Volume 28, Issue 9 ~ Administrative Register Contents ~ March 4, 2022

Information .................................................................................................................................................. 484
Rulemaking Guide ...................................................................................................................................... 485

RULES AND RULEMAKING
Proposed Rulemaking, Notices of
20 A.A.C. 5 Industrial Commission of Arizona ......................................................................................... 487
Final Rulemaking, Notices of
2 A.A.C. 20 Citizens Clean Elections Commission .................................................................................... 491
20 A.A.C. 6 Department of Insurance and Financial Institutions - Insurance Division ................................. 493

Proposed Expedited Rulemaking, Notices of
13 A.A.C. 2 Department of Public Safety - Private Investigators ................................................................. 517
13 A.A.C. 12 Private Investigator and Security Guard Hearing Board ....................................................... 524

OTHER AGENCY NOTICES
Docket Opening, Notices of Rulemaking
13 A.A.C. 2 Department of Public Safety - Private Investigators ................................................................. 528
13 A.A.C. 12 Private Investigator and Security Guard Hearing Board ....................................................... 530
20 A.A.C. 5 Industrial Commission of Arizona ............................................................................................... 531

Substantive Policy Statement, Notices of Agency
Department of Environmental Quality ........................................................................................................... 533

GOVERNOR'S OFFICE
Governor's Executive Order 2022-01
Moratorium on Rulemaking to Promote Job Creation and Economic Development; Internal Review of Administrative Rules ............................................................................................................................. 535

INDEXES
Register Index Ledger .................................................................................................................................... 537
Rulemaking Activity, Cumulative Index for 2022 .......................................................................................... 538
Other Notices and Public Records, Cumulative Index for 2022 ................................................................. 540

CALENDAR/DEADLINES
Rules Effective Dates Calendar ..................................................................................................................... 541
Register Publishing Deadlines ....................................................................................................................... 543

GOVERNOR'S REGULATORY REVIEW COUNCIL
Governor’s Regulatory Review Council Deadlines ....................................................................................... 544
ABOUT THIS PUBLICATION
The authenticated pdf of the Administrative Register (A.A.R.) posted on the Arizona Secretary of State’s website is the official published version for rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Register is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the Register contains notices of rules terminated by the agency and rules that have expired.

ABOUT RULES
Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rulemaking activity published in the Register includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA, and other state statutes.

New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

WHERE IS A “CLEAN” COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?
The Arizona Administrative Code (A.A.C) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor’s Regulatory Review Council. The Code also contains rules exempt from the rulemaking process.

The authenticated pdf of Code Chapters posted on the Arizona Secretary of State’s website are the official published version of rules in the A.A.C. The Code is posted online for free.

LEGAL CITATIONS AND FILING NUMBERS
On the cover: Each agency is assigned a Chapter in the Arizona Administrative Code under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the Arizona Administrative Code; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the Arizona Administrative Code. The citation for this Chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking.very document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the Register. The original filed document is available for 10 cents a page.
Participate in the Process

Look for the Agency Notice

Review (inspect) notices published in the Arizona Administrative Register. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency’s website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the Register. Be prepared to speak, attend the meeting, and make an oral comment.

An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the Register publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor’s Regulatory Review Council written comments that are relevant to the Council’s power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

Arizona Regular Rulemaking Process

START HERE

Agency opens a docket. Agency files a Notice of Rulemaking Docket Opening; it is published in the Register. Often an agency will file the docket with the proposed rulemaking.

Agency drafts proposed rule and Economic Impact Statement (EIS); informal public review/comment.

Agency files Notice of Proposed Rulemaking. Notice is published in Register. Notice of meetings may be published in Register or included in Preamble of Proposed Rulemaking. Agency opens comment period.

Oral proceeding and close of record. Comment period must last at least 30 days after publication of notice. Oral proceeding (hearing) is held no sooner than 30 days after publication of notice of hearing.

Substantial change?

If no change then

Rule must be submitted for review or terminated within 120 days after the close of the record.

A final rulemaking package is submitted to G.R.R.C. or A.G. for review. Contains final preamble, rules, and Economic Impact Statement.

G.R.R.C. has 90 days to review and approve or return the rule package, in whole or in part; A.G. has 60 days.

After approval by G.R.R.C. or A.G., the rule becomes effective 60 days after filing with the Secretary of State (unless otherwise indicated).

Final rule is published in the Register and the quarterly Code Supplement.
Definitions


Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at www.azleg.gov.

Arizona Revised Statutes (A.R.S.): The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The “§” symbol simply means “section.” Available online at www.azleg.gov.

Chapter: A division in the codification of the Code designating a state agency or, for a large agency, a major program.

Close of Record: The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.


Docket: A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the Register.

Economic, Small Business, and Consumer Impact Statement (EIS): The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the Register but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

Governor’s Regulatory Review (G.R.R.C.): Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

Incorporated by Reference: An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

Federal Register (FR): The Federal Register is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

Session Laws or “Laws”: When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word “Laws” is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation “Ch.”, and the specific Section number using the Section symbol ($). For example, Laws 1995, Ch. 6, § 2. Session laws are available at www.azleg.gov.

United States Code (U.S.C.): The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

Acronyms

A.A.C. – Arizona Administrative Code
A.A.R. – Arizona Administrative Register
APA – Administrative Procedure Act
A.R.S. – Arizona Revised Statutes
CFR – Code of Federal Regulations
EIS – Economic, Small Business, and Consumer Impact Statement
FR – Federal Register
G.R.R.C. – Governor’s Regulatory Review Council

About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.
NOTICES OF PROPOSED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Rulemaking. A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same Register issue. When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the Register within three weeks of filing. See the publication schedule in the back of each issue of the Register for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

[R22-26]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) & Rulemaking Action
   R20-5-601 & Amend
   R20-5-602 & Amend

2. Citations to agency's statutory rulemaking authority to include the authorizing statute and the implementing statute:
   Authorizing statute: A.R.S. § 23-405(4)
   Implementing statute: A.R.S. § 23-410
   Note: An exception from the moratorium on rulemaking, Executive Order 2022-01, was provided for this rulemaking by Brian Norman, Policy Advisor in the Office of the Governor, by email dated February 8, 2022.

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
   Notice of Rulemaking Docket Opening: 28 A.A.R. 531, March 4, 2022 (in this issue)

4. The agency's contact person who can answer questions about the rulemaking:
   Name: Jessie Atencio, Director
   Address: Division of Occupational Safety and Health
             Industrial Commission of Arizona
             800 W. Washington St., Suite 203
             Phoenix, AZ 85007
   Telephone: (602) 542-5795
   Fax: (602) 542-1614
   Email: jessie.atencio@azdosh.gov

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:
   • OSHA Final Rule published September 30, 2019, titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors”; published in the Federal Register at 84 FR 51377.
   • OSHA Final Rule published August 31, 2020, titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors”; published in the Federal Register at 85 FR 53910.
Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors (September 30, 2019)

Under 29 CFR 1910 and 1926, employers are subject to standards for occupational exposure to beryllium. OSHA’s 2017 Final Rule titled “Occupational Exposure to Beryllium” updated existing standards for occupational exposure to beryllium and beryllium compounds. The September 30, 2019 Final Rule titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors” delayed the compliance dates for all ancillary provisions of the construction and shipyards standards for beryllium until September 30, 2020. The September 30, 2019 Final Rule had no effect on compliance with the PEL and STEL requirements of the existing standards.

Revising the Beryllium Standard for General Industry (July 14, 2020)

The July 14, 2020 Final Rule titled “Revising the Beryllium Standard for General Industry” amended existing general industry standards for occupational exposure to beryllium and beryllium compounds to clarify certain provisions and simplify or improve compliance. Broadly, the July 14 Final Rule added one definition and modified five existing terms in paragraph (b), Definitions; amended paragraph (f), Methods of compliance; paragraph (h), Personal protective clothing and equipment; paragraph (i), Hygiene areas and practices; paragraph (j), Housekeeping; paragraph (k), Medical surveillance; paragraph (m), Communication of hazards; and paragraph (n), Recordkeeping; and replaced the 2017 final standard’s Appendix A with a new appendix designed to supplement the proposed definition of beryllium work area. The revisions in the July 14, 2020 Final Rule are designed to maintain or enhance worker protections overall by ensuring that the Beryllium standard is well understood and compliance is more straightforward.

Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors (August 31, 2020)

The August 31, 2020 Final Rule titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors” amended existing construction and shipyard standards for occupational exposure to beryllium and beryllium compounds to clarify certain provisions and simplify or improve compliance. First, OSHA removed or modified some provisions which – although appropriate in the general industry context – were unnecessary or required revision to appropriately protect employees in the construction and shipyards industries. Second, OSHA revised some provisions of the construction and shipyard standards to avoid inconsistencies with the clarifying changes the agency made in the July 14, 2020 Final Rule (discussed above). Third, OSHA revised certain paragraphs of the construction and shipyard standards to address the application of provisions related to dermal contact to materials containing beryllium in trace quantities. According to OSHA, the changes were designed to accomplish three goals: to more appropriately tailor the requirements of the construction and shipyards standards to the particular exposures in these industries in light of partial overlap between the beryllium standards’ requirements and other OSHA standards; to aid compliance and enforcement across the beryllium standards by avoiding inconsistency, where appropriate, between the shipyards and construction standards and recent revisions to the general industry standard; and to clarify certain requirements with respect to materials containing only trace amounts of beryllium. The August 31, 2020 Final Rule does not affect the general industry beryllium standard.

Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors: Correction (February 24, 2021)


6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting materials:

The Commission did not review or rely on any study relevant to the proposed amended rules. To the extent applicable, studies, surveys, data, or other information reviewed and relied upon by OSHA are discussed in the Final Rules, which are electronically available at:


7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business and consumer impact:

Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors (September 30, 2019)

OSHA estimates that the September 30, 2019 Final Rule titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors” will result in a net cost savings for affected industries. According to OSHA, at a 3% discount rate over ten years, the Final Rule will result in net annual cost savings of $0.36 million per year; at a discount rate of 7% over ten years, the net annual cost savings is $0.85 million per year. When OSHA used a perpetual time horizon, the annualized cost savings of the Final Rule is $0.42 million with a 7% discount rate. OSHA’s detailed analysis is electronically available at:
Revising the Beryllium Standard for General Industry (July 14, 2020)

OSHA estimates that the July 14, 2020 Final Rule titled “Revising the Beryllium Standard for General Industry” would not impose any new employer obligations or increase the overall cost of compliance, while some of the revisions in the Final Rule would clarify and simplify compliance in such a way that results in cost savings. OSHA’s detailed analysis is electronically available at: https://www.federalregister.gov/documents/2020/07/14/2020-10678/revising-the-beryllium-standard-for-general-industry

Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors (August 31, 2020)

OSHA estimated that the August 31, 2020 Final Rule titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors” will lead to total annualized cost savings of $2.5 million at a 3% discount rate over 10 years; at a discount rate of 7% over 10 years, the annualized cost savings would be $2.6 million. OSHA determined that the changes will maintain safety and health protections for workers, while facilitating compliance with the standards and yielding cost savings. OSHA’s detailed analysis is electronically available at: https://www.federalregister.gov/documents/2020/08/31/2020-18017/occupational-exposure-to-beryllium-and-beryllium-compounds-in-construction-and-shipyard-sectors

Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors: Correction (February 24, 2021)


9. The agency’s contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Jessie Atencio, Director
Address: Division of Occupational Safety and Health
          Industrial Commission of Arizona
          800 W. Washington St., Suite 303
          Phoenix, AZ 85007
Telephone: (602) 542-5795
Fax: (602) 542-1614
Email: jessie.atencio@azdosh.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments may be submitted to the address listed in item 9 by the close of the comment period, which is 5:00 p.m. on April 4, 2022. An oral proceeding is scheduled for April 4, 2022 at 9:00 a.m., at the Industrial Commission of Arizona, 800 W. Washington St., Room 206, Phoenix, AZ, 85007.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

A.R.S. § 23-405(3) requires the Commission to “[c]ooperate with the federal government to establish and maintain an occupational safety and health program as effective as the federal occupational safety and health program.”

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The proposed amended rules do not require issuance of a regulatory permit or license.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:


c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitive-

March 4, 2022 | Published by the Arizona Secretary of State | Vol. 28, Issue 9 | 489
ness of business in this state to the impact on business in other states:
No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:


A copy OSHA’s Final Rules are available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 West Washington Street, Room 203, Phoenix, AZ 85007, or are electronically available at:


13. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE
CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Section

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Each employer shall comply with the standards in the Federal Occupational Safety and Health Standards for Construction, as published in 29 CFR 1926, with amendments as of February 7, 2019 February 24, 2021, incorporated by reference. Copies of these referenced materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to construction activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1926 published after February 7, 2019 February 24, 2021.

Each employer shall comply with the standards in Subparts B through Z inclusive of the Federal Occupational Safety and Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of July 6, 2018 July 14, 2020, incorporated by reference. Copies of these reference materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to general industry activity by all employers, both public and private, in the state of Arizona; provided that this Section shall not apply to those conditions and practices which are the subject of R20-5-601. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after July 6, 2018 July 14, 2020.
NOTICES OF FINAL RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor’s Regulatory Review Council or the Attorney General’s Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and text of the rules as filed by the agency.

Economic Impact Statements are not published but are filed by the agency with their final notice.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to item #5 to contact the person charged with the rulemaking.

The codified version of these rules will be published in the Arizona Administrative Code.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R22-27]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action
   R2-20-101 Amend

2. Citations to the agency’s statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):
   Authorizing statute: A.R.S. § 16-956(A)(7)
   Implementing statute: A.R.S. §§ 16-940, 16-941, 16-942, 16-956, 16-957, 16-958, 16-961

3. The effective date of the rule:
   February 7, 2022
   a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
      An immediate effective date is necessary to ensure the rules are made consistent with statute and court decisions as soon as possible during the qualifying period set forth in the Clean Elections Act.
   b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
      Not applicable

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:
   Notice of Rulemaking Docket Opening: 27 A.A.R. 1334, August 27, 2021
   Notice of Proposed Rulemaking: 27 A.A.R.1295, August 27, 2021

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Thomas M. Collins
   Address: Arizona Citizens Clean Elections Commission
            1616 W. Adams, Suite 110
            Phoenix, AZ 85007
   Telephone: (602) 364-3477
   Email: ccec@azcleanelections.gov
   Website: azcleanelections.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:
   This amendment clarifies that the terms for family members defined in A.R.S. § 16-901 also applies to restrict the pool of potential family members who may provide early contributions to participating candidates in the state’s Clean Elections funding program. In 2016 Ariz. Sess. Laws Ch. 79 (Senate Bill 1516 (2016)), the Legislature broadened the definitions of family members in Article 1, Chapter 6 of Title 16, Arizona Revised Statutes. The result of this is that the narrower definition in the Commission rules should be stricken as inconsistent with existing law. The Clean Elections Act uses this definition as a limitation on contributions while Title 16, Chapter 6, Article 1 uses it to expand contributions not subject to campaign contribution limits. Nevertheless, this seems to reflect the intent of the Court of Appeals in Arizona Advocacy Network v. State, 475 P.3d 1149 (Ariz. App. 2020), that the Legislature may reverse and alter certain definitions without “amending” the Clean Elections Act. This action seeks to amend the rule to clarify that the Clean Elections Rules definition of the term “family member” in the same terms that A.R.S § 16-901 seeks to define family contribution and that family member will have that meaning throughout the Clean Elections Rules.
7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
Not applicable

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:
Not applicable

9. A summary of the economic, small business, and consumer impact:
The amendment seeks to resolve potential confusion between statutory definitions and preexisting rule definitions of the Commission. The impact on participating candidates and donors is to limit their ability to take or give contributions depending on the family relationship of the candidate and the donor. However, the overall impact will be to standardize definitions across candidates and other entities, which lowers compliance costs.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:
Not applicable

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:
The Agency received no comments related to this docket.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
   a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:
      No
   b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:
      No
   c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:
      No

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:
None

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:
Not applicable

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

R2-20-101. Definitions
In addition to the definitions provided in A.R.S. § 16-961, the following shall apply to the Chapter, unless the context otherwise requires:
1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
   a. No change
   b. No change
c. No change
12. No change
13. “Family member” means parent, grandparent, spouse, child, or sibling of the candidate or a parent or spouse of any of those persons, parent, grandparent, aunt, uncle, child or sibling of the candidate or the candidate's spouse, including the spouse of any of the listed family members, regardless of whether the relation is established by marriage or adoption.
14. No change
15. No change
16. No change
17. No change
18. No change
19. No change
20. No change
21. No change
22. No change
23. No change
24. No change
25. No change

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE
CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
INSURANCE DIVISION

PREAMBLE

1. Article, Part, or Section Affected (as applicable)          Rulemaking Action

   Part A
   R20-6-1601                                      Renumber
   R20-6-A1601                                    Renumber
   R20-6-A1601                                    Amend
   R20-6-1602                                      Renumber
   R20-6-A1602                                    Renumber
   R20-6-A1602                                    Amend
   R20-6-1603                                      Renumber
   R20-6-A1603                                    Renumber
   R20-6-A1603                                    Amend
   R20-6-1604                                      Renumber
   R20-6-A1604                                    Renumber
   R20-6-A1604                                    Amend
   R20-6-1605                                      Renumber
   R20-6-A1605                                    Renumber
   R20-6-A1605                                    Amend
   R20-6-1606                                      Renumber
   R20-6-A1606                                    Renumber
   R20-6-A1606                                    Amend
   R20-6-1607                                      Renumber
   R20-6-A1607                                    Renumber
   R20-6-A1607                                    Amend
   R20-6-1608                                      Renumber
   R20-6-A1608                                    Renumber
   R20-6-A1608                                    Amend
   R20-6-1609                                      Repeal
   R20-6-1610                                      Renumber
   R20-6-A1609                                    Renumber
   R20-6-A1609                                    Amend
   R20-6-1611                                      Repeal
   R20-6-1612                                      Repeal
   Exhibit A                                      Amend
   Exhibit E                                      New Exhibit
   Part B                                        New Part
   R20-6-B1601                                    New Section
2. Citations to the agency’s statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):
   Authorizing statute: A.R.S. § 20-143
   Implementing statute: A.R.S. § 20-261.08 (repealed after September 29, 2021); A.R.S. § 20-3604 (effective as of September 29, 2021)

3. The effective date of the rule:
   April 9, 2022
   a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
      Not applicable
   b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
      Not applicable

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:
   Notice of Rulemaking Docket Opening: 27 A.A.R. 1497, September 17, 2021
   Notice of Proposed Rulemaking: 27 A.A.R. 1465, September 17, 2021

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Mary E. Kosinski
   Address: Department of Insurance and Financial Institutions
            100 N. 15th Ave., Suite 261
            Phoenix, AZ 85007-2630
   Telephone: (602) 364-3476
   Email: mary.kosinski@difi.az.gov
   Website: https://difi.az.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:
   In 2015, the Department of Insurance (now “Insurance Division” of the Department of Insurance and Financial Institutions) promulgated an exempt rulemaking to reflect statutory changes made to amend A.R.S. § 20-261.01 and add new statutory sections A.R.S. §§ 20-261.05 through 20-261.08. (Laws 2015, Ch. 119.) Since 2015, the National Association of Insurance Commissioners (“NAIC”) has made additional changes to the Credit for Reinsurance model law (MDL 785) and its correlate model regulation (MDL 786). This legislative session, the Legislature passed SB1044 into law to incorporate changes made to the model law and create a new Chapter 30 to Title 20. (Laws 2021, Ch. 357) This rulemaking will incorporate the changes made to the correlate model regulation and will add a new model regulation (MDL 787: Term and Universal Life Reserve Financing) to the administrative code.

