation, city, town or other political subdivision that is organized under state law, that generates, transmits, distributes or otherwise provides electricity and that is not a public service corporation.

(b) Does not include:

(i) A city or town with a population of less than seventy-five thousand persons according to the most recent United States decennial census that does not elect by official action to sell electric generation service in the service territory of another electricity supplier.

(ii) A power district, electrical district, irrigation and water conservation district or multi-county water conservation district established pursuant to title 48, chapter 11, 12, 19 or 22.

(iii) The Arizona power authority.

17. "Residential structure" means a detached owner-occupied or rental one or two family dwelling unit, an attached duplex or fourplex unit, a manufactured home, a residential factory-built building as defined in section ~~41-2142, paragraph 14~~ 41-4001 or a mobile home designed to be used with a permanent structure, excluding real property used to accommodate more than four attached dwelling units.

18. "Retail electric customer" means a person that purchases electricity for that person's own use, including use in that person's trade or business, and not for resale, redistribution or retransmission.

19. "Service territory" means the geographic area in which a public power entity or public service corporation owns, operates, controls or maintains either electric distribution facilities or natural gas distribution

facilities and that additional area in which the public power entity or public service corporation has agreed to extend electric distribution facilities or natural gas distribution facilities, whether established by a certificate of convenience and necessity, by official action by a public power entity or by contract or agreement.

Sec. 27. Section 32-1121, Arizona Revised Statutes, is amended to read:

32-1121. Persons not required to be licensed; penalties; applicability

A. This chapter shall not be construed to apply to:

1. An authorized representative of the United States government, this state or any county, incorporated city or town, reclamation district, irrigation district or other municipality or political subdivision of this state.

2. Trustees of an express trust that is not formed for the purpose of conducting business as a contractor or officers of a court, if they are acting within the terms of their trust or office.

3. Public utilities operating under regulation of the corporation commission or construction, repair or operation incidental to discovering or producing petroleum or gas, or the drilling, testing, abandoning or other operation of a petroleum or gas well, if performed by an owner or lessee.

4. Any materialman, manufacturer or retailer who furnishes finished products, materials or articles of merchandise and who does not install or attach such items or installs or attaches such items if the total value of the sales contract or transaction involving such items and the cost of the installation or attachment of such items to a structure does not exceed one thousand dollars, including labor, materials and all other items, but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure. The materialman, manufacturer or retailer shall inform the purchaser that the installation may also be performed by a licensed contractor whose name and address the purchaser may request.

5. Owners of property who improve such property or who build or improve structures or appurtenances on such property and who do the work themselves, with their own employees or with duly licensed contractors, if the structure, group of structures or appurtenances, including the improvements thereto, are intended for occupancy solely by the owner and are not intended for occupancy by members of the public as the owner's employees or business visitors and the structures or appurtenances are not intended for sale or for rent. In all actions brought under this chapter, except an

action against an owner-occupant as defined in section 33-1002, proof of the sale or rent or the offering for sale or rent of any such structure by the owner-builder within one year after completion or issuance of a certificate of occupancy is prima facie evidence that such project was undertaken for the purpose of sale or rent. For the purposes of this paragraph, "sale" or "rent" includes any arrangement by which the owner receives compensation in money, provisions, chattels or labor from the occupancy or the transfer of the property or the structures on the property.

6. Owners of property who are acting as developers and who build structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor licensed pursuant to this chapter and owners of property who are acting as developers, who improve structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor or specialty contractors licensed pursuant to this chapter. To qualify for the exemption under this paragraph, the licensed contractors' names and license numbers shall be included in all sales documents.

7. Architects or engineers who are engaging in their professional practice as defined in chapter 1 of this title and who hire or offer to hire the services of a contractor for preconstruction activities relating to investigation and discovery, including:

(a) Subsurface utility location and designation services.

(b) Potholing.

(c) Drilling for any of the following:

(i) Soil samples.

(ii) Rock samples.

(iii) Pavement samples.

(d) Locating existing features of a building or structure, including existing electrical, mechanical, plumbing and structural members.

8. A person licensed, certified or registered pursuant to chapter 22 of this title or a person working under the direct supervision of a person certified or qualified pursuant to chapter 22 of this title to the extent the person is engaged in pest management.

9. The sale or installation of finished products, materials or articles of merchandise that are not fabricated into and do not become a permanent fixed part of the structure. This exemption does not apply if a local building permit is required, if the total price of the finished product, material or article of merchandise, including labor but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or

foundation of any residential structure, is more than one thousand dollars or if the removal of the finished product, material or article of merchandise causes damage to the structure or renders the structure unfit for its intended use.

10. Employees of the owners of condominiums, townhouses, cooperative units or apartment complexes of four units or less or the owners' management agent or employees of the management agent repairing or maintaining structures owned by them.

11. Any person who engages in the activities regulated by this chapter, as an employee of an exempt property owner or as an employee with wages as the person's sole compensation.

12. A surety company or companies that are authorized to transact business in this state and that undertake to complete a contract on which they issued a performance or completion bond, provided all construction work is performed by duly licensed contractors.

13. Insurance companies that are authorized to transact business in this state and that undertake to perform repairs resulting from casualty losses pursuant to the provisions of a policy, provided all construction work is performed by duly licensed contractors.

14. Any person other than a licensed contractor engaging in any work or operation on one undertaking or project by one or more contracts, for which the aggregate contract price, including labor, materials and all other items, but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, is less than one thousand dollars. The work or operations that are exempt under this paragraph shall be of a casual or minor nature. This exemption does not apply:

(a) In any case in which the performance of the work requires a local building permit.

(b) In any case in which the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than one thousand dollars, excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any

residential structure, for the purpose of evasion of this chapter or otherwise.

(c) To a person who utilizes any form of advertising to the public in which the person's unlicensed status is not disclosed by including the words "not a licensed contractor" in the advertisement.

15. A person who is licensed, certified or registered pursuant to title 41, chapter ~~16~~ 37, ARTICLE 4 and who is not otherwise required to be licensed under this chapter or an employee of such person.

16. A person who functions as a gardener by performing lawn, garden, shrub and tree maintenance.

17. Alarm agents as defined in section 32-101.

B. A person who is licensed to perform work in a particular trade pursuant to this chapter shall not be required to obtain and maintain a separate license for mechanical or structural service work performed within the scope of such trade by such person.

C. Any person who does not have an exemption from licensure pursuant to subsection A, paragraph 14, subdivision (c) of this section is subject to prosecution for a violation of section 44-1522. The attorney general may investigate the act or practice and take appropriate action pursuant to title 44, chapter 10, article 7.

D. The exemptions from licensure pursuant to subsection A, paragraphs 4, 9 and 14 of this section do not apply to either of the following:

1. All fire safety and mechanical, electrical and plumbing work that is done in connection with fire safety installation and fire safety maintenance and repair. For the purposes of this paragraph, "fire safety installation" means hardwired or interconnected smoke alarms and fire sprinklers and does not include an individual device that is attached by a nail, screw or other fastening device to the frame or foundation of any residential unit. For the purposes of this paragraph, fire safety maintenance and repair does not include routine work that is conducted by an employee of an apartment or condominium complex AND that is incidental to the fire safety equipment.

2. All work that is done, including the installation, maintenance and repair of devices, appliances or equipment, that involves the connecting to any supply of natural gas, propane or other petroleum or gaseous fuel. Nothing in this paragraph impacts the effect of section 36-1624.01.

Sec. 28. Section 32-2117, Arizona Revised Statutes, is amended to read:

32-2117. <u>Earth fissure maps; posting; immunity</u>

A. On receipt of maps from the Arizona geological survey, the state real estate department shall provide any earth fissure map to any member of the public in printed or electronic format on request and provide access on its website to the earth fissure maps prepared by the Arizona geological survey pursuant to section 27-106, SUBSECTION A, paragraph 3. The following notice shall be displayed below each map:

Notice

The state of Arizona has made a reasonable effort to ensure the accuracy of this map when it was produced, but errors may be present and the state of Arizona does not guarantee its accuracy. The map supplements, and is not a substitute for, a professional inspection of property for defects and conditions.

B. ~~Nothing in~~ This section ~~shall be construed as denying~~ DOES NOT DENY a person rights guaranteed by the Arizona Constitution, and notwithstanding any other law, a subdivider, owner or licensee is not liable to any person or governmental entity for any act or failure to act in connection with:

1. The disclosure of real estate subject to earth fissures if the subdivider, owner or licensee provides a written disclosure or includes notice in a public report, issued pursuant to section 32-2183 or 32-2195.03, with respect to real estate subject to earth fissures, of the map and website described in subsection A of this section. The written disclosure or notice in a public report, issued pursuant to section 32-2183 or 32-2195.03, of the map and website does not create an independent cause of action.

2. Any disclosure that occurred before the date the map described in subsection A of this section is posted on the website if the subdivider, owner or licensee had no actual knowledge that the land was subject to earth fissures before the map was posted.

Sec. 29. Section 32-2117, Arizona Revised Statutes, as amended by section 28 of this act, is amended to read:

32-2117. Earth fissure maps; posting; immunity

A. On receipt of maps from the Arizona geological survey, the state real estate department shall provide any earth fissure map to any member of the public in printed or electronic format on request and provide access on its website to the earth fissure maps prepared by the Arizona geological survey pursuant to section 27-106, ~~subsection A,~~ paragraph 3. The following notice shall be displayed below each map:

Notice

The state of Arizona has made a reasonable effort to ensure the accuracy of this map when it was produced, but errors may be present and the state of Arizona does not guarantee its accuracy. The map supplements, and is not a substitute for, a professional inspection of property for defects and conditions.

B. This section does not deny a person rights guaranteed by the Arizona Constitution, and notwithstanding any other law, a subdivider, owner or licensee is not liable to any person or governmental entity for any act or failure to act in connection with:

1. The disclosure of real estate subject to earth fissures if the subdivider, owner or licensee provides a written disclosure or includes notice in a public report, issued pursuant to section 32-2183 or 32-2195.03, with respect to real estate subject to earth fissures, of the map and website described in subsection A of this section. The written disclosure or notice

in a public report, issued pursuant to section 32-2183 or 32-2195.03, of the map and website does not create an independent cause of action.

2. Any disclosure that occurred before the date the map described in subsection A of this section is posted on the website if the subdivider, owner or licensee had no actual knowledge that the land was subject to earth fissures before the map was posted.

Sec. 30. Transfer and renumber

Title 41, chapter 16, article 5, Arizona Revised Statutes, is transferred and renumbered for placement in title 32, chapter 20, article 11, Arizona Revised Statutes. The following sections are transferred and renumbered for placement in title 32, chapter 20, article 11:

Former Sections	New Sections
41-2198	32-2199
41-2198.01	32-2199.01
41-2198.02	32-2199.02
41-2198.04	32-2199.04
41-2198.05	32-2199.05

Sec. 31. Section 32-2199, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

32-2199. Administrative adjudication of complaints

Pursuant to TITLE 41, chapter 6, article 10 ~~of this title~~, an administrative law judge shall adjudicate complaints regarding and ensure compliance with:

~~1. The Arizona mobile home parks residential landlord and tenant act.~~

~~2.~~ 1. Title 33, chapter 9 and condominium documents.

~~3.~~ 2. Title 33, chapter 16 and planned community documents.

Sec. 32. Section 32-2199.01, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

32-2199.01. Hearing; rights and procedures

~~A. A person who is subject to title 33, chapter 11 or a party to a rental agreement entered into pursuant to title 33, chapter 11 may petition the department for a hearing concerning violations of the Arizona mobile home parks residential landlord and tenant act by filing a petition with the department and paying a nonrefundable filing fee in an amount to be established by the director. All monies collected shall be deposited in the state general fund and are not refundable.~~

~~B.~~ A. For a dispute between an owner and a condominium association or planned community association that is regulated pursuant to title 33, chapter 9 or 16, the owner or association may petition the department for a hearing concerning violations of condominium documents or planned community documents or violations of the statutes that regulate condominiums or planned communities. The petitioner shall file a petition with the department and pay a filing fee in an amount to be established by the ~~director~~ COMMISSIONER. The filing fee shall be deposited in the condominium and planned community hearing office fund established by section ~~41-2198.05~~ 32-2199.05. On

dismissal of a petition at the request of the petitioner before a hearing is scheduled or by stipulation of the parties before a hearing is scheduled, the filing fee shall be refunded to the petitioner. The department does not have jurisdiction to hear:

1. Any dispute among or between owners to which the association is not a party.

2. Any dispute between an owner and any person, firm, partnership, corporation, association or other organization that is engaged in the business of designing, constructing or selling a condominium as defined in section 33-1202 or any property or improvements within a planned community as defined in section 33-1802, including any person, firm, partnership, corporation, association or other organization licensed pursuant to ~~title 32,~~ THIS chapter ~~20~~, arising out of or related to the design, construction, condition or sale of the condominium or any property or improvements within a planned community.

~~C.~~ B. The petition shall be in writing on a form approved by the department, shall list the complaints and shall be signed by or on behalf of the persons filing and include their addresses, stating that a hearing is desired, and shall be filed with the department.

~~D.~~ C. On receipt of the petition and the filing fee the department shall mail by certified mail a copy of the petition along with notice to the named respondent that a response is required within twenty days ~~of~~ AFTER mailing of the petition showing cause, if any, why the petition should be dismissed.

~~E.~~ D. After receiving the response, the ~~director~~ COMMISSIONER or the ~~director's~~ COMMISSIONER'S designee shall promptly review the petition for hearing and, if justified, refer the petition to the office of administrative hearings. The ~~director~~ COMMISSIONER may dismiss a petition for hearing if it appears to the ~~director's~~ COMMISSIONER'S satisfaction that the disputed issue or issues have been resolved by the parties.

~~F.~~ E. Failure of the respondent to answer is deemed an admission of the allegations made in the petition, and the ~~director~~ COMMISSIONER shall issue a default decision.

~~G.~~ F. Informal disposition may be made of any contested case.

~~H.~~ G. Either party or the party's authorized agent may inspect any file of the department that pertains to the hearing, if the authorization is filed in writing with the department.

~~I.~~ H. At a hearing conducted pursuant to this section, a corporation may be represented by a corporate officer, employee or contractor of the corporation who is not a member of the state bar if:

1. The corporation has specifically authorized the officer, employee or contractor of the corporation to represent it.

2. The representation is not the officer's, employee's or contractor of the corporation's primary duty to the corporation but is secondary or incidental to the officer's, employee's or contractor of the corporation's,

limited liability company's, limited liability partnership's, sole proprietor's or other lawfully formed and operating entity's duties relating to the management or operation of the corporation.

Sec. 33. Section 32-2199.02, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

32-2199.02. Orders; penalties; disposition

A. The administrative law judge may order any party to abide by the statute, condominium documents, community documents or contract provision at issue and may levy a civil penalty on the basis of each violation. ~~For purposes of actions brought under the Arizona mobile home parks residential landlord and tenant act, the civil penalty shall not exceed five hundred dollars.~~ All monies collected pursuant to this article shall be deposited in the ~~state general fund~~ CONDOMINIUM AND PLANNED COMMUNITY HEARING OFFICE FUND ESTABLISHED BY SECTION 32-2199.05 to be used to offset the cost of administering the administrative law judge function~~, except that monies collected from disputes involving condominiums or planned communities as prescribed in section 41-2198.01, subsection B shall be deposited in the condominium and planned community hearing office fund established by section 41-2198.05~~. If the petitioner prevails, the administrative law judge shall order the respondent to pay to the petitioner the filing fee required by section ~~41-2198.01~~ 32-2199.01.

B. The order issued by the administrative law judge is binding on the parties unless a rehearing is granted pursuant to section ~~41-2198.04~~ 32-2199.04 based on a petition setting forth the reasons for the request for rehearing, in which case the order issued at the conclusion of the rehearing is binding on the parties. The order issued by the administrative law judge is enforceable through contempt of court proceedings and is subject to judicial review as prescribed by section 41-1092.08.

Sec. 34. Section 32-2199.04, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

32-2199.04. Rehearing; appeal

A. A person aggrieved by a decision of the administrative law judge may apply for a rehearing by filing with the ~~director~~ COMMISSIONER a petition in writing pursuant to section 41-1092.09. Within ten days after filing such petition, the ~~director~~ COMMISSIONER shall serve notice of the request on the other party by mailing a copy of the petition in the manner prescribed in section ~~41-2198.01~~ 32-2199.01 for notice of hearing.

B. The filing of a petition for rehearing temporarily suspends the operation of the administrative law judge's action. If the petition is granted, the administrative law judge's action is suspended pending the decision on the rehearing.

C. In the order granting or denying a rehearing, the ~~director~~ COMMISSIONER shall include a statement of the particular grounds and reasons for the ~~director's~~ COMMISSIONER'S action on the petition and shall promptly

mail a copy of the order to the parties who have appeared in support of or in opposition to the petition for rehearing.

D. In a rehearing conducted pursuant to this section, a corporation may be represented by a corporate officer or employee who is not a member of the state bar if:

1. The corporation has specifically authorized such officer or employee to represent it.

2. Such representation is not the officer's or employee's primary duty to the corporation but is secondary or incidental to such officer's or employee's duties relating to the management or operation of the corporation.

Sec. 35. Section 32-2199.05, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

32-2199.05. Condominium and planned community hearing office fund

A. The condominium and planned community hearing office fund is established in the department to be administered by the ~~director~~ COMMISSIONER. Monies in the fund are continuously appropriated. On notice from the ~~director~~ COMMISSIONER, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

B. Monies in the condominium and planned community hearing office fund shall be used to reimburse the actual costs of the office of administrative hearings in conducting hearings pursuant to section ~~41-2198.01, subsection B~~ 32-2199.01. Monies remaining in the fund may be used by the department to offset the costs of administering cases filed pursuant to section ~~41-2198.01, subsection B~~ 32-2199.01.

Sec. 36. Section 33-423, Arizona Revised Statutes, is amended to read:

33-423. Disclosure; reports; indemnity; applicability; violation; classification

A. A disclosure report pursuant to this section may be provided to the buyer or seller of real property by a third party as authorized by the buyer or seller and shall be based on officially adopted and electronically posted or otherwise readily available governmental maps or information that discloses whether the real property is subject to one or more of the following:

1. Special flood hazard areas designated by the federal emergency management agency pursuant to 42 United States Code chapter 50.

2. Military airports and ancillary military facilities as defined in section 28-8461 or as disclosed pursuant to section 28-8484 or 32-2113.

3. Military training routes as shown in the map produced pursuant to section 37-102 and military restricted airspace as shown in the map produced pursuant to section 37-102.

4. Public and private airports that are approved by the federal aviation administration.

5. Expansive soils as shown on maps issued by the natural resource conservation service or on other officially adopted and readily available governmental maps.

6. Fissures as shown on earth fissure maps issued by the Arizona geological survey pursuant to section 27-106, SUBSECTION A, paragraph 3.

7. Special tax assessment areas or taxing authority and amount of special assessments in addition to ad valorem taxes as shown in the current tax records of the applicable county assessor.

8. Radon gas potential zones as shown on current maps issued by the United States environmental protection agency.

9. Environmental hazard superfund sites including the sites listed in the Arizona superfund program list and the water quality assurance revolving fund registry, or listed by the United States environmental protection agency including the national priorities list, the comprehensive environmental response compensation and liability information system database or on maps issued by the department of environmental quality or equivalent databases of those sites.

10. Any other condition that affects the real property that the buyer or seller authorizes and the ~~third party~~ THIRD-PARTY provider agrees to provide in a ~~third party~~ THIRD-PARTY provider disclosure report.

B. For any ~~third party~~ THIRD-PARTY provider of information as prescribed by this section, the following apply:

1. A seller or buyer shall not be required to provide the written disclosure provided by this section to an insurance company, a lender or a governmental agency.

2. The ~~third party~~ THIRD-PARTY provider shall carry errors and omissions insurance coverage with limits of at least one million dollars per occurrence and in an aggregate of at least ten million dollars. A person who violates this paragraph is guilty of a class 1 misdemeanor.

C. If an action is brought as a result of an error, inaccuracy or omission in the disclosure made only by a ~~third party~~ THIRD-PARTY provider who provides information pursuant to subsection A of this section, the ~~third party~~ THIRD-PARTY provider shall provide a defense against the action, shall indemnify the buyer or seller who authorized the disclosure report and persons licensed pursuant to title 32, chapter 20 who represent the buyer or seller for any judgment rendered and shall reimburse reasonable attorney fees and costs incurred in defending the action, unless the buyer, seller or agent for the buyer or seller had knowledge of the error, inaccuracy or omission or the buyer, seller or agent for the buyer or seller modified the disclosure and the modification resulted in the error, inaccuracy or omission. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT prohibit a ~~third party~~ THIRD-PARTY provider of information from agreeing by contract that the ~~third party~~ THIRD-PARTY provider shall indemnify a person to a greater extent than is required by this section.

D. If information that is disclosed pursuant to this section is subsequently rendered inaccurate as a result of any governmental action, map revision, changed information or other act or occurrence after the delivery of the disclosure, no person is liable for the information that was disclosed unless the person had knowledge of the error, inaccuracy or omission.

E. This section shall not be construed to create a cause of action for the use of maps or other information pursuant to this section. This section does not apply to the sale of real property by any person pursuant to section 32-2183 or section 32-2195.03, or any affiliate of that person.

F. This section does not obligate any person to provide or purchase a disclosure report that is the subject of this section.

G. The listing of a condition in subsection A of this section or in a ~~third party~~ THIRD-PARTY provider disclosure report does not by itself make that condition material or immaterial to a particular real estate transaction. The materiality of any disclosure is governed as otherwise provided by law.

Sec. 37. Section 33-423, Arizona Revised Statutes, as amended by section 36 of this act, is amended to read:

33-423. Disclosure; reports; indemnity; applicability; violation; classification

A. A disclosure report pursuant to this section may be provided to the buyer or seller of real property by a third party as authorized by the buyer or seller and shall be based on officially adopted and electronically posted or otherwise readily available governmental maps or information that discloses whether the real property is subject to one or more of the following:

1. Special flood hazard areas designated by the federal emergency management agency pursuant to 42 United States Code chapter 50.

2. Military airports and ancillary military facilities as defined in section 28-8461 or as disclosed pursuant to section 28-8484 or 32-2113.

3. Military training routes as shown in the map produced pursuant to section 37-102 and military restricted airspace as shown in the map produced pursuant to section 37-102.

4. Public and private airports that are approved by the federal aviation administration.

5. Expansive soils as shown on maps issued by the natural resource conservation service or on other officially adopted and readily available governmental maps.

6. Fissures as shown on earth fissure maps issued by the Arizona geological survey pursuant to section 27-106, ~~subsection A,~~ paragraph 3.

7. Special tax assessment areas or taxing authority and amount of special assessments in addition to ad valorem taxes as shown in the current tax records of the applicable county assessor.

8. Radon gas potential zones as shown on current maps issued by the United States environmental protection agency.

9. Environmental hazard superfund sites including the sites listed in the Arizona superfund program list and the water quality assurance revolving fund registry, or listed by the United States environmental protection agency including the national priorities list, the comprehensive environmental response compensation and liability information system database or on maps issued by the department of environmental quality or equivalent databases of those sites.

10. Any other condition that affects the real property that the buyer or seller authorizes and the third-party provider agrees to provide in a third-party provider disclosure report.

B. For any third-party provider of information as prescribed by this section, the following apply:

1. A seller or buyer shall not be required to provide the written disclosure provided by this section to an insurance company, a lender or a governmental agency.

2. The third-party provider shall carry errors and omissions insurance coverage with limits of at least one million dollars per occurrence and in an aggregate of at least ten million dollars. A person who violates this paragraph is guilty of a class 1 misdemeanor.

C. If an action is brought as a result of an error, inaccuracy or omission in the disclosure made only by a third-party provider who provides information pursuant to subsection A of this section, the third-party provider shall provide a defense against the action, shall indemnify the buyer or seller who authorized the disclosure report and persons licensed pursuant to title 32, chapter 20 who represent the buyer or seller for any judgment rendered and shall reimburse reasonable attorney fees and costs incurred in defending the action, unless the buyer, seller or agent for the buyer or seller had knowledge of the error, inaccuracy or omission or the buyer, seller or agent for the buyer or seller modified the disclosure and the modification resulted in the error, inaccuracy or omission. This section does not prohibit a third-party provider of information from agreeing by contract that the third-party provider shall indemnify a person to a greater extent than is required by this section.

D. If information that is disclosed pursuant to this section is subsequently rendered inaccurate as a result of any governmental action, map revision, changed information or other act or occurrence after the delivery of the disclosure, no person is liable for the information that was disclosed unless the person had knowledge of the error, inaccuracy or omission.

E. This section shall not be construed to create a cause of action for the use of maps or other information pursuant to this section. This section does not apply to the sale of real property by any person pursuant to section 32-2183 or section 32-2195.03, or any affiliate of that person.

F. This section does not obligate any person to provide or purchase a disclosure report that is the subject of this section.

G. The listing of a condition in subsection A of this section or in a third-party provider disclosure report does not by itself make that condition material or immaterial to a particular real estate transaction. The materiality of any disclosure is governed as otherwise provided by law.

Sec. 38. Section 33-1242, Arizona Revised Statutes, is amended to read:

33-1242. Powers of unit owners' association; notice to unit owner of violation

A. Subject to the provisions of the declaration, the association may:

1. Adopt and amend bylaws and rules.

2. Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners.

3. Hire and discharge managing agents and other employees, agents and independent contractors.

4. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium.

5. Make contracts and incur liabilities.

6. Regulate the use, maintenance, repair, replacement and modification of common elements.

7. Cause additional improvements to be made as a part of the common elements.

8. Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, except that common elements may be conveyed or subjected to a security interest only pursuant to section 33-1252.

9. Grant easements, leases, licenses and concessions through or over the common elements.

10. Impose and receive any payments, fees or charges for the use, rental or operation of the common elements other than limited common elements described in section 33-1212, paragraphs 2 and 4 and for services provided to unit owners.

11. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, impose reasonable monetary penalties ~~upon~~ ON unit owners for violations of the declaration, bylaws and rules of the association.

12. Impose reasonable charges for the preparation and recordation of amendments to the declaration or statements of unpaid assessments.

13. Provide for the indemnification of its officers and executive board of directors and maintain directors' and officers' liability insurance.

14. Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly provides.

15. Be a member of a master association or other entity owning, maintaining or governing in any respect any portion of the common elements or other property benefitting or related to the condominium or the unit owners in any respect.

16. Exercise any other powers conferred by the declaration or bylaws.

17. Exercise all other powers that may be exercised in this state by legal entities of the same type as the association.

18. Exercise any other powers necessary and proper for the governance and operation of the association.

B. A unit owner who receives a written notice that the condition of the property owned by the unit owner is in violation of a requirement of the condominium documents without regard to whether a monetary penalty is imposed by the notice may provide the association with a written response by sending the response by certified mail within ten business days after the date of the notice. The response shall be sent to the address identified in the notice.

C. Within ten business days after receipt of the certified mail containing the response from the unit owner, the association shall respond to the unit owner with a written explanation regarding the notice that shall provide at least the following information unless previously provided in the notice of violation:

1. The provision of the condominium documents that has allegedly been violated.

2. The date of the violation or the date the violation was observed.

3. The first and last name of the person or persons who observed the violation.

4. The process the unit owner must follow to contest the notice.

D. Unless the information required in subsection C, paragraph 4 of this section is provided in the notice of violation, the association shall not proceed with any action to enforce the condominium documents, including the collection of attorney fees, before or during the time prescribed by subsection C of this section regarding the exchange of information between the association and the unit owner. At any time before or after completion of the exchange of information pursuant to this section, the unit owner may petition for a hearing pursuant to section ~~41-2198.01~~ 32-2199.01 if the dispute is within the jurisdiction of the STATE REAL ESTATE department ~~of fire, building and life safety~~ as prescribed in section ~~41-2198.01, subsection B~~ 32-2199.01.

Sec. 39. Section 33-1407, Arizona Revised Statutes, is amended to read:

33-1407. Exclusions from application of chapter

A. This chapter does not apply to an occupancy in or operation of public housing as authorized, provided or conducted under or pursuant to title 36, chapter 12, or under or pursuant to any federal law or regulation ~~which~~ THAT might conflict therewith.

B. This chapter does not apply to a mobile home and mobile home space if both are owned by the same person, to recreational vehicles or, except for sections 33-1476.01, 33-1476.02 and 33-1476.03, to travel trailers or to the rental of a mobile home space that is not located in a mobile home park.

C. This chapter does not apply to a mobile home that has not been occupied for residential purposes by one or more persons in its current location with the approval of the landlord since being titled to the mobile home's present owner unless the present owner proves by clear and convincing evidence that the mobile home owner acquired the mobile home for residential purposes but was prohibited from using the mobile home due to circumstances beyond the mobile home owner's control. This subsection includes a mobile home owned by a broker or dealer as defined in section ~~41-2142~~ 41-4001.

Sec. 40. Section 33-1409, Arizona Revised Statutes, is amended to read:

33-1409. General definitions

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

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

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

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

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

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

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

(b) The redevelopment of the mobile home park.

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

7. "Director" means the director of the ARIZONA department of ~~fire, building and life safety~~ HOUSING.

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

9. "Educational program" means a class, workshop or educational convention that primarily instructs attendees on issues dealing with the operation of a mobile home park and that is sponsored by a nonprofit

organization whose sole or primary purpose is the advocacy and promotion of the rental mobile home parks industry.

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

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

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

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

14. "Mobile home":

(a) Means either of the following:

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

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

(b) Does not include either of the following:

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

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

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

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

17. "Moving expenses" means the cost incurred by the tenant whose mobile home is moved for taking down, transporting and setting up the mobile home with the identical, or substantially similar, improvements as were attached to the tenant's mobile home on the mobile home space from which it was removed but does not include the cost of landscaping or the cost of

utility lines, trenching or utility connections located in excess of twenty-five feet from the point of hookup on the mobile home.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 41. Section 33-1417, Arizona Revised Statutes, is amended to read:

33-1417. Rebates and referrals prohibited; mobile homes and manufactured homes; damages

A. A landlord shall not offer, solicit, pay, receive or require from another landlord or from a person who is licensed pursuant to title 41, chapter ~~16~~ 37, article 4 any form of compensation or benefit in connection with the purchase, sale, rental, location or removal of a mobile or manufactured home to or from a mobile home park or mobile home space.

