

SESSION LAWS STATE OF ARIZONA

THIRTY-SECOND LEGISLATURE

FIRST REGULAR SESSION

CONVENED—JANUARY 13, 1975

SINE DIE—JUNE 13, 1975



WESLEY BOLIN

Secretary of State

1975

Corrected Edition

1975 SESSION LAWS ARIZONA, corrected edition

The text of the materials contained herein consists of photographic reproductions by the printer of the original house and senate bills and the Memorials and Resolutions passed during the Thirty-Second Legislature, State of Arizona, First Regular Session, convened January 13, 1975, adjourned June 13, 1975. Any errors in spelling, punctuation, etc., found herein were present on the original bill when it was photographed.

AUTHENTICATION

STATE OF ARIZONA)
OFFICE OF THE SECRETARY OF STATE) SS.

THIS IS TO CERTIFY: — That the Acts, Memorials and Resolutions published in this volume are full, true and correct copies of the originals passed at the First Regular Session of the Thirty-Second Legislature of the State of Arizona, as they appear on file in the office of the Secretary of State of Arizona. The Thirty-Second Legislature of the State of Arizona was convened at the Capitol in the City of Phoenix, January 13, 1975, and adjourned sine die on the 13th day of June, 1975.



IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary of State of the State of Arizona, this 14th day of January, 1976.

WESLEY BOLIN
Secretary of State

PUBLICATION AUTHORIZED

ARIZONA REVISED STATUTES, Section 41-121.A.6.
amended Laws 1956, Chap. 129, § 3, eff. April 16,
1956; Laws 1957, Chap. 81, § 1, eff. March 20, 1957;
Laws 1972, Chap. 141, § 62.

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ACTS

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 1

SENATE BILL 1362

AN ACT

RELATING TO TRANSPORTATION; EXTENDING THE PERIOD FOR PAYMENT OF 1975 REGISTRATION FEES, WITHOUT PENALTY, THIRTY DAYS.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Extension of time for payment of registration fee
3 Notwithstanding any provision of law to the contrary, no motor
4 vehicle registration fee for the year 1975 shall be deemed delinquent
5 or penalty collected therefor, if paid before thirty days after
6 February 28, 1975.
7 Sec. 2. Emergency
8 To preserve the public peace, health and safety it is necessary
9 that this act become immediately operative. It is therefore declared
10 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - February 27, 1975

Filed in the Office of the Secretary of State - February 27, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 2

HOUSE BILL 2118

AN ACT

PROVIDING AN EXTENSION OF TIME FOR THE LAPSING OF CERTAIN FUNDS APPROPRIATED TO GOVERNOR.

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

2 Section 1. Exemption from lapsing; reversion of funds

3 Notwithstanding the provisions of Laws 1973, chapter 184, section
4 1, subdivision 9, all of the unexpended and unencumbered monies remain-
5 ing of the appropriation of four hundred fifty thousand dollars made to
6 the governor by Laws 1973, chapter 184, section 1, subdivision 9, and
7 allocated to the Arizona advisory council on intergovernmental relations
8 for comprehensive study of problems associated with the financing and
9 distribution of services among state and local governments of Arizona,
10 are exempt from the provisions of section 35-190, Arizona Revised
11 Statutes, relating to lapsing of appropriations, and may be used until
12 June 30, 1975 for the purposes for which they were originally appro-
13 priated, except that any of such funds remaining unexpended and
14 unencumbered at the close of June 30, 1975 shall revert to the state
15 general fund.

16 Sec. 2. Emergency

17 To preserve the public peace, health and safety it is necessary
18 that this act become immediately operative. It is therefore declared
19 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - February 27, 1975

Filed in the Office of the Secretary of State - February 27, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 3

HOUSE BILL 2058

AN ACT

MAKING AN APPROPRIATION TO THE CORPORATION COMMISSION.

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

2 Section 1. Appropriation; purposes

3 The sum of three hundred fifty thousand dollars is appropriated
4 to the Arizona corporation commission to be available for the payment
5 of fees and necessary expenses incurred in retaining or employing
6 expert professional assistance, including legal counsel selected with
7 the approval of the attorney general, whether as independent con-
8 tractors or as temporary employees, to assist the commission to
9 perform its lawful duties relating to classifications to be used,
10 rates and charges to be made and collected, rules and regulations
11 to be prescribed, and supervision over electrical, gas, telephone,
12 water and sewer corporations.

13 Sec. 2. Emergency

14 To preserve the public peace, health and safety it is necessary
15 that this act become immediately operative. It is therefore declared
16 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - March 6, 1975

Filed in the Office of Secretary of State - March 7, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 4

SENATE BILL 1025

AN ACT

RELATING TO STATE GOVERNMENT; AUTHORIZING THE DEPARTMENT OF CORRECTIONS TO CONSTRUCT AN ARIZONA CORRECTIONAL TRAINING FACILITY UNDER DIFFERENT TERMS THAN SPECIFIED IN LAWS 1973, CHAPTER 176, SECTION 1, SUBDIVISION 12, AND EXTENDING THE TIME FOR THE EXISTING APPROPRIATION TO LAPSE.

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

2 Section 1. Change in use of appropriation

3 Notwithstanding the provisions of Laws 1973, chapter 176, section
4 1, subdivision 12, the specified use of the appropriation of five million
5 one hundred thousand dollars to the department of corrections central
6 office for construction of an Arizona correctional training facility in
7 Maricopa county, subject to joint legislative budget committee approval,
8 is changed to authorize construction of an Arizona correctional training
9 facility by the department of corrections at a location anywhere in this
10 state and such authorization is not subject to joint legislative budget
11 committee approval.

12 Sec. 2. Change in lapsing provision

13 The provisions of Laws 1973, chapter 176, section 2, relating to
14 lapsing of appropriations, are extended to July 1, 1978, insofar as
15 the provisions of section 1 of this act are concerned.

16 Sec. 3. Emergency

17 To preserve the public peace, health and safety it is necessary
18 that this act become immediately operative. It is therefore declared to
19 be an emergency measure, to take effect as provided by law.

Approved by the Governor - March 19, 1975

Filed in the Office of the Secretary of State - March 20, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 5

HOUSE BILL 2014

AN ACT

RELATING TO INSURANCE; PROVIDING FOR TRANSFER OF CERTAIN DUTIES RELATING TO
FIRE INSURANCE FROM THE CORPORATION COMMISSION TO THE DEPARTMENT OF
INSURANCE, AND AMENDING SECTIONS 9-951, 9-952 AND 9-953, ARIZONA REVISED
STATUTES.

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

2 Section 1. Section 9-951, Arizona Revised Statutes, is amended
3 to read:

4 9-951. Composition of fund

5 A. The proceeds of the annual tax provided by law on the gross
6 amount of all premiums received on policies and contracts of fire
7 insurance covering property within this state, after deducting can-
8 cellations, return premiums, dividends and the amount received as
9 reinsurance on business in this state, are appropriated and set aside
10 for the firemen's relief and pension fund.

11 B. The ~~corporation-commission~~ DEPARTMENT OF INSURANCE shall embody
12 in the annual statement required under the provisions of sections 20-223
13 and 20-224 a blank form containing the names of incorporated cities and
14 towns and legally organized fire companies entitled to share in the tax
15 proceeds, and shall require fire insurance companies to report, at the
16 time of making annual statements, the amount of premiums received during
17 the year ending December 31 on insured properties located in incorporated
18 cities and towns and areas served by legally organized fire companies,
19 as named in the blank form.

20 C. Not later than April 30 following the filing of the report,
21 the ~~corporation-commission~~ DEPARTMENT OF INSURANCE shall certify to the
22 state treasurer the incorporated cities and towns having organized fire
23 departments and the areas served by legally organized fire companies,
24 the respective amounts of premiums received by fire insurance companies

CHAPTER 5

1 for insurance upon properties located in each incorporated city and town
2 and in each area served by a legally organized fire company, and the
3 amount of tax paid for the preceding year by the fire insurance companies
4 upon such premiums. The ~~corporation-commission~~ DEPARTMENT OF INSURANCE
5 at the same time shall certify to the state treasurer the amount of
6 premiums received by fire insurance companies for all insurance written
7 in areas other than incorporated cities and towns or areas served by
8 legally organized fire departments and the amount of tax paid for the
9 preceding year by fire insurance companies upon such premiums, and that
10 amount of the tax proceeds shall then be prorated among the several
11 incorporated cities and towns and legally organized fire companies in
12 proportion to the amount of the fire insurance tax collected from insur-
13 ance on property therein.

14 D. Each incorporated city or town and each legally organized
15 volunteer fire company shall deduct five per cent from the salaries or
16 compensation of its firemen and add a like amount from its general
17 revenues. The total of the two amounts shall be paid each month into
18 the firemen's pension and relief fund. The treasurer of each board
19 shall keep a record of the salary deductions. If a fireman dies under
20 circumstances not entitling his dependents to a benefit from the fire-
21 men's relief and pension fund, or if he becomes separated from the
22 service voluntarily or involuntarily without having become eligible
23 to retirement benefits thereunder, all deductions theretofore made from
24 his salary under this article shall become payable, without interest,
25 to his beneficiary in the event of his death, or otherwise to the
26 fireman.

27 E. Payroll deductions made under the provisions of subsection D
28 OF THIS SECTION, plus any additional sums the board of trustees may
29 add thereto, shall be set aside in a permanent reserve fund, the income
30 of which, but no part of the principal, shall be used to pay retirement
31 expenses, but, in order to pay the refunds provided for in subsection D
32 OF THIS SECTION, that portion of the principal which accrues from salary
33 deductions may be drawn upon when necessary.

34 F. Contributions shall be made by the municipality at the beginning
35 of the fiscal year immediately subsequent and pursuant to the advice and
36 recommendations of the actuary provided for by ~~subsection 6 of~~ section
37 9-956. The governing body of the municipality shall provide for the
38 payment of the contributions from the general fund of the municipality,
39 and payments made shall be exempt from the provisions of title 42.

40 Sec. 2. Section 9-952, Arizona Revised Statutes, is amended to
41 read:

42 9-952. Disposition of fire insurance premium tax

43 The ~~corporation-commission~~ DEPARTMENT OF INSURANCE shall keep a
44 separate account of the tax paid by the various fire insurance companies,
45 and in its report to the state treasurer shall certify the amount each
46 incorporated city or town and each legally organized volunteer fire
47 company is to receive. The state treasurer shall keep the sums so cer-
48 tified in a separate fund to be used only for the purposes of this
49 article. The amount of tax so collected for insurance on property
50 within the respective incorporated cities and towns and within the areas
51 served by the respective volunteer fire companies, together with each

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1 organization's pro rata share of the tax on insurance upon properties
2 situated outside those areas, shall be paid to the firemen's relief and
3 pension fund of the respective incorporated cities and towns and legally
4 organized volunteer fire companies.

5 Sec. 3. Section 9-953, Arizona Revised Statutes, is amended to
6 read:

7 9-953. Annual certificate to department of insurance
8 by fire departments

9 The clerk or fire chief of each city or town in which an organized
10 fire department is maintained shall file annually with the ~~corporation~~
11 ~~commission~~ DEPARTMENT OF INSURANCE on or before January 15, a certificate
12 showing the existence of the fire department, the number of steam, hand
13 and other engines, hook and ladder trucks, hose carts and feet of hose
14 in actual service, the number of organized companies, the systems of
15 water supply in use, and the number of members, with their names, dates
16 of appointment and dates of expiration of their terms.

Approved by the Governor - March 21, 1975

Filed in the Office of the Secretary of State - March 21, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 6

HOUSE BILL 2010

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; PRESCRIBING AUTHORITY TO TRANSFER
SURPLUS MONIES FROM REAL ESTATE RECOVERY FUND TO REAL ESTATE FUND;
PROVIDING FOR REIMBURSEMENT, AND PROVIDING FOR EXPIRATION DATE.

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

2 Section 1. Authority to transfer surplus monies
3 from real estate recovery fund to
4 real estate fund; reimbursement

5 If the balance of the real estate recovery fund is more than
6 four hundred thousand dollars, the real estate commissioner may
7 authorize the transfer of all or part of such surplus amount to the
8 real estate fund. Within one year after each transfer of any such
9 surplus funds, the real estate commissioner shall fully reimburse
10 the real estate recovery fund by depositing the repayment of such
11 amount to the credit of the real estate recovery fund.

12 Sec. 2. Expiration date

13 The authority to transfer surplus monies from the real estate
14 recovery fund under the provisions of section 1 of this act shall
15 expire on January 1, 1977.

16 Sec. 3. Emergency

17 To preserve the public peace, health and safety it is necessary
18 that this act become immediately operative. It is therefore declared
19 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - March 27, 1975

Filed in the Office of the Secretary of State - March 27, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 7

HOUSE BILL 2062

AN ACT

MAKING AN APPROPRIATION TO THE STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS,
AND PROVIDING FOR REPAYMENT.

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

2 Section 1. Appropriation; purpose; repayment

3 A. The sum of four thousand two hundred dollars is appropriated
4 to the state board of funeral directors and embalmers to be immediately
5 available to enable the board to function for the remainder of fiscal
6 year 1974-1975.

7 B. The state board of funeral directors and embalmers shall, on
8 or before June 30, 1976, repay in full to the state general fund the
9 appropriation made by subsection A from monies on deposit in the funeral
10 directors' and embalmers' fund.

11 Sec. 2. Emergency

12 To preserve the public peace, health and safety it is necessary
13 that this act become immediately operative. It is therefore declared to
14 be an emergency measure, to take effect as provided by law.

Approved by the Governor - March 27, 1975

Filed in the Office of the Secretary of State - March 28, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 8

HOUSE BILL 2094

AN ACT

PROVIDING THAT CERTAIN FUNDS APPROPRIATED TO LEGISLATURE AND ALLOCATED BY LAWS
1974, CHAPTER 203, SECTION 1, SUBDIVISION 11, ARE EXEMPT FROM LAPSING.

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

2 Section 1. Exempting from lapsing certain funds appropriated to
3 legislature

4 The sums appropriated to the legislature and allocated for the senate,
5 the house of representatives and the joint legislative budget committee by
6 Laws 1974, chapter 203, section 1, subdivision 11, are exempt from the
7 provisions of section 35-190, Arizona Revised Statutes, relating to lapsing
8 of appropriations.

9 Sec. 2. Emergency

10 To preserve the public peace, health and safety it is necessary that
11 this act become immediately operative. It is therefore declared to be an
12 emergency measure, to take effect as provided by law.

Approved by the Governor - March 27, 1975

Filed in the Office of the Secretary of State - March 28, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 9

HOUSE BILL 2078

AN ACT

RELATING TO EDUCATION; PROVIDING FOR AN INCREASE IN BENEFITS RETROACTIVELY FOR THE FISCAL YEAR THAT BEGAN ON JULY 1, 1974 TO RETIRED MEMBERS OF THE ARIZONA TEACHERS' RETIREMENT SYSTEM BASED UPON INCREASE IN THE CONSUMER PRICE INDEX SUBJECT TO CERTAIN LIMITATIONS; MAKING AN APPROPRIATION, AND PROVIDING FOR RETROACTIVE EFFECT OF ACT.

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

2 Section 1. Increase in rate of payments for
3 fiscal year 1974-1975

4 The rate of payments payable to members of the Arizona teachers'
5 retirement system who receive retirement benefits shall be increased
6 retroactively only for the fiscal year that began on July 1, 1974 equal
7 to the percentage increase, but not in excess of five per cent, in the
8 national consumer price index in the preceding fiscal year, as officially
9 determined by the United States bureau of labor statistics.

10 Sec. 2. Appropriation; purpose; exemption

11 A. The sum of seventeen thousand two hundred thirty-five dollars
12 is appropriated to the state retirement system board for payment of the
13 increase in retirement payments for the fiscal year that began July 1,
14 1974, as provided in this act.

15 B. The appropriation made by this act is exempt from the provi-
16 sions of section 35-190, Arizona Revised Statutes, relating to lapsing
17 of appropriations.

18 Sec. 3. Retroactive effect

19 The provisions of this act shall become effective retroactively
20 for the fiscal year beginning from and after June 30, 1974.

21 Sec. 4. Emergency

22 To preserve the public peace, health and safety it is necessary
23 that this act become immediately operative. It is therefore declared
24 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - March 27, 1975

Filed in the Office of the Secretary of State - March 28, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 10
HOUSE BILL 2164

AN ACT

MAKING AN APPROPRIATION TO THE DEPARTMENT OF HEALTH SERVICES FOR CRIPPLED CHILDREN'S SERVICES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Appropriation; purposes
3 The sum of seven hundred thousand dollars is appropriated
4 to the department of health services to be available for use by
5 crippled children's services for professional and outside
6 services.
7 Sec. 2. Emergency
8 To preserve the public peace, health and safety it is necessary
9 that this act become immediately operative. It is therefore declared
10 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - April 3, 1975

Filed in the Office of the Secretary of State - April 3, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 11

SENATE BILL 1038

AN ACT

RELATING TO TAXATION OF INCOME; PRESCRIBING METHOD OF COMPUTATION OF GAIN FROM SALE OF RESIDENCE WHEN NEW RESIDENCE IS PURCHASED WITHIN ONE YEAR, AND AMENDING SECTION 43-152, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 43-152, Arizona Revised Statutes, is amended
3 to read:

4 43-152. Gain or loss--recognition of gain or loss

5 (a) General rule. Upon the sale or exchange of property the en-
6 tire amount of the gain or loss, determined under section 43-151, shall
7 be recognized, except as otherwise provided in this section.

8 (b) Exchanges solely in kind

9 (1) Exchange of property held for productive use or investment.

10 No gain or loss shall be recognized if property held for productive use
11 in trade or business or for investment (not including stock in trade or
12 other property held primarily for sale, or stocks, bonds, notes, choses
13 in action, certificates of trust or beneficial interest, or other se-
14 curities or evidences of indebtedness or interest) is exchanged solely
15 for property of a like kind to be held either for productive use in
16 trade or business or for investment.

17 (2) Exchange of stock for stock of same corporation. No gain or
18 loss shall be recognized if common stock in a corporation is exchanged
19 solely for common stock in the same corporation, or if preferred stock
20 in a corporation is exchanged solely for preferred stock in the same
21 corporation.

22 (3) Exchange of stock for stock on reorganization. No gain or
23 loss shall be recognized if stock or securities in a corporation a party
24 to a reorganization are, in pursuance of the plan of reorganization,
25 exchanged solely for the stock or securities in such corporation or in
26 another corporation a party to the reorganization.

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1 (4) Exchange of property for stock on reorganization. No gain
2 or loss shall be recognized if a corporation a party to a reorganiza-
3 tion exchanges property, in pursuance of the plan of reorganization,
4 solely for stock or securities in another corporation a party to the
5 reorganization.

6 (5) Transfer to corporation controlled by transferor. No gain
7 or loss shall be recognized if property is transferred to a corporation
8 by one or more persons solely in exchange for stock or securities in
9 such corporation, and immediately after the exchange such person or
10 persons are in control of the corporation; but in the case of an
11 exchange by two or more persons this paragraph applies only if the amount
12 of the stock and securities received by each is substantially in propor-
13 tion to his interest in the property prior to the exchange.

14 Where the transferee assumes a liability of a transferor, or where
15 property of a transferor is transferred subject to a liability, then for
16 the purpose only of determining whether the amount of stock or securities
17 received by each of the transferors is in the proportion required by this
18 paragraph, the amount of such liability (if under subsection (k) it is
19 not to be considered as "other property or money") shall be considered
20 as stock or securities received by such transferor.

21 (6) Property received by corporation on complete liquidation
22 of another. No gain or loss shall be recognized upon the receipt by a
23 corporation of property distributed in complete liquidation of another
24 corporation. For the purposes of this paragraph a distribution shall
25 be considered to be in complete liquidation only if:

26 (A) The corporation receiving such property was, on the date of
27 the adoption of the plan of liquidation, and has continued to be at all
28 times until the receipt of the property, the owner of stock (in such
29 other corporation) possessing at least eighty per cent of the total
30 combined voting power of all classes of stock entitled to vote and the
31 owner of at least eighty per cent of the total number of shares of all
32 other classes of stock (except nonvoting stock which is limited and
33 preferred as to dividends), and was at no time on or after the date of
34 the adoption of the plan of liquidation and until the receipt of the
35 property the owner of a greater percentage of any class of stock than
36 the percentage of such class owned at the time of the receipt of the
37 property; and

38 (B) No distribution under the liquidation was made before the
39 first day of the first taxable year of the corporation beginning after
40 December 31, 1953; and either

41 (C) The distribution is by such other corporation in complete
42 cancellation or redemption of all its stock, and the transfer of all
43 the property occurs within the taxable year; in such case the adoption
44 by the shareholders of the resolution under which is authorized the
45 distribution of all the assets of such corporation in complete cancel-
46 lation or redemption of all its stock, shall be considered an adoption
47 of a plan of liquidation even though no time for the completion of the
48 transfer of the property is specified in such resolution; or

49 (D) Such distribution is one of a series of distributions by
50 such other corporation in complete cancellation or redemption of all

1 its stock in accordance with a plan of liquidation under which the
2 transfer of all the property under the liquidation is to be completed
3 within three years from the close of the income year during which is
4 made the first of the series of distributions under the plan, except
5 that if such transfer is not completed within such period, or if the
6 taxpayer does not continue qualified under subparagraph (A) until the
7 completion of such transfer, no distribution under the plan shall be
8 considered a distribution in complete liquidation.

9 (7) Transfers not completed during taxable year. If the trans-
10 fer provided in paragraph (6) of all the property does not occur within
11 the taxable year, the ~~tax-commission~~ DEPARTMENT may require of the
12 taxpayer, such bond, or waiver of the statute of limitations on assess-
13 ment and collection, or both, as it may deem necessary to insure, if the
14 transfer of the property is not completed within such three-year period
15 or if the taxpayer does not continue qualified under subsection (b) (6)
16 (A) until the completion of such transfer, the assessment and collection
17 of all taxes imposed by this title then due or to become due, to the
18 extent attributable to property so received. A distribution other-
19 wise constituting a distribution in complete liquidation within the
20 meaning of this paragraph and paragraph (6) shall not be considered
21 as not constituting such a distribution merely because it does not
22 constitute a distribution or liquidation within the meaning of the
23 corporate law under which the distribution is made; and for the pur-
24 poses of this paragraph and paragraph (6) a transfer of property of
25 such other corporation to the taxpayer shall not be considered as not
26 constituting a distribution (or one of a series of distributions) in
27 complete cancellation or redemption of all the stock of such other cor-
28 poration, merely because the carrying out of the plan involves

29 (i) The transfer under the plan to the taxpayer by such other
30 corporation of property, not attributable to shares owned by the tax-
31 payer, upon an exchange described in subsection (b) (4); and

32 (ii) The complete cancellation or redemption under the plan as
33 a result of exchanges described in subsection (b) (3), of the shares
34 not owned by the taxpayer.

35 (8) Gain or loss--exchanges and distributions in obedience to
36 orders of federal securities and exchange commission. No gain or loss
37 shall be recognized to a shareholder from a distribution of stock or
38 securities in liquidation of a corporation made pursuant to an order
39 of the federal securities and exchange commission under authority vested
40 in it by the public utility holding company act of 1935, as amended.

41 (9) Loss not recognized on certain railroad reorganizations. No
42 loss shall be recognized if property of a railroad corporation as defined
43 in section 77m of the national bankruptcy act, as amended, is transferred,
44 after December 31, 1938, in pursuance of an order of the court having
45 jurisdiction of such corporation--

46 (A) In a receivership proceeding, or

47 (B) In a proceeding under section 77 of the national bankruptcy
48 act, as amended, to a railroad corporation, as defined in section 77m
49 of the national bankruptcy act, as amended, organized or made use of to
50 effectuate a plan of reorganization approved by the court in such pro-
51 ceeding. The term "reorganization", as used in this paragraph, shall

1 not be limited by the definition of such term in subsection (g).

2 (10) Gain or loss not recognized on reorganization of corpora-
 3 tions in certain receivership and bankruptcy proceedings. No gain or
 4 loss shall be recognized if property of a corporation (other than a
 5 railroad corporation, as defined in section 77m of the national bank-
 6 ruptcy act, as amended) is transferred in pursuance of an order of the
 7 court having jurisdiction of such corporation--

8 (A) In a receivership, foreclosure, or similar proceeding, or

9 (B) In a proceeding under section 77B or chapter X of the national
 10 bankruptcy act, as amended--to another corporation organized or made use
 11 of to effectuate a plan of reorganization approved by the court in such
 12 proceeding, in exchange solely for stock or securities in such other
 13 corporation.

14 (11) Distribution of stock not in liquidation. If there is dis-
 15 tributed, in pursuance of a plan of reorganization, to a shareholder of
 16 a corporation which is a party to the reorganization, stock (other than
 17 preferred stock) in another corporation which is a party to the reorgan-
 18 ization, without the surrender by such shareholder of stock, no gain to
 19 the distributee from the receipt of such stock shall be recognized un-
 20 less it appears that--

21 (A) Any corporation which is a party to such reorganization
 22 was not intended to continue the active conduct of a trade or business
 23 after such reorganization, or

24 (B) The corporation whose stock is distributed was used princi-
 25 pally as a device for the distribution of earnings and profits to the
 26 shareholders of any corporation a party to the reorganization.

27 (c) Gain from exchanges not solely in kind

28 (1) If an exchange would be within the provisions of subsection
 29 (b) (1), (2), (3) or (5), or within the provisions of subsection (1)
 30 of this section, if it were not for the fact that the property received
 31 in exchange consists not only of property permitted by such paragraphs
 32 or by subsection (1) to be received without the recognition of gain,
 33 but also of other property or money, then the gain, if any, to the re-
 34 cipient shall be recognized, but in an amount not in excess of the sum
 35 of such money and the fair market value of such other property.

36 (2) If a distribution made in pursuance of a plan of reorganiza-
 37 tion is within the provisions of paragraph (1) of this subsection but
 38 has the effect of the distribution of a taxable dividend, there shall
 39 be taxed as a dividend to each distributee such an amount of the gain
 40 recognized under paragraph (1) as is not in excess of his ratable share
 41 of the undistributed earnings and profits of the corporation accumulated
 42 after January 1, 1933. The remainder, if any, of the gain recognized
 43 under paragraph (1), shall be taxed as a gain from the exchange of prop-
 44 erty.

45 (d) Same--Gain of corporation. If an exchange would be within
 46 the provisions of subsection (b) (4) or (10) of this section if it were
 47 not for the fact that the property received in exchange consists not
 48 only of stock or securities permitted by such paragraph to be received
 49 without the recognition of gain, but also of other property or money,
 50 then:

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1 (1) If the corporation receiving such other property or money
2 distributes it in pursuance of the plan of reorganization, no gain to
3 the corporation shall be recognized from the exchange, but

4 (2) If the corporation receiving such other property or money
5 does not distribute it in pursuance of the plan of reorganization, the
6 gain, if any, to the corporation shall be recognized, but in an amount
7 not in excess of the sum of such money and the fair market value of such
8 other property so received, which is not so distributed.

9 (3) Except as provided above under subsections (d) (1) and (2)
10 gain or loss on sales or exchanges in connection with certain corporate
11 liquidations shall be subject to the provisions of section 43-152(o).

12 (4) Except as provided above under subsection (d) (1), (2) and
13 (3) gain or loss on sales or exchanges in connection with certain cor-
14 porate liquidations shall be subject to the provisions of section 43-
15 152(p).

16 (5) The provisions of this subsection shall be effective for all
17 years beginning on or after January 1, 1970.

18 (e) Loss from exchanges not solely in kind. If an exchange
19 would be within the provisions of subsection (b) (1) to (5), inclusive,
20 or (10), or within the provisions of subsection (1) of this section if
21 it were not for the fact that the property received in exchange con-
22 sists not only of property permitted by such paragraph to be received
23 without the recognition of gain or loss, but also of other property
24 or money, then no loss from the exchange shall be recognized.

25 (f) Involuntary conversion. If property (as a result of its de-
26 struction in whole or in part, theft, seizure, or requisition or condem-
27 nation or threat or imminence thereof) is compulsorily or involuntarily
28 converted--

29 (1) Into property similar or related in service or use to the
30 property so converted, no gain shall be recognized.

31 (2) Into money, and the disposition of the converted property
32 occurred before January 1, 1954, no gain shall be recognized if such
33 money is forthwith in good faith, under regulations prescribed by the
34 ~~tax-commission~~ DIRECTOR, expended in the acquisition of other property
35 similar or related in service or use to the property so converted, or in
36 the acquisition of control of a corporation owning such other property,
37 or in the establishment of a replacement fund. If any part of the
38 money is not so expended, the gain shall be recognized to the extent
39 of the money which is not so expended (regardless of whether such money
40 is received in one or more taxable years and regardless of whether or
41 not the money which is not so expended constitutes gain). For the pur-
42 poses of this paragraph and paragraphs (3) and (4), the term "disposi-
43 tion of the converted property" means the destruction, theft, seizure,
44 requisition, or condemnation of the converted property, or the sale or
45 exchange of such property under threat or imminence of requisition or
46 condemnation.

47 (3) Into money or into property not similar or related in ser-
48 vice or use to the converted property, and the disposition of the
49 converted property (as defined in paragraph (2)) occurred after January
50 1, 1954, the gain (if any) shall be recognized except to the extent
51 hereinafter provided in this paragraph.

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1 (A) Nonrecognition of gain. If the taxpayer during the period
2 specified in subparagraph (B), for the purpose of replacing the prop-
3 erty so converted, purchases other property similar or related in
4 service or use to the property so converted, or purchases stock in the
5 acquisition of control of a corporation owning such other property, at
6 the election of the taxpayer the gain shall be recognized only to the
7 extent that the amount realized upon such conversion (regardless of
8 whether such amount is received in one or more taxable years) exceeds
9 the cost of such other property or such stock. Such election shall be
10 made at such time and in such manner as the ~~tax-commission~~ DIRECTOR
11 may by regulations prescribe. For the purpose of this paragraph--

12 (i) No property or stock acquired before the disposition of the
13 converted property shall be considered to have been acquired for the
14 purpose of replacing such converted property unless held by the tax-
15 payer on the date of such disposition; and

16 (ii) The taxpayer shall be considered to have purchased property
17 or stock only if, but for the provisions of section 43-153(a) (9), the
18 unadjusted basis of such property or stock would be its cost within the
19 meaning of section 43-153(a).