   This rulemaking will amend A.A.C. Title 6, Article 16 existing rule sections. The Division will renumber and consolidate the current sections into new Part A (Sections R20-6-A1601 through R20-6-A1609) and new Part B (Sections R20-6-B1601 through R20-6-B1603). Part A will be titled “Credit for Reinsurance” and will incorporate the current Credit for Reinsurance model regulation (MDL 786). Part B will be titled “Term and Universal Life Reserve Financing” and will incorporate the Term and Universal Life Reserve Financing model regulation (MDL 787). Part A will add a new Exhibit E: Form RJ-1. Certificate of Reinsurer Domiciled in Reciprocal Jurisdiction. All statutory references will be to the new Chapter 30 of Title 20.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
   The Department did not review any study relevant to the rule.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:
   The rulemaking addresses credit for reinsurance granted to insurance companies which is of statewide interest to insurers who reinsure policies. The rulemaking does not diminish a previous grant of authority granted to the Division.

9. A summary of the economic, small business, and consumer impact:
   Pursuant to A.R.S. § 41-1055(A):
   • The rulemaking is not designed to change any conduct. Instead, it is designed to give guidance to insurers who seek credit for reinsuring policies.
   • The potential harm to insurers who cannot claim these credits based on the current revision to the rules is monetary.
   • Because this rulemaking is not made in response to a perceived problem, it is not intended to reduce the frequency of any potentially violative conduct.
The costs incurred by insurers claiming these credits are not expected to impact revenues or payroll expenditures. Instead, the credits are expected to benefit insurers financially.

The person listed in Item 5 may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:
No changes have been made between the proposed rulemaking and the final rulemaking.

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:
The Insurance Division received one comment from Lloyd’s America Inc. supporting the proposed rulemaking.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
No other matters prescribed by statute are applicable to the Insurance Division or to any specific rule or class of rules.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:
The rule does not require a permit and does not use a general permit. Instead, the rule is designed to provide guidance to insurers on claiming credit for products they reinsure.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:
No federal law is applicable to the subject of the rule.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:
No formal analysis has been submitted to the Insurance Division that compares the rule’s impact of the competitiveness of business in this state to the impact of business in other states.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:
No reference material is incorporated by reference.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:
This rule was not previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE
CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
INSURANCE DIVISION

ARTICLE 16. CREDIT FOR REINSURANCE

PART A. CREDIT FOR REINSURANCE

Section
R20-6-1601. Credit for Reinsurance - Reinsurer Licensed in Arizona
R20-6-1602. Credit for Reinsurance - Accredited Reinsurers
R20-6-1603. Credit for Reinsurance - Reinsurer Domiciled in Another State
R20-6-1604. Credit for Reinsurance - Reinsurers Maintaining Trust Funds
R20-6-1605. Credit for Reinsurance - Certified Reinsurers
R20-6-1606. Credit for Reinsurance - Reciprocal Jurisdictions; Credit for Reinsurance Required by Law
R20-6-1607. Asset or Reduction from Liability for Reinsurance Ceded to Unauthorized Assuming Insurer not Meeting the Requirements of Sections R20-6-1601 through R20-6-1606
R20-6-1608. Trust Agreements Qualified Under Section R20-6-1607; Letters of Credit Qualified Under Section R20-6-1607
R20-6-1609. Letters of Credit Qualified Under Section R20-6-1607 Repealed
R20-6-1610. Repealed
R20-6-1611. Reinsurance Contract Repealed
R20-6-1612. Contracts Affected Repealed
Exhibit A. Form AR-1, Certificate of Assuming Insurer
Exhibit E. Form RJ-1, Certificate of Reinsurer Domiciled in Reciprocal Jurisdiction
PART B. TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING

ARTICLE 16. CREDIT FOR REINSURANCE

CREDIT FOR REINSURANCE

PART A. CREDIT FOR REINSURANCE

R20-6-1601. R20-6-A1601. Credit for Reinsurance – Reinsurer Licensed in Arizona

Pursuant to A.R.S. § 20-261.05(B), A.R.S. § 20-3601(A) the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that was licensed in Arizona as of any date on which statutory financial statement credit for reinsurance is claimed.

R20-6-1602. R20-6-A1602. Credit for Reinsurance – Accredited Reinsurers

A. Pursuant to A.R.S. § 20-261.05(C), A.R.S. § 20-3602(D) the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in Arizona as of the date on which statutory financial statement credit for reinsurance is claimed.

B. An accredited reinsurer must:

1. File a properly executed Form AR-1, attached as Appendix A to this Article, Part, as evidence of its submission to the Director’s jurisdiction and to the Director’s authority to examine its books and records;

2. File with the Director a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

3. File annually with the Director a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and

4. Maintain a surplus as regards policyholders in an amount not less than $20 million, or obtain the affirmative approval of the Director upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

C. If the Director determines that the assuming insurer has failed to meet or maintain any of these qualifications, the Director may upon written notice and opportunity for hearing, suspend or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer under this Section if the assuming insurer’s accreditation has been revoked by the Director, or if the reinsurance was ceded while the assuming insurer’s accreditation was under suspension by the Director.

R20-6-1603. R20-6-A1603. Credit for Reinsurance – Reinsurer Domiciled in Another State

A. Pursuant to A.R.S. § 20-261.05(D), A.R.S. § 20-3602(E) the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that as of any date on which statutory financial credit for reinsurance is claimed:

1. Is domiciled in (or, in the case of a U.S. branch of an alien assuming insurer, is entered through) a state that employs standards regarding credit for reinsurance substantially similar to those applicable under A.R.S. §§ 20-261.04 through 20-261.08 A.R.S. Title 20, Chapter 30 and this Article, Part;

2. Maintains a surplus as regards policyholders in an amount not less than $20 million; and

3. Files a properly executed Form AR-1 (Exhibit A) with the Director as evidence of the submission to the Director’s authority to examine its books and records.

B. The provisions of this Section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this Section, “substantially similar” standards means credit for reinsurance standards that the Director determines equal or exceed the standards of A.R.S. §§ 20-261.04 through 20-261.08 A.R.S. Title 20, Chapter 30 and this Article, Part.

R20-6-1604. R20-6-A1604. Credit for Reinsurance – Reinsurers Maintaining Trust Funds

A. Pursuant to A.R.S. § 20-261.05(E), A.R.S. § 20-3602(F) and (F)(1), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified U.S. financial institution as defined in A.R.S. § 20-261.03, A.R.S. § 20-3601 for the payment of the valid claims of its U.S. domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Director substantially the same information as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by licensed insurers, to enable the Director to determine the sufficiency of the trust fund.

B. The following requirements apply to the following categories of assuming insurers:

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer’s liabilities attributable to reinsurance ceded by U.S. domiciled insurers, and in addition, the assuming insurer shall maintain a unrestricted surplus of not less than $20 million, except as provided in subsection (B)(2) of this Section.

2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only if a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer’s liquidity or solvency. The minimum required trusted...
surplus may not be reduced to an amount less than 30% of the assuming insurer’s liabilities, attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.

3. The trust fund for a group including incorporated and individual unincorporated underwriters:
   a. Shall consist of:
      i. For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters’ several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group;
      ii. For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this Article Part, funds in trust in an amount not less than the respective underwriters’ several insurance and reinsurance liabilities attributable to business written in the United States; and
      iii. In addition to these trusts, the group shall maintain a trusted surplus of which $100 million shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account.
   b. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group’s domiciliary regulator as are the unincorporated members. The group shall, within ninety (90) days after its financial statements are due to be filed with the group’s domiciliary regulator, provide to the Director:
      i. An annual certification by the group’s domiciliary regulator of the solvency of each underwriter member of the group; or
      ii. If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.

4. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of $10 billion (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the NAIC) and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall:
   a. Consist of funds in trust in an amount no less than the assuming insurers’ several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group;
   b. Maintain a joint trusted surplus of which $100 million shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and
   c. File a properly executed Form AR-1 (Exhibit A) as evidence of the submission to the Director’s authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.
   d. Within ninety (90) days after the statements are due to be filed with the group’s domiciliary regulator, the group shall file with the Director an annual certification of each underwriter member’s solvency by the member’s domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.

C. Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled.

1. The trust instrument shall provide that:
   a. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States;
   b. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor’s U.S. ceding insurers, their assigns and successors in interest;
   c. The trust shall be subject to examination as determined by the commissioner;
   d. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and
   e. No later than February 28 of each year the trustee of the trust shall report to the commissioner in writing setting forth the balance in the trust and listing the trust’s investments at the preceding year-end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the following December 31.

2. Notwithstanding any other provisions in the trust instrument:
   a. If the trust fund is inadequate because it contains an amount less than the amount required by this Section or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.
   b. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.
   c. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.
   d. The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

D. For purposes of this Section, the term “liabilities” shall mean the assuming insurer’s gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, shall include:
E. Assets deposited in trusts established pursuant to A.R.S. § 20-261.05 and this Section shall be valued according to their current fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in A.R.S. § 20-261.03, A.R.S. § 20-3601, clean, irrevocable, unconditional, and “evergreen” letters of credit issued or confirmed by a qualified U.S. financial institution as defined in A.R.S. § 20-261.03, A.R.S. § 20-3601, and investments of the type specified in this subsection (E), but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed 5% of total investments. No more than 2% of the total of the investments in the trust may be foreign investments authorized under subsections (E)(1)(e), (E)(2)(c), (E)(6)(b), or (E)(7) of this Section, and no more than 5% of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of A.R.S. § 20-261.05 shall be invested only as follows:

1. Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed, or guaranteed by:
   a. The United States or by any agency or instrumentality of the United States;
   b. A state of the United States;
   c. A territory, possession, or other governmental unit of the United States;
   d. An agency or instrumentality of a governmental unit referred to in subsections (E)(1)(b) and (E)(1)(c) of this Section if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this subsection (E)(1)(d) if payable solely out of special assessments on properties benefited by local improvements; or
   e. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are so rated; and
   f. The government of any other country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

2. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:
   a. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;
   b. Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in Arizona and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or
   c. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;

3. Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

4. An investment made pursuant to the provisions of subsections (E)(1), (E)(2), or (E)(3) of this Section shall be subject to the following additional limitations:
   a. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed 5% of the assets of the trust;
   b. An investment in any one mortgage-related security shall not exceed 5% of the assets of the trust;
   c. The aggregate total investment in mortgage-related securities shall not exceed 25% of the assets of the trust; and
   d. Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution’s obligations are eligible as investments under subsections (E)(2)(a) and (E)(2)(c) of this Section, but shall not exceed 2% of the assets of the trust.

5. As used in this Section:
   a. “Mortgage-related security” means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:
      i. Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that: (1) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residen-
Credit for Reinsurance – Certified Reinsurers

Pursuant to A.R.S. §§ 20-261.05(E), (G) and (H), A.R.S. §§ 20-3602(G), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in Arizona at all times for which statutory financial statement credit for reinsurance is claimed under this Section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the Director. The security shall be in a form consistent with the requirements of A.R.S. §§ 20-261.05(E), (G) and (H).

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to Section R20-6-1606 R20-6-A1607 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this Section.

R20-6-1605, R20-6-A1605. Credit for Reinsurance – Certified Reinsurers

A. Pursuant to A.R.S. §§ 20-261.05(E), (G) and (H), A.R.S. §§ 20-3602(G), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in Arizona at all times for which statutory financial statement credit for reinsurance is claimed under this Section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the Director. The security shall be in a form con-
4. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

b. Line 2: Allied Lines

c. Line 3: Farmowners multiple peril

d. Line 4: Homeowners multiple peril

e. Line 5: Commercial multiple peril

f. Line 9: Inland Marine

g. Line 12: Earthquake

h. Line 21: Auto physical damage

5. Credit for reinsurance under this Section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer, or a new reinsurance contract covering any risk for which collateral was provided previously, shall only be subject to this Section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

6. Nothing in this Section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this Section.

B. Certification Procedure.

1. The Director shall post notice on the insurance department’s website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The Director may not take final action on the application until at least thirty (30) days after posting the notice required by this subsection (B)(1).

2. The Director shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with subsection A(A) of this Section. The Director shall publish a list of all certified reinsurers and their ratings.

3. In order to be eligible for certification, the assuming insurer shall meet the following requirements:

a. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the Director pursuant to subsection C(C) of this Section.

b. The assuming insurer must maintain capital and surplus, or its equivalent, of no less than $250 million calculated in accordance with subsection (B)(4)(h) of this Section. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least $250 million and a central fund containing a balance of at least $250 million.

c. The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the Director. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the Director in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

i. Standard & Poor’s;

ii. Moody’s Investors Service;

iii. Fitch Ratings;

iv. A.M. Best Company; or

v. Any other Nationally Recognized Statistical Rating Organization.

d. The certified reinsurer must comply with any other requirements reasonably imposed by the Director.

4. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate.
a. The certified reinsurer’s financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The Director shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

<table>
<thead>
<tr>
<th>Ratings</th>
<th>Best</th>
<th>S&amp;P</th>
<th>Moody’s</th>
<th>Fitch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secure – 1</td>
<td>A++</td>
<td>AAA</td>
<td>Aaa</td>
<td>AAA</td>
</tr>
<tr>
<td>Secure – 2</td>
<td>A+</td>
<td>AA+, AA, AA-</td>
<td>Aa1, Aa2, Aa3</td>
<td>AA+, AA, AA-</td>
</tr>
<tr>
<td>Secure – 3</td>
<td>A</td>
<td>A+, A</td>
<td>A1, A2</td>
<td>A+, A</td>
</tr>
<tr>
<td>Secure – 4</td>
<td>A-</td>
<td>A-</td>
<td>A3</td>
<td>A-</td>
</tr>
<tr>
<td>Secure – 5</td>
<td>B++</td>
<td>BBB+, BBB, BBB-</td>
<td>Baa1, Baa2, Baa3</td>
<td>BBB+, BBB, BBB-</td>
</tr>
</tbody>
</table>

b. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

c. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);

d. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (instructions attached as Exhibit C) (for property/casualty reinsurers) or Form CR-S (instructions attached as Exhibit D) (for life and health reinsurers);

e. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers’ Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

f. Regulatory actions against the certified reinsurer;

g. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subsection (B)(4)(h) below;

h. For certified reinsurers not domiciled in the U.S., audited financial statements (audited U.S. GAAP basis if available, audited IFRS basic statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the Director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor), with a translation into English). Upon the initial application for certification, the Director will consider audited financial statements for the last three two years filed with its non-U.S. jurisdiction supervisor;

i. The liquidation priority of obligations to a ceding insurer in the certified reinsurer’s domiciliary jurisdiction in the context of an insolvency proceeding;

j. A certified reinsurer’s participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The Director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

k. Any other information deemed relevant by the Director.

5. Based on the analysis conducted under subsection (B)(4)(e) of this Section of a certified reinsurer’s reputation for prompt payment of claims, the Director may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the Director shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under subsection (B)(4)(a) of this Section if the Director finds that:

a. More than 15% of the certified reinsurer’s ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety 90 days or more which are not in dispute and which exceed $100 thousand for each cedent; or

b. The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by ninety 90 days or more exceeds $50 million.

6. The assuming insurer must submit a properly executed Form CR-1 (attached as Exhibit B) as evidence of its submission to the jurisdiction of Arizona, appointment of the Director as an agent for service of process in Arizona, and agreement to provide security for 100% of the assuming insurer’s liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists
The certified reinsurer must agree to meet applicable information filing requirements as determined by the Director, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under A.R.S. § 20-158 and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

a. Notification within ten days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

b. Annually, Form CR-F or CR-S, as applicable;

c. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subsection (B)(7)(d) below;

d. Annually, the most recent audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the Director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer’s supervisor), with a translation into English. Upon the initial certification, audited financial statements for the last three years filed with the certified reinsurer’s supervisor;

e. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;

f. A certification from the certified reinsurer’s domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction’s highest regulatory action level; and

g. Any other information that the Director may reasonably require.

8. Change in Rating or Revocation of Certification.

a. In the case of a downgrade by a rating agency or other disqualifying circumstance, the Director shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subsection (B)(4)(a) of this Section.

b. The Director shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer’s certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this Section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the Director to reconsider the certified reinsurer’s ability or willingness to meet its contractual obligations.

c. If the rating of a certified reinsurer is upgraded by the Director, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Director shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the Director, the Director shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

d. Upon revocation of the certification of a certified reinsurer by the Director, the assuming insurer shall be required to post security in accordance with Section R20-6-A1607 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Section R20-6-A1604, R20-6-A1604, the Director may allow additional credit equal to the ceding insurer’s pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer’s rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the Director to be at high risk of uncollectibility.

C. Qualified Jurisdictions.

1. If, upon conducting an evaluation under this Section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the Director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Director shall publish notice and evidence of such recognition in an appropriate manner. The Director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

2. In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Director shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The Director shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the Director as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the Director with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the Director, include but are not limited to the following:

a. The framework under which the assuming insurer is regulated.

b. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

c. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

d. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

e. The domiciliary regulator’s willingness to cooperate with U.S. regulators in general and the Director in particular.

f. The history of performance by assuming insurers in the domiciliary jurisdiction.
g. Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the Director has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.

h. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

i. Any other matters deemed relevant by the Director.

3. A list of qualified jurisdictions shall be published through the NAIC Committee Process. The Director shall consider this list in determining qualified jurisdictions. If the Director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Director shall provide thoroughly documented justification with respect to the criteria provided under subsections (C)(2)(a) through (4) (C)(2)(i) of this Section.

4. U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction.

1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Director has the discretion to defer to that jurisdiction’s certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 (Exhibit B) and such additional information as the Director requires. The assuming insurer shall be considered to be a certified reinsurer in Arizona.

2. Any change in the certified reinsurer’s status or rating in the other jurisdiction shall apply automatically in Arizona as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the Director of any change in its status or rating within ten days after receiving notice of the change.

3. The Director may withdraw recognition of the other jurisdiction’s rating at any time and assign a new rating in accordance with subsection (B)(8) of this Section.

4. The Director may withdraw recognition of the other jurisdiction’s certification at any time, with written notice to the certified reinsurer. Unless the Director suspends or revokes the certified reinsurer’s certification in accordance with subsection (B)(8) of this Section, the certified reinsurer’s certification shall remain in good standing in this State for a period of three months, which shall be extended if additional time is necessary to consider the assuming insurer’s application for certification in Arizona.