B. A person who is licensed pursuant to title 41, chapter ~~16~~ 37, article 4 shall not offer, solicit, pay, receive or require from another person who is licensed pursuant to title 41, chapter ~~16~~ 37, article 4 or from a landlord any form of compensation or benefit in connection with the purchase, sale, rental, location or removal of a mobile or manufactured home to or from a mobile home park or mobile home space.

C. This section does not apply to any of the following:

1. Compensation paid by a licensed dealer or broker to a licensed salesperson for activities within the scope of employment.

2. Money or other benefits paid directly to a tenant or prospective tenant by a landlord when fully disclosed to the tenant in writing.

3. Payments or other benefits provided between a landlord and a licensed dealer or broker with an ongoing business relationship if those payments or benefits received total less than one hundred dollars in a calendar year.

4. Payments made by a landlord to a licensed dealer or broker as a commission in connection with the sale of a mobile or manufactured home or recreational vehicle owned by the landlord.

D. A person who violates this section is liable for three times the amount of money damages suffered by the person harmed.

Sec. 42. Section 33-1432, Arizona Revised Statutes, is amended to read:

33-1432. Disclosure of written rental agreement

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

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

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

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

4. For a prospective tenant on an initial rental agreement, a written statement that shows the rent increases for the three full calendar years immediately preceding the prospective initial rental agreement date. This information shall be for basic space rental only and does not apply to other fees such as late charges, guest fees and utility charges. The landlord may disclose the rent history with calculations that fairly describe the rent history and that are made in any manner that reasonably informs the prospective tenant of the history of basic space rent in the mobile home park during that period. The disclosure calculation may be made in January of each year by adding the dollar amounts or percentage amounts for aggregate rental increases that became effective in the prior calendar year for every space in the park and dividing that number by the total number of occupied revenue spaces for which rent was or could have been increased. This average amount of rental increase or average percentage of rental increase shall be posted at the rental office for three years. Disclosure calculations made pursuant to this section shall be made to the best of the landlord's ability.

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

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

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

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

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

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

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

G. Before entering into a rental agreement, the landlord or any person authorized to enter into the rental agreement shall provide to the prospective tenant a concise written summary of the Arizona mobile home parks residential landlord and tenant act that is approved by the director ~~of the department of fire, building and life safety~~ annually by November 1 and that includes any legislative changes made in the preceding year. The director ~~of~~

~~the department of fire, building and life safety~~ shall post the approved summary on the ~~department's web site~~ ARIZONA DEPARTMENT OF HOUSING'S WEBSITE. The landlord shall provide the summary to the tenant at no cost to the tenant. The summary shall include information regarding where a complete copy of the act may be obtained or reviewed, including listing the Arizona department of housing's ~~web site~~ WEBSITE. This subsection does not apply to renewal of rental agreements. The Arizona department of housing shall post the act on the Arizona department of housing's ~~web site~~ WEBSITE.

H. The landlord shall make available to all tenants a concise written summary of the Arizona mobile home parks residential landlord and tenant act that is approved by the director ~~of the department of fire, building and life safety~~ annually by November 1 and that includes any legislative changes made in the preceding year. The summary shall include information regarding where a complete copy of the act may be obtained or reviewed, including listing the Arizona department of housing's ~~web site~~ WEBSITE. The director ~~of the department of fire, building and life safety~~ shall post the approved summary on the ~~department's web site~~ ARIZONA DEPARTMENT OF HOUSING'S WEBSITE. The landlord shall provide the summary at no cost to the tenants.

Sec. 43. Section 33-1476.01, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

2. Abandon the mobile home in the mobile home park and collect an amount equal to one-fourth of the maximum allowable moving expense for that mobile home from the mobile home relocation fund. To qualify for abandonment payment pursuant to this paragraph, the tenant shall deliver to the landlord the current title to the mobile home with the notarized endorsement of the owner of record together with complete releases of all liens that are shown on the title and proof that all taxes owing on the mobile home have been paid to date. The tenant shall provide a copy of these documents to the ARIZONA

department of ~~fire, building and life safety~~ HOUSING in support of the tenant's application for payment. If the tenant chooses to abandon the mobile home pursuant to this paragraph, the landlord is exempt from making the payments to the fund prescribed in subsection D of this section.

3. If a mobile home is relocated to a location outside of the vacated mobile home park and, in the sole judgment of the director, the mobile home was ground set in the mobile home park from which it was removed, the tenant may collect additional monies not to exceed two thousand five hundred dollars for the incremental costs of removing a ground set mobile home. These monies are in addition to any monies provided pursuant to paragraph 1 of this subsection.

D. Except as provided in subsection C, paragraph 2 and subsection F of this section and section 33-1476.04, subsection D, if there is a change in use the landlord shall pay five hundred dollars for each single section mobile home and eight hundred dollars for each multisection mobile home relocated to the fund for each tenant filing for relocation assistance with the director.

E. If a change in use occurs before the time stated in the statements of policy and the landlord does not comply with subsection A of this section and with section 33-1436 and section 33-1476, subsection H, the landlord shall pay to the fund in addition to the monies prescribed in subsection D of this section:

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

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

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

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

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

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

H. The tenant shall submit a contract for relocation of a mobile home for approval to the director within sixty days after the relocation to be eligible for payment of relocation expenses. The director must approve or disapprove the contract within fifteen days after receipt of the contract, or the contract is deemed to be approved.

I. If the contract is approved, the payment of relocation expenses shall be made to the installer or contractor when both of the following have been completed:

1. The installer or contractor has obtained valid permits to move the mobile or manufactured home to a new location.

2. The installer or contractor provides documentation to the department that the installation of the mobile or manufactured home at the new location is complete and has been inspected by the department or its designee and is approved for occupancy.

J. If the contract is not approved, the tenant may appeal to an administrative law judge pursuant to title 41, chapter ~~16~~ 37, article 5. The tenant shall provide notice pursuant to section 33-1451, subsection A, paragraph 6 if the tenant relocates.

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

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

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

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

Sec. 44. Section 33-1476.02, Arizona Revised Statutes, is amended to read:

33-1476.02. Mobile home relocation fund; investment of monies

A. The mobile home relocation fund is established consisting of monies collected pursuant to section 33-1476.03 and any surcharge collected pursuant to section 33-1437. The director shall administer the fund.

B. Fund monies shall be used as prescribed in sections 33-1476.04 and ~~41-2157~~ 41-4008 and to pay premiums and other costs of purchasing, from a private insurer who is licensed to transact insurance business in this state, insurance coverage for tenant relocation costs due to a change in use as prescribed in section 33-1476.01. Any insurance rebates shall be deposited in the fund. If such insurance is not available, or if the insurance costs exceed the amount available from the fund, the fund shall be used to make direct payments for tenant relocation costs. Monies in the fund in excess of the amount required for these purposes shall be used, as necessary, to support the ARIZONA department of ~~fire, building and life safety's~~ HOUSING'S administration of the hearing function pursuant to section ~~41-2198.01, subsection A~~ 41-4062 and the ARIZONA department of ~~fire, building and life safety's~~ HOUSING'S administration of section 33-1437, subsection C.

C. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned

from investment shall be credited to the fund. Any unexpended and unencumbered monies remaining in the fund at the end of the fiscal year do not revert to the state general fund but remain in the fund, separately accounted for, as a contingency reserve.

D. The director may adopt, amend or repeal rules pursuant to title 41, chapter 6 for the administration of the fund. Fund monies shall be paid to the ARIZONA department of ~~fire, building and life safety~~ HOUSING to offset the costs of administering the fund, including the direct and indirect costs of processing applications for reimbursement submitted under section ~~41-2157~~ 41-4008 and administering the direct and indirect costs of section 33-1437, subsection C. The attorney general shall review the costs charged to the fund.

Sec. 45. Section 33-1476.04, Arizona Revised Statutes, is amended to read:

33-1476.04. Relocations due to rent increase; mobile home relocation fund; applicability

A. A tenant is eligible for payment from the mobile home relocation fund if all of the following conditions are met:

1. The tenant resides in a mobile home that is owned by the tenant and that is located in a mobile home park.

2. A rent increase will be effective at the expiration or renewal of the tenant's rental agreement.

3. The rent increase either singly or in combination during any consecutive twelve-month period is more than a total of ten ~~per cent~~ PERCENT plus the current increase in the consumer price index over the most recent one-year period before the date of the notice of the rent increase. For the purposes of this paragraph, "consumer price index" means the "west-A" index that is published by the United States department of labor, bureau of labor statistics, and that demonstrates changes in prices in certain cities in the western United States.

B. A landlord who increases rent as prescribed by subsection A of this section shall give written notice of the applicability of this section to all affected tenants.

C. A tenant is eligible to receive relocation expenses pursuant to subsection A of this section as follows:

1. At least thirty days before the effective date of the rent increase that exceeds the limits prescribed by subsection A of this section, the tenant shall submit a contract for relocation of the mobile home to the director for approval and to the landlord.

2. Before the effective date of the rent increase, the tenant shall have a fully signed contract with a licensed installer or contractor to move the mobile home to a specific location by a specific date and must have moved the mobile home pursuant to that contract within forty-five days after the effective date of the rent increase.

3. The director shall approve or disapprove the contract submitted within fifteen days after receipt of the contract, and the contract is deemed to be approved on the sixteenth day if the director takes no action.

4. If the contract is approved, the payment of relocation expenses shall be made to the installer or contractor when both of the following have been completed:

(a) The installer or contractor has obtained valid permits to move the mobile or manufactured home to a new location.

(b) The installer or contractor provides documentation to the department that the installation of the mobile or manufactured home at the new location is complete and has been inspected by the department or its designee and is approved for occupancy.

5. If the contract is not approved, the tenant may appeal to an administrative law judge pursuant to title 41, chapter ~~16~~ 37, article 5. The tenant shall provide notice pursuant to section 33-1451, subsection A, paragraph 6 if the tenant relocates.

6. On approval, the tenant is eligible for the lesser of the actual moving expenses of relocating the mobile home or five thousand dollars for a single-section mobile home or ten thousand dollars for a multisection mobile home. Compensable moving expenses include the cost of taking down, moving and setting up the mobile home in the new location if the mobile home is relocated to a residential location within a one hundred-mile radius of the vacated mobile home park.

D. As an alternative to receiving payment as prescribed in subsection C of this section, a tenant who is eligible to receive payment pursuant to subsection A of this section may abandon the mobile home in the mobile home park and collect an amount equal to one-fourth of the maximum allowable moving expense for that mobile home from the mobile home relocation fund. To qualify for an abandonment payment pursuant to this subsection, the tenant shall deliver to the landlord the current title to the mobile home with the notarized endorsement of the owner of record together with complete releases of all liens that are shown on the title and proof that all taxes owing on the mobile home have been paid to date. The tenant shall provide a copy of these documents to the ARIZONA department of ~~fire, building and life safety~~ HOUSING in support of the tenant's application for payment. If the tenant chooses to abandon the mobile home pursuant to this subsection, the landlord is exempt from making the payments to the fund prescribed in section 33-1476.01, subsection D.

E. This section does not apply to rent increases that are prescribed in a written rental agreement.

F. Nothing in this section shall be construed to make any rent increase unreasonable.

Sec. 46. Section 33-1476.05, Arizona Revised Statutes, is amended to read:

33-1476.05. Relocations due to change in age restricted community use; payment from mobile home relocation fund; applicability

A. The landlord shall notify the director and all tenants in writing of a change in use at least sixty days before a change in the age restricted community to an all age community use as defined by the housing for older persons act of 1995.

B. A tenant is eligible for payment from the mobile home relocation fund if both of the following conditions are met:

1. The tenant resides in a mobile home or manufactured home that is owned by the tenant and that is located in an age restricted mobile home park.

2. The landlord implements a change from an age restricted community to an all age community as defined by the housing for older persons act of 1995.

C. A landlord who changes a mobile home park designation from an age restricted community shall give written notice of the applicability of this section to all affected tenants.

D. A tenant is eligible to receive relocation expenses pursuant to subsection B of this section as follows:

1. Within one hundred eighty days after the effective date of notification of the change in the age restricted community's use, the tenant shall submit a contract for relocation of the mobile or manufactured home to the director for approval and to the landlord.

2. After notice of approval by the director for the payment of relocation expenses, the tenant shall have a fully signed contract with a licensed installer or contractor to move the mobile or manufactured home to a specific location by a specific date and must have moved the mobile or manufactured home pursuant to that contract within forty-five days after notice from the director.

3. The director shall approve or disapprove the contract submitted within fifteen days after receipt of the contract, and the contract is deemed to be approved on the sixteenth day if the director takes no action.

4. If the contract is approved, the payment of relocation expenses shall be made to the installer or contractor when both of the following have been completed:

(a) The installer or contractor has obtained valid permits to move the mobile or manufactured home to a new location.

(b) The installer or contractor provides documentation to the department that the installation of the mobile or manufactured home at the new location is complete and has been inspected by the department or its designee and is approved for occupancy.

5. If the contract is not approved, the tenant may appeal to an administrative law judge pursuant to title 41, chapter ~~16~~ 37, article 5. The tenant shall provide notice pursuant to section 33-1451, subsection A, paragraph 6 if the tenant relocates.

6. On approval, the tenant is eligible for the lesser of the actual moving expenses of relocating the mobile home or five thousand dollars for a single-section mobile home or ten thousand dollars for a multisection mobile home. Compensable moving expenses include the cost of taking down, moving and setting up the mobile home in the new location if the mobile home is relocated to another age restricted community within a one hundred-mile radius of the vacated mobile home park.

E. The landlord shall not be responsible for making any payment into the mobile home relocation fund for any mobile or manufactured home moved pursuant to this section.

Sec. 47. Section 33-1485.01, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

Sec. 48. Section 33-1803, Arizona Revised Statutes, is amended to read:

33-1803. <u>Assessment limitation; penalties; notice to member of violation</u>

A. Unless limitations in the community documents would result in a lower limit for the assessment, the association shall not impose a regular assessment that is more than twenty percent greater than the immediately preceding fiscal year's assessment without the approval of the majority of the members of the association. Unless reserved to the members of the

association, the board of directors may impose reasonable charges for the late payment of assessments. A payment by a member is deemed late if it is unpaid fifteen or more days after its due date, unless the community documents provide for a longer period. Charges for the late payment of assessments are limited to the greater of fifteen dollars or ten percent of the amount of the unpaid assessment. Any monies paid by the member for an unpaid assessment shall be applied first to the principal amount unpaid and then to the interest accrued.

B. After notice and an opportunity to be heard, the board of directors may impose reasonable monetary penalties on members for violations of the declaration, bylaws and rules of the association. Notwithstanding any provision in the community documents, the board of directors shall not impose a charge for a late payment of a penalty that exceeds the greater of fifteen dollars or ten percent of the amount of the unpaid penalty. A payment is deemed late if it is unpaid fifteen or more days after its due date, unless the declaration, bylaws or rules of the association provide for a longer period. Any monies paid by a member for an unpaid penalty shall be applied first to the principal amount unpaid and then to the interest accrued. Notice pursuant to this subsection shall include information pertaining to the manner in which the penalty shall be enforced.

C. A member who receives a written notice that the condition of the property owned by the member is in violation of the community documents without regard to whether a monetary penalty is imposed by the notice may provide the association with a written response by sending the response by certified mail within ten business days after the date of the notice. The response shall be sent to the address identified in the notice.

D. Within ten business days after receipt of the certified mail containing the response from the member, the association shall respond to the member with a written explanation regarding the notice that shall provide at least the following information unless previously provided in the notice of violation:

1. The provision of the community documents that has allegedly been violated.

2. The date of the violation or the date the violation was observed.

3. The first and last name of the person or persons who observed the violation.

4. The process the member must follow to contest the notice.

E. Unless the information required in subsection D, paragraph 4 of this section is provided in the notice of violation, the association shall not proceed with any action to enforce the community documents, including the collection of attorney fees, before or during the time prescribed by subsection D of this section regarding the exchange of information between the association and the member. At any time before or after completion of the exchange of information pursuant to this section, the member may petition for a hearing pursuant to section ~~41-2198.01~~ 32-2199.01 if the dispute is

within the jurisdiction of the STATE REAL ESTATE department ~~of fire, building and life safety~~ as prescribed in section ~~41-2198.01, subsection B~~ 32-2199.01.

Sec. 49. Section 33-2102, Arizona Revised Statutes, is amended to read:

33-2102. Definitions

In this chapter, unless the context otherwise requires:

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

2. "Appurtenances" means awnings, sheds, porches and other attachments to the recreational vehicle.

3. "Change in use" means a change in the use of land from the rental of recreational vehicle spaces in a recreational vehicle park to some other use.

4. "Compatible" means a recreational vehicle that is in a similar condition as the majority of the other recreational vehicles in the recreational vehicle park, as determined by the maintenance, condition and overall appearance of the recreational vehicle.

5. "Factory-built building" means a residential or nonresidential building, including a dwelling unit or habitable room of the building, that is either wholly or in substantial part manufactured at an off-site location to be assembled on site, except that it does not include a manufactured home, recreational vehicle or mobile home as defined in section ~~41-2142~~ 41-4001.

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

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

8. "Landlord" means:

(a) The owner, lessor, sublessor or operator, or any combination of these persons, of a recreational vehicle park.

(b) A manager of the premises.

9. "Mobile home" means either of the following:

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

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

10. "Mobile home park" means any parcel of land that contains four or more mobile home spaces and two or more recreational vehicle spaces.

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

12. "Notice" means delivery by hand or mailed by registered or certified mail to the last known address of the landlord or tenant. If notice is mailed by registered or certified mail, the landlord or tenant is deemed to have received the notice on the date the notice is actually received or five days after the date the notice is mailed, whichever occurs first.

13. "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest and any other legal or commercial entity that is a landlord, owner, manager or designated agent.

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

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

16. "Premises" means the recreational vehicle park and existing facilities and appurtenances in the park, including furniture and utilities, if applicable, and grounds, areas and existing facilities held out for the use of tenants generally or whose use is promised to the tenant.

17. "Prospective tenant" means a person who expresses an interest to a landlord in becoming a tenant.

18. "Recreational vehicle" means a vehicular type unit that is any of the following:

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

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

(c) A park trailer or park model built on a single chassis, mounted on wheels or originally mounted on wheels and from which the wheels have been removed and designed to be connected to utilities necessary for operation of installed fixtures and appliances and has a gross trailer area of not less

than three hundred twenty square feet and not more than four hundred square feet when it is set up, except that it does not include fifth wheel trailers.

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

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

19. "Recreational vehicle space" means a parcel of land for rent that has been designed to accommodate a recreational vehicle and provide the required sewer and utility connections.

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

21. "Rental agreement" means oral or written leases or agreements and valid rules embodying the terms and conditions concerning the use and occupancy of a recreational vehicle space.

22. "Resident" means a person entitled under a rental agreement to occupy a recreational vehicle space to the exclusion of others.

23. "Security deposit" means money or property given to assure payment or performance under a rental agreement.

24. "Tenant" means a person signing a rental agreement or otherwise agreeing with a landlord for the occupancy of a recreational vehicle space for more than one hundred eighty days.

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

Sec. 50. Section 34-461, Arizona Revised Statutes, is amended to read:

34-461. <u>Applicability of local codes; exception; definition</u>

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

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

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

D. Subsections A and B of this section do not apply to state owned buildings except for the application of the fire code in effect where a state owned building is located. In complying with the applicable codes pursuant to subsections A and B of this section, the permitting process and fees do not apply to a public school district owned building in a county with a population of more than seven hundred fifty thousand persons but less than two million persons except for the application of the design and permitting process and any fee required of a fire code in effect where such a public school district owned building is located. State department of corrections facilities are exempt from the application of the local fire code in the absence of an intergovernmental agreement between the state department of corrections and the governmental entity responsible for enforcing any local fire code.

E. Notwithstanding subsection A of this section, cities prescribed in section ~~41-2163~~ 37-1383, subsection A, paragraph ~~2~~ 5 do not have authority that supersedes and are not exempt from the state fire ~~safety committee's~~ MARSHAL'S established fire code in state or county owned buildings and public schools wherever located throughout the state.

F. This section does not preclude a public school district in a county with a population of more than seven hundred fifty thousand persons but less than two million persons from submitting, at its discretion, to the building design or construction permitting process of the appropriate local government entity for any given project. A public school district making such a decision is subject to subsections A and B of this section and the permit and code compliance requirements of the local government entity, including inspections and fee payments that may be required, for the duration of the project that the district submitted to the local government entity.

G. Public school districts in a county with a population of more than seven hundred fifty thousand persons but less than two million persons shall adopt policies to provide requirements to be followed by licensed or registered contractors or employees in order to ensure THAT construction projects are in compliance with the applicable codes pursuant to subsections A and B of this section and that records required by code or law for a given project are completed and maintained by the applicable district. At a minimum, these policies shall:

1. Include the method by which the public school district will notify the appropriate local government unit or units, and retain a record of the notification, that the public school district will not be using the permitting process for a given project pursuant to subsection D of this section.

2. Prohibit a construction contractor from serving as a district's inspector and code compliance official on the same project for which the contractor is providing construction services.

3. Require the architect of record for a given district project TO be responsible for signing the certificate of occupancy when such a certificate is required for that particular project.

H. For the purposes of this section, "public building" means a building or appurtenance to a building that is built in whole or in part with public monies.

Sec. 51. Section 35-192, Arizona Revised Statutes, is amended to read:

35-192. Authorization for declaration of disaster; authorization for liabilities and expenses; priorities and limitations; review and report of expenditures

A. The governor may declare an emergency arising from major disasters as provided in this section and incur liabilities therefor, regardless of whether or not the legislature is in session.

B. When the governor, or the director of the division of emergency management in the department of emergency and military affairs pursuant to section 26-303, subsection H, determines that a contingency or disaster so justifies, and declares an emergency, specific liabilities and expenses provided for in this section are authorized to be incurred against and to be paid as claims against the state from unrestricted monies from the general fund to mitigate and meet contingencies and emergencies arising from:

1. Invasions, hostile attacks, riots or insurrections.

2. Epidemics of disease or plagues of insects.

3. Floods or floodwaters.

4. Acts of God or any major disaster.

5. Wildland fires, but only after all necessary authorizations under section ~~37-623.02~~ 37-1305 are exhausted.

C. When authorized by the governor, specific liabilities and expenses provided for in this section may be incurred against and may be paid as claims against the state from unrestricted monies from the general fund to meet contingencies and emergencies arising from incidents relating to hazardous materials as defined in section 26-301 and search or rescue operations conducted pursuant to section 11-251.02, section 11-441, subsection C or section 26-306 subject to the limitations provided in section 35-192.01. Within ninety days after monies are awarded under this section, the department of emergency and military affairs shall post in a prominent location on the department's official website the amount of monies awarded under this section, who received the monies and how the monies were spent.

D. Liabilities and expenses authorized under subsection B of this section may be incurred for any of the emergencies or contingencies prescribed in subsection B of this section in the following order of priority:

1. Reimbursement for expenses incurred to combat a menace to the health, lives or property of any considerable number of persons of the state, or to property of the state or its political subdivisions.

2. Reimbursement for expenses incurred to repair damage to any property of the state.

3. Reimbursement for expenses incurred to repair damage to any property of the political subdivisions of the state.

4. Reimbursement for expenses incurred in search or rescue operations.

5. Reimbursement for expenses incurred in emergency or disaster recovery activities or in matching federal disaster recovery programs.

6. Reimbursement for expenses for property loss mitigation measures or to match federal property loss mitigation programs.

E. The auditor of the department of emergency and military affairs shall review liabilities incurred and expenditures made under this section and report to the state emergency council at ninety-day intervals during the emergency and conduct a final review of each emergency within ninety days after the termination of the emergency. The state emergency council shall make a written report not later than September 1 of each year to the legislature of the actions of the state emergency council during the preceding fiscal year, including an itemized statement of expenditures for each emergency during the year. The department of emergency and military affairs shall post the report in a prominent location on the department's official website.

F. All liabilities incurred under this section shall be subject to the following limitations:

1. No liability shall be incurred against the monies authorized without the approval of the governor, or the adjutant general pursuant to section 26-303, subsection H, for each contingency or emergency.

2. Incurring of liabilities in excess of two hundred thousand dollars in any single disaster or emergency shall not be made without consent of a majority of the members of the state emergency council.

3. The aggregate amount of all liabilities incurred under this section shall not exceed four million dollars for any fiscal year beginning July 1 through June 30. Monies authorized for disasters and emergencies in prior fiscal years may be used in subsequent fiscal years only for the disaster or emergency for which they were authorized. Monies authorized for disasters and emergencies in prior fiscal years, and expended in subsequent fiscal years for the disaster or emergency for which they were authorized, apply toward the four million dollar liability limit for the fiscal year in which they were authorized.

4. Notwithstanding the limitations in paragraph 3 of this subsection, monies that were previously obligated but not used for a declared emergency or disaster may be reallocated to an outstanding obligation for another declared emergency or disaster and shall remain available for expenditure for the outstanding obligation. The reallocation of monies pursuant to this paragraph does not apply toward the four million dollar liability limit of the fiscal year to which the monies were reallocated or in which the monies are spent.

5. An obligation of monies under this section may be made only when one or more of the following conditions exist:

(a) No appropriation or other authorization is available to meet the contingency or emergency.

(b) An appropriation is insufficient to meet the contingency or emergency.

(c) Federal monies available for such contingency or emergency require the use of state or other public monies.

G. The director of the division of emergency management in the department of emergency and military affairs shall develop rules for administering the monies authorized for liabilities under this section, subject to approval by the governor.

Sec. 52. Section 35-193.02, Arizona Revised Statutes, is amended to read:

35-193.02. Special services revolving fund; contents; administration; annual excess reversion

A. There is established a permanent revolving fund to be known as the department of administration special services revolving fund. The services covered by this fund shall include office supplies, office services, printing and other administrative or management services. Payments into the fund shall be made by state agencies ~~which~~ THAT have been appropriated monies for the purpose of paying for services performed by the department of administration for other state agencies or to be performed by the department and for such other purposes as may be designated by the legislature. ~~That~~ THE portion of the monies in the fund used by the department of administration to administer the central office management for ~~self-supporting regulatory~~ agencies is subject to legislative appropriation. The amount of payments by the agencies shall not exceed the amounts budgeted to the agencies for such designated purposes.

B. The monies shall be ~~expended~~ SPENT only on authorization of the director of the department of administration.

C. The director shall adopt rules regarding the time and manner in which payment shall be made into the fund by the state agencies to which appropriations are made in accordance with subsection A OF THIS SECTION.

D. Any amounts in excess of two hundred fifty thousand dollars in the revolving fund at the close of the fiscal year shall revert to the state general fund.

Sec. 53. Section 36-1610, Arizona Revised Statutes, is amended to read:

36-1610. Prohibited use of fireworks on state land; civil penalty

A. The state fire marshal may impose a civil penalty of one thousand dollars for each incident of prohibited use of fireworks on state land in violation of this article.

B. The state fire marshal shall deposit, pursuant to sections 35-146 and 35-147, civil penalties collected pursuant to this section in the fire suppression revolving fund established by section ~~37-623.02~~ 37-1305.

Sec. 54. Section 36-1636, Arizona Revised Statutes, is amended to read:

36-1636. Definitions

In this article, unless the context otherwise requires:

1. "Approved smoke detector" means an electronic device powered by batteries or alternating current ~~which~~ THAT is capable of sensing visible or invisible products of combustion, ~~which~~ THAT sounds an alarm audible in all sleeping areas of a residential housing unit and ~~which~~ THAT meets the standards prescribed by the state fire ~~safety committee~~ MARSHAL pursuant to section ~~41-2146~~ 37-1383.

2. "Residential housing unit" means a one or two family dwelling unit, including a detached, semi-detached or duplex unit, or a multi-family dwelling unit including an apartment or condominium.

3. "Sleeping area" means any area of a residential housing unit in which bedrooms or sleeping rooms are located.

Sec. 55. Section 36-1639, Arizona Revised Statutes, is amended to read:

36-1639. Exemptions

This article does not apply to:

1. Manufactured homes as defined in section ~~41-2142 which~~ 41-4001 THAT were manufactured from and after June 15, 1976.

2. Factory-built buildings as defined by section ~~41-2142 which~~ 41-4001 THAT display an insignia of approval from the ARIZONA department of ~~fire, building and life safety~~ HOUSING, office of administration.

Sec. 56. Section 36-1645, Arizona Revised Statutes, is amended to read:

36-1645. Definitions

In this article, unless the context otherwise requires:

1. "Approved smoke detector" means an electronic device powered by batteries or alternating current ~~which~~ THAT is capable of sensing visible or invisible products of combustion, ~~which~~ THAT sounds an alarm audible in all sleeping areas of a guest unit and ~~which~~ THAT meets the standards prescribed by the state fire ~~safety committee~~ MARSHAL pursuant to section ~~41-2146~~ 37-1383.

2. "Automatic fire extinguishing equipment" means a mechanical system which puts out fires by ejecting chemicals or water.

3. "Guest unit" means a room in a motel or hotel which is offered for lodging.

Sec. 57. Heading repeal

The chapter heading of title 37, chapter 2.1, Arizona Revised Statutes, is repealed.

Sec. 58. Title 37, Arizona Revised Statutes, is amended by adding chapter 9, to read:

CHAPTER 9

ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT

Sec. 59. Transfer and renumber

A. Title 37, chapter 2.1, articles 1, 2 and 3, Arizona Revised Statutes, are transferred and renumbered for placement in title 37, chapter 9, Arizona Revised Statutes, as added by this act, as articles 1, 2 and 3, respectively. The following sections are transferred and renumbered for placement in title 37, chapter 9, article 1:

Former Sections	New Sections
37-621	37-1301
37-622	37-1302
37-623	37-1303
37-623.01	37-1304
37-623.02	37-1305
37-624	37-1306
41-2146	37-1307

The following sections are transferred and renumbered for placement in title 37, chapter 9, article 2:

Former Sections	New Sections
37-641	37-1341
37-642	37-1342
37-643	37-1343
37-644	37-1344

The following section is transferred and renumbered for placement in title 37, chapter 9, article 3:

Former Section	New Section
37-661	37-1361

B. Title 41, chapter 16, articles 3, 3.1 and 3.2, Arizona Revised Statutes, are transferred and renumbered for placement in title 37, chapter 9, Arizona Revised Statutes, as added by this act, as articles 4, 5 and 6, respectively. The following sections are transferred and renumbered for placement in title 37, chapter 9, article 4:

Former Sections	New Sections
41-2161	37-1381
41-2162	37-1382
41-2163	37-1383

41-2164 37-1384
41-2165 37-1385
41-2166 37-1386
41-2167 37-1387
41-2168 37-1388
41-2169 37-1389
41-2169.01 37-1390

The following sections are transferred and renumbered for placement in title 37, chapter 9, article 5:

Former Sections	New Sections
41-2170	37-1401
41-2170.01	37-1402
41-2170.02	37-1403
41-2170.03	37-1404
41-2170.04	37-1405
41-2170.05	37-1406
41-2170.06	37-1407
41-2170.07	37-1408
41-2170.08	37-1409

The following sections are transferred and renumbered for placement in title 37, chapter 9, article 6:

Former Sections	New Sections
41-2170.21	37-1421
41-2170.22	37-1422
41-2170.23	37-1423
41-2170.24	37-1424
41-2170.25	37-1425
41-2170.26	37-1426

Sec. 60. Section 37-1303, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1303. Suppression of wildfires; powers and duties of state forester; entry on private lands

A. The state forester shall have authority to prevent and suppress any wildfires on state and private lands located outside incorporated municipalities and, if subject to cooperative agreements, on other lands located in this state or in other states, Mexico or Canada. If there is no cooperative agreement, the state forester may furnish wildfire suppression services on any lands in this state if the state forester determines that suppression services are in the best interests of this state and are immediately necessary to protect state lands.