20 (B) Period within which property must be replaced. The period
21 referred to in subparagraph (A) shall be the period beginning with the
22 date of the disposition of the converted property, or the earliest date
23 of the threat or imminence of requisition or condemnation of the con-
24 verted property, whichever is the earlier, and ending--

25 (i) One year after the close of the first taxable year in which
26 any part of the gain upon the conversion is realized, or

27 (ii) Subject to such terms and conditions as may be specified
28 by the ~~tax-commission~~ DEPARTMENT, at the close of such later date as the
29 ~~tax-commission~~ DEPARTMENT may designate upon application by the taxpayer.
30 Such application shall be made at such time and in such manner as the
31 ~~tax-commission~~ DIRECTOR may by regulations prescribe.

32 (C) Time for assessment of deficiency attributable to gain upon
33 conversion. If a taxpayer has made the election provided in subparagraph
34 (A), then

35 (i) The statutory period for the assessment of any deficiency,
36 for any taxable year in which any part of the gain upon such conversion
37 is realized, attributable to such gain shall not expire prior to the
38 expiration of four years from the date the ~~tax-commission~~ DEPARTMENT
39 is notified by the taxpayer (in such manner as the ~~tax-commission~~ DIRECTOR
40 may by regulations prescribe) of the replacement of the converted property
41 or of an intention not to replace, and

42 (ii) Such deficiency may be assessed prior to the expiration of
43 such four-year period notwithstanding the provisions of section 43-177(d)
44 or the provisions of any other law or rule of law which would otherwise
45 prevent such assessment.

46 (D) Time for assessment of other deficiency attributable to
47 election. If the election provided in subparagraph (A) is made by the
48 taxpayer and such other property or such stock was purchased prior to
49 the beginning of the last taxable year in which any part of the gain
50 upon such conversion is realized, any deficiency, to the extent result-
51 ing from such election, for any taxable year ending before such last

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1 taxable year may be assessed (notwithstanding the provisions of section
2 43-177(d) or the provisions of any other law or rule of law which would
3 otherwise prevent such assessment) at any time before the expiration of
4 the period within which a deficiency for such last taxable year may be
5 assessed.

6 (4) Involuntary conversion--residence. This subsection shall not
7 apply in the case of property used by a taxpayer as his principal resi-
8 dence, if the destruction, theft, seizure, requisition, or condemnation
9 of the residence, or the sale or exchange of such residence under threat
10 or imminence thereof, occurs after January 1, 1954.

11 (g) Definition of reorganization. As used in this section (other
12 than subsection (b) (10) and subsection (1) and in section 43-153 (other
13 than section 43-153(a) (20)):

14 (1) The term "reorganization" means

15 (A) A statutory merger or consolidation, or

16 (B) The acquisition by one corporation in exchange solely for all
17 or a part of its voting stock: Of at least eighty per cent of the vot-
18 ing stock and at least eighty per cent of the total number of shares of
19 all other classes of stock of another corporation; or of substantially
20 all the properties of another corporation, but in determining whether
21 the exchange is solely for voting stock, the assumption by the acquiring
22 corporation of a liability of another, or the fact that property acquired
23 is subject to a liability, shall be disregarded, or

24 (C) A transfer by a corporation of all or a part of its assets
25 to another corporation if immediately after the transfer the transferor
26 or its shareholders or both are in control of the corporation to which
27 the assets are transferred, or

28 (D) A recapitalization, or

29 (E) A mere change in identity, form, or place of organization,
30 however effected.

31 (2) The term "a party to a reorganization" includes a corporation
32 resulting from a reorganization and includes both corporations in the case
33 of a reorganization resulting from the acquisition by one corporation of
34 stock or properties of another.

35 (h) Definition of control. "Control", as used in this section,
36 means the ownership of stock possessing at least eighty per cent of the
37 total combined voting power of all classes of stock entitled to vote and
38 at least eighty per cent of the total number of shares of all other
39 classes of stock of the corporation.

40 (i) Foreign corporations. In determining the extent to which
41 gains shall be recognized in the case of any of the exchanges (made
42 after January 1, 1954) described in subsection (b) (3), (4), (5) or
43 (6) or described in so much of subsection (c) as refers to subsection
44 (b) (3) or (5) or described in subsection (d), a corporation created
45 or organized in a foreign country shall not be considered as a corpora-
46 tion unless, prior to such exchange, it has been established to the
47 satisfaction of the ~~tax-commission~~ DEPARTMENT that the exchange is not
48 in pursuance of a plan having as one of its principal purposes the
49 avoidance of income or franchise taxes.

50 (j) Installment obligations. For nonrecognition of gain or loss
51 in the case of installment obligations, see section 43-134(d).

1 (k) Assumption of liability not recognized. Where upon an ex-
2 change the taxpayer receives as part of the consideration property
3 which would be permitted by subsection (b) (4), (5) or (10) of this
4 section, to be received without the recognition of gain if it were the
5 sole consideration, and as part of the consideration another party to
6 the exchange assumes a liability of the taxpayer or acquires from the
7 taxpayer property subject to a liability, the assumption or acquisition
8 shall not be considered as "other property or money" received by the
9 taxpayer within the meaning of subsection (c), (d) or (e) of this sec-
10 tion, and shall not prevent the exchange from being within the provi-
11 sions of subsection (b) (4), (5) or (10), except that if, taking into
12 consideration the nature of the liability and the circumstances in the
13 light of which the arrangement for the assumption or acquisition was
14 made, it appears that the principal purpose of the taxpayer with re-
15 spect to the assumption or acquisition was a purpose to avoid state
16 income tax on the exchange, or, if not such purpose, was not a bona
17 fide business purpose, the assumption or acquisition (in the amount of
18 the liability) shall, for the purposes of this section, be considered
19 as money received by the taxpayer upon the exchange.

20 In any suit or proceeding where the burden is on the taxpayer to
21 prove that the assumption or acquisition is not to be considered as
22 money received by the taxpayer, the burden shall not be considered
23 sustained unless the taxpayer sustains the burden by the clear pre-
24 ponderance of the evidence.

25 (1) Exchanges by security holders in connection with certain
26 corporate reorganizations. No gain or loss shall be recognized upon
27 an exchange consisting of the relinquishment or extinguishment of
28 stock or securities in a corporation the plan of reorganization of
29 which is approved by the court, in a proceeding described in subsec-
30 tion (b) (10), in consideration of the acquisition solely of stock or
31 securities in a corporation organized or made use of to effectuate
32 such plan of reorganization.

33 (m) Gain from sale or exchange to effectuate policies of federal
34 communications commission. If the sale or exchange of property (includ-
35 ing stock in a corporation) is certified by the federal communications
36 commission to be necessary or appropriate to effectuate the policies
37 of the commission with respect to the ownership and control of radio
38 broadcasting stations, such sale or exchange shall, if the taxpayer so
39 elects, be treated as an involuntary conversion of such property within
40 the meaning of subsection (f) of this section. For the purposes of sub-
41 section (f) of this section, as made applicable by the provisions of
42 this subsection, stock of a corporation operating a radio broadcasting
43 station, whether or not representing control of such corporation, shall
44 be treated as property similar or related in service or use to the prop-
45 erty so converted. The part of the gain, if any, upon such sale or ex-
46 change to which subsection (f) is not applied shall nevertheless not be
47 recognized, if the taxpayer so elects, to the extent that it is applied
48 to reduce the basis for determining gain or loss upon sale or exchange
49 of property, of a character subject to the allowance for depreciation
50 under section 43-123.14, remaining in the hands of the taxpayer immedi-
51 ately after the sale or exchange, or acquired in the same taxable year.

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1 The manner and amount of such reduction shall be determined under regu-
2 lations prescribed by the ~~tax-commission~~ DIRECTOR. Any election made by
3 the taxpayer under this subsection shall be made by a statement to that
4 effect in his return for the taxable year in which the sale or exchange
5 takes place, and such election shall be binding for the taxable year and
6 all subsequent taxable years.

7 (n) Gain from sale or exchange of residence

8 (1) Nonrecognition of gain. If property (hereinafter in this
9 subsection called "old residence") used by the taxpayer as his princi-
10 pal residence is sold by him and, within a period beginning one year
11 prior to the date of such sale and ending one year after such date,
12 property (hereinafter in this subsection called "new residence") is
13 purchased and used by the taxpayer as his principal residence, gain
14 (if any) from such sale shall be recognized only to the extent that
15 the taxpayer's ADJUSTED selling price of the old residence exceeds the
16 taxpayer's cost of purchasing the new residence.

17 (2) Rules for application of subsection. For the purposes of
18 this subsection:

19 (A) An exchange by the taxpayer of his residence for other prop-
20 erty shall be considered as a sale of such residence, and the acquisition
21 of a residence upon the exchange of property shall be considered as a
22 purchase of such residence.

23 (B) If the taxpayer's residence (as a result of its destruction
24 in whole or in part, theft, or seizure) is compulsorily or involuntarily
25 converted into property or into money, such destruction, theft, or sei-
26 zure shall be considered as a sale of the residence; and if the residence
27 is so converted into property which is used by the taxpayer as his resi-
28 dence, such conversion shall be considered as a purchase of such prop-
29 erty by the taxpayer.

30 (C) In the case of an exchange or conversion described in sub-
31 paragraph (A) or (B), in determining the extent to which the ADJUSTED
32 selling price of the old residence exceeds the taxpayer's cost of pur-
33 chasing the new residence, the amount realized by the taxpayer upon such
34 exchange or conversion shall be considered the ADJUSTED selling price of
35 the old residence.

36 (D) A residence any part of which was constructed or reconstructed
37 by the taxpayer shall be considered as purchased by the taxpayer. In
38 determining the taxpayer's cost of purchasing a residence, there shall
39 be included only so much of his cost as is attributable to the acquisi-
40 tion, construction, reconstruction, and improvements made which are
41 properly chargeable to capital account, during the period specified in
42 paragraph (1).

43 (E) If a residence is purchased by the taxpayer prior to the
44 date of his sale of the old residence, the purchased residence shall
45 not be treated as his new residence if sold or otherwise disposed of
46 by him prior to the date of the sale of the old residence.

47 (F) If the taxpayer, during the period described in paragraph
48 (1), purchases more than one residence which is used by him as his
49 principal residence at some time within one year after the date of the
50 sale of the old residence, only the last of the residences so used by

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1 him after the date of such sale shall constitute the new residence. If
2 within the one year referred to in the preceding sentence property used
3 by the taxpayer as his principal residence is destroyed, stolen, seized,
4 requisitioned, or condemned, or is sold or exchanged under threat or im-
5 minence thereof, then for the purposes of the preceding sentence such
6 one year shall be considered as ending with the date of such destruc-
7 tion, theft, seizure, requisition, condemnation, sale or exchange.

8 (G) In the case of a new residence the construction of which was
9 commenced by the taxpayer prior to the expiration of one year after the
10 date of the sale of the old residence, the period specified in paragraph
11 (1), and the one year referred to in subparagraph (f) of this paragraph,
12 shall be considered as including a period of eighteen months beginning
13 with the date of the sale of the old residence.

14 (H) THE ADJUSTED SALE PRICE IS THE AMOUNT REALIZED ON THE SALE
15 REDUCED BY QUALIFIED EXPENSES IN ORDER TO SELL IT. QUALIFIED SELLING
16 EXPENSES INCLUDE THE BROKERAGE COMMISSION, TITLE POLICY FEES, TRANSFER
17 TAXES, ATTORNEYS' FEES AND LOAN PLACEMENT FEES OR POINTS PAID BY THE
18 SELLER TO LENDING INSTITUTIONS TO ASSIST THE BUYER IN OBTAINING A HOME
19 MORTGAGE LOAN.

20 (3) Limitation. The provisions of paragraph (1) shall not be
21 applicable with respect to the sale of the taxpayer's residence if
22 within one year prior to the date of such sale the taxpayer sold at a
23 gain other property used by him as his principal residence, and any
24 part of such gain was not recognized by reason of the provisions of
25 paragraph (1). For the purposes of this paragraph, the destruction,
26 theft, seizure, requisition, or condemnation of property or the sale
27 or exchange of property under threat or imminence thereof, shall not
28 be considered as a sale of such property.

29 (4) Basis of new residence. Where the purchase of a new resi-
30 dence results, under paragraph (1), in the nonrecognition of gain upon
31 the sale of an old residence, in determining the adjusted basis of the
32 new residence as of any time following the sale of the old residence,
33 the adjustments to basis shall include a reduction by an amount equal
34 to the amount of the gain not so recognized upon the sale of the old
35 residence. For this purpose, the amount of the gain not so recognized
36 upon the sale of the old residence includes only so much of such gain
37 as is not recognized by reason of the cost, up to such time, of pur-
38 chasing the new residence.

39 (5) Tenant stockholder in cooperative apartment corporation.
40 For the purposes of this subsection, section 43-153(b) (1) (G) and
41 section 43-157(h) (6), references to property used by the taxpayer as
42 his principal residence, and references to the residence of a taxpayer,
43 shall include stock held by a tenant-stockholder, as defined in section
44 43-123.28, subsection C, in a cooperative apartment as defined in section
45 43-123.28, subsection B if--

46 (A) In the case of stock sold, the apartment which the taxpayer
47 was entitled to occupy as such stockholder was used by him as his prin-
48 cipal residence, and

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1 (B) In the case of stock purchased, the taxpayer used as his
2 principal residence the apartment which he was entitled to occupy as
3 such stockholder.

4 (6) Husband and wife. If the taxpayer and his spouse, in accor-
5 dance with regulations which shall be prescribed by the ~~tax-commission~~
6 DIRECTOR pursuant to this paragraph, consent to the application of
7 subparagraph (B) of this paragraph, then--

8 (A) For the purposes of this subsection, the words "taxpayer's
9 ADJUSTED selling price of the old residence" shall mean the ADJUSTED
10 selling price (of the taxpayer, or of the taxpayer and his spouse) of the
11 old residence, and the words "taxpayer's cost of purchasing the new resi-
12 dence" shall mean the cost (to the taxpayer, his spouse or both) of
13 purchasing the new residence (whether held by the taxpayer, his spouse,
14 or the taxpayer and his spouse); and

15 (B) So much of the gain upon the sale of the old residence as
16 is not recognized solely by reason of this paragraph, and so much of
17 the adjustment under paragraph (4) to the basis of the new residence
18 as results solely from this paragraph, shall be allocated between the
19 taxpayer and his spouse as provided in such regulations.

20 This paragraph shall apply only if the old residence and the new
21 residence are each used by the taxpayer and his spouse as their princi-
22 pal residence. In case the taxpayer and his spouse do not consent to
23 the application of subparagraph (B) of this paragraph, then the recog-
24 nition of gain upon the sale of the old residence shall be determined
25 under this subsection without regard to the rules provided in this para-
26 graph.

27 (7) Statute of limitations. If the taxpayer during a taxable
28 year sells at a gain property used by him as his principal residence,
29 then--

30 (A) The statutory period for the assessment of any deficiency
31 attributable to any part of such gain shall not expire prior to the
32 expiration of four years from the date the ~~tax-commission~~ DEPARTMENT
33 is notified by the taxpayer (in such manner as the ~~commission~~ DIRECTOR
34 may by regulations prescribe) of--

35 (i) The taxpayer's cost of purchasing the new residence which
36 the taxpayer claims results in nonrecognition of any part of such gain.

37 (ii) The taxpayer's intention not to purchase a new residence
38 within the period specified in paragraph (1), or

39 (iii) A failure to make such purchase within such period; and

40 (B) Such deficiency may be assessed prior to the expiration of
41 such four-year period notwithstanding the provisions of any other law
42 or rule of law which would otherwise prevent such assessment.

43 (8) Gain or loss on sales or exchanges in connection with certain
44 liquidations

45 (1) General rule. If

46 (A) A corporation adopts a plan of complete liquidation after
47 December 31, 1969, and

48 (B) Within the twelve-month period beginning on the date of the
49 adoption of such plan, all of the assets of the corporation are dis-
50 tributed in complete liquidation, less assets retained to meet claims,

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1 Then no gain or loss shall be recognized to such corporation from the
2 sale or exchange by it of property within such twelve-month period.

3 (2) Property defined.

4 (A) In general. For purposes of subsection (1), the term
5 "property" does not include--

6 (i) Stock in trade of the corporation, or other property of a
7 kind which would properly be included in the inventory of the corpora-
8 tion if on hand at the close of the taxable year, and property held by
9 the corporation primarily for sale to customers in the ordinary course
10 of its trade or business,

11 (ii) Installment obligations acquired in respect of the sale or
12 exchange (without regard to whether such sale or exchange occurred be-
13 fore, on, or after the date of the adoption of the plan referred to in
14 subsection (1)) of stock in trade or other property described in sub-
15 paragraph (2) of this paragraph, and

16 (iii) Installment obligations acquired in respect of property
17 (other than property described in subparagraph (ii)) sold or exchanged
18 before the date of the adoption of such plan of liquidation.

19 (B) Nonrecognition with respect to inventory in certain cases.
20 Notwithstanding paragraph (A) of this subsection, if substantially all
21 of the property described in subparagraph (i) of such paragraph (A)
22 which is attributable to a trade or business of the corporation is, in
23 accordance with this section, sold or exchanged to one person in one
24 transaction, then for purposes of subsection (1) the term "property"
25 includes--

26 (i) Such property so sold or exchanged, and

27 (ii) Installment obligations acquired in respect of such sale
28 or exchange.

29 (3) Limitations.

30 (A) Collapsible corporations and liquidations to which section
31 43-152(p) applies. This section shall not apply to any sale or ex-
32 change--

33 (i) Made by a collapsible corporation (as defined in section 43-
34 157(m)),

35 (ii) Following the adoption of a plan of complete liquidation,
36 if section 43-152(p) applies with respect to such liquidation, or

37 (B) Liquidations to which section 43-152(b) (6) applies. In the
38 case of a sale or exchange following the adoption of a plan of complete
39 liquidation, if section 43-152(b) (6) applies with respect to such liqui-
40 dation, then--

41 (i) If the basis of the property of the liquidating corporation
42 in the hands of the distributee is determined under section 43-153(a)
43 (15), this section shall not apply.

44 (4) Special rule for certain minority shareholders. If a cor-
45 poration adopts a plan of complete liquidation on or after January 1,
46 1970, and if subsection (1) does not apply to sales or exchanges of
47 property by such corporation, solely by reason of the application of
48 subsection (3) (B), then for the first taxable year of any shareholder
49 (other than a corporation which meets the eighty per cent ownership
50 requirement specified in section 43-152(b) (6) (A)) in which he receives
51 a distribution in complete liquidation--

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1 (A) The amount realized by such shareholder on the distribution
2 shall be increased by his proportionate share of the amount by which
3 the tax imposed by this subtitle on such corporation would have been
4 reduced if subsection (3) (B) had not been applicable, and

5 (B) For purposes of this title, such shareholder shall be deemed
6 to have paid, on the last day prescribed by law for the payment of the
7 tax imposed by this subtitle on such shareholder for such taxable year,
8 an amount of tax equal to the amount of the increase described in para-
9 graph (A).

10 (p) Election as to recognition of gain in certain liquidations

11 (1) General rule. In the case of property distributed in com-
12 plete liquidation of a corporation (other than a collapsible corpora-
13 tion to which section 43-157(m) applies), if--

14 (A) The liquidation is made in pursuance of a plan of liquida-
15 tion adopted on or after January 1, 1970, and

16 (B) The distribution is in complete cancellation or redemption
17 of all the stock, and the transfer of all the property under the liqui-
18 dation occurs within some one calendar month, then in the case of each
19 qualified electing shareholder (as defined in subsection (3)) gain on
20 the shares owned by him at the time of the adoption of the plan of
21 liquidation shall be recognized only to the extent provided in sub-
22 section (5) and (6).

23 (2) Excluded corporation. For purposes of this section, the
24 term "excluded corporation" means a corporation which at any time be-
25 tween January 1, 1970, and the date of the adoption of the plan of
26 liquidation, both dates inclusive, was the owner of stock possessing
27 fifty per cent or more of the total combined voting power of all classes
28 of stock entitled to vote on the adoption of such plan.

29 (3) Qualified electing shareholders. For purposes of this sec-
30 tion, the term "qualified electing shareholder" means a shareholder
31 (other than an excluded corporation) of any class of stock (whether or
32 not entitled to vote on the adoption of the plan of liquidation) who
33 is a shareholder at the time of adoption of such plan, and whose written
34 election to have the benefits of subsection (1) has been made and filed
35 in accordance with subsection (4), but--

36 (A) In the case of shareholder other than a corporation, only if
37 written elections have been so filed by shareholders (other than cor-
38 porations) who at the time of the adoption of the plan of liquidation
39 are owners of stock possessing at least eighty per cent combined voting
40 power (exclusive of voting power possessed by stock owned by corpora-
41 tions) of all classes of stock entitled to vote on the adoption of such
42 plan or liquidation; or

43 (B) In the case of a shareholder which is a corporation, only if
44 written elections have been so filed by corporate shareholders (other
45 than an excluded corporation) which at the time of the adoption of such
46 plan of liquidation are owners of stock possessing at least eighty per
47 cent of the total combined voting power (exclusive of voting power pos-
48 sessed by stock owned by an excluded corporation and by shareholders
49 who are not corporations) of all classes of stock entitled to vote on
50 the adoption of such plan of liquidation.

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1 (4) Making and filing of elections. The written elections re-
2 ferred to in subsection (3) must be made and filed in such manner as to
3 be not in contravention of regulations prescribed by the Arizona-state
4 tax-commission DIRECTOR. The filing must be within thirty days after
5 the date of the adoption of the plan of liquidation.

6 (5) Noncorporate shareholders. In the case of qualified elect-
7 ing shareholder other than a corporation--

8 (A) There shall be recognized, and treated as a dividend, so
9 much of the gain as is not in excess of his ratable share of the earn-
10 ings and profits of the corporation accumulated after February 28, 1913,
11 such earnings and profits to be determined as of the close of the month
12 in which the transfer in liquidation occurred under subsection (1) (B),
13 but without diminution by reason of distributions made during such month;
14 but by including in the computation thereof all amounts accrued up to
15 the date on which the transfer of all the property under the liquidation
16 is completed; and

17 (B) There shall be recognized, and treated as short-term or
18 long-term capital gains, as the case may be, so much of the remainder
19 of the gain as is not in excess to the amount by which the value of
20 that portion of the assets received by him which consists of money, or
21 of stock or securities acquired by the corporation after December 31,
22 1953, exceeds his ratable share of such earnings and profits.

23 (6) Corporate shareholders. In the case of a qualified electing
24 shareholder which is a corporation, the gain shall be recognized only
25 to the extent of the greater of the two following--

26 (A) The portion of the assets received by it which consists of
27 money, or of stock or securities acquired by the liquidating corpora-
28 tion after December 31, 1953; or

29 (B) Its ratable share of the earnings and profits of the liqui-
30 dating corporation accumulated after February 28, 1913, such earnings
31 and profits to be determined as of the close of the month in which the
32 transfer in liquidation occurred under subsection (1) (B), but without
33 diminution by reason of distributions made during such month; but by
34 including in the computation thereof all amounts accrued up to the
35 date on which the transfer of all the property under the liquidation
36 is completed.

37 (7) Special rule

38 (A) In general. In the case of a liquidation occurring after
39 December 31, 1969, of a corporation referred to in paragraph (C)--

40 (i) The date "December 31, 1953" referred to in subsections (5)
41 (B) and (6) (A) shall be treated as if such date were "December 31,
42 1962", and

43 (ii) So much of the gain recognized under subsection (5) (A) as
44 is attributable to the earnings and profits accumulated after February
45 28, 1913, and before January 1, 1967, shall, in the case of stock in
46 such corporation held for more than six months, be treated as long-term
47 capital gain, and only the remainder of such gain shall be treated as
48 a dividend.

49 Clause (ii) shall not apply to any earnings and profits to which the
50 corporation succeeds after December 31, 1963, pursuant to any corporate

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1 reorganization or pursuant to any liquidation to which sections 43-
2 152(b) (6) and 43-155(c) (1) apply, except earnings and profits which
3 on December 31, 1963, constituted earnings and profits of a corporation
4 referred to in paragraph (C), and except earnings and profits which were
5 earned after such date by a corporation referred to in paragraph (C).

6 (B) Corporations to which applicable. Paragraph (A) shall apply
7 only with respect to a corporation which is referred to in paragraph
8 (C) and which before December 31, 1970 notifies the ~~Arizona-state-tax~~
9 ~~commission~~ DEPARTMENT that it may wish to have paragraph (A) apply to
10 it and submits such information as may be required by regulation prescribed
11 by the ~~Arizona-state-tax-commission~~ DIRECTOR.

12 (C) Corporations referred to. For purpose of paragraph (A) a
13 corporation referred to in this paragraph is a corporation--

14 (i) Which would have been a personal holding company under
15 United States internal revenue code of 1954 section 542 as amended and

16 (ii) Has complied with the special rule for liquidations after
17 December 31, 1966 under United States internal revenue code of 1954
18 sections 333(g) (2) and (3) as amended.

19 (D) Mistake as to applicability of subsection. An election
20 made under this section by a qualified electing shareholder of a cor-
21 poration in which such shareholder states that such election is made
22 on the assumption that such corporation is a corporation referred to
23 in paragraph (C) shall have no force or effect if it is determined
24 that the corporation is not a corporation referred to in paragraph (C).

Approved by the Governor - April 16, 1975

Filed in the Office of the Secretary of State - April 16, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 12

HOUSE BILL 2420

AN ACT

RELATING TO STATE GOVERNMENT; PROVIDING THAT THE DEPARTMENT OF ADMINISTRATION MAY PROVIDE FOR CERTAIN STATE SELF INSURANCE; PROVIDING THAT THE DEPARTMENT OF ADMINISTRATION SHALL PROMULGATE CERTAIN RULES AND REGULATIONS; INCLUDING STATE SELF INSURANCE PROGRAMS WITHIN REVOLVING FUND FOR UN-INSURED LOSSES; AMENDING SECTIONS 41-621 AND 41-622, ARIZONA REVISED STATUTES, AND MAKING AN APPROPRIATION.

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

2 Section 1. Section 41-621, Arizona Revised Statutes, is amended
3 to read:

4 41-621. Purchase of insurance; coverage

5 A. The department of administration shall obtain insurance against
6 loss, to the extent it is determined necessary and in the best interests
7 of the state as provided in subsection B- C of this section, ON the
8 following:

9 1. All state owned buildings, including those of the universities
10 and community colleges and whether financed in whole or in part by state
11 monies.

12 2. Contents in any buildings owned, leased or rented, in whole or
13 in part, by or to the state.

14 3. The state and its departments, agencies, boards and commissions
15 and all officers, agents and employees thereof, against liability for acts
16 or omissions of any nature while employed in governmental or proprietary
17 capacities.

18 4. All personal property, including vehicles owned or operated by
19 the state and its departments, agencies, boards and commissions.

20 5. The state and its departments, agencies, boards and commissions
21 against loss due to the infidelity of officers, agents and employees.

22 6. The state and its departments, agencies, boards and commissions
23 against casualty and liability losses of every nature.

24 B. THE DEPARTMENT OF ADMINISTRATION MAY DETERMINE, IN THE BEST
25 INTERESTS OF THE STATE, THAT STATE SELF INSURANCE IS NECESSARY OR
26 DESIRABLE AND MAY PROVIDE FOR STATE SELF INSURANCE FOR DAMAGES FOR

1 INJURY, SICKNESS, DISEASE OR DEATH AGAINST A STATE OWNED MEDICAL FACILITY
 2 OR A PHYSICIAN OR SURGEON EMPLOYED BY THE STATE AND WHO IS AUTHORIZED TO
 3 ACT IN SUCH CAPACITY UP TO A MAXIMUM OF ONE MILLION DOLLARS FOR ANY ONE
 4 LOSS, WITH NO LIMITATIONS ON THE NUMBER OF LOSSES. IF THE DEPARTMENT OF
 5 ADMINISTRATION PROVIDES STATE SELF INSURANCE, THE INSURANCE COVERAGE SHALL
 6 BE SECONDARY COVERAGE FOR ANY LOSS WHICH IS COVERED BY AN INSURANCE AGREE-
 7 MENT REQUIRED BY SUBSECTION A OF THIS SECTION AND WHICH INSURANCE AGREE-
 8 MENT IS IN EFFECT AT THE TIME OF SUCH LOSS. THE DEPARTMENT OF ADMINISTRATION
 9 SHALL PROVIDE OR OBTAIN AND PAY FOR CLAIMS PROCESSING COSTS INCLUDING AD-
 10 JUSTING COSTS, LEGAL DEFENSE COSTS AND ATTORNEYS' FEES FOR ANY PORTION
 11 OF CLAIMS FALLING WITHIN STATE SELF-INSURANCE LIMITS OR DEDUCTIBLE LIMITS
 12 PURSUANT TO PROVISIONS OF THIS CHAPTER.

13 B. C. EXCEPT AS PROVIDED BY SUBSECTION B OF THIS SECTION, in
 14 carrying out the provisions of this section, the department of
 15 administration shall establish a risk management section to provide
 16 the state with some or all of the necessary risk management services, or
 17 shall contract for risk management services and shall purchase such insur-
 18 ance coverage, pursuant to the provisions of section 41-730, as the director
 19 of the department of administration deems necessary in the best interest
 20 of the state after consultation with the risk manager, and may, in addition
 21 to other specifications of such coverage as deemed necessary, determine
 22 deductibles to be established except that no deductible applicable to any
 23 one loss may exceed the sum of five hundred thousand dollars unless approved
 24 by the joint legislative budget committee.

25 6. D. No successful bidder for risk management services pursuant
 26 to this section shall be entitled to receive directly or indirectly any
 27 sales commission, contingent commission, excess profit commission, or other
 28 commissions, or anything of value, as payment for the risk management
 29 services except those amounts received directly from the state of Arizona
 30 as payment for the risk management services.