E. Mandatory Funding Clause. In addition to the clauses required under Section R20-6-1614, R20-6-A1609(B), reinsurance contracts entered into or renewed under this Section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this Section for reinsurance ceded to the certified reinsurer.

F. The Director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

R20-6-1606; R20-6-A1606 Credit for Reinsurance Required by Law; Credit for Reinsurance - Reciprocal Jurisdictions; Credit for Reinsurance Required by Law

Pursuant to A.R.S. § 20-261.05(I), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of A.R.S. §§ 20-261.05(B) through (H) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this Section, “jurisdiction” means state, district or territory of the United States and any lawful national government.

A. Credit for reinsurance to a reciprocal jurisdiction assuming insurer. Pursuant to A.R.S. § 20-3602(H), (I), (J), (K), (L), and (R), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction, and which meets the other requirements of this Part.

B. A “reciprocal jurisdiction” is a jurisdiction, as designated by the Director pursuant to subsection (D) of this Section that meets one of the following:

1. A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection (B)(1), a “covered agreement” is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

2. A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

3. A qualified jurisdiction, as determined by the Director pursuant to A.R.S. § 20-3602(G)(3) and Section R20-6-A1605(C), which is not otherwise described in subsections (B)(1) or (B)(2) above and which the Director determines meets all of the following additional requirements:

a. Provides that an insurer who has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

b. Does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-U.S. jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

c. Recognizes the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups who are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as

March 4, 2022 | Published by the Arizona Secretary of State | Vol. 28, Issue 9 503
C. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to a reciprocal jurisdiction assuming insurer meeting each of the conditions set forth below:

1. The assuming insurer must be licensed to transact insurance by, and have its head office or be domiciled in, a reciprocal jurisdiction;

2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth in subsection (C)(7) of this Section according to the methodology of its domiciliary jurisdiction, in the following amounts:
   a. No less than $250 million; or
   b. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:
      i. Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least $250 million; and
      ii. A central fund containing a balance of the equivalent of at least $250 million.

3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:
   a. If the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in subsection (B)(1) of this Section, the ratio specified in the applicable covered agreement;
   b. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subsection (B)(2) of this Section, a risk-based capital (RBC) ratio of 300% of the authorized control level, calculated in accordance with the formula developed by the NAIC; or
   c. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subsection (B)(3) of this Section, after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the Director determines to be an effective measure of solvency.

4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (Exhibit E), of its agreement to the following:
   a. The assuming insurer must agree to provide prompt written notice and explanation to the Director if it falls below the minimum requirements set forth in subsections (C)(2) or (C)(3) of this Section, or if any regulatory action is taken against it for serious noncompliance with applicable law;
   b. The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the Director as agent for service of process.
      i. The Director may also require that such consent be provided and included in each reinsurance agreement with the assuming insurer;
      ii. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;
   c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained;
   d. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100% of the assuming insurer’s liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable;
   e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involved this state’s ceding insurers, and agrees to notify the ceding insurer and the Director and to provide 100% security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of A.R.S. §§ 20-3602(G) and 20-3603, Section R20-6-A1608, or Section R20-6-A1609(A). For purposes of this Section, the term “solvent scheme of arrangement” means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer’s home jurisdiction either to finally commute liabilities of duly noticed class members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the assuming insurer’s home jurisdiction; and
   f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in subsection (C)(5) of this Section.

5. The assuming insurer or its legal successor must provide, if requested by the Director, on behalf of itself and any legal predecessors, the following documentation to the Director:
   a. For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer’s annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;
b. For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer’s supervisor;

c. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

d. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer’s assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in subsection (C)(6) of this Section.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:

a. More than 15% of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported by the Director;

b. More than 15% of the assuming insurer’s ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer $100 thousand, or as otherwise specified in a covered agreement; or

c. The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds $50 million, or as otherwise specified in a covered agreement.

7. The assuming insurer’s supervisory authority must confirm to the Director on an annual basis that the assuming insurer complies with the requirements set forth in subsections (C)(2) and (C)(3) of this Section.

8. Nothing in this provision precludes an assuming insurer from providing the Director with information on a voluntary basis.

D. The Director shall timely create and publish a list of reciprocal jurisdictions.

1. A list of reciprocal jurisdictions is published through the NAIC committee process. The Director’s list shall include any reciprocal jurisdiction as defined under subsections (B)(1) and (B)(2) of this Section, and shall consider any other reciprocal jurisdiction included on the NAIC list. The Director may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC committee process.

2. The Director may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC committee process, except that the Director shall not remove from the list a reciprocal jurisdiction as defined under subsections (B)(1) and (B)(2) of this Section. Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to A.R.S. Title 20, Chapter 30 and this Part.

E. The Director shall timely create and publish a list of reciprocal jurisdiction assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this subsection (E).

1. If an NAIC accredited jurisdiction has determined that the conditions set forth in subsection (C) of this Section have been met, the Director has the discretion to defer to that jurisdiction’s determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection (E). The Director may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirement of subsection (C) of this Section.

2. When requesting that the Director defer to another NAIC accredited jurisdiction’s determination, an assuming insurer must submit a properly executed Form RJ-1 (Appendix E) and additional information as the Director may require. A state that has received such a request will notify other states through the NAIC committee process and provide relevant information with respect to the determination of eligibility.

F. If the Director determines that a reciprocal jurisdiction assuming insurer no longer meets one or more of the requirements under this Section, the Director may revoke or suspend the eligibility of the reciprocal jurisdiction assuming insurer for recognition under this Section.

1. While an assuming insurer’s eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer’s obligations under the contract are secured in accordance with Section R20-6-A1607.

2. If an assuming insurer’s eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer’s obligations under the contract are secured in a form acceptable to the Director and consistent with the provisions of Section R20-6-A1607.

G. Before denying statement credit or imposing a requirement to post security with respect to subsection (F) of this Section or adopting any similar requirement that will have substantially the same regulatory impact as security, the Director shall:

1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer’s supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in subsection (C) of this Section;

2. Provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;

3. After the expiration of 90 days or less, as set out in subsection (G)(2) of this Section, if the Director determines that no or insufficient action was taken by the assuming insurer, the Director may impose any of the requirements as set out in this subsection (G), and

4. Provide a written explanation to the assuming insurer of any of the requirements set out in this subsection (G).
H. If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring the reciprocal jurisdiction assuming insurer to post security for all outstanding liabilities.

I. Credit for reinsurance required by law. Pursuant to A.R.S. § 20-3602(M), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of A.R.S. §§ 20-3602(C) through (G) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this Section, “jurisdiction” means state, district, or territory of the United States and any lawful national government.

R20-6-A1607. Asset or Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer not Meeting the Requirements of Sections R20-6-1601 through R20-6-1606 R20-6-A1601 through R20-6-A1606

A. Pursuant to A.R.S. § 20-261.04 and A.R.S. § 20-3603, the Director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of A.R.S. § 20-261.04 and A.R.S. § 20-3602 in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in A.R.S. § 20-261.03. A.R.S. § 20-3601. This security may be in the form of any of the following:

1. Cash;
2. Securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;
3. Clean, irrevocable, unconditional, and “evergreen” letters of credit issued or confirmed by a qualified United States institution, as defined in A.R.S. § 20-261.05 and A.R.S. § 20-3601, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution’s subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or
4. Any other form of security acceptable to the Director.

B. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this Section shall be allowed only when the requirements of Section R20-6-A1601 subsection R20-6-A1609(B) and the applicable portions of Sections R20-6-A1608, R20-6-A1609 or R20-6-A1610 Section R20-6-A1608 or subsection R20-6-A1609(A) have been satisfied.

R20-6-A1608. Trust Agreements Qualified under Section R20-6-A1607 R20-6-A1607; Letters of Credit Qualified under Section R20-6-A1607

A. As used in this Section, Trust agreements - definitions. As used in subsections B through G of this Section:

1. “Beneficiary” includes any successor by operation of law of the named beneficiary, including without limitation any liquidator, rehabilitator, receiver, or conservator.
2. “Grantor” means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

3. “Obligations,” as used in subsection (B)(11) of this Section, means:
   a. Reinsured losses and allocated loss expenses paid by the ceding company but not recovered from the assuming insurer;
   b. Reserves for reinsured losses reported and outstanding;
   c. Reserves for reinsured losses incurred but not reported; and
   d. Reserves for allocated reinsured loss expenses and unearned premiums.

B. Required conditions. Trust agreements - required conditions.

1. The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee, which shall be a qualified United States financial institution as defined in A.R.S. § 20-261.03 and A.R.S. § 20-3601.
2. The trust agreement shall create a trust account into which assets shall be deposited.
3. All assets in the trust account shall be held by the trustee at the trustee’s office in the United States.
4. The trust agreement shall provide that:
   a. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
   b. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
   c. It is not subject to any conditions or qualifications outside of the trust agreement; and
   d. It shall not contain references to any other agreements or documents except as provided for in subsections (B)(11) and (12) of this Section.
5. The trust agreement shall be established for the sole benefit of the beneficiary.
6. The trust agreement shall require the trustee to:
   a. Receive assets and hold all assets in a safe place;
   b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;
   c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;
   d. Notify the grantor and the beneficiary within ten days, of any deposits to or withdrawals from the trust account;
e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and
f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least thirty 30 days, but not more than forty-five 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.

9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying commission to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Director), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

10. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

11. Notwithstanding other provisions of this Section, subsections (A) through (G) of this Section, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:
   a. To pay or reimburse the ceding insurer for the assuming insurer’s share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;
   b. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102% of the actual amount required to fund the assuming insurer’s obligations under the specific reinsurance agreement; or
   c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer’s entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in subsections (11)(a) and (b) above as may remain executory after such withdrawal and for any period after the termination date.

12. Notwithstanding other provisions of this Section, subsections (A) through (G) of this Section, when a trust agreement is established to meet the requirements of Section R20-6-A1607 in conjunction with a reinsurance agreement covering life, annuities, or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:
   a. To pay or reimburse the ceding insurer for:
      i. The assuming insurer’s share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies and
      ii. The assuming insurer’s share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provision of the policies reinsured under the reinsurance agreement.
   b. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer, or
   c. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer’s entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the assuming insurer’s share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in subsections (12)(a) and (b) above as may remain executory after withdrawal and for any period after the termination date.

13. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by, or under common control with either the grantor or the beneficiary of the trust shall not exceed 5% of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities, or accident and health risks, then the provisions required by this subsection must be included in the reinsurance agreement.

C. Permitted conditions; Trust agreements - permitted conditions.

1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly
appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor’s name.

3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in subsection (D)(1)(b) of this Section.

4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

D. Additional conditions applicable to reinsurance agreements

1. A reinsurance agreement may contain provisions that:
   a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;
   b. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;
   c. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and
   d. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:
      i. To pay or reimburse the ceding insurer for the assuming insurer’s share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies; and
      ii. To pay or reimburse the ceding insurer for the assuming insurer’s share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and
      iii. To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding reinsurer; or
      iv. To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

2. The reinsurance agreement also may contain provisions that:
   a. Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:
      i. The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or
      ii. After withdrawal and transfer, the current fair market value of the trust account is no less than 102% of the required amount.
   b. Provide for the return of any amount withdrawn in excess of the actual amounts required for subsection (D)(1)(d) of this Section, and for interest payments at a rate not in excess of the prime rate of interest on such amounts;
   c. Permit the award by any arbitration panel or court of competent jurisdiction of:
      i. Interest at a rate different from that provided in subsection (D)(2)(b) of this Section;
      ii. Court or arbitration costs;
      iii. Attorney’s fees; and
      iv. Any other reasonable expenses.

E. Financial reporting

A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the Director in compliance with the provisions of this Article Part when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

F. Existing agreements

Notwithstanding the effective date of this Article Part, any trust agreement or underlying reinsurance agreement in existence and approved by the Director prior to the effective date of this Article Part will
Letters of credit. The letter of credit may contain provisions that:

To pay or reimburse the ceding insurer for the assuming insurer's share, under the specific reinsurance agreement, of

Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

Letters of credit - reinsurance agreement provisions. If the letter of credit is issued by a financial institution authorized to issue letters of credit, the issuing financial institution shall formally designate the confirming United States financial institution as its agent. The letter of credit shall contain an "evergreen clause" in compliance with subsection (K) of this Section. As used in this Section, "beneficiary" includes any successor by operation of law of the named beneficiary, including without limitation any liquidator, rehabilitator, receiver, or conservator. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

Letters of credit - required statements and clauses. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

Letters of credit - additional requirements. If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in subsection (H) of this Section, then the following additional requirements shall be met:

1. The issuing financial institution shall formally designate the confirming United States financial institution as its agent for the receipt and payment of the drafts; and

2. The "evergreen clause" shall provide for 30 days' notice prior to expiration date or nonrenewal.

Letters of credit - reinsurance agreement provisions. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:

1. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

   a. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

      i. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

      ii. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and

      iii. To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

   b. Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in subsections (N)(1)(b)(i), (N)(1)(b)(ii), and (N)(1)(b)(iii) of this Section as may remain after withdrawal and for any period after the termination date.

      c. All of the provisions of subsections (N)(1)(a) and (N)(1)(b) of this Section shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained in subsection (N)(1) of this Section shall preclude the ceding insurer and assuming insurer from providing for:
An interest payment, at a rate not in excess of the prime rate of interest on the amounts held pursuant to subsection (N)(1)(b) of this Section; or

The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

### R20-6-1609, R20-6-A1609, Letters of Credit Qualified under Section R20-6-1607 Other Security; Reinsurance Contract; Contracts Affected

**A.** The letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution as defined A.R.S. § 20-261.03. The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subsection (H)(1) of this Section. As used in this Section, “beneficiary” includes any successor by operation of law of the named beneficiary, including without limitation any liquidator, rehabilitator, receiver or conservator. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

**B.** The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

**C.** A letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

**D.** The term of the letter of credit shall be for at least one year and shall contain an “evergreen clause” that prevents the expiration of the letter of credit without due notice from the issuer. The “evergreen clause” shall provide for no less than 30 days’ notice prior to expiration date or nonrenewal.

**E.** The letter of credit shall state whether it is subject to and governed by the laws of Arizona or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98). All drafts of letters of credit drawn according to UCP 600 or ISP98 shall be presentable at an office in the United States of a qualified United States financial institution.

**F.** If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of UCP 600 occur.

**G.** If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in subsection A of this Section, then the following additional requirements shall be met:

1. The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and
2. The “evergreen clause” shall provide for 30 days’ notice prior to expiration date or nonrenewal.

**H.** Reinsurance agreement provisions:

1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:
   a. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;
   b. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:
      i. To pay or reimburse the ceding insurer for the assuming insurer’s share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;
      ii. To pay or reimburse the ceding insurer for the assuming insurer’s share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and
      iii. To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;
   iv. Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer’s entire obligations under the reinsurance agreement remain unfunded and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer’s share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in subsections (H)(1)(b)(i), (ii) and (iii) of this Section as may remain after withdrawal and for any period after the termination date.
   e. All of the provisions of subsections (H)(1)(a) and (b) of this Section shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.
2. Nothing contained in subsection (H)(1) of this Section shall preclude the ceding insurer and assuming insurer from providing for:
   a. An interest payment, at a rate not in excess of the prime rate of interest on the amounts held pursuant to subsection (H)(1)(b) of this Section; or
b. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

A. Other Security. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

B. Reinsurance Contract. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of Sections R20-6-A1601 through R20-6-A1605 or Section R20-6-A1607 of this Article or otherwise in compliance with A.R.S. § 20-3602 after the adoption of this Part unless the reinsurance agreement:

1. Includes a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to A.R.S. § 20-261(C);
2. Includes a provision pursuant to A.R.S. § 20-3602 whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute-resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and
3. Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

C. Contracts affected. All new and renewal reinsurance transactions entered into after the effective date of this Part shall conform to the requirements of A.R.S. Title 20, Chapter 30 and this Part if credit is to be given to the ceding insurer for such reinsurance.

Exhibit A. Form AR-1, Certificate of Assuming Insurer

FORM AR-1, CERTIFICATE OF ASSUMING INSURER

I, ______________________________________, ______________________________________
(name of officer) (title of officer)
of ______________________________________, ______________________________________
(name of assuming insurer)
under a reinsurance agreement with one or more insurers domiciled in ______________________________________, hereby certify that ______________________________________ (“Assuming Insurer”):
(name of state)

1. Submits to the jurisdiction of any court of competent jurisdiction in ______________________________________
(ceding insurer’s state of domicile)
for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer’s rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Director of Insurance of the State of Arizona of the Arizona Department of Insurance and Financial Institutions (“Director”) as its lawful attorney upon whom may be served any lawful process in any action, suit or legal proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Insurance Director of Arizona to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in ______________________________________ reinsured by Assuming Insurer and ______________________________________
(ceding insurer’s state of domicile)
undertakes to submit additions to or deletions from the list to the Insurance Director at least once per calendar quarter.

Dated: ______________________________________
(name of assuming insurer)
BY: ______________________________________
(name of officer)
Exhibit E.

**FORM RJ-1, CERTIFICATE OF REINSURER DOMICILED IN RECIPROCAL JURISDICTION**

I, ____________________________, 

_____________________________________________________,

(name of officer)

(title of officer)

of ____________________________, the assuming insurer

under a reinsurance agreement with one or more insurers domiciled in ____________________________,

(name of assuming insurer)

(name of state)

in order to be considered for approval in this state, hereby certify that ____________________________,

(“Assuming Insurer”):

1. Submits to the jurisdiction of any court of competent jurisdiction in Arizona for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. The assuming insurer agrees that it will include such consent in each reinsurance agreement, if requested by the Director of the Arizona Department of Insurance and Financial Institutions (“Director”). Nothing in this paragraph constitutes or should be understood to constitute a waiver of assuming insurer’s rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

2. Designates the Director as its lawful attorney in and for the State of Arizona upon whom may be served any lawful process in any action, suit, or proceeding in this state arising out of the reinsurance agreement entered into by or on behalf of the ceding insurer.

3. Agrees to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

4. Agrees to provide prompt written notice and explanation if it falls below the minimum capital and surplus or capital or surplus ratio, or if any regulatory action is taken against it for serious noncompliance with applicable law.

5. Confirms that it is not presently participating in any solvent scheme of arrangement, which involves insurers domiciled in Arizona. If the assuming insurer enters into such an arrangement, the assuming insurer agrees to notify the ceding insurer and the Director, and to provide 100% security to the ceding insurer consistent with the terms of the scheme.

6. Agrees that in each reinsurance agreement it will provide security in an amount equal to 100% of the assuming insurer’s liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final U.S. judgment, that is enforceable under the law of the territory in which it was obtained, or a properly enforceable arbitration award whether obtained by the ceding insurer or by its resolution estate, if applicable.

7. Agrees to provide the documentation in accordance with R20-6-A1606(C)(5), if requested by the Director.

Dated: ____________________________

(name of assuming insurer)


BY:

_____________________________________________________,

(name of officer)

_____________________________________________________,

(title of officer)
PART B. TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING

R20-6-1610.R20-6-B1601. Other Security

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

A. Applicability. Part B of this Article shall apply to reinsurance treaties that cede liabilities pertaining to Covered Policies, as that term is defined in subsection (C) of this Section, issued by any life insurance insurer domiciled in this state. Parts A and B of this Article shall both apply to such reinsurance treaties provided, that in the event of a direct conflict between the provisions of Part B and Part A, the provisions of Part B shall apply but only to the extent of the conflict.