B. In exercising the authority to prevent wildfires, if the state forester declares a prohibition on fire causing activities and fireworks, the state forester shall post a notice of the action in the office of the secretary of state and shall notify the news media. The notice shall clearly state which types of activities are prohibited, where they are prohibited and

whether permits that are issued by other governmental entities are affected by the action.

C. The state forester shall have responsibility to prevent and suppress wildfires only on lands covered by cooperative fire agreements.

D. The state forester may request the governor to declare a wild land fire emergency pursuant to section 35-192. If liabilities are authorized under both sections 35-192 and ~~37-623.02~~ 37-1305, the authorization under section ~~37-623.02~~ 37-1305 must be exhausted before any liabilities may be incurred under section 35-192.

E. The state forester shall cooperate and coordinate with the state fire marshal in the administration of the state fire code in the prevention of fires on rural lands and wild lands.

F. The state forester may enter into cooperative agreements with other state and federal agencies, departments and political subdivisions and any person for:

1. Prevention and suppression of wildfires.

2. Assistance with fire and nonfire national and state emergencies and multiagency logistical support in this state and other states.

3. Activities pursuant to the wildfire suppression assistance act (P.L. 101-11; 103 Stat. 15; 42 United States Code sections 1856m through 1856o) in Mexico and Canada.

G. The state forester may enter private lands in performing the duties under this section.

H. The state forester may enter into agreements to utilize private landowners' equipment and personnel if the fire is on or adjacent to such private landowners' property.

Sec. 61. Section 37-1305, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1305. <u>Emergencies; prohibiting fireworks; liabilities and expenses; fire suppression revolving fund</u>

A. On request of the state forester, the governor may authorize the state forester to incur liabilities for suppressing wildland fires and responding to other unplanned all risk activities from unrestricted monies in the state general fund whether or not the legislature is in session.

B. The state forester has the authority to prohibit the use of fireworks during times of high fire potential in the unincorporated areas of the state.

C. The state forester or the state forester's designee shall review all liabilities incurred and expenditures made under this section and shall report the expenditures to the department of administration for audit according to department of administration rules. The state forester shall transmit a copy of the report to the state emergency council.

D. Liabilities incurred under this section are subject to the following limitations:

1. Wildland fire suppression or other unplanned all risk emergency liabilities shall not exceed three million dollars of state general fund monies pursuant to subsection A of this section in a fiscal year for costs associated with suppressing wildland fires, supporting other unplanned all risk activities such as fire, flood, earthquake, wind and hazardous material responses and preparing for periods of extreme fire danger and pre-position equipment and other fire suppression resources to provide for enhanced initial attack on wildland fires. The state forester shall not incur nonreimbursable liabilities for support of nonfire all risk activities. The governor shall determine when periods of extreme fire danger exist and must approve any expenditure for pre-positioning activities.

2. If the funding authorization in paragraph 1 of this subsection is exhausted, or if the nonreimbursable liabilities incurred exceed the cash balance of the fire suppression revolving fund, the state forester shall not incur additional liabilities without the consent of a majority of the state emergency council as authorized by section 35-192.

E. The state forester shall process and pay claims for reimbursement for wildland fire suppression services as follows:

1. Except as provided by paragraph 2 of this subsection, within thirty days after receiving a complete and correct claim for wildland fire suppression services, the state forester shall pay the claim from available monies that have not been committed to the payment of other wildfire expenses.

2. Within thirty days after receiving a complete and correct claim for wildland fire suppression services on federal lands, the state forester shall complete the processing of the claim and forward the claim to the appropriate federal agency.

3. For any valid claim other than for federal reimbursement, if there is insufficient funding in the fire suppression revolving fund, the holder of the unpaid claim shall be issued a certificate pursuant to section 35-189.

F. Monies received for suppressing wildland fires, pre-positioning equipment and firefighting resources and other unplanned all risk activities may be used for the purposes of section ~~37-623~~ 37-1303 and this section.

G. The state forester shall adopt rules for administering the wildland fire suppression monies authorized under this section, subject to approval of the governor.

H. The state forester may require reimbursement from cities and other political subdivisions of this state and state and federal agencies for costs incurred in the suppression of wildland fires, pre-suppression or unplanned all risk activities. Reimbursement shall be based on the terms and conditions in cooperative agreements, land ownership or negligence. The state forester may require reimbursement from individuals or businesses only

for costs incurred in the suppression of wildland fires or unplanned all risk activities caused by their negligence or criminal acts.

I. The fire suppression revolving fund is established consisting of civil penalties collected pursuant to section 36-1610 and monies received by the state forester for wildland fire suppression and pre-positioning equipment and resources and for payment for activities related to combating wildland fires and supporting other unplanned all risk activities such as fire, flood, earthquake, wind and hazardous material responses. The state forester shall not incur nonreimbursable liabilities for support of nonfire all risk activities. The state forester shall administer the fund, and all monies received for these activities shall be deposited, pursuant to sections 35-146 and 35-147, in the fund. Monies in the fire suppression revolving fund are continuously appropriated to the state forester, except that if the unobligated balance of the fund exceeds two million dollars at the end of any calendar year, the excess shall be transferred to the state general fund. Monies in the fire suppression revolving fund are otherwise exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 62. Section 37-1307, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1307. <u>State fire safety committee; members; terms; powers and duties; compensation; fire watch requirements</u>

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

1. Two members, not from the same municipality, each of whom is a fire chief or fire marshal of a paid municipal fire department of a city with a population of one hundred thousand persons or more.

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

3. One member who is a fire chief in a fire district of an unincorporated area in a county with a population of less than five hundred thousand persons.

4. One member who is a member of the Arizona fire chiefs association.

5. One member who is a registered architect.

6. One member who is a chief building official of a city, town or county.

7. One member who is a member of the public.

8. One member who is a member of the public and who is engaged in the business of distributing, selling or providing liquefied petroleum gas to consumers.

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

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

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

~~2. Prevention of fires and alleviation of fire hazards.~~

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

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

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

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

~~D. The state fire safety committee shall adopt rules and a schedule of fees for a permit, for a plan submission, for plan review and for reinspections that are payable by persons regulated under article 3 of this chapter.~~

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

C. THE STATE FIRE SAFETY COMMITTEE SHALL ADVISE THE STATE FIRE MARSHAL ON ALL OF THE FOLLOWING:

1. THE ADOPTION OF A STATE FIRE CODE.

2. THE ADOPTION OF A FEE SCHEDULE FOR PERMITS, PLAN SUBMISSIONS, PLAN REVIEWS AND REINSPECTIONS.

3. THE ALLOCATION OF MONIES FROM THE ARSON DETECTION REWARD FUND ESTABLISHED BY SECTION 37-1387.

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

~~G.~~ E. If the state fire safety committee requires the use of a fire watch, an employee who works at the building in which a fire watch is required may serve as the fire watch. A person who is designated as a fire watch shall be equipped with means to contact the local fire department, and the person's only duty shall be to perform constant patrols of the protected premises while keeping watch for fires. The local jurisdiction shall provide the fire watch with printed instructions from the state fire marshal and may provide a free training session before the person's deployment as the fire watch begins. For the purposes of this subsection, "fire watch" means a person who is stationed in a building or in a place relative to a building to observe the building and its openings when the fire protection system for the building is temporarily nonoperational or absent.

Sec. 63. Section 37-1381, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1381. Office of state fire marshal; purpose; qualifications

To promote public health and safety and to reduce hazards to life, limb and property, the office of state fire marshal is established within the ~~department~~ STATE FORESTER. The office shall perform its duties by performing inspections and fire investigations, by providing public education and by adopting fire protection codes. The person appointed as state fire marshal shall have extensive experience in the field of fire prevention and fire protection, including administrative experience in such capacity.

Sec. 64. Section 37-1382, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1382. Deputy fire marshals and assistants; appointment; duties; recovery of costs

A. ~~The state fire marshal may,~~ With the approval of the ~~director~~ STATE FORESTER, THE STATE FIRE MARSHAL MAY:

1. Hire deputy fire marshals who shall have knowledge in the field of fire safety and have at least five years' experience in fire safety and hire such other assistants and employees as are necessary to properly discharge the duties imposed on the state fire marshal pursuant to this article.

2. Appoint as assistant fire inspectors any of the fire chiefs of a city, town, county, volunteer fire company or protective district or an employee of a private fire service provider who meets the requirements of this section to act within their area of jurisdiction or area of service or on the recommendation of the fire chief appoint other assistant fire inspectors if needed to function within the jurisdiction.

3. Appoint other assistant fire inspectors who meet the requirements of this section as are necessary in areas that are not under the jurisdiction of a fire chief designated in paragraph 2 OF THIS SUBSECTION AND who may be employees of this state, the federal government or a private fire service provider.

B. Assistant fire inspectors appointed pursuant to subsection A OF THIS SECTION shall carry out their duties only within the geographic areas assigned by the state fire marshal. When designating assistant fire inspectors and when assigning geographic areas, the state fire marshal shall give a preference to assigning assistant fire inspectors to the service area covered by the municipal or private fire service provider where the assistant fire inspector is employed.

C. Assistant fire inspectors appointed under subsection A, paragraph 2 or 3 OF THIS SECTION are not entitled to receive additional compensation for performing duties under this article, except that an employee of a public or private fire service provider who acts as an assistant fire inspector may charge fees to recover costs incurred in conducting inspections or for the review of plans and inspections of property. Assistant fire inspectors appointed under subsection A, paragraph 2 or 3 OF THIS SECTION or fire

inspectors appointed pursuant to subsection E OF THIS SECTION shall have attended fire inspector training by an entity that meets nationally recognized standards and is approved by the state fire marshal.

D. An assistant fire inspector who is appointed pursuant to subsection A OF THIS SECTION may inspect property, issue notices of violation and enforce the jurisdiction's fire code. An assistant fire inspector who is appointed pursuant to subsection A OF THIS SECTION shall report all actions taken to the state fire marshal in a manner prescribed by the state fire marshal.

E. A city, town or county may appoint a fire inspector from one or more public or private fire service providers ~~who~~ THAT service areas in the city, town or county to inspect property. City, town or county fire inspectors may issue notices of violation and enforce the fire code on behalf of the city, town or county within the respective service area of the public or private fire service provider. A fire inspector shall report all actions taken to the city, town or county manager. A fire inspector who is appointed pursuant to this subsection is not entitled to receive additional compensation for performing duties on behalf of the city, town or county, but may charge fees to recover the costs for review of plans and the inspection of public or private premises.

F. The state fire marshal, deputy fire ~~marshal~~ MARSHALS, assistant fire inspectors or a fire inspector who is appointed pursuant to this section may inspect buildings and premises in response to an emergency call or at the request of the occupant of the public or private property.

G. The amount of the fees charged by a fire inspector or an assistant fire inspector shall be available at the office of the state fire marshal or the city, town or county where the property is located.

Sec. 65. Section 37-1383, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1383. Powers and duties; arson investigators

A. UNDER THE AUTHORITY AND DIRECTION OF THE STATE FORESTER, the state fire marshal or a deputy fire marshal or an assistant fire inspector acting at the direction of the fire marshal shall~~, under the authority and direction of the director~~:

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

2. ADOPT BY RULE A STATE FIRE CODE ESTABLISHING MINIMUM STANDARDS FOR:

(a) SAFEGUARDING LIFE AND PROPERTY FROM FIRE AND FIRE HAZARDS.

(b) THE PREVENTION OF FIRES AND ALLEVIATION OF FIRE HAZARDS.

(c) THE STORAGE, SALE, DISTRIBUTION AND USE OF DANGEROUS CHEMICALS, COMBUSTIBLES, FLAMMABLE LIQUIDS, EXPLOSIVES AND RADIOACTIVE MATERIALS.

(d) THE INSTALLATION, MAINTENANCE AND USE OF FIRE ESCAPES, FIRE PROTECTION EQUIPMENT, FIRE ALARM SYSTEMS, SMOKE DETECTORS AND FIRE EXTINGUISHING EQUIPMENT.

(e) THE MEANS AND ADEQUACY OF FIRE PROTECTION AND EXIT IN CASE OF FIRE IN PLACES IN WHICH NUMBERS OF PERSONS WORK, LIVE OR CONGREGATE, EXCLUDING FAMILY DWELLINGS THAT HAVE FEWER THAN FIVE RESIDENTIAL DWELLING UNITS.

(f) OTHER MATTERS RELATING TO FIRE PREVENTION AND CONTROL THAT ARE CONSIDERED NECESSARY BY THE STATE FIRE MARSHAL.

3. ADOPT RULES AND A SCHEDULE OF FEES FOR PERMITS, PLAN SUBMISSIONS, PLAN REVIEWS AND REINSPECTIONS THAT ARE PAYABLE BY PERSONS REGULATED UNDER ARTICLE 4 OF THIS CHAPTER.

4. ADOPT RULES FOR THE ALLOCATION OF MONIES FROM THE ARSON DETECTION REWARD FUND ESTABLISHED BY SECTION 37-1387. THE RULES SHALL BE CONSISTENT WITH THE PURPOSES SET FORTH IN SECTION 37-1387 AND SHALL PROMOTE THE EFFECTIVE AND EFFICIENT USE OF THE FUND MONIES.

~~2.~~ 5. Enforce compliance with the fire code adopted ~~by the state fire safety committee~~ PURSUANT TO THIS SUBSECTION throughout the state except in any city having a population of one hundred thousand persons or more that has in effect a nationally recognized fire code, whether modified or unmodified, and that has enacted an ordinance to assume such jurisdiction from the state fire ~~safety committee~~ MARSHAL. Such cities do not have authority that supersedes and are not exempt from the state ~~fire safety committee's established~~ fire code ESTABLISHED PURSUANT TO THIS SUBSECTION in state or county owned buildings and public schools wherever located throughout the state.

~~3.~~ 6. Cooperate and coordinate with other state agencies in the administration of the state fire code.

~~4.~~ 7. Establish a regularly scheduled fire safety inspection program for all state and county owned public buildings and all public and private school buildings wherever located throughout the state, except for private school buildings in cities with a population of one hundred thousand or more persons ~~according to the last decennial census~~.

~~5.~~ 8. Inspect as necessary all other occupancies located throughout this state, except family dwellings having fewer than five residential dwelling units and occupancies located in cities with a population of one hundred thousand or more persons ~~according to the last decennial census~~.

~~6.~~ 9. At the written request of county or municipal authorities, make and provide to them a written report of the examination made by the state fire marshal of any fire within their jurisdiction.

~~7.~~ 10. Compile, update as necessary and make available to the public a fully indexed and cross-referenced list of all rules adopted by state agencies and departments and agencies and departments of political subdivisions of this state relating to the control of all hazardous materials as defined in section 28-5201 and all federal regulations relating to the control of hazardous materials as defined in section 28-5201 for which there is no state regulation.

~~8.~~ 11. Establish and maintain a library of all rules and regulations identified in the index required by paragraph ~~7~~ 10 of this subsection and support the regulated industry's request for information through research or referral to the agency adopting the specific rule for technical information or other assistance as circumstances dictate.

~~9.~~ 12. Administer the arson detection reward fund established by section ~~41-2167~~ 37-1387.

B. The state fire marshal and this state are not liable for damages caused by information that is omitted from the rules and federal regulations compiled pursuant to subsection A, paragraph ~~7~~ 10 of this section.

C. All plans and specifications for new construction, remodeling, alterations and additions for state, county and public school buildings and grounds shall be submitted to the ~~director~~ STATE FORESTER for review and approval by the state fire marshal or as authorized to a deputy fire marshal or an assistant fire inspector acting at the direction of the fire marshal before construction. The plans and specifications shall be reviewed and approved or disapproved within sixty days ~~of~~ AFTER submission. No construction shall commence until the plans have been approved and a permit has been issued.

D. UNDER THE AUTHORITY AND DIRECTION OF THE STATE FORESTER, the state fire marshal or a deputy fire marshal or an assistant fire inspector acting at the direction of the state fire marshal may~~, under the authority and direction of the director~~:

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

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

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

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

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

6. Designate certain members of the state fire marshal's staff or a deputy fire marshal or an assistant fire inspector as arson investigators.

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

detection and apprehension authority granted by this subsection. Any individual designated as an arson investigator shall have law enforcement training under section 41-1822.

Sec. 66. Section 37-1388, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1388. Fire protection systems; definitions

A. All backflow prevention equipment installed on class 1 and class 2 fire protection systems shall comply with state fire code standards.

B. Check valve assemblies installed on class 1 or class 2 fire protection systems as backflow protection equipment pursuant to this section shall be inspected and maintained in accordance with the procedures identified in the national fire protection association publication 25 for water based fire protection systems, 1992 edition, to determine compliance with the minimum design standards established by the state fire code. Inspections of check valve assemblies installed on class 1 or class 2 fire protection systems shall be performed on an annual basis with records of the inspections provided to the local fire department and drinking water provider.

C. Any malfunction or abnormality with a check valve assembly installed on class 1 or class 2 fire protection systems shall be reported within twenty-four hours to the local fire department and drinking water provider.

D. A fire code authority may establish guidelines for the installation of backflow prevention equipment on a class 1 or class 2 fire protection system that exceeds the minimum standards established by the state fire code if the backflow prevention equipment is approved for use on class 1 or class 2 fire protection systems pursuant to section 1.102 of the uniform fire code, 1988 edition.

E. A fire code authority or a drinking water provider may require the installation of backflow prevention equipment on class 1 and class 2 fire protection systems that exceeds the minimum standards established by the state fire code if a special backflow condition is identified. The use of nonpotable pipe in a fire protection system does not by itself constitute a special backflow condition. The drinking water provider shall consult with the fire code authority and provide the fire code authority with an opportunity to comment before installing or requiring the installation of backflow equipment that exceeds the minimum standards established by the state fire code.

F. For purposes of this section:

1. "Class 1 fire protection system" means a fire protection system that is directly connected to a public water main and all sprinkler drains on the fire protection system discharge into the atmosphere, dry wells or other safe outlets. Class 1 fire protection system does not include a system that has a connection with pumps, tanks, reservoirs or other water supplies, or a system that contains antifreeze or other additives.

2. "Class 2 fire protection system" means a class 1 fire protection system with booster pumps installed in the connections from the street mains.

3. "Fire code authority" means the state fire marshal or the state fire marshal's designee, except that for an incorporated city or town with a population of at least one hundred thousand persons ~~according to the most recent United States decennial census~~ that has adopted an ordinance pursuant to section ~~41-2163~~ 37-1383, subsection A, fire code authority means the municipal fire chief or the fire chief's designee.

4. "Special backflow condition" means a condition that exists at the site of a class 1 or class 2 fire protection system and that may present a contamination hazard to the domestic water supply, including:

(a) Underground fire protection system lines that are parallel to and within six feet horizontally of sewer lines or other lines carrying toxic materials.

(b) The use, storage or handling of materials on a site by a property owner or occupant that could present a significant health hazard to the domestic water supply.

(c) The presence of unusually complex piping systems.

(d) Water supplied to a site or an area from either:

(i) Two or more services of a water utility.

(ii) Two different water utilities.

(iii) A supplemental water supply.

Sec. 67. Section 37-1390, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1390. Safety standards in fire training

All training provided by the ~~department~~ STATE FORESTER shall comply with the safety standards prescribed by the national fire protection association and the occupational safety and health administration regulations of this state.

Sec. 68. Section 37-1401, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1401. Definitions

In this article, unless the context otherwise requires:

1. "Agent" means a person who is authorized by the department of revenue to purchase and affix stamps on packages of cigarettes.

2. "Cigarette" means any roll of tobacco or any substitute for tobacco wrapped in paper or any substance not containing tobacco.

3. "Manufacturer" means:

(a) An entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere and that the manufacturer intends to be sold in this state, including cigarettes that are intended to be sold in the United States through an importer.

(b) The first purchaser anywhere that intends to resell in the United States cigarettes that are manufactured anywhere and that the original manufacturer or maker does not intend to be sold in the United States.

(c) A successor entity to an entity described in subdivision (a) or (b) of this paragraph.

4. "Quality control and quality assurance program" means the laboratory procedures implemented to ensure:

(a) That operator bias, systematic and nonsystematic methodological errors and equipment-related problems do not affect the results of the testing.

(b) That the testing repeatability remains within the required repeatability values prescribed in section ~~41-2170.01~~ 37-1402, subsection B, paragraph 6 for all test trials that are used to certify cigarettes pursuant to this article.

5. "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five ~~per cent~~ PERCENT of the time.

6. "Retailer" means any person, other than a manufacturer or wholesaler, who is engaged in selling cigarettes or tobacco products.

7. "Sale" means a transfer of title or possession, or both, or an exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement to transfer, exchange or barter. Sale includes the giving of cigarettes as samples, prizes or gifts and the exchanging of cigarettes for any consideration other than money.

8. "Sell" means to sell or to offer or agree to sell.

9. "Wholesaler" means a person, other than a manufacturer, who sells cigarettes or tobacco products to retailers or other persons for resale, and any person who owns, operates or maintains one or more cigarette or tobacco product vending machines in, at or on premises owned or occupied by any other person.

Sec. 69. Section 37-1402, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1402. <u>Test method and performance standard; civil penalty; reports</u>

A. Except as provided in subsection I of this section, cigarettes may not be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless both of the following occur:

1. The cigarettes are tested pursuant to the test method prescribed in this section and meet the performance standard prescribed in this section.

2. The manufacturer files a written certification with the state fire marshal pursuant to section ~~41-2170.02~~ 37-1403 and marks the cigarettes pursuant to section ~~41-2170.03~~ 37-1404.

B. The tests prescribed in subsection A, paragraph 1 of this section shall conform to the following standards:

1. Testing of cigarettes shall be conducted pursuant to the American society of testing and materials standard E2187-04, "standard test method for measuring the ignition strength of cigarettes".

2. Testing shall be conducted on ten layers of filter paper.

3. Not more than twenty-five ~~per cent~~ PERCENT of the cigarettes tested in a test trial pursuant to this section shall exhibit full-length burns. Forty replicate tests comprise a complete test trial for each cigarette tested.

4. The performance standard required by this subsection is applied only to a complete test trial.

5. Written certifications shall be based on testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the international organization for standardization or other comparable accreditation standard required by the state fire marshal.

6. Laboratories conducting testing pursuant to this subsection shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall not be greater than 0.19.

7. Additional testing is not required if cigarettes are tested consistent with this article for any other purpose.

8. Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required by this subsection shall be conducted pursuant to this subsection.

C. Each cigarette listed in a certification submitted pursuant to section ~~41-2170.02~~ 37-1403 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard prescribed in this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen millimeters from the lighting end and ten millimeters from the filter end of the tobacco column or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

D. A manufacturer of a cigarette that the state fire marshal determines cannot be tested pursuant to the test method prescribed in subsection B, paragraph 1 of this section shall propose a test method and performance standard for the cigarette to the state fire marshal. On approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subsection B, paragraph 3 of this section, the manufacturer may employ that test method and performance standard to certify the cigarette pursuant to section ~~41-2170.02~~ 37-1403. If the state fire marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those prescribed in this article, and the state fire marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a

manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section, the state fire marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted pursuant to this article. All other applicable requirements of this section apply to the manufacturer.

E. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for three years and shall make copies of these reports available to the state fire marshal and the attorney general on written request. Any manufacturer who fails to make copies of these reports available within sixty days after receiving a written request is subject to a civil penalty of not to exceed ten thousand dollars for each day after the sixtieth day that the manufacturer does not make the copies available.

F. The state fire marshal may adopt a subsequent American society of testing and materials standard test method for measuring the ignition strength of cigarettes on a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette if compared to the percentage of full-length burns the same cigarette would exhibit if it were tested pursuant to the American society of testing and materials standard E2187-04 and the performance standard prescribed in subsection B, paragraph 3 of this section.

G. The state fire marshal shall review the effectiveness of this section and report every three years to the legislature on the state fire marshal's findings and any recommendations for legislation to improve the effectiveness of this section. The state fire marshal shall submit the report and legislative recommendations on or before July 1 of each three-year period.

H. The state fire marshal shall notify the governor, the speaker of the house of representatives and the president of the senate in writing immediately after a federal reduced cigarette ignition propensity standard that preempts the standard prescribed in this article becomes effective.

I. This section does not prohibit either of the following:

1. Wholesalers or retailers from selling their existing inventory of cigarettes on or after August 1, 2009 if the wholesaler or retailer can establish that state tax stamps were affixed to the cigarettes before August 1, 2009 and the wholesaler or retailer can establish that the inventory was purchased before August 1, 2009 in comparable quantity to the inventory purchased during the same period of the prior year.

2. The sale of cigarettes solely for the purpose of consumer testing. For the purposes of this paragraph, "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, for the purpose of evaluating consumer

acceptance of the cigarettes, using only the quantity of cigarettes that is reasonably necessary for such an assessment.

~~J. This section applies beginning August 1, 2009.~~

Sec. 70. Section 37-1403, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1403. Certification; product change; fee

A. Each manufacturer shall submit to the state fire marshal a written certification attesting that each cigarette listed in the certification:

1. Has been tested pursuant to section ~~41-2170.01~~ 37-1402.

2. Meets the performance standards prescribed in section ~~41-2170.01~~ 37-1402.

B. The manufacturer shall describe each cigarette listed in the certification with the following information:

1. Brand or trade name on the package.

2. Style, such as light or ultra light.

3. Length in millimeters.

4. Circumference in millimeters.

5. Flavor, such as menthol or chocolate, if applicable.

6. Filter or nonfilter.

7. Package description, such as soft pack or box.

8. Marking approved pursuant to section ~~41-2170.03~~ 37-1404.

9. Name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test.

10. Date that the testing occurred.

C. A manufacturer shall recertify each cigarette certified under this section every three years.

D. A manufacturer shall make the certifications available to the attorney general for purposes consistent with this article and the department of revenue for the purposes of ensuring compliance with this section.

E. If a manufacturer has certified a cigarette pursuant to this section and after certification makes any change to the cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards prescribed by this article, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette pursuant to the testing standards prescribed in section ~~41-2170.01~~ 37-1402 and maintains records of that retesting as required by section ~~41-2170.01~~ 37-1402. Any altered cigarette that does not meet the performance standard prescribed in section ~~41-2170.01~~ 37-1402 may not be sold in this state.

F. The state fire marshal may adopt rules requiring each manufacturer to pay to the state fire marshal a fee of two hundred fifty dollars per brand family of cigarettes certified in compliance with this section. The fee applies to all cigarettes within the brand family certified and includes any new cigarette brand style within the brand family during the three-year certification period.

~~G. This section applies beginning August 1, 2009.~~

Sec. 71. Section 37-1404, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1404. Markings; requirements; fire marshal approval

A. A manufacturer shall mark cigarettes that are certified pursuant to section ~~41-2170.02~~ 37-1403 to indicate compliance with section ~~41-2170.01~~ 37-1402. The marking shall be in at least eight point type and shall consist of either:

1. Modification of the product UPC code to include a visible mark printed at or around the area of the UPC code. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed or printed in conjunction with the UPC code.

2. Any visible combination of alphanumeric or symbolic characters permanently stamped, engraved or embossed on the cigarette package or cellophane wrap.

3. Printed, stamped, engraved or embossed text that indicates that the cigarettes meet the standards of this section.

B. A manufacturer shall use only one marking and shall apply this marking uniformly for all packages, including packs, cartons and cases, and brands marketed by that manufacturer.

C. Before the certification of any cigarette, a manufacturer shall present its proposed marking to the state fire marshal for approval. Proposed markings are deemed approved if the state fire marshal fails to act within ten business days after receiving a request for approval. On receipt of the request, the state fire marshal shall approve or disapprove the marking offered, except that the state fire marshal shall approve either of the following:

1. Any marking in use and approved for sale in New York state pursuant to the New York fire safety standards for cigarettes in section 156-c of the New York executive law and part 429 of title 19 of the New York Code of Rules and Regulations.

2. The letters "FSC", which signify fire standards compliant, appearing in eight point type or larger and permanently printed, stamped, engraved or embossed on the package at or near the UPC code.

D. A manufacturer shall not modify its approved marking unless the modification has been approved by the state fire marshal pursuant to this section.

E. Manufacturers certifying cigarettes pursuant to section ~~41-2170.02~~ 37-1403 shall provide a copy of the certifications to all wholesalers and agents to whom they sell cigarettes and shall also provide sufficient copies of an illustration of the package marking used by the manufacturer pursuant to this section for each retailer to whom the wholesalers or agents sell cigarettes. Wholesalers and agents shall provide a copy of these package markings received from manufacturers to all retailers to whom they sell cigarettes. Wholesalers, agents and retailers shall permit the state fire marshal, the department of revenue or the attorney general, or their

employees, to inspect markings of cigarette packaging marked pursuant to this section.

~~F. This section applies beginning August 1, 2009.~~

Sec. 72. Section 37-1405, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1405. Civil penalties; seizure

A. A manufacturer, wholesaler, agent or other person or entity that knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of section ~~41-2170.01~~ 37-1402 is subject to a civil penalty of not to exceed one hundred dollars for each pack of cigarettes sold or offered for sale. This penalty shall not exceed twenty-five thousand dollars during any thirty-day period.