31 B. E. All contingent commissions, excess profits commissions or
 32 other commissions that may be based upon losses or experience that a
 33 successful bidder for the sale of insurance to the state may be eligible
 34 to receive from insurance carriers or underwriters shall be paid by
 35 such successful bidder to the state of Arizona.

36 E. F. The department of administration shall pay risk management
 37 fees and premiums for insurance on state property and state liability
 38 pursuant to provisions of this chapter and subject to legislative
 39 appropriations therefor.

40 G. THE DEPARTMENT OF ADMINISTRATION SHALL PROMULGATE SUCH RULES
 41 AND REGULATIONS AS ARE DEEMED NECESSARY TO CARRY OUT AND IMPLEMENT THE
 42 PROVISIONS OF THIS CHAPTER.

43 Sec. 2. Section 41-622, Arizona Revised Statutes, is amended
 44 to read:

45 41-622. Revolving fund for uninsured losses

46 A. There is established a permanent uninsured loss coverage
 47 revolving fund in the department of administration for the payment of
 48 uninsured losses AND ALL CLAIMS, DEFENSE COSTS AND OTHER EXPENSES
 49 INCLUDED WITHIN STATE SELF-INSURANCE PROGRAMS AS DETERMINED BY THE
 50 DEPARTMENT PURSUANT TO SECTION 41-621, SUBSECTION B. Departments,
 51 agencies, boards or commissions of this state may apply for monies
 52 therefrom to reimburse any uninsured property losses suffered by
 53 such departments, agencies, boards or commissions which are deemed

CHAPTER 12

1 proper by the director of the department of administration as claims
2 for payment from the revolving fund. The director of the department
3 of administration, subject to the provisions of section 41-730, is
4 authorized to disburse monies to contractors who rebuild state property
5 as a result of uninsured losses or to persons who supply goods or
6 services in replacing uninsured losses.

7 B. All monies recovered by the state, whether pursuant to litigation,
8 RECOVERY OF PROPORTIONATE SHARE MONIES FROM ANY OTHER EXISTING
9 STATE FUNDS, or otherwise, for damages relating to an uninsured loss
10 for which monies from the revolving fund have been paid shall be
11 deposited in the revolving fund.

12 C. All monies deposited in the revolving fund are appropriated
13 to the department of administration for use as provided in this section
14 and shall be exempt from the provisions of section 35-190, relating to
15 lapsing of appropriations.

16 Sec. 3. Appropriation; purpose; exemption

17 A. The sum of five hundred thousand dollars is appropriated to
18 the department of administration to be used to carry out the provisions
19 of this act.

20 B. The appropriation made by subsection A of this section is
21 exempt from the provision of section 35-190, Arizona Revised Statutes,
22 relating to lapsing of appropriations.

23 Sec. 4. Emergency

24 To preserve the public peace, health and safety it is necessary
25 that this act become immediately operative. It is therefore declared
26 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - April 24, 1975

Filed in the Office of the Secretary of State - April 24, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 13

HOUSE BILL 2333

AN ACT

RELATING TO PUBLIC FINANCES; PROVIDING FOR CERTAIN CAPITAL OUTLAY; REVERTING CERTAIN UNEXPENDED AND UNENCUMBERED MONIES PREVIOUSLY APPROPRIATED TO VARIOUS DEPARTMENTS FOR VARIOUS PURPOSES, AND MAKING CERTAIN APPROPRIATIONS TO CERTAIN DEPARTMENTS FOR VARIOUS PURPOSES.

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

2 Section 1. Reversion of funds

3 The following sums, appropriated by the law indicated and for the
4 purpose shown, shall revert to the Capital Outlay Stabilization Fund,
5 account number 34-101-900-60, on the effective date of this act:

6	Law	Account Number	Purpose	Amount
7	1. L'74, ch. 202,			
8	section 1, sub-		Tucson office	
9	division 1	13-101-127-34	building	\$2,500,000.00
10	2. L'74, ch. 202,			
11	section 1, sub-		Record reten-	
12	division 1	13-101-128-34	tion center	1,000,000.00
13	3. L'71, ch. 157,		Land, state	
14	section 1	14-101-171-34	office building	38,642.79

15 Sec. 2. Reversion of funds

16 The following sums, appropriated by the law indicated and for the
17 purpose shown, shall revert to the federal revenue sharing trust fund,
18 account number 34-140-800-00, on the effective date of this act:

19	Law	Account Number	Purpose	Amount
20	1. L'73, ch. 176,		Department of	
21	section 1,		economic	
22	subdivision 1		security	
23		34-101-901-34	office building	\$2,576,616.18
24	2. L'73, ch. 176,			
25	section 1,		Data processing	
26	subdivision 1	34-101-902-34	center building	62,070.24
27	3. L'73, ch. 176,		Statehouse	
28	section 1,		restoration--	
29	subdivision 1	34-101-903-34	museum	891,067.57

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	<u>Law</u>	<u>Account Number</u>	<u>Purpose</u>	<u>Amount</u>
1				
2	4. L'74, ch. 201,			
3	section 1	34-405-901-00	Capital outlay	\$2,627,563.24
4	5. L'74, ch. 201,			
5	section 1	34-440-901-00	Capital outlay	1,798,600.00
6	6. L'74, ch. 201,			
7	section 1	34-480-901-00	Capital outlay	1,824,296.00
8	7. L'74, ch. 202,			
9	section 1,			
10	subdivision 1	34-101-904-34	Land and improvements	1,111,488.57
11	8. L'74, ch. 202,			
12	section 1,			
13	subdivision 1			
14		34-101-905-34	building	16,968.50
15	9. L'74, ch. 202,			
16	section 1,			
17	subdivision 1	34-101-906-34	Capitol annex office building renovation	442,057.79
18	10. L'74, ch. 202,			
19	section 1,			
20	subdivision 1	34-101-901-60	Refrigerated "after coolers"	3,500.00
21	11. L'74, ch. 202,			
22	section 1,			
23	subdivision 1	34-101-902-60	Soft water system-- capitol	2,000.00
24	12. L'74, ch. 202,			
25	section 1,			
26	subdivision 1	34-101-903-60	Air conditioning controls--house and senate	30,000.00
27	13. L'74, ch. 202,			
28	section 1,			
29	subdivision 1	34-101-904-60	Freight elevators-- commerce and education buildings	50,000.00
30				
31	14. L'74, ch. 202,			
32	section 1,			
33	subdivision 1	34-101-905-60	Grounds shop and yard	75,000.00
34	15. L'74, ch. 202,			
35	section 1,			
36	subdivision 1	34-101-906-60	Remodeling and partitioning	35,000.00
37	16. L'74, ch. 202,			
38	section 1,			
39	subdivision 1	34-101-907-60	Landscaping	25,000.00
40	17. L'74, ch. 202,			
41	section 1,			
42	subdivision 1	34-101-908-60	Security system-- capitol building	700.91
43	18. L'74, ch. 202,			
44	section 1,			
45	subdivision 1	34-101-909-60	Repair leaks in tunnel--house and senate	30,000.00
46	19. L'74, ch. 202,			
47	section 1,			
48	subdivision 1	34-101-910-60	Contingency allowance	25,000.00

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		<u>Account Number</u>	<u>Purpose</u>	<u>Amount</u>
1	Law			
2	20. L'74, ch. 202,			
3	section 1,		Remodel house	
4	subdivision 2	34-150-902-20	wing	\$ 499,009.00
5	21. L'74, ch. 202,			
6	section 1,		Remodel senate	
7	subdivision 2	34-150-901-10	wing	1,500,000.00
8	22. L'74, ch. 202,			
9	section 1,			
10	subdivision 3	34-221-901-84	Landscaping	2,000.00
11	23. L'74, ch. 202,		Kitchen and	
12	section 1,		dining area	
13	subdivision 3	34-221-902-84	expansion	44,180.00
14	24. L'74, ch. 202,			
15	section 1,		Re-roofing	
16	subdivision 3	34-221-901-82	buildings	642.73
17	25. L'74, ch. 202,			
18	section 1,		Floor and	
19	subdivision 3	34-221-902-82	ceiling tile	38,938.57
20	26. L'74, ch. 202,		Replumb build-	
21	section 1,		ings RE, RW and	
22	subdivision 3	34-221-903-82	portion of	
23			infirmiry	8,000.00
24	27. L'74, ch. 202,			
25	section 1,		Renovation of	
26	subdivision 3	34-221-904-82	well no. 3	3,898.40
27	28. L'74, ch. 202,			
28	section 1,		Unbreakable	
29	subdivision 3	34-221-905-82	windows	5,500.00
30	29. L'74, ch. 202,			
31	section 1,		Roads and	
32	subdivision 3	34-221-906-82	sidewalks	29,200.00
33	30. L'74, ch. 202,		Laundry hot	
34	section 1,		water tank, heat	
35	subdivision 3	34-221-907-82	exchanges and	
36			accessories	92.00
37	31. L'74, ch. 202,		Elimination of	
38	section 1,		architectural	
39	subdivision 3	34-221-908-82	barriers	8,300.00
40	32. L'74, ch. 202,		Sheltered	
41	section 1,		workshop	
42	subdivision 3	34-221-909-82	(greenhouse)	13,900.00
43	33. L'74, ch. 202,			
44	section 1,		Replacement of	
45	subdivision 3	34-221-910-82	hot water heaters	2,100.00
46	34. L'74, ch. 202,		Phoenix emissions	
47	section 1,		laboratory	
48	subdivision 4	34-235-901-40	improvements	8,600.00
49	35. L'74, ch. 202,		Replacement	
50	section 1,		of fixed	
51	subdivision 4	34-235-902-50	equipment	7,491.50

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	<u>Law</u>	<u>Account Number</u>	<u>Purpose</u>	<u>Amount</u>
1				
2	36. L'74, ch. 202,			
3	section 1,			
4	subdivision 4	34-235-903-50	Replace utility	
5	37. L'74, ch. 202,		tunnel	\$ 20,000.00
6	section 1,			
7	subdivision 4	34-235-904-50	Floor covering	
8	38. L'74, ch. 202,		replacements	13,428.00
9	section 1,			
10	subdivision 4	34-235-905-50	Roofing	
11	39. L'74, ch. 202,		replacements	49,500.00
12	section 1,		Conformance to	
13	subdivision 4	34-235-906-60	fire and safety	
14	40. L'74, ch. 202,		standards	2,169.69
15	section 1,			
16	subdivision 4	34-235-907-60	General	
17	41. L'74, ch. 202,		improvements	14,860.32
18	section 1,			
19	subdivision 7	34-452-901-00	Completion of	
20	42. L'74, ch. 202,		Fremont House	10,632.48
21	section 1,			
22	subdivision 7	34-452-902-00	Land acquisition	75,000.00
23	43. L'74, ch. 202,			
24	section 1,		Multi-purpose	
25	subdivision 7	34-452-903-00	building	24,767.02
26	44. L'74, ch. 202,			
27	section 1,			
28	subdivision 7	34-452-904-00	Fencing	1,203.23
29	45. L'74, ch. 202,			
30	section 1,			
31	subdivision 7	34-452-905-00	Landscaping	1,810.00
32	46. L'74, ch. 202,			
33	section 1,			
34	subdivision 7	34-452-906-00	Sidewalks	2,136.80
35	47. L'74, ch. 202,			
36	section 1,		Underground	
37	subdivision 7	34-452-907-00	wiring	4,020.00
38	48. L'74, ch. 202,			
39	section 1,		Replace	
40	subdivision 8	34-475-901-10	infirmary door	212.00
41	49. L'74, ch. 202,		Cafetorium/	
42	section 1,		administration	
43	subdivision 8	34-475-902-20	building	434,860.00
44	50. L'74, ch. 202,		Classroom and	
45	section 1,		playground	
46	subdivision 8	34-475-903-20	improvements	1,822.00
47	51. L'74, ch. 202,		Facilities	
48	section 1,		for the	
49	subdivision 9	34-405-902-00	handicapped	302,065.00

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	Law	Account Number	Purpose	Amount
1				
2	52. L'74, ch. 202,		Facilities	
3	section 1,		for the	
4	subdivision 9	34-440-902-00	handicapped	\$ 127,135.00
5	53. L'74, ch. 202,			
6	section 1,		Facilities for	
7	subdivision 9	34-480-902-00	the handicapped	348,747.02
8	54. L'74, ch. 202,			
9	section 1,		Prison-main	
10	subdivision 10	34-520-901-34	line kitchen	25,500.00
11	55. L'74, ch. 202,			
12	section 1,		Prison-yard	
13	subdivision 10	34-520-902-34	office	122,300.00
14	56. L'74, ch. 202,		Fort Grant	
15	section 1,		training center--	
16	subdivision 10	34-520-901-33	creek water line	1,714.79
17	57. L'74, ch. 202,		Youth center--	
18	section 1,		special programs	
19	subdivision 10	34-520-901-35	building	410,148.64
20	58. L'74, ch. 202,		Prison--remodel	
21	section 1,		administration	
22	subdivision 10	34-520-903-34	building	304,000.00
23	59. L'74, ch. 202,		Prison--water	
24	section 1,		system	
25	subdivision 10	34-520-904-34	improvements	55,000.00
26	60. L'74, ch. 202,		Prison--	
27	section 1,		industries	
28	subdivision 10	34-520-905-34	warehouse	10,400.00
29	61. L'74, ch. 202,		Youth center--	
30	section 1,		remodel lights--	
31	subdivision 10	34-520-902-35	two cottages	1,365.82
32	62. L'74, ch. 202,		Alpine conserva-	
33	section 1,		tion center--	
34	subdivision 10	34-520-901-36	footings under	
35			buildings	9,300.00
36	63. L'74, ch. 202,			
37	section 1,		Youth center--	
38	subdivision 10	34-520-903-35	roof repair	7,113.26
39	64. L'74, ch. 202,		Alpine conserva-	
40	section 1,		tion center--	
41	subdivision 10	34-520-902-36	sewage treatment	
42			plant enclosure	3,000.00
43	65. L'74, ch. 202,			
44	section 1,		Prison--elevated	
45	subdivision 10	34-520-906-34	water tank	3,832.00
46	66. L'74, ch. 202,			
47	section 1,		Facilities	
48	subdivision 11	34-535-901-20	maintenance	99,930.00
49	67. L'74, ch. 202,			
50	section 1,		Demolition of	
51	subdivision 11	34-535-902-20	old warehouse	10,000.00

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	<u>Law</u>	<u>Account Number</u>	<u>Purpose</u>	<u>Amount</u>
1				
2	68. L'74, ch. 202,			
3	section 1,			
4	subdivision 12	34-580-901-00	Capital outlay	\$ 161,210.00
5	69. L'74, ch. 202,			
6	section 1,			
7	subdivision 15	34-740-902-00	Greenhouses	38,100.00
8	70. L'74, ch. 202,		Dead Horse ranch	
9	section 1,		state park-land	
10	subdivision 16	34-770-901-00	acquisition	82,262.50
11	71. L'74, ch. 202,		Jerome state	
12	section 1,		historic park--	
13	subdivision 16	34-770-902-00	structural repairs	29,500.00
14	72. L'74, ch. 202,		Roper lake state	
15	section 1,		park--initial	
16	subdivision 16	34-770-903-00	facility	83,058.00
17			development	
18	73. L'74, ch. 202,		Purchase and	
19	section 1,		development of	
20	subdivision 16	34-770-904-00	Dankworth property	38,950.17
21	74. L'74, ch. 202,		Lake Havasu state	
22	section 1,		park--landscaping,	
23	subdivision 16	34-770-905-00	paving, flood	
24			control	11,000.00
25	75. L'74, ch. 202,		Fort Verde state	
26	section 1,		historic park--	
27	subdivision 16	34-770-906-00	land acquisition	23,948.55
28	76. L'74, ch. 202,		Tombstone	
29	section 1,		courthouse state	
30	subdivision 16		historic park--	
31			repairs, parking	
32		34-770-907-00	and fencing	16,800.00
33	Total reversion of federal revenue sharing funds			\$16,781,583.49
34	Sec. 3. Reversion of funds			
35	The following sums, appropriated by the law indicated and for the			
36	purpose shown, shall revert to the state general fund on the effective			
37	date of this act:			
38	<u>Law</u>	<u>Account Number</u>	<u>Purpose</u>	<u>Amount</u>
39	1. L'69, ch. 105	13-110-172-00	Capital outlay	\$ 8,002.25
40	2. L'71, ch. 154,		State office	
41	section 1	13-101-123-34	building	29,793.09
42	3. L'72, ch. 209		Purchase of	
43	L'73, ch. 17	14-770-112-00	Hassayampa	
44			state park	81,161.65
45	4. L'72, ch. 217,			
46	section 1,			
47	subdivision 1	13-110-173-00	Master plan	191,748.11
48	5. L'72, ch. 217,			
49	section 1,		Seal coating--	
50	subdivision 1	13-110-174-00	asphalt areas	35,000.00

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	<u>Law</u>	<u>Account Number</u>	<u>Purpose</u>	<u>Amount</u>
1				
2	6. L'72, ch. 217,			
3	section 1,		Coliseum	
4	subdivision 1	13-110-175-00	seating	\$ 6,395.01
5	7. L'72, ch. 217,			
6	section 1,			
7	subdivision 2	13-101-116-34	Landscaping	480,000.00
8	8. L'72, ch. 217,			
9	section 1,			
10	subdivision 3	13-101-112-60	Landscaping mall	140,671.95
11	9. L'72, ch. 217,		Telephone	
12	section 1,		conduit--health	
13	subdivision 3	13-101-176-60	building	5,070.48
14	10. L'72, ch. 217,			
15	section 1,			
16	subdivision 6	13-235-112-50	Sidewalks	8,200.00
17	11. L'72, ch. 217,		Underwriters	
18	section 1,		fire approved	
19	subdivision 6	13-235-127-50	paint shop	14,760.00
20	12. L'72, ch. 217,			
21	section 1,			
22	subdivision 9	13-520-110-36	Boundary fence	2,900.00
23	13. L'72, ch. 217,		Alamo lake state	
24	section 1,		park--maintenance	
25	subdivision 13	13-770-183-00	buildings	15,707.86
26	14. L'72, ch. 217,		Lyman lake state	
27	section 1,		park--shade	
28	subdivision 13	13-770-188-00	ramadas and	
29			utilities	23,917.00
30	15. L'72, ch. 217,		Lake Havasu--	
31	section 1,		Pittsburgh point	
32	subdivision 13	13-770-189-00	unit--visitor	
33			contact station	35,400.00
34	16. L'73, ch. 40,			
35	section 3, as		Flood control--	
36	amended by		Williams-	
37	L'74, ch. 169,		Chandler	
38	section 1	13-790-702-00	watershed	1,350,000.00
39	17. L'73, ch. 40,			
40	section 3, as			
41	amended by		Flood control--	
42	L'74, ch. 169,		Foote wash	
43	section 1	13-790-705-00	watershed	43,500.00
44	18. L'73, ch. 176,		Install new hot	
45	section 1,		water system in	
46	subdivision 1	13-101-122-60	health laboratory	34,000.00
47	19. L'73, ch. 176,		Install carpeting	
48	section 1,		in commerce	
49	subdivision 1	13-101-131-60	building	30,000.00

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	<u>Law</u>	<u>Account Number</u>	<u>Purpose</u>	<u>Amount</u>
1				
2	20.	L'73, ch. 176,	Install vertical	
3		section 1,	blinds in	
4		subdivision 1	commerce	
5			building	\$ 18,500.00
6	21.	L'73, ch. 176,	Ten permanent	
7		section 1,	park benches	1,500.00
8		subdivision 1	Roofing replace-	
9	22.	L'73, ch. 176,	ments and	
10		section 1,	improvements	35,200.00
11		subdivision 4	Floor covering	
12	23.	L'73, ch. 176,	replacements	22,500.00
13		section 1,	Kingman 93	
14		subdivision 4	inspection	
15	24.	L'73, ch. 176,	station	19,800.00
16		section 1,	Prescott	
17		subdivision 7	armory	127,200.00
18	25.	L'73, ch. 176,	Arizona correc-	
19		section 1,	tional training	
20		subdivision 10	facility--	
21	26.	L'73, ch. 176,	Maricopa county	5,057,231.11
22		section 1,	Alpine conserva-	
23		subdivision 12	tion center--	
24			vehicle shed	17,600.00
25	27.	L'73, ch. 176,	Alpine conserva-	
26		section 1,	tion center--	
27		subdivision 12	footings,	
28	28.	L'73, ch. 176,	buildings	8,500.00
29		section 1,	Alpine conserva-	
30		subdivision 12	tion center--	
31			resurface roads	16,800.00
32	29.	L'73, ch. 176,	Dead Horse	
33		section 1,	ranch--initial	
34		subdivision 12	facility	
35	30.	L'73, ch. 176,	development	269,604.70
36		section 1,	Pichaco Peak	
37		subdivision 15	state park--	
38			park roads and	
39	31.	L'73, ch. 176,	parking	6,698.94
40		section 1,	Lake Havasu state	
41		subdivision 15	park--parking,	
42	32.	L'73, ch. 176,	landscaping, day	
43		section 1,	use sites, etc.	32,850.00
44		subdivision 15	Tubac presidio	
45			state historic	
46	33.	L'73, ch. 176,	park--excavation	
47		section 1,	and improvements	37,135.00
48		subdivision 15		
49				
50				

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	<u>Law</u>	<u>Account Number</u>	<u>Purpose</u>	<u>Amount</u>
1				
2	34. L'73, ch. 176,		Lake Havasu state	
3	section 1,		park--Pittsburgh	
4	subdivision 15	13-770-177-00	point improvements \$	32,555.00
5	35. L'74, ch. 156,		Manage and operate	
6	section 4	13-770-500-58	the Patagonia Lake	
7			state park	36,425.00
8	36. L'74, ch. 202,		Dead Horse ranch	
9	section 1,		state park--	
10	subdivision 16	13-770-170-30	facility	
11			development	163,700.00
12	37. L'74, ch. 202,		Alamo Lake state	
13	section 1,		park--new well	
14	subdivision 16	13-770-170-20	and campsites	80,500.00
15	38. L'74, ch. 202,		Alamo Lake	
16	section 1,		state park--	
17	subdivision 16	13-770-171-20	road repairs	65,700.00
18	Total reversions to general fund			\$8,586,227.15
19	Sec. 4. <u>Appropriation; purpose</u>			
20	On the effective date of this act, the sum of nine million one			
21	hundred fifty-two thousand four hundred fifty-eight dollars and fifty-			
22	nine cents is appropriated from the state general fund for deposit in			
23	the federal revenue sharing trust fund as reimbursement for expenditures			
24	from the following accounts:			
25	1. 34-101-901-34		\$ 173,383.82	
26	2. 34-101-902-34		1,537,929.76	
27	3. 34-101-903-34		108,932.43	
28	4. 34-101-904-34		1,388,511.43	
29	5. 34-101-905-34		143,031.50	
30	6. 34-101-906-34		57,942.21	
31	7. 34-101-908-60		249,299.09	
32	8. 34-150-902-20		1,500,991.00	
33	9. 34-221-902-84		2,820.00	
34	10. 34-221-901-82		9,557.27	
35	11. 34-221-902-82		61.43	
36	12. 34-221-904-82		5,001.60	
37	13. 34-221-906-82		5,608.00	
38	14. 34-235-902-50		2,208.50	
39	15. 34-235-904-50		1,572.00	
40	16. 34-235-906-60		3,030.31	
41	17. 34-235-907-60		10,139.68	
42	18. 34-405-901-00		1,363,836.76	
43	19. 34-452-901-00		13,767.52	
44	20. 34-452-903-00		10,232.98	
45	21. 34-452-904-00		2,796.77	
46	22. 34-452-905-00		190.00	
47	23. 34-452-906-00		963.20	
48	24. 34-452-907-00		980.00	
49	25. 34-475-901-10		2,288.00	
50	26. 34-475-902-20		15,640.00	
51	27. 34-475-903-20		178.00	

CHAPTER 13

1	28.	34-480-901-00	\$2,167,104.00
2	29.	34-480-902-00	18,252.98
3	30.	34-520-901-33	20,085.21
4	31.	34-520-901-35	9,651.36
5	32.	34-520-903-34	19,400.00
6	33.	34-520-905-34	500.00
7	34.	34-520-902-35	13,634.18
8	35.	34-520-903-35	12,886.74
9	36.	34-520-906-34	15,168.00
10	37.	34-535-901-20	1,370.00
11	38.	34-580-901-00	49,632.00
12	39.	34-770-901-00	17,737.50
13	40.	34-770-903-00	2,042.00
14	41.	34-770-904-00	161,049.83
15	42.	34-770-906-00	33,051.45
16			<u>\$9,152,458.59</u>

If, due to activity in the above listed accounts, prior to the effective date of this act, the amount reverted by section 2 plus the amount appropriated by this section exceeds the amount of the original appropriation, the department of administration, finance division, is authorized to apply such excess to the appropriation made by section 6 for the same purpose.

Sec. 5. Appropriation; purpose

For the fiscal year beginning July 1, 1975, the sum of two million five hundred thousand dollars is appropriated from the capital outlay stabilization fund to the department of administration, finance division, for the purpose of building a Tucson state office building.

Sec. 6. Appropriations; purpose

From the state general fund, the following appropriations are made for the purposes set forth:

	<u>Column 1</u>	<u>Column 2</u>
31		
32	Subdivision 1. DEPARTMENT OF ADMINISTRATION	
33	<u>Finance division</u>	
34	Department of economic security	
35	office building (L'73,	
36	ch. 176, section 1,	
37	subdivision 1)	\$ 76,620.00
38	Data processing center building	
39	(L'73, ch. 176, section 1,	
40	subdivision 1)	62,070.00
41	Land and improvements (L'74,	
42	ch. 202, section 1,	
43	subdivision 1)	1,111,490.00
44	Addition to registrar of	
45	contractors building	
46	(L'74, ch. 202, section 1,	
47	subdivision 1)	16,970.00
48	Capitol annex building renova-	
49	tion (L'74, ch. 202,	
50	section 1, subdivision 1)	442,060.00
51	Total - finance division	<u>\$1,709,210.00</u>
		<u>\$2,500,000.00</u>

CHAPTER 13

	<u>Column 1</u>	<u>Column 2</u>
1		
2		
3	<u>Public buildings maintenance division</u>	
4	Install carpeting in commerce	
5	building (L'73, ch. 176,	
6	section 1, subdivision 1)	\$ 30,000.00
7	Freight elevators - commerce and	
8	education buildings (L'74,	
9	ch. 202, section 1, sub-	
10	division 1)	50,000.00
11	Grounds shop and yard (L'74,	
12	ch. 202, section 1,	
13	subdivision 1)	\$ 75,000.00
14	Remodeling and partitioning	
15	(L'74, ch. 202, section 1,	
16	subdivision 1)	35,000.00
17	Security system - capitol	
18	building (L'74, ch. 202,	
19	section 1, subdivision 1)	700.00
20	Total - public buildings maintenance	
21	division	<u>\$ 75,700.00</u>
22	Total appropriations - department of	<u>\$ 115,000.00</u>
23	administration	<u>\$1,784,910.00</u>
24	Subdivision 2. LEGISLATURE	<u>\$2,615,000.00</u>
25	Remodel senate wing (L'74,	
26	ch. 202, section 1,	
27	subdivision 2)	\$ 500,000.00
28	Total appropriations	\$ 500,000.00
29	Subdivision 3. DEPARTMENT OF ECONOMIC SECURITY	<u>\$1,000,000.00</u>
30	<u>Mental retardation</u>	
31	<u>Arizona training program - Coolidge</u>	
32	Floor and ceiling tile	
33	(L'74, ch. 202, section	
34	1, subdivision 3)	\$ 38,940.00
35	Replumb buildings, RE, RW	
36	and portion of infirmary	
37	(L'74, ch. 202, section 1,	8,000.00
38	subdivision 3)	
39	Renovation of well no. 3	
40	(L'74, ch. 202, section 1,	3,900.00
41	subdivision 3)	
42	Unbreakable windows (L'74,	
43	ch. 202, section 1,	5,500.00
44	subdivision 3)	
45	Roads and sidewalks (L'74,	
46	ch. 202, section 1,	
47	subdivision 3)	\$ 29,200.00
48	Elimination of architectural	
49	barriers (L'74, ch. 202,	
	section 1, subdivision 3)	8,300.00

CHAPTER 13

	<u>Column 1</u>	<u>Column 2</u>
1		
2		
3	Sheltered workshop	
4	(greenhouse) (L'74,	
5	ch. 202, section 1,	
6	subdivision 3)	\$ 13,900.00
7	Replacement of hot water	
8	heaters (L'74, ch. 202,	
9	section 1, subdivision 3)	2,100.00
10	<u>Arizona training program - Tucson</u>	
11	Landscaping (L'74, ch. 202,	
12	section 1, subdivision 3)	\$ 2,000.00
13	Kitchen and dining area	
14	expansion (L'74, ch. 202,	
15	section 1, subdivision 3)	<u>44,180.00</u>
16	Total appropriations - department of	
17	economic security	<u>\$ 110,820.00</u>
18	Subdivision 4. DEPARTMENT OF HEALTH SERVICES	<u>\$ 45,200.00</u>
19	<u>Environmental health services</u>	
20	Phoenix emissions lab improvements	
21	(L'74, ch. 202, section 1,	
22	subdivision 4)	\$ 8,600.00
23	Total environmental health services	<u>\$ 8,600.00</u>
24	<u>Behavioral health services</u>	
25	Roofing replacements and	
26	improvements (L'73,	
27	ch. 176, section 1,	
28	subdivision 4)	\$ 35,200.00
29	Floor covering replacements	
30	(L'73, ch. 176, section 1,	
31	subdivision 4)	\$ 22,500.00
32	Replacement of fixed equipment	
33	(L'74, ch. 202, section 1,	
34	subdivision 4)	7,490.00
35	Replace utility tunnel	
36	(L'74, ch. 202, section 1,	
37	subdivision 4)	20,000.00
38	Floor covering replacements	
39	(L'74, ch. 202, section 1,	
40	subdivision 4)	13,430.00
41	Roofing replacements	49,500.00
42	Total - behavioral health services	<u>\$ 92,000.00</u>
43	<u>Community health services</u>	
44	Conformance to fire and safety	
45	standards (L'74, ch. 202,	
46	section 1, subdivision 4)	2,170.00
47	General improvements (L'74,	
48	ch. 202, section 1,	
49	subdivision 4)	14,860.00
50	Total - community health services	<u>\$ 17,030.00</u>
51	Total appropriation - department of	
	health services	<u>\$ 81,750.00</u>
		<u>\$ 92,000.00</u>