B. Exemptions. Part B of this Article does not apply to the following situations:

1. Reinsurance of:
   a. Policies that satisfy the criteria for exemption set forth in A.R.S. § 20-510 and which are issued before the later of:
      i. The effective date of this Part B; and
      ii. The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies’ statutory reserves, but in no event later than January 1, 2020;
   b. Portions of policies that satisfy the criteria for exemption set forth in A.R.S. § 20-510 and which are issued before the later of:
      i. The effective date of this Part B; and
      ii. The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies’ statutory reserves, but in no event later than January 1, 2020;
   c. Any universal life policy that meets all of the following requirements:
      i. Secondary guarantee period, if any, if five years or less;
      ii. Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the Director’s Standard Ordinary (CSO) valuation tables and valuation interest rate applicable to the issue year of the policy; and
      iii. The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period;
   d. Credit life insurance;
   e. Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts; or
   f. Any group life insurance certificate unless the certificate provides for a stated and implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

2. Reinsurance ceded to an assuming insurer that meets the applicable requirements of A.R.S. § 20-3602(F); or

3. Reinsurance ceded to an assuming insurer that meets the applicable requirements of A.R.S. §§ 20-3602(C), (D), or (E), and that, in addition:
   a. Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual, without any departures from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer’s reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to the Statement of Statutory Accounting Principles No. 1 (“SSAP 1”); and
   b. Is not a Company Action Level Event, Regulatory Action Level Event, Authorized Control Level Event, or Mandatory Control Level Event as those terms are defined in A.R.S. § 20-488 when its Risk-Based Capital (“RBC”) is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation; or

4. Reinsurance ceded to an assuming insurer that meets the applicable requirements of A.R.S. §§ 20-3602(C), (D), or (E), and that, in addition:
   a. Is not an affiliate, as that term is defined in A.R.S. § 20-481, of:
      i. The insurer ceding the business to the assuming insurer; or
      ii. Any insurer that directly or indirectly ceded the business to that ceding insurer;
   b. Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual;
   c. Is both:
      i. Licensed or accredited in at least ten states including its state of domicile; and
      ii. Not licensed in any state as a captive, special purpose vehicle, special purpose financial captive, special purpose life insurance company, limited purpose subsidiary, or any other similar licensing regime; and
   d. Is not, or would not be, below 500% of the Authorized Control Level RBC as that term is defined in A.R.S. § 20-488 when its RBC is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation, and without recognition of any departures from NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer’s reported surplus; or

5. Reinsurance ceded to an assuming insurer that meets the requirements of A.R.S. § 20-3604(D)(2); or

6. Reinsurance not otherwise exempt under subsections (B)(1) through (B)(5) of this Section if the Director, after consulting with the NAIC Financial Analysis Working Group (FAWG) or other group of regulators designated by the NAIC, as applicable, determines under all the facts and circumstances that all of the following apply:
   a. The risks are clearly outside of the intent and purpose of this Part B; and
   b. The risks are included within the scope of this regulation only as a technicality; and
c. The application of this Part B to those risks is not necessary to provide appropriate protection to policyholders. The Director shall publicly disclose any decision made pursuant to subsection (B)(6) to exempt a reinsurance treaty from this Part B, as well as the general basis for the decision including a summary of the treaty.

C. Part B Definitions:
1. “Actuarial Method” means the methodology used to determine the Required Level of Primary Security, as described in Section R20-6-B1602.
2. “Covered Policies” means policies, other than Grandfathered Policies and policies that are not exempt under subsection (B) of this Section, of the following policy types:
   a. Life insurance policies with guaranteed nonlevel gross premiums and/or guaranteed nonlevel benefits, except for flexible premium universal life insurance policies; or
   b. Flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.
3. “Grandfathered Policies” means Covered Policies that were:
   a. Issued prior to January 1, 2015; and
   b. Ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set forth in subsection (B) of this Section.
4. “Non-Covered Policies” means any policy that does not meet the definition of Covered Policies, including Grandfathered Policies.
5. “Primary Security” means the following forms of security:
   a. Cash meeting the requirements of A.R.S. § 20-3603(B)(1);
   b. Securities listed by the Securities Valuation Office meeting the requirements of A.R.S. § 20-3603(B)(2), but excluding any synthetic letter of credit, contingent note, credit-linked note, or other similar security that operates in a manner similar to a letter of credit excluding any securities issued by the ceding insurer or any of its affiliates; and
   c. For security held in connection with funds-withheld and modified coinsurance reinsurance treaties:
      i. Commercial loans in good standing of CM3 quality and higher;
      ii. Policy loans; and
      iii. Derivatives acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.
7. “Required Level of Primary Security” means the dollar amount determined by applying the Actuarial Method to the risks ceded with respect to Covered Policies, but not more than the total reserve ceded.
8. “Valuation Manual” means the Valuation Manual adopted by the NAIC as described in A.R.S. § 20-510, with all amendments adopted by the NAIC that are effective for the financial statement date on which credit for reinsurance is claimed.

D. Severability. If any provision of this Part B is held invalid, the remainder shall not be affected.
E. Prohibition against avoidance. No insurer that has Covered Policies to which this Part B applies, as set forth in subsection (A) of this Section, shall take any action or series of actions or enter into any transaction or arrangement of transactions or arrangements if the purpose of the action, transaction, or arrangement or series is to avoid the requirements of this Part B or to circumvent its purpose and intent.

R20-6-B1603, Reinsurance Contract

The Actuarial Method

Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assumed insurers meeting the requirements of Sections R20-6-1601 through R20-6-1605 or R20-6-1607 of this Article or otherwise in compliance with A.R.S. § 20-261.05 after the adoption of this Article unless the reinsurance agreement:

1. Includes a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to A.R.S. § 20-261(C);
2. Includes a provision pursuant to A.R.S. § 20-261.05 whereby, the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and
3. Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

Actuarial Method. The Actuarial Method to establish the Required Level of Primary Security for each reinsurance treaty subject to this Part B shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the Valuation Manual then in effect, applied as follows:

1. For Covered Policies described in Section R20-6-B1601(C)(2)(a), the Actuarial Method is the greater of the Deterministic Reserve or the Net Premium Reserve (NPR) regardless of whether the criteria for exemption testing can be met. However, if the Covered Policies do not meet the requirements of the Stochastic Reserve exclusion test in the Valuation Manual, then the Actuarial Method is the greater of the Deterministic Reserve, the Stochastic Reserve, or the NPR. In addition, if such Covered Policies are reinsured in a reinsurance treaty that also contains Covered Policies described in Section R20-6-B1601(C)(2)(b), the ceding insurer may elect to instead use subsection (A)(2) below as the Actuarial Method for the entire reinsurance agreement.
2. For Covered Policies described in Section R20-6-B1601(C)(2)(b), the Actuarial Method is the greater of the Deterministic Reserve, the Stochastic Reserve, or the NPR regardless of whether the criteria for exemption testing can be met.
3. Except as provided in subsection (A)(4) below, the Actuarial Method is to be applied on a gross basis to all risks with respect to the Covered Policies as originally issued or assumed by the ceding insurer.

4. If the ceding insurer cedes risk with respect to Covered Policies, including any riders, in more than one reinsurance treaty subject to this Part B, in no event will the aggregate Required Level of Primary Security for those reinsurance treaties be less than the Required Level of Primary Security calculated using the Actuarial Method as if all risks ceded in those treaties were ceded in a single treaty subject to this Part B.

5. In no event will the Required Level of Primary Security resulting from application of the Actuarial Method exceed the amount resulting by applying the Actuarial Method including the reinsurance section of VM-20 to the portion of the covered policy risks ceded in the exempt arrangement, except that for Covered Policies issued prior to January 1, 2017, this adjustment is not to exceed \( \frac{cx}{(2 \times \text{number of reinsurance premiums per year})} \) where \( cx \) is calculated using the same mortality table used in calculating the Net Premium Reserve; and

### B. Valuation used for Purposes of Calculations

For the purposes of both calculating the Required Level of Primary Security pursuant to the Actuarial Method and determining the amount of Primary Security and Other Security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:

1. For assets, including any such assets held in trust, that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the ceding insurer, the valuations are to be determined according to statutory accounting procedures as if such assets were held in the ceding insurer’s general account and without taking into consideration the effect of any prescribed or permitted practices; and

2. For all other assets, the valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the asset spread tables and asset default cost tables required by VM-20 shall be included in the Actuarial Method if adopted by the NAIC’s Life Actuarial (A) Task Force no later than the December 31st on or immediately preceding the valuation date for which the Required Level of Primary Security is being calculated. The tables of asset spreads and asset default costs shall be incorporated into the Actuarial Method in the manner specified in VM-20.
2. The ceding insurer determines the Required Level of Primary Security with respect to each reinsurance treaty subject to this Part B and provides support for its calculation as determined to be acceptable to the Director; and

3. Funds consisting of Primary Security, in an amount at least equal to the Required Level of Primary Security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of A.R.S. § 20-3603, on a funds withheld, trust, or modified coinsurance basis; and

4. Funds consisting of Other Security, in an amount at least equal to any portion of the statutory reserves as to which Primary Security is not held pursuant to subsection (A)(3), are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of A.R.S. § 20-3603; and

5. Any trust used to satisfy the requirements of this Section shall comply with all of the conditions and qualifications of R20-6-A1608(A) through (G), except that:
   a. Funds consisting of Primary Security or Other Security held in trust, shall for the purposes identified in R20-6-B1602(B), be valued according to the valuation rules set forth in R20-6-B1602(B), as applicable; and
   b. There are no affiliate investment limitations with respect to any security held in the trust if such security is not needed to satisfy the requirements of subsection (A)(3); and
   c. The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the Primary Security within the trust (when aggregated with Primary Security outside the trust that is held by or on behalf of the ceding insurer in the manner required by subsection (A)(3) below 102% of the level required by subsection (A)(3) at the time of the withdrawal or substitution; and
   d. The determination of reserve credit under Section R20-6-A1608(E) shall be determined according to the valuation rules set forth in Section R20-6-B1602(B), as applicable; and

6. The reinsurance treaty has been approved by the Director.

B. Requirements at inception date and on an on-going basis; remediation:

1. The requirements of subsection (A) of this Section must be satisfied as of the date that risks under Covered Policies are ceded (if such date is on or after the effective date of this Part B) and on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency under subsections (A)(3) or (A)(4) of this Section with respect to any reinsurance treaty under which Covered Policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.

2. Prior to the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of subsection R20-6-B1601(A) shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which Covered Policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of subsections (A)(3) and (A)(4) of this Section were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of Primary Security actually held pursuant to subsection (A)(3) of this Section, unless either:
   a. The requirements of subsections (A)(3) and (A)(4) of this Section were fully satisfied as of the valuation date as to the reinsurance treaty; or
   b. Any deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of Primary Security and/or Other Security, as the case may be, in such amount and in such form as would have caused the requirements of subsections (A)(3) and (A)(4) of this Section to be fully satisfied as of the valuation date.

3. Nothing in subsection (B)(2) of this Section shall be construed to allow a ceding company to maintain any deficiency under subsection (A)(3) or (A)(4) of this Section for any period of time longer than is reasonably necessary to eliminate it.
NOTICES OF PROPOSED EXPEDITED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Expedited Rulemaking. The Office of the Secretary of State is the filing office and publisher of these rules.

Expedited rulemaking is a rulemaking process that does not increase the cost of regulatory compliance, or increase a fee, or reduce procedural rights of persons regulated. Other requirements to conduct expedited rulemaking are listed under A.R.S. § 41-1027.

Under A.R.S. § 41-1027(C), the Governor’s Regulatory Review Council also posts Notices of Proposed Expedited Rulemakings on its website and allows any person to provide written comment for at least 30 days after posting the notice.

Questions about the interpretation of expedited rules should be addressed to the agency promulgating the rules. Refer to item 4 to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXPEDITED RULEMAKING

TITLE 13. PUBLIC SAFETY
CHAPTER 2. DEPARTMENT OF PUBLIC SAFETY
PRIVATE INVESTIGATORS

[R22-30]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action
   R13-2-101 Amend
   R13-2-102 Amend
   R13-2-103 Amend
   R13-2-104 Amend
   R13-2-105 Amend
   R13-2-201 Repeal
   R13-2-202 Amend
   R13-2-203 Amend
   R13-2-204 Amend
   R13-2-205 Amend
   R13-2-206 Amend
   R13-2-207 Amend
   R13-2-208 Amend
   R13-2-301 Repeal
   R13-2-302 Amend
   R13-2-304 Amend
   R13-2-306 Amend
   R13-2-401 Amend
   R13-2-402 Repeal
   R13-2-404 Amend

2. Citations to the agency’s statutory authority to include the authorizing statute (general) and the implementing statute (specific):
   Authorizing statute: A.R.S. § 41-1713(A)(4)
   Implementing statute: A.R.S. § 32-2402(D)

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
   Notice of Rulemaking Docket Opening: 28 A.A.R. 528, March 4, 2022 (in this issue)

4. The agency’s contact person who can answer questions about the rulemaking:
   Name: Michelle Riley, Licensing Manager
   Address: Arizona Department of Public Safety
            POB 6638, Mail Drop 1280
            Phoenix, AZ 85008-6638
   Telephone: (602) 223-2862
   Email: mriley@azdps.gov
   Website: www.azdps.gov
An agency’s justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

R13-2-101. The incorporated by reference information in Paragraph 2 was updated and the definition statutory reference for delinquent in Paragraph 4 was updated.

R13-2-102. The rule is amended to include credit card payments. The rule change does not increase the cost of regulatory compliance, increase a fee or reduce procedural rights and amends a rule that is outdated. Outdated forms of payment include checks and cash. Updating the rule to include credit card payment facilitates online application and payment improving the licensing process for applicants.

R13-2-103. The word associate was deleted from Paragraph (A)(3) as it is duplicative to A.R.S. § 32-2425(E) which states all new associates shall submit applications on forms prescribed by the Department. In Paragraph (B), specific addresses, telephone and website information is provided.

R13-2-104. Paragraph (A) was repealed as the text is duplicative to A.R.S. § 32-2461. Portions of Paragraph (B)(1,2,3,5,7) were repealed as the text is duplicative to A.R.S. § 32-2461; only the date of birth and the employer’s agency name and license number are more specific than the statute. Paragraph (G) was amended to include a specific address and website methods of notification. Rule 104 was renumbered accordingly.

R13-2-105(C)(3). A typographical error in the rule reference was corrected.

R13-2-201 was repealed as it is not necessary. Arizona Revised Statutes are the governing documents and there is no reason to repeat the statutes in rule when the text of the rule provides no substantive clarification or additional requirements. Applicants should always rely on the statutes first and the administrative rules secondarily for clarifying information.

R13-2-202. Paragraph (A) was amended to include specific addresses and update the statutory references. Paragraph (A)(4) was amended to remove the notary requirement as it is not possible to notarize an online submission. Paragraph (A)(6) was repealed as the text is duplicative to A.R.S. § 32-2422(C). Paragraph (A)(7)(b) was amended to remove the information related to the fingerprints and photographs as it is duplicative to R13-2-202(A)(2,5). Paragraph (C) corrects a typographical error with the rule reference.

R13-2-203. Paragraph (A) was amended as the text was duplicative to A.R.S. § 32-2425(C). With the deletion of the first and second sentences, a clarifying sentence that does not change the substantive content was added. Paragraph (B) was repealed as the text is duplicative to A.R.S. § 32-2425(C). Portions of Paragraph (D) were amended as the text was duplicative to A.R.S. § 32-2425(A) and the date was clarified to reference to the Department. Paragraph (F) was repealed as the text was duplicative to A.R.S. § 32-2425(F). Paragraph (G) was repealed as the text was duplicative to A.R.S. § 32-2425(D).

R13-2-204. A portion of Paragraph (C) was removed as the text was duplicative to A.R.S. § 32-2407(B). Paragraph (D) was repealed as the text was duplicative to A.R.S. § 32-2407(B).

R13-2-205. Paragraph (A) was repealed as the text was duplicative to A.R.S. § 32-2426(A,C). Paragraph (D) was repealed as the text was duplicative to A.R.S. § 32-2453(B). Paragraph (E) was repealed as the text was duplicative to A.R.S. § 32-2425(D).

R13-2-206. Paragraph (B) was amended to remove unnecessary text. Meeting statutory and rule requirements are a given and a separate requirement. There is no reason to include extraneous text to repeatedly reference statutes or rules in all cases.

R13-2-207. Paragraph (A) was repealed as the text is duplicative to A.R.S. § 32-2401(20). A portion of Paragraph (C) was amended to remove text duplicative and redundant to A.R.S. § 32-2441.

R13-2-208. Paragraph (B) was repealed as the text is duplicative to A.R.S. § 32-2457(A)(3).

R13-2-301. The entire rule is repealed. The rule is entirely duplicative to A.R.S. § 32-2441 and does not provide any additional clarifications or requirements.

R13-2-302. Paragraph (A) was amended to include specific addresses. Unnecessary references were removed. Paragraph (B) was amended to remove the List, A, B, and C documents. The Department does not have statutory authority to verify the applicant’s status and therefore should not be prescribing a limiting list of approved forms. Substantial federal and state law on employment verification already exists and employers and applicants should follow those applicable statutes.

R13-2-304 and R13-2-306. The rule was amended to specify addresses and instructions to notify the Department.

R13-2-401. A portion of Paragraph A was removed as it is duplicative to text in A.R.S. §§ 32-2422(D) which grants authority to deny, 32-2441 has no authority to deny but 32-2459 covers 32-2441 and 32-2422 granting authority to deny. Paragraph (A) received clarifying language to specify and make clear it is referencing the Private Investigator and Security Guard Hearing Board without changing the substantive content of the rule. Paragraph (B)(1,2,4,5,6) were repealed as the paragraphs exceed the Department’s authority and creates conflicting hearing standards regulated by the Private Investigator and Security Guard Hearing Board in 13 A.A.C. 12. The Board has statutory authority to conduct the hearings and supersedes the Department’s rules on this issue.

Paragraph (C) was repealed as the Department has difficulty enforcing this provision and does not enforce the provision. There are circumstances in which the factor causing the applicant to be unqualified; such as, necessary experience, will be cured in less than six months. There are other circumstances; such as a criminal record, which will not be cured in six months. It is the Department’s policy to suggest to the applicant the amount of time that needs to elapse before a reapplication is made. Therefore, removing the six-month requirement will ameliorate the re-application process for the applicant potentially allowing a license to be issued quicker than the restrictive six-month timeframe.

R13-2-402. The entire rule is repealed. The rule is duplicative to A.R.S. § 32-2457(F)(2). The rule text is but one of several possible actions the Board may recommend to the Director. Additionally, text allowing a licensee to continue to operate blankety does not meet the statutory authorization in A.R.S. § 32-2457(A,B,C,D,E) to evaluate and issue a probation that is best adapted to the particular situation limiting the Department’s ability to take action. The statute sufficiently stands on its own with no further clari-
A reference to any study relevant to the rule that the agency reviewed and proposes to either rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
The Department did not review any studies.