B. A retailer who knowingly sells or offers to sell cigarettes in violation of section ~~41-2170.01~~ 37-1402 is subject to a civil penalty of not to exceed one hundred dollars for each pack of cigarettes sold or offered for sale. This penalty shall not exceed one thousand dollars during any thirty-day period.

C. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership or association that is engaged in the manufacture of cigarettes and that knowingly makes a false certification pursuant to section ~~41-2170.02~~ 37-1403 is subject to a civil penalty of at least twenty-five thousand dollars but not more than one hundred thousand dollars for each false certification.

D. A person who violates any other provision of this article is subject to a civil penalty for a first offense of not to exceed one thousand dollars and a civil penalty of not to exceed five thousand dollars for each subsequent violation.

E. Any cigarettes that have been sold or offered for sale and that do not comply with the performance standard prescribed by section ~~41-2170.01~~ 37-1402 are subject to forfeiture and, on forfeiture, shall be destroyed. Before the destruction of any forfeited cigarette, the true holder of the trademark rights in the cigarette brand may inspect the cigarette.

F. In addition to any other remedy provided by law, the state fire marshal or the attorney general may file an action in the superior court for injunctive relief or to recover any costs or damages suffered by this state because of a violation of this section, including enforcement costs relating to the specific violation and attorney fees. Each violation of this section or rules adopted pursuant to this section is a separate civil violation for which the state fire marshal or attorney general may obtain relief.

G. If a law enforcement officer or duly authorized representative of the state fire marshal discovers cigarettes that have not been marked as required by section ~~41-2170.03~~ 37-1404, the officer or representative shall notify the department of revenue and may seize and take possession of the cigarettes. The cigarettes shall be turned over to the department of revenue and shall be forfeited to the state. Cigarettes seized pursuant to this

section shall be destroyed. Before the destruction of any seized cigarette, the true holder of the trademark rights in the cigarette brand may inspect the cigarette.

~~H. This section applies beginning August 1, 2009.~~

Sec. 73. Section 37-1406, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1406. Implementation; rulemaking; inspection of cigarettes; definitions

A. The state fire marshal shall implement this article pursuant to the implementation and substance of the New York fire safety standards for cigarettes in section 156-c of the New York executive law and part 429 of title 19 of the New York Code of Rules and Regulations.

B. The state fire marshal may adopt rules to enforce this article.

C. As authorized pursuant to section 42-3151, the department of revenue in the regular course of conducting inspections of distributors and retailers may inspect cigarettes to determine if the cigarettes are marked as required by section ~~41-2170.03~~ 37-1404. If the cigarettes are not marked as required, the department of revenue shall notify the state fire marshal.

D. An agent of the department of revenue who is also a law enforcement agent or investigator may conduct inspections pursuant to section ~~41-2170.04~~ 37-1405, subsection G.

~~E. This section applies beginning August 1, 2009.~~

~~F.~~ E. For the purpose of this section, "cigarette", "distributor" and "retailer" have the same meanings prescribed in section 42-3001.

Sec. 74. Section 37-1408, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1408. Sale outside of state

~~Beginning August 1, 2009,~~ This article does not prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of section ~~41-2170.01~~ 37-1402 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside of the United States and that person or entity has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons in this state.

Sec. 75. Section 37-1422, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1422. Duties; fund

A. The ~~department~~ STATE FORESTER shall:

1. Administer and enforce this article, including adopting rules necessary to administer and enforce this article.

2. Establish fees for the initial registration and renewal of registration of trampoline courts in amounts to be determined by the ~~director~~ STATE FORESTER. The ~~department~~ STATE FORESTER shall deposit, pursuant to sections 35-146 and 35-147, all fees received pursuant to this section in the trampoline court safety fund established by this section.

3. Request from each trampoline court owner or operator information to determine that the insurance required by this article is in effect and that the trampoline court has been inspected at least annually.

4. Maintain a registry of all trampoline courts.

5. Maintain as public record proof of insurance, service calls to emergency responders and inspection certificates that are issued by an insurer or an inspector with whom the insurer has contracted and records for each trampoline court that is registered pursuant to this article.

B. The trampoline court safety fund is established consisting of monies received pursuant to this section. The ~~department~~ STATE FORESTER shall administer the fund and use the monies in the fund to implement this article.

Sec. 76. Section 37-1423, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1423. Registration; renewal

A. At least thirty days before operation an owner or operator of a trampoline court must register with and submit to the ~~department~~ STATE FORESTER all of the following:

1. An application for registration on a form prescribed by the ~~department~~ STATE FORESTER and the fee prescribed by section ~~41-2170.22~~ 37-1422.

2. Proof of insurance as required by this article.

3. A copy of an inspection certificate that is issued by an insurer or an inspector with whom the insurer has contracted.

4. A copy of the owner's or operator's business license.

B. A registrant must renew its registration annually by submitting an application for renewal as prescribed by the ~~department~~ STATE FORESTER and the renewal fee prescribed by section ~~41-2170.22~~ 37-1422.

Sec. 77. Section 37-1424, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1424. Trampoline court owners and operators; requirements; denial of entry; rules

A. A trampoline court owner or operator shall:

1. Have the trampoline court inspected at least once each year by an insurer or an inspector with whom the insurer has contracted. If an inspection reveals that any component of the trampoline court does not substantially meet the American society for testing and materials standards, the inspector shall notify the ~~department~~ STATE FORESTER and the owner or operator and shall not issue the written certificate of inspection for that component of the trampoline court until the owner or operator meets the standards and makes the repairs or installs the replacement equipment.

2. Maintain at all times a written certificate of the annual inspection.

3. Procure insurance for the trampoline court from an insurer authorized to do business in this state pursuant to section 20-217 or by an insurer on the list of qualified unauthorized insurers pursuant to section 20-413, insuring the owner or operator against liability for injury to persons arising from the use of the trampoline court, in an amount of not less than one million dollars for bodily injury.

4. Maintain and display at all times the certificate of registration.

5. Maintain for a period of at least two years accurate records of any governmental action taken relating to the trampoline court, including any operation permits, insurance certificates, inspection reports, service calls to emergency responders, maintenance and operational records and records documenting the repair or replacement of equipment used in the operation of the trampoline court. The owner or operator of the trampoline court shall provide a copy of these records to the ~~department~~ STATE FORESTER on request when the owner or operator applies for initial registration and when the owner or operator applies for registration renewal.

6. Maintain for a period of at least two years accurate records of service calls to emergency responders from the trampoline court. Within ten days after a trampoline court makes a service call to an emergency responder, an owner or operator of the trampoline court shall provide a copy of the service call records to the ~~department~~ STATE FORESTER. The service call records are public records.

B. A registrant must notify the ~~department~~ STATE FORESTER within thirty days ~~of~~ AFTER any changes to the information that the registrant submitted to the ~~department~~ STATE FORESTER with the registrant's initial registration application or registration renewal application.

C. A trampoline court owner or operator may deny a person entry to the trampoline court if the owner or operator believes that the entry may jeopardize the safety of the person or any other trampoline court patron.

D. A trampoline court patron shall follow all rules that are posted or provided in writing to the patron by the trampoline court owner or operator. The rules must include a statement that there are inherent risks in the participation in a trampoline court activity or on any trampoline court and that a trampoline court patron, by participation, understands the risks inherent in the participation of which the ordinary prudent person is or should be aware. The rules must specify that a trampoline court patron:

1. Shall:

(a) Exercise good judgment and act in a responsible manner while using a trampoline court and obey all oral or written warnings before and during participation.

(b) Meet height, weight and age restrictions imposed by the owner to use the trampoline court or participate in the trampoline court activity.

2. Shall not:

(a) Participate in a trampoline court activity or on any trampoline court when under the influence of drugs or alcohol.

(b) Participate in a trampoline court activity or on any trampoline court if the patron may be pregnant, has had recent surgery, has a preexisting medical condition, circulatory condition, heart or lung condition, back or neck condition or history of spine, musculoskeletal or head injuries or has high blood pressure.

Sec. 78. Section 37-1425, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

37-1425. Enforcement

A. The ~~department~~ STATE FORESTER may determine compliance with this article, prohibit the operation of any trampoline court that is not in compliance with this article and institute an action in a court of competent jurisdiction to enforce this article.

B. On request, the owner or operator of a trampoline court shall provide the registration certificate, inspection certificate that is issued by an insurer or an inspector with whom the insurer has contracted and insurance certificate to the ~~department~~ STATE FORESTER. A copy of the documents may be provided instead of originals.

Sec. 79. Section 40-201, Arizona Revised Statutes, is amended to read:

40-201. Definitions

In this chapter, unless the context otherwise requires:

1. "Ancillary services" means those services designated as ancillary services in federal energy regulatory commission order 888 adopted in 1996 including the services necessary to support the transmission of electricity from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice.

2. "Appliance application" means central space heating, clothes drying, water heating and indoor cooking.

3. "Bundled service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electricity used by consumers.

4. "Commission" means the Arizona corporation commission.

5. "Common carrier" means a railroad or street railroad.

6. "Electric distribution facilities" means all property used in connection with the distribution of electricity from an electric generating plant to retail electric customers except electric transmission facilities.

7. "Electric distribution service" means the distribution of electricity to retail electric customers through the use of electric distribution facilities.

8. "Electric distribution utility" means a public service corporation or public power entity that operates, controls or maintains electric distribution facilities.

9. "Electric generation plant" means all property used in connection with the generation for sale of electricity to retail electric customers but

excluding any services provided by electric transmission facilities or electric distribution facilities.

10. "Electric generation service" means the provision of electricity for sale to retail electric customers but does not include electric distribution or transmission services and generation that are necessary for the reliable operation of the electric distribution or transmission system.

11. "Electric transmission facilities" means all property so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

12. "Electric transmission service" means the transmission of electricity to retail electric customers or to electric distribution facilities that is so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

13. "Electricity" means electric energy, electric capacity or electric capacity and energy.

14. "Electricity supplier" means a person, whether acting in a principal, agent or other capacity, that is a public service corporation that offers to sell electricity to a retail electric customer in this state.

15. "Foreign nonprofit, member owned cooperative corporation" means a cooperative incorporated in another state if that state has not ordered electric competition for cooperative corporations.

16. "Gas plant" includes all property used in connection with the production, transmission or delivery of gas for light, heat or power for sale.

17. "Other services" means metering, meter reading, billing and collecting services.

18. "Pipeline" includes all property used in transmission for compensation of air, steam or fluid substances, except water, through pipelines.

19. "Railroad" includes every railway, other than a street railroad, operated for public transportation of persons or property.

20. "Residential structure" means a detached owner-occupied or rental one or two family dwelling unit, an attached duplex or fourplex unit, a manufactured home, a residential factory-built building as defined in section ~~41-2142, paragraph 14~~ 41-4001 or a mobile home designed to be used with a permanent structure, excluding real property used to accommodate more than four attached dwelling units.

21. "Retail electric customer" means a person who purchases electricity for that person's own use, including use in that person's trade or business, and not for resale, redistribution or retransmission.

22. "Service territory" means the geographic area in which a public power entity or public service corporation owns, operates, controls or maintains electric distribution facilities or natural gas distribution facilities and that additional area in which the public power entity or

public service corporation has agreed to extend electric distribution facilities or natural gas distribution facilities, whether established by a certificate of convenience and necessity, by official action by a public power entity or by contract or agreement.

23. "Sewer corporation" includes every person owning, controlling, operating or managing any sewage system for profit.

24. "Sewerage system" includes all property used in connection with the collection, treatment, purification and disposal transmission, storage or treatment of sewage.

25. "Street railroad" includes every railway operated along any street or public way for public transportation of persons or property, but does not include a commercial or interurban railway.

26. "Telecommunications corporation" means a public service corporation other than municipal engaged in transmitting messages or furnishing public telegraph or telephone service or operating as a telecommunications common carrier.

27. "Telegraph line" includes all property used in connection with communication by telegraph for compensation with or without the use of transmission wires.

28. "Telephone line" includes all property used in connection with communication by telephone, for compensation, with or without the use of transmission wires.

29. "Transportation of persons" includes every service in connection with the carriage and delivery of a person and the person's baggage.

30. "Transportation of property" includes every service in connection with the transportation and handling of property.

31. "Water system" includes all property used in connection with the diversion, development, storage, distribution and sale of water for beneficial uses for compensation.

Sec. 80. Section 41-511.04, Arizona Revised Statutes, is amended to read:

41-511.04. <u>Duties; board; partnership fund; state historic preservation officer; definition</u>

A. The board shall:

1. Select areas of scenic beauty, natural features and historical properties now owned by the state, except properties in the care and custody of other agencies by virtue of agreement with the state or as established by law, for management, operation and further development as state parks and historical monuments.

2. Manage, develop and operate state parks, monuments or trails established or acquired pursuant to law, or previously granted to the state for park or recreation purposes, except those falling under the jurisdiction of other state agencies as established by law.

3. Investigate lands owned by the state to determine in cooperation with the agency that manages the land which tracts should be set aside and dedicated for use as state parks, monuments or trails.

4. Investigate federally owned lands to determine their desirability for use as state parks, monuments or trails and negotiate with the federal agency having jurisdiction over such lands for the transfer of title to the Arizona state parks board.

5. Investigate privately owned lands to determine their desirability as state parks, monuments or trails and negotiate with private owners for the transfer of title to the Arizona state parks board.

6. Enter into agreements with the United States, other states or local governmental units, private societies or persons for the development and protection of state parks, monuments and trails.

7. Plan, coordinate and administer a state historic preservation program, including the program established pursuant to the national historic preservation act of 1966, as amended.

8. Advise, assist and cooperate with federal and state agencies, political subdivisions of this state and other persons in identifying and preserving properties of historic or prehistoric significance.

9. Keep and administer an Arizona register of historic places composed of districts, sites, buildings, structures and objects significant in this state's history, architecture, archaeology, engineering and culture ~~which~~ THAT meet criteria ~~which~~ THAT the board establishes or ~~which~~ THAT are listed on the national register of historic places. Entry on the register requires nomination by the state historic preservation officer and owner notification in accordance with rules ~~which~~ THAT the board adopts.

10. Accept, on behalf of the state historic preservation officer, applications for classification as historic property received from the county assessor.

11. Adopt rules with regard to classification of historic property including:

(a) Minimum maintenance standards for the property.

(b) Requirements for documentation.

12. Monitor the performance of state agencies in the management of historic properties as provided in chapter 4.2 of this title.

13. Advise the governor on historic preservation matters.

14. Plan and administer a statewide parks and recreation program, including the programs established pursuant to the land and water conservation fund act of 1965 (P.L. 88-578; 78 Stat. 897).

15. Prepare, maintain and update a comprehensive plan for the development of the outdoor recreation resources of this state.

16. Initiate and carry out studies to determine the recreational needs of this state and the counties, cities and towns.

17. Coordinate recreational plans and developments of federal, state, county, city, town and private agencies.

18. Receive applications for projects to be funded through the land and water conservation fund and the state lake improvement fund on behalf of the Arizona outdoor recreation coordinating commission.

19. Provide staff support to the Arizona outdoor recreation coordinating commission.

20. Maintain a statewide off-highway vehicle recreational plan. The plan shall be updated at least once every five years and shall be used by all participating agencies to guide distribution and expenditure of monies under section 28-1176. The plan shall be open to public input and shall include the priority recommendations for allocating available monies in the off-highway vehicle recreation fund established by section 28-1176.

21. Collaborate with the state forester in presentations to legislative committees on issues associated with forest management and wildfire prevention and suppression as provided by section ~~37-622~~ 37-1302, subsection B.

B. Notwithstanding section 41-511.21, the board may annually collect and expend monies to plan and administer the land and water conservation fund program, in conjunction with other administrative tasks and recreation plans, as a surcharge to subgrantees in a proportionate amount, not to exceed ten ~~per cent~~ PERCENT, of the cost of each project. The surcharge monies shall be set aside to fund staff support for the land and water conservation fund program.

C. A partnership fund is established consisting of monies received pursuant to subsection B of this section, monies received from intergovernmental agreements pursuant to title 11, chapter 7, article 3 and monies received pursuant to section 35-148. The board shall administer the fund monies as a continuing appropriation for the purposes provided in these sections.

D. The state historic preservation officer shall:

1. In cooperation with federal and state agencies, political subdivisions of this state and other persons, direct and conduct a comprehensive statewide survey of historic properties and historic private burial sites and historic private cemeteries and maintain inventories of historic properties and historic private burial sites and historic private cemeteries.

2. Identify and nominate eligible properties to the national register of historic places and the Arizona register of historic places and otherwise administer applications for listing historic properties on the national and state registers.

3. Administer grants-in-aid for historic preservation projects within this state.

4. Advise, assist and monitor, as appropriate, federal and state agencies and political subdivisions of this state in carrying out their historic preservation responsibilities and cooperate with federal and state agencies, political subdivisions of this state and other persons to ensure

that historic properties and historic private burial sites and historic private cemeteries are taken into consideration at all levels of planning and development.

5. Develop and make available information concerning professional methods and techniques for the preservation of historic properties and historic private burial sites and historic private cemeteries.

6. Make recommendations on the certification, classification and eligibility of historic properties and historic private burial sites and historic private cemeteries for property tax and investment tax incentives.

E. The state historic preservation officer may:

1. Collect and receive information for historic private burial sites and historic private cemeteries from public and private sources and maintain a record of the existence and location of such burial sites and cemeteries located on private or public lands in this state.

2. Assist and advise the owners of the properties on which the historic private burial sites and historic private cemeteries are located regarding the availability of tax exemptions applicable for such property.

3. Make the records available to assist in locating the families of persons buried in the historic private burial sites and historic private cemeteries.

F. For the purposes of this section, "historic private burial sites and historic private cemeteries" means places where burials or interments of human remains first occurred more than fifty years ago, that are not available for burials or interments by the public and that are not regulated under title 32, chapter 20, article 6.

Sec. 81. Section 41-821, Arizona Revised Statutes, is amended to read:

41-821. Arizona historical society; powers; officers; duties of board of directors

A. ~~An~~ THE Arizona historical society is established.

B. Subject to limitations imposed by law, the society may purchase, receive, hold, lease and sell property, real and personal, for the benefit of this state and use of the society. The society may solicit private monetary donations for program activities.

C. The society shall have a president, a treasurer and other officers who are elected by the members of the society at times and by methods the bylaws of the society prescribe. Each member of the board of directors shall have knowledge, competence, experience and interest in the fields related to the preservation and promotion of Arizona history and be a member of the society or become a member of the society before senate confirmation. The governor shall appoint the members pursuant to section 38-211 for a term of four years. The board of directors may designate from among its members an executive committee with authority to act in place of the board of directors and in accordance with directions the board of directors may give when the board of directors is not in session.

D. The board of directors is established consisting of the following members who are appointed pursuant to subsection C of this section:

1. One member from each county.

2. One member who is recommended by each of the designated historical organizations as prescribed by subsection I of this section.

3. Five members of the public.

E. The president shall preside at meetings of the society and of the board of directors. Each member of the board of directors is entitled to only one vote. The board of directors may conduct meetings telephonically.

F. The treasurer shall have custody of the monies of the society, other than legislative appropriations. The treasurer shall hold the monies of the society deposited in trust for the society's use and for the benefit of this state and shall disburse them only as prescribed by law and the bylaws of the society.

G. The board of directors shall hold in trust for this state and administer for the benefit of this state and use of the society all property acquired by the society.

H. All expenditures of legislative appropriations to the society shall be made on claims THAT ARE duly itemized, verified and approved by the executive director OF THE SOCIETY. The executive director OF THE SOCIETY shall present and file claims for payment with the director of the department of administration. The director of the department of administration shall draw the warrant on the state treasurer. The society may expend nonappropriated private funds related to program activities.

I. The board of directors shall annually designate one or more historical organizations within each county of this state that are incorporated as nonprofit organizations and that are deemed to have a functioning program of historical value based on criteria established by the board of directors. The board of directors may organize chapters made up of groups of its members who have a common interest in a geographical area of this state or a common interest in a field of history, may provide for the governance of these chapters and may grant to any chapter the power to exercise authority of the society as the board of directors may determine.

J. The board of directors, subject to legislative appropriation, may contract with certified historical organizations for services to be performed for the benefit of this state. The contracts shall be prepared by the Arizona historical society. The board of directors shall annually review the contracts to ensure fulfillment of their provisions.

K. Subject to chapter 4, article 4 of this title, the board of directors may employ an executive director and may employ or authorize the employment of other employees it considers appropriate to carry out the functions of the society. The executive director and all other employees shall have duties and exercise authority as may be prescribed by the board of directors or by the executive director acting under the direction of the board of directors.

L. The board may operate a program for the establishment and maintenance of historical markers at various locations in this state.

~~M. In cooperation with the advisory council established by section 41-827.01, the board shall operate and maintain the centennial museum that houses the mining and mineral museum and may engage in other activities related to the museum as determined by the board or the executive director. Monies received pursuant to this subsection shall be credited to an account to be used for the maintenance and operations of the centennial museum that houses the mining and mineral museum.~~

Sec. 82. Section 41-821, Arizona Revised Statutes, as amended by section 81 of this act, is amended to read:

41-821. Arizona historical society; powers; officers; duties of board of directors

A. The Arizona historical society is established.

B. Subject to limitations imposed by law, the society may purchase, receive, hold, lease and sell property, real and personal, for the benefit of this state and use of the society. The society may solicit private monetary donations for program activities.

C. The society shall have a president, a treasurer and other officers who are elected by the members of the society at times and by methods the bylaws of the society prescribe. Each member of the board of directors shall have knowledge, competence, experience and interest in the fields related to the preservation and promotion of Arizona history and be a member of the society or become a member of the society before senate confirmation. The governor shall appoint the members pursuant to section 38-211 for a term of four years. The board of directors may designate from among its members an executive committee with authority to act in place of the board of directors and in accordance with directions the board of directors may give when the board of directors is not in session.

D. The board of directors is established consisting of the following members who are appointed pursuant to subsection C of this section:

1. One member from each county.

2. One member who is recommended by each of the designated historical organizations as prescribed by subsection I of this section.

3. Five members of the public.

E. The president shall preside at meetings of the society and of the board of directors. Each member of the board of directors is entitled to only one vote. The board of directors may conduct meetings telephonically.

F. The treasurer shall have custody of the monies of the society, other than legislative appropriations. The treasurer shall hold the monies of the society deposited in trust for the society's use and for the benefit of this state and shall disburse them only as prescribed by law and the bylaws of the society.

G. The board of directors shall hold in trust for this state and administer for the benefit of this state and use of the society all property acquired by the society.

H. All expenditures of legislative appropriations to the society shall be made on claims that are duly itemized, verified and approved by the executive director of the society. The executive director of the society shall present and file claims for payment with the director of the department of administration. The director of the department of administration shall draw the warrant on the state treasurer. The society may expend nonappropriated private funds related to program activities.

I. The board of directors shall annually designate one or more historical organizations within each county of this state that are incorporated as nonprofit organizations and that are deemed to have a functioning program of historical value based on criteria established by the board of directors. The board of directors may organize chapters made up of groups of its members who have a common interest in a geographical area of this state or a common interest in a field of history, may provide for the governance of these chapters and may grant to any chapter the power to exercise authority of the society as the board of directors may determine.

J. The board of directors, subject to legislative appropriation, may contract with certified historical organizations for services to be performed for the benefit of this state. The contracts shall be prepared by the Arizona historical society. The board of directors shall annually review the contracts to ensure fulfillment of their provisions.

K. Subject to chapter 4, article 4 of this title, the board of directors may employ an executive director and may employ or authorize the employment of other employees it considers appropriate to carry out the functions of the society. The executive director and all other employees shall have duties and exercise authority as may be prescribed by the board of directors or by the executive director acting under the direction of the board of directors.

L. The board may operate a program for the establishment and maintenance of historical markers at various locations in this state.

M. IN COOPERATION WITH THE ADVISORY COUNCIL ESTABLISHED BY SECTION 41-827.01, THE BOARD SHALL OPERATE AND MAINTAIN THE CENTENNIAL MUSEUM THAT HOUSES THE MINING AND MINERAL MUSEUM AND MAY ENGAGE IN OTHER ACTIVITIES RELATED TO THE MUSEUM AS DETERMINED BY THE BOARD OR THE EXECUTIVE DIRECTOR. MONIES RECEIVED PURSUANT TO THIS SUBSECTION SHALL BE CREDITED TO AN ACCOUNT TO BE USED FOR THE MAINTENANCE AND OPERATIONS OF THE CENTENNIAL MUSEUM THAT HOUSES THE MINING AND MINERAL MUSEUM.

Sec. 83. Repeal

Section 41-827, Arizona Revised Statutes, is repealed.

Sec. 84. Title 41, chapter 4.1, article 1, Arizona Revised Statutes, is amended by adding a new section 41-827, to read:

41-827. Centennial museum; mining and mineral museum; donations

A. THE ARIZONA HISTORICAL SOCIETY SHALL OPERATE AND MAINTAIN THE CENTENNIAL MUSEUM THAT HOUSES THE MINING AND MINERAL MUSEUM FOR THE FOLLOWING PURPOSES AND WITH THE FOLLOWING AUTHORITY:

1. TO PROMOTE THE RECOGNITION AND CELEBRATION OF THE HISTORICAL, CULTURAL, ECONOMIC AND SOCIAL CONTRIBUTIONS TO THIS STATE MADE BY THE FIVE C'S OF CATTLE, COPPER, COTTON, CLIMATE AND CITRUS FOR THE OBSERVANCE OF THE CENTENNIAL OF ARIZONA AS A STATE.

2. TO MAINTAIN THE MINING AND MINERAL MUSEUM AS THE STATE DEPOSITORY FOR COLLECTING, CATALOGING AND DISPLAYING MINING ARTIFACTS AND SPECIMENS OF VARIOUS ORES, GEMSTONES, LAPIDARY MATERIALS AND OTHER VALUABLE MINERAL SPECIMENS.

3. TO APPLY FOR AND ACCEPT GRANTS, DONATIONS, GIFTS, BEQUESTS OF LEGACIES OF REAL OR PERSONAL PROPERTY AND ANY OTHER CONTRIBUTION, FINANCIAL OR OTHERWISE, FOR USE IN ACCORDANCE WITH THE DIRECTION OF THE DONOR OR, IN THE ABSENCE OF AN EXPRESS DIRECTION, TO BE DISPOSED OF AS PRESCRIBED BY THE BOARD CONSISTENT WITH THIS ARTICLE. MONIES RECEIVED PURSUANT TO THIS PARAGRAPH SHALL BE DEPOSITED IN A SEPARATE ACCOUNT OF THE MUSEUM FOR THE PURPOSES OF THE MUSEUM.

4. TO ACCEPT FROM THE FEDERAL OR STATE GOVERNMENT, ANY LOCAL GOVERNMENT OR ANY OF THEIR AGENCIES RESTRICTED AND UNRESTRICTED MONIES MADE AVAILABLE TO THIS STATE FOR THE PURPOSES OF THIS ARTICLE.

5. TO ESTABLISH AND COLLECT ENTRANCE FEES TO THE MUSEUM FOR PERSONS WHO ARE AT LEAST EIGHTEEN YEARS OF AGE.

6. TO OPERATE A RETAIL GIFT SHOP, INCLUDING THE ACQUISITION, PURCHASE AND RESALE OF MINERAL SPECIMENS AND MINERAL-RELATED ITEMS.

7. TO AUTHORIZE THE DIRECTOR TO EMPLOY A CURATOR FOR THE MUSEUM. THE CURATOR SHALL POSSESS KNOWLEDGE OR EXPERIENCE IN MINERAL COLLECTIONS OR SHALL HAVE OTHER MUSEUM EXPERIENCE.

8. TO OPERATE EDUCATIONAL PROGRAMMING FOR THE MUSEUM.

9. TO ACCEPT THE SERVICES OF VOLUNTEERS AND PROVIDE OVERSIGHT FOR THEIR ACTIVITIES.

B. THE ARIZONA HISTORICAL SOCIETY SHALL MAINTAIN THE ITEMS, ARTIFACTS AND OTHER INVENTORY RECEIVED FOR DISPLAY OR STORAGE, INCLUDING EQUIPMENT AND OUTDOOR DISPLAYS, AND MAY NOT SELL OR OTHERWISE DISPOSE OF MATERIALS RECEIVED FOR THE CENTENNIAL MUSEUM OR THE MINING AND MINERAL MUSEUM.

Sec. 85. Section 27-111, Arizona Revised Statutes, is transferred and renumbered for placement in title 41, chapter 4.1, article 1, Arizona Revised Statutes, as section 41-827.01 and, as so renumbered, is amended to read:

41-827.01. Centennial and mining and mineral museum advisory council; membership; duties; terms; compensation

A. The CENTENNIAL AND mining~~,~~ AND mineral ~~and natural resources educational~~ museum advisory council is established consisting of the

following members who, except for the members designated pursuant to paragraphs 1~~, 9~~ and ~~10~~ 2 of this subsection, are appointed by the governor:

1. THE EXECUTIVE DIRECTOR OF THE ARIZONA HISTORICAL SOCIETY OR THE DIRECTOR'S DESIGNEE.

~~1.~~ 2. The state geologist or the state geologist's designee.

~~2.~~ 3. ~~One member~~ TWO MEMBERS representing the livestock industry.

~~3.~~ 4. Two members representing the mining industry.

~~4.~~ 5. ~~One member~~ TWO MEMBERS representing the agriculture industry.

~~5.~~ 6. ~~One member~~ TWO MEMBERS representing ~~the~~ tourism ~~industry~~ AND OTHER CLIMATE-RELATED INDUSTRIES.

~~6.~~ 7. ~~One member~~ TWO MEMBERS representing the ~~timber~~ SPECIALTY CROPS industry.

~~7.~~ 8. One member who is ~~knowledgeable in gems and minerals~~ A NATURAL RESOURCES EDUCATION PROFESSIONAL.

9. ONE MEMBER REPRESENTING A NATURAL RESOURCES FOUNDATION.

~~8.~~ 10. Two members representing the public.