CHAPTER 13

	Column 1	Column 2
1		
2	Subdivision 5. AGRICULTURE AND HORTICULTURE COMMISSION	
3	<u>Compliance division</u>	
4	Kingman 93 inspection station	
5	(L'73, ch. 176, section 1,	
6	subdivision 7)	
7		\$ 19,800.00
8		<u>\$ 19,800.00</u>
9	Subdivision 6. PRESCOTT HISTORICAL SOCIETY	
10	Completion of Fremont House	
11	(L'74, ch. 202, section 1,	
12	subdivision 7)	
13	\$ 10,630.00	
14	Land acquisition (L'74, ch. 202,	
15	section 1, subdivision 7)	
16		\$ 75,000.00
17	Multi-purpose building (L'74,	
18	ch. 202, section 1,	
19	subdivision 7)	
20	24,770.00	
21	Fencing (L'74, ch. 202, section 1,	
22	subdivision 7)	
23	1,200.00	
24	Landscaping (L'74, ch. 202, section 1,	
25	subdivision 7)	
26	1,810.00	
27	Sidewalks (L'74, ch. 202,	
28	section 1, subdivision 7)	
29	2,130.00	
30	Underground wiring (L'74, ch. 202,	
31	section 1, subdivision 7)	
32	4,020.00	
33	Total appropriation - Prescott historical	
34	society	
35	\$ 44,560.00	\$ 75,000.00
36	Subdivision 7. ARIZONA STATE SCHOOL FOR THE DEAF AND THE BLIND	
37	<u>Phoenix day school</u>	
38	Cafetorium/administration	
39	building (L'74, ch. 202,	
40	section 1, subdivision 8)	
41		\$ 434,860.00
42	Classroom and playground	
43	improvements (L'74, ch. 202,	
44	section 1, subdivision 8)	
45	\$ 1,820.00	
46		<u>\$ 434,860.00</u>
47	Total appropriation	
48	<u>\$ 1,820.00</u>	<u>\$ 434,860.00</u>
49	Subdivision 8. BOARD OF REGENTS	
50	<u>Arizona State University</u>	
51	Capital outlay (L'74, ch. 201,	
52	section 1)	
53	\$ 427,560.00	\$2,200,000.00
54	Facilities for the handicapped	
55	(L'74, ch. 202, section 1,	
56	subdivision 9)	
57		302,065.00
58	\$ 427,560.00	<u>\$2,502,065.00</u>
59	<u>Northern Arizona University</u>	
60	Capital outlay (L'74, ch. 201,	
61	section 1)	
62	110,000.00	1,688,600.00
63	Facilities for the handicapped	
64	(L'74, ch. 202, section 1,	
65	subdivision 9)	
66		127,135.00
67	\$ 110,000.00	<u>\$1,815,735.00</u>

CHAPTER 13

	<u>Column 1</u>	<u>Column 2</u>
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CHAPTER 13

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CHAPTER 13

	<u>Column 1</u>	<u>Column 2</u>
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2	Facility development (L'74,	
3	ch. 202, section 1,	
4	subdivision 16)	\$ 163,700.00
5	Land acquisition (L'74, ch. 202,	
6	section 1, subdivision 16)	<u>82,265.00</u>
7	Total - Dead Horse ranch state park	\$ 500,570.00
8	<u>Fort Verde state historic park</u>	
9	Land acquisition (L'74, ch. 202,	
10	section 1, subdivision 16)	23,950.00
11	<u>Jerome state historic park</u>	
12	Structural repairs (L'74,	
13	ch. 202, section 1,	
14	subdivision 16)	29,500.00
15	<u>Lake Havasu state park</u>	
16	Parking, landscaping, day use	
17	sites, etc. (L'73, ch. 176,	
18	section 1, subdivision 15)	\$ 32,850.00
19	Pittsburgh point improvements	
20	(L'73, ch. 176, section 1,	
21	subdivision 15)	32,555.00
22	Landscaping, paving, flood	
23	control (L'74, ch. 202,	
24	section 1, subdivision 16)	\$ 11,000.00
25	Total - Lake Havasu state park	<u>\$ 11,000.00</u>
26	<u>Roper lake state park</u>	\$ 65,405.00
27	Initial facility development	
28	(L'74, ch. 202, section 1,	
29	subdivision 16)	83,060.00
30	<u>Tombstone courthouse state historic park</u>	
31	Repairs, parking and fencing	
32	(L'74, ch. 202, section 1,	
33	subdivision 16)	16,800.00
34	<u>Tubac Presidio state historic park</u>	
35	Excavation and improvements	
36	(L'73, ch. 176, section 1,	
37	subdivision 15)	37,135.00
38	<u>Patagonia lake state park</u>	
39	Management and operation	
40	(L'74, ch. 156, section 4)	<u>36,425.00</u>
41	Total appropriation - Arizona state	
42	parks board	<u>\$ 49,950.00</u>
43	Subdivision 13. ARIZONA WATER COMMISSION	
44	Flood control - Williams-Chandler	
45	watershed (L'73, ch. 40, section	
46	3; L'74, ch. 169, section 1)	\$1,350,000.00

CHAPTER 13

	<u>Column 1</u>	<u>Column 2</u>
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5		\$ 43,500.00
6		<u>\$1,393,500.00</u>
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Flood control - Foote Wash watershed
(L'73, ch. 40, section 3; L'74,
ch. 169, section 1)

Total appropriation

Total appropriations

\$5,015,420.00

\$17,724,475.00

If the amount reverted to the federal revenue sharing trust fund by section 2 of this act, plus the amount appropriated by section 4 of this act, does not equal the original amounts appropriated from the federal revenue sharing trust fund, the department of administration, finance division, is authorized to transfer funds appropriated under column 1 of this section for the same purpose to the federal revenue sharing trust fund.

The appropriations made by column 1 shall become immediately available on the effective date of this act. The appropriations made by column 2 shall become effective on July 1, 1975.

Sec. 7. Reversion of funds

A. Of the amount of forty million dollars appropriated by first special session laws of 1974, chapter 2, section 21, the sum of twenty-one million dollars shall revert to the general fund of the state on the effective date of this act.

B. The amount remaining in account number 13-455-508-00, school facilities emergency aid, established by section 15-1665, Arizona Revised Statutes, after distribution of funds to qualified school districts shall revert to the general fund of the state on the effective date of this act.

Sec. 8. Appropriation; purpose

A. The sum of thirty million dollars is appropriated from the federal revenue sharing trust fund, account number 34-140-800-00, on the effective date of this act, to the state treasurer. Nineteen million dollars of such appropriation is for the purpose of reimbursing county treasurers for property tax reduction for the tax year 1974 as provided in title 42, chapter 2, article 5.1, Arizona Revised Statutes, two million dollars of such appropriation is for the tax year beginning January 1, 1975 and ending December 31, 1975 as provided in title 42, chapter 3, article 4, Arizona Revised Statutes, and nine million dollars of such appropriation is for deposit in the general fund of the state as reimbursement for disbursements previously made to county treasurers for property tax reductions for the tax year 1974 as provided in title 42, chapter 2, article 5.1, Arizona Revised Statutes.

B. The appropriation made by subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations, except that any funds thereof remaining unexpended on January 31, 1976 shall revert to the federal revenue sharing trust fund.

Sec. 9. Lapsing of appropriations; exemptions

The appropriations made to the board of regents in subdivision 8 of section 6 of this act and to the Arizona water commission in subdivision 13 of section 6 of this act, are exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

CHAPTER 13

1 The appropriations made by sections 5 and 6 of this act shall not lapse
2 until the purpose for which the appropriation is made is accomplished or
3 abandoned unless the appropriation stands until July 1, 1976 without an
4 expenditure therefrom or an encumbrance thereon.

5 Sec. 10. Emergency

6 To preserve the public peace, health and safety it is necessary
7 that this act become immediately operative. It is therefore declared to
8 be an emergency measure, to take effect as provided by law.

Approved by the Governor - April 29, 1975

Filed in the Office of the Secretary of State - April 29, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 14

HOUSE BILL 2042

AN ACT

RELATING TO TAXATION OF INCOME; PRESCRIBING APPORTIONMENT FORMULA FOR CORPORATION WITH INCOME FROM WITHIN AND WITHOUT THIS STATE, AND AMENDING SECTION 43-135, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 43-135, Arizona Revised Statutes, is amended
3 to read:

4 43-135. Allocation of income deductions

5 (a) Transactions between related persons. In any case of two or
6 more persons, organizations, trades, or businesses, whether or not or-
7 ganized in the United States and whether or not affiliated, owned or
8 controlled directly or indirectly by the same interests, the tax-com-
9 mission DEPARTMENT is authorized to distribute, apportion, or allocate
10 gross income, deductions, credits or allowances between or among such
11 organizations, trades, or businesses, if it determines that such distri-
12 bution, apportionment, or allocation is necessary in order to prevent
13 evasion of taxes or clearly to reflect the income of any such persons,
14 organizations, trades or businesses. For the purpose of enforcing this
15 subsection, the tax-commission DEPARTMENT may require the filing of a
16 combined report and such other information as it deems necessary.

17 (b) Controlled corporations. In any case of two or more corpora-
18 tions owned or controlled directly or indirectly by the same interests,
19 the tax-commission DEPARTMENT is authorized to distribute, apportion, or
20 allocate gross income, deductions, credits or allowances, between or among
21 such taxpayers, if it determines that such distribution, apportionment, or
22 allocation is necessary in order to prevent evasion of taxes or clearly
23 to reflect the income of any such taxpayer. For the purpose of enforcing
24 this subsection the tax-commission DEPARTMENT may require the filing of
25 a combined report and such other information as it deems necessary.

CHAPTER 14

1 (c) Transactions, between husband and wife. In any case where
2 husband and wife file separate returns, the ~~tax-commission~~ DEPARTMENT
3 may distribute, apportion or allocate gross income between the spouses,
4 if it is determined that such distribution, apportionment, or allocation
5 is necessary in order to reflect the proper income of the spouses.

6 (d) Intercompany transactions. In the case of a corporation
7 doing business within the meaning of this title, whether under agree-
8 ment or otherwise, in such manner as either directly or indirectly to
9 benefit the members or stockholders of the corporation, or any of them,
10 or any person or persons, directly or indirectly interested in such
11 business, by rendering services of any nature whatsoever, or acquiring
12 or disposing of its products or the goods or commodities in which it
13 deals, at less than a fair price therefor, the ~~tax-commission~~ DEPARTMENT,
14 in order to prevent evasion of taxes or clearly to reflect the income of
15 such corporation, may require a report of such facts as it deems necessary,
16 and may determine the amount which shall be deemed to be the entire
17 net income allocable to this state of the business of such corporation
18 for the calendar or fiscal year, and compute the tax upon such net
19 income. In determining the entire net income the ~~tax-commission~~ DEPARTMENT
20 shall have regard to the fair profits which, but for any agreement,
21 arrangement, or understanding, might be or could have been obtained from
22 dealing in such products, goods or commodities.

23 (e) Consolidated reports required

24 (1) Consolidated report. In the case of a corporation liable to
25 report under this title owning or controlling, either directly or in-
26 directly, another corporation, or other corporations, and in the case
27 of a corporation liable to report under this title and owned or con-
28 trolled, either directly or indirectly, by another corporation, the
29 ~~tax-commission~~ DEPARTMENT may require a consolidated report showing the
30 combined net income or such other facts as it deems necessary. The ~~tax~~
31 ~~commission~~ DEPARTMENT is authorized and empowered, in such manner as it
32 may determine, to assess the tax against either of the corporations whose
33 net income is involved in the report upon the basis of the combined entire
34 net income and such other information as it may possess, or it may adjust
35 the tax in such other manner as it shall determine to be equitable if
36 it determines it to be necessary in order to prevent evasion of taxes
37 or to clearly reflect the net income earned by said corporation or
38 corporations from business done in this state.

39 (2) Definition--"control". Direct or indirect ownership or
40 control of more than fifty per cent of the voting stock of the taxpayer
41 shall constitute ownership or control for the purposes of this section.

42 (f) Basis of transferor--tax evasion--deduction denied

43 (1) If (A) any person or persons acquire, on or after January 1,
44 1954, directly or indirectly, control of a corporation, or (B) any
45 corporation acquires, on or after January 1, 1954, directly or indi-
46 rectly, property of a corporation, not controlled, directly or indi-
47 rectly, immediately prior to such acquisition, by such acquiring person
48 or corporation or its stockholders, the basis of which property, in
49 the hands of the acquiring person or corporation, is determined by
50 reference to the basis in the hands of the transferor corporation,

CHAPTER 14

1 and the principal purpose for which such acquisition was made is evasion
2 or avoidance of tax under this title by securing the benefit of a de-
3 duction or other allowance which such person or corporation would not
4 otherwise enjoy, then such deduction or other allowance shall not be
5 allowed. For the purposes of subparagraphs (A) and (B) of this para-
6 graph, control means the ownership of stock possessing at least fifty
7 per cent of the total combined voting power of all classes of stock
8 entitled to vote or at least fifty per cent of the total value of shares
9 of all classes of stock of the corporation.

10 (2) In any case to which paragraph (1) is applicable the tax
11 ~~COMMISSION~~ DEPARTMENT is authorized--

12 (A) To allow as a deduction or allowance any part of any amount
13 disallowed by such paragraph, if it determines that such allowance will
14 not result in the evasion or avoidance of tax for which the acquisition
15 was made; or

16 (B) To distribute, apportion, or allocate gross income, and dis-
17 tribute, apportion, or allocate the deductions or allowances the benefit
18 of which was sought to be secured, between or among the persons and
19 corporations, or properties, or parts thereof, involved, and to allow
20 such deductions or allowances so distributed, apportioned, or allocated,
21 but to give effect to such allowance only to such extent as it determines
22 will not result in the evasion or avoidance of tax for which the acquisi-
23 tion was made; or

24 (C) To exercise its powers in part under subparagraph (A) and in
25 part under subparagraph (B) of this paragraph.

26 (g) ~~Allocation~~ APPORTIONMENT formula. When the income of a cor-
27 poration subject to the tax imposed under this title is derived from or
28 attributable to sources both within and without the state, the tax shall
29 be measured by the net income derived from or attributable to sources with-
30 in this state. Such income shall be determined by first deducting from the
31 income of the taxpayer such part thereof, less related expenses ~~if any,~~ as
32 follows the situs of the property or the residence of the recipient (pro-
33 vided, that the amount of interest and dividend income deductible under
34 this provision as following the situs of the property or residence of
35 the recipient shall be limited to the total interest and dividend in-
36 come received in excess of the total interest, ~~or~~ EXPENSES AND related
37 expenses). ~~if any, paid and allowable as a deduction from income attrib-~~
38 ~~utable to sources within this state under sections 43-123.03 through~~
39 ~~43-123.05 during the income year}, and The income attributable to sources~~
40 within this state shall then be determined by (1) separate accounting
41 thereof when requested by the taxpayer or required by the ~~tax-commission~~
42 DEPARTMENT to more clearly reflect the income of the taxpayer, or, (2) an
43 ~~allocation~~ APPORTIONMENT upon the basis of sales, purchases, expenses of
44 manufacture, payroll, value and situs of tangible property including
45 leased property or by reference to any of these or other factors or by
46 such other method of ~~allocation~~ APPORTIONMENT as is fairly calculated to
47 determine the net income derived from or attributable to sources within
48 this state, provided that in no case shall the tax be less than would
49 result from the use of the ~~allocation~~ APPORTIONMENT method. Income from
50 business carried on partly within and partly without this state shall be

CHAPTER 14

1 allocated APPORTIONED in such a manner as is fairly calculated to apportion
2 such income among the states or countries in which such business is
3 conducted. Income attributable to isolated or occasional transactions in
4 states or countries in which the taxpayer is not doing business shall be
5 allocated to the state in which the taxpayer has its principal place of
6 business or commercial domicile.

7 If the ~~tax-commission~~ DEPARTMENT reallocates net income upon its
8 examination of any return, it shall, upon the written request of the
9 taxpayer, disclose to him the basis upon which its reallocation has been
10 made.
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35 *Approved by the Governor - May 1, 1975*

36 *Filed in the Office of the Secretary of State - May 1, 1975*
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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 15
HOUSE BILL 2227

AN ACT

RELATING TO BANKS AND FINANCIAL INSTITUTIONS; PRESCRIBING CONTENTS OF ARTICLES OF INCORPORATION; PRESCRIBING DATE OF ANNUAL STOCKHOLDERS MEETING; PRESCRIBING NUMBER OF DIRECTORS, AND AMENDING SECTION 6-413, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 6-413, Arizona Revised Statutes, is amended to
3 read:
4 6-413. Contents of articles of incorporation
5 The articles of incorporation shall set forth:
6 1. The name of the association.
7 2. The location of the principal place of business.
8 3. The general nature of the business to be transacted.
9 4. The authorization, if any, to issue withdrawable shares, the
10 aggregate amount of which may be unlimited.
11 5. The authorization, if any, to issue guaranty shares, the aggregate
12 number thereof, and the par value per share which shall not be less
13 than one dollar.
14 6. The date of the annual meeting of the members which shall not
15 be more than sixty NINETY days after the close of the association's
16 fiscal year.
17 7. The quorum required for action of members if a quorum other
18 than specified in this chapter is desired.
19 8. The names, residences and post-office addresses of the incorporators,
20 who shall be the individuals who made and filed with the
21 superintendent the application for a permit to organize.
22 9. The time of commencement and termination of the association,
23 which shall be governed by the general corporation laws of the state,
24 with the right of renewal of existence.
25 10. By what officers the affairs of the association are to be
26 conducted and the time of their election. The number of directors shall
27 not be less than five nor more than fifteen TWENTY-FIVE.

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1 11. The highest amount of indebtedness or liability, direct or
2 contingent, to which the association may at any time subject itself
3 which shall in no event exceed one-half of the accounts and paid-in
4 guaranty stock.

5 12. That the private property of the shareholders be exempt from
6 the debts and obligations of the association.

7 13. Any other provision not inconsistent with law, which the sub-
8 scribers may desire for the internal regulation of the affairs of the
9 association.

10 14. The articles need not set forth any of the powers which this
11 chapter confers.

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Approved by the Governor - May 1, 1975

Filed in the Office of the Secretary of State - May 1, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 16

HOUSE BILL 2081

AN ACT

RELATING TO TAXATION; PROVIDING AN EXEMPTION FROM CERTAIN INCREASED RATES OF EDUCATION EXCISE TAX AND THE SPECIAL EXCISE TAX FOR EDUCATION, IMPOSED BY LAWS 1974, FIRST SPECIAL SESSION, CHAPTER 2, SECTIONS 12 AND 13, ON MONIES RECEIVED BY CONTRACTORS PURSUANT TO CERTAIN CONTRACTS.

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

2 Section 1. Exemption of certain monies from certain
3 increase in tax rates of education excise
4 tax and special excise tax for education

5 A. Laws 1974, first special session, chapter 2, sections 12 and 13,
6 effective July 1, 1974, amended sections 42-1361 and 42-1371, Arizona
7 Revised Statutes, by increasing at one-half of one per cent each the rate
8 of the education excise tax and the rate of the special excise tax for
9 education, on the privilege of engaging in certain businesses in this state.
10 All monies received by any contractor before, on or after the effective
11 date of this section for contracting, as provided in section 42-1310,
12 paragraph 2, subdivision (i) and section 42-1371, subsection A, paragraph
13 6, Arizona Revised Statutes, performed pursuant to any contract executed
14 by such contractor before June 1, 1974, are exempt from such increases in
15 the rates of such taxes.

16 B. All such tax monies collected by the department of revenue
17 before, on or after the effective date of this section on such contracts,
18 as provided in subsection A of this section, shall be refunded, to the
19 taxpayers by whom they were paid, not less than thirty days after the
20 effective date of this section or after payment, whichever is later.
21 Such refunds shall be paid regardless whether or not such tax monies
22 were paid under protest.

23 C. For the purposes of this act, the terms contractors and con-
24 tracting are defined as provided in section 42-1301, Arizona Revised
25 Statutes.

Approved by the Governor - May 1, 1975

Filed in the Office of the Secretary of State - May 1, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 17

HOUSE BILL 2077

AN ACT

RELATING TO TAXATION; PROVIDING A CERTAIN EXEMPTION FROM TRANSACTION PRIVILEGE TAX AND SPECIAL EXCISE TAX FOR EDUCATION OF THE GROSS PROCEEDS FROM SALES FOR THE MANUFACTURING OR PUBLISHING OF BOOKS, AND AMENDING SECTIONS 42-1310 AND 42-1371, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-1310, Arizona Revised Statutes, is amended to
3 read:

4 42-1310. Mining; timber; public utilities and carriers;
5 contractors; newspapers and printing

6 The tax imposed by subsection A of section 42-1309 shall be levied
7 and collected at the following rates:

8 1. At an amount equal to one per cent of the gross proceeds of sale
9 or gross income from the business upon every person engaging or continuing
10 within this state in the business of transporting for hire persons or
11 property by motor vehicle from one point to another point in this state.

12 2. At an amount equal to one per cent of the gross proceeds of
13 sales or gross income from the business upon every person engaging or
14 continuing within this state in the following businesses:

15 (a) Mining, quarrying, smelting, or producing for sale, profit or
16 commercial use, any oil, natural gas, limestone, sand, gravel, copper,
17 gold, silver or other mineral product, compound or combination of mineral
18 products, or felling, producing or preparing timber or any product of the
19 forest for sale, profit or commercial use.

20 (b) Producing and furnishing, or furnishing to consumers, electric-
21 ity, electric lights, current, power or gas, natural or artificial, and
22 water. Sales of electricity, current, power or gas, natural or artificial,
23 and water to a distributor who has a transaction privilege tax license
24 issued in this state to resell such property, shall be exempt from the
25 tax under this paragraph.

CHAPTER 17

1 (c) Transmitting local or long distance messages or conversations
2 by telephone, or messages by telegraph, from one point to another point
3 in the state, including gross income derived from tolls, subscriptions
4 and services on behalf of subscribers, or by the publication of a directory
5 of the names of subscribers.

6 (d) Transporting for hire freight or passengers by railroads or
7 aircraft from one point to another point in the state.

8 (e) Operating pipe lines for transporting oil, or natural or artificial
9 gas, through pipes or conduits from one point to another point in the state.

10 (f) Operating private car lines, as they are defined in chapter 4,
11 article 3, of this title, from one point to another point in the state.

12 (g) Publication of newspapers, magazines or other periodicals and
13 publications, EXCEPT THE MANUFACTURING OR THE PUBLISHING OF BOOKS, when
14 published within the state, including the gross income derived from sub-
15 scriptions, advertising and notices.

16 (h) Job printing, engraving, embossing and copying, sold to pur-
17 chasers in this state. The sale of job printing, engraving, embossing
18 and copying to a person in this state who has a transaction privilege
19 tax license issued in this state to resell such property shall be exempt
20 from the tax under this subdivision.

21 (i) Contracting, but payments paid by the contractor for labor
22 employed in construction, improvements or repairs shall not be subject
23 to such tax.

24 (j) Advertising by billboards, direct mail, radio, television or
25 by any means calculated to appeal to prospective purchasers.

26 Sec. 2. Section 42-1371, Arizona Revised Statutes, is amended
27 to read:

28 42-1371. Levy of tax

29 A. There is levied and shall be collected by the department of
30 revenue a tax on the privilege of doing business in this state at a rate
31 of two per cent of the gross proceeds of sales or gross income from
32 the business upon every person engaging or continuing within this state
33 in the following businesses:

34 1. Transporting for hire persons or property by motor vehicle from
35 one point to another point in this state.

36 2. Producing and furnishing, or furnishing to consumers, electric-
37 ity, electric lights, current, power or gas, natural or artificial, and
38 water. Sales of electricity, current, power or gas, natural or artificial,
39 and water to a distributor who has a transaction privilege tax license
40 issued in this state to resell such property, shall be exempt from the
41 tax under this paragraph.

42 3. Transmitting local or long distance messages or conversations
43 by telephone, or messages by telegraph, from one point to another point
44 in the state, including gross income derived from tolls, subscriptions
45 and services on behalf of subscribers, or by the publication of a direc-
46 tory of the names of subscribers.

CHAPTER 17

1 4. Transporting for hire freight or passengers by railroads or
2 aircraft from one point to another point in the state.

3 5. Publication of newspapers, magazines or other periodicals and
4 publications, EXCEPT THE MANUFACTURING OR THE PUBLISHING OF BOOKS, when
5 published within the state, including the gross income derived from sub-
6 scriptions, advertising and notices.

7 6. Contracting, but payments paid by the contractor for labor
8 employed in construction, improvements or repairs shall not be subject
9 to such tax.

10 7. Job printing, engraving, embossing and copying, sold to pur-
11 chasers in this state. The sale of job printing, engraving, embossing
12 and copying to a person in this state who has a transaction privilege
13 tax license issued in this state to resell such property shall be
14 exempt from the tax under this paragraph.

15 8. Operating pipelines for transporting oil, natural gas, or
16 artificial gas, through pipes or conduits from one point to another
17 point in the state.

18 9. Operating private car lines, as they are defined in chapter 4,
19 article 3, of this title, from one point to another point in the state.

20 10. Advertising by billboards, direct mail, radio, television or
21 by any means calculated to appeal to prospective purchasers.

22 B. There is levied and shall be collected by the department of
23 revenue a tax on the privilege of doing business in this state at a
24 rate of one per cent of the gross proceeds of sales or gross income from
25 the business upon every person engaging or continuing within this state
26 in the business of mining, quarrying, smelting, or producing for sale,
27 profit or commercial use, any oil, natural gas, limestone, sand, gravel,
28 copper, gold, silver or other mineral product, compound or combination
29 of mineral products.

30 C. The tax levied and collected under the terms of this article
31 is designated as the "special excise tax for education."

Approved by the Governor - May 1, 1975

Filed in the Office of the Secretary of State - May 1, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 18

HOUSE BILL 2099

AN ACT

RELATING TO STATE GOVERNMENT; PROVIDING FOR PURCHASE OF LEGISLATIVE COUNCIL MAGNETIC TYPEWRITER SERVICES BY OTHER AGENCIES OF THE STATE; AUTHORIZING THE SENATE, THE HOUSE OF REPRESENTATIVES AND LEGISLATIVE COUNCIL TO SELL TO THE PUBLIC PUBLICATIONS PRODUCED BY THEM; AMENDING SECTION 41-1176, ARIZONA REVISED STATUTES, AND AMENDING TITLE 41, CHAPTER 7, ARTICLE 5.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1176.01.

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

2 Section 1. Section 41-1176, Arizona Revised Statutes, is amended
3 to read:

4 41-1176. Senate, house of representatives and
5 legislative council magnetic tape
6 typewriter services; use by other
7 agencies of the state

8 Any department, agency, board or commission of the state and any
9 state institution may purchase magnetic tape typewriter services from
10 either the senate, ~~or~~ the house of representatives OR THE LEGISLATIVE
11 COUNCIL. Reimbursement for such services shall be credited to the
12 appropriation account of the senate, ~~or~~ the house of representatives
13 OR THE LEGISLATIVE COUNCIL, as the case may be.

14 Sec. 2. Title 41, chapter 7, article 5.1, Arizona Revised
15 Statutes, is amended by adding section 41-1176.01, to read:

16 41-1176.01. Sale of publications by legislature
17 and legislative council

18 A. COPIES OF REPORTS OR ANY OTHER PUBLICATIONS NOT INCLUDING
19 LEGISLATIVE BILLS PRODUCED BY THE SENATE, THE HOUSE OF REPRESENTATIVES
20 OR THE LEGISLATIVE COUNCIL MAY BE SOLD TO THE PUBLIC BY THE LEGISLATIVE
21 BODY OR AGENCY BY WHICH THEY ARE PRODUCED.

22 B. COPIES SOLD PURSUANT TO THIS SECTION SHALL BE SOLD AT A PRICE
23 SUFFICIENT TO COVER THE COST OF PRINTING AND BINDING SUCH REPORT OR
24 PUBLICATION. ALL MONIES DERIVED FROM THE SALE OF SUCH COPIES ARE
25 APPROPRIATED AND SHALL BE CREDITED TO THE APPROPRIATION ACCOUNT OF THE
26 LEGISLATIVE BODY OR AGENCY BY WHICH THEY WERE RECEIVED.

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1 Sec. 3. Emergency

2 To preserve the public peace, health and safety it is necessary
3 that this act become immediately operative. It is therefore declared
4 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 2, 1975

Filed in the Office of the Secretary of State - May 5, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 19

HOUSE BILL 2122

AN ACT

RELATING TO TAXATION; PROVIDING FOR TAX CREDITS OR REFUNDS FOR CERTAIN OVER-
PAYMENT OF PROPERTY TAXES ON MOBILE HOMES DURING THE CALENDAR YEAR 1974.

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

2 Section 1. Authorization for property tax credit
3 or refund for overpayment of 1974
4 tax on mobile homes

5 A. Any taxpayer who paid property tax during the calendar year
6 1974 on a mobile home, which was based on an assessed valuation in excess
7 of fifteen per cent of the full cash value thereof for such year, shall
8 be given credit by the county assessor for the amount paid based on an
9 assessed valuation in excess of fifteen per cent of the full cash value
10 thereof, regardless whether or not such taxes were paid under protest.
11 Such tax credit shall be granted by deducting such amount of overpayment
12 on the 1974 tax rolls from the amount of property tax assessed on such
13 mobile home and required to be paid by such taxpayer during the calendar
14 year 1975.