A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:
The rulemaking does not diminish a previous grant of authority of a political subdivision of this state.

The preliminary summary of the economic, small business, and consumer impact:
Under A.R.S. § 41-1027, the expedited rulemaking is exempt from this requirement.

The agency’s contact person who can answer questions about the economic, small business, and consumer impact statement:
Under A.R.S. § 41-1027, the expedited rulemaking is exempt from this requirement.

The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:
Date: Tuesday April 5, 2022
Time: 9:00 a.m. Mountain Standard Time
Location: Online via Google MEET at URL: meet.google.com/cmq-kpfy-qnv
Join by telephone 1-386-401-8829 PIN 464 998 256#
Close of record: Wednesday April 6, 2022

All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:
   A general permit is not used. A.R.S. § 32-2411 requires a person to be individually licensed and working for an agency that is licensed pursuant to Article 2 of the Chapter. Additionally, Article 3 specifies registration certificates for associate and employee registration.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:
   There is no applicable federal law.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:
   No person submitted an analysis to the Department comparing the rule’s business competitiveness impact.

A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:
Rule 101(2) incorporates by reference the latest edition of the Federal Bureau of Investigation’s applicant fingerprint card.

The full text of the rules follows:
R13-2-207. Restructure of an Agency
R13-2-208. Business and Employee Names

ARTICLE 3. REGISTRATION CERTIFICATES

Section
R13-2-301. Employee and Associate Registration Certificate Eligibility — Repealed
R13-2-302. Application for Registration Certificate
R13-2-304. Lost or Stolen Registration Certificate or Identification Card
R13-2-306. Change in Name of Registrant

ARTICLE 4. REGULATION

Section
R13-2-401. Denial of Agency License or Registration Certificate
R13-2-402. Probation of Agency License or Registration Certificate — Repealed
R13-2-404. Complaints

ARTICLE 1. GENERAL PROVISIONS

R13-2-101. Definitions
In addition to the definitions in A.R.S. § 32-2401, the following definitions apply to this Chapter:
1. “Branch office certificate” means a document issued by the Department to the qualifying party, authorizing the qualifying party to conduct the business of private investigations in this state at a location other than the principal place of business shown on the agency license.
3. “Corporation” or “domestic corporation” has the same meaning as in A.R.S. § 10-140.
4. “Delinquent” means an application is submitted after the license expiration date but before the expiration of the 90-day grace period as described in R13-2-204(C) A.R.S. § 32-2407(B).
5. “Foreign corporation” means a corporation for profit that is incorporated under a law other than the law of Arizona.
6. “Limited liability corporation” has the same meaning as corporation.
7. “Partnership” is an association of two or more persons who are co-owners of a business for profit organized in accordance with A.R.S. Title 29, Partnerships.
8. “Probation” means a period during which an agency or individual that has violated A.R.S. Title 32 Chapter 24 is allowed to demonstrate the ability to meet licensure requirements before the Department takes another administrative action, such as suspension or revocation.
9. “Sole proprietor” means the only owner of a business operated for profit.

R13-2-102. Application and Processing Fees
A. The application and processing fees are:
1. Original agency license application, $250;
2. Agency license, $400;
3. Application for renewal of an agency license, $250;
4. Agency restructure, $100;
5. Agency delinquent renewal application, $100;
6. Reinstatement of agency license, $250;
7. Associate or employee registration certificate application, $50;
8. Associate or employee registration certificate renewal, $50;
9. Associate or employee registration delinquency, $10;
10. Associate or employee registration reinstatement, $25;
11. Replacement identification card, $10;
12. Additional employer form, $10; and
13. Fingerprint and digital photo fee (optional), $15.
B. In addition to any fees in subsections (A)(1), (A)(3), (A)(7), (A)(8), and (A)(12) the Department shall collect a fee in an amount necessary to cover the cost of noncriminal justice fingerprint processing for criminal history record checks under A.R.S. § 41-1750(J).
C. A person shall pay a fee by cash, cashier’s check, certified check, credit card or money order made payable to the Arizona Department of Public Safety. All fees are non-refundable except if A.R.S. § 41-1077 applies.

R13-2-103. Application Forms
A. The Department shall provide and an applicant shall use application forms for:
1. Agency license application;
2. Agency license renewal;
3. Employee or associate registration certificate application; and
4. Employee or associate registration renewal application.
R13-2-104. Identification Cards
A. The Department shall provide a qualified applicant with an identification card for an:
   1. Agency license,
   2. Associate registration certificate, or
   3. Employee registration certificate.
B. The Department shall include on the identification card the applicant’s:
   1. Name,
   2. Photograph,
   3. Physical description,
   4. Date of birth, and
   5. Registration certificate number.
   6. Employer’s agency name and license number, and
   7. Card’s expiration date.
C. A licensee or certificate holder shall not assign or transfer an identification card. An identification card is valid only during the effective dates of the license or certificate under which the card has been issued, and for only as long as the card holder is employed by or associated with the agency licensee.
D. A licensee or certificate holder shall not display a badge or shield in conjunction with performing the duties of a private investigator.
E. An employee employed by more than one licensee shall obtain an identification card for each license under which the employee is employed.
F. Upon termination of employment with an agency licensee, the employee shall surrender the employee’s identification card to the agency’s qualifying party or designee. The agency’s qualifying party shall send the identification card to the Department within five business days of the employee surrendering the license. If the employee fails to surrender the card to the qualifying party, the qualifying party shall notify the Department in writing, within five business days of the employee’s termination of employment.
G. If an identification card is lost or stolen, the holder of the card shall notify the Department immediately in writing by mail request to Arizona DPS Licensing Unit, POB 6638, Mail Drop 3140, Phoenix, AZ 85005-6638 or the Department’s website www.azdps.gov.
H. The Department shall issue a duplicate identification card upon submission of the required fee.
I. The Department shall not approve a fictitious name for use on an identification card.

R13-2-105. Time-frames for Making Licensing and Registration Determinations
A. The Department shall make a determination on the issuance, renewal, reinstatement, or restructure of an agency license, associate or employee registration certificate, or branch office certificate within 15 business days of the submission of an application, as follows:
   1. Five days for administrative completeness review; and
   2. Ten days for substantive review.
B. The administrative completeness review time-frame, as described in A.R.S. § 41-1072(1) and listed in subsection (A)(1), begins on the date the Department receives an application.
   1. If the application is not administratively complete when received, the Department shall send a notice of deficiency to the applicant. The deficiency notice shall state the documents and information needed to complete the application.
   2. Within 45 days from the date of the deficiency notice, the applicant shall submit to the Department the missing documents and information. The time-frame for the Department to finish the administrative completeness review is suspended from the date of the deficiency notice until the date the Department receives the missing documents and information.
   3. If the applicant fails to provide the missing documents and information within the time provided, the Department shall close the applicant’s file, and the Department considers the application suspended. The Department shall not take further action until the required documentation or information and, if applicable, reinstatement fees are received.
C. The substantive review time-frame, as described in A.R.S. § 41-1072(3) and listed in subsection (A)(2), begins on the date the Department determines an application is administratively complete.
   1. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The Department and applicant may mutually agree in writing to allow the Department to submit supplemental requests for additional information.
   2. The applicant shall submit to the Department the additional information to complete the application within 45 days from the date of the Department’s request. The time-frame for the Department to complete the substantive review of the application is suspended from the date of the request for additional information until the Department receives the additional information.
   3. Unless the Department and applicant by mutual written agreement extend the 45-day period, the Department shall close the file of an applicant who fails to submit the additional information within 45 days. An applicant whose file is closed and who wants to be licensed or certified shall apply again under R13-2-202 or R13-2-302.
   4. When the substantive review is complete, the Department shall inform the applicant in writing of its decision whether to license or register the applicant.
      a. The Department shall deny a license or registration if it determines that the applicant does not meet all substantive criteria required by statute and rule. An applicant who is denied certification may appeal the Department’s decision under A.R.S. § 41-1092 et seq.
      b. The Department shall grant a license or registration if it determines that the applicant meets all substantive criteria for licensure or certification required by statute and rule.

March 4, 2022 | Published by the Arizona Secretary of State | Vol. 28, Issue 9 | 521
ARTICLE 2. AGENCY LICENSES

R13-2-201. Agency License Eligibility. Repealed
The qualifying party for an agency license shall meet all requirements under A.R.S. § 32-2422. All other partners or corporate officers of the agency shall register as associates and meet the requirements under A.R.S. § 32-2441.

R13-2-202. Submission of Application for an Agency License
A. Applications for an agency license may be presented in person at the Arizona Department of Public Safety Licensing office in at 2222 W. Encanto Blvd., Phoenix, AZ 85009, or by mail to Arizona DPS Licensing Unit POB 6638, MD3140, Phoenix, AZ 85005-6638 or the Department’s website www.azdps.gov. A qualifying party submitting an application shall ensure that the application consists of:
1. A complete application form with the information required under A.R.S. §§ 32-2422 and 32-2423 and the qualifying party’s notarized signature;
2. Properly completed fingerprint card with classifiable fingerprints of the qualifying party;
3. Fees prescribed in R13-2-102;
4. Legible, notarized copy of a government-issued photo identification document for the qualifying party, such as a state identification card or motor vehicle driver license;
5. Two color photographs of the qualifying party suitable for use in making an identification card, such as passport photos or 1” x 1 1/4” facial photos;
6. Exact details as to the character and nature of the qualifying party’s required experience under A.R.S. § 32-2422.
7. If other than a sole proprietorship:
   a. Partnership agreement, articles of organization, or articles of incorporation;
   b. Applications for associate registration certificates under R13-2-302 completed by all officers, members, managers, and directors of the agency accompanied by classifiable fingerprints and two color photographs suitable for use in making an identification card such as passport photos or 1” x 1 1/4” facial photos;

8. If a foreign corporation, evidence of Arizona Corporation Commission approval to transact business in Arizona;
9. Applications for an agency license may be presented in person at the Arizona Department of Public Safety Licensing office in at 2222 W. Encanto Blvd., Phoenix, AZ 85009, or by mail to Arizona DPS Licensing Unit POB 6638, MD3140, Phoenix, AZ 85005-6638 or the Department’s website www.azdps.gov.

R13-2-203. Issuance of Agency License
A. The Department shall notify an applicant when an agency license is ready for issuance. The applicant has 90 days from the date of notification to:
1. Pay applicable license fees;
2. Provide a complete and accurate two-year surety bond; and
3. For those agencies that will have employees, provide a certificate of worker’s compensation insurance.
B. If an applicant does not provide the required information within 90 days, the Department shall deny the application and all fees shall be forfeited.

R13-2-204. Agency License Renewal
A. A qualifying party may submit a renewal application to the Department up to 60 days before the expiration date on the agency license.
B. The qualifying party shall provide, with the renewal application, the information required under R13-2-202 for the renewal of registration certificates for all associates or employees of the agency.
C. If an agency license is not renewed before the expiration date, the qualifying party and all partners, officers, associates and employees shall cease performing investigative activities subject to regulation under A.R.S. Title 32, Chapter 24, until the date the license is renewed. The the qualifying party shall ensure that all identification cards with the elapsed agency license number are returned to the Department within five business days of the date the license expires.
D. The Department shall not renew an agency license if the application is filed more than 90 days after the expiration date. If more than 90 days have elapsed, the qualifying party who wishes to resume investigative work as a licensee shall reapply under R13-2-202.

R13-2-205. Branch Office Certificate
A. An agency licensee shall obtain a branch office certificate for any place of business other than the principal place of business by request to the Department in writing.
B. The branch office certificate contains the name, agency license number, license expiration date, and address of the branch office.
C. A branch office certificate expires on the date the agency license expires and is renewed when the agency license is renewed.
A licensee shall post a branch office certificate in a conspicuous place in the branch office.

An agency shall notify the Department in writing within 15 business days of any address change for the branch office.

R13-2-206. Change of Qualifying Party
A. If a qualifying party leaves an agency, the agency shall cease operations.
B. If the agency desires to resume operations, a qualifying party shall submit an application for a new agency license under R13-2-202 and meet the requirements under R13-2-201. The Department shall grant the license if the qualifying party meets the requirements of R13-2-201.

R13-2-207. Restructure of an Agency
A. A restructure of an agency occurs when there is a change in business legal status.
B. If the restructure occurs at the time of renewal, the Department shall waive the restructure fee.
C. If the restructure occurs at any time other than time of renewal, the agency shall pay the restructure fee. An application for restructure shall be submitted for the qualifying party and any new associates. Any new associates shall register and meet the requirements under A.R.S. § 32-2441.
D. To change a sole proprietorship to a partnership, the applicant shall provide a partnership agreement with notarized signatures of the partners.
E. To change a corporation to a partnership, the applicant shall provide documentation of the dissolving of the corporation and a partnership agreement with notarized signatures of the partners.
F. To change a sole proprietorship or partnership to a corporation the applicant shall provide the Articles of Incorporation bearing the approval stamp of the Arizona Corporation Commission. If the change is to a foreign corporation, the applicant shall submit documentation of Arizona Corporation Commission approval for the foreign corporation to transact business in Arizona.
G. To change a partnership to a sole proprietorship, the applicant shall provide documentation of the dissolving of the partnership.

R13-2-208. Business and Employee Names
A. The Department shall not grant a license to an agency with a name that includes “United States,” “U.S.”, “Federal,” or “State of Arizona,” or a name that associates the business with any governmental or law enforcement agency. The Department shall not grant a license to an individual or partnership that has a name with the word “corporation,” “corp.,” “incorporated,” “Inc.”, or “L.L.C.” unless corporate or limited liability corporation papers have been filed with the Corporation Commission. The Department shall not approve a new business name that is similar to a business name of a currently licensed firm.
B. An agency licensee and the licensee’s associates and employees shall do business and present themselves under the name used on the license certificate. The Department shall not approve a fictitious name for use on an associate or employer registration certificate.
C. An agency licensee shall do all business under the name and address that is on file with the Department and noted on the license. The licensee shall include its name and license number on all letterhead and business cards, advertising, contracts entered into with clients, and agency correspondence.

ARTICLE 3. REGISTRATION CERTIFICATES

R13-2-301. Employee and Associate Registration Certificate Eligibility
An applicant for an associate or employee registration shall meet the requirements of A.R.S. § 32-2441.

R13-2-302. Application for Registration Certificate
A. Applications for associate and employee registration certificates may be presented in person at the Department’s licensing office in 2222 W. Encanto Blvd., Phoenix, AZ 85009, or by mail to the Phoenix office POB 6638, MD3140, Phoenix, AZ 85005-6638 or the Department’s website www.azdps.gov.
B. The applicant’s employer shall verify all information provided by the applicant and verify proof of U.S. citizenship or legal resident status with authorization to seek employment by examining either one document from List A of U.S. DOJ Form I-9 or one document from List B and one document from List C. After verification, the employer or the applicant may submit an application.
C. In addition to providing documentation of the requirements of A.R.S. § 32-2442, the employer shall ensure that each application includes:
1. A properly completed application form,
2. Two color photographs suitable for use in making an identification card such as passport photos or 1” x 1 1/4” facial photos, and
3. One properly completed fingerprint card with classifiable fingerprints.
D. If applicable equipment and personnel are available, and if the applicant makes a request, the Department personnel shall take an applicant’s photographs and fingerprints upon submission of the application and payment of appropriate fees as listed in R13-2-102.
E. An associate or employee registrant shall conduct business and be identified under the name used on the application and the registration certificate. The Department shall not approve a fictitious name for use on an associate or employer registration certificate.
F. If an applicant is employed by more than one agency, the applicant shall submit an application with the words “Additional Employer” written across the top of the application, submit the fee under R13-2-102, and meet the requirements of this Section. If the applicant has submitted a fingerprint card to the Department within less than 365 days, no fingerprint card is required for the additional Employer application. If the applicant has not submitted a fingerprint card within less than 365 days, the applicant shall submit a new fingerprint card with the application. A licensee or registrant shall provide a new fingerprint card at least every two years.

R13-2-304. Lost or Stolen Registration Certificate or Identification Card
If a registration certificate or identification card is lost or stolen, the registrant shall notify the Department immediately by mail to the Arizona DPS Licensing Unit, POB 6638, MD3140, Phoenix, AZ 85005-6638, the Department’s website www.azdps.gov or by telephone (602) 223-2361 and request a new registration certificate or identification card, provide a 1” x 1 1/4” inch photo for the identification card and a photo for the identification card as specified in R13-2-202(A)(5) and pay the fee under R13-2-102 for a replacement card.

March 4, 2022 | Published by the Arizona Secretary of State | Vol. 28, Issue 9
R13-2-306. Change in Name of Registrant
A registrant whose name has changed shall notify the Department in writing within 30 days of the name change and may request a new identification card. The registrant may mail the notification to the Arizona DPS Licensing Unit, POB 6638, MD3140, Phoenix, AZ 85005-6638 or submit the notification through the Department’s website www.azdps.gov. If the registrant comes to the Department in person at 2222 W. Encanto Blvd., Phoenix, AZ 85009, the registrant shall present to the Department a government-issued photo identification card with the new name or court documents recording the name change and the fees under R13-2-102. If the registrant sends a request by mail or Internet, the registrant shall mail to the Department certified, notarized copies of any court documents with a 1” x 1 1/4” inch photo for the identification card as specified in R13-2-202(A)(5) and the applicable fee under R13-2-102.

ARTICLE 4. REGULATION

R13-2-401. Denial of Agency License or Registration Certificate
A. The Department shall deny an applicant for an agency license or registration certificate if the Department determines that the applicant does not meet the requirements of A.R.S. §§ 32-2422 or 32-2441, or there are grounds for denial under A.R.S. § 32-2459. The Department shall notify the applicant of the reason for the denial by mail to the address listed on file at the Department. The Department shall include in the notification a statement advising the applicant that if the applicant contests denial, the applicant may do so by requesting a hearing with the Private Investigator and Security Guard Hearing Board in writing within 30 days of receiving the notification letter.
B. When the Department receives a request for a hearing:
1. The applicant will be notified of the date and the time of the hearing;
2. The Department shall set the date for hearing at least 30 days after the date of the notification letter;
3. The applicant may request an informal settlement conference under A.R.S. § 41-1092.06 by submitting the request in writing within 20 days of the scheduled hearing date;
4. The hearing will be held before the Private Investigator and Security Guard Hearing Board;
5. If the applicant does not appear at the hearing, the hearing may be held in the applicant’s absence, and the applicant shall be notified by certified mail of the hearing findings;
6. The hearing board shall prepare recommendations for the Director. The Director may adopt the recommendations in their entirety, modify them, or may decide the case upon the record.
C. A denied applicant may reapply no earlier than six months from the date of denial.

R13-2-402. Probation of Agency License or Registration Certificate
Repealed

Upon recommendation of the Private Investigator and Security Guard Hearing Board, the Director may fix a period and terms of probation to protect the public health and safety and to rehabilitate or educate the licensee or registrant. A licensee may continue to operate and a registrant may continue to perform the duties of a private investigator during the period of probation, subject to the terms established by the Director.