~~9. One member of the house of representatives who is appointed by the speaker of the house of representatives.~~

~~10. One member of the senate who is appointed by the president of the senate.~~

B. The advisory council shall:

1. Select a chairperson and vice-chairperson from among its members.

2. Hold regular meetings and additional meetings at the call of the chairperson or a majority of its members.

3. Provide oversight and advice to the ~~state geologist~~ DIRECTOR OF THE ARIZONA HISTORICAL SOCIETY regarding the CENTENNIAL MUSEUM THAT HOUSES THE mining~~,~~ AND mineral ~~and natural resources educational~~ museum and assist in promoting the mission of the CENTENNIAL museum. The ~~state geologist~~ DIRECTOR shall accept the recommendations of the advisory council if the ~~state geologist~~ DIRECTOR finds them to be practicable and in the best interest of the ~~mining, mineral and natural resources educational~~ museum.

4. Establish a subcommittee to provide assistance and advice in the areas of educational programming, the hiring and retention of a curator and oversight of mineral collections. The advisory council may establish subcommittees to act in an advisory capacity on other matters relevant to the ~~mining, mineral and natural resources educational~~ museum and the advisory council's duties.

C. The initial members appointed pursuant to subsection A, paragraphs ~~2, 3, 4, 5, 6 and 7 of this section~~ 3 THROUGH 10 shall assign themselves by lot to three, four and five year terms of office. All subsequent members serve four-year terms of office. A member may continue to serve until the member's successor is appointed and assumes office.

D. Members of the advisory council are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title

38, chapter 4, article 2. The advisory council is a public body for purposes of title 38, chapter 3, article 3.1.

Sec. 86. Section 41-1005, Arizona Revised Statutes, is amended to read:

41-1005. Exemptions

A. This chapter does not apply to any:

1. Rule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.

2. Order or rule of the Arizona game and fish commission that does the following:

(a) Opens, closes or alters seasons or establishes bag or possession limits for wildlife.

(b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

(c) Establishes a license classification, fee or application fee pursuant to title 17, chapter 3, article 2.

3. Rule relating to section 28-641 or to any rule regulating motor vehicle operation that relates to speed, parking, standing, stopping or passing enacted pursuant to title 28, chapter 3.

4. Rule concerning only the internal management of an agency that does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.

5. Rule that only establishes specific prices to be charged for particular goods or services sold by an agency.

6. Rule concerning only the physical servicing, maintenance or care of agency owned or operated facilities or property.

7. Rule or substantive policy statement concerning inmates or committed youths of a correctional or detention facility in secure custody or patients admitted to a hospital, if made by the state department of corrections, the department of juvenile corrections, the board of executive clemency or the department of health services or a facility or hospital under the jurisdiction of the state department of corrections, the department of juvenile corrections or the department of health services.

8. Form whose contents or substantive requirements are prescribed by rule or statute, and instructions for the execution or use of the form.

9. Capped fee-for-service schedule adopted by the Arizona health care cost containment system administration pursuant to title 36, chapter 29.

10. Fees prescribed by section 6-125.

11. Order of the director of water resources adopting or modifying a management plan pursuant to title 45, chapter 2, article 9.

12. Fees established under section 3-1086.

13. Fees established under sections ~~41-2144~~ 41-4010 and ~~41-2189~~ 41-4042.

14. Rule or other matter relating to agency contracts.

15. Fees established under section 32-2067 or 32-2132.

16. Rules made pursuant to section 5-111, subsection A.

17. Rules made by the Arizona state parks board concerning the operation of the Tonto natural bridge state park, the facilities located in the Tonto natural bridge state park and the entrance fees to the Tonto natural bridge state park.

18. Fees or charges established under section 41-511.05.

19. Emergency medical services protocols except as provided in section 36-2205, subsection B.

20. Fee schedules established pursuant to section 36-3409.

21. Procedures of the state transportation board as prescribed in section 28-7048.

22. Rules made by the state department of corrections.

23. Fees prescribed pursuant to section 32-1527.

24. Rules made by the department of economic security pursuant to section 46-805.

25. Schedule of fees prescribed by section 23-908.

26. Procedure that is established pursuant to title 23, chapter 6, article 6.

27. Rules, administrative policies, procedures and guidelines adopted for any purpose by the Arizona commerce authority pursuant to chapter 10 of this title if the authority provides, as appropriate under the circumstances, for notice of an opportunity for comment on the proposed rules, administrative policies, procedures and guidelines.

28. Rules made by a marketing commission or marketing committee pursuant to section 3-414.

29. Administration of public assistance program monies authorized for liabilities that are incurred for disasters declared pursuant to sections 26-303 and 35-192.

30. User charges, tolls, fares, rents, advertising and sponsorship charges, services charges or similar charges established pursuant to section 28-7705.

31. Administration and implementation of the hospital assessment pursuant to section 36-2901.08, except that the Arizona health care cost containment system administration must provide notice and an opportunity for public comment at least thirty days before establishing or implementing the administration of the assessment.

32. Rules made by the Arizona department of agriculture to adopt and implement the provisions of the federal milk ordinance as prescribed by section 3-605.

B. Notwithstanding subsection A, paragraph 21 of this section, at such time as the federal highway administration authorizes the privatization of rest areas, the state transportation board shall make rules governing the lease or license by the department of transportation to a private entity for the purposes of privatization of a rest area.

C. Coincident with the making of a final rule pursuant to an exemption from the applicability of this chapter under this section, another statute or session law, the agency shall file a copy of the rule with the secretary of state for publication pursuant to section 41-1012 and provide a copy to the council.

D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.

E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.

F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment.

Sec. 87. Section 41-1713, Arizona Revised Statutes, is amended to read:

41-1713. <u>Powers and duties of director; authentication of records</u>

A. The director of the department shall:

1. Be the administrative head of the department.

2. Subject to the merit system rules, appoint, suspend, demote, promote or dismiss all other classified employees of the department on the recommendation of their respective division superintendent. The director shall determine and furnish the law enforcement merit system council established by section 41-1830.11 with a table of organization. The superintendent of each division shall serve at the concurrent pleasure of the director and the governor.

3. Except as provided in sections 12-119, 41-1304 and 41-1304.05, employ officers and other personnel as the director deems necessary for the protection and security of the state buildings and grounds in the governmental mall described in section 41-1362, state office buildings in Tucson and persons who are on any of those properties. Department officers may make arrests and issue citations for crimes or traffic offenses and for any violation of a rule adopted under section 41-796. For the purposes of

this paragraph, security does not mean security services related to building operation and maintenance functions provided by the department of administration.

4. Make rules necessary for the operation of the department.

5. Annually submit a report of the work of the department to the governor and the legislature, or more often if requested by the governor or the legislature.

6. Appoint a deputy director with the approval of the governor.

7. Adopt an official seal that contains the words "department of public safety" encircling the seal of this state as part of its design.

8. Investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a license or registration certificate issued pursuant to title 32, chapter 26.

9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

10. Adopt and administer the breath, blood or other bodily substances test rules pursuant to title 28, chapter 4.

11. Develop procedures to exchange information with the department of transportation for any purpose related to sections 28-1324, 28-1325, 28-1326, 28-1462 and 28-3318.

12. Collaborate with the state forester in presentations to legislative committees on issues associated with wildfire prevention, suppression and emergency management as provided by section ~~37-622~~ 37-1302, subsection B.

B. The director may:

1. Issue commissions to officers of the department.

2. Request the cooperation of the utilities, communication media and public and private agencies and any sheriff or other peace officer in any county or municipality, within the limits of their respective jurisdictions when necessary, to aid and assist in the performance of any duty imposed by this chapter.

3. Cooperate with any public or private agency or person to receive or give necessary assistance and may contract for such assistance subject to legislative appropriation controls.

4. Utilize the advice of the board and cooperate with sheriffs, local police and peace officers within the state for the prevention and discovery of crimes, the apprehension of criminals and the promotion of public safety.

5. Acquire in the name of the state, either in fee or lesser estate or interest, all real or any personal property that the director considers necessary for the department's use, by purchase, donation, dedication, exchange or other lawful means. All acquisitions of personal property pursuant to this paragraph shall be made as prescribed in chapter 23 of this title unless otherwise provided by law.

6. Dispose of any property, real or personal, or any right, title or interest in the property, when the director determines that the property is no longer needed or necessary for the department's use. Disposition of personal property shall be as prescribed in chapter 23 of this title. The real property shall be sold by public auction or competitive bidding after notice published in a daily newspaper of general circulation, not less than three times, two weeks before the sale and subject to the approval of the director of the department of administration. When real property is sold, it shall not be sold for less than the appraised value as established by a competent real estate appraiser. Any monies derived from the disposal of real or personal property shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

7. Sell, lend or lease personal property directly to any state, county or local law enforcement agency. Personal property may be sold or leased at a predetermined price without competitive bidding. Any state, county or local law enforcement agency receiving personal property may not resell or lease the property to any person or organization except for educational purposes.

8. Dispose of surplus property by transferring the property to the department of administration for disposition to another state budget unit or political subdivision if the state budget unit or political subdivision is not a law enforcement agency.

9. Lease or rent personal property directly to any state law enforcement officer for the purpose of traffic safety, traffic control or other law enforcement related activity.

10. Sell for one dollar, without public bidding, the department issued handgun or shotgun to a department officer on duty related retirement pursuant to title 38, chapter 5, article 4. Any monies derived from the sale of the handgun or shotgun to the retiring department officer shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

11. Conduct state criminal history records checks for the purpose of updating and verifying the status of current licensees or registrants who have a license or certificate issued pursuant to title 32, chapter 26. The director shall investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a registration certificate issued pursuant to title 32, chapter 26.

12. Grant a maximum of two thousand eighty hours of industrial injury leave to any sworn department employee who is injured in the course of the employee's duty, any civilian department employee who is injured in the course of performing or assisting in law enforcement or hazardous duties or any civilian department employee who was injured as a sworn department employee rehired after August 9, 2001 and would have been eligible pursuant to this paragraph and whose work-related injury prevents the employee from performing the normal duties of that employee's classification. This industrial injury leave is in addition to any vacation or sick leave earned or granted to the employee and does not affect the employee's eligibility for any other benefits, including workers' compensation. The employee is not eligible for payment pursuant to section 38-615 of industrial injury leave that is granted pursuant to this paragraph. Subject to approval by the law enforcement merit system council, the director shall adopt rules and procedures regarding industrial injury leave hours granted pursuant to this paragraph.

13. Sell at current replacement cost, without public bidding, the department issued badge of authority to an officer of the department on the officer's promotion or separation from the department. Any monies derived from the sale of the badge to an officer shall be deposited, pursuant to sections 35-146 and 35-147, in the department of public safety administration fund to offset replacement costs.

C. The director and any employees of the department that the director designates in writing may use the seal adopted pursuant to subsection A, paragraph 7 of this section to fully authenticate any department records and copies of these records. These authenticated records or authenticated copies of records shall be judicially noticed and shall be received in evidence by the courts of this state without any further proof of their authenticity.

Sec. 88. Heading repeal

A. The chapter heading of title 41, chapter 16, Arizona Revised Statutes, is repealed.

B. The article heading of title 41, chapter 16, article 1, Arizona Revised Statutes, is repealed.

Sec. 89. Transfer and renumber

Title 41, chapter 16, articles 2 and 4, Arizona Revised Statutes, are transferred and renumbered for placement in title 41, chapter 37, Arizona Revised Statutes, as articles 3 and 4, respectively. The following sections are transferred and renumbered for placement in title 41, chapter 37, article 3:

Former Sections	New Sections
41-2142	41-4001
41-2151	41-4002
41-2153	41-4004
41-2154	41-4005
41-2155	41-4006

41-2156 41-4007
41-2157 41-4008
41-2143 41-4009
41-2144 41-4010

The following sections are transferred and renumbered for placement in title 41, chapter 37, article 4:

Former Sections	New Sections
41-2171	41-4021
41-2173	41-4023
41-2174	41-4024
41-2175	41-4025
41-2176	41-4026
41-2177	41-4027
41-2178	41-4028
41-2179	41-4029
41-2180	41-4030
41-2181	41-4031
41-2182	41-4032
41-2182.01	41-4033
41-2182.02	41-4034
41-2182.03	41-4035
41-2182.04	41-4036
41-2183	41-4037
41-2184	41-4038
41-2186	41-4039
41-2187	41-4040
41-2188	41-4041
41-2189	41-4042
41-2190	41-4043
41-2191	41-4044
41-2192	41-4045
41-2193	41-4046
41-2194	41-4047
41-2195	41-4048
41-2196	41-4049

Sec. 90. Repeal

Sections 41-2141, 41-2147, 41-2148, 41-2152, 41-2172, 41-2198.03 and 41-3022.13, Arizona Revised Statutes, are repealed.

Sec. 91. Section 41-4001, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4001. Definitions

In this chapter, unless the context otherwise requires:

1. "Accessory structure" means the installation, assembly, connection or construction of any one-story habitable room, storage room, patio, porch, garage, carport, awning, skirting, retaining wall, evaporative cooler,

refrigeration air conditioning system, solar system or wood decking attached to a new or used manufactured home, mobile home or residential single family factory-built building.

2. "Act" means the national manufactured home construction and safety standards act of 1974 and title VI of the housing and community development act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 95-557, 96-153 and 96-339).

3. "Alteration ~~of units~~" means the replacement, addition, modification or removal of any equipment or installation after the sale by a manufacturer to a dealer or distributor but prior to the sale by a dealer to a purchaser, which may affect compliance with the standards, construction, fire safety, occupancy, plumbing or heat-producing or electrical system. Alteration does not mean the repair or replacement of a component or appliance requiring plug-in to an electrical receptacle if the replaced item is of the same configuration and rating as the component or appliance being repaired or replaced. Alteration also does not mean the addition of an appliance requiring plug-in to an electrical receptacle if such appliance is not provided with the unit by the manufacturer and the rating of the appliance does not exceed the rating of the receptacle to which such appliance is connected.

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

5. "Broker" means any person who, on behalf of another, sells, exchanges, buys, offers or attempts to negotiate or acts as an agent for the sale or exchange of a used manufactured home or mobile home except as exempted in section ~~41-2178~~ 41-4028.

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

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

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

9. "Dealer" means any person who sells, exchanges, buys, offers or attempts to negotiate or acts as an agent for the sale or exchange of factory-built buildings, subassemblies, manufactured homes or mobile homes except as exempted in section ~~41-2178~~ 41-4028. A lease or rental agreement by which the user acquired ownership of the unit with or without additional remuneration is considered a sale under this chapter.

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

11. "Department" means the ARIZONA department of ~~fire, building and life safety~~ HOUSING.

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

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

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

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

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

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

18. "Installation" means:

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

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

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

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

~~20.~~ 19. "Installer" means any person who engages in the business of performing installations of manufactured homes, mobile homes or residential single family factory-built buildings.

~~21.~~ 20. "Installer of accessory structures" means any person who engages in the business of installing accessory structures.

~~22.~~ 21. "Listing agreement" means a document ~~which~~ THAT contains the name and address of the seller, a description of the unit to be listed and the terms ~~which include~~, INCLUDING the period of time that the agreement is in force, the price the seller is requesting for the unit, the commission to be paid to the licensee and the signatures of the sellers and the licensee who obtains the listing.

~~23.~~ 22. "Local enforcement agency" means a zoning or building department of a city, town or county or its agents.

~~24.~~ 23. "Manufactured home" means a structure built in accordance with the act.

~~25.~~ 24. "Manufacturer" means any person engaged in manufacturing, assembling or reconstructing any unit regulated by this chapter.

~~26.~~ 25. "Mobile home" means a structure built prior to June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling when connected to on-site utilities except recreational vehicles and factory-built buildings.

26. "OFFICE" MEANS THE OFFICE OF MANUFACTURED HOUSING WITHIN THE DEPARTMENT.

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

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

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

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

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

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

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

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

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

~~38.~~ 31. "~~Unit~~ Safety" means the performance of a unit in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such unit, or any unreasonable risk of death or injury to the user or to the public if such accidents occur.

~~31.~~ 32. "Salesperson" means any person who, for a salary, commission or compensation of any kind, is employed by or acts on behalf of any dealer or broker of manufactured homes, mobile homes or factory-built buildings to sell, exchange, buy, offer or attempt to negotiate or act as an agent for the sale or exchange of an interest in a manufactured home, mobile home or factory-built building.

~~32.~~ 33. "Seller" means a natural person who enters into a listing agreement with a licensed dealer or broker for the purpose of resale.

~~33.~~ 34. "Site development" means the development of an area for the installation of the unit's or units' locations, parking, surface drainage, driveways, on-site utility terminals and property lines at a proposed construction site or area.

~~34.~~ 35. "Statutory agent" means an adult person who has been a bona fide resident of this state for at least three years and has agreed to act as agent for a licensee.

~~35.~~ 36. "Subassembly" means a prefabricated wall, floor, ceiling, roof or similar combination of components.

~~36.~~ 37. "Title transfer" means a true copy of the application for title transfer ~~which~~ THAT is stamped or validated by the appropriate government agency.

~~37.~~ 38. "Unit" means a manufactured home, mobile home, factory-built building, subassembly or accessory structures.

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

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

Sec. 92. Section 41-4004, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4004. Powers and duties of the deputy director; work by unlicensed person; inspection agreement; permit

A. The deputy director under the authority and direction of the director shall administer the provisions of this article and the rules adopted by the board.

B. The deputy director shall:

1. Establish a state inspection and design approval bureau within the office.

2. Enter into reciprocity agreements and compacts with other states or private organizations ~~which~~ THAT adopt and maintain standards of construction reasonably consistent with those adopted pursuant to this article ~~upon~~ ON determining that such standards are being enforced. The deputy director may void such agreements ~~upon~~ ON determining such standards are not being maintained.

3. Authorize affixment of insignia to indicate compliance with the construction and installation requirements of this article.

4. Enter and inspect or investigate premises at reasonable times, after presentation of credentials by the deputy director or personnel of the office or under contract with the office, where units regulated by this article are manufactured, sold or installed, to determine if any person has violated this article or the rules adopted pursuant to THIS article ~~1 of this chapter~~.

5. Enter into agreements with local enforcement agencies to enforce the installation standards in their jurisdiction provided the deputy director is monitoring their performance to be consistent with the installation standards of the office.

6. If an inspection reveals that a mobile home entering this state for sale or installation is in violation of this chapter, order its use discontinued and the mobile home or any portion of the mobile home vacated. The order to vacate shall be served on the person occupying the mobile home and copies of the order shall be posted at or on each exit of the mobile home. The order to vacate shall include a reasonable period of time in which the violation can be corrected.

7. If an inspection of a new installation of any mobile home or manufactured home reveals that the natural gas or electrical connections of the installation do not conform to the installation standards promulgated pursuant to THIS article ~~1 of this chapter~~ and the nonconformance constitutes an immediate danger to life and property, the inhabitants of the home shall be notified immediately and in their absence a notice citing the violations shall be posted in a conspicuous location. The deputy director may order

that the public service corporation, municipal corporation or other entity or individual supplying the service to the unit discontinue such service. If the danger is not immediate, the deputy director shall allow at least twenty-four hours to correct the condition before ordering any discontinuation of service.

8. If construction, installation, rebuilding or any other work is performed in violation of this chapter or any rule adopted pursuant to this chapter, order the work stopped. The order to stop work shall be served on the person doing the work or on the person causing the work to be done. The person served with the order shall immediately cease the work until authorized by the office to continue.

9. Verify written complaints filed with the office by purchasers within one year ~~from~~ AFTER the date of purchase or installation of units. Complaints shall be accepted from consumers which allege violations by any dealer, broker, salesperson, installer or manufacturer of this chapter or the rules adopted pursuant to this chapter.

10. ~~Upon~~ ON verification of a complaint pursuant to paragraph 9 of this subsection, serve notice to the dealer, broker, salesperson, installer or manufacturer that such verified complaint shall be satisfied as specified by the office.

C. Any dealer, broker, salesperson, installer or manufacturer licensed by the office shall respond within thirty days to a notice served pursuant to subsection B, paragraph 10 of this section. Failure to respond is grounds for disciplinary action pursuant to section ~~41-2186~~ 41-4039.

D. If an inspection or an investigation reveals that any work that is required to be performed by a licensee was performed by an unlicensed person required to be licensed pursuant to this chapter, the deputy director, an employee or a person under contract with the office may cite the unlicensed person. The citation may be issued and served pursuant to section 13-3903. The action shall be filed in the justice court in the precinct where the unlicensed activity occurred.

E. The deputy director may enter into agreements with acceptable qualified building inspection personnel or inspection organizations for enforcement of inspection requirements provided the deputy director is monitoring their performance to be consistent with this article, rules adopted pursuant to this article and the established procedures of the office. If the deputy director determines that the person's or organization's performance is not consistent with this article, rules adopted pursuant to this article and the established procedures of the office, the person or organization may not enforce the contract and the aggrieved person shall be entitled to a refund of the consideration paid under the agreement.

F. If a mobile or manufactured home or factory-built building is installed without first obtaining an installation permit, the deputy director shall send a written notice to the purchaser specifying that a permit is required. If a permit is not obtained within thirty days ~~of~~ AFTER receipt of

the written notice, the department shall issue and serve by personal service or certified mail a citation on the purchaser. Service of the citation by certified mail is complete after forty-eight hours ~~from~~ AFTER the time of deposit in the mail. On failure of the purchaser to comply with the citation within twenty days ~~of~~ AFTER its receipt, the deputy director shall file an action in the justice court in the precinct where installation occurred for violation of this subsection.

Sec. 93. Section 41-4010, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4010. Powers and duties of board

A. The board shall:

1. Adopt rules imposing minimum construction requirements for factory-built buildings, subassemblies and components thereof that are reasonably consistent with nationally recognized and accepted publications or generally accepted manufacturing practices pertinent to the construction and safety standards for such item to be manufactured. ~~Such~~ THESE standards shall include minimum requirements for the safety and welfare of the public.

2. Adopt rules imposing requirements for body and frame design and construction and installation of plumbing, heating and electrical systems for manufactured homes that are consistent with the rules and regulations for construction and safety standards adopted by the United States department of housing and urban development.

3. Adopt rules relating to plan approvals as to requirements for the design, construction, alteration, reconstruction and installation of units or accessory structures as deemed necessary by the board to carry out this chapter.

4. Establish a schedule of fees, payable by persons, licensees or owners of units regulated by this chapter, for inspections, licenses, permits, plan reviews, administrative functions and insignia so that the total annual income derived from such fees will not be less than ninety-five ~~per cent~~ PERCENT and not more than one hundred five ~~per cent~~ PERCENT of the anticipated expenditures for the operation of the office of manufactured housing.

5. Adopt rules relating to the inspection throughout the state by the ~~deputy~~ director ~~of the office of manufactured housing~~ of the installation of manufactured homes, mobile homes, factory-built buildings and accessory structures included as part of a sales contract for a new or used mobile or manufactured home or part of an agreement to move a new or used mobile or manufactured home.

6. Establish and maintain licensing standards and bonding requirements for all manufacturers of manufactured homes, factory-built buildings and subassemblies regulated pursuant to this chapter.

7. Establish and maintain licensing standards and bonding requirements for all dealers and brokers of manufactured homes, mobile homes,

factory-built buildings and subassemblies thereof who sell or arrange the sale of such products within this state.

8. Establish and maintain licensing standards and bonding requirements for all installers of manufactured homes, mobile homes and accessory structures and certified standards for all persons who repair these homes and structures under warranties and who are not employees of the manufacturer.

9. Establish and maintain licensing standards for all salespersons of manufactured homes, mobile homes and factory-built buildings. These standards shall not include educational requirements.

10. Adopt rules consistent with the United States department of housing and urban development procedural and enforcement regulations and enter into such contracts necessary to administer the federal manufactured home regulations.

11. Adopt rules imposing minimum fire and life safety requirements in the categories of fire detection equipment, flame spread for gas furnace and water heater compartments, egress windows, electrical system and gas system for mobile homes entering this state.

12. Adopt rules for inspections and permits for minimum fire and life safety requirements and establish fees for such inspections and permits for mobile homes entering this state.

13. Adopt such other rules as the board deems necessary for the director to carry out this chapter and, to the extent not authorized by other provisions of this section, adopt rules as necessary to interpret, clarify, administer or enforce this article and ~~articles 2 and~~ ARTICLE 4 of this chapter.

14. Adopt rules relating to the installation of manufactured homes, mobile homes, factory-built buildings and accessory structures included as part of a sales contract for a new or used mobile or manufactured home or part of an agreement to move a new or used mobile or manufactured home. This paragraph does not apply to:

(a) Single wide factory-built buildings that are used for construction project office purposes and that are not used by the public.

(b) Storage buildings of less than one hundred sixty-eight square feet that are not used by the public.

(c) Equipment buildings that are not used by the public.

15. Adopt rules relating to acceptable workmanship standards.

16. Adopt rules relating to issuing permits to licensees, owners of units or other persons for the installation of manufactured homes, mobile homes, factory-built buildings and accessory structures.

17. Adopt rules including a requirement that a permit shall be obtained before the installation of a mobile or manufactured home.

18. Establish standards for the permanent foundation of a manufactured home, mobile home or factory-built building.

B. In adopting rules pursuant to subsection A, paragraph 3 OF THIS SECTION, the board shall consider for adoption any amendments to the codes

and standards referred to in subsection A, paragraphs 1 and 2 OF THIS SECTION. If the board adopts the amendments to such codes and standards, the director shall notify the manufacturers licensed pursuant to article 4 of this chapter ninety or more days prior to the effective date of such amendments.

C. Chapter 6 of this title does not apply to the setting of fees under subsection A, paragraph 4 OF THIS SECTION.

D. Rules adopted pursuant to subsection A, paragraph 14 OF THIS SECTION shall be standard throughout this state and may be enforced by the local enforcement agencies ~~upon~~ ON installation to ensure a standard of safety. The board may make an exception to the standard if, on petition by a local jurisdiction participating in the installation inspection program, local conditions justify the exemption or it is necessary to protect the health and safety of the public. On its own motion, the board may revise or repeal any exception.

Sec. 94. Section 41-4021, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4021. Office of administration; purpose

The purpose of the office of administration within the ARIZONA department of ~~fire, building and life safety~~ HOUSING is to provide the administrative services necessary to facilitate the operation of the office of manufactured housing ~~and the office of state fire marshal~~, including procedures to ensure compliance with laws and rules relating to ~~these offices~~ THIS OFFICE.

Sec. 95. Section 41-4024, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4024. Budget; disposition of revenues

A. The ~~deputy~~ director shall annually prepare and submit a budget estimate and appropriation request for the department pursuant to title 35, chapter 1.

B. At least once each week the ~~deputy~~ director shall deposit, pursuant to sections 35-146 and 35-147, all monies received by the department pursuant to this ~~chapter~~ ARTICLE in the state general fund.

Sec. 96. Section 41-4025, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4025. Qualifications and requirements for license

A. A manufacturer, dealer, broker, salesperson or installer license shall be issued by the ~~deputy~~ director.

B. The ~~deputy~~ director shall:

1. Classify and qualify applicants for a license.

2. Conduct such investigations as the ~~deputy~~ director deems necessary.

3. Establish and administer written examinations for the applicable class license.

C. The ~~deputy~~ director may establish experience requirements for installers of manufactured homes, mobile homes and accessory structures.

D. To obtain a license pursuant to this article, the applicant shall submit to the ~~deputy~~ director a notarized application on forms prescribed by the office together with the required license fee. Such application shall contain the following information:

1. A designation of the classification of license sought by the applicant.

2. The name, birth date and address of an individual applicant.

3. If the applicant is a partnership, the name, birth date and address of all partners with a designation of any limited partners.

4. If the applicant is a corporation, association or other organization, the names, birth dates and addresses of the president, vice-president, secretary and treasurer.

5. For all licenses, except those for salespersons, the name, birth date and address of the qualifying party. The qualifying party must reside within the state of the principal place of the licensee's business and shall not act in the capacity of a qualifying party for more than one license in the same classification.

6. If the applicant is a corporation, evidence that the corporation is in good standing with the Arizona corporation commission.

7. Whether the owner, if the applicant is a sole proprietorship, all partners, if the applicant is a partnership, all officers, if the applicant is a corporation or other type of association, the general partner, if the applicant is a limited partnership, or the individual, if the applicant is a salesperson, has ever been charged or convicted of a felony, or has ever received an adverse final decision in a civil action alleging fraud or misrepresentation, and, if so, the nature of the action and the final disposition of the case.

8. For corporations, the name and address of a statutory agent appointed by the licensee on whom legal notices, summonses or other processes may be served, which service shall be deemed personal service ~~upon~~ ON the licensee.

9. If it is an application for a salesperson's license, the applicant shall designate an employing dealer or broker and the application shall include the signature of the qualifying party or the qualifying party's designee.

10. Other information as the ~~deputy~~ director may deem necessary.

E. Prior to the issuance of any license pursuant to this article, the owner, if the applicant is a sole proprietorship, all partners, if the applicant is a partnership, the general partner, if the applicant is a limited partnership, the president, vice-president, secretary, and treasurer, if the applicant is a corporation or other type of association, the individual, if the applicant is a salesperson, and the qualifying party shall be of good character and reputation and shall submit a fingerprint card for background analysis. Lack of good character and reputation may be established by showing that such person has committed any act which, if

committed by any licensee, would be grounds for suspension or revocation of such license.

F. To obtain a license pursuant to this article, a person shall not have had a license refused or revoked within one year prior to the date of the application nor have engaged in the business without first having been licensed nor shall a person act as a licensee between the filing of the application and actual issuance of the license. ~~As used in~~ FOR THE PURPOSES OF this subsection, "person" means an applicant, an individual, a qualifying party, any partner of a partnership or any officer, director, qualifying party or owner of forty ~~per cent~~ PERCENT or more of the stock or beneficial interest of a corporation.

G. Prior to issuance of a dealer, broker or installer license, the qualifying party, in addition to meeting the requirements provided in subsection D OF THIS SECTION, shall successfully show, by written examination within three attempts, qualification in the kind of work or business in which the applicant proposes to engage.

H. No license shall be issued to a minor or to any partnership in which one of the partners is a minor.

I. Every salesperson who holds an active license shall maintain on file with the office a current residence address and shall notify the office within five working days of any change of address, of any discontinued employment, and where, if anywhere, the salesperson is currently working.

J. The license of a salesperson who is no longer employed by the dealer of record is deemed inactive, and the salesperson shall turn in the license to the office until the salesperson is employed by another dealer and a written notification of the change has been received by the office. On notification, the office shall return the license to the salesperson.

Sec. 97. Section 41-4026, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4026. Issuance of a license

A. ~~Upon~~ ON receipt by the ~~deputy~~ director of the nonrefundable fee required by this article and an application furnishing complete information as required by the ~~deputy~~ director and ~~upon~~ ON the applicant taking and passing the applicable examination required by section ~~41-2175~~ 41-4025, the ~~deputy~~ director shall issue a license to the applicant, pending completion of the background analysis, permitting the applicant to engage in business pursuant to this article for one year.