15 B. If the amount of such taxes required to be paid by such taxpayer
16 on such mobile home during the calendar year 1975 is less than the amount
17 of such overpayment, or if no such taxes are required to be paid thereon
18 by such taxpayer during the calendar year 1975, then such amount of over-
19 payment of such tax during the calendar year 1974 shall be refunded by
20 the county treasurer of the county in which it was collected by payment
21 of such amount to the taxpayer by whom it was paid. No payment may be
22 made pursuant to the provisions of this subsection unless such taxpayer
23 submits a claim therefor, which shall include the tax receipt or can-
24 celled check, to the county treasurer before January 1, 1976.

25 C. The county treasurer shall be entitled to credit for such refunds
26 in the next accounting after such repayment with each of the political sub-
27 divisions and the state to which such overpayment or duplicate payment may

CHAPTER 19

1 have been transmitted in the event he had previously transmitted such over-
2 payment or duplicate payment or payments to any of the political subdivisions
3 of the state or to the state.

4 Sec. 2. Emergency

5 To preserve the public peace, health and safety it is necessary
6 that this act become immediately operative. It is therefore declared
7 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 2, 1975

Filed in the Office of the Secretary of State - May 5, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 20

SENATE BILL 1018

AN ACT

RELATING TO STATE GOVERNMENT; ESTABLISHING A SOLAR ENERGY RESEARCH COMMISSION;
PROVIDING FOR AN EXECUTIVE DIRECTOR OF THE COMMISSION; DESCRIBING POWERS
AND DUTIES; REPEALING TITLE 41, CHAPTER 3, ARTICLE 6, ARIZONA REVISED
STATUTES; AMENDING TITLE 41, CHAPTER 3, ARIZONA REVISED STATUTES, BY
ADDING A NEW ARTICLE 6; MAKING AN APPROPRIATION, AND PROVIDING FOR
EXPIRATION DATE.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Repeal
3 Title 41, chapter 3, article 6, Arizona Revised Statutes, is
4 repealed.
5 Sec. 2. Title 41, chapter 3, Arizona Revised Statutes, is amended
6 by adding a new article 6, to read:
7 ARTICLE 6. SOLAR ENERGY RESEARCH COMMISSION
8 41-571. Definitions
9 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
10 1. "ADVANCED ALTERNATE ENERGY SYSTEM" MEANS AN ENERGY GENERATION
11 SYSTEM UTILIZING NONPOLLUTING, RENEWABLE ENERGY SOURCES INCLUDING, BUT
12 NOT LIMITED TO, SOLAR ENERGY SOURCES.
13 2. "COMMISSION" MEANS THE SOLAR ENERGY RESEARCH COMMISSION.
14 3. "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE SOLAR
15 ENERGY RESEARCH COMMISSION.
16 4. "INSTITUTE" MEANS THE NATIONAL SOLAR ENERGY RESEARCH INSTITUTE.
17 5. "INTERMEDIATE SOLAR ENERGY SOURCES" INCLUDE, BUT ARE NOT
18 LIMITED TO, FUELS OR ENERGY DERIVED FROM WIND, SEA THERMAL GRADIENTS,
19 PRODUCTS OF PHOTOSYNTHETIC PROCESSES, ORGANIC WASTES AND THE COMBINATION
20 OF SUCH FUELS OR ENERGY WITH WASTE OR PROCESS HEAT.
21 6. "SOLAR ENERGY" MEANS ENERGY WHICH HAS RECENTLY ORIGINATED IN
22 THE SUN, INCLUDING, BUT NOT LIMITED TO, DIRECT AND INDIRECT SOLAR RADIATION
23 AND INTERMEDIATE SOLAR ENERGY SOURCES.
24 41-572. Solar energy research commission; members;
25 vacancies; appointment; compensation; meetings
26 A. THERE IS ESTABLISHED A SOLAR ENERGY RESEARCH COMMISSION CON-
27 SISTING OF THE FOLLOWING MEMBERS:
28 1. THE CHAIRMAN OF THE ARIZONA POWER AUTHORITY.
29 2. A MEMBER OF THE FACULTY AT ARIZONA STATE UNIVERSITY, WHO SHALL
30 BE APPOINTED BY THE GOVERNOR.

CHAPTER 20

1 3. A MEMBER OF THE FACULTY AT THE UNIVERSITY OF ARIZONA, WHO
2 SHALL BE APPOINTED BY THE GOVERNOR.

3 4. A MEMBER OF THE FACULTY AT NORTHERN ARIZONA UNIVERSITY, WHO
4 SHALL BE APPOINTED BY THE GOVERNOR.

5 5. ELEVEN ADDITIONAL PERSONS, APPOINTED BY THE GOVERNOR, WHO
6 SHALL EITHER BE KNOWLEDGEABLE OF SPECIFIC SOLAR ENERGY TECHNOLOGIES
7 OR REPRESENTATIVES OF PRIVATE INDUSTRY INVOLVED IN THE APPLICATION OF
8 SOLAR ENERGY TO COMMERCIAL, INDUSTRIAL OR RESIDENTIAL USE.

9 6. THE PRESIDENT OF THE ARIZONA SENATE AND THE SPEAKER OF THE
10 HOUSE OF REPRESENTATIVES OR THEIR REPRESENTATIVES, SHALL BE EX OFFICIO
11 MEMBERS.

12 B. APPOINTMENTS MADE BY THE GOVERNOR SHALL BE FOR A TERM WHICH
13 EXPIRES ON THE TERMINATION DATE OF THIS ARTICLE. APPOINTMENT TO FILL
14 A VACANCY SHALL BE MADE PURSUANT TO THE PROVISIONS OF SECTION 38-211.

15 C. MEMBERS OF THE COMMISSION SERVING BY VIRTUE OF THEIR OFFICE
16 SHALL SERVE WITHOUT COMPENSATION. APPOINTED MEMBERS SHALL RECEIVE
17 COMPENSATION AS DETERMINED PURSUANT TO SECTION 38-611 FOR EACH DAY OF
18 ATTENDANCE UPON MEETINGS.

19 D. THE CHAIRMAN OF THE COMMISSION SHALL BE SELECTED BY THE
20 GOVERNOR FROM AMONG THE MEMBERS.

21 E. THE COMMISSION SHALL MEET UPON CALL OF THE CHAIRMAN.

22 41-573. Executive director; appointment; employees;
23 compensation

24 A. THERE SHALL BE AN EXECUTIVE DIRECTOR OF THE COMMISSION WHO
25 SHALL BE APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211.

26 B. THE EXECUTIVE DIRECTOR SHALL BE RESPONSIBLE FOR THE ADMINIS-
27 TRATIVE FUNCTIONS OF THE COMMISSION AND SHALL IMPLEMENT POLICIES AS
28 DIRECTED BY THE COMMISSION.

29 C. THE EXECUTIVE DIRECTOR MAY EMPLOY SUCH CLERICAL AND TECHNICAL
30 ASSISTANTS AS ARE NECESSARY TO CARRY OUT THE POLICIES OF THE COMMISSION.

31 D. COMPENSATION FOR THE EXECUTIVE DIRECTOR AND OTHER EMPLOYEES
32 OF THE COMMISSION SHALL BE ESTABLISHED PURSUANT TO SECTION 38-611.

33 41-574. Powers and duties

34 THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE SOLAR ENERGY
35 RESEARCH COMMISSION, SHALL:

36 1. INITIATE AND DEVELOP A SYSTEMATIC PLAN DESIGNED TO MEET ALL
37 OF THE REQUIREMENTS OF A NATIONAL SOLAR ENERGY RESEARCH INSTITUTE PUR-
38 SUANT TO THE UNITED STATES SOLAR ENERGY RESEARCH AND DEMONSTRATION
39 ACT OF 1974.

40 2. COOPERATE, WHEN IN THE BEST INTERESTS OF THE STATE, WITH ALL
41 FEDERAL GOVERNMENT AGENCIES RESPONSIBLE FOR IMPLEMENTATION OF THE UNITED
42 STATES SOLAR ENERGY RESEARCH AND DEMONSTRATION ACT OF 1974 TO COORDINATE
43 AND ENCOURAGE THE SUPPORT OF ALL SOLAR AND ADVANCED ALTERNATE ENERGY
44 SYSTEMS RESEARCH, DEVELOPMENT AND DEMONSTRATION IN ORDER TO ENCOURAGE
45 THE FINAL DECISION TO LOCATE SUCH INSTITUTE WITHIN THIS STATE.

46 3. ENCOURAGE EFFORTS BY RESEARCH INSTITUTIONS, LOCAL GOVERNMENT
47 INSTITUTIONS AND HOME BUILDERS IN OBTAINING TECHNICAL AND FINANCIAL
48 SUPPORT FROM THE FEDERAL GOVERNMENT FOR THEIR ACTIVITIES IN SOLAR AND
49 ADVANCED ALTERNATE ENERGY SYSTEMS.

1 4. COLLECT, ASSEMBLE AND ANALYZE INFORMATION AND DATA RELATING
2 TO SOLAR ENERGY TECHNOLOGY, INCLUDING THE FOLLOWING:

3 (a) FEDERAL LEGISLATION AND FEDERAL AGENCY SPONSORED PROGRAMS
4 AND PROJECTS.

5 (b) LEGISLATION ENACTED AND PROGRAMS OR PROJECTS UNDERTAKEN BY
6 THIS STATE AND OTHER STATES.

7 (c) PROJECTS UNDERTAKEN OR TO BE UNDERTAKEN BY PRIVATE FIRMS
8 AND NONPROFIT INSTITUTIONS, FOUNDATIONS AND LABORATORIES.

9 (d) INNOVATIONS AND USES DEVELOPED BY OTHER COUNTRIES.

10 5. IDENTIFY AND DESCRIBE THE SOLAR ENERGY TECHNOLOGIES THAT
11 ARE FEASIBLE AND PRACTICAL IN TERMS OF SHORT TERM APPLICATION OF
12 RETROFIT, NEW CONSTRUCTION AND CONSERVATION PROJECTS WITHIN FIVE YEARS.

13 6. IDENTIFY AND DESCRIBE LONG RANGE PROGRAMS THAT ARE FEASIBLE
14 AND REQUIRE SIGNIFICANT TECHNOLOGICAL DEVELOPMENT. PROGRAMS HAVING
15 SIMILAR TECHNOLOGICAL GRADIENTS SHALL BE FORMULATED TO ENCOMPASS THE
16 PERIOD OF TIME FROM THE PRESENT THROUGH THE YEAR 2020.

17 7. RECOMMEND AN ORGANIZATIONAL STRUCTURE FOR THE INSTITUTE THAT
18 WILL PROVIDE THE FUNCTIONAL PROPERTIES NECESSARY TO EXECUTE THE DEVELOP-
19 MENT OR RESEARCH REQUIREMENTS, ANALYSIS OF FEDERAL CONTRACT PLANS,
20 IDENTIFICATION OR EDUCATIONAL CURRICULA REQUIREMENTS, LEGISLATION
21 EMPHASIS AND DATA COLLECTION NEEDS OF THE INSTITUTE.

22 8. ENCOURAGE THE COOPERATION AND DIRECT INVOLVEMENT OF ACADEMIC,
23 BUSINESS, PROFESSIONAL AND INDUSTRIAL SECTORS THAT ARE DETERMINED TO
24 HAVE SPECIAL EXPERTISE OR KNOWLEDGE OF SOLAR ENERGY TECHNOLOGY.

25 9. PREPARE INTERIM REPORTS AND SUBMIT COPIES THEREOF TO THE
26 LEGISLATURE AND THE GOVERNOR DURING JUNE, 1975, JUNE, 1976 AND JUNE,
27 1977 AND A FINAL REPORT DURING DECEMBER, 1978. SUCH REPORTS SHALL
28 INCLUDE SPECIFIC RECOMMENDATIONS NECESSARY FOR THE SUPPORT OF THE
29 INSTITUTE AND ANY OF ITS SATELLITES.

30 10. IF ARIZONA IS SELECTED AS A SITE FOR THE INSTITUTE, FULLY
31 COOPERATE FOR THE PROVISION OF A SUITABLE PERMANENT SITE AND TRANSITIONAL
32 NEEDS DURING THE TIME THE INSTITUTE FACILITIES ARE UNDER CONSTRUCTION.

33 Sec. 3. Appropriation; lapsing

34 A. The sum of seventy-five thousand dollars is appropriated to
35 the solar energy research commission to carry out the purposes of
36 this act.

37 B. The appropriation made by subsection A of this section is
38 exempt from the provisions of section 35-190, Arizona Revised Statutes,
39 relating to lapsing of appropriations, except that all monies remaining
40 unencumbered or unexpended on December 31, 1978 shall revert to the
41 general fund.

42 Sec. 4. Expiration of act

43 The provisions of this act shall expire and the commission established
44 by it shall terminate on December 31, 1978.

45 Sec. 5. Emergency

46 To preserve the public peace, health and safety it is necessary
47 that this act become immediately operative. It is therefore declared to
48 be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 8, 1975

Filed in the Office of the Secretary of State - May 9, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 21

HOUSE BILL 2056

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; PROVIDING FOR POWERS AND DUTIES OF DEPARTMENT OF HEALTH SERVICES; ESTABLISHING AN ARIZONA CRIPPLED CHILDREN'S HOSPITAL CAFETERIA REVOLVING FUND; AMENDING TITLE 36, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3, AND REPEALING SECTION 46-503, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 36, chapter 2, Arizona Revised Statutes, is
3 amended by adding article 3, sections 36-261 and 36-262, to read:
4 ARTICLE 3. CRIPPLED CHILDREN'S SERVICES
5 36-261. Powers and duties
6 A. THE DEPARTMENT OF HEALTH SERVICES SHALL:
7 1. EMPLOY A FULL OR PART-TIME MEDICAL DIRECTOR AND A FULL OR
8 PART-TIME ADMINISTRATOR FOR CRIPPLED CHILDREN'S SERVICES WHO SHALL
9 HAVE SUCH TITLES AND DUTIES AS SHALL BE FIXED BY THE DIRECTOR OF THE
10 DEPARTMENT OF HEALTH SERVICES. COMPENSATION OF THE MEDICAL DIRECTOR
11 AND THE ADMINISTRATOR SHALL BE AS DETERMINED PURSUANT TO SECTION
12 38-611.
13 2. SUPERVISE, CONTROL AND ESTABLISH POLICIES FOR CRIPPLED
14 CHILDREN'S SERVICES.
15 3. ADOPT ALL RULES, REGULATIONS AND POLICIES FOR THE OPERATION
16 OF A CRIPPLED CHILDREN'S PROGRAM.
17 4. EMPLOY SUCH MEDICAL AND OTHER STAFF AS MAY BE NEEDED, IN-
18 CLUDING RESIDENT PHYSICIANS AT THE HOSPITAL, WHOSE COMPENSATION SHALL
19 BE AS DETERMINED PURSUANT TO SECTION 38-611.
20 5. ESTABLISH AND ADMINISTER A PROGRAM OF SERVICE FOR CHILDREN
21 WHO ARE CRIPPLED OR WHO ARE SUFFERING FROM CONDITIONS WHICH LEAD TO
22 CRIPPLING. THE PROGRAM SHALL PROVIDE FOR:
23 (a) DEVELOPMENT, EXTENSION AND IMPROVEMENT OF SERVICES FOR
24 LOCATING SUCH CHILDREN.

CHAPTER 21

1 (b) FURNISHING OF MEDICAL, SURGICAL, CORRECTIVE AND OTHER
2 SERVICES AND CARE.

3 (c) FURNISHING OF FACILITIES FOR DIAGNOSIS HOSPITALIZATION
4 AND AFTER CARE.

5 (d) SUPERVISION OF THE ADMINISTRATION OF SERVICES IN THE PRO-
6 GRAM WHICH ARE NOT ADMINISTERED DIRECTLY BY THE DEPARTMENT.

7 (e) THE EXTENSION AND IMPROVEMENT OF ANY SERVICES INCLUDED IN
8 THE PROGRAM OF SERVICES FOR CRIPPLED CHILDREN AS REQUIRED BY THIS
9 SECTION.

10 (f) COOPERATION WITH MEDICAL, HEALTH, NURSING AND WELFARE
11 GROUPS AND ORGANIZATIONS AND WITH ANY AGENCY OF THE STATE CHARGED
12 WITH ADMINISTRATION OF LAWS PROVIDING FOR VOCATIONAL REHABILITATION
13 OF PHYSICALLY HANDICAPPED CHILDREN.

14 (g) COOPERATION WITH THE FEDERAL GOVERNMENT THROUGH ITS APPRO-
15 PRIATE AGENCY OR INSTRUMENTALITY IN DEVELOPING, EXTENDING AND IMPROVING
16 SERVICES FOR CRIPPLED CHILDREN.

17 (h) RECEIPT AND EXPENDITURE OF FUNDS MADE AVAILABLE TO THE DE-
18 PARTMENT FOR SERVICES TO CRIPPLED CHILDREN BY THE FEDERAL GOVERNMENT,
19 THE STATE OR ITS POLITICAL SUBDIVISIONS OR FROM OTHER SOURCES EXCLUDING
20 MONIES RECEIVED FROM PARENTS OR GUARDIANS FOR THE CARE OF CHILDREN.

21 (i) CARRYING ON OF RESEARCH AND COMPILING OF STATISTICS.

22 (j) MAKING NECESSARY EXPENDITURES IN CONNECTION WITH THE DUTIES
23 PROVIDED IN THIS SECTION.

24 (k) ESTABLISHING AND MAINTAINING SAFEGUARDS RELATING TO THE
25 CONFIDENTIAL ASPECT OF MEDICAL RECORDS.

26 (l) OPERATION OF THE CRIPPLED CHILDREN'S HOSPITAL AS A PART OF
27 THE ESSENTIAL SERVICES TO CRIPPLED CHILDREN.

28 (m) AN ANNUAL REPORT OF THE OPERATIONS AND ADMINISTRATION NOT
29 LATER THAN FOUR MONTHS AFTER THE CLOSE OF THE FISCAL YEAR.

30 (n) ACCEPTANCE AND USE OF FEDERAL FUNDS FOR CRIPPLED CHILDREN'S
31 SERVICES AT THE DISCRETION OF THE DEPARTMENT AND SUBJECT TO ANY LIM-
32 ITATIONS IMPOSED BY THE ANNUAL STATE APPROPRIATION BILL.

33 (o) SUCH OTHER DUTIES AND RESPONSIBILITIES FOUND NECESSARY TO
34 THE EFFECTIVE OPERATION OF A PROGRAM FOR CRIPPLED CHILDREN.

35 7. DEPOSIT IN THE STATE GENERAL FUND ALL MONIES RECEIVED FROM
36 PARENTS OR GUARDIANS FOR THE CARE OF CHILDREN, EXCEPT AS PROVIDED IN
37 SECTION 36-262.

38 B. THE DEPARTMENT MAY, SUBJECT TO AVAILABLE SPACE AND APPROPRI-
39 ATION THEREFOR, PROVIDE HOSPITAL SERVICES AND CARE FOR CHILD PATIENTS
40 OF OTHER STATE AGENCIES.

CHAPTER 21

1 36-262. Arizona crippled children's hospital cafeteria
2 revolving fund; contents; administration

3 A. THERE IS ESTABLISHED A PERMANENT REVOLVING FUND TO BE KNOWN
4 AS THE ARIZONA CRIPPLED CHILDREN'S HOSPITAL CAFETERIA REVOLVING FUND.

5 B. MONIES RECEIVED BY ARIZONA CRIPPLED CHILDREN'S HOSPITAL FROM
6 THE OPERATION OF ITS CAFETERIA SHALL BE DEPOSITED WITH THE STATE TREA-
7 SURER IN THE ARIZONA CRIPPLED CHILDREN'S HOSPITAL CAFETERIA REVOLVING
8 FUND. MONIES IN THIS FUND MAY BE EXPENDED ONLY IN SUPPORT OF THE
9 CAFETERIA.

10 C. ALL MONIES DEPOSITED IN SUCH REVOLVING FUND SHALL BE EXEMPT
11 FROM THE PROVISIONS OF SECTION 35-190, RELATING TO LAPSING OF APPRO-
12 PRIATIONS.

13 Sec. 2. Repeal

14 Section 46-503, Arizona Revised Statutes, is repealed.

15 Sec. 3. Emergency

16 To preserve the public peace, health and safety it is necessary
17 that this act become immediately operative. It is therefore declared
18 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 22

HOUSE BILL 2005

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; EXPANDING SCOPE AND PUNISHMENT FOR FIRST DEGREE CONSPIRACY; PRESCRIBING PENALTIES AND VENUE, AND AMENDING SECTION 13-331, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 13-331, Arizona Revised Statutes, is amended
3 to read:

4 13-331. Degrees of conspiracy; punishment

5 A. A person is guilty of conspiracy in the first degree if, with
6 intent to commit, or to have another person commit, any action constituting
7 murder, kidnapping, extortion, robbery, forcible rape, or aggravated
8 assault, OR ANY FELONY ENUMERATED IN TITLE 32, CHAPTER 18 OR TITLE 36,
9 CHAPTER 9, he conspires with one or more persons to engage in or cause
10 the commission of such. Conspiracy in the first degree is punishable by
11 imprisonment in the state prison for not more than ~~thirteen~~ THIRTY years.

12 B. A person is guilty of conspiracy in the second degree if, with
13 the intent to commit or to have another person commit, any action constituting
14 any felony other than those listed in subsection A, he conspires
15 with one or more persons to engage in or cause the commission of such.
16 Conspiracy in the second degree is punishable by imprisonment in the
17 state prison for not less than one year nor more than four years or a
18 fine not exceeding one thousand dollars, or imprisonment in the county
19 jail for not more than one year, or both.

20 C. A person is guilty of conspiracy in the third degree if, with
21 the intent to commit, or to have another person commit, any action constituting
22 a misdemeanor, he conspires with one or more persons to engage
23 in or cause the commission of such. Conspiracy in the third degree is
24 punishable by a fine of not more than three hundred dollars, by imprisonment
25 in the county jail for not more than six months, or both.

Approved by the Governor May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 23

HOUSE BILL 2375

AN ACT

RELATING TO CRIMES; PRESCRIBING PUNISHMENT FOR ROBBERY; PROVIDING FOR ORDERS
COMPPELLING TESTIMONY IN A CRIMINAL PROCEEDING; PROVIDING FOR IMMUNITY
AND FOR CONTEMPT PENALTY; AMENDING SECTION 13-643, ARIZONA REVISED
STATUTES; REPEALING SECTION 13-1804, ARIZONA REVISED STATUTES, AND
AMENDING TITLE 13, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING A NEW SECTION 13-1804.

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

2 Section 1. Repeal

3 Section 13-1804, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 13, chapter 7, article 1, Arizona Revised Statutes,
5 is amended by adding a new section 13-1804, to read:

6 13-1804. Order compelling person to testify or produce
7 evidence; immunity from use of such evidence;
8 contempt

9 IN ANY CRIMINAL PROCEEDING BEFORE A COURT OR GRAND JURY, IF A
10 PERSON REFUSES TO ANSWER A QUESTION OR PRODUCE EVIDENCE OF ANY OTHER
11 KIND ON THE GROUND THAT HE MAY BE INCRIMINATED THEREBY AND IF THE
12 PROSECUTING ATTORNEY, IN WRITING, REQUESTS THE COURT TO ORDER THAT
13 PERSON TO ANSWER THE QUESTION OR PRODUCE THE EVIDENCE, THE COURT MAY
14 SO ORDER AND THAT PERSON SHALL COMPLY WITH THE ORDER. WHEN THE COURT
15 DENIES SUCH A REQUEST, THE COURT SHALL STATE ITS REASONS FOR DENIAL IN
16 WRITING. AFTER COMPLYING, SUCH TESTIMONY OR EVIDENCE, OR ANY INFORMATION
17 DIRECTLY OR INDIRECTLY DERIVED FROM SUCH TESTIMONY OR EVIDENCE, SHALL NOT
18 BE USED AGAINST THE PERSON IN ANY PROCEEDING OR PROSECUTION FOR A CRIME
19 OR OFFENSE CONCERNING WHICH HE GAVE ANSWER OR PRODUCED EVIDENCE UNDER
20 COURT ORDER. HOWEVER, HE MAY NEVERTHELESS BE PROSECUTED OR SUBJECTED TO
21 PENALTY OR FORFEITURE FOR ANY PERJURY, FALSE SWEARING OR CONTEMPT COM-
22 MITTED IN ANSWERING, OR FAILING TO ANSWER, OR IN PRODUCING, OR FAILING
23 TO PRODUCE, EVIDENCE IN ACCORDANCE WITH THE ORDER. IF A PERSON REFUSES
24 TO TESTIFY AFTER BEING GRANTED IMMUNITY AND AFTER BEING ORDERED TO TESTIFY
25 AS AFORESAID, HE MAY BE ADJUDGED IN CONTEMPT AND COMMITTED TO THE COUNTY
26 JAIL. IF THE GRAND JURY BEFORE WHICH HE WAS ORDERED TO TESTIFY HAS BEEN
27 DISSOLVED, HE MAY THEN PURGE HIMSELF BY TESTIFYING BEFORE THE COURT.

CHAPTER 23

1 Sec. 3. Section 13-643, Arizona Revised Statutes, is amended
2 to read:

3 13-643. Punishment

4 A. Robbery shall be punished by imprisonment in the state prison
5 for not less than five years.

6 B. Robbery committed by a person armed with a gun or deadly
7 weapon is punishable by imprisonment in the state prison, for the
8 first offense, for not less than five years, for a second offense,
9 not less than ten years, for a third or subsequent offense, not less
10 than twenty years nor more than life imprisonment, and in no case,
11 except for a first offense committed by a person armed with a deadly
12 weapon other than a gun, shall the person convicted be eligible for
13 suspension or commutation of sentence, probation, pardon or parole
14 until such person has served the minimum sentence imposed.

15 C. Any person convicted of robbery armed with a ~~gun or~~ deadly
16 weapon OTHER THAN A GUN who is placed on probation in accordance
17 with the terms of this section shall upon sentencing, be committed
18 to the department of corrections for a period of not less than thirty
19 days.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 24

SENATE BILL 1222

AN ACT

RELATING TO TAXATION; PROVIDING FOR PROPERTY TAX CLASSIFICATION OF CERTAIN PROPERTY USED FOR CERTAIN RESIDENTIAL HOUSING FACILITIES FOR CARE OR HOUSING OF HANDICAPPED PERSONS OR PERSONS SIXTY-TWO YEARS OF AGE OR OLDER, AND AMENDING SECTION 42-136, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-136, Arizona Revised Statutes, is amended
3 to read:
4 42-136. Classification of property for taxation
5 There are established the following classes of property for
6 taxation:
7 1. Class one:
8 (a) Flight property valued under the provisions of sections
9 42-701 through 42-705.
10 (b) All real and personal property used in the operation of pri-
11 vate car companies valued under the provisions of sections 42-741 through
12 42-748.
13 (c) All real and personal property of railroad companies used in
14 the continuous operation of a railroad valued under the provisions of
15 sections 42-761 through 42-766.
16 (d) Producing mines and mining claims, the personal property used
17 thereon, the improvements thereto and the mills and smelters operated in
18 conjunction therewith valued under the provisions of section 42-124.
19 (e) Standing timber.
20 2. Class two:
21 (a) All real and personal property used in the operation of
22 telephone and telegraph companies valued under the provisions of
23 sections 42-791 through 42-795.

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1 (b) All property, both real and personal, of gas, water and
2 electric utility companies and pipeline companies valued under the
3 provisions of section 42-124.01.

4 3. Class three:

5 All real and personal property devoted to any commercial or
6 industrial use other than property included in classes one, two, or
7 four, OR FIVE(b), including but not limited to land, the improvements
8 thereto or any part of such land or improvements leased or rented for
9 residential use.

10 4. Class four:

11 (a) All real property and the improvements thereto, if any, used
12 for agricultural purposes, and all other real property and the improve-
13 ments thereto, if any, not included in classes one, two, three or five.

14 (b) All personal property used for agricultural purposes, and
15 all other personal property not included in classes one, two, three or
16 five.

17 5. Class five:

18 (a) All real property and the improvements thereto and personal
19 property used for residential purposes and not otherwise included in
20 classes 1, 2, 3, or 4.

21 (b) ALL REAL PROPERTY AND IMPROVEMENTS THERETO AND PERSONAL
22 PROPERTY USED FOR THE OPERATION OF RESIDENTIAL HOUSING FACILITIES NOT
23 USED OR HELD FOR PROFIT AND STRUCTURED TO THE CARE OR HOUSING OF HANDI-
24 CAPPED PERSONS OR PERSONS SIXTY-TWO YEARS OF AGE OR OLDER.

25 Sec. 2. Emergency

26 To preserve the public peace, health and safety it is necessary
27 that this act become immediately operative. It is therefore declared
28 to be an emergency measure, to take effect as provided by law.

29 Sec. 3. Retroactivity

30 The provisions of this act upon becoming effective shall be
31 effective retroactive to, from and after December 31, 1974.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 25

SENATE BILL 1221

AN ACT

RELATING TO TAXATION; PRESCRIBING EXCEPTIONS TO THE TAXATION OF PROPERTY,
AND AMENDING SECTION 42-271, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-271, Arizona Revised Statutes, is amended
3 to read:
4 42-271. Property subject to taxation; exceptions
5 All property in the state shall be subject to taxation, except:
6 1. Federal, state, county and municipal property.
7 2. Public debts as evidenced by the bonds of this state, counties,
8 municipalities or other subdivisions thereof.
9 3. Public libraries, colleges, schoolhouses and other buildings
10 used for education, with their furniture, libraries and equipment, and
11 the lands appurtenant thereto and used therewith, as long as they are
12 used for the purpose of education and not used or held for profit, but
13 when such property is private property from which a rent or valuable
14 consideration is received for its use it shall be taxed as other
15 property.
16 4. Hospitals, asylums, poor houses and other charitable insti-
17 tutions for relief of the indigent or afflicted, and the lands appur-
18 tenant thereto, with their fixtures and equipment, not used or held
19 for profit.
20 5. Grounds and buildings belonging to agricultural societies,
21 as long as they are used for those purposes only, and not used or held
22 for profit.