R13-2-404. Complaints
A. A person may make a written complaint against an entity or person regulated under this Chapter by filing the complaint with the Department. If the complaint involves an alleged violation of Arizona Revised Statutes, the Department shall investigate to ascertain whether a violation of the statute has occurred. The Department may forward a copy of the complaint to the entity or person against whom the complaint has been lodged and request the person to respond to the complaint as part of the investigation.
B. At the conclusion of the investigation, the Department shall forward a copy of the complaint, upon request, to the entity or person against whom the complaint has been lodged.
C. When an investigation is concluded, the Director may take an action listed in A.R.S. § 32-2457.

NOTICE OF PROPOSED EXPEDITED RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 12. PRIVATE INVESTIGATOR AND SECURITY GUARD HEARING BOARD

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action
   R13-12-103 Amend
   R13-12-104 Amend
   R13-12-105 Amend
   R13-12-106 Amend

2. Citations to the agency’s statutory authority to include the authorizing statute (general) and the implementing statute (specific):
   Authorizing statute: A.R.S. § 17-231(A)(1)
   Implementing statute: A.R.S. § 32-2405(A)(4)

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
   Notice of Rulemaking Docket Opening: 28 A.A.R. 530, March 4, 2022 (in this issue)
4. The agency's contact person who can answer questions about the rulemaking:
   Name: Michelle Riley, Licensing Manager
   Address: Arizona Department of Public Safety
            POB 6638, MD1280
            Phoenix, AZ 85005-6638
   Telephone: (602) 223-2862
   Email: mriley@azdps.gov

5. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:
   The Department is amending the rules to:
   • Ameliorate a regulatory burden on the public while achieving the same regulatory objective.
   • Eliminating sections of rules that are outdated and no longer necessary for the operation of state government.
   • Reduces or consolidates steps, procedures or processes in the rules.
   • Implementing a course of action proposed in a five-year review report approved by the Governor’s Regulatory Review Council pursuant to A.R.S. § 41-1056 on October 5, 2021.
   The Board does not enforce the timeframe and form requirements in Rule 103 in the interest of facilitating the application process and imposing the least burden on the public when possible. The Board includes information on the criteria of good-cause exception in the letter of denial and instructs individuals of the opportunity to request a good-cause exception hearing. An applicant need only inform the Board that a good-cause exception hearing is wanted.
   The Board does not enforce the timeframe in Rule 104 in the interest of facilitating the hearing process. The Board allows an applicant to bring written materials to the hearing without having submitted them before the hearing in most cases. The Board recognizes that A.R.S. §§ 32-2412(C) and 32-2609(C) require the applicant to submit to the Board any evidence the applicant will be presenting at the hearing at least five days before the hearing; however, the Board feels that timeframe can hamper the procedure and does not want the hearing to be adversarial. By striking 104(D), the rule will not contradict nor duplicate statutory text eliminating the condition where the Board is not enforcing the rule.
   The Board does not enforce the timeframe in Rule 105 in the interest of facilitating the hearing process. The Board allows an applicant to make an oral request that a hearing be rescheduled as late as the day of the scheduled hearing when possible.
   The Board does not enforce the cost repayment in Rule 106 in the interest of facilitating the hearing process. The Board does not charge the applicant for the costs resulting from a telephonic appearance.

6. A reference to any study relevant to the rule that the agency reviewed and proposes to either rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
   The Department did not rely on any study.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:
   The rulemaking does not diminish grants of authority of political subdivisions.

8. The preliminary summary of the economic, small business, and consumer impact:
   Under A.R.S. § 41-1027, the expedited rulemaking is exempt from this requirement.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:
   Under A.R.S. § 41-1027, the expedited rulemaking is exempt from this requirement.

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:
    Date: Tuesday April 5, 2022
    Time: 9:00 a.m. Mountain Standard Time
    Location: Online via Google MEET at URL: meet.google.com/cmq-kpfy-qnv
             Join by telephone 1-386-401-8829 PIN 464 998 256#
    Close of record: Wednesday April 6, 2022

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
   a. Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:
      These rules do not require a permit. The Department of Public Safety is the licensing authority. The Board will review cases when a member of the public has requested a good-cause exception hearing and will decide if the person will be issued the license or not.
   b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:
      There is no applicable federal law.
   c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:
The Department did not receive any such analysis.

12. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**
   There are no incorporated by reference items.

13. **The full text of the rules follows:**

   **TITLE 13. PUBLIC SAFETY**

   **CHAPTER 12. PRIVATE INVESTIGATOR AND SECURITY GUARD HEARING BOARD**

   **ARTICLE 1. PRIVATE INVESTIGATOR AND SECURITY GUARD HEARING BOARD**

   Section
   R13-12-103. Application for a Good-cause Exception
   R13-12-104. Hearing on Good-cause Exception
   R13-12-105. Vacating, Rescheduling, or Continuing a Hearing
   R13-12-106. Telephonic Testimony

   **ARTICLE 1. PRIVATE INVESTIGATOR AND SECURITY GUARD HEARING BOARD**

   **R13-12-103. Application for a Good-cause Exception**

   A. To apply for a good-cause exception, an applicant may at any time shall submit inform the Board a good-cause exception hearing is requested, eight copies of the following materials to the Board within 60 days from the date on the Department’s notice:

   1. A good-cause exception application form, which is available from the Department, that includes the following information about the applicant:
      a. Full legal name;
      b. Any other names ever used;
      c. Date of birth;
      d. Mailing address;
      e. Home and daytime telephone numbers;
      f. List of all of applicant’s felony arrests not listed on the Department’s notice;
      g. Detailed description of all of applicant’s felony arrests, including:
         i. Circumstances leading to the arrest;
         ii. Who else was involved in the event leading to the arrest;
         iii. Where and when the event occurred;
         iv. Mitigating circumstances, if any;
         v. Disposition of the charge;
         vi. Terms of sentencing, if any; and
         vii. Whether the sentencing terms have been completed satisfactorily; and
      h. Applicant’s notarized signature certifying that the information provided is true and correct;

   2. Two letters of reference, on a form prescribed by the Board, that attest to the applicant’s rehabilitation and meet the following requirements:
      a. Both letters of reference are from individuals who have known the applicant at least one year; and
      b. At least one letter of reference is from the applicant’s current or former employer or an individual who has known the applicant at least three years;

   3. If the Department’s notice indicates that the Department was unable to determine the disposition of a felony charge, a copy of documents from the appropriate court showing the disposition of the felony charge or showing that records regarding the felony charge against the applicant either do not exist or have been purged; and

   4. For every felony conviction, regardless of whether the conviction is listed on the Department’s notice, a copy of documents from the appropriate court showing that the applicant met all judicially imposed sentencing terms or that records regarding the applicant either do not exist or have been purged.

   B. An applicant may in advance or at the time of the hearing submit other documents that the applicant wants the Board to consider in determining whether to grant a good-cause exception.

   **R13-12-104. Hearing on Good-cause Exception**

   A. The Board shall schedule a hearing regarding a good-cause exception for an applicant to occur within 60 days after receiving the materials described in R13-12-103.

   B. The Board shall provide the applicant with at least 30 days notice of the date, time, and location of the hearing on the applicant’s application for a good-cause exception.

   C. The applicant may be represented at the hearing.

   D. If the applicant plans to present written evidence at the hearing that was not included with the application, the applicant shall submit the written evidence to the Board through the Department at least five days before the hearing.

   E. The Board shall conduct the hearing in an informal manner without adherence to the rules of evidence required in a judicial proceeding.

   F. At the hearing, the applicant shall show to the Board’s satisfaction that the applicant:
      1. Has never been convicted of an offense listed in A.R.S. § 41-1758.03(B), and
      2. Is not awaiting trial on an offense listed in A.R.S. § 41-1758.03(B).

   G. At the hearing, the applicant has the burden of persuading the Board that the applicant should be granted a good-cause exception.
In deciding whether to grant a good-cause exception, the Board shall consider:
   1. The extent of the applicant’s criminal record;
   2. The length of time that has elapsed since the most recent offense was committed;
   3. The nature of the offense;
   4. Evidence supporting any applicable mitigating circumstances;
   5. Evidence supporting the degree to which the applicant participated in the offense; and
   6. Evidence supporting the extent of the applicant’s rehabilitation, including:
      a. Completion of probation, parole, or community supervision;
      b. Whether the applicant paid restitution or other compensation for the offense;
      c. Evidence of positive action to change criminal behavior such as completing a drug-treatment program or counseling; and
      d. Personal references attesting to the applicant’s rehabilitation.

R13-12-105. Vacating, Rescheduling, or Continuing a Hearing
A. Vacating a hearing. If an applicant withdraws the applicant’s application for a good-cause exception, the Board shall vacate the hearing regarding the application.
B. Rescheduling a hearing. The Board shall reschedule a hearing if the applicant submits a written request to inform the Board, at least 48 hours before the scheduled hearing that demonstrates. The timeframe to request a hearing reschedule may occur before and up to including the day of the originally scheduled hearing and demonstrates:
   1. Appearance at the hearing by the applicant or applicant’s witness will cause undue hardship or is impossible using reasonable diligence; and
   2. Rescheduling the hearing will avoid prejudice.
C. Continuing a hearing. The Board shall continue a hearing if the continuance will serve administrative convenience, expedience, or economy and avoid prejudice.

R13-12-106. Telephonic Testimony
The Board shall allow an applicant or a witness for the applicant to provide telephonic testimony at the hearing on the applicant’s application for a good-cause exception if:
   1. The applicant submits a written request to the Board at least 48 hours before the scheduled hearing that demonstrates:
      a. Personal appearance at the hearing by the applicant or applicant’s witness will cause undue hardship, and
      b. Telephonic presence will not cause prejudice; and
   2. The applicant pays all costs resulting from the telephonic appearance.
NOTICES OF RULEMAKING DOCKET OPENING

This section of the Arizona Administrative Register contains Notices of Rulemaking Docket Opening under A.R.S. § 41-1021.

A docket opening is the first part of the administrative rulemaking process. It is an "announcement" that an agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA, effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. An agency may file the Notice of Rulemaking Docket Opening along with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF PUBLIC SAFETY
PRIVATE INVESTIGATORS

[R22-32]

1. Title and its heading: 13, Public Safety
   Chapter and its heading: 2, Department of Public Safety - Private Investigators
   Article and its heading: 1, General Provisions
   2, Agency Licenses
   3, Registration Certificates
   4, Regulation

Section numbers: R13-2-101 through R13-2-105; R13-2-201 through R13-2-208; R13-2-301, R13-2-302, R13-2-304; R13-2-401, R13-2-402, R13-2-404. (The Department may add, delete or modify sections as necessary)

2. The subject matter of the proposed rule:

   R13-2-101. The incorporated by reference information in Paragraph 2 was updated and the definition statutory reference for delinquent in Paragraph 4 was updated.

   R13-2-102. The rule is amended to include credit card payments. The rule change does not increase the cost of regulatory compliance, increase a fee or reduce procedural rights and amends a rule that is outdated. Outdated forms of payment include checks and cash. Updating the rule to include credit card payment facilitates online application and payment improving the licensing process for applicants.

   R13-2-103. The word associate was deleted from Paragraph (A)(3) as it is duplicative to A.R.S. § 32-2425(E) which states all new associates shall submit applications on forms prescribed by the Department. In Paragraph (B), specific addresses, telephone and website information is provided.

   R13-2-104. Paragraph (A) was repealed as the text is duplicative to A.R.S. § 32-2461. Portions of Paragraph (B)(1,2,3,5,7) were repealed as the text is duplicative to A.R.S. § 32-2461; only the date of birth and the employer’s agency name and license number are more specific than the statute. Paragraph (G) was amended to include a specific address and website methods of notification. Rule 104 was renumbered accordingly.

   R13-2-105(C)(3). A typographical error in the rule reference was corrected.

   R13-2-201 was repealed as it is not necessary. Arizona Revised Statutes are the governing documents and there is no reason to repeat the statutes in rule when the text of the rule provides no substantive clarification or additional requirements. Applicants should always rely on the statutes first and the administrative rules secondarily for clarifying information.

   R13-2-202. Paragraph (A) was amended to include specific addresses and update the statutory references. Paragraph (A)(4) was amended to remove the notary requirement as it is not possible to notarize an online submission. Paragraph (A)(6) was repealed as the text is duplicative to A.R.S. § 32-2422(C). Paragraph (A)(7)(b) was amended to remove the information related to the fingerprints and photographs as it is duplicative to R13-2-202(A)(2,5). Paragraph (C) corrects a typographical error with the rule reference.

   R13-2-203. Paragraph (A) was amended as the text was duplicative to A.R.S. § 32-2425(C). With the deletion of the first and second sentences, a clarifying sentence that does not change the substantive content was added. Paragraph (B) was repealed as the text is duplicative to A.R.S. § 32-2425(C). Portions of Paragraph (D) were amended as the text was duplicative to A.R.S. § 32-2425(A) and the date was clarified to reference to the Department. Paragraph (F) was repealed as the text was duplicative to A.R.S. § 32-2425(F). Paragraph (G) was repealed as the text was duplicative to A.R.S. § 32-2425(D).

   R13-2-204. A portion of Paragraph (C) was removed as the text was duplicative to A.R.S. § 32-2407(B). Paragraph (D) was repealed as the text was duplicative to A.R.S. 32-2407(B).

   R13-2-205. Paragraph (A) was repealed as the text was duplicative to A.R.S. § 32-2426(A,C). Paragraph (D) was repealed as the
text was duplicative to A.R.S. § 32-2453(B). Paragraph (E) was repealed as the text was duplicative to A.R.S. § 32-2425(D).

R13-2-206. Paragraph (B) was amended to remove unnecessary text. Meeting statutory and rule requirements are a given and a separate requirement. There is no reason to include extraneous text to repeatedly reference statutes or rules in all cases.

R13-2-207. Paragraph (A) was repealed as the text is duplicative to A.R.S. § 32-2401(20). A portion of Paragraph (C) was amended to remove text duplicative and redundant to A.R.S. § 32-2441.

R13-2-208. Paragraph (B) was repealed as the text is duplicative to A.R.S. § 32-2457(A)(3).

R13-2-301. The entire rule is repealed. The rule is entirely duplicative to A.R.S. § 32-2441 and does not provide any additional clarifications or requirements.

R13-2-302. Paragraph (A) was amended to include specific addresses. Unnecessary references were removed. Paragraph (B) was amended to remove the List, A, B, and C documents. The Department does not have statutory authority to verify the applicant’s status and therefore should not be prescribing a limiting list of approved forms. Substantial federal and state law on employment verification already exists and employers and applicants should follow those applicable statutes.

R13-2-303 and R13-2-304. The rule text was amended to specify specific addresses and instructions to notify the Department.

R13-2-401. A portion of subsection (A) was removed as it is duplicative to text in A.R.S. §§ 32-2422(D) which grants authority to deny, 32-2441 has no authority to deny but 32-2459 covers 32-2441 and 32-2422, granting authority to deny. Subsection (A) received clarifying language to specify and make clear it is referencing the Private Investigator and Security Guard Hearing Board without changing the substantive content of the rule. Subsections (B)(1), (2), (4), (5), (6) were repealed as the paragraphs exceed the Department’s authority and creates conflicting hearing standards regulated by the Private Investigator and Security Guard Hearing Board in 13 A.A.C. 12. The Board has statutory authority to conduct the hearings and supersedes the Department’s rules on this issue. Subsection (C) was repealed as the Department has difficulty enforcing this provision and does not enforce the provision. There are circumstances in which the factor causing the applicant to be unqualified; such as, necessary experience, will be cured in less than six months. There are other circumstances; such as a criminal record, which will not be cured in six months. It is the Department’s policy to suggest to the applicant the amount of time that needs to elapse before a reapplication is made. Therefore, removing the six-month requirement will ameliorate the re-application process for the applicant potentially allowing a license to be issued quicker than the restrictive six-month timeframe.

R13-2-402. The entire rule is repealed. The rule is duplicative to A.R.S. § 32-2457(F)(2). The rule text is but one of several possible actions the Board may recommend to the Director. Additionally, text allowing a licensee to continue to operate blankety does not meet the statutory authorization in A.R.S. § 32-2457(A), (B), (C), (D), (E) to evaluate and issue a probation that is best adapted to the particular situation limiting the Department’s ability to take action. The statute sufficiently stands on its own with no further clarification required in rule.

R13-2-404. Portions of subsection (A) were repealed as the text is duplicative to A.R.S. § 32-2456(B), (F). Subsection (C) was repealed as it is an unnecessary statutory reference where the paragraph provides no clarifications.

The Department was granted exceptions to the rulemaking moratorium contained in Executive Order 2020-02 in an e-mail from Megan Fitzgerald dated November 24, 2020.

3. **A citation to all published notices relating to the proceeding:**

4. **Name and address of agency personnel with whom persons may communicate regarding the rule:**
   Name: Michelle Riley, Licensing Manager
   Address: Arizona Department of Public Safety
   POB 6638, Mail Drop 1280
   Phoenix, AZ 85005-6638
   Telephone: (602) 223-2862
   Email: mriley@azdps.gov
   Website: www.azdps.gov

5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
   The Department will accept comments during business hours at the address listed in item 4 until the close of record. Information regarding an oral proceeding is included in the Notice of Proposed Expedited Rulemaking on page 517 of this issue.

6. **A timetable for agency decisions or other action on the proceeding, if known:**
   To be determined.
NOTICE OF RULEMAKING DOCKET OPENING
PRIVATE INVESTIGATOR AND SECURITY GUARD HEARING BOARD

1. Title and its heading: 13, Public Safety
Chapter and its heading: 12, Private Investigator and Security Guard Hearing Board
Article and its heading: 1, Private Investigator and Security Guard Hearing Board
Section numbers: R13-12-103 through R13-12-106 (The Department may add, delete or modify sections as necessary)

2. The subject matter of the proposed rule:
The Department is amending the rules to:
• Ameliorate a regulatory burden on the public while achieving the same regulatory objective.
• Eliminate sections of rules that are outdated and no longer necessary for the operation of state government.
• Reduce or consolidate steps, procedures or processes in the rules.
• Implement a course of action proposed in a five-year review report approved by the Governor’s Regulatory Review Council pursuant to A.R.S. § 41-1056 on October 5, 2021.

The Board does not enforce the timeframe and form requirements in Rule 103 in the interest of facilitating the application process and imposing the least burden on the public when possible. The Board includes information on the criteria of good-cause exception in the letter of denial and instructs individuals of the opportunity to request a good-cause exception hearing. An applicant need only inform the Board that a good-cause exception hearing is wanted.

The Board does not enforce the timeframe in Rule 104 in the interest of facilitating the hearing process. The Board allows an applicant to bring written materials to the hearing without having submitted them before the hearing in most cases. The Board recognizes that A.R.S. §§ 32-2412(C) and 32-2609(C) require the applicant to submit to the Board any evidence the applicant will be presenting at the hearing at least five days before the hearing; however, the Board feels that timeframe can hamper the procedure and does not want the hearing to be adversarial. By striking 104(D), the rule will not contradict nor duplicate statutory text eliminating the condition where the Board is not enforcing the rule.