B. Pursuant to the agreement for conditional license, the applicant shall agree to a revocation of the conditional license if it appears, on review of the background analysis, that the applicant has misrepresented its background. The applicant shall also agree to waive any right the applicant may have to a stay of the effectiveness of any order of revocation of the conditional license, the right to notice of hearing and the right to a hearing before the revocation of the license.

C. The agreement for conditional license does not prohibit the applicant from making a written demand for a hearing on the order of revocation pursuant to chapter 6, article 10 of this title. Pending the hearing, the applicant shall not continue to transact business under the conditional license.

D. On completion of the background analysis, the director may issue either a permanent or a probationary license, depending on the results of the background analysis.

E. Licenses issued pursuant to this article and any annual renewals shall be signed by the ~~deputy~~ director or the ~~deputy~~ director's designated representative and by the licensee. The license is nontransferable and satisfactory evidence of the possession shall be exhibited by the licensee ~~upon~~ ON demand. The license held by the licensee shall be posted in a conspicuous place on the premises where any business is being performed. A license card shall be carried by the person doing the work away from the premises where the license is posted. The license number shall be written on any contract entered into by the licensee.

F. If an application for a license is denied or if the applicant fails to supply complete and correct required information within ninety days or fails to pass the required written examination within ninety days after filing or if an application for renewal is not completed by the expiration date or if any applicant requiring examination after having been notified by letter of the date to appear fails to appear for the examination within ninety days from the date of filing the application, the fee paid by the applicant ~~upon~~ ON filing the application is forfeited and the application is terminated. A reapplication for a license shall be accompanied by the fee prescribed by the ~~deputy~~ director.

G. If, before the issuance of the license, information brought to the attention of the ~~deputy~~ director concerning the qualifications of the applicant is such that in the ~~deputy~~ director's discretion it may be proper to deny the license, the ~~deputy~~ director may notify the applicant that the license is denied and that the applicant may request in writing a hearing if the applicant so desires.

H. The licensee may not engage in the sale of units, either new or used, unless the licensee maintains an office where the records are available for inspection and the location is listed on the license application as the principal place of business.

Sec. 98. Section 41-4027, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4027. Renewal of licenses; license status

A. Licenses issued under this article shall expire one year ~~from~~ AFTER the date of issuance. An application for renewal of any current license with evidence of a valid bond or cash deposit when accompanied by the required fee and received by the ~~deputy~~ director before the expiration date shall

authorize the licensee to operate until actual issuance of the renewal license for the ensuing year.

B. A license ~~which~~ THAT expires may be reactivated and renewed within one year of its expiration by filing the required renewal application, signed by the licensee or qualifying party for a business licensee, evidence of a valid bond and payment of a fee of one hundred twenty-five ~~per cent~~ PERCENT of the amount required for that license class. When a license has been expired for more than one year for failure to renew, a new application for license shall be made and a new license issued pursuant to this article. If the license has been expired for more than one year, the fee required shall be two hundred ~~per cent~~ PERCENT of the fee required for that license class.

C. An applicant for renewal of a license issued pursuant to this article shall not be required to take a written examination.

D. A license is not transferable. Any change in the legal entity of a licensee that includes any change in the ownership of a sole proprietorship or a partner of a partnership or in the creation of a new corporate entity requires a new license.

E. A license may be cancelled on the written request of the owner of a sole proprietorship, a partner of a partnership or, in the case of a corporation, any person with written evidence of his authority to request the cancellation. A salesperson's license may be cancelled on the written request of the salesperson. The director may refuse to accept voluntary cancellation of a license if good cause may exist for disciplinary action.

F. If possible, the licensee shall notify the director in writing of the disassociation of a qualifying party before the action, and in any event no later than five business days after the action. The licensee shall also notify the director as to who will be temporarily responsible for the operation of the business. The absence of a written designated qualifying party for sixty days is grounds for suspension of the license. If a person ceases to be the qualifying party for a licensee, the person shall notify the office within five days.

G. An application for a new qualifying party shall include the completion of the prescribed forms, fingerprints and testing, if applicable, in accordance with sections ~~41-2175~~ 41-4025 and ~~41-2176~~ 41-4026.

H. A licensee may request the ~~deputy~~ director, on forms prescribed by the ~~deputy~~ director, to inactivate the licensee's current license for a period of not more than two years. In the absence of any disciplinary proceeding or disciplinary suspension and on payment of reasonable fees determined by the board the ~~deputy~~ director may issue an inactive license certificate to the licensee if the licensee has turned in his license. The inactive license certificate may consist of an endorsement on the licensee's license stating that the license is inactive. The ~~deputy~~ director may not refund any of the license renewal fee which a licensee paid before requesting inactive status. A licensee's license which is not suspended or revoked and is inactive shall be reactivated as an active license on payment of the

current year's renewal fee and thirty days' written notice to the ~~deputy~~ director. No examination may be required to reactivate an inactive license. If the license is not reactivated within two years, a new application for licensing must be made and the new license issued pursuant to this chapter. No licensee may inactivate the license more than once. The holder of an inactive license shall not work as a licensee until his license is reactivated as an active license. The inactive status of a licensee's license does not bar any disciplinary action by the ~~deputy~~ director against a licensee for any of the grounds stated in this chapter.

Sec. 99. Section 41-4029, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4029. Bonds and cash deposits; requirements; fund

A. Before granting an original license, the ~~deputy~~ director shall require of the applicant, except an applicant for salesperson or broker of manufactured homes, mobile homes or factory-built buildings designed for use as residential buildings, a surety bond in a form acceptable to the ~~deputy~~ director or a cash deposit pursuant to this section. A separate bond or cash deposit shall be required for each branch location of any licensed manufacturer or installer. No license shall be renewed unless the applicant's surety bond or cash deposit is in full force and effect. A change of location of a licensee's principal place of business requires a rider or endorsement to the existing bond and payment of the administrative function fee. The rider or endorsement shall indicate the new location and acceptance of claims for the previous location.

B. The bonds or cash deposit shall be in amounts prescribed by the board.

C. The surety bonds shall be executed by the applicant as principal with a corporation duly authorized to transact surety business in this state. Evidence of a surety bond shall be submitted to the ~~deputy~~ director in a form prescribed by the ~~deputy~~ director. The applicant may in the alternative establish a cash deposit in the amount of the bond with the state treasurer pursuant to the rules adopted by the ~~deputy~~ director. The bond funds shall be deposited, pursuant to sections 35-146 and 35-147, in a special account to be known as the consumer recovery fund. The state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. Such cash deposits may be withdrawn, if there are no outstanding claims against them, two years after the termination of the license in connection with which the cash is deposited. The cash deposit may be withdrawn two years after the filing of a commercial surety bond as a replacement to the cash deposit.

D. The bond or deposit required by this section shall be in favor of the state for the benefit of any person covered by this subsection. The bond or deposit shall be subject to claims by:

1. Any consumer of a unit regulated by this chapter who enters into an agreement with any licensee, except a salesperson or broker of manufactured

homes, mobile homes or factory-built buildings designed for use as residential buildings, and is damaged by the failure of the principal to perform a sales or installation agreement or to perform repairs under a warranty.

2. The ~~deputy~~ director, if the principal fails to pay any of the fees or costs which the principal owes the office.

E. Any person claiming against the bond or deposit, except the department, may maintain an action against the principal and the surety. Such principal's bond or deposit may be sued ~~upon~~ ON in successive actions until the full amount is exhausted. No suit may be commenced on the bond or deposit after the expiration of two years after the date of sale or installation of the unit, whichever is later, on which the suit is based, except that the time for purposes of the claim for fraud shall be measured pursuant to section 12-543.

F. The surety bond or deposit shall be continuous in form and shall contain the condition that the total aggregate liability of the surety or depository for all claims shall be limited to the face amount of the bond or depository irrespective of the number of years the bond or depository is in force. If the corporate surety desires to make payment without awaiting court action, the amount of the bond filed shall be reduced to the extent of any payment or payments made by the corporate surety in good faith. Any such payments shall be based on priority of written claims received by the corporate surety prior to court action. The surety bond or depository shall be continuous as long as the corporate surety or the depositor maintains the face amount of the bond or deposit. Failure to maintain the face amount of the bond or deposit constitutes a suspension of such license until the face amount of the bond or deposit is restored.

G. The corporate surety shall notify the ~~deputy~~ director of the intent of the principal to cancel the bond and of any monies paid from the bond. ~~Upon~~ ON receipt by the ~~deputy~~ director of notice to cancel a bond by any corporate surety, the ~~deputy~~ director shall immediately notify the licensee who is the principal on the bond of the effective date of cancellation of the bond and that the licensee shall furnish a like bond or make cash deposit on or before the effective date of cancellation or the license shall be suspended. Notice to the licensee shall be by certified mail postage fully prepaid, addressed to the licensee's last address of record with the office. The license shall be suspended on the date the bond is canceled unless a replacement bond or cash deposit in lieu of a bond is on file with the ~~deputy~~ director.

H. The director and ~~deputy~~ director shall have no personal liability for the performance of duties relating to the bond and cash deposit requirements of this section if such duties are performed in good faith.

Sec. 100. Section 41-4030, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4030. Trust and escrow requirements; rules; exemptions

A. Beginning July 1, 2012, each dealer or broker licensed pursuant to this article shall establish an independent escrow account with an independent financial institution or escrow agent authorized to handle such an account in this state as prescribed by title 6, chapter 7 or 8, for each transaction involving:

1. A new manufactured home.

2. A new factory-built building designed for use as a residential dwelling.

3. A manufactured home, mobile home or factory-built building designed for use as a residential dwelling that is previously owned and that has a purchase price of fifty thousand dollars or more.

B. For the purposes of subsection A of this section, a financial institution or escrow agent is independent if the individual or entity is not controlled by the licensee, a family member of the licensee or a business affiliated with the licensee and the licensee, family member or business affiliate does not have a majority interest in the financial institution or escrow agent.

C. The owner of a mobile home park who also is or owns a dealership licensed pursuant to this article to sell new units may sell a new manufactured home or a new factory-built building designed for use as a residential dwelling as a licensee without complying with subsection A of this section if all of the following apply:

1. The home will be sited in a mobile home park that is owned by the park owner.

2. At the time of the sale, the park owner has on file at the office of manufactured housing the name and address of all mobile home parks owned by the park owner, the name, address and license number of the licensed dealership and documentation showing to the satisfaction of the office of manufactured housing that the park owner either holds the license, owns a majority interest in the license or is controlled by an entity that holds a controlling interest in the license.

3. At the time of the sale, the licensed dealership has posted with the office of manufactured housing a dealer bond in an amount of at least one hundred thousand dollars in a form satisfactory to the office of manufactured housing covering sales by parks sharing common control.

D. Each dealer or broker who is licensed pursuant to this article and who sells manufactured homes, mobile homes or factory-built buildings designed for use as residential dwellings or a manufactured home, mobile home or factory-built building designed for use as a residential dwelling that is previously owned and that has a purchase price of less than fifty thousand dollars shall maintain a trust account or an escrow account with a financial institution or escrow agent located in this state and shall deposit all

earnest money received for the sale of manufactured homes, mobile homes or factory-built buildings designed for use as residential dwellings in such account. The department shall conduct an audit of each dealer's or broker's trust or escrow account, including any transactions with an independent escrow account, at least once every two years. Beginning July 1, 2012, a purchaser under this subsection may request that the dealer or broker establish an independent escrow account and if such a request is made in writing no later than the time the purchase contract is signed, and the seller consents, the dealer or broker shall comply with this subsection by complying with subsection A of this section. A licensee handling a transaction under this subsection shall disclose to the purchaser, in writing and before or at the time the purchaser signs the purchase contract, that the purchaser may request in writing the use of an independent escrow account, and that the transaction will otherwise be handled through a trust account controlled by the licensee.

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

F. The dealer or broker, in writing, shall authorize the depository to release any and all information relative to trust or escrow accounts to the ~~deputy~~ director or the ~~deputy~~ director's agent, employee or deputy.

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

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

I. The terms or instructions for any escrow account opened under subsection A or D of this section are deemed to be and enforceable as part of the purchase contract. All parties to the purchase contract and the licensee shall sign the terms and instructions. If practicable, the escrow terms or instructions shall be included in the purchase contract or stated in an addendum to the purchase contract. The licensee shall provide a copy of the purchase contract to the escrow agent even if the escrow terms or instructions are contained in a separate document. The licensee shall promptly provide the escrow account information to all parties to the purchase contract once the account is opened.

J. At a minimum, the escrow terms or instructions shall contain:

1. Identification of the escrow agent with information containing at least the name, address and telephone number of the agent.

2. All conditions or requirements that affect or pertain to closing the escrow account and disbursement of the monies in the account.

3. Any conditions or requirements where monies are to be disbursed from the escrow account in advance of the account being closed.

4. Any conditions or requirements where additional monies or documents must be deposited with an escrow agent after the escrow account is opened.

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

L. Every deposit into a trust account shall be made with a deposit slip that identifies each transaction as follows:

1. The amount of deposit.

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

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

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

1. The amount received.

2. From whom the money was received.

3. The date of receipt.

4. The place of deposit.

5. The date of deposit.

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

7. When the transaction has been completed.

8. The date and payment for all goods and services the dealer has contracted to provide.

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

1. An application for title transfer has been made.

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

O. On completion pursuant to subsection N of this section, the earnest money deposit shall be conveyed to the lending institution or the dealer, broker, purchaser, seller, manufacturer or lienholder, whichever is applicable.

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

Q. The deposits referred to in this section shall not be used for any purpose other than the transaction for which they were provided.

R. Notwithstanding any other provision of this section and except that this subsection does not apply to an independent escrow account established pursuant to subsection A of this section, before an event listed under subsection N of this section is completed, a licensed dealer may release trust account earnest monies to pay for flooring or inventory for the unit that is the subject of the transaction for which the earnest monies were

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

1. The payment is made no more than ten business days before the completion date pursuant to subsection N of this section.

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

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

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

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

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

1. ~~Record keeping~~ RECORDKEEPING.
2. Administration.
3. Service fees or charges.
4. Deposits.
5. Advances or payments out of trust and escrow accounts.
6. Closing or termination of sales transactions.
7. Auditing or investigation of trust or escrow account complaints.

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

Sec. 101. Section 41-4031, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4031. Complaints; citation; failure to respond; hearing

A. The office shall issue a citation ~~upon~~ ON failure to respond or ~~upon~~ ON the verified written complaint of a purchaser pursuant to section ~~41-2153~~ 41-4004, subsection B, paragraph 9 and shall issue a citation directing the licensee, within ten days after service of the citation ~~upon~~ ON the licensee, to appear by filing with the office a verified answer to the complaint showing cause why the license should not be revoked or suspended. The ~~deputy~~ director, after conducting an investigation pursuant to section ~~41-2186~~ 41-4039, may issue a citation on the ~~deputy~~ director's own initiative.

B. Failure of the licensee to answer shall be deemed an admission by the licensee of the cited complaint or failure to respond as charged in the citation, and the office may suspend or revoke such license without a hearing.

C. A person served with a citation or with a cease and desist order by the state fire marshal may request a hearing pursuant to chapter 6, article 10 of this title.

Sec. 102. Section 41-4032, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4032. Cosmetic complaints; process; walk-through; definition

A. Notwithstanding sections ~~41-2153~~ 41-4004 and ~~41-2181~~ 41-4031, a purchaser of a new manufactured home shall file a complaint concerning cosmetic, superficial or minor matters relating to the manufactured home no more than one hundred twenty days after the date of installation or the designated cosmetic complaint date prescribed in section ~~41-2182.01~~ 41-4033.

B. The ~~deputy~~ director shall not process or verify a complaint described in subsection A of this section if the complaint is filed more than one hundred twenty days after the date of installation or the designated cosmetic complaint date prescribed in section ~~41-2182.01~~ 41-4033, unless the ~~deputy~~ director finds, after written notice to the interested parties, that the complaint involves major or structural matters relating to the manufactured home.

C. The board shall adopt rules establishing procedures for complaints filed pursuant to this section, including rules for determining the date of installation of a new manufactured home.

D. This section does not apply if, within thirty days after the date of installation or the designated cosmetic complaint date prescribed in section ~~41-2182.01~~ 41-4033, the manufacturer or dealer of the new manufactured home has not conducted a walk-through of the home with the purchaser or the purchaser's representative and has not completed a walk-through checklist on a form approved by the board. The walk-through checklist form shall contain a notice to the purchaser, located immediately above the signature lines and in bold print, advising the purchaser that all cosmetic, superficial or minor matters found during the walk-through should be listed on the form and that the complaint filing period for cosmetic, superficial or minor matters is one hundred twenty days from either the date of installation of the home or the designated cosmetic complaint date prescribed in section ~~41-2182.01~~ 41-4033.

E. For the purposes of this section, "cosmetic, superficial or minor matters" means any defect or condition that renders a part of the home not fit for its intended, expected or ordinary use or appearance, including defects or conditions that involve the appearance of the home's structural, electrical, plumbing, mechanical or gas systems. Cosmetic, superficial or minor matters do not include defects or conditions involving the performance of the home's structural, electrical, plumbing, mechanical or gas systems.

Sec. 103. Section 41-4033, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4033. Purchaser designation; cosmetic complaint date

A. At the time of execution of the purchase contract a purchaser of a new manufactured home may designate the beginning date for the one hundred twenty day cosmetic complaint period.

B. The purchaser may not take possession of the home or move into the home before the designated beginning date for the cosmetic complaint period unless the dealer consents in writing.

C. The purchaser may change the designated beginning date for the cosmetic complaint period by sending a written notice by certified mail to the dealer who is listed on the purchase contract. The purchaser shall mail the written notice before the designated beginning date.

D. If the purchaser designates a beginning date for the cosmetic complaint period, the dealer may schedule the walk-through pursuant to section ~~41-2182~~ 41-4032 at any time within thirty days after the designated beginning date. The dealer shall notify the purchaser by certified mail of the scheduled walk-through date.

E. If a dealer uses a form of purchase contract that does not notify the customer of the right to designate a cosmetic complaint date and does not include a space for this designation, the one hundred twenty day complaint period prescribed in section ~~41-2182~~ 41-4032 does not begin until the purchaser physically occupies the home with the purpose of residing in the home for more than thirty days.

Sec. 104. Section 41-4034, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4034. Drywall cracks; repair process; supplied paint

A. Drywall cracks that are a result of structural problems are not cosmetic, superficial or minor matters as defined in section ~~41-2182~~ 41-4032. Drywall cracks may be addressed in conjunction with the correction of the structural problem.

B. Drywall cracks that are not the result of structural problems are considered cosmetic, superficial or minor matters as defined in section ~~41-2182~~ 41-4032. Drywall cracks that are found during the walk-through may be included in the cosmetic complaint process and repaired by the dealer or manufacturer at the same time as all other cosmetic complaints. The purchaser may seek repair of or may complain about additional drywall cracks once before the end of the twelve month regular complaint period, and the dealer or manufacturer shall make one repair.

C. At the time of installation or at the time of the walk-through, the dealer or manufacturer shall supply the purchaser with two gallons of paint to match each interior color from the manufacturer's order.

Sec. 105. Section 41-4035, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4035. Walk-through and complaint process

A. The purchaser and the dealer or manufacturer of the manufactured home shall schedule the walk-through pursuant to section ~~41-2182~~ 41-4032 by mutual agreement to the greatest extent possible. If the parties do not agree, the dealer or manufacturer may schedule the walk-through between fifteen and thirty days after the date of installation. The dealer or manufacturer shall notify the purchaser by certified mail of the time of the walk-through.

B. If a dealer or manufacturer schedules a walk-through without mutual agreement with the purchaser or pursuant to section ~~41-2182.01~~ 41-4033, the purchaser and the dealer or manufacturer may mutually agree to a revised date before the scheduled date. The revised date shall be no more than sixty days after the date of installation or the designated beginning date for the cosmetic complaint period.

C. If a purchaser or the purchaser's representative fails or refuses to attend a scheduled walk-through, the dealer or manufacturer shall note the purchaser's failure to attend on the checklist form and proceed with the walk-through. The dealer or manufacturer shall send a copy of the completed checklist form by certified mail to the purchaser within five business days after the walk-through date.

Sec. 106. Section 41-4036, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4036. Repairs; complaints

A. Within ninety days after the end of the cosmetic complaint period the dealer or manufacturer shall repair or replace cosmetic, superficial or minor matters discovered on the walk-through unless an item necessary for the repair or replacement is unavailable and written notice of that fact is provided to the purchaser.

B. For cosmetic, superficial or minor matters found after the walk-through and before the ~~one hundred twenty day~~ ONE-HUNDRED-TWENTY-DAY deadline, the purchaser shall notify the dealer in writing before a complaint may be filed, except if there are extenuating circumstances, such as serious illness, incapacity or death. The dealer or manufacturer shall replace or repair these items within ninety days after the end of the cosmetic complaint period.

C. The board shall adopt rules establishing procedures for scheduling repair and replacement of complaint items.

D. The purchaser may file a complaint with the office of manufactured housing on matters covered by this section if the complaint is filed within the ~~twelve month~~ TWELVE-MONTH period prescribed by sections ~~41-2153~~ 41-4004 and ~~41-2181~~ 41-4031 and the licensee failed to repair or replace the items within the repair and replacement period or the repair or replacement does not comply with adopted codes or workmanship standards.

Sec. 107. Section 41-4039, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4039. Grounds for disciplinary action

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

1. Failure in any material respect to comply with this article or article ~~2~~ 3 of this chapter.

2. Violation of any rule that is adopted by the board and that pertains to the construction of any unit or of any rule that is adopted by the board and that is necessary to effectively carry out the intent of this article, article ~~2~~ 3 of this chapter or the laws of the United States or of this state.

3. Misrepresentation of a material fact by the applicant in obtaining a license.

4. Aiding or abetting an unlicensed person or knowingly combining or conspiring with an unlicensed person to evade this article or article ~~2~~ 3 of this chapter, or allowing one's license to be used by an unlicensed person or acting as an agent, partner or associate of an unlicensed person with intent to evade this article or article ~~2~~ 3 of this chapter.

5. Conviction of a felony.

6. The doing of a wrongful or fraudulent act by a licensee that relates to this article or article ~~2~~ 3 of this chapter, including, beginning July 1, 2012, failure to comply with section ~~41-2180~~ 41-4030, subsection A.

7. Departure from or disregard of any code or any rule adopted by the board.

8. Failure to disclose or subsequent discovery by the office of facts that, if known at the time of issuance of a license or the renewal of a license, would have been grounds to deny the issuance or renewal of a license.

9. Knowingly entering into a contract with a person not duly licensed in the required classification for work to be performed for which a license is required.

10. Acting in the capacity of a licensee under any license issued under this article in a name other than as set forth on the license.

11. Acting as a licensee while the license is under suspension or in any other invalid status.

12. Failure to respond relative to a verified complaint after notice of such complaint.

13. Violation of title 28, chapter 10 or rules adopted pursuant to title 28, chapter 10, except for the licensing requirements of sections 28-4334, 28-4335, 28-4361, 28-4362, 28-4364, 28-4401 and 28-4402.

14. False, misleading or deceptive sales practices by a licensee in the sale or offer of sale of any unit regulated by this article or article ~~2~~ 3 of this chapter.

15. Failure to remit the consumer recovery fund fee pursuant to section ~~41-2189~~ 41-4042.

16. Acting as a salesperson while not employed by a dealer or broker.

17. As a salesperson, representing or attempting to represent a dealer or broker other than by whom the salesperson is employed.

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

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

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

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

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

Sec. 108. Section 41-4040, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4040. <u>Reports by dealers or brokers to department of revenue and county assessor</u>

A. Every dealer or broker~~, as defined in section 41-2142,~~ who acquires or sells a previously titled manufactured home or mobile home, as defined in section 42-19151, shall submit a written report of all such acquisitions and sales to the department of revenue and to the county assessor of the county where such dealer or broker is located. Such report shall be submitted by the fifteenth day of each month for the period of the previous calendar month and shall include:

1. The manufacturer, brand name or model, size, factory list price, total selling price and serial number of such manufactured home or mobile home.

2. The name and address of the person from whom such manufactured home or mobile home was acquired and the last previous location of such manufactured home or mobile home.

3. The name and address of the person to whom such manufactured home or mobile home was sold.

4. The new location of such manufactured home or mobile home if such location is known to the dealer or broker.

B. Every dealer and broker shall comply with the reporting provisions of this section. The information required in subsection A of this section shall be forwarded by dealers and brokers of manufactured homes and factory-built buildings to the office by the fifteenth day of the month after the reporting period or a statement that no sales have occurred for that month.

C. Each dealer and broker of manufactured homes shall also make and maintain the records and make the reports required pursuant to this article.

D. Before the sale of a manufactured home each dealer or broker shall convey notice in writing to the prospective buyer that the utility service facilities for manufactured home spaces are not standardized and compatibility between a chosen manufactured home space and a manufactured home to be purchased is the buyer's responsibility. Before the sale of a used manufactured home each dealer or broker shall notify the prospective buyer in writing of the existence and amount of any tax lien on record against the unit.

E. The dealer or broker shall provide a notification form to the buyer, as approved by the board, part of which shall contain the buyer's signature and other information to be completed by the dealer or broker which when forwarded to the office constitutes compliance with the reporting requirements of subsection B of this section.

Sec. 109. Section 41-4042, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4042. Funding and assessments

A. A dealer or broker of manufactured homes, mobile homes or factory-built buildings designed for use as residential dwellings shall pay, in addition to the license or renewal fee, a fee established by the board of not to exceed fifty dollars for each unit that is sold and that is subject to section ~~41-2180~~ 41-4030, subsection D, for deposit into the consumer recovery fund. The fee is payable to the office by the fifteenth day of the month following the month in which the sale is consummated.

B. Chapter 6 of this title does not apply to the setting of fees under this section.

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

education in succeeding fiscal years and do not revert to the consumer recovery fund.

Sec. 110. Section 41-4043, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4043. Recovery from fund; claim against licensee; subrogation; appeal; statute of limitations

A. If any consumer who is buying or selling the consumer's home uses the services of a licensed dealer or broker of manufactured homes, mobile homes or factory-built buildings designed for use as residential buildings and is damaged as a result of an act or omission by a licensed dealer or broker of manufactured homes, mobile homes or factory-built buildings designed for use as residential buildings that constitutes a violation of section ~~41-2180~~ 41-4030, or rules adopted pursuant to that section, and the sale is subject to section ~~41-2180~~ 41-4030, subsection D, that consumer may file a claim with the office for payment from the consumer recovery fund. The claim shall be verified by the office.

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

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

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

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

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

G. The consumer recovery fund has a claim against the licensee on whose account a claim was granted or any other person who caused or contributed to a claim paid by the consumer recovery fund for the amount paid plus costs, necessary expenses and reasonable attorney fees.

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

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

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

Sec. 111. Section 41-4044, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4044. <u>False statement; violation; classification</u>

A person or ~~his~~ THE PERSON'S agent who knowingly files with the ~~deputy~~ director any notice, statement or other document required under section ~~41-2189~~ 41-4042 or ~~41-2190 which~~ 41-4043 THAT is false or untrue or contains any material misstatement of fact is guilty of a class 2 misdemeanor.

Sec. 112. Section 41-4045, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4045. <u>Waiver of rights</u>

The failure of an aggrieved person to comply with section ~~41-2188, 41-2189 or 41-2190~~ 41-4042 OR 41-4043 constitutes a waiver of any rights under such sections.

Sec. 113. Section 41-4046, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4046. <u>Enforcement powers of director and office personnel; civil and administrative penalties</u>

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

B. If the ~~deputy~~ director has reasonable cause to believe a unit is being offered for sale by a party required to be licensed but not licensed as a dealer or broker by the office or is in violation of this chapter, or the rules, regulations or standards adopted pursuant to this chapter, the office shall serve on the manufacturer, dealer, broker or installer a notice of violation, which may be affixed to the unit in violation and, if affixed to the unit, shall not be removed by anyone without the authorization of the office.

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

D. If in the judgment of the ~~deputy~~ director any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of this chapter, the rules, regulations or standards adopted pursuant to this chapter or an order issued pursuant to this chapter, the ~~deputy~~ director may make application to the appropriate court for an order enjoining such acts or practices. On a showing by the ~~deputy~~ director that such person has engaged in, or is about to engage in, any such acts or practices, an injunction, restraining order or such other order as may be appropriate shall be granted by such court without bond. On a showing by the ~~deputy~~ director that a licensee has wrongfully withdrawn, or is about to wrongfully withdraw, funds required to be held in the licensee's trust account, an injunction, restraining order or such other order as may be appropriate to prevent a licensee from wrongfully withdrawing trust account monies shall be granted by the court. On granting a permanent injunction, the court may impose a civil penalty not exceeding one thousand dollars for each violation.

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

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

G. Beginning July 1, 2012, the director ~~or deputy director~~ may refer to the attorney general or a county attorney for criminal or civil investigation the results of any investigation that indicate the existence of the elements of fraud, including investigative information regarding any person or entity that, although not a licensee under this article, has a

business or other relationship to a licensee or to a manufactured home transaction under this article.

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

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

Sec. 114. Section 41-4048, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4048. Violation; classification; penalty

A. No person required to be licensed pursuant to this article may sell or offer to sell in this state any manufactured home, factory-built building or subassembly unless the proper state insignia or HUD label is affixed to such unit.

B. No person required to be licensed pursuant to this article may manufacture for delivery, sell or offer to sell in this state any manufactured home, factory-built building or subassembly unless the unit and its components, systems and appliances have been constructed and assembled in accordance with the standards and rules adopted pursuant to this chapter.

C. A person shall not occupy or otherwise use a mobile home ~~which~~ THAT has been brought into this state or move a mobile home from one mobile home park in this state to another mobile home park in this state unless it meets the standards adopted pursuant to this chapter and displays the proper state insignia. A mobile home that is rehabilitated in accordance with rehabilitation rules adopted by the department and receives an insignia of approval shall be deemed by a county or municipality to be acceptable for relocation into an existing mobile home park. This subsection does not apply to a person bringing a mobile home into this state as a tourist.

D. A person shall not advertise or offer for sale a mobile home ~~which~~ THAT has been brought into this state unless it meets the standards adopted pursuant to this chapter and displays the proper state insignia.