1 6. Churches and other buildings used for religious worship, with
2 their furniture and equipment, and the land and improvements appurtenant
3 thereto and used therewith, provided rent is not paid for such land or
4 improvements, and as long as the property is not used or held for profit.

5 7. Cemeteries and graveyards set apart and used for interring
6 the dead, except such portions thereof as are used or held for profit.

7 8. The property of widows, widowers, honorably discharged vet-
8 erans, members of revenue marine service and military nurses, residents
9 of this state, not exceeding the amount of two thousand dollars, where
10 the total assessment of such person does not exceed five thousand dol-
11 lars, but no exemption shall be allowed to such persons other than
12 widows and widowers unless they have served at least sixty days in
13 the military or naval service of the United States during time of war,
14 and have been residents of this state prior to September 1, 1945.

15 9. Observatories maintained for astronomical research and
16 education for the public welfare, together with all property used
17 in the work or maintenance thereof, including property held in trust
18 therefor, as long as the observatories and other property are used
19 for such purposes only and not used or held for profit.

20 10. PROPERTY USED FOR OPERATION OF A HEALTH CARE INSTITUTION
21 WHICH PROVIDES MEDICAL SERVICES, NURSING SERVICES OR HEALTH RELATED
22 SERVICES TO HANDICAPPED PERSONS OR PERSONS SIXTY-TWO YEARS OF AGE OR
23 OLDER, AND WHICH IS NOT USED OR HELD FOR PROFIT.

24 11. PROPERTY USED FOR THE OPERATION OF A RESIDENTIAL APARTMENT
25 HOUSING FACILITY WHICH IS NOT USED OR HELD FOR PROFIT AND IS STRUCTURED
26 TO THE CARE OR HOUSING OF HANDICAPPED PERSONS OR PERSONS SIXTY-TWO YEARS
27 OF AGE OR OLDER, AND FOR WHICH A SUBSIDY OR PAYMENT IS GIVEN BY FEDERAL,
28 STATE OR LOCAL GOVERNMENT OR BY NONPROFIT ORGANIZATIONS IN A SUBSTANTIAL
29 AMOUNT IN RELATION EITHER TO THE AMOUNT GIVEN OR TO THE TOTAL ANNUAL
30 OPERATING EXPENSES TO PAY FOR PRINCIPAL, INTEREST AND OPERATING EXPENSES
31 PROVIDED SUCH NONPROFIT ORGANIZATIONS ARE NOT CREATED OR OPERATED FOR THE
32 PRIMARY PURPOSE OF PROVIDING SUCH SUBSIDY OR PAYMENT.

33 Sec. 2. Providing for refund of property tax paid by
34 certain health care institutions and residential
35 housing facilities

36 A. The county board of supervisors shall direct the county treasurer
37 to grant a refund to all such health care institutions and residential
38 housing facilities as provided in paragraphs 10 and 11 of section 42-271
39 to the extent of property tax paid by such institutions and facilities
40 for the tax year 1974 on real property, improvements thereto and personal
41 property used for such purposes as provided in paragraphs 10 and 11 of
42 section 42-271 regardless whether or not paid under protest, provided
43 the taxpayer submits a claim therefor to the county treasurer within
44 sixty days after the effective date of this act. Such claims shall be
45 paid within thirty days after they are submitted to the county treasurer.

46 B. The county treasurer shall be entitled to credit for such refund
47 in the next accounting after such repayment with each of the political
48 subdivisions and the state to which such overpayment or duplicate payment
49 may have been transmitted in the event he had previously transmitted such
50 overpayment or duplicate payment or payments to any of the political sub-
51 divisions of the state or to the state.

52 Sec. 3. Emergency

53 To preserve the public peace, health and safety it is necessary
54 that this act become immediately operative. It is therefore declared
55 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 26

SENATE BILL 1195

AN ACT

RELATING TO TRANSPORTATION; PRESCRIBING MAXIMUM GROSS WEIGHT OF VEHICLES AND LOADS; EXCEPTIONS, AND AMENDING TITLE 28, CHAPTER 6, ARTICLE 18, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1009.01.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 28, chapter 6, article 18, Arizona Revised
3 Statutes, is amended by adding section 28-1009.01, to read:
4 28-1009.01. Maximum gross weight of vehicles and
5 loads; exceptions

6 A. ON ALL HIGHWAYS IN THIS STATE, EXCEPT THOSE AS TO WHICH THE
7 APPLICATION OF THIS SECTION MAY, UPON DETERMINATION BY THE DIRECTOR,
8 RESULT IN LOSS OR FORFEITURE OF FEDERAL-AID HIGHWAY FUNDS, AND NOT
9 WITHSTANDING THE PROVISIONS OF SECTION 28-1008 AND SECTION 28-1009 THE
10 MAXIMUM SINGLE AXLE GROSS WEIGHT SHALL BE TWENTY THOUSAND POUNDS AND
11 THE MAXIMUM TANDEM AXLE GROSS WEIGHT SHALL BE THIRTY-FOUR THOUSAND
12 POUNDS, INCLUDING ALL ENFORCEMENT TOLERANCES. THE TOTAL GROSS WEIGHT
13 WITH LOAD IMPOSED UPON THE HIGHWAY BY ANY ONE GROUP OF TWO OR MORE
14 CONSECUTIVE AXLES OF A VEHICLE OR COMBINATION OF VEHICLES SHALL NOT
15 EXCEED THE GROSS WEIGHT GIVEN FOR THE RESPECTIVE DISTANCE BETWEEN THE
16 FIRST AND LAST AXLE OF THE GROUP OF AXLES MEASURED LONGITUDINALLY TO
17 THE NEAREST FOOT AS SET FORTH IN THE FOLLOWING TABLE:

18	DISTANCE IN FEET BETWEEN FIRST	ALLOWED LOAD IN POUNDS
19	AND LAST AXLES OF GROUP	ON GROUP OF AXLES
20	4	34,000
21	5	34,000
22	6	34,000
23	7	34,000
24	8	42,000
25	9	42,500
26	10	43,500
27	11	44,000
28	12	50,000
29	13	50,500
30	14	51,500

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1	DISTANCE IN FEET BETWEEN FIRST	ALLOWED LOAD IN POUNDS
2	AND LAST AXLES OF GROUP	ON GROUP OF AXLES
3	15	52,000
4	16	52,500
5	17	53,500
6	18	54,000
7	B. THE TOTAL GROSS WEIGHT WITH LOAD IMPOSED ON THE HIGHWAY BY ANY	
8	VEHICLE OR COMBINATION OF VEHICLES WHERE THE DISTANCE BETWEEN THE FIRST	
9	AND LAST AXLES IS MORE THAN EIGHTEEN FEET SHALL NOT EXCEED THAT GIVEN	
10	FOR THE RESPECTIVE DISTANCES IN THE FOLLOWING TABLE:	
11	DISTANCE IN FEET	ALLOWED LOAD IN POUNDS
12	18	54,000
13	19	54,500
14	20	55,500
15	21	56,000
16	22	56,500
17	23	57,500
18	24	58,000
19	25	58,500
20	26	59,500
21	27	60,000
22	28	60,500
23	29	61,500
24	30	62,000
25	31	62,500
26	32	63,500
27	33	64,000
28	34	64,500
29	35	65,500
30	36	66,000
31	37	66,500
32	38	67,500
33	39	69,000
34	40	70,500
35	41	72,500
36	42	74,000
37	43	75,000
38	44	75,500
39	45	76,000
40	46	76,500
41	47	77,500
42	48	78,000
43	49	78,500
44	50	79,000
45	51	80,000
46	52	80,000
47	53	80,000
48	54	80,000
49	55	80,000
50	56	80,000
51	57 OR OVER	80,000

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1 C. THE DISTANCE BETWEEN AXLES SHALL BE MEASURED TO THE NEAREST
2 EVEN FOOT. WHEN A FRACTION IS EXACTLY ONE-HALF FOOT THE NEXT LARGER
3 WHOLE NUMBER SHALL BE USED.

4 Sec. 2. Emergency
5 To preserve the public peace, health and safety it is necessary
6 that this act become immediately operative. It is therefore declared
7 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 27

SENATE BILL 1176

AN ACT

RELATING TO TRANSPORTATION; PROVIDING THAT CERTAIN EXTENSIONS ON VEHICLES
USED TO TRANSPORT MANUFACTURED VEHICLE SHALL NOT BE INCLUDED IN
MEASURING LENGTH OF SUCH VEHICLES; MAKING CERTAIN CODE CORRECTION
RELATING TO SINGLE-TRIP SPECIAL PERMITS, AND AMENDING SECTION 28-1004,
ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-1004, Arizona Revised Statutes, is amended
3 to read:

4 28-1004. Height and length of vehicles and loads;
5 exceptions

6 A. It is unlawful for any vehicle unladen or with load to exceed
7 a height of thirteen feet six inches above the level surface upon which
8 such vehicle stands, without a permit issued under the provisions of
9 section 28-1011 or this section.

10 B. Notwithstanding the provisions of section 28-1011, the
11 department with respect to highways under its jurisdiction and local
12 authorities with respect to highways under their jurisdiction may in
13 their discretion, upon application in writing and good cause being shown
14 therefor, issue a special permit in writing, valid for one year, autho-
15 rizing the applicant to operate or move a motor vehicle or combination
16 of vehicles upon designated routes in this state, the laden height of
17 which does not exceed fourteen feet. A fee of thirty dollars shall be
18 assessed for each motor vehicle covered by a permit issued in accordance
19 with the provisions of this subsection. Except as expressly provided in
20 this subsection, one year excess-height special permits shall be governed
21 by the provisions of section 28-1011.

22 C. Notwithstanding the provisions of section 28-1011, the depart-
23 ment with respect to highways under its jurisdiction and local authorities
24 with respect to highways under their jurisdiction may in their discretion,
25 upon application in writing and good cause being shown therefor, issue

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1 a special single-trip permit in writing, authorizing the applicant to
2 operate or move a motor vehicle upon designated routes in this state,
3 the laden height of which exceeds fourteen feet. A fee of ten dollars
4 shall be assessed for each motor vehicle covered by a permit issued in
5 accordance with the provisions of this subsection. Except as expressly
6 provided in this subsection, ~~one-year-excess-height~~ SINGLE-TRIP special
7 permits shall be governed by the provisions of section 28-1011.

8 D. No vehicle, including any load thereon, shall exceed a length
9 of forty feet extreme over-all dimension, inclusive of front and rear
10 bumpers. This provision shall not apply to a semitrailer as defined in
11 section 28-101 when used in combination with a truck tractor but such
12 combination shall not exceed the length of combinations of vehicles as
13 set forth in subsection E of this section.

14 E. No combination of vehicles coupled together shall consist of
15 more than two units except that a truck tractor and semitrailer will
16 be permitted to haul one full trailer and no such combination of
17 vehicles shall exceed a total length of sixty-five feet. This provision
18 shall not apply to damaged, disabled or abandoned vehicles or combina-
19 tions of vehicles while being towed by a tow truck in compliance with
20 the provisions of section 28-1007.

21 F. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION E OF THIS SECTION,
22 EXTENSIONS OF NOT MORE THAN EIGHTEEN INCHES IN LENGTH ON EACH END OF
23 A VEHICLE OR COMBINATION OF VEHICLES USED TO TRANSPORT MANUFACTURED
24 VEHICLES SHALL NOT BE INCLUDED IN MEASURING THE LENGTH OF SUCH VEHICLE
25 OR COMBINATION OF VEHICLES WHEN LOADED.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 13, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 28

SENATE BILL 1073

AN ACT

RELATING TO EDUCATION; PROVIDING THAT COMPENSATION OF EMPLOYEES OF COMMUNITY COLLEGES BE EXEMPT FROM PROVISIONS OF THE GENERAL COMPENSATION STATUTE; PROVIDING THAT COMMUNITY COLLEGE EMPLOYEES BE EXEMPT FROM PROVISIONS OF CHAPTER 4, ARTICLES 5 AND 6 OF TITLE 41; AMENDING SECTIONS 38-611 AND 41-771, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-611, Arizona Revised Statutes, is amended
3 to read:
4 38-611. Compensation of certain state officers and employees
5 A. Except as otherwise provided in subsections C and D, any
6 officer or employee of the state, or any of its agencies, who is exempt
7 from the provisions of the state personnel system shall receive compensa-
8 tion which is determined by legislation which sets forth the compensa-
9 tion of all such officers or employees.
10 B. Any officer or employee of the state, or any of its agencies,
11 who is subject to the provisions of the state personnel system shall
12 receive a salary within the range of the department of administration
13 personnel administration division salary plan as adopted or modified by
14 the legislature.
15 C. Elected state officers and all employees of the state univer-
16 sities AND COMMUNITY COLLEGES are exempt from the provisions of this
17 section.
18 D. Except as otherwise provided by statute or specific legisla-
19 tive appropriation members of boards, commissions, councils or advisory
20 committees who are authorized by law to receive compensation may re-
21 ceive compensation at the rate of not to exceed thirty dollars for each
22 day engaged in the service of such board, commission, council or
23 advisory committee.

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1 Sec. 2. Section 41-771, Arizona Revised Statutes, is amended to
2 read:

3 41-771. Exemptions

4 The provisions of this article and article 6 do not apply to:

5 1. Elected state officers.

6 2. State officers and members of boards and commissions appointed
7 by the legislature or the governor, the employees of the governor's
8 office, the employees of the Arizona legislative council, and the
9 employees of the supreme court and the court of appeals.

10 3. State officers and employees appointed or employed by the
11 legislature or either house thereof.

12 4. Officers or employees of state universities and COMMUNITY
13 colleges, personnel of the Arizona state school for the deaf and blind,
14 or the public school system.

15 5. Patients or inmates employed in state institutions.

16 6. Officers and enlisted men of the national guard of Arizona.

17 7. The single administrative or executive head of each state
18 department or agency.

19 8. Positions which the personnel administration division determines
20 are essentially for rehabilitation purposes.

21 9. Temporary or part-time personnel as determined by the personnel
22 administration division.

23 10. Not more than two assistants who serve in the office of an
24 elected state officer, where that elected state officer is the sole
25 elected head of the department.

26 11. One administrative assistant who serves a board or commission
27 elected to head a state agency, department or division, and one assistant
28 for each elected member of such board or commission.

29 12. Any other position exempted by law.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 29

SENATE BILL 1107

AN ACT

RELATING TO TRANSPORTATION; PROVIDING THAT DIRECTOR OF DEPARTMENT OF TRANSPORTATION MAY ESTABLISH FEES FOR USE OF STATE-OWNED AIRPORTS, AND AMENDING TITLE 28, CHAPTER 12, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1707.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 28, chapter 12, article 1, Arizona Revised
3 Statutes, is amended by adding section 28-1707, to read:
4 28-1707. Fees for use of state-owned airports
5 THE DIRECTOR MAY ADOPT RULES AND REGULATIONS AND ESTABLISH FEES
6 AND CHARGES FOR USE OF STATE-OWNED AIRPORTS AND APPURTENANT FACILITIES
7 INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:
8 1. LANDING AND TAKE-OFF FOR COMMERCIAL AIRCRAFT.
9 2. AIRCRAFT TIEDOWN.
10 3. VEHICLE PARKING.
11 4. EQUIPMENT USE.
12 5. AIRCRAFT SERVICING.
13 6. FACILITIES USE.
14 7. DAMAGES TO EQUIPMENT OR FACILITIES.
15 8. JANITORIAL OR CUSTODIAL SERVICES.
16 9. TERMINAL AND LAND SPACE RENTAL.
17 10. COMMISSION ON SALES AT AIRPORT.
18 11. GROUND TRANSPORTATION USE OF AIRPORT FACILITIES IN SERVING
19 PASSENGERS ARRIVING OR DEPARTING.
20 12. USE OF ADVERTISING SPACE.
21 13. FUEL FLOWAGE, STORAGE, TRANSPORTATION AND HANDLING.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 30

HOUSE BILL 2133

AN ACT

RELATING TO EDUCATION; DEFINING BUSINESS AND TECHNICAL SCHOOLS; PRESCRIBING FEES FOR TECHNICAL SCHOOL AGENTS; PRESCRIBING CERTAIN LICENSING PROCEDURES OF BOARD OF PRIVATE TECHNICAL AND BUSINESS SCHOOLS; AMENDING SECTIONS 15-931, 15-933, 15-934, 15-936 AND 15-943, ARIZONA REVISED STATUTES, AND AMENDING TITLE 15, CHAPTER 9, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-946.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-931, Arizona Revised Statutes, is amended
3 to read:
4 15-931. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Agent" or "solicitor" means a person employed by a school
7 whether such school is located within or outside of this state, to act as
8 an agent, solicitor, broker or independent contractor or directly procure
9 students or enrollees for such school by solicitation in any form made at
10 any place in this state other than the office or place of business of the
11 school.
12 2. "Board" means the state board of private technical and business
13 schools.
14 3. "Superintendent" means the state superintendent of public
15 instruction.
16 4. "Technical school" or "business school" or "school" means a
17 school maintained or classes conducted for the purpose of offering
18 instruction for a consideration, profit or tuition the purpose of which
19 is to prepare an individual in technical occupations and technical phases
20 of other occupations. The term "technical school", "business school" or
21 "school" shall not include: ANY PERSON, FIRM, CORPORATION, ASSOCIATION
22 OR OTHER ORGANIZATION WHICH PURPORTS TO INSTRUCT IN ANY FIELD OR OFFERS
23 ANY COURSES, OR CHARGES ANY FEES, THE CONSIDERATION OF WHICH IS TRAINING
24 OR INSTRUCTION WHETHER PROVIDED WITHIN OR WITHOUT THE STATE, PERSONALLY,

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1 BY CORRESPONDENCE OR ANY OTHER METHOD, WITH THE EXCEPTION OF THE
2 FOLLOWING:

3 (a) Nonprofit schools owned, controlled, operated and conducted by
4 bona fide religious, denominational, eleemosynary or public institutions
5 exempt from property taxation under the laws of this state, except that
6 such schools may choose to apply for a certificate of approval under this
7 article, and upon approval and issuance thereof they shall be subject to
8 the provisions of this article.

9 (b) Schools which are otherwise regulated and licensed under and
10 pursuant to any other law of this state.

11 (c) Schools conducted by any person, firm, corporation or other
12 organization solely for training of its own employees provided no fee or
13 tuition is charged.

14 (d) JOB TRAINING OR REHABILITATION PROGRAMS OPERATED FOR STATE,
15 LOCAL OR FEDERAL GOVERNMENTAL AGENCIES.

16 (e) Privately owned academic schools engaged in the process
17 of general education which is designed to produce a level of development
18 equivalent to that necessary to meet the requirements for matriculation
19 in a public tax supported college or university in Arizona that may
20 incidentally offer technical and vocational courses as part of the
21 curriculum.

22 (f) SCHOOLS CONDUCTED BY ANY PERSON, FIRM, CORPORATION OR ASSOCIA-
23 TION SOLELY FOR TRAINING EMPLOYEES, MEMBERS, CUSTOMERS, PROSPECTIVE CUSTOMERS
24 AND PROSPECTIVE MEMBERS, PROVIDED THE INSTRUCTION IS RELATED TO SALES,
25 MARKETING, OPERATIONS, DEVELOPMENT OF PERSONNEL, SYSTEMS, AND SUBJECT MATTER
26 RELATED TO THAT INDUSTRY OR PROFESSION, OR OTHER TECHNIQUES.

27 ~~(e)--Any person, firm, partnership, corporation, association or~~
28 ~~other organization primarily engaged in providing highly specialized~~
29 ~~services, procedures or techniques to industry and business and second-~~
30 ~~arily engaged in teaching others in the use or employment of such~~
31 ~~services, procedures or techniques.~~

32 5. "UNLAWFUL ACT" MEANS ANY ACT BY LICENSEE UNDER THIS ARTICLE
33 WHICH MISLEADS OR DECEIVES A STUDENT OR PROSPECTIVE STUDENT IN ANY
34 CONTRACT, REPRESENTATION, OR ADVERTISING AND SHALL INCLUDE ANY BREACH
35 OF CONTRACT BY LICENSEE WHICH RESULTS IN THE STUDENT NOT RECEIVING THE
36 CONTRACTED SERVICES.

37 Sec. 2. Section 15-933, Arizona Revised Statutes, is amended to
38 read:

39 15-933. Standards of instruction; issuance of license; display

40 A. The board, after giving fifteen days notice in advance of the
41 time of a hearing by advertisement in at least two newspapers having a
42 general circulation in this state and after giving an opportunity to
43 interested persons to be heard thereon at such hearing, shall promulgate
44 reasonable standards of instruction consistent with this article. The
45 board may amend or revoke such standards ~~from time to time after giving~~
46 ~~notice and affording an opportunity to be heard as provided in this~~
47 ~~section PURSUANT TO THE PROVISIONS OF TITLE 41, CHAPTER 6.~~ The board
48 shall issue its original standards within three months after appointment
49 of board members and shall determine whether a license for a school shall
50 be issued in accordance with the requirements of its standards and rules
51 and regulations.

1 B. Prior to the establishment of a private technical or business
 2 school and the issuance of a license therefor, no person shall advertise
 3 such a school or solicit prospective students for such a school unless
 4 such person has applied for and received from the board temporary
 5 authorization to conduct such activity. After January 1, 1971, no person,
 6 partnership, association or corporation shall conduct a private technical
 7 or business school in this state without having been issued a license by
 8 the board. A person, partnership, association or corporation is qualified
 9 to receive a license who complies with every standard, rule and regulation
 10 of the board pertaining to this article and who pays the fee for a license.
 11 Such licenses are not transferable to another location in the state.

12 C. The license shall be prominently displayed at some place on the
 13 premises of the school open to the inspection of all interested persons.
 14 The board shall maintain, open to inspection, a list of schools approved
 15 under this article and the list shall be available to any interested person
 16 requesting it.

17 Sec. 3. Section 15-934, Arizona Revised Statutes, is amended to
 18 read:

19 15-934. Application for license; fees; bond

20 A. Every person, partnership, association or corporation desiring
 21 to obtain a license shall make a verified application to the board upon
 22 forms prepared and furnished by the board. Any license issued shall be
 23 restricted to the fields or courses specifically indicated on the applica-
 24 tion. The holder of a license shall present a supplementary application
 25 as may be directed by the board for approval of additional fields or courses
 26 of instruction.

27 B. Each original application for a license shall be accompanied by
 28 a filing fee as set by the board, which shall include the cost of investi-
 29 gation and issuance of the original license if the application is approved.
 30 There shall be an annual renewal fee as set by the board. No fee shall be
 31 charged for a supplementary application for the approval of additional
 32 fields or courses of instruction. No fees shall be reimbursed if any
 33 license is refused or revoked.

34 C. Each application shall be accompanied by a surety bond of ten
 35 thousand dollars in a form to be approved by the board, and executed by
 36 a surety company authorized to transact business in this state as surety
 37 thereon, with the applicant as principal obligor thereon, and the state
 38 as obligee. The bond shall be conditioned that the applicant will faith-
 39 fully comply with all the provisions of law and that the bond shall be
 40 noncancellable for the period of time for which the license to the appli-
 41 cant is issued. The bond shall inure to the benefit of any person who
 42 suffers loss by reason of any unlawful act of the licensee AND ANY SUCH
 43 PERSON SHALL RECOVER THE LOSS OF HIS OR HER TUITION FROM THE BOND WHERE
 44 THE LOSS THEREOF IS OCCASIONED BY THE LICENSEE'S BREACH OF CONTRACT.

45 D. NO APPLICANT'S LICENSE SHALL BE GRANTED TO A PERSON UNLESS
 46 HE IS OF GOOD MORAL CHARACTER.

47 Sec. 4. Section 15-936, Arizona Revised Statutes, is amended to
 48 read:

49 15-936. Application for agent's license; fee; renewal

50 A. An application for an agent's license shall be made on forms

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1 prescribed and furnished by the board and shall be accompanied by a fee
2 of ten dollars. THE FOLLOWING FEES AND BONDS:

3 1. EACH AGENT EMPLOYED BY A FIRM HAVING A PHYSICAL LOCATION AND
4 FURNISHING INSTRUCTION IN THIS STATE SHALL FURNISH TO THE BOARD A FILING
5 FEE OF TEN DOLLARS.

6 2. EACH AGENT EMPLOYED BY A FIRM HAVING NO PHYSICAL FACILITIES
7 IN THIS STATE SHALL FURNISH TO THE BOARD A FEE OF SEVENTY-FIVE DOLLARS,
8 TOGETHER WITH ALL ACTUAL AND NECESSARY TRAVEL EXPENSES, IF ANY, INCURRED
9 BY THE BOARD IN PROVIDING ON-SITE INSPECTION OF SUCH FIRM'S PHYSICAL
10 FACILITIES AND A SURETY BOND IN THE AMOUNT OF FIVE THOUSAND DOLLARS.

11 B. An agent's license issued under this article shall be valid for
12 the calendar year for which it is issued. An application for renewal shall
13 be accompanied by a fee of ten dollars.

14 C. No agent's license shall be granted to a person unless he is of
15 good moral character.

16 D. SURETY BONDS REQUIRED BY THIS SECTION SHALL MEET THE SAME
17 STANDARDS AS SURETY BONDS REQUIRED UNDER SECTION 15-934, SUBSECTION C.

18 E. IF THE BOARD REFUSES TO ISSUE A LICENSE TO AN APPLICANT PUR-
19 SUANT TO THE PROVISIONS OF THIS ARTICLE, THE FEES PAID BY SUCH APPLI-
20 CANT SHALL NOT BE REFUNDED.

21 Sec. 5. Section 15-943, Arizona Revised Statutes, is amended to
22 read:

23 15-943. Service of findings

24 In any case involving the refusal to issue or renew, or the
25 revocation or suspension of a license or agent's license, a copy of the
26 board's report shall be served upon the respondent either personally or
27 by registered mail, as provided in this article for the service of
28 notice of hearing. Every report, order or decision shall be based upon
29 reliable and probative evidence which is substantial in view of the
30 entire record. A decision or order shall include findings of fact and
31 conclusions of law stated separately. Within twenty days after such
32 service, the respondent may present to the board a motion in writing
33 for a rehearing, which written motion shall specify the particular grounds
34 therefor. If no such motion for rehearing is filed, then upon the expira-
35 tion of the time specified for filing a motion for rehearing, or if such
36 motion is filed and denied, then upon such denial, the secretary shall
37 enter an order in accordance with the recommendations of the board. If
38 such respondent orders and pays for a transcript of the record as pro-
39 vided in this article, the time elapsing thereafter and before such
40 transcript is ready for delivery shall not be counted as part of such
41 twenty days STATE THE ACTION TAKEN BY THE BOARD AND THE BASIS FOR SUCH
42 ACTION. WITHIN TWENTY DAYS AFTER SUCH SERVICE, THE RESPONDENT MAY
43 PRESENT TO THE BOARD A MOTION IN WRITING FOR A REHEARING, WHICH WRITTEN
44 MOTION SHALL SPECIFY THE PARTICULAR GROUNDS THEREFOR. IF NO MOTION FOR
45 SUCH REHEARING IS FILED WITHIN SUCH PERIOD OF TIME, THE BOARD'S ORDER,
46 DECISION OR REPORT IS FINAL. IF A MOTION IS FILED WITHIN THE REQUIRED
47 PERIOD, THE BOARD MAY WITHOUT FURTHER HEARING DENY OR GRANT THE MOTION.
48 IF THE BOARD GRANTS THE MOTION, IT SHALL GRANT A FURTHER HEARING TO THE
49 RESPONDENT TO BE HELD WITHIN A REASONABLE TIME. THE REQUIRED PERIOD OF
50 TIME SHALL BE EXTENDED IF RESPONDENT REQUESTS A TRANSCRIPT OF PRIOR

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1 HEARINGS. SHOULD THE BOARD DENY THE MOTION FOR REHEARING, ANY REPORT,
2 ORDER OR FINDING OF THE BOARD IS FINAL. Upon the revocation of a
3 license or agent's license, the holder shall surrender such license
4 or agent's license to the board, and upon failure or refusal so to do,
5 the board shall have the right to seize the same.

6 Sec. 6. Title 15, chapter 9, article 4, Arizona Revised Statutes,
7 is amended by adding section 15-946, to read:

8 15-946. Injunctive powers

9 IN ADDITION TO ALL OTHER POWERS AND DUTIES GRANTED TO THE BOARD
10 BY THIS ARTICLE, THE BOARD MAY BRING AN ACTION FOR INJUNCTION OR ANY
11 OTHER CIVIL ACTION AGAINST A SCHOOL OR AN AGENT WHICH THE BOARD LICENSES.
12 UPON SUCH ACTION BY THE BOARD, THE COURT MAY CLOSE SUCH SCHOOL OR ENJOIN
13 SUCH AGENT AND MAKE ANY OTHER ORDERS AS ARE NECESSARY TO ENFORCE THE
14 PROVISIONS OF THIS ARTICLE.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

CHAPTER 31

HOUSE BILL 2134

AN ACT

RELATING TO TRANSPORTATION; PROVIDING THAT A MOTOR VEHICLE LICENSEE SHALL PAY A FEE FOR RETURN OF SUSPENDED LICENSE OR FOR FILING APPLICATION FOR LICENSE AFTER REVOCATION OF OPERATOR'S, CHAUFFEUR'S OR MOTORCYCLE OPERATOR'S LICENSE; MAKING CONFORMING CHANGES; PROVIDING FOR A NONOPERATING IDENTIFICATION LICENSE; AMENDING SECTIONS 28-205 AND 28-416, ARIZONA REVISED STATUTES, AND AMENDING TITLE 28, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-421.01.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-205, Arizona Revised Statutes, is amended to
3 read:
4 28-205. Motor vehicle fees
5 The following motor vehicle fees shall be paid:
6 1. For each certificate of title, four dollars.
7 2. For a duplicate registration card, four dollars.
8 3. For a duplicate of any permit, four dollars.
9 4. For filing each application for dealer's, manufacturer's,
10 importer's, distributor's, factory branch's, distributor branch's or
11 wrecker's license, fifteen dollars.
12 5. For each dealer's, manufacturer's, distributor's, factory
13 branch's, distributor branch's or wrecker's license when issued annually,
14 ten dollars.
15 6. For filing each application for a chauffeur's license, seven
16 dollars and fifty cents.
17 7. For filing each application for an operator's license, five
18 dollars.
19 8. FOR FILING EACH APPLICATION FOR A CHAUFFEUR'S, OPERATOR'S OR
20 MOTORCYCLE OPERATOR'S LICENSE AFTER REVOCATION OR FOR RETURN OF SUCH
21 LICENSE AFTER SUSPENSION, TEN DOLLARS.
22 8- 9. For filing each application for a license to operate a motor-
23 cycle and a motor driven cycle, five dollars.
24 9- 10. For filing each application for an instruction permit under
25 subsection A of section 28-415, two dollars, and fifty cents for each
26 instruction permit issued under subsection B of section 28-415.