The Board does not enforce the timeframe in Rule 105 in the interest of facilitating the hearing process. The Board allows an applicant to make an oral request that a hearing be rescheduled as late as the day of the scheduled hearing when possible.

The Board does not enforce the cost repayment in Rule 106 in the interest of facilitating the hearing process. The Board does not charge the applicant for the costs resulting from a telephonic appearance.

The Department was granted exceptions to the rulemaking moratorium contained in Executive Order 2021-02 in an e-mail from Megan Fitzgerald dated December 15, 2021.

3. A citation to all published notices relating to the proceeding:
Notice of Proposed Expedited Rulemaking: 28 A.A.R. 524, March 4, 2022 (in this issue)

4. Name and address of agency personnel with whom persons may communicate regarding the rule:
Name: Michelle Riley, Licensing Manager
Address: Arizona Department of Public Safety
POB 6638, MD1280
Phoenix, AZ 85005-6638
Telephone: (602) 223-2862
Email: mriley@azdps.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:
The Department will accept comments during business hours at the address listed in item 4 until the close of record. Information regarding an oral proceeding is included in the Notice of Proposed Expedited Rulemaking on page 524 of this issue.

6. A timetable for agency decisions or other action on the proceeding, if known:
To be determined.
NOTICE OF RULEMAKING DOCKET OPENING

INDUSTRIAL COMMISSION OF ARIZONA

[R22-29]

1. Title and its heading: 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 5, Industrial Commission of Arizona
Article and its heading: 6, Occupational Safety and Health Standards
Section number: R20-5-601 and R20-5-602

2. The subject matter of the proposed rule:
   • OSHA Final Rule published September 30, 2019, titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors”; published in the Federal Register at 84 FR 51377.
   • OSHA Final Rule published August 31, 2020, titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors”; published in the Federal Register at 85 FR 53910.

Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors (September 30, 2019)
Under 29 CFR 1910 and 1926, employers are subject to standards for occupational exposure to beryllium. OSHA’s 2017 Final Rule titled “Occupational Exposure to Beryllium” updated existing standards for occupational exposure to beryllium and beryllium compounds. The September 30, 2019 Final Rule titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyards” delayed the compliance dates for all ancillary provisions of the construction and shipyards standards for beryllium until September 30, 2020. The September 30, 2019 Final Rule had no effect on compliance with the PEL and STEL requirements of the existing standards.

Revising the Beryllium Standard for General Industry (July 14, 2020)
The July 14, 2020 Final Rule titled “Revising the Beryllium Standard for General Industry” amended existing general industry standards for occupational exposure to beryllium and beryllium compounds to clarify certain provisions and simplify or improve compliance. Broadly, the July 14 Final Rule added one definition and modified five existing terms in paragraph (b), Definitions; amended paragraph (f), Methods of compliance; paragraph (h), Personal protective clothing and equipment; paragraph (i), Hygiene areas and practices; paragraph (j), Housekeeping; paragraph (k), Medical surveillance; paragraph (m), Communication of hazards; and paragraph (n), Recordkeeping; and replaced the 2017 final standard’s Appendix A with a new appendix designed to supplement the proposed definition of beryllium work area. The revisions in the July 14, 2020 Final Rule are designed to maintain or enhance worker protections overall by ensuring that the Beryllium standard is well understood and compliance is more straightforward.

Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors (August 31, 2020)
The August 31, 2020 Final Rule titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors” amended existing construction and shipyard standards for occupational exposure to beryllium and beryllium compounds to clarify certain provisions and simplify or improve compliance. First, OSHA removed or modified some provisions which – although appropriate in the general industry context – were unnecessary or required revision to appropriately protect employees in the construction and shipyards industries. Second, OSHA revised some provisions of the construction and shipyard standards to avoid inconsistencies with the clarifying changes the agency made in the July 14, 2020 Final Rule (discussed above). Third, OSHA revised certain paragraphs of the construction and shipyard standards to address the application of provisions related to dermal contact to materials containing beryllium in trace quantities. According to OSHA, the changes were designed to accomplish three goals: to more appropriately tailor the requirements of the construction and shipyards standards to the particular exposures in these industries in light of partial overlap between the beryllium standards’ requirements and other OSHA standards; to aid compliance and enforcement across the beryllium standards by avoiding inconsistency, where appropriate, between the shipyards and construction standards and recent revisions to the general industry standard; and to clarify certain requirements with respect to materials containing only trace amounts of beryllium. The August 31, 2020 Final Rule does not affect the general industry beryllium standard.

Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors: Correction (February 24, 2021)
The February 24, 2021 Final Rule titled “Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors; Correction” corrects inadvertent errors contained in the August 31, 2020 Final Rule.
3. **A citation to all published notices relating to the proceeding:**

4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
   
   Name: Jessie Atencio, Director  
   Address: Division of Occupational Safety and Health  
   Industrial Commission of Arizona  
   800 W. Washington St., Suite 203  
   Phoenix, AZ 85007  
   Telephone: (602) 542-5795  
   Fax: (602) 542-1614  
   Email: jessie.atencio@azdosh.gov

5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
   The Commission will accept written comments during a public comment period specified in the Notice of Proposed Rulemaking on page 487 of this issue. Information regarding an oral proceeding is included in the Notice of Proposed Rulemaking on page 487 of this issue.

6. **A timetable for agency decisions or other action on the proceeding, if known:**
   To be determined.
NOTICES OF SUBSTANTIIVE POLICY STATEMENT

SUMMARIES AND LOCATION OF STATEMENTS

Substantive policy statements are written expressions which inform the general public of an agency’s current approach to rule or regulation practice as defined under A.R.S. § 41-1001(24).

Agencies are required to prepare a notice and publish the names of its substantive policy statements, a summary of statements, and its website where full statements can be reviewed under A.R.S. § 41-1013(B)(9). These notices are published in this section of the Register.

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect an agency’s internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

Any person may petition an agency under A.R.S. § 41-1033(A)(2) to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule.

Contact the agency liaison listed under Item #5.

NOTICE OF SUBSTANTIIVE POLICY STATEMENT

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ)

[M22-18]

1. Title of the Substantive Policy Statement and the substantive policy statement number by which the substantive policy statement is referenced:
   Title: Licensing Time Frames – Administrative Completeness Review
   Policy Number: 1100.2022

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:
   Effective: February 1, 2022

3. Summary of the contents of the substantive policy statement:
   The policy establishes the following:
   3.1 Beginning the ACR
   ADEQ permitting units should begin the ACR (start the clock) upon receipt of the first submittal that contains all the following items, even if otherwise incomplete:
   1. Identification of the applicant.
   2. Identification of the facility, if the license is for a facility.
   3. Mailing address of the applicant.
   4. Facility address, if the license is for a facility, including latitude and longitude, and the Township/Range/Section.
   5. Identification of the license category.
   6. Initial flat fee if applicable, but not billable hours fees.
   7. Initial application form designated by ADEQ, if applicable, but not each component associated with the application.1

   If an applicant’s submission is missing any of the above items, ADEQ permitting units shall contact the applicant to assist them in submitting a complete submittal to begin the ACR.

   3.2 Conducting the ACR
   After the first submittal that contains the above items is received, the ACR begins. During the ACR, staff will work with the applicant to ensure a complete application is submitted. An application is complete when it contains all of the legally required components from A.A.C. R18-1-503 or another applicable statute or rule.

   Staff are encouraged to work informally with the applicant to receive additional information (e.g., application review meeting with the applicant), but the ACR time frame should only be suspended after a formal notice of administrative deficiencies letter has been issued. Staff should follow all additional LTF procedures in statute and rule, including providing a notice of administrative deficiencies letter when an application is incomplete, suspending the ACR time frame upon such notification (pause the clock), and denying a license if required information is not received in a timely manner.

   3.3 Ending the ACR
   The ACR time frame ends (stop the clock) in accordance with A.A.C. R18-1-503 and applicable statutes and rules. Generally, the ACR time frame ends when an application is complete: either, after the last day of the ACR time frame for that license category, or upon a denial of the application.

   4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:
   Arizona Revised Statutes § 49-104(a)(1) provides authority for ADEQ to formulate policies, plans and programs to implement Title 49 to protect the environment.

1 Although permit issuance times will likely be longer, the absence of a complete application form shall not prevent ADEQ from beginning the Administrative Completeness Review, including starting the clock.
5. **A statement as to whether the substantive policy statement is a new statement or a revision:**
   This is a new substantive policy statement.

6. **The agency contact person who can answer questions about the substantive policy statement:**
   - Name: Edwin Slade
   - Address: Department of Environmental Quality
   - 1110 W. Washington St.
   - Phoenix, AZ 85007
   - Telephone: (602) 771-2242
   - Email: slade.edwin@azdeq.gov
   - Website: www.azdeq.gov

7. **Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**
   Copies of this document are available at no cost on the Department’s website: http://www.azdeq.gov. Hard copies may be obtained by contacting http://www.azdeq.gov/records-center the ADEQ Records Center, 8:30 a.m. to 4:30 p.m., Monday through Friday, 1110 W. Washington St., Phoenix, AZ 85007, (602) 771-4380. Cost is $0.25 per page.
GOVERNOR EXECUTIVE ORDER
RULEMAKING MORATORIUM

WHEREAS, government regulations should be as limited as possible; and
WHEREAS, burdensome regulations inhibit job growth and economic development; and
WHEREAS, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order, and renewed the moratorium in 2016, 2017, 2018, 2019, 2020 and 2021; and
WHEREAS, the State of Arizona eliminated or improved 231 burdensome regulations in 2021 and for a total of 3,047 needless regulations eliminated or improved since 2015; and
WHEREAS, estimates show these eliminations saved job creators nearly $11.6 million in operating costs in 2021 for a total of over $169.1 million in savings since 2015; and
WHEREAS, in 2021, for every one new necessary rule added to the Administrative Code, 25 have been repealed or improved; and
WHEREAS, COVID-19 has been hard on small businesses and the economy, and administrative barriers should be removed for their sake; and
WHEREAS, all government agencies of the State of Arizona should continue to promote customer service oriented principles for the people that it serves; and
WHEREAS, each State agency shall continue to conduct a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay and legal uncertainty associated with government regulation while protecting the health, peace and safety of residents; and
WHEREAS, each State agency should continue to evaluate its administrative rules using any available and reliable data and performance metrics; and
WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor.

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

1. A State agency subject to this Order shall not conduct any rulemaking, including regular, expedited, emergency and exempt, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justifications for the rulemaking:
   a. To fulfill an objective related to job creation, economic development or economic expansion in this State.
   b. To reduce or ameliorate a regulatory burden on the public, while achieving the same regulatory objective.
   c. To prevent a significant threat to public health, peace or safety.
   d. To avoid violating a court order or federal law that would result in sanctions by a federal court for failure to conduct the rulemaking action.
   e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
   f. To comply with a new state statutory requirement.
   g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor’s Office of Strategic Planning and Budgeting.
   h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
   i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent or abusive activities perpetrated against an agency.
   j. To eliminate rules which are antiquated, redundant or otherwise no longer necessary for the operation of state government.

2. After the public comment period and the close of the rulemaking record, a State agency subject to this Order shall not submit the proposed rules to the Governor’s Regulatory Review Council without a written final approval from the Office of the Governor. Before considering rules submitted by a State agency, the Governor’s Regulatory Review Council must obtain from the State agency the initial approval, referenced in Section 1, and the final approval from the Office of the Governor.

3. A State agency that submits a rulemaking request pursuant to this Order shall recommend for consideration by the Governor’s Office at least three existing rules to eliminate for every one additional rule requested by the agency.
4. A State agency subject to this Order shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by the Arizona Revised Statutes or Arizona Administrative Code. Any material that is not specifically authorized must be removed immediately.

5. A State agency that issues occupational or professional licenses shall prominently post on the agency’s website landing page all current state policies that ease licensing burdens and the exact steps applicants must complete to receive their license using these policies. State agencies should provide information that applies to all applicants, but have a designated area on the landing page that includes licensing information specifically for military spouses, active duty service members and veterans and all policies that make it easier for these applicant groups to receive their license. Examples of reduced licensing burdens include “universal recognition” of out-of-state licenses, availability of temporary licenses, fee waivers, exam exemptions and/or allowing an applicant to substitute military education or experience for licensing requirements. A landing page feature may link to an internal agency web page with more information, if necessary. All information must be easy to locate and written in clear and concise language.

6. A State agency that issues occupational or professional licenses must track veteran and military spouse status of applicants immediately and report that information to the Governor’s Office on an annual basis, starting July 1, 2022.

7. All State agencies that are required to issue occupational or professional licenses by “universal recognition” (established by A.R.S. § 32-4302) must track all applications received for this license type immediately and report that information to the Governor’s Office on an annual basis, starting July 1, 2021. Before any agency denies a professional or occupational license applied for under A.R.S. § 32-4302, the agency shall submit the application and justification for denial to the Office of the Governor for review before any official action is taken by the agency. The Governor’s Office should be notified of any required timeframes, whether in statute or rule, for approval or denial of the license by the agency.

8. For the purposes of this Order, the term “State agencies” includes, without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official; (b) the Corporation Commission; and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those state agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.

9. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule” and “rulemaking” have the same meanings prescribed in section 41-1001, Arizona Revised Statutes.

10. This Executive Order shall expire when the provisions of this executive order are adopted in statute and become law.

IN WITNESS THEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Douglas A. Ducey
GOVERNOR

DONE at the Capitol in Phoenix on this nineteenth day of January in the year Two Thousand and Twenty Two and of the Independence of the United States of America the Two Hundred and Forty-Sixth.

ATTEST:

Katie Hobbs
SECRETARY OF STATE
**REGISTER INDEXES**

The Register is published by volume in a calendar year (See “General Information” in the front of each issue for more information).

Abbreviations for rulemaking activity in this Index include:

<table>
<thead>
<tr>
<th>PROPOSED RULEMAKING</th>
<th>EXEMPT RULEMAKING</th>
</tr>
</thead>
<tbody>
<tr>
<td>PN  = Proposed new Section</td>
<td>XN  = Exempt new Section</td>
</tr>
<tr>
<td>PM  = Proposed amended Section</td>
<td>XM  = Exempt amended Section</td>
</tr>
<tr>
<td>PR  = Proposed repealed Section</td>
<td>XR  = Exempt repealed Section</td>
</tr>
<tr>
<td>P# = Proposed renumbered Section</td>
<td>X# = Exempt renumbered Section</td>
</tr>
</tbody>
</table>

**SUPPLEMENTAL PROPOSED RULEMAKING**

| SPN = Supplemental proposed new Section | EXEMPT PROPOSED |
| SPM = Supplemental proposed amended Section | PXN = Proposed Exempt new Section |
| SPR = Supplemental proposed repealed Section | PXM = Proposed Exempt amended Section |
| SP# = Supplemental proposed renumbered Section | PXR = Proposed Exempt repealed Section |

**FINAL RULEMAKING**

| FN  = Final new Section | EXEMPT FINAL |
| FM  = Final amended Section | FM = Final Exempt amended Section |
| FR  = Final repealed Section | FXR = Final Exempt repealed Section |
| F# = Final renumbered Section | FX# = Final Exempt renumbered Section |

**SUMMARY RULEMAKING**

| PSMN = Proposed Summary new Section | EMERGENCY RULEMAKING |
| PSMM = Proposed Summary amended Section | EN = Emergency new Section |
| PSMR = Proposed Summary repealed Section | EM = Emergency amended Section |
| FSMN = Final Summary new Section | ER = Emergency repealed Section |
| FSMR = Final Summary repealed Section | E# = Emergency renumbered Section |
| FSM# = Final Summary renumbered Section | EEXP = Emergency expired |

<table>
<thead>
<tr>
<th>PROPOSED EXPEDITED</th>
<th>EMERGENCY RULEMAKING</th>
</tr>
</thead>
<tbody>
<tr>
<td>PEN = Proposed Expedited new Section</td>
<td>EN = Emergency new Section</td>
</tr>
<tr>
<td>PEM = Proposed Expedited amended Section</td>
<td>EM = Emergency amended Section</td>
</tr>
<tr>
<td>PER = Proposed Expedited repealed Section</td>
<td>ER = Emergency repealed Section</td>
</tr>
<tr>
<td>PE# = Proposed Expedited renumbered Section</td>
<td>E# = Emergency renumbered Section</td>
</tr>
</tbody>
</table>

**SUPPLEMENTAL EXPEDITED**

| SPEN = Supplemental Proposed Expedited new Section | RECODIFICATION OF RULES |
| SPEM = Supplemental Proposed Expedited amended Section | RC = Recodified |
| SPER = Supplemental Proposed Expedited repealed Section | |
| SPE# = Supplemental Proposed Expedited renumbered Section | |

**FINAL EXPEDITED**

| FEN = Final Expedited new Section | REJECTION OF RULES |
| FEM = Final Expedited amended Section | RJ = Rejected by the Attorney General |
| FER = Final Expedited repealed Section | |
| FE# = Final Expedited renumbered Section | |

<table>
<thead>
<tr>
<th>RC = Recodified</th>
<th>TERMINATION OF RULES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>TN = Terminated proposed new Sections</td>
</tr>
<tr>
<td></td>
<td>TM = Terminated proposed amended Section</td>
</tr>
<tr>
<td></td>
<td>TR = Terminated proposed repealed Section</td>
</tr>
<tr>
<td></td>
<td>T# = Terminated proposed renumbered Section</td>
</tr>
</tbody>
</table>

**RULE EXPIRATIONS**

<table>
<thead>
<tr>
<th>EXP = Rules have expired</th>
<th>RULE EXPIRATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>See also “emergency expired” under emergency rulemaking</td>
</tr>
</tbody>
</table>

**CORRECTIONS**

| C = Corrections to Published Rules |
RULEMAKING ACTIVITY INDEX

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and volume page number. Use the page guide above to determine the Register issue number to review the rule. Headings for the Subchapters, Articles, Parts, and Sections are not indexed.

THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 8 OF VOLUME 28.