E. No person may remove or cause to be removed an insignia of approval or a notice of violation without prior authorization of the office.

F. A person shall not occupy or use a mobile home in violation of an order to vacate issued pursuant to section ~~41-2153~~ 41-4004, subsection B, paragraph 6.

G. Except as provided in subsections I and J of this section, a person who violates this chapter, or any such rule or standard, is guilty of a class 2 misdemeanor.

H. The ~~deputy~~ director, after notice and a hearing pursuant to section ~~41-2181~~ 41-4031, subsection A, may deny the issuance of a license or revoke or suspend the license of, impose an administrative penalty on or place on probation any manufacturer, dealer, broker, salesperson or installer who has violated this chapter or any standards and rules adopted pursuant to this chapter.

I. Any manufacturer, dealer, broker, salesperson or installer who knowingly violates this chapter or the rules adopted pursuant to section ~~41-2144~~ 41-4010, subsection A, paragraph 1, 2, 9 or 10 or any person who knowingly provides false information to seek reimbursement of expenses under section ~~41-2157~~ 41-4008 is guilty of a class 1 misdemeanor. Each violation of this chapter shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by this chapter, except that the maximum fine may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

J. An individual or a director, officer or agent of a corporation who knowingly violates this chapter or the rules adopted pursuant to this chapter in a manner which threatens the health or safety of any purchaser is guilty of a class 1 misdemeanor.

K. A manufacturer, dealer, salesperson or broker shall not knowingly sell a unit regulated by this chapter to an unlicensed person for the purpose of resale, nor shall a dealer offer for sale or sell a new unit manufactured by an unlicensed person.

L. In addition to any other obligations imposed by law or contract during the term of a listing agreement, a licensee who has agreed to act as an agent to offer a manufactured home for sale shall promptly submit all offers to purchase the listed unit from any source to the client. The offers shall be in writing and signed and dated by the party making the offer and the client on receipt. A copy of the executed document shall be maintained as part of the record of sales.

M. No licensee, owner or other persons may manufacture, alter, reconstruct or install units regulated by this chapter, unless it is accomplished in a workmanlike manner in accordance with the rules adopted pursuant to this chapter and is suitable for the intended purpose.

Sec. 115. Section 41-4049, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

41-4049. <u>State fire marshal cease and desist order; enforcement procedures; violation; civil penalty</u>

A. If the state fire marshal or ~~his~~ THE FIRE MARSHAL'S deputies have reasonable cause to believe that any person has committed or is committing a violation of TITLE 37, CHAPTER 9, article ~~3 of this chapter~~ 4, any rule

adopted pursuant to TITLE 37, CHAPTER 9, article ~~3 of this chapter~~ 4 or any order issued pursuant to TITLE 37, CHAPTER 9, article ~~3 of this chapter, which~~ 4 THAT does not constitute an immediate and apparent hazard to life or property, the state fire marshal through the ~~deputy~~ director may issue and serve ~~upon~~ ON the person by certified mail a cease and desist order.

B. If the violation does not constitute an immediate hazard to life or property, the state fire marshal shall grant to the person whom ~~he~~ THE STATE FIRE MARSHAL alleges to be in violation of any rule or order a reasonable period of time, which in no event shall be less than five days ~~from~~ AFTER the date of receipt of the notice, to comply with the order.

C. ~~Upon~~ ON the failure or refusal of a person to comply with a cease and desist order issued by the ~~deputy~~ director pursuant to subsection A OF THIS SECTION, the ~~deputy~~ director may file an action in the superior court in the county in which the violation is alleged to have occurred to enjoin the person from engaging in further acts in violation of the cease and desist order. The court shall proceed as in other actions for preliminary injunction. Any person found to be in contempt of an injunctive order of the court shall be assessed a civil penalty of not more than one thousand dollars with each day of violation constituting a separate contempt.

D. If the state fire marshal or the fire marshal's deputies have reasonable cause to believe that any person has committed or is committing a violation of TITLE 37, CHAPTER 9, article ~~3 of this chapter~~ 4, any rule adopted pursuant to TITLE 37, CHAPTER 9, article ~~3 of this chapter~~ 4 or any order issued pursuant to TITLE 37, CHAPTER 9, article ~~3 of this chapter which~~ 4 THAT constitutes an immediate and apparent hazard to life or property, the state fire marshal through the ~~deputy~~ director may either:

1. Issue and serve by personal service a cease and desist order, which order may require immediate compliance. ~~Upon~~ ON failure of a person to comply with a cease and desist order issued pursuant to this paragraph, the ~~deputy~~ director shall file an action in the superior court in the county where the violation occurred to enjoin the person from engaging in further acts in violation of the cease and desist order.

2. File an action in the superior court in the county in which the violation is alleged to have occurred to enjoin a person from engaging in further acts in violation of the rule or order without issuing a cease and desist order.

The court shall proceed as in other actions for preliminary injunction. Any person found to be in contempt of an injunctive order of the court shall be assessed a civil penalty of not more than one thousand dollars with each day of violation constituting a separate contempt.

1 Sec. 116. Title 41, chapter 37, Arizona Revised Statutes, is amended
2 by adding article 5, to read:
3 ARTICLE 5. MOBILE HOME PARKS ADMINISTRATIVE HEARINGS
4 41-4061. Administrative adjudication of complaints
5 PURSUANT TO CHAPTER 6, ARTICLE 10 OF THIS TITLE, AN ADMINISTRATIVE LAW
6 JUDGE SHALL ADJUDICATE COMPLAINTS REGARDING AND ENSURE COMPLIANCE WITH THE
7 ARIZONA MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT ACT.
8 41-4062. Hearing; rights and procedures; definitions
9 A. A PERSON THAT IS SUBJECT TO TITLE 33, CHAPTER 11 OR A PARTY TO A
10 RENTAL AGREEMENT ENTERED INTO PURSUANT TO TITLE 33, CHAPTER 11 MAY PETITION
11 THE DEPARTMENT FOR A HEARING CONCERNING VIOLATIONS OF THE ARIZONA MOBILE HOME
12 PARKS RESIDENTIAL LANDLORD AND TENANT ACT BY FILING A PETITION WITH THE
13 DEPARTMENT AND PAYING A NONREFUNDABLE FILING FEE IN AN AMOUNT TO BE
14 ESTABLISHED BY THE DIRECTOR. ALL MONIES COLLECTED SHALL BE DEPOSITED IN THE
15 STATE GENERAL FUND AND ARE NOT REFUNDABLE.
16 B. THE PETITION SHALL BE IN WRITING ON A FORM APPROVED BY THE
17 DEPARTMENT, LIST THE COMPLAINTS, BE SIGNED BY OR ON BEHALF OF THE PERSONS
18 FILING AND INCLUDE THEIR ADDRESSES, STATE THAT A HEARING IS DESIRED AND BE
19 FILED WITH THE DEPARTMENT.
20 C. ON RECEIPT OF THE PETITION AND THE FILING FEE, THE DEPARTMENT SHALL
21 MAIL TO THE NAMED RESPONDENT BY CERTIFIED MAIL A COPY OF THE PETITION ALONG
22 WITH NOTICE THAT A RESPONSE SHOWING CAUSE, IF ANY, WHY THE PETITION SHOULD BE
23 DISMISSED IS REQUIRED WITHIN TWENTY DAYS AFTER MAILING OF THE PETITION.
24 D. AFTER RECEIVING THE RESPONSE, THE DIRECTOR OR THE DIRECTOR'S
25 DESIGNEE SHALL PROMPTLY REVIEW THE PETITION FOR HEARING AND, IF JUSTIFIED,
26 REFER THE PETITION TO THE OFFICE OF ADMINISTRATIVE HEARINGS. THE DIRECTOR
27 MAY DISMISS A PETITION FOR HEARING IF IT APPEARS TO THE DIRECTOR'S
28 SATISFACTION THAT THE DISPUTED ISSUE OR ISSUES HAVE BEEN RESOLVED BY THE
29 PARTIES.
30 E. FAILURE OF THE RESPONDENT TO ANSWER IS DEEMED AN ADMISSION OF THE
31 ALLEGATIONS MADE IN THE PETITION, AND THE DIRECTOR SHALL ISSUE A DEFAULT
32 DECISION.
33 F. INFORMAL DISPOSITION MAY BE MADE OF ANY CONTESTED CASE.
34 G. EITHER PARTY OR THE PARTY'S AUTHORIZED AGENT MAY INSPECT ANY FILE
35 OF THE DEPARTMENT THAT PERTAINS TO THE HEARING IF THE AUTHORIZATION IS FILED
36 IN WRITING WITH THE DEPARTMENT.
37 H. AT A HEARING CONDUCTED PURSUANT TO THIS SECTION, A CORPORATION MAY
38 BE REPRESENTED BY A CORPORATE OFFICER, EMPLOYEE OR CONTRACTOR OF THE
39 CORPORATION WHO IS NOT A MEMBER OF THE STATE BAR IF:
40 1. THE CORPORATION HAS SPECIFICALLY AUTHORIZED THE OFFICER, EMPLOYEE
41 OR CONTRACTOR OF THE CORPORATION TO REPRESENT IT.
42 2. THE REPRESENTATION IS NOT THE OFFICER'S, EMPLOYEE'S OR CONTRACTOR
43 OF THE CORPORATION'S PRIMARY DUTY TO THE CORPORATION BUT IS SECONDARY OR
44 INCIDENTAL TO THE OFFICER'S, EMPLOYEE'S OR CONTRACTOR OF THE CORPORATION'S,
45 LIMITED LIABILITY COMPANY'S, LIMITED LIABILITY PARTNERSHIP'S, SOLE

PROPRIETOR'S OR OTHER LAWFULLY FORMED AND OPERATING ENTITY'S DUTIES RELATING TO THE MANAGEMENT OR OPERATION OF THE CORPORATION.

I. FOR THE PURPOSES OF THIS SECTION:

1. "DEPARTMENT" MEANS THE ARIZONA DEPARTMENT OF HOUSING.

2. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

41-4063. Orders; penalties; disposition

A. THE ADMINISTRATIVE LAW JUDGE MAY ORDER ANY PARTY TO ABIDE BY THE STATUTE OR CONTRACT PROVISION AT ISSUE AND MAY LEVY A CIVIL PENALTY ON THE BASIS OF EACH VIOLATION. FOR THE PURPOSES OF ACTIONS BROUGHT UNDER THE ARIZONA MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT ACT, THE CIVIL PENALTY MAY NOT EXCEED FIVE HUNDRED DOLLARS. ALL MONIES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE DEPOSITED IN THE STATE GENERAL FUND TO BE USED TO OFFSET THE COST OF ADMINISTERING THE ADMINISTRATIVE LAW JUDGE FUNCTION. IF THE PETITIONER PREVAILS, THE ADMINISTRATIVE LAW JUDGE SHALL ORDER THE RESPONDENT TO PAY TO THE PETITIONER THE FILING FEE REQUIRED BY SECTION 41-4062.

B. THE ORDER ISSUED BY THE ADMINISTRATIVE LAW JUDGE IS BINDING ON THE PARTIES UNLESS A REHEARING IS GRANTED PURSUANT TO SECTION 41-4065 BASED ON A PETITION SETTING FORTH THE REASONS FOR THE REQUEST FOR REHEARING, IN WHICH CASE THE ORDER ISSUED AT THE CONCLUSION OF THE REHEARING IS BINDING ON THE PARTIES. THE ORDER ISSUED BY THE ADMINISTRATIVE LAW JUDGE IS ENFORCEABLE THROUGH CONTEMPT OF COURT PROCEEDINGS AND IS SUBJECT TO JUDICIAL REVIEW AS PRESCRIBED BY SECTION 41-1092.08.

41-4064. Scope of hearing

A. THE ADMINISTRATIVE LAW JUDGE MAY HEAR AND ADJUDICATE ALL MATTERS RELATING TO THE ARIZONA MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT ACT AND RULES ADOPTED PURSUANT TO THIS ARTICLE, EXCEPT THAT THE ADMINISTRATIVE LAW JUDGE SHALL NOT HEAR MATTERS PERTAINING TO RENTAL INCREASES PURSUANT TO SECTION 33-1413, SUBSECTION G OR I.

B. THIS SECTION DOES NOT LIMIT THE JURISDICTION OF THE COURTS OF THIS STATE TO HEAR AND DECIDE MATTERS PURSUANT TO THE ARIZONA MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT ACT.

41-4065. Rehearing; appeal; definition

A. A PERSON AGGRIEVED BY A DECISION OF THE ADMINISTRATIVE LAW JUDGE MAY APPLY FOR A REHEARING BY FILING WITH THE DIRECTOR A PETITION IN WRITING PURSUANT TO SECTION 41-1092.09. WITHIN TEN DAYS AFTER FILING SUCH PETITION, THE DIRECTOR SHALL SERVE NOTICE OF THE REQUEST ON THE OTHER PARTY BY MAILING A COPY OF THE PETITION IN THE MANNER PRESCRIBED IN SECTION 41-4062 FOR NOTICE OF HEARING.

B. THE FILING OF A PETITION FOR REHEARING TEMPORARILY SUSPENDS THE OPERATION OF THE ADMINISTRATIVE LAW JUDGE'S ACTION. IF THE PETITION IS GRANTED, THE ADMINISTRATIVE LAW JUDGE'S ACTION IS SUSPENDED PENDING THE DECISION ON THE REHEARING.

C. IN THE ORDER GRANTING OR DENYING A REHEARING, THE DIRECTOR SHALL INCLUDE A STATEMENT OF THE PARTICULAR GROUNDS AND REASONS FOR THE DIRECTOR'S

ACTION ON THE PETITION AND SHALL PROMPTLY MAIL A COPY OF THE ORDER TO THE PARTIES WHO HAVE APPEARED IN SUPPORT OF OR IN OPPOSITION TO THE PETITION FOR REHEARING.

D. IN A REHEARING CONDUCTED PURSUANT TO THIS SECTION, A CORPORATION MAY BE REPRESENTED BY A CORPORATE OFFICER OR EMPLOYEE WHO IS NOT A MEMBER OF THE STATE BAR IF:

1. THE CORPORATION HAS SPECIFICALLY AUTHORIZED SUCH OFFICER OR EMPLOYEE TO REPRESENT IT.

2. SUCH REPRESENTATION IS NOT THE OFFICER'S OR EMPLOYEE'S PRIMARY DUTY TO THE CORPORATION BUT IS SECONDARY OR INCIDENTAL TO SUCH OFFICER'S OR EMPLOYEE'S DUTIES RELATING TO THE MANAGEMENT OR OPERATION OF THE CORPORATION.

E. FOR THE PURPOSES OF THIS SECTION, "DIRECTOR" MEANS THE DIRECTOR OF THE ARIZONA DEPARTMENT OF HOUSING.

Sec. 117. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. <u>Authorized disclosure of confidential information</u>

A. Confidential information relating to:

1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.

2. A corporate taxpayer may be disclosed to any principal officer, any person designated by a principal officer or any person designated in a resolution by the corporate board of directors or other similar governing body.

3. A partnership may be disclosed to any partner of the partnership. This exception does not include disclosure of confidential information of a particular partner unless otherwise authorized.

4. An estate may be disclosed to the personal representative of the estate and to any heir, next of kin or beneficiary under the will of the decedent if the department finds that the heir, next of kin or beneficiary has a material interest which will be affected by the confidential information.

5. A trust may be disclosed to the trustee or trustees, jointly or separately, and to the grantor or any beneficiary of the trust if the department finds that the grantor or beneficiary has a material interest that will be affected by the confidential information.

6. Any taxpayer may be disclosed if the taxpayer has waived any rights to confidentiality either in writing or on the record in any administrative or judicial proceeding.

7. The name and taxpayer identification numbers of persons issued direct payment permits may be publicly disclosed.

B. Confidential information may be disclosed to:

1. Any employee of the department whose official duties involve tax administration.

2. The office of the attorney general solely for its use in preparation for, or in an investigation that may result in, any proceeding involving tax administration before the department or any other agency or board of this state, or before any grand jury or any state or federal court.

3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor, as defined in section 4-101, at the licensed establishment and imposed on the licensed establishments by this state and its political subdivisions.

4. Other state tax officials whose official duties require the disclosure for proper tax administration purposes if the information is sought in connection with an investigation or any other proceeding conducted by the official. Any disclosure is limited to information of a taxpayer who is being investigated or who is a party to a proceeding conducted by the official.

5. The following agencies, officials and organizations, if they grant substantially similar privileges to the department for the type of information being sought, pursuant to statute and a written agreement between the department and the foreign country, agency, state, Indian tribe or organization:

(a) The United States internal revenue service, alcohol and tobacco tax and trade bureau of the United States treasury, United States bureau of alcohol, tobacco, firearms and explosives of the United States department of justice, United States drug enforcement agency and federal bureau of investigation.

(b) A state tax official of another state.

(c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.

(d) An agency, official or organization of a foreign country with responsibilities that are comparable to those listed in subdivision (a), (b) or (c) of this paragraph.

(e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.

6. The auditor general, in connection with any audit of the department subject to the restrictions in section 42-2002, subsection D.

7. Any person to the extent necessary for effective tax administration in connection with:

(a) The processing, storage, transmission, destruction and reproduction of the information.

(b) The programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.

(c) The collection of the taxpayer's civil liability.

8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information:

(a) Regarding income tax or withholding tax.

(b) On any tax issue relating to information associated with the reporting of income tax or withholding tax.

9. The United States treasury inspector general for tax administration for the purpose of reporting a violation of internal revenue code section 7213A (26 United States Code section 7213A), unauthorized inspection of returns or return information.

10. The financial management service of the United States treasury department for use in the treasury offset program.

11. The United States treasury department or its authorized agent for use in the state income tax levy program and in the electronic federal tax payment system.

12. The Arizona commerce authority for its use in:

(a) Qualifying renewable energy operations for the tax incentives under sections 42-12006, 43-1083.01 and 43-1164.01.

(b) Qualifying businesses with a qualified facility for income tax credits under sections 43-1083.03 and 43-1164.04.

(c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1512, subsections U and V.

(d) Certifying computer data centers for tax relief under section 41-1519.

13. A prosecutor for purposes of section 32-1164, subsection C.

14. The state fire marshal for use in determining compliance with and enforcing title ~~41~~ 37, chapter ~~16~~ 9, article ~~3.1~~ 5.

15. The department of transportation for its use in administering taxes, surcharges and penalties prescribed by title 28.

16. The Arizona health care cost containment system administration for its use in administering nursing facility provider assessments.

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax administration pursuant to the following conditions:

1. One or more of the following circumstances must apply:

(a) The taxpayer is a party to the proceeding.

(b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability, with respect to any tax imposed under this title or title 43.

(c) The treatment of an item reflected on the taxpayer's return is directly related to the resolution of an issue in the proceeding.

(d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding.

2. Confidential information may not be disclosed under this subsection if the disclosure is prohibited by section 42-2002, subsection C or D.

D. Identity information may be disclosed for purposes of notifying persons entitled to tax refunds if the department is unable to locate the persons after reasonable effort.

E. The department, on the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a tobacco product distributor's license and number or a withholding license and number or disclose the information to be posted on the department's website or otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3401.

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information that is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.

G. If an organization is exempt from this state's income tax as provided in section 43-1201 for any taxable year, the name and address of the organization and the application filed by the organization on which the department made its determination for exemption together with any papers submitted in support of the application and any letter or document issued by the department concerning the application are open to public inspection.

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and any other tax collected by the department on behalf of any jurisdiction may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by a county, city or town or who may be subject to audit by the department pursuant to section 42-6002. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes, including audits.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality standards adopted by the department will result in the immediate suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information

1 attributable to any one taxpayer. The department may disclose statistical
2 information gathered from confidential information, even if it discloses
3 confidential information attributable to a taxpayer, to:
4 1. The state treasurer in order to comply with the requirements of
5 section 42-5029, subsection A, paragraph 3.
6 2. The joint legislative income tax credit review committee, the joint
7 legislative budget committee staff and the legislative staff in order to
8 comply with the requirements of section 43-221.
9 J. The department may disclose the aggregate amounts of any tax
10 credit, tax deduction or tax exemption enacted after January 1, 1994.
11 Information subject to disclosure under this subsection shall not be
12 disclosed if a taxpayer demonstrates to the department that such information
13 would give an unfair advantage to competitors.
14 K. Except as provided in section 42-2002, subsection C, confidential
15 information, described in section 42-2001, paragraph 1, subdivision (a), item
16 (ii), may be disclosed to law enforcement agencies for law enforcement
17 purposes.
18 L. The department may provide transaction privilege tax license
19 information to property tax officials in a county for the purpose of
20 identification and verification of the tax status of commercial property.
21 M. The department may provide transaction privilege tax, luxury tax,
22 use tax, property tax and severance tax information to the ombudsman-citizens
23 aide pursuant to title 41, chapter 8, article 5.
24 N. Except as provided in section 42-2002, subsection D, a court may
25 order the department to disclose confidential information pertaining to a
26 party to an action. An order shall be made only upon a showing of good cause
27 and that the party seeking the information has made demand upon the taxpayer
28 for the information.
29 O. This section does not prohibit the disclosure by the department of
30 any information or documents submitted to the department by a bingo licensee.
31 Before disclosing the information the department shall obtain the name and
32 address of the person requesting the information.
33 P. If the department is required or permitted to disclose confidential
34 information, it may charge the person or agency requesting the information
35 for the reasonable cost of its services.
36 Q. Except as provided in section 42-2002, subsection D, the department
37 of revenue shall release confidential information as requested by the
38 department of economic security pursuant to section 42-1122 or 46-291.
39 Information disclosed under this subsection is limited to the same type of
40 information that the United States internal revenue service is authorized to
41 disclose under section 6103(l)(6) of the internal revenue code.
42 R. Except as provided in section 42-2002, subsection D, the department
43 of revenue shall release confidential information as requested by the courts
44 and clerks of the court pursuant to section 42-1122.

S. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

T. The department shall release to the attorney general confidential information as requested by the attorney general for purposes of determining compliance with or enforcing any of the following:

1. Any public health control law relating to tobacco sales as provided under title 36, chapter 6, article 14.

2. Any law relating to reduced cigarette ignition propensity standards as provided under title ~~41~~ 37, chapter ~~16~~ 9, article ~~3.1~~ 5.

3. Sections 44-7101 and 44-7111, the master settlement agreement referred to in those sections and all agreements regarding disputes under the master settlement agreement.

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

1. The treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding.

2. Such return or return information relates or may relate to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding.

3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is an issue for the period.

V. The department and attorney general may share the information specified in subsection T of this section with any of the following:

1. Federal, state or local agencies for the purposes of enforcement of corresponding laws of other states.

2. A court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master

settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.

W. The department may provide the name and address of qualifying hospitals and qualifying health care organizations, as defined in section 42-5001, to a business classified and reporting transaction privilege tax under the utilities classification.

X. The department may disclose to an official of any city, town or county in a current agreement or considering a prospective agreement with the department as described in section 42-5032.02, subsection F any information relating to amounts subject to distribution required by section 42-5032.02. Information disclosed by the department under this subsection:

1. May only be used by the city, town or county for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The city, town or county must agree with the department in writing that any release of confidential information that violates the confidentiality standards will result in the immediate suspension of any rights of the city, town or county to receive information under this subsection.

Sec. 118. Section 42-5006, Arizona Revised Statutes, is amended to read:

42-5006. <u>Taxpayer bonds; out of state licensed contractors and manufactured building dealers</u>

A. Notwithstanding section 42-1102, the department shall require a surety bond for each taxpayer who is required to be licensed under title 32, chapter 10 or who is regulated under title 41, chapter ~~16~~ 37, article ~~2~~ 3, if the taxpayer's principal place of business is outside this state or if the taxpayer has conducted business in this state for less than one year. The department shall prescribe the form of the bond. The bond shall be maintained for a period of at least two years.

B. The bond, duly executed by the applicant as principal and with a corporation duly authorized to execute and write bonds in this state as surety, shall be payable to this state and conditioned on the payment of all transaction privilege taxes incurred and imposed on the taxpayer by this state and its political subdivisions. The bond shall be in such amount, but not less than two thousand dollars, as will assure the payment of the transaction privilege taxes which may reasonably be expected to be incurred by the licensed establishment for a period of one hundred fifty days.

C. The director, by rule, may establish classes of expected tax liability in five thousand dollar increments, beginning with the minimum bond amount prescribed in subsection B of this section. The bond shall provide that after notice and a hearing the director may order forfeited to this state and any affected political subdivision part or all of the bond for nonpayment of taxes, interest and penalties.

D. A licensee on application for a new license covered by subsection A of this section, renewal of a license covered by subsection A of this section

or transfer of a license covered by subsection A of this section is exempt from posting a bond if the licensee has for at least two years immediately preceding the application made timely payment of all transaction privilege taxes incurred.

E. If a licensee is not exempt from this section, the director may exempt the licensee if the director finds that the surety bond is not necessary to insure payment of such taxes to the state and any affected political subdivision or the licensee had good cause for the late or insufficient payment of the transaction privilege tax and affiliated excise taxes incurred.

Sec. 119. Section 42-5075, Arizona Revised Statutes, is amended to read:

42-5075. Prime contracting classification; exemptions; definitions

A. The prime contracting classification is comprised of the business of prime contracting and the business of manufactured building dealer. Sales for resale to another manufactured building dealer are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter.

B. The tax base for the prime contracting classification is sixty-five percent of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1. The sales price of land, which shall not exceed the fair market value.

2. Sales and installation of groundwater measuring devices required under section 45-604 and groundwater monitoring wells required by law, including monitoring wells installed for acquiring information for a permit required by law.

3. The sales price of furniture, furnishings, fixtures, appliances and attachments that are not incorporated as component parts of or attached to a manufactured building or the setup site. The sale of such items may be subject to the taxes imposed by article 1 of this chapter separately and distinctly from the sale of the manufactured building.

4. The gross proceeds of sales or gross income received from a contract entered into for the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within an active military reuse zone after the zone is initially established or renewed under section 41-1531. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.

5. The gross proceeds of sales or gross income derived from a contract to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02, and from subsequent construction and installation contracts that begin within ten years after the start of initial construction. To qualify for this deduction, before beginning work under the contract, the prime contractor must obtain a letter of qualification from the department of revenue. This paragraph shall apply for ten full consecutive calendar or fiscal years after the start of initial construction.

6. The gross proceeds of sales or gross income from a contract to provide for one or more of the following actions, or a contract for site preparation, constructing, furnishing or installing machinery, equipment or other tangible personal property, including structures necessary to protect exempt incorporated materials or installed machinery or equipment, and tangible personal property incorporated into the project, to perform one or more of the following actions in response to a release or suspected release of a hazardous substance, pollutant or contaminant from a facility to the environment, unless the release was authorized by a permit issued by a governmental authority:

(a) Actions to monitor, assess and evaluate such a release or a suspected release.

(b) Excavation, removal and transportation of contaminated soil and its treatment or disposal.

(c) Treatment of contaminated soil by vapor extraction, chemical or physical stabilization, soil washing or biological treatment to reduce the concentration, toxicity or mobility of a contaminant.

(d) Pumping and treatment or in situ treatment of contaminated groundwater or surface water to reduce the concentration or toxicity of a contaminant.

(e) The installation of structures, such as cutoff walls or caps, to contain contaminants present in groundwater or soil and prevent them from reaching a location where they could threaten human health or welfare or the environment.

This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.

7. The gross proceeds of sales or gross income that is derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or that is exempt from use tax under section 42-5159, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or exempt from use tax under section 42-5159, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other similar nonpermanent connections to either real property or real property improvements.

8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

(a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

(d) Section 42-5159, subsection B.

9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 16.

12. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

13. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

14. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a launch site, as defined in 14 Code of Federal Regulations section 401.5.

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

16. The gross proceeds of sales or gross income derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including wood destroying organisms.

17. The gross proceeds of sales or gross income received from contracts entered into before July 1, 2006 for constructing a state university research infrastructure project if the project has been reviewed by the joint committee on capital review before the university enters into the construction contract for the project. For the purposes of this

paragraph, "research infrastructure" has the same meaning prescribed in section 15-1670.

18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the Arizona commerce authority before beginning work under the contract.

19. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor, and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

20. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a mixed waste processing facility that is located on a municipal solid waste landfill and that is constructed for the purpose of recycling solid waste or producing renewable energy from landfill waste. For the purposes of this paragraph:

(a) "Mixed waste processing facility" means a solid waste facility that is owned, operated or used for the treatment, processing or disposal of solid waste, recyclable solid waste, conditionally exempt small quantity generator waste or household hazardous waste. For the purposes of this subdivision, "conditionally exempt small quantity generator waste", "household hazardous waste" and "solid waste facility" have the same meanings prescribed in section 49-701, except that solid waste facility does include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

(b) "Municipal solid waste landfill" has the same meaning prescribed in section 49-701.

(c) "Recycling" means collecting, separating, cleansing, treating and reconstituting recyclable solid waste that would otherwise become solid waste, but does not include incineration or other similar processes.

(d) "Renewable energy" has the same meaning prescribed in section 41-1511.

C. Entitlement to the deduction pursuant to subsection B, paragraph 7 of this section is subject to the following provisions:

1. A prime contractor may establish entitlement to the deduction by both:

(a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.

(b) Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the deductibility of the property under section 42-5061, subsection B, and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the prime contractor has reason to believe that the information contained in the certificate is not accurate or complete.

2. A person who does not comply with paragraph 1 of this subsection may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

3. The department may prescribe a form for the certificate described in paragraph 1, subdivision (b) of this subsection. The department may also adopt rules that describe the transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided in paragraph 1, subdivision (b) of this subsection but must instead obtain such additional information as required in order to be entitled to the deduction.

4. If a prime contractor is entitled to a deduction by complying with paragraph 1 of this subsection, the department may require the purchaser who caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the prime contractor to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the prime contractor would have been required to pay under article 1 of this chapter if the prime contractor had not complied with paragraph 1 of this subsection. Payment of the amount under this paragraph exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as a transaction privilege tax to the purchaser and as tax revenues collected from the prime contractor in order to designate the distribution base for purposes of section 42-5029.

D. Subcontractors or others who perform modification activities are not subject to tax if they can demonstrate that the job was within the control of a prime contractor or contractors or a dealership of manufactured buildings and that the prime contractor or dealership is liable for the tax on the gross income, gross proceeds of sales or gross receipts attributable to the job and from which the subcontractors or others were paid.