1 ~~10.~~ 11. For each identification plate bearing serial or identi-
2 fication number to be affixed to any vehicle, five dollars.

3 ~~11.~~ 12. For each number plate or pair of number plates to replace
4 lost, destroyed or mutilated plates, five dollars.

5 ~~12.~~ 13. For each number plate or pair of plates issued to a dealer
6 other than a dealer in motorcycles, twenty dollars, and for each number
7 plate or pair of plates issued to a dealer in motorcycles, ten dollars.

8 ~~13.~~ 14. For each pair of original personalized number plates,
9 twenty-five dollars in addition to the registration fee required by
10 paragraph ~~15~~ 16 of this section.

11 ~~14.~~ 15. For each annual renewal of personalized number plates, ten
12 dollars in addition to the registration fee required by paragraph ~~15~~ 16 of
13 this section.

14 ~~15.~~ 16. For the registration of any motor vehicle, trailer or semi-
15 trailer, eight dollars.

16 ~~16.~~ 17. For filing each application for dismantling permit, two
17 dollars.

18 ~~17.~~ 18. For each special registration issued under the provisions
19 of subsection E of section 28-302, fifteen dollars.

20 Sec. 2. Section 28-416, Arizona Revised Statutes, is amended to
21 read:

22 28-416. Application for license or instruction permit

23 A. Every application for an instruction permit or for an oper-
24 ator's or chauffeur's license shall be made on a form furnished by the
25 department.

26 B. An application fee ~~of two dollars~~ AS PRESCRIBED BY SECTION
27 28-205 shall be charged every applicant for an operator's ~~OR~~ LICENSE,
28 chauffeur's license, ~~or for an instruction permit to be issued under~~
29 the provisions of EITHER subsection A ~~of section 28-415.~~ ~~An application~~
30 ~~fee of fifty cents shall be charged for an instruction permit issued~~
31 ~~under the provisions of~~ OR subsection B of section 28-415. Payment of
32 the fee required by this section entitles the applicant to not more than
33 three attempts to pass the examination within a period of six months from
34 the date of the application. No refund of an application fee may be made.

35 C. Every application shall state the full name, date of birth,
36 sex and residence address of the applicant, shall briefly describe the
37 applicant, and shall state whether the applicant has theretofore been
38 licensed as an operator or chauffeur, and if so, when and by what state
39 or country, and whether any such license has ever been suspended or
40 revoked, or whether an application has ever been refused, and if so,
41 the date of and reason for such suspension, revocation or refusal.

42 Sec. 3. Title 28, chapter 4, article 2, Arizona Revised Statutes,
43 is amended by adding section 28-421.01, to read:

44 28-421.01. Licenses issued to applicants for identification
45 purposes only

46 A. THE DEPARTMENT SHALL ISSUE TO EVERY APPLICANT APPLYING THEREON
47 FOR A NONOPERATING IDENTIFICATION LICENSE WHICH SHALL BEAR THEREON A
48 DISTINGUISHING NUMBER ASSIGNED TO THE LICENSEE, THE FULL NAME, DATE
49 OF BIRTH, RESIDENCE ADDRESS AND A BRIEF DESCRIPTION OF THE LICENSEE,
50 AND EITHER A FACSIMILE OF THE SIGNATURE OF THE LICENSEE OR A SPACE
51 UPON WHICH THE LICENSEE SHALL WRITE HIS USUAL SIGNATURE WITH PEN OR
52 INK.

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1 B. THE LICENSE ISSUED PURSUANT TO SUBSECTION A SHALL BE USED
2 ONLY FOR IDENTIFICATION PURPOSES OF THE LICENSEE AND SUCH LICENSE
3 SHALL GRANT NO AUTHORITY TO OPERATE ANY MOTOR VEHICLE WITHIN THIS
4 STATE, AND THE LICENSE SHALL BE CLEARLY LABELED "FOR IDENTIFICATION
5 ONLY, NOT FOR OPERATION OF A MOTOR VEHICLE."

6 C. EVERY NONOPERATING IDENTIFICATION LICENSE SHALL CONTAIN
7 THE PHOTOGRAPH OF THE LICENSEE AND THE PHOTOGRAPH SHALL BE TAKEN IN
8 SUCH A MANNER THAT THE EXPOSURE WILL PHOTOGRAPH THE APPLICANT AND THE
9 APPLICATION SIMULTANEOUSLY. THE DEPARTMENT SHALL USE SUCH PROCESSES
10 IN THE ISSUANCE OF THE LICENSES THAT PROHIBIT AS NEARLY AS POSSIBLE
11 THE ABILITY TO SUPERIMPOSE A PHOTOGRAPH ON SUCH LICENSE WITHOUT READY
12 DETECTION. ALL IDENTIFICATION LICENSES AND PHOTO ATTACHMENTS SHALL BE
13 PROCESSED IN COLOR.

14 D. EVERY APPLICANT, UPON ORIGINAL APPLICATION FOR SUCH LICENSE,
15 SHALL SUPPLY TO THE DEPARTMENT SATISFACTORY PROOF OF HIS NAME AND DATE
16 OF BIRTH.

17 E. THE DEPARTMENT SHALL NOT ISSUE AN IDENTIFICATION LICENSE:

18 1. TO A PERSON WHO IS UNDER THE AGE OF EIGHTEEN.

19 2. TO A PERSON WHO HOLDS A MOTOR VEHICLE OPERATOR'S OR CHAUFFEUR'S
20 LICENSE.

21 F. EVERY IDENTIFICATION LICENSE SHALL EXPIRE ON THE BIRTHDAY OF
22 THE APPLICANT THREE YEARS FROM THE LAST PREVIOUS BIRTHDAY OF THE AP-
23 PPLICANT. THEREAFTER ALL IDENTIFICATION LICENSES MAY BE RENEWED FOR
24 A PERIOD OF THREE YEARS FROM THE EXPIRATION DATE AS PROVIDED BY THIS
25 SECTION.

26 G. EVERY IDENTIFICATION LICENSE MAY BE RENEWED WITHIN THIRTY
27 DAYS PRIOR TO ITS EXPIRATION UPON APPLICATION AND PAYMENT OF THE RE-
28 QUIRED FEE, OR AT ANY TIME AFTER ITS EXPIRATION UPON APPLICATION AND
29 PAYMENT OF THE REQUIRED FEE.

30 H. THE FILE COPY OF IDENTIFICATION LICENSES NOT RENEWED WITHIN
31 TWELVE MONTHS AFTER THEIR EXPIRATION DATE MAY BE REMOVED FROM THE
32 DEPARTMENT'S FILES AND DESTROYED.

33 I. ANY NONOPERATING IDENTIFICATION LICENSE ISSUED BY THE DEPART-
34 MENT SHALL BE SOLELY FOR THE VOLUNTARY USE AND CONVENIENCE OF THE
35 APPLICANT FOR IDENTIFICATION PURPOSES. THE DEPARTMENT DOES NOT CERTIFY
36 THAT THE PERSON IN POSSESSION OF AN IDENTIFICATION LICENSE IS THE PER-
37 SON WHOSE NAME APPEARS ON THE LICENSE. THE DEPARTMENT AND THE STATE
38 OF ARIZONA SHALL BE EXEMPT FROM ANY AND ALL LIABILITY FOR DAMAGES WHICH
39 MAY ARISE FROM THE ACCEPTANCE OR USE OF THE IDENTIFICATION LICENSE BY
40 THE APPLICANT AND OTHERS.

41 J. THE DEPARTMENT SHALL ESTABLISH RULES, REGULATIONS AND FEES
42 PERTAINING TO ISSUANCE OF AN IDENTIFICATION LICENSE, EXCEPT THAT NO
43 EXAMINATION SHALL BE REQUIRED.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 32

HOUSE BILL 2314

AN ACT

RELATING TO EDUCATION; PRESCRIBING OPTIONS FOR BOARD OF REGENTS IN ISSUANCE OF
REFUNDING BONDS, AND AMENDING SECTION 15-782.03, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-782.03, Arizona Revised Statutes, is amended
3 to read:

4 15-782.03. Refunding bonds.

5 The board shall have power, and is hereby authorized from time to
6 time to issue refunding bonds:

7 1. To refund unpaid matured bonds; and

8 2. To refund unpaid matured coupons evidencing interest upon its
9 unpaid matured bonds; and

10 3. To refund interest at the coupon rate upon its unpaid matured
11 bonds that has accrued since the maturity of those bonds; provided that
12 such refunding bonds may be exchanged for the bonds to be refunded on a
13 par for par basis of the bonds, interest coupons and interest not repre-
14 sented by coupons, if any, or may be sold at not less than par, or may
15 be exchanged in part and sold in part, and the proceeds received at any
16 such sale shall be used to pay the bonds, interest coupons and interest
17 not represented by coupons, if any, and all bonds and interest coupons
18 which have been received in exchange or paid shall be cancelled and the
19 obligation for interest, not represented by coupons, which has been dis-
20 charged, shall be evidenced by a written acknowledgment of the exchange
21 or payment thereof; and

22 4. To refund bonds at or prior to their maturity or which by their
23 terms are subject to redemption before maturity, or both, in an amount
24 necessary to refund the principal amount of the bonds to be refunded,
25 the interest to accrue up to and including the maturity date or dates,
26 or to the next succeeding redemption date, thereof, and the applicable
27 redemption premiums, if any, and may be exchanged for not less than an
28 equal principal amount of bonds to be refunded or may be sold as the

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1 board shall determine, or may be exchanged in part and sold in part, and
2 all proceeds received at the sale thereof, excepting the accrued interest
3 received, shall be used:

4 (a) If the bonds to be refunded are then due, for the payment
5 thereof;

6 (b) If the bonds to be refunded are voluntarily surrendered with
7 the consent of the holder or holders thereof for the payment thereof;

8 (c) If the bonds to be refunded are then subject to prior redemp-
9 tion by their terms AT THE OPTION OF THE BOARD AND IF SUCH OPTION HAS BEEN
10 EXERCISED, for the redemption thereof;

11 (d) If the bonds to be refunded are not then subject to payment
12 or redemption, OR IF THE BONDS ARE SUBJECT TO PRIOR REDEMPTION AND THE
13 BOARD CHOOSES TO DEFER EXERCISING THE OPTION TO A LATER DATE OR CHOOSES TO
14 EXERCISE THE OPTION AT ANY PRIOR REDEMPTION DATE AND SETS THE DATE FOR
15 SUCH REDEMPTION OR CHOOSES NOT TO EXERCISE SUCH OPTION, to invest the proceeds
16 received at the sale in direct obligations issued by or guaranteed by the
17 United States of America or any department, agency or instrumentality thereof,
18 that will mature at such time or times, with interest thereon or the pro-
19 ceeds received therefrom, to provide funds adequate to pay when due or
20 called for redemption prior to maturity the bonds to be refunded, or the
21 bonds issued to refund the bonds to be refunded, together with the interest
22 accrued thereon and any redemption premium due thereon, and such proceeds or
23 obligations of the United States of America shall, with all other funds
24 legally available for such purpose, be deposited in escrow with a banking
25 corporation, or national banking association, with power to accept and
26 execute trusts, or any successor thereto, which is also a member of the fed-
27 eral deposit insurance corporation and of the federal reserve system, to be
28 held in an irrevocable trust solely for and until the payment and redemption
29 of the bonds so to be refunded, and any balance remaining in such escrow
30 after the payment and retirement of the bonds to be refunded shall be
31 used and held for use by such board as revenues pledged for the payment
32 of such refunding bonds; or

33 (e) For any combination thereof as provided in subdivisions (a)
34 through (d).

35 Sec. 2. Emergency

36 To preserve the public peace, health and safety it is necessary that
37 this act become immediately operative. It is therefore declared to be an
38 emergency measure, to take effect as provided by law.
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47 *Approved by the Governor - May 12, 1975*

48
49 *Filed in the Office of the Secretary of State - May 12, 1975*
50

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 33

HOUSE BILL 2177

AN ACT

RELATING TO EDUCATION; PROVIDING FOR ESTABLISHING CRITERIA FOR SKILL DEVELOPMENT VOCATIONAL EDUCATION PROGRAMS; ESTABLISHING AN ADVISORY COMMITTEE, AND AMENDING SECTION 15-102, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-102, Arizona Revised Statutes, is amended
3 to read:
4 15-102. Powers and duties
5 The state board of education shall:
6 1. Adopt and use an official seal in the authentication of its
7 acts.
8 2. Keep a record of its proceedings.
9 3. Make rules and regulations for its own government.
10 4. Determine the policy and work undertaken by the board.
11 5. Appoint, on the recommendation of the superintendent of
12 public instruction, employees of the board.
13 6. Make rules and regulations for the government of the employees
14 of the board.
15 7. Prescribe the duties of employees of the board when not
16 prescribed by law.
17 8. Delegate to the superintendent of public instruction the
18 execution of policies decided upon.
19 9. Recommend to the legislature changes or additions to the
20 statutes pertaining to schools.
21 10. Prepare, publish and distribute reports concerning the
22 educational welfare of the state.
23 11. Devise plans for the increase and management of the state
24 school fund and prepare a budget for expenditures necessary for proper
25 maintenance of the board and accomplishment of its purposes, and present
26 the plan and budget to the legislature.

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- 1 12. Ascertain that the school laws are properly enforced.
- 2 13. Aid in the enforcement of laws relating to schools, health,
- 3 compulsory education, child labor and child conservation.
- 4 14. Exercise general supervision over and regulate the conduct
- 5 of the public school system.
- 6 15. Prescribe and enforce a course of study in the common schools.
- 7 16. Prescribe the subjects to be taught in all common schools.
- 8 17. Prescribe a list of optional subjects to be taught in all
- 9 common schools. The list shall include manual training, household
- 10 economics, kindergarten and such other subjects as the board determines.
- 11 18. Prescribe textbooks for the common schools, and shall
- 12 prepare a list of not less than three nor more than five textbooks
- 13 for each grade and each subject taught in the common schools for
- 14 the selection by the school district of one book from such list for
- 15 each student, except that for courses which do not require that each
- 16 student have a book other than for classroom instruction the district
- 17 need only purchase one book for each student in the largest group which
- 18 would be receiving classroom instruction at any one time. The books or
- 19 instructional matter so selected shall be purchased by the school district
- 20 direct from the publisher as provided in this title, except that a school
- 21 district may substitute a textbook for a prescribed textbook upon approval
- 22 by the state board of education of an application for such substitution.
- 23 Textbooks selected pursuant to the provisions of this title shall not be
- 24 changed during the next five years.
- 25 19. Determine the number of credits necessary for graduation
- 26 from high school.
- 27 20. PRESCRIBE CRITERIA WHICH MAY BE USED BY DISTRICTS THAT CHOOSE TO
- 28 ESTABLISH ENTRY-LEVEL SKILL DEVELOPMENT VOCATIONAL EDUCATION PROGRAMS
- 29 WHICH MAY BE OFFERED DURING THE NINTH AND TENTH GRADES OF SCHOOL.
- 30 20+ 21. Supervise and control the certification of teachers and
- 31 prescribe rules and regulations therefor. "Teacher", as used in this
- 32 paragraph, means a person engaged in instructional work directly, as a
- 33 classroom, laboratory or other teacher, or indirectly as a supervisory
- 34 teacher, speech therapist, principal or superintendent, in a public
- 35 common or high school or other educational institution below college or
- 36 university level.
- 37 21+ 22. Supervise and control the qualifications of professional
- 38 non-teaching school personnel and prescribe standards relating to
- 39 qualifications.
- 40 22+ 23. Charge the fees prescribed in section 15-103 for the
- 41 issuance or renewal of teachers' certificates. The fees received shall
- 42 be remitted to the state treasurer who shall deposit them in the state
- 43 school fund to the credit of the state board of education.
- 44 23+ 24. Revoke all certificates or life diplomas for immoral or
- 45 unprofessional conduct or for evident unfitness to teach.
- 46 24+ 25. Assist the auditor general in prescribing a uniform
- 47 system of records and accounting.
- 48 25+ 26. By June 30, 1975, in cooperation with all local school
- 49 districts, develop, establish, and direct the implementation of a con-
- 50 tinuous uniform evaluation system of pupil achievements in relation to

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1 measurable performance objectives in basic subjects. The board shall
2 assist in the development of alternate learning procedures to help
3 pupils attain their individual learning expectancy levels based on
4 intelligence factors, achievement factors and teacher evaluation.
5 Basic subjects shall be defined for these purposes as reading, writing,
6 and computation skills.

7 Sec. 2. Appointment of advisory committee; expiration

8 A. There is established an advisory committee to assist the state
9 board of education in determining criteria for entry-level skill develop-
10 ment vocational education programs pursuant to section 15-102, paragraph
11 20, Arizona Revised Statutes.

12 B. The committee shall be composed of seven persons, including
13 four appointed by the governor, the superintendent of public instruction,
14 one member of the house of representatives' education committee appointed
15 by the speaker of the house and one member of the senate's education com-
16 mittee appointed by the president of the senate. Of the four members
17 appointed by the governor, three shall be employers from private busi-
18 ness and one shall be a vocational education teacher from a high school.
19 Members shall receive no compensation.

20 C. The provisions of this section shall expire two years from the
21 effective date of this act.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

CHAPTER 34

HOUSE BILL 2287

AN ACT

RELATING TO EDUCATION; AUTHORIZING SOURCES FROM WHICH COUNTY BOARD OF SUPERVISORS
MAY ANNUALLY PAY AMOUNT DUE TO TEACHERS NORMAL PENSION ACCUMULATION FUND,
AND AMENDING SECTION 15-1421, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 15-1421, Arizona Revised Statutes, is amended
3 to read:

4 15-1421. Contributions by state and counties

5 A. Not later than January 1 preceding each regular session of the
6 legislature, the board of trustees shall certify to the superintendent of
7 public instruction an estimate of the amounts which will become due and
8 payable as accrued liability contribution to the accrued liability fund
9 during the following fiscal period. The amount so certified, within the
10 sums authorized by law, shall be included in the budget of the superin-
11 tendent of public instruction.

12 B. Not later than January 1 preceding each regular session of the
13 legislature, the board of trustees shall certify to the superintendent of
14 public instruction, the Arizona board of regents and the board of directors
15 of the Arizona state school for the deaf and the blind, an estimate of the
16 amounts which will become due and payable on the earnable compensation of
17 employees of the state department of education, the universities and the
18 Arizona state school for the deaf and the blind during the following fiscal
19 period on account of the normal contribution to the pension accumulation
20 fund. The amount certified shall be included in the respective budgets of
21 such department and institutions, and appropriated and paid in the manner
22 provided by law.

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1 C. The superintendent of public instruction, the Arizona board of
2 regents and the board of directors of the Arizona state school for the
3 deaf and the blind shall certify to the commissioner of finance, not
4 later than the second Monday in December and June of each fiscal year,
5 one-half of the amounts ascertained as provided in subsections A and B
6 for each fiscal period. Upon receipt thereof the commissioner of finance
7 shall draw warrants on the state treasurer for the respective amounts due
8 the retirement system, payable to the board of trustees, and the board,
9 after making proper record thereof, shall transmit the amounts due to the
10 state treasurer for credit to the respective funds.

11 D. Not later than July 1 each year the board of trustees shall
12 certify to each county school superintendent the amount which will become
13 due and payable from the county to the normal pension accumulation fund,
14 on the earnable compensation of employees within the county as defined
15 in this article, on account of normal contributions during the succeeding
16 fiscal year. The amount certified shall be included in the estimate of
17 the county school superintendent to the board of supervisors, and the
18 board MAY SUPPLY FUNDS FROM GENERAL FUND SOURCES OR, IN LIEU THEREOF
19 shall levy a county tax sufficient to raise the amount. Upon collection
20 by the county treasurer the monies shall be segregated into the teachers'
21 retirement fund, payments from which shall be made only upon the county
22 school superintendent's warrant drawn upon order of the board of trustees.

23 E. Not later than the second Monday in December and June respective-
24 ly of each fiscal year the county school superintendent, upon the order
25 of the board of trustees, shall draw his warrant on the county treasurer,
26 payable to the board of trustees, for one-half of the amount certified as
27 provided in subsection D. The county school superintendent shall transmit
28 the warrant to the board of trustees, and the board shall record the same
29 and transmit it to the state treasurer, who shall credit the proceeds to
30 the pension accumulation fund.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 35

HOUSE BILL 2095

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; PRESCRIBING FEES FOR REAL ESTATE SALESMEN AND BROKERS LICENSE, RENEWAL AND TRANSFER, AND AMENDING SECTIONS 32-2132 AND 32-2182, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-2132, Arizona Revised Statutes, is
3 amended to read:
4 32-2132. Fees
5 The following fees shall be charged:
6 1. Broker's license, ~~thirty~~ FIFTY dollars.
7 2. Broker's examination fee, ~~thirty~~ FIFTY dollars.
8 3. Broker's renewal fee, ~~thirty~~ FIFTY dollars.
9 4. Examination fee for officials of corporations or members of
10 partnerships other than the individual primarily designated to act for
11 the organization, ~~thirty~~ FIFTY dollars.
12 5. License fee for officials of corporations or members of
13 partnerships, other than the individual primarily designated to act
14 for the organization, ~~thirty~~ FIFTY dollars.
15 6. Salesman's license fee, ~~fifteen~~ TWENTY-FIVE dollars.
16 7. Salesman's examination fee, ~~fifteen~~ TWENTY-FIVE dollars.
17 8. Renewal fee for salesman's license, ~~fifteen~~ TWENTY-FIVE dollars.
18 9. Renewal fee for officials of corporations or members of
19 partnerships, other than the individual primarily designated to act
20 for the organization, ~~thirty~~ FIFTY dollars.
21 10. Branch office broker's license fee or renewal thereof, five
22 dollars.
23 11. Change of name and address of licensee on records of the
24 department, ~~five~~ TEN dollars.

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- 1 12. Transfer of salesman's license or change of employer, ~~five~~
2 TEN dollars.
3 13. Duplicate license fee, five dollars.
4 14. Reinstatement of license within license year, five dollars.
5 15. Each certificate of correctness of copy of records or
6 documents on file with the department, one dollar, plus the cost to
7 the department for reproducing the records or documents, except those
8 produced under the provisions of subsection B of section 32-2159.
9 16. Temporary broker's license fee, five dollars.
10 Sec. 2. Section 32-2182, Arizona Revised Statutes, is amended
11 to read:
12 32-2182. Examination of subdivision by commissioner; fee
13 The commissioner shall examine any subdivision offered for sale or
14 lease, and shall make public his findings. The total cost of travel and
15 subsistence expenses incurred by the department in the examination, in
16 addition to the initial filing fee provided for in this section, shall
17 be borne by the owner of the subdivision or his agent, or the subdivider
18 of the project, on the basis of actual cost to the department. An
19 initial filing fee of ~~seventy-five~~ ONE HUNDRED dollars shall accompany
20 the written notification required in section 32-2181.
21 Sec. 3. Emergency
22 To preserve the public peace, health and safety it is necessary
23 that this act become immediately operative. It is therefore declared
24 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 12, 1975

Filed in the Office of the Secretary of State - May 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 36

HOUSE BILL 2112

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; PROVIDING FOR A LIMITED INSTRUCTOR PERMIT FOR CERTAIN BARBERING DEMONSTRATIONS; PRESCRIBING FEES, PERIOD OF VALIDITY AND NUMBER OF SUCH PERMITS; AMENDING TITLE 32, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-322.01, AND AMENDING SECTIONS 32-331 AND 32-351, ARIZONA REVISED STATUTES.

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

2 Section 1. Title 32, chapter 3, article 2, Arizona Revised
3 Statutes, is amended by adding section 32-322.01, to read:

4 32-322.01. Application for limited instructor permit;
5 qualifications

6 A. ANY PERSON DESIRING A LIMITED INSTRUCTOR PERMIT FOR BARBERING
7 DEMONSTRATIONS SHALL FILE A WRITTEN APPLICATION FOR SUCH PERMIT WITH THE
8 SECRETARY. SUCH APPLICATION SHALL BE MADE UNDER OATH ON A FORM PRE-
9 SCRIBED BY THE BOARD AND BE ACCOMPANIED BY THE FEE AND BY SATISFACTORY
10 PROOF THAT SUCH PERSON HOLDS A VALID BARBER OR INSTRUCTOR LICENSE, OR
11 ITS EQUIVALENT, IN ANOTHER STATE OR COUNTRY.

12 B. THE BOARD SHALL ISSUE A LIMITED INSTRUCTOR PERMIT, VALID FOR
13 A CONTINUOUS FORTY-EIGHT HOUR PERIOD, TO ANY APPLICANT WHO:

14 1. COMPLIES WITH THE PROVISIONS OF SUBSECTION A.

15 2. HAS NOT BEEN ISSUED MORE THAN FOUR LIMITED INSTRUCTOR
16 PERMITS WITHIN THE PREVIOUS CALENDAR YEAR.

17 Sec. 2. Section 32-331, Arizona Revised Statutes, is amended to
18 read:

19 32-331. Fees

20 A. The board shall charge the following fees:

- 21 1. For examining applicant to practice as barber, fifty dollars.
22 2. For issuing certificate as barber, twenty dollars.

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- 1 3. For renewing certificate as barber, twelve dollars.
- 2 4. For restoring expired certificate as barber, twenty dollars.
- 3 5. For examining applicant for certificate as apprentice, twenty
- 4 dollars.
- 5 6. For issuing certificate as apprentice, ten dollars.
- 6 7. For renewing certificate as apprentice, twelve dollars.
- 7 8. For restoring expired certificate as apprentice, twenty
- 8 dollars.
- 9 9. For examining instructor, fifty dollars.
- 10 10. For issuing certificate as an instructor, twenty dollars.
- 11 11. For renewing certificate as an instructor, twelve dollars.
- 12 12. For inspecting establishment and issuing first establishment
- 13 license for newly established barber shop, one hundred dollars, and for
- 14 each additional inspection when the first inspection reveals the barber
- 15 shop not in compliance with law, twenty dollars.
- 16 13. For issuing establishment license for any barber shop which is
- 17 moved to another location, fifty dollars.
- 18 14. For issuing establishment license for any barber shop which
- 19 changes ownership, fifteen dollars.
- 20 15. For restoring expired establishment license, twenty dollars.
- 21 16. For renewing establishment license, twelve dollars.
- 22 17. For inspecting establishment and issuing certificate to
- 23 operate newly established barber school, a fee of ten dollars for each
- 24 barber chair installed in such school upon which work or service may
- 25 be performed upon a patron of the school, but such fee shall not be
- 26 less than one thousand dollars.
- 27 18. For inspecting establishment and issuing certificate to operate
- 28 a barber school which is moved to another location, a fee of one hundred
- 29 dollars, plus ten dollars for each additional barber chair installed in
- 30 such school.
- 31 19. For inspecting establishment and issuing certificate to operate
- 32 a barber school which changes ownership, a fee of one hundred dollars,
- 33 plus ten dollars for each additional barber chair installed in such
- 34 school.
- 35 20. For restoring expired certificate to operate a barber school,
- 36 a fee of twenty dollars for each barber chair in such school, but such
- 37 fee shall not be less than seven hundred dollars.
- 38 21. For renewing certificate to operate a barber school, an annual
- 39 fee of ten dollars for each barber chair installed in such school upon
- 40 which work or service may be performed upon a patron of the school, but
- 41 such annual fee shall not be less than three hundred fifty dollars.
- 42 22. FOR ISSUING A LIMITED INSTRUCTOR PERMIT, TEN DOLLARS.
- 43 B. A duplicate certificate shall be issued to replace a lost
- 44 certificate upon filing a verified statement by the applicant and payment
- 45 of a ten dollar fee. Each certificate so issued shall have the word
- 46 "duplicate" stamped across the face and shall bear the same number as
- 47 the lost certificate.
- 48 Sec. 3. Section 32-351, Arizona Revised Statutes, is amended to
- 49 read:
- 50

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32-351. Barbering without certificate prohibited;
exception

A. It is unlawful, without a certificate of registration issued as provided by this chapter, to:

1. Practice barbering.
2. Act or attempt to act as a barber apprentice.
3. Own, manage, operate or control a barber shop or a barber school.
4. Act as instructor of a course without being certified for that course.

B. A barber school shall at all times be operated under the personal supervision and management of a registered barber.

C. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION A, ANY PERSON HOLDING A VALID LIMITED INSTRUCTOR PERMIT MAY DEMONSTRATE BARBERING.

Approved by the Governor - May 12, 1975

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 37

SENATE BILL 1127

AN ACT

RELATING TO BANKS; PRESCRIBING REFERENCES TO AND PERMITTING INVESTMENT OF CERTAIN FUNDS IN BONDS, DEBENTURES OR OBLIGATIONS OF CERTAIN FEDERAL BANKS, AND AMENDING SECTIONS 6-322, 9-492, 9-921, 15-1323, 20-537, 35-351, 35-371 AND 38-757, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 6-322, Arizona Revised Statutes, is amended
3 to read:

4 6-322. Loans and investments of capital and deposits

5 A savings bank may invest its capital and deposits and the income
6 derived therefrom:

7 1. In first lien mortgages upon real property, but the loan shall
8 not exceed sixty-six and two-thirds per cent of the market value as of
9 the time when the loan is made of the property mortgaged, unless the
10 United States or any of its instrumentalities has guaranteed or insured
11 the loan or made a commitment to guarantee or insure the loan, and at
12 least fifty per cent of the loans shall at all times be upon real prop-
13 erty situated in the state. A lien of the federal government on account
14 of a United States reclamation project or of the state on account of any
15 project organized under the laws of this state shall not be considered a
16 first lien. The mortgage or an assignment thereof shall be immediately
17 recorded in the office of the county recorder.