Agriculture, Department of - Agricultural Councils and Commissions
R3-9-601. XM-198
R4-11-1303. PM-161
R4-11-1405. PM-161

Education, State Board of
Table 10. PM-16

Environmental Quality, Department of - Administration
R18-14-101. PM-79
R18-14-102. PM-79
R18-14-104. PM-79
R18-14-111. PN-79; Ps-79
R18-14-112. Ps-79
R18-14-113. Ps-79
R18-14-114. PN-79; Ps-79
R18-14-115. PN-79

Environmental Quality, Department of - Permit and Compliance Fees
R18-14-112. PN-79; Ps-79
R18-14-113. PN-79; Ps-79
R18-14-114. PN-79; Ps-79
R18-14-115. PN-79

Environmental Quality, Department of - Water Pollution Control
R18-9-103. PM-22
R18-9-A601. PN-22
R18-9-A602. PN-22
R18-9-A603. PN-22
R18-9-A604. PN-22
R18-9-A605. PN-22
R18-9-A606. PN-22
R18-9-A607. PN-22
R18-9-A608. PN-22
R18-9-A609. PN-22
R18-9-A610. PN-22
R18-9-A611. PN-22
R18-9-A612. PN-22
R18-9-A613. PN-22
R18-9-A614. PN-22
R18-9-A615. PN-22
R18-9-A616. PN-22
R18-9-A617. PN-22
R18-9-A618. PN-22
R18-9-A619. PN-22
R18-9-A620. PN-22
R18-9-A621. PN-22
R18-9-C621. PN-22
R18-9-C622. PN-22
R18-9-C623. PN-22
R18-9-C624. PN-22
R18-9-C625. PN-22

Employment Relations Board, Agricultural
R4-2-101. FM-395
R4-2-102. FM-395
R4-2-103. FM-395
R4-2-104. FM-395
R4-2-201. FM-395
R4-2-202. FM-395
R4-2-204. FM-395
R4-2-205. FM-395
R4-2-206. FM-395
R4-2-207. FM-395
R4-2-209. FM-395
R4-2-210. FM-395
R4-2-212. FM-395
R4-2-213. FM-395
R4-2-215. FM-395
R4-2-216. FR-395; FT-395; FM-395
R4-2-217. FM-395; FT-395; FM-395
R4-2-218. FM-395
R4-2-301. FM-395
R4-2-302. FM-395
R4-2-303. FM-395
R4-2-304. FM-395
R4-2-305. FM-395
R4-2-306. FM-395
R4-2-307. FM-395
R4-2-308. FM-395
R4-2-309. FM-395
R4-2-310. FM-395
R4-2-311. FM-395
R4-2-312. FM-395
R4-2-313. FM-395
R4-2-314. FM-395
R4-2-315. FM-395
R4-2-316. FM-395
R4-2-317. FM-395
R4-2-318. FM-395
R4-2-319. FM-395
R4-2-320. FM-395
R4-2-321. FM-395
R4-2-322. FM-395
R4-2-323. FM-395
R4-2-324. FM-395
R4-2-325. FM-395
R4-2-326. FM-395
R4-2-327. FM-395
R4-2-328. FM-395
R4-2-329. FM-395
R4-2-330. FM-395
R4-2-331. FM-395
R4-2-332. FM-395
R4-2-333. FM-395
R4-2-334. FM-395
R4-2-335. FM-395
R4-2-336. FM-395
R4-2-337. FM-395
R4-2-338. FM-395
R4-2-339. FM-395
R4-2-340. FM-395
R4-2-341. FM-395
R4-2-342. FM-395
R4-2-343. FM-395
R4-2-344. FM-395
R4-2-345. FM-395
R4-2-346. FM-395
R4-2-347. FM-395
R4-2-348. FM-395
R4-2-349. FM-395
R4-2-350. FM-395
R4-2-351. FM-395
R4-2-352. FM-395
R4-2-353. FM-395
R4-2-354. FM-395
R4-2-355. FM-395
R4-2-356. FM-395
R4-2-357. FM-395
R4-2-358. FM-395
R4-2-359. FM-395
R4-2-360. FM-395
R4-2-361. FM-395
R4-2-362. FM-395
R4-2-363. FM-395
R4-2-364. FM-395
R4-2-365. FM-395
R4-2-366. FM-395
R4-2-367. FM-395
R4-2-368. FM-395
R4-2-369. FM-395
R4-2-370. FM-395
R4-2-371. FM-395
R4-2-372. FM-395
Indexes

**Water Resources, Department of**
- R12-15-401. FEM-266
- R12-15-811. FEM-266
- R12-15-814. FEM-266
- R12-15-1224. FEM-266

**Retirement System Board, State**
- R2-12-1201. PM-217
- R2-12-1203. PM-217
- R2-12-1204. PM-217
- R2-12-1207. PM-217
- R2-12-1208. PM-217
- R2-12-1209. PM-217
- R2-12-1301. PM-217
- R2-12-1304. PM-217
- R2-12-1307. PM-217
- R2-12-1308. PM-217
- R2-12-1309. PM-217
- R2-13-106. PN-10
- R2-13-107. PN-10
- R2-13-108. PN-10

**Secretary of State, Office of the**
- R2-12-1201. PM-217
- R2-12-1202. PM-217
- R2-12-1203. PM-217
- R2-12-1204. PM-217
- R2-12-1207. PM-217
- R2-12-1208. PM-217
- R2-12-1209. PM-217
- R2-12-1301. PM-217
- R2-12-1304. PM-217
- R2-12-1307. PM-217
- R2-12-1308. PM-217
- R2-12-1309. PM-217
- R2-8-401. FM-223
- R2-8-403. FM-223

**Transportation, Department of**
- Title, Registration, and Driver Licenses
  - R17-4-510. EXP-121
  - R17-4-512. EXP-121

**Other Notices and Public Records Index**

Other legal notices required to be published under the Administrative Procedure Act, such as Rulemaking Docket Openings, are included in this Index by volume page number. Notices of Agency Ombudsman, Substantive Policy Statements, Proposed Delegation Agreements, and other applicable public records as required by law are also listed in this Index by volume page number.

**THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 8 OF VOLUME 28.**

**Agency Ombudsman, Notices of**
- Department of Water Resources; p. 233
- Game and Fish Department; p. 373
- Retirement System Board, State; p. 373
- State Board of Dental Examiners; p. 233

**Docket Opening, Notices of Rulemaking**
- Agriculture, Department of - Animal Services Division; 3 A.A.C. 2; p. 123
- Corporation Commission - Transportation; 14 A.A.C. 5; pp. 280-281
- Dental Examiners, State Board of; 4 A.A.C. 11; pp. 201-202
- Environmental Quality, Department of - Permit and Compliance Fees; 18 A.A.C. 14; pp. 126-127
- Environmental Quality, Department of - Water Pollution Control; 18 A.A.C. 9; pp. 124-125
- Environmental Quality, Department of - Water Quality Standards; 18 A.A.C. 11; pp. 125-126
- Health Services, Department of - Health Care Institutions: Licensing; 9 A.A.C. 10; pp. 471-472
- Industrial Commission of Arizona; 20 A.A.C. 5; p. 372
- Insurance and Financial Institutions, Department of - Insurance Division; 20 A.A.C. 6; p. 347
- Podiatry Examiners, Board of; 4 A.A.C. 25; p. 280
- Public Safety, Department of - Rapid DNA; 13 A.A.C. 15; p. 124
- Regulatory Board of Physician Assistants, Arizona; 4 A.A.C. 17; p. 279
- Secretary of State, Office of the; 2 A.A.C. 12; p. 232

**Governor’s Office**
- Executive Order 2021-02: pp. 203-204
- Executive Order 2022-01: pp. 236-237

**Governor’s Regulatory Review Council**
- Notices of Action Taken at Monthly Meetings: pp. 245, 432-433

**Proposed Delegation Agreement, Notices of**
- Department of Environmental Quality; pp. 374-375

**Public Information, Notices of**
- Environmental Quality, Department of; pp. 129-135, 405-421

**Substantive Policy Statement, Notices of**
- Department of Environmental Quality; pp. 234-235
- Insurance and Financial Institutions, Department of - Division of Insurance; p. 376
- Real Estate Department, State; p. 282
- Water Infrastructure Finance Authority; pp. 377-380
# RULES EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State’s Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

<table>
<thead>
<tr>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Filed</td>
<td>Effective Date</td>
<td>Date Filed</td>
<td>Effective Date</td>
<td>Date Filed</td>
<td>Effective Date</td>
</tr>
<tr>
<td>1/1</td>
<td>3/2</td>
<td>2/1</td>
<td>4/2</td>
<td>3/1</td>
<td>4/30</td>
</tr>
<tr>
<td>1/2</td>
<td>3/3</td>
<td>2/2</td>
<td>4/3</td>
<td>3/2</td>
<td>5/1</td>
</tr>
<tr>
<td>1/3</td>
<td>3/4</td>
<td>2/3</td>
<td>4/4</td>
<td>3/3</td>
<td>5/2</td>
</tr>
<tr>
<td>1/5</td>
<td>3/6</td>
<td>2/5</td>
<td>4/6</td>
<td>3/5</td>
<td>5/4</td>
</tr>
<tr>
<td>1/6</td>
<td>3/7</td>
<td>2/6</td>
<td>4/7</td>
<td>3/6</td>
<td>5/5</td>
</tr>
<tr>
<td>1/7</td>
<td>3/8</td>
<td>2/7</td>
<td>4/8</td>
<td>3/7</td>
<td>5/6</td>
</tr>
<tr>
<td>1/8</td>
<td>3/9</td>
<td>2/8</td>
<td>4/9</td>
<td>3/8</td>
<td>5/7</td>
</tr>
<tr>
<td>1/12</td>
<td>3/13</td>
<td>2/12</td>
<td>4/13</td>
<td>3/12</td>
<td>5/11</td>
</tr>
<tr>
<td>July</td>
<td>August</td>
<td>September</td>
<td>October</td>
<td>November</td>
<td>December</td>
</tr>
<tr>
<td>-------</td>
<td>--------</td>
<td>-----------</td>
<td>---------</td>
<td>----------</td>
<td>----------</td>
</tr>
<tr>
<td>Date Filed</td>
<td>Effective Date</td>
<td>Date Filed</td>
<td>Effective Date</td>
<td>Date Filed</td>
<td>Effective Date</td>
</tr>
<tr>
<td>7/1</td>
<td>8/30</td>
<td>8/1</td>
<td>9/30</td>
<td>9/1</td>
<td>10/31</td>
</tr>
<tr>
<td>7/2</td>
<td>8/31</td>
<td>8/2</td>
<td>10/1</td>
<td>9/2</td>
<td>11/1</td>
</tr>
<tr>
<td>7/3</td>
<td>9/1</td>
<td>8/3</td>
<td>10/2</td>
<td>9/3</td>
<td>11/2</td>
</tr>
<tr>
<td>7/4</td>
<td>9/2</td>
<td>8/4</td>
<td>10/3</td>
<td>9/4</td>
<td>11/3</td>
</tr>
<tr>
<td>7/5</td>
<td>9/3</td>
<td>8/5</td>
<td>10/4</td>
<td>9/5</td>
<td>11/4</td>
</tr>
<tr>
<td>7/6</td>
<td>9/4</td>
<td>8/6</td>
<td>10/5</td>
<td>9/6</td>
<td>11/5</td>
</tr>
<tr>
<td>7/7</td>
<td>9/5</td>
<td>8/7</td>
<td>10/6</td>
<td>9/7</td>
<td>11/6</td>
</tr>
<tr>
<td>7/8</td>
<td>9/6</td>
<td>8/8</td>
<td>10/7</td>
<td>9/8</td>
<td>11/7</td>
</tr>
<tr>
<td>7/9</td>
<td>9/7</td>
<td>8/9</td>
<td>10/8</td>
<td>9/9</td>
<td>11/8</td>
</tr>
<tr>
<td>7/10</td>
<td>9/8</td>
<td>8/10</td>
<td>10/9</td>
<td>9/10</td>
<td>11/9</td>
</tr>
<tr>
<td>7/12</td>
<td>9/10</td>
<td>8/12</td>
<td>10/11</td>
<td>9/12</td>
<td>11/11</td>
</tr>
<tr>
<td>7/13</td>
<td>9/11</td>
<td>8/13</td>
<td>10/12</td>
<td>9/13</td>
<td>11/12</td>
</tr>
<tr>
<td>7/14</td>
<td>9/12</td>
<td>8/14</td>
<td>10/13</td>
<td>9/14</td>
<td>11/13</td>
</tr>
<tr>
<td>7/16</td>
<td>9/14</td>
<td>8/16</td>
<td>10/15</td>
<td>9/16</td>
<td>11/15</td>
</tr>
<tr>
<td>7/19</td>
<td>9/17</td>
<td>8/19</td>
<td>10/18</td>
<td>9/19</td>
<td>11/18</td>
</tr>
<tr>
<td>7/20</td>
<td>9/18</td>
<td>8/20</td>
<td>10/19</td>
<td>9/20</td>
<td>11/19</td>
</tr>
<tr>
<td>7/31</td>
<td>9/29</td>
<td>8/31</td>
<td>10/30</td>
<td>10/31</td>
<td>12/30</td>
</tr>
</tbody>
</table>
**REGISTER PUBLISHING DEADLINES**

The Secretary of State’s Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

<table>
<thead>
<tr>
<th>Deadline Date</th>
<th>Register Publication Date</th>
<th>Oral Proceeding may be scheduled on or after</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friday, 5:00 p.m.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>December 30, 2021</td>
<td>January 21, 2022</td>
<td>February 22, 2022</td>
</tr>
<tr>
<td>January 7, 2022</td>
<td>January 28, 2022</td>
<td>February 28, 2022</td>
</tr>
<tr>
<td>January 14, 2022</td>
<td>February 4, 2022</td>
<td>March 7, 2022</td>
</tr>
<tr>
<td>January 21, 2022</td>
<td>February 11, 2022</td>
<td>March 14, 2022</td>
</tr>
<tr>
<td>January 28, 2022</td>
<td>February 18, 2022</td>
<td>March 21, 2022</td>
</tr>
<tr>
<td>February 4, 2022</td>
<td>February 25, 2022</td>
<td>March 28, 2022</td>
</tr>
<tr>
<td>February 11, 2022</td>
<td>March 4, 2022</td>
<td>April 4, 2022</td>
</tr>
<tr>
<td>February 18, 2022</td>
<td>March 11, 2022</td>
<td>April 11, 2022</td>
</tr>
<tr>
<td>February 25, 2022</td>
<td>March 18, 2022</td>
<td>April 18, 2022</td>
</tr>
<tr>
<td>March 4, 2022</td>
<td>March 25, 2022</td>
<td>April 25, 2022</td>
</tr>
<tr>
<td>March 11, 2022</td>
<td>April 1, 2022</td>
<td>May 2, 2022</td>
</tr>
<tr>
<td>March 18, 2022</td>
<td>April 8, 2022</td>
<td>May 9, 2022</td>
</tr>
<tr>
<td>March 25, 2022</td>
<td>April 15, 2022</td>
<td>May 16, 2022</td>
</tr>
<tr>
<td>April 1, 2022</td>
<td>April 22, 2022</td>
<td>May 23, 2022</td>
</tr>
<tr>
<td>April 8, 2022</td>
<td>April 29, 2022</td>
<td>May 31, 2022</td>
</tr>
<tr>
<td>April 15, 2022</td>
<td>May 6, 2022</td>
<td>June 6, 2022</td>
</tr>
<tr>
<td>April 22, 2022</td>
<td>May 13, 2022</td>
<td>June 13, 2022</td>
</tr>
<tr>
<td>April 29, 2022</td>
<td>May 20, 2022</td>
<td>June 20, 2022</td>
</tr>
<tr>
<td>May 6, 2022</td>
<td>May 27, 2022</td>
<td>June 27, 2022</td>
</tr>
<tr>
<td>May 13, 2022</td>
<td>June 3, 2022</td>
<td>July 5, 2022</td>
</tr>
<tr>
<td>May 20, 2022</td>
<td>June 10, 2022</td>
<td>July 11, 2022</td>
</tr>
<tr>
<td>May 27, 2022</td>
<td>June 17, 2022</td>
<td>July 18, 2022</td>
</tr>
<tr>
<td>June 3, 2022</td>
<td>June 24, 2022</td>
<td>July 25, 2022</td>
</tr>
<tr>
<td>June 10, 2022</td>
<td>July 1, 2022</td>
<td>August 1, 2022</td>
</tr>
<tr>
<td>June 17, 2022</td>
<td>July 8, 2022</td>
<td>August 8, 2022</td>
</tr>
<tr>
<td>June 24, 2022</td>
<td>July 15, 2022</td>
<td>August 15, 2022</td>
</tr>
<tr>
<td>July 1, 2022</td>
<td>July 22, 2022</td>
<td>August 22, 2022</td>
</tr>
<tr>
<td>July 8, 2022</td>
<td>July 29, 2022</td>
<td>August 29, 2022</td>
</tr>
<tr>
<td>July 15, 2022</td>
<td>August 5, 2022</td>
<td>September 6, 2022</td>
</tr>
</tbody>
</table>
### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year Review Reports and any adopted rule submitted to the Governor's Regulatory Review Council. Council meetings and Register deadlines do not correlate. We publish these deadlines under A.R.S. § 41-1013(B)(15).

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council’s office is located at 100 N. 15th Ave., Suite 305, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit http://grrc.az.gov.

#### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2022

*(MEETING DATES ARE SUBJECT TO CHANGE)*

<table>
<thead>
<tr>
<th>DEADLINE FOR PLACEMENT ON AGENDA*</th>
<th>FINAL MATERIALS SUBMITTED TO COUNCIL</th>
<th>DATE OF COUNCIL STUDY SESSION</th>
<th>DATE OF COUNCIL MEETING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuesday, January 18, 2022</td>
<td>Tuesday, February 15, 2022</td>
<td>Tuesday, February 22, 2022</td>
<td>Tuesday, March 1, 2022</td>
</tr>
<tr>
<td>Tuesday, February 15, 2022</td>
<td>Tuesday, March 22, 2022</td>
<td>Tuesday, March 29, 2022</td>
<td>Tuesday, April 5, 2022</td>
</tr>
<tr>
<td>Tuesday, March 22, 2022</td>
<td>Tuesday, April 19, 2022</td>
<td>Tuesday, April 26, 2022</td>
<td>Tuesday, May 3, 2022</td>
</tr>
<tr>
<td>Tuesday, April 19, 2022</td>
<td>Tuesday, May 17, 2022</td>
<td>Tuesday, May 24, 2022</td>
<td>Wednesday, June 1, 2022</td>
</tr>
<tr>
<td>Tuesday, May 17, 2022</td>
<td>Tuesday, June 21, 2022</td>
<td>Tuesday, June 28, 2022</td>
<td>Wednesday, July 6, 2022</td>
</tr>
<tr>
<td>Tuesday, June 21, 2022</td>
<td>Tuesday, July 19, 2022</td>
<td>Tuesday, July 26, 2022</td>
<td>Tuesday, August 2, 2022</td>
</tr>
<tr>
<td>Tuesday, July 19, 2022</td>
<td>Tuesday, August 23, 2022</td>
<td>Tuesday, August 30, 2022</td>
<td>Wednesday, September 7, 2022</td>
</tr>
<tr>
<td>Tuesday, August 23, 2022</td>
<td>Tuesday, September 20, 2022</td>
<td>Tuesday, September 27, 2022</td>
<td>Tuesday, October 4, 2022</td>
</tr>
<tr>
<td>Tuesday, September 20, 2022</td>
<td>Tuesday, October 18, 2022</td>
<td>Tuesday, October 25, 2022</td>
<td>Tuesday, November 1, 2022</td>
</tr>
<tr>
<td>Tuesday, October 18, 2022</td>
<td>Tuesday, November 22, 2022</td>
<td>Tuesday, November 29, 2022</td>
<td>Tuesday, December 6, 2022</td>
</tr>
</tbody>
</table>

* Materials must be submitted by 5 PM on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.