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a prime contractor and is liable for the tax under article 1 of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

F. Every person engaging or continuing in this state in the business of prime contracting or dealership of manufactured buildings shall present to the purchaser of such prime contracting or manufactured building a written receipt of the gross income or gross proceeds of sales from such activity and shall separately state the taxes to be paid pursuant to this section.

G. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the prime contracting classification from any prime contractor engaged in the preparation or construction of a multipurpose facility, and related infrastructure, that is owned, operated or leased by the tourism and sports authority pursuant to title 5, chapter 8.

H. For the purposes of section 42-5032.02, from and after September 30, 2013, the department shall separately account for revenues reported and collected under the prime contracting classification from any prime contractor engaged in the construction of any buildings and associated improvements that are for the benefit of a manufacturing facility. For the purposes of this subsection, "associated improvements" and "manufacturing facility" have the same meanings prescribed in section 42-5032.02.

I. The gross proceeds of sales or gross income derived from a contract for lawn maintenance services are not subject to tax under this section if the contract does not include landscaping activities. Lawn maintenance service is a service pursuant to section 42-5061, subsection A, paragraph 1, and includes lawn mowing and edging, weeding, repairing sprinkler heads or drip irrigation heads, seasonal replacement of flowers, refreshing gravel, lawn de-thatching, seeding winter lawns, leaf and debris collection and removal, tree or shrub pruning or clipping, garden and gravel raking and

applying pesticides, as defined in section 3-361, and fertilizer materials, as defined in section 3-262.

J. Except as provided in subsection O of this section, the gross proceeds of sales or gross income derived from landscaping activities are subject to tax under this section. Landscaping includes installing lawns, grading or leveling ground, installing gravel or boulders, planting trees and other plants, felling trees, removing or mulching tree stumps, removing other imbedded plants, building irrigation berms, installing railroad ties and installing underground sprinkler or watering systems.

K. The portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

L. Operating a landfill or a solid waste disposal facility is not subject to taxation under this section, including filling, compacting and creating vehicle access to and from cell sites within the landfill. Constructing roads to a landfill or solid waste disposal facility and constructing cells within a landfill or solid waste disposal facility may be deemed prime contracting under this section.

M. The following apply in determining the taxable situs of sales of manufactured buildings:

1. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site or to perform the setup in this state, the taxable situs is the setup site.

2. For sales in this state where the manufactured building dealer does not contract to deliver the building to a setup site or does not perform the setup, the taxable situs is the location of the dealership where the building is delivered to the buyer.

3. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site that is outside this state, the situs is outside this state and the transaction is excluded from tax.

N. The gross proceeds of sales or gross income attributable to a written contract for design phase services or professional services, executed before modification begins and with terms, conditions and pricing of all of these services separately stated in the contract from those for construction phase services, is not subject to tax under this section, regardless of whether the services are provided sequential to or concurrent with prime contracting activities that are subject to tax under this section. This subsection does not include the gross proceeds of sales or gross income attributable to construction phase services. For the purposes of this subsection:

1. "Construction phase services" means services for the execution and completion of any modification, including the following:

(a) Administration or supervision of any modification performed on the project, including team management and coordination, scheduling, cost controls, submittal process management, field management, safety program, close-out process and warranty period services.

(b) Administration or supervision of any modification performed pursuant to a punch list. For the purposes of this subdivision, "punch list" means minor items of modification work performed after substantial completion and before final completion of the project.

(c) Administration or supervision of any modification performed pursuant to change orders. For the purposes of this subdivision, "change order" means a written instrument issued after execution of a contract for modification work, providing for all of the following:

(i) The scope of a change in the modification work, contract for modification work or other contract documents.

(ii) The amount of an adjustment, if any, to the guaranteed maximum price as set in the contract for modification work. For the purposes of this item, "guaranteed maximum price" means the amount guaranteed to be the maximum amount due to a prime contractor for the performance of all modification work for the project.

(iii) The extent of an adjustment, if any, to the contract time of performance set forth in the contract.

(d) Administration or supervision of any modification performed pursuant to change directives. For the purposes of this subdivision, "change directive" means a written order directing a change in modification work before agreement on an adjustment of the guaranteed maximum price or contract time.

(e) Inspection to determine the dates of substantial completion or final completion.

(f) Preparation of any manuals, warranties, as-built drawings, spares or other items the prime contractor must furnish pursuant to the contract for modification work. For the purposes of this subdivision, "as-built drawing" means a drawing that indicates field changes made to adapt to field conditions, field changes resulting from change orders or buried and concealed installation of piping, conduit and utility services.

(g) Preparation of status reports after modification work has begun detailing the progress of work performed, including preparation of any of the following:

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

(iv) Identification of discrepancies, conflicts or ambiguities in modification work documents that require resolution.

(v) Identification of any health and safety issues that have arisen in connection with the modification work.

(h) Preparation of daily logs of modification work, including documentation of personnel, weather conditions and on-site occurrences.

(i) Preparation of any submittals or shop drawings used by the prime contractor to illustrate details of the modification work performed.

(j) Administration or supervision of any other activities for which a prime contractor receives a certificate for payment or certificate for final payment based on the progress of modification work performed on the project.

2. "Design phase services" means services for developing and completing a design for a project that are not construction phase services, including the following:

(a) Evaluating surveys, reports, test results or any other information on-site conditions for the project, including physical characteristics, legal limitations and utility locations for the site.

(b) Evaluating any criteria or programming objectives for the project to ascertain requirements for the project, such as physical requirements affecting cost or projected utilization of the project.

(c) Preparing drawings and specifications for architectural program documents, schematic design documents, design development documents, modification work documents or documents that identify the scope of or materials for the project.

(d) Preparing an initial schedule for the project, excluding the preparation of updates to the master schedule after modification work has begun.

(e) Preparing preliminary estimates of costs of modification work before completion of the final design of the project, including an estimate or schedule of values for any of the following:

(i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of modification work, regardless of whether they are temporary or permanent or whether they are incorporated in the modifications.

(ii) The cost of labor and materials to be furnished by the owner of the real property.

(iii) The cost of any equipment of the owner of the real property to be assigned by the owner to the prime contractor.

(iv) The cost of any labor for installation of equipment separately provided by the owner of the real property that has been designed, specified, selected or specifically provided for in any design document for the project.

(v) Any fee paid by the owner of the real property to the prime contractor pursuant to the contract for modification work.

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

(viii) Any contingency fees for the prime contractor that may be used before final completion of the project.

(f) Reviewing and evaluating cost estimates and project documents to prepare recommendations on site use, site improvements, selection of

materials, building systems and equipment, modification feasibility, availability of materials and labor, local modification activity as related to schedules and time requirements for modification work.

(g) Preparing the plan and procedures for selection of subcontractors, including any prequalification of subcontractor candidates.

3. "Professional services" means architect services, assayer services, engineer services, geologist services, land surveying services or landscape architect services that are within the scope of those services as provided in title 32, chapter 1 and for which gross proceeds of sales or gross income has not otherwise been deducted under subsection K of this section.

O. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this section if the contract does not include modification activities, except as specified in this subsection. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax under this section. For the purposes of this subsection:

1. Tangible personal property that is incorporated or fabricated into a project described in this subsection may be subject to the amount prescribed in section 42-5008.01.

2. Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this chapter, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

P. Notwithstanding subsection O of this section, a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is taxable under this section, even if the contract also includes vertical improvements. Agencies that are subject to procurement processes under those provisions shall include in the request for proposals a notice to bidders when those projects are subject to this section. This subsection does not apply to contracts with:

1. Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts, regional attraction districts or revitalization districts.

2. Any special taxing district not specified in paragraph 1 of this subsection if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

Q. Notwithstanding subsection R, paragraph 10 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

1. If any part of the contract for sale of the property specifies amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title, the amounts are included in the original owner's gross proceeds of sale or gross income under this section. Proceeds from the sale of the property that are received after transfer of title and that are unrelated to the modifications made subsequent to the transfer of title are not considered gross proceeds of sale or gross income from the modifications.

2. If the original owner enters into an agreement separate from the contract for sale of the real property providing for amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title to the property, the amounts are included in the original owner's gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title.

3. If the original owner is responsible to the new owner for modifications made to the property in the period subsequent to the transfer of title and derives any gross proceeds of sale or gross income from the project subsequent to the transfer of title other than a delayed disbursement from escrow unrelated to the modifications, it is presumed that the amounts are received for the modifications made subsequent to the transfer of title unless the contrary is established by the owner through its books, records and papers kept in the regular course of business.

4. The tax base of the original owner is computed in the same manner as a prime contractor under this section.

R. For the purposes of this section:

1. "Alteration" means an activity or action that causes a direct physical change to existing property. For the purposes of this paragraph:

(a) For existing property that is properly classified as class two property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision (c) and that is used for residential purposes, class three property under section 42-12003 or class four property under 42-12004, this

paragraph does not apply if the contract amount is more than twenty-five percent of the most recent full cash value established under chapter 13, article 2 of this title as of the date of any bid for the work or the date of the contract, whichever value is higher.

(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if any of the following is true:

(i) The contract amount is more than seven hundred fifty thousand dollars.

(ii) The scope of work directly relates to more than forty percent of the existing square footage of the existing property.

(iii) The scope of work involves expanding the square footage of more than ten percent of the existing property.

(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.

(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.

(e) A change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.

(f) Alteration does not include maintenance, repair or replacement.

2. "Contracting" means engaging in business as a contractor.

3. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such contractor is acting in fulfillment of a contract.

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section ~~41-2142~~ 41-4001.

5. "Manufactured building dealer" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter ~~16~~ 37, ARTICLE 4 and who sells manufactured buildings to the final consumer.

(b) Supervises, performs or coordinates the excavation and completion of site improvements or the setup or moving of a manufactured building including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

6. "Modification" means construction, grading and leveling ground, wreckage or demolition. Modification does not include:

(a) Any project described in subsection O of this section.

(b) Any wreckage or demolition of existing property, or any other activity that is a necessary component of a project described in subsection O of this section.

(c) Any mobilization or demobilization related to a project described in subsection O of this section, such as the erection or removal of temporary facilities to be used by those persons working on the project.

7. "Modify" means to make a modification or cause a modification to be made.

8. "Owner" means the person that holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of subsection O of this section, a person who is hired by a general contractor that is hired by an owner, or a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.

9. "Prime contracting" means engaging in business as a prime contractor.

10. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections E and Q of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.

11. "Replacement" means the removal from service of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery or equipment, that provides the same similar or upgraded design or functionality, regardless of the contract amount and regardless of whether

the existing component or system or existing tangible personal property is physically removed from the existing property.

12. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

Sec. 120. Section 42-5160, Arizona Revised Statutes, is amended to read:

42-5160. Liability for tax

Any person who uses, stores or consumes any tangible personal property upon which a tax is imposed by this article and upon which the tax has not been collected by a registered retailer or utility business shall pay the tax as provided by this article, but every retailer and utility business maintaining a place of business in this state and making sales of tangible personal property for storage, use or other consumption in this state shall collect the tax from the purchaser or user unless the property is exempt under this article or the purchaser or user pays the tax directly to the department as provided by section 42-5167. In the case of a manufactured building that is purchased from a dealer outside this state and brought into this state, any person who is hired to set up the manufactured building and who is licensed pursuant to title 41, chapter ~~16~~ 37, article 4 shall collect the tax from the owner and remit the tax with any tax that is due under the prime contracting classification.

Sec. 121. Section 49-104, Arizona Revised Statutes, is amended to read:

49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.

2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.

3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.

4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.

5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.

6. Promote and coordinate the management of air resources to ~~assure~~ ENSURE their protection, enhancement and balanced utilization consistent with the environmental policy of this state.

7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.

8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.

9. ~~Assure~~ ENSURE the preservation and enhancement of natural beauty and man-made scenic qualities.

10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.

11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. Beginning in 2014, the department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.

12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.

13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.

14. Assist the department of health services in recruiting and training state, local and district health department personnel.

15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

17. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This ~~provision~~ PARAGRAPH shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.

18. PROVIDE ADMINISTRATIVE AND STAFF SUPPORT FOR THE OIL AND GAS CONSERVATION COMMISSION.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.

5. Contract with other agencies, including laboratories, in furthering any department program.

6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.

7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.

8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.

9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.

10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.

11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:

(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be

of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.

(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at such places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection H, paragraph 10.

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules shall:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. After July 20, 2011, the department shall establish by rule a fee as a condition of licensure, including a maximum fee. As part of the ~~rule-making~~ RULEMAKING process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. After September 30, 2013, the department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and article 2 of this chapter.

16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:

(a) The direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.

(b) The availability of other funds for the duties performed.

(c) The impact of the fees on the parties subject to the fees.

(d) The fees charged for similar duties performed by the department, other agencies and the private sector.

18. APPOINT A PERSON WITH A BACKGROUND IN OIL AND GAS CONSERVATION TO ACT ON BEHALF OF THE OIL AND GAS CONSERVATION COMMISSION AND ADMINISTER AND ENFORCE THE APPLICABLE PROVISIONS OF TITLE 27, CHAPTER 4 RELATING TO THE OIL AND GAS CONSERVATION COMMISSION.

C. The department may:

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

2. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department

contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:

1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

Sec. 122. Section 49-353, Arizona Revised Statutes, is amended to read:

49-353. Duties of director; rules; prohibited lead use

A. The director shall:

1. Exercise general supervision over all matters related to water quality control of public water systems throughout this state.

2. Prescribe rules regarding the production, treatment, distribution and testing of potable water by public water systems, except that such rules shall not apply to irrigation, industrial or similar systems where the water is used for nonpotable purposes. The rules shall comply with at least the following:

(a) The requirements established by the United States environmental protection agency for state primary enforcement responsibility of the safe drinking water act, including the requirements of 40 Code of Federal Regulations parts 141 and 142.

(b) Require that the plans and specifications for all public water systems, including water treatment plants, distribution systems, distribution system extensions, water treatment methods and devices and all appurtenances and devices for sale to be used in water supplies and public water systems be submitted with a fee for review to the department. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section. Monies collected from the fees shall be deposited in the water quality fee fund established by section 49-210. The director may require that plans and specifications for public water systems include programs to meet future needs for drinking water

and to supply specified minimum quantities of drinking water. The director shall:

(i) Require that a new public water system demonstrate that the system possesses adequate managerial and financial capacity to operate in compliance with this article and the rules adopted pursuant to this article.

(ii) Accept adequate findings of other public authorities regarding the adequate managerial and financial capacity of a public water system to operate in compliance with this article and the rules adopted pursuant to this article.

(c) Provide that no public water system, including a water treatment plant, distribution system, distribution system extension, water treatment method or device, appurtenance and device used in water supplies or public water systems be constructed, reconstructed, installed or initiated before compliance with the standards and rules has been demonstrated by approval of the plans and specifications by the department. The rules shall prescribe minimum standards for the bacteriological, physical and chemical quality of water distributed through public water systems. The director of environmental quality may consult with the director of the department of health services in developing these standards.

(d) Provide for a simplified administrative procedure for approving structural revisions, additions, extensions or modifications to existing small public water systems for potable water serving a population of three thousand three hundred or fewer persons.

(e) Exempt from the plan review requirements of this paragraph, including any requirements for approval to construct or approval of construction, any structural revisions, additions, extensions or modifications to public water systems which are in compliance with the department's rules applicable to those systems or which are making satisfactory progress towards compliance under a schedule approved by the department if either of the following conditions is satisfied:

(i) The revision, addition, extension or modification has a project cost of twelve thousand five hundred dollars or less.

(ii) The revision, addition, extension or modification is made to a water line which is not for a subdivision requiring plat approval by a city, town or county, and has a project cost of more than twelve thousand five hundred dollars but less than fifty thousand dollars, the design of which is sealed by a professional engineer registered in this state and the construction of which is reviewed for conformance with the design by a professional engineer.

(f) Require a notice of compliance with the conditions for exemption ~~upon~~ ON the completion of any revisions, additions, extensions or modifications completed in accordance with subdivision (e) of this paragraph.

(g) Provide for the submission of samples at stated intervals.

(h) Provide for inspection and certification of such water supplies.

(i) Provide for the abatement as public nuisances of any premises, equipment, process or device, or public water system that does not comply with the minimum standards and rules.

(j) Provide for records regarding water quality to be kept by owners and operators of the public water systems and that reports regarding water quality be filed with the department.

(k) Provide for appropriate actions to be taken if a water supply does not meet the standards established by the department.

(l) Require a public water system to implement a specified program to control contamination from backflow, backsiphonage or cross connection. All such programs shall be consistent with ~~title 41, chapter 16~~ SECTION 37-1388.

(m) Require that public water systems identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from either or both of the following:

(i) The lead content in the construction materials of the public water distribution system.

(ii) Corrosivity of the water supply sufficient to cause leaching of lead.

(n) Provide for relief from water testing and monitoring requirements for public water systems qualifying under the federal safe drinking water act (P.L. 93-523; 88 Stat. ~~1660~~ 1661; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613), as amended in 1996.

3. Develop and implement strategies to assist public water systems in acquiring and maintaining the technical, managerial and financial capacity to operate in compliance with this article and the rules adopted pursuant to this article. Assistance may be provided based on the needs of the water system.

B. Pipes and pipe fittings having a lead content in excess of eight ~~per cent~~ PERCENT and solders and flux having a lead content in excess of two-tenths of one ~~per cent~~ PERCENT shall not be used in the installation or repair of public water systems or of any plumbing in residential or nonresidential facilities providing water for human consumption which are connected to public water systems. This subsection shall not apply to leaded joints necessary for the repair of cast iron pipes.

C. Notwithstanding subsection A, paragraph 2, subdivision (c) of this section, a public water system may construct, reconstruct, install, extend or initiate a water supply system, water treatment plant, distribution system, water treatment method or device, or appurtenance that is used in water supply or in a public water system when the system is out of compliance with standards and rules adopted pursuant to this article only if the construction is necessary to correct the system's noncompliance.

D. The provisions of this section and the rules adopted pursuant to this section apply to public water systems as described by section 49-352, subsection B.

Sec. 123. Section 49-356, Arizona Revised Statutes, is amended to read:

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

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

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

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

C. The determination of the number and appointment of representatives for the departments designated in subsection B, paragraphs 1, 4 and 5 OF THIS SECTION shall be made by the director of the respective departments. The determination of the number and appointment of representatives of the state real estate department shall be made by the COMMISSIONER OF THE STATE real estate ~~commission~~ DEPARTMENT. The determination of the number and appointment of representatives of the office of state fire marshal shall be made by the state fire marshal. The appointment of representatives under subsection B, paragraphs 7 and 8 OF THIS SECTION shall be made by the director of the department of health services.

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

E. The council shall:

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

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

3. Integrate and coordinate information databases among member agencies.

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

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

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

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

Sec. 124. Section 49-455, Arizona Revised Statutes, is amended to read:

49-455. Permit administration fund

A. A permit administration fund is established consisting of fees and interest collected pursuant to this article AND SECTION 27-515. The director shall administer the fund subject to annual legislative appropriation. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided in section 35-313, and monies earned from investment shall be credited to the fund. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. Monies in the fund collected pursuant to sections 49-426 and 49-426.01 shall be used for the following:

1. In the case of fees collected pursuant to section 49-426, subsection E, paragraph 1, all reasonable direct and indirect costs required to develop and administer the permit program requirements of title V of the clean air act.

2. In the case of other fees, administering permits or revisions issued pursuant to section 49-426 or 49-426.01 or conducting inspections.

C. MONIES IN THE FUND COLLECTED PURSUANT TO SECTION 27-515, SUBSECTION B, PARAGRAPH 5 SHALL BE USED TO PREPARE, REPRODUCE AND DISTRIBUTE PUBLICATIONS PURSUANT TO THAT PARAGRAPH.

~~C.~~ D. No more than five ~~per cent~~ PERCENT of the monies in the fund may be used for the collection of monies, unless otherwise provided under title V of the clean air act.

~~D.~~ E. No more than five ~~per cent~~ PERCENT of the monies in the fund may be used for general administration of the fund unless otherwise provided under title V of the clean air act.

Sec. 125. Laws 2008, chapter 159, section 3 is amended to read:

Sec. 3. Conditional repeal; notice

A. Sections ~~41-2170, 41-2170.01, 41-2170.02, 41-2170.03, 41-2170.04, 41-2170.05, 41-2170.06 and 41-2170.07~~ 37-1401, 37-1402, 37-1403, 37-1404, 37-1405, 37-1406 AND 37-1408, Arizona Revised Statutes, as ~~added~~ AMENDED by this act, AND SECTION 37-1407, ARIZONA REVISED STATUTES, are repealed if a federal reduced cigarette ignition propensity standard is enacted into law.

B. The state fire marshal shall notify in writing the director of the Arizona legislative council of the effective date of this federal legislation.

Sec. 126. Arizona department of housing; fund transfers; fiscal year 2016-2017

All unspent and unencumbered monies remaining in the following funds are transferred to the Arizona department of housing on the effective date of this act:

1. Federal grant fund established pursuant to section 35-142, Arizona Revised Statutes.

2. DPS-FBI fingerprint fund established pursuant to section 41-1750, Arizona Revised Statutes.

3. Building and fire safety fund established pursuant to section 41-4023, Arizona Revised Statutes, as transferred, renumbered and amended by this act.

4. Consumer recovery fund established by section 41-4041, Arizona Revised Statutes, as transferred and renumbered by this act.

5. Manufactured housing cash bonds fund established pursuant to section 41-4029, Arizona Revised Statutes, as transferred and renumbered by this act.

6. Mobile home relocation fund established by section 33-1476.02, Arizona Revised Statutes, as amended by this act.

Sec. 127. State forester; fund transfers; fiscal year 2016-2017

All unspent and unencumbered monies remaining in the following funds are transferred to the state forester on the effective date of this act:

1. Arson detection reward fund established by section 37-1387, Arizona Revised Statutes, as transferred and renumbered by this act.

2. IGA and ISA fund established pursuant to section 35-142, Arizona Revised Statutes.

3. Trampoline court safety fund established by section 37-1422, Arizona Revised Statutes, as transferred, renumbered and amended by this act.

Sec. 128. State real estate department; condominium and planned community hearing office fund; fiscal year 2016-2017

All unspent and unencumbered monies remaining in the condominium and planned community hearing office fund established by section 32-2199.05, Arizona Revised Statutes, as transferred, renumbered and amended by this act,

are transferred to the state real estate department on the effective date of this act.

Sec. 129. Occupational safety and health review board; transfer of monies

All appropriated monies remaining unspent and unencumbered of the occupational safety and health review board are transferred to the industrial commission of Arizona for the purposes of section 23-422, Arizona Revised Statutes, as amended by this act.

Sec. 130. Oil and gas conservation commission; Arizona geological survey; succession; department of environmental quality; university of Arizona

A. As provided by this act, the department of environmental quality and the university of Arizona, as applicable, succeed to the authority, powers, duties and responsibilities of the Arizona geological survey.

B. All equipment, records, furnishings and other property, all data and investigative findings, all obligations and all appropriated monies that remain unexpended and unencumbered on the effective date of this act of the Arizona geological survey are transferred to the department of environmental quality and the university of Arizona, as applicable. The director of the department of administration shall determine and allocate the transfer, consistent with this act.

C. All unexpended and unencumbered monies in the geological survey fund received pursuant to section 27-515, Arizona Revised Statutes, as amended by this act, are transferred to the permit administration fund established by section 49-455, Arizona Revised Statutes, as amended by this act, on the effective date of this act. The department of environmental quality may use these monies only for purposes relating to the oil and gas conservation commission.

D. All personnel who are under the state personnel system and employed by the Arizona geological survey are transferred to comparable positions and pay classifications in the respective administrative units of the department of environmental quality or with the university of Arizona, as applicable, on the effective date of this act.

Sec. 131. Department of fire, building and life safety; succession; state forester; Arizona department of housing; state real estate department

A. As provided by this act, the state forester, the Arizona department of housing and the state real estate department, as applicable, succeed to the authority, powers, duties and responsibilities of the department of fire, building and life safety.

B. This act does not alter the effect of any actions that were taken or impair the valid obligations of the department of fire, building and life safety in existence before the effective date of this act.

C. Administrative rules and orders that were adopted by the department of fire, building and life safety continue in effect until superseded by

1 administrative action by the state forester, the Arizona department of
2 housing or the state real estate department, as applicable.
3 D. All administrative matters, contracts and judicial and
4 quasi-judicial actions, whether completed, pending or in process, of the
5 department of fire, building and life safety on the effective date of this
6 act are transferred to and retain the same status with the state forester,
7 the Arizona department of housing or the state real estate department, as
8 applicable.
9 E. All certificates, licenses, registrations, permits and other
10 indicia of qualification and authority that were issued by the department of
11 fire, building and life safety retain their validity for the duration of
12 their terms of validity as provided by law.
13 F. All equipment, records, furnishings and other property, all data
14 and investigative findings, all obligations and all appropriated monies that
15 remain unexpended and unencumbered on the effective date of this act of the
16 department of fire, building and life safety are transferred to the state
17 forester, the Arizona department of housing or the state real estate
18 department, as applicable. The director of the department of administration
19 shall determine and allocate the transfer, consistent with the provisions of
20 this act.
21 G. All personnel who are under the state personnel system and employed
22 by the department of fire, building and life safety are transferred to
23 comparable positions and pay classifications in the respective administrative
24 units of the state forester, the Arizona department of housing or the state
25 real estate department, as applicable, on the effective date of this act.
26 Sec. 132. Arizona historical society; succession; Arizona
27 geological survey
28 A. As provided by this act, the Arizona geological survey succeeds to
29 the authority, power, duties and obligations of the Arizona historical
30 society with respect to the former mining and mineral museum.
31 B. This act does not alter the effect of any actions that were taken
32 or impair the valid obligations of the Arizona historical society with
33 respect to the former mining and mineral museum in existence before the
34 effective date of this act and now assumed by the Arizona geological survey.
35 C. The Arizona historical society shall provide a list of all mining
36 and mineral museum inventory, including the location of the inventory, and
37 assist in the transfer of all mining and mineral museum inventory to the
38 Arizona geological survey.
39 Sec. 133. Arizona historical society; Arizona centennial
40 special plate fund; prohibition; retroactivity
41 A. From and after April 30, 2016, the Arizona historical society may
42 not encumber any monies deposited in the Arizona centennial special plate
43 fund established by section 28-2448, Arizona Revised Statutes, as amended by
44 this act, for any purpose.

B. Notwithstanding section 132 of this act, this section is effective retroactively to from and after April 30, 2016.

Sec. 134. Report on mining, mineral and natural resources educational museum

The state geologist, in coordination with the mining, mineral and natural resources educational museum advisory council, shall submit a report to the governor, the president of the senate and the speaker of the house of representatives on or before December 31, 2018 and provide a copy of this report to the secretary of state regarding the operations of the mining, mineral and natural resources educational museum prescribed in section 27-106, Arizona Revised Statutes, as amended by this act, including whether general fund monies are required for the continued maintenance and operations of the museum, information relating to excess specimens and recommendations on other beneficial uses of the mining, mineral and natural resources educational museum building.

Sec. 135. Terms of members of the mining, mineral and natural resources educational museum advisory council

Notwithstanding section 27-111, Arizona Revised Statutes, as transferred, renumbered and amended by this act, a person who is serving as a member of the centennial and mining and mineral museum advisory council on the effective date of this act is eligible to continue to serve on the mining, mineral and natural resources educational museum advisory council until the expiration of the member's current term of office. All subsequent appointed members shall serve a four-year term of office.

Sec. 136. Arizona historical society; transfer of monies

A. All unexpended and unencumbered monies remaining in the Arizona centennial special plate fund established by section 28-2448, Arizona Revised Statutes, as amended by this act, are transferred to the mining, mineral and natural resources educational museum account in the geological survey fund established by section 27-107, Arizona Revised Statutes, as amended by this act.

B. The sum of $428,300 and one FTE position are transferred from the Arizona historical society in fiscal year 2016-2017 to the geological survey fund established by section 27-107, Arizona Revised Statutes, as amended by this act, for use in operating the mining, mineral and natural resources educational museum.

C. All unexpended and unencumbered monies received by the Arizona historical society for the purposes of operating the former mining and mineral museum, the gift shop located in the former mining and mineral museum and any entrance fees collected for the former mining and mineral museum are transferred to the mining, mineral and natural resources educational museum account in the geological survey fund established by section 27-107, Arizona Revised Statutes, as amended by this act.

Sec. 137. Arizona geological survey; intent; report

It is the intent of the legislature that the Arizona geological survey maintain the current level of service as prescribed in section 27-106, Arizona Revised Statutes, as amended by this act, with approximately fifteen FTE positions. On or before August 1, 2017, the university of Arizona shall submit to the joint legislative budget committee a report describing the Arizona geological survey services that were maintained. The Arizona geological survey shall remain in its current facility until adequate space has been obtained at the university of Arizona.

Sec. 138. Retroactivity

This act is effective retroactively to from and after June 30, 2016.

Sec. 139. Conditional enactment; notice

A. The following sections do not become effective if, on or before July 1, 2018, the Arizona geological survey has raised sufficient monies to refurbish and open a mining, mineral and natural resources educational museum at 1502 West Washington Street:

1. Section 27-106, Arizona Revised Statutes, as amended by section 9 of this act.

2. Section 27-107, Arizona Revised Statutes, as amended by section 11 of this act.

3. Section 28-2448, Arizona Revised Statutes, as amended by section 23 of this act.

4. Section 32-2117, Arizona Revised Statutes, as amended by section 29 of this act.

5. Section 33-423, Arizona Revised Statutes, as amended by section 37 of this act.

6. Section 41-821, Arizona Revised Statutes, as amended by section 82 of this act.

7. Section 41-827, Arizona Revised Statutes, as added by this act.

8. Section 41-827.01, Arizona Revised Statutes, as transferred, renumbered and amended by this act.

B. The president of the university of Arizona shall notify in writing the director of the Arizona legislative council on or before July 15, 2018 either:

1. Of the date on which the condition was met.

2. That the condition was not met.

APPROVED BY THE GOVERNOR MAY 10, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2016.

Passed the House May 4, 2016,

by the following vote: 36 Ayes,

24 Nays, 0 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate May 3, 2016,

by the following vote: 18 Ayes,

12 Nays, 0 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

4th day of May, 2016,

at 2:07 o'clock P. M.

Secretary to the Governor

Approved this 10th day of

May, 2016,

at 8:57 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10th day of May, 2016,

at 11:38 o'clock A M.

Secretary of State

S.B. 1530