18 2. In securities issued by the United States government and secu-
19 rities wholly guaranteed by the United States government.

20 3. In other listed bonds, notes and debentures which have a stan-
21 dard rating above the first four grades if the investment is approved in
22 writing by at least two-thirds of the directors of the bank and the
23 superintendent of banks.

1 4. In interest bearing bonds or other securities of the state, or
2 any county, city, town, school district or road district thereof.

3 5. In local improvement bonds or securities lawfully issued under
4 authority of state law.

5 6. In bonds, debentures or notes issued by a national mortgage
6 association or similar credit institution.

7 7. In debentures issued by the federal housing administrator, or
8 capital stock issued by any federal home loan bank of which the savings
9 bank may be eligible to become a member.

10 8. In obligations issued pursuant to the provisions of the fed-
11 eral home loan bank act, as now or hereafter amended.

12 9. In obligations issued pursuant to title IV of the national
13 housing act, as now or hereafter amended.

14 10. In the shares, share accounts, investment certificates or
15 accounts of a building and loan association, savings and loan associa-
16 tion or other institution wherever located, including a federal savings
17 and loan association, which has the insurance protection provided by
18 title IV of the national housing act, as now or hereafter amended, up
19 to the amount the shares, share accounts, investment certificates or
20 accounts are insured by the federal savings and loan insurance corpora-
21 tion.

22 ~~11. In farm loan bonds, consolidated farm loan bonds, debentures,
23 consolidated debentures and other obligations issued by federal land
24 banks or by federal intermediate credit banks under the authority of
25 the federal farm loan act approved July 17, 1916, as now or hereafter
26 amended (Title 12, U.S.C., sections 626-1012 and sections 1021-1129),
27 and in bonds, debentures, consolidated debentures and other obligations
28 issued by banks for cooperatives under the authority of the farm credit
29 act of 1933, as now or hereafter amended (Title 12, U.S.C., sections
30 1131-1138F);~~

31 11. IN BONDS, DEBENTURES OR OTHER OBLIGATIONS ISSUED BY THE
32 FEDERAL LAND BANKS, THE FEDERAL INTERMEDIATE CREDIT BANKS OR THE BANKS
33 FOR COOPERATIVES.

34 Sec. 2. Section 9-492, Arizona Revised Statutes, is amended to
35 read:

36 9-492. Investment of sinking funds and surplus or idle funds
37 of municipality

38 A. The governing body of a municipality may invest its sinking
39 funds in United States, state, or county bonds and in farm loan bonds,
40 consolidated farm loan bonds, debentures, consolidated debentures and
41 other obligations issued by federal land banks or by federal intermediate
42 credit banks under the authority of the federal farm loan act approved
43 July 17, 1916, as now or hereafter amended (Title 12, U.S.C., sections
44 626-1012 and sections 1021-1129), and in bonds, debentures, consolidated
45 debentures and other obligations issued by banks for cooperatives under
46 the authority of the farm credit act of 1933, as now or hereafter amended
47 (Title 12, U.S.C., sections 1131-1138F); OR IN BONDS, DEBENTURES OR
48 OTHER OBLIGATIONS ISSUED BY THE FEDERAL LAND BANKS, THE FEDERAL INTER-
49 MEDIATE CREDIT BANKS OR THE BANKS FOR COOPERATIVES.

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1 B. In addition to the provisions of subsection A of this section,
2 the governing body of a municipality may invest its surplus or idle funds
3 in United States treasury bills, notes or bonds which have a maturity
4 date of not more than one year from the date of investment and in
5 accounts of any savings and loan association insured by an agency of
6 the government of the United States, up to the amount of such insurance.

7 Sec. 3. Section 9-921, Arizona Revised Statutes, is amended to
8 read:

9 9-921. Powers and duties of the board; audit

10 A. The police pension board shall have exclusive control and
11 management of the police pension fund, subject to the provisions of
12 this article. It shall make rules, not inconsistent with the pro-
13 visions of this article, for its government, the conduct of its
14 proceedings and the management of the fund, and shall do all things
15 necessary to carry out the provisions of this article. It may compel
16 witnesses to attend hearings, or produce records and papers, and testify
17 with respect to applications for pensions, or upon any matter connected
18 with the fund, and any member of the board may administer oaths to such
19 witnesses.

20 B. The board may invest or reinvest, in the name of the board,
21 that portion of the fund which in its judgment is available for invest-
22 ment in such interest-bearing securities as follows:

- 23 1. Bonds of the United States.
- 24 2. Federal housing insured mortgage bonds of the United States.
- 25 3. ~~Federal land bank bonds.~~ BONDS, DEBENTURES OR OTHER OBLIGA-
26 TIONS ISSUED BY THE FEDERAL LAND BANKS, THE FEDERAL INTERMEDIATE CREDIT
27 BANKS OR THE BANKS FOR COOPERATIVES.
- 28 4. Any bonds upon which the payment of interest and principal
29 are guaranteed by the United States.
- 30 5. Bonds issued by any United States government instrumentality
31 or federal agency that qualify and are acceptable as security for
32 public funds of the United States government.
- 33 6. General obligation bonds of the state or of the counties,
34 incorporated cities and towns, and school districts thereof.
- 35 7. Revenue bonds of the incorporated cities and towns of
36 this state, board of regents of the university and state colleges
37 of Arizona, Arizona power authority, or any other legally consti-
38 tuted state authority or agency authorized by law to issue revenue
39 bonds, except revenue bonds for recreational purposes issued by
40 cities and towns.
- 41 8. Bonds of agricultural improvement districts and agricul-
42 tural improvement and power districts organized under the laws of this
43 state when issued or guaranteed, with the approval of the secretary of
44 the interior by corporations operating a United States reclamation
45 project within the state.
- 46 9. Bonds of incorporated cities or towns of this state issued
47 under the provisions of sections 9-692 through 9-707.
- 48 10. First lien bonds of sanitary districts issued pursuant to
49 article 1 of chapter 11, title 36.

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1 11. Registered warrants of the state, or registered county or
2 school district warrants when offered as security for monies of the
3 county or school district by which they are issued.

4 12. Interest bearing savings accounts or certificates of deposit
5 in banks doing business in this state whose accounts are insured by
6 the federal deposit insurance corporation, but only if such deposits
7 in excess of the insured amount are secured by the depository to the
8 same extent and in the same manner as required by the general depository
9 law of the state.

10 13. Interest bearing savings accounts or certificates of deposit
11 in savings and loan associations doing business in this state whose
12 accounts are insured by the federal savings and loan insurance corpora-
13 tion, but only if such deposits in excess of the insured amount are
14 secured by the depository to the same extent and in the same manner
15 as required by the general depository law of the state.

16 C. The board shall cause an annual audit and report of the
17 fund to be made by a certified public accountant, and shall also cause
18 actuarial studies of the fund to be made periodically, but not less than
19 once in each three years, by a qualified actuary who is a member of the
20 society of actuaries. The actuary shall make specific recommendations
21 as to the contributions to be made to the fund in accordance with the
22 provisions of paragraph 10, subsection A of section 9-923, in order to
23 maintain the fund on an actuarially sound basis.

24 Sec. 4. Section 15-1323, Arizona Revised Statutes, is amended
25 to read:

26 15-1323. Investment and reinvestment of sinking fund

27 A. The board of trustees of a school district, with the consent
28 of the board of supervisors, may invest and reinvest all money belonging
29 or credited to the district as a sinking fund. The investment shall be
30 made for the best interests of the district.

31 B. The funds may be invested and reinvested ~~under the authority~~
32 ~~of the farm credit act of 1923, or invested and reinvested~~ in any of the
33 following:

34 1. Bonds or other evidences of indebtedness of the United States
35 of America or any of its agencies or instrumentalities when such
36 obligations are guaranteed as to principal and interest by the United
37 States of America or by any agency or instrumentality thereof.

38 2. Bonds or other evidences of indebtedness of this state, or of
39 any of the counties or incorporated cities, towns, or duly organized
40 school districts of this state.

41 3. Bonds, notes or evidences of indebtedness of any county,
42 municipality, or municipal district utility within this state, which are
43 payable from revenues or earnings specifically pledged for the payment of
44 the principal and interest on such obligations, and for the payment of
45 which a lawful sinking fund or reserve fund has been established and is
46 being maintained, but only if no default in payment of principal or
47 interest on the obligations to be purchased has occurred within five
48 years of the date of investment therein, or, if such obligations were
49 issued less than five years prior to the date of investment, no default
50 in payment of principal or interest has occurred on the obligations to

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1 be purchased, nor on any other obligations of the issuer within five
2 years of such investment.

3 4. Bonds, notes or evidences of indebtedness issued by any municipal
4 improvement district in this state to finance local improvements authorized
5 by law, if the principal and interest of such obligations are payable from
6 assessments on real property within such local improvement district. No
7 such investment shall be made if the face value of all such obligations
8 and similar obligations outstanding, exceed fifty per cent of the market
9 value of the real property and improvements upon which such bonds or the
10 assessments for the payment of principal and interest thereon are liens
11 inferior only to the liens for general ad valorem property taxes. Such
12 investment shall be made only if no default in payment of principal or
13 interest on the obligations to be purchased has occurred within five years
14 of the date of investment therein, or, if such obligations were issued
15 less than five years prior to the date of investment, no default in
16 payment of principal or interest has occurred on the obligations to be
17 purchased, nor on any other obligation of the issuer within five years
18 of such investment.

19 5. Interest bearing saving accounts or certificates of deposit
20 insured in banks or savings and loan associations doing business in
21 Arizona by the federal deposit insurance corporation, or the federal
22 savings and loan insurance corporation, but only if they are secured by
23 the depository to the same extent and in the same manner as required by
24 the general depository law of the state. Security shall not be required
25 for that portion of any deposit that is insured under any law of the
26 United States.

27 6. BONDS, DEBENTURES OR OTHER OBLIGATIONS ISSUED BY THE FEDERAL
28 LAND BANKS, THE FEDERAL INTERMEDIATE CREDIT BANKS OR THE BANKS FOR
29 COOPERATIVES.

30 C. The purchase of the securities shall be made by the county
31 treasurer upon authority of a resolution of the board of trustees,
32 approved by the board of supervisors. The county treasurer shall be the
33 custodian of all securities so purchased. The bonds may be sold upon an
34 order of the board of trustees with the consent of the board of supervisors.

35 D. All money earned as interest or otherwise derived by virtue of
36 the provisions of this section shall be credited to the sinking fund.

37 Sec. 5. Section 20-537, Arizona Revised Statutes, is amended to
38 read:

39 20-537. United States obligations

40 An insurer may invest any of its funds in:

41 1. Bonds or other evidences of indebtedness of the United States
42 or any of its agencies or instrumentalities when such obligations are
43 guaranteed as to principal and interest by the United States or any agency
44 or instrumentality thereof.

45 2. Bonds or other evidences of indebtedness which are guaranteed
46 as to principal and interest by the United States or by any agency or
47 instrumentality thereof.

48 3. ~~Farm-loan Bonds, consolidated-farm-loan-bonds, debentures,-~~
49 ~~consolidated-debentures-and~~ OR other obligations issued by THE federal
50 land banks, ~~or~~-by THE federal intermediate credit banks ~~under-the-authority~~

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1 ~~of the federal farm loan act approved July 17, 1916, as now or hereafter~~
2 ~~amended (Title 12, U.S.G., sections 626-1012 and sections 1021-1129),~~
3 ~~and in bonds, debentures, consolidated debentures and other obligations~~
4 ~~issued by OR THE banks for cooperatives. under the authority of the~~
5 ~~farm credit act of 1933, as now or hereafter amended (Title 12, U.S.G.,~~
6 ~~sections 1131-1138F).~~

7 Sec. 6. Section 35-351, Arizona Revised Statutes, is amended to
8 read:

9 35-351. Investment of state permanent funds

10 The state treasurer, with the approval of the governor and secre-
11 tary of state, shall invest and reinvest monies of the permanent funds
12 of the state, or other monies authorized by law to be invested in secu-
13 rities as defined by law, in any of the following:

14 1. Bonds or other evidences of indebtedness of the United States
15 of America or any of its agencies or instrumentalities when such obliga-
16 tions are guaranteed as to principal and interest by the United States
17 of America or by any agency or instrumentality thereof.

18 2. Bonds or other evidences of indebtedness of this state or of
19 any of the counties or incorporated cities, towns or duly organized
20 school districts.

21 3. Bonds, notes or evidences of indebtedness of any county,
22 municipal or municipal district utility within this state which are pay-
23 able from revenues or earnings specifically pledged for the payment of
24 the principal and interest on such obligations, and for the payment of
25 which a lawful sinking fund or reserve fund has been established and is
26 being maintained, but only if no default in payment or principal or
27 interest on the obligations to be purchased has occurred within five
28 years of the date of investment therein, or, if such obligations were
29 issued less than five years prior to the date of investment, no default
30 in payment of principal or interest has occurred on the obligations to
31 be purchased nor on any other obligations of the issuer within five
32 years of such investment.

33 4. Bonds, notes or evidences of indebtedness issued by any munic-
34 ipal improvement district in this state to finance local improvements
35 authorized by law, if the principal and interest of such obligations are
36 payable from assessments on real property within such local improvement
37 district. No such investment shall be made if the face value of all
38 such obligations, and similar obligations outstanding, exceed fifty per
39 cent of the market value of the real property and improvements upon
40 which such bonds or the assessments for the payment of principal and
41 interest thereon are liens inferior only to the liens for general ad
42 valorem taxes. No such investment shall be made if a default in payment
43 of principal or interest on the obligations to be purchased has occurred
44 within five years of the date of investment therein, or, if such obliga-
45 tions were issued less than five years prior to the date of investment,
46 a default in payment of principal or interest has occurred on the obli-
47 gations to be purchased or on any other obligation of the issuer within
48 five years of such investment.

49 5. Interest bearing savings accounts or certificates of deposit
50 in banks doing business in this state whose accounts are insured by the

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1 federal deposit insurance corporation, but only if such deposits in
2 excess of the insured amount are secured by the depository to the same
3 extent and in the same manner as required by the general depository law
4 of the state.

5 6. Interest bearing savings accounts or certificates of deposit
6 in savings and loan associations doing business in this state whose
7 accounts are insured by the federal savings and loan insurance corpora-
8 tion, but only if such deposits in excess of the insured amount are
9 secured by the depository to the same extent and in the same manner as
10 required by the general depository law of the state.

11 7. BONDS, DEBENTURES OR OTHER OBLIGATIONS ISSUED BY THE FEDERAL
12 LAND BANKS, THE FEDERAL INTERMEDIATE CREDIT BANKS OR THE BANKS FOR
13 COOPERATIVES.

14 Sec. 7. Section 35-371, Arizona Revised Statutes, is amended to
15 read:

16 35-371. Investment of sinking fund

17 A. All sinking funds of the state, or a county, city, town or
18 school district, or hospital, irrigation or drainage districts organized
19 as provided by law, may be invested and reinvested by the governing body
20 or officer in charge of such sinking funds. The investment shall be
21 made for the best interests of the political subdivision.

22 B. The funds may be invested or reinvested ~~under the authority of~~
23 ~~the Farm Credit Act of 1933, or invested or reinvested~~ in any of the
24 following:

25 1. Bonds or other evidences of indebtedness of the United States
26 of America or any of its agencies or instrumentalities when such obliga-
27 tions are guaranteed as to principal and interest by the United States
28 of America or by any agency or instrumentality thereof.

29 2. Bonds or other evidences of indebtedness of this state, or of
30 any of the counties or incorporated cities, towns, or duly organized
31 school districts of this state.

32 3. Bonds, notes or evidences of indebtedness of any county,
33 municipality, or municipal district utility within this state, which are
34 payable from revenues or earnings specifically pledged for the payment
35 of the principal and interest on such obligations, and for the payment
36 of which a lawful sinking fund or reserve fund has been established and
37 is being maintained, but only if no default in payment of principal or
38 interest on the obligations to be purchased has occurred within five
39 years of the date of investment therein, or, if such obligations were
40 issued less than five years prior to the date of investment, no default
41 in payment of principal or interest has occurred on the obligations to
42 be purchased, nor on any other obligations of the issuer within five
43 years of such investment.

44 4. Bonds, notes or evidences of indebtedness issued by any munic-
45 ipal improvement district in this state to finance local improvements
46 authorized by law, if the principal and interest of such obligations are
47 payable from assessments on real property within such local improvement
48 district. No such investment shall be made if the face value of all
49 such obligations, and similar obligations outstanding, exceed fifty per-
50 cent of the market value of the real property and improvements upon

1 which such bonds or the assessments for the payment of principal and
2 interest thereon are liens inferior only to the liens for general ad
3 valorem property taxes. Such investment shall be made only if no
4 default in payment of principal or interest on the obligations to be
5 purchased has occurred within five years of the date of investment
6 therein, or, if such obligations were issued less than five years prior
7 to the date of investment, no default in payment of principal or inter-
8 est has occurred on the obligations to be purchased, nor on any other
9 obligation of the issuer within five years of such investment.

10 5. Interest bearing saving accounts or certificates of deposit
11 insured in banks or savings and loan associations doing business in
12 Arizona by the federal deposit insurance corporation, or the federal
13 savings and loan insurance corporation, but only if they are secured by
14 the depository to the same extent and in the same manner as required by
15 the general depository law of the state. Security shall not be required
16 for that portion of any deposit that is insured under any law of the
17 United States.

18 6. BONDS, DEBENTURES OR OTHER OBLIGATIONS ISSUED BY THE FEDERAL
19 LAND BANKS, THE FEDERAL INTERMEDIATE CREDIT BANKS OR THE BANKS FOR
20 COOPERATIVES.

21 Sec. 8. Section 38-757, Arizona Revised Statutes, is amended to
22 read:

23 38-757. Financing of retirement system; investment
24 of funds; limitations

25 A. The investment management after investigation and study, shall
26 determine the method of financing the retirement system established by
27 this article to insure the greatest return commensurate with sound finan-
28 cing policy and adequate safety. The investment management may invest
29 and reinvest the monies in its accounts as authorized by this section
30 and may hold, purchase, sell, assign, transfer and dispose of any of the
31 securities and investments in which any of the monies of its accounts are
32 invested, and, upon such sale, the proceeds thereof shall be redeposited
33 in the system's depository subject to reinvestment.

34 B. Investment management may invest and reinvest the monies
35 directed to it as follows:

36 1. Bonds or other evidences of indebtedness of the United States
37 of America or any of its agencies or instrumentalities when such obliga-
38 tions are guaranteed as to principal and interest by the United States
39 of America or by any agency or instrumentality thereof.

40 2. Bonds or other evidences of indebtedness of any state of the
41 United States, or of any of the counties or incorporated cities, towns
42 or duly organized school districts of any state or territory of the
43 United States.

44 3. Bonds, notes or evidences of indebtedness of any county,
45 municipal or municipal district utility within the United States, which
46 are payable from revenues or earnings specifically pledged for the pay-
47 ment of the principal and interest on such obligations, and for the pay-
48 ment of which a lawful sinking fund or reserve fund has been established
49 and is being maintained, but only if no default in payment or principal
50 or interest on the obligations to be purchased has occurred within five

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1 years of the date of investment therein, or, if such obligations were
2 issued less than five years prior to the date of investment, no default
3 in payment of principal or interest has occurred on the obligations to
4 be purchased nor on any other obligations of the issuer within five years
5 of such investment.

6 4. Bonds, notes or evidences of indebtedness issued by any muni-
7 cipal improvement district in this or any other state to finance local
8 improvements authorized by law, if the principal and interest of such
9 obligations are payable from assessments on real property within such
10 local improvement district. No such investment shall be made unless the
11 face value of all such obligations, and similar obligations outstanding,
12 do not exceed fifty per cent of the market value of the real property
13 and improvements upon which such bonds or the assessments for the pay-
14 ment of principal and interest thereon are liens inferior only to the
15 liens for general ad valorem property taxes. No such investment shall
16 be made unless no default in payment of principal or interest on the
17 obligations to be purchased has occurred within five years of the date
18 of investment therein, or, if such obligations were issued less than
19 five years prior to the date of investment, no default in payment of
20 principal or interest has occurred on the obligations to be purchased
21 or on any other obligation of the issuer within five years of such invest-
22 ment.

23 5. (a) Bonds, debentures, notes and other evidences of indebted-
24 ness issued, assumed or guaranteed by any solvent institution created
25 or existing under the laws of the United States or of any state, district
26 or territory thereof, which are not in default as to principal or in-
27 terest and which are secured by collateral worth at least fifty per cent
28 more than the par value of the entire issue of such obligations, but only
29 if not more than one third of the total value of such required collateral
30 shall consist of common stock.

31 (b) Fixed interest bearing obligations which are not in default
32 as to principal or interest, other than those described in subdivision (a)
33 above, of such institutions if the net earnings of the issuing, assuming
34 or guaranteeing institution available for its fixed charges for a period
35 of five fiscal years next preceding the date of investment therein have
36 averaged per year not less than one and one-half times its average annual
37 fixed charges applicable to such period and if during either of the last
38 two years of such period such net earnings have been not less than one
39 and one-half times its fixed charges for such year.

40 6. Equipment trust obligations or certificates which in the
41 opinion of the investment management are adequately secured, or other
42 instruments so secured and evidencing an interest in transportation
43 equipment, wholly or in part within the United States, which carry the
44 right to receive determined portions of rental, purchase or other fixed
45 obligatory payments to be made for the use or purchase of such transpor-
46 tation equipment.

47 7. Preferred or guaranteed stock or shares of any solvent insti-
48 tution created or existing under the laws of the United States or of any
49 state, district or territory thereof, if all of the prior obligations and
50 prior preferred stocks, if any, of such institution at the date of acqui-
51 sition are eligible as investments under this subsection and if the net

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1 earnings of such institution available for its fixed charges during
2 either of the last two years shall have been, and during each of the
3 last five years shall have averaged not less than one and one-half times
4 the sum of its average annual fixed charges, if any, its average annual
5 maximum contingent interest, if any, and its average annual preferred
6 dividend requirements. For the purposes of this paragraph, such computa-
7 tion shall refer to the fiscal years immediately preceding the date of
8 acquisition, and the term "preferred dividend requirement" shall be
9 deemed to mean cumulative or noncumulative dividends, whether paid or
10 not. The retirement system shall not invest more than four per cent
11 of its assets in the preferred stock of any one issuing company, nor
12 shall the aggregate of its investments under this paragraph exceed
13 twenty per cent of its assets.

14 8. Nonassessable, except for taxes or wages, common stocks or
15 shares of any solvent institution, created or existing under the laws of
16 the United States or of any state, district or territory thereof if all
17 the obligations and preferred stock, if any, of such institution are
18 eligible as investments under the provisions of this subsection, and if
19 such institution has earned, during a period of five fiscal years next
20 preceding the date of acquisition, an aggregate sum applicable to divi-
21 dends on its common shares equal at least to an aggregate sum which would
22 have been sufficient to pay dividends of four per cent per annum on the
23 par value, or in the case of shares having no par value, then upon the
24 value upon which those shares were issued, of all its common shares out-
25 standing during such period. The retirement system shall not, however,
26 invest more than four per cent of its assets in the common stock or
27 capital stock of any one issuing company, nor shall the aggregate of its
28 investments under the provisions of this paragraph, at a cost not to
29 exceed sixty per cent of its assets.

30 9. Term contracts of sale and lease purchase agreements issued,
31 agreed to or entered into by the federal government or any agency thereof
32 or by the state or any department, agency or duly constituted authority
33 of the state or a political subdivision thereof authorized by law to
34 enter into contracts and agreements for the acquisition of lands and
35 improvements thereon for public use, provided that such investments shall
36 be repaid to the system at the prevailing rate of interest for private
37 investments of a similar nature and that each such investment made by
38 the investment management does not exceed ninety per cent of the ap-
39 praised valuation of the property securing the investment loan.

40 10. Interest bearing savings accounts or certificates of deposit
41 in banks doing business in this state whose accounts are insured by the
42 Federal Deposit Insurance Corporation, but only if such deposits in
43 excess of the insured amount are secured by the depository to the same
44 extent and in the same manner as required by the general depository law
45 of the state.

46 11. Interest bearing savings accounts or certificates of deposit
47 in savings and loan associations doing business in this state, whose
48 accounts are insured by the Federal Savings and Loan Insurance Corpora-
49 tion, but only if such deposits in excess of the insured amount are
50 secured by the depository to the same extent and in the same manner as
51 required by the general depository law of the state.

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1 12. Bonds, notes or other evidences of indebtedness which are
2 secured by first mortgages upon improved unencumbered real property
3 located in Arizona, but only upon condition that:

4 (a) No such mortgage loan acquired on any one property shall,
5 at the time of investment by the investment management, exceed seventy-
6 five per cent of the value of the real property securing the same, except
7 that such loan may equal the amount of any guaranty by the United States
8 of America or by any agency or instrumentality of the United States of
9 America.

10 (b) Each such mortgage loan shall provide for amortization pay-
11 ments to be made by the borrower on the principal thereof at least quar-
12 terly in each year in amounts sufficient to completely amortize the loan
13 within a period of twenty-five years, except that in the case of loans
14 guaranteed or insured by the United States of America or by any agency
15 or instrumentality of the United States of America, the amortization
16 schedule may not exceed that permitted by such guaranteed or insured loan.

17 (c) The value of the real property securing such mortgage loan
18 shall be as determined by an appraisal made by an accredited member of
19 a nationally recognized Real Estate appraisal organization and no such
20 mortgage loan shall be acquired except after such appraisal, except that
21 in the case of loans guaranteed or insured by the United States of
22 America or by any agency or instrumentality of the United States of
23 America, the value of the real property receiving such loan shall be as
24 determined by an appraiser approved by the guaranteeing or insuring
25 agency.

26 (d) No mortgage loan shall be originated or serviced by the
27 system but shall be acquired from and serviced by an approved mortgagee
28 or the federal housing administration doing business in Arizona.

29 (e) The aggregate of its investments under the provisions of this
30 paragraph shall not, at cost, exceed forty per cent of its assets.

31 13. In mutual funds, insurance company investment funds, commer-
32 cial paper and banker's acceptance. For the purpose of this paragraph:

33 (a) "Banker's acceptance" is a written unconditional order in the
34 form of a draft drawn on a bank for a period not to exceed one hundred
35 eighty days, requiring the bank to pay on demand a specified amount
36 which, when accepted by the bank, becomes the bank's promise to pay.

37 (b) "Commercial paper" means negotiable short-term promissory
38 notes issued by a well known corporation borrower for any term up to two
39 hundred seventy days.

40 (c) "Mutual fund" means an open end investment company managing a
41 diversified portfolio in accordance with specified investment objectives.
42 Such company offers and has outstanding redeemable securities of which
43 it is the issuer. Seventy-five per cent of the assets of such mutual
44 fund shall be so invested that:

45 (i) Not more than five per cent of its assets is invested in any
46 one corporation.

47 (ii) Not more than ten per cent of the voting securities of any
48 corporation may be held by the mutual fund.

49 14. BONDS, DEBENTURES OR OTHER OBLIGATIONS ISSUED BY THE FEDERAL
50 LAND BANKS, THE FEDERAL INTERMEDIATE CREDIT BANKS OR THE BANKS FOR
51 COOPERATIVES.

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1 C. The system shall not have at any time any combination of invest-
2 ments in any one institution, agency, corporation or political subdivi-
3 sion aggregating an amount exceeding seven per cent of the assets of the
4 retirement system, nor shall the system have any combination of equity
5 investments in any one industry exceeding fifteen per cent, excepting
6 electric and gas utilities, telephone communications, banking, finance
7 and insurance industries. In such excepted industries, the system shall
8 not have a combination of equity investments exceeding twenty-five per
9 cent in any one, nor collectively more than sixty per cent, of the total
10 equity assets of the retirement system. The latter percentages shall be
11 measured by cost or carrying value in the portfolio. This restriction
12 shall not apply to investments in general obligations of the United
13 States of America.

Approved by the Governor - May 13, 1975

Filed in the Office of the Secretary of State - May 13, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 38

SENATE BILL 1048

AN ACT

RELATING TO AMUSEMENTS AND SPORTS; PROVIDING FOR REGISTERING AND NUMBERING OF WATERCRAFT; PROVIDING FOR LOAD CAPACITY PLATE FOR WATERCRAFT TWENTY FEET AND UNDER IN LENGTH; PROVIDING FOR REPORTING OF WATERCRAFT COLLISION, ACCIDENT OR OTHER CASUALTY, AND AMENDING SECTIONS 5-321, 5-322, 5-344 AND 5-349, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 5-321, Arizona Revised Statutes, is amended to
3 read:

4 5-321. Numbering; license tax; procedures; fees
5 A. The owner of each watercraft requiring numbering by this state
6 shall file an application for a registration number with the department,
7 or its agent, on forms approved by it. The application shall be signed
8 by the owner of the watercraft and shall be accompanied by the fee of
9 two dollars in addition to the license tax which shall be levied at the
10 rate of twenty-five cents per foot of length or fraction thereof of each
11 watercraft up to and including eighteen feet and fifty cents per foot of
12 length for each foot or fraction thereof over eighteen feet except as
13 provided in section 5-322. The length of the watercraft shall be measured
14 from the forward most part of the bow excluding bow sprit or jib boom,
15 over the centerline to the rear-most part of the transom excluding sheer,
16 outboard motor, rudder, handles or other attachments. Upon receipt of the
17 application in approved form, the department shall enter the same upon
18 the records of its office and issue to the applicant two current annual
19 decals and a certificate of number stating the number issued to the water-
20 craft and the name and address of the owner. The owner shall paint on or
21 attach to each side of the bow of the watercraft the assigned number and
22 the current annual decal in such manner as may be prescribed by rules and
23 regulations of the commission in order that it may be clearly visible.

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1 The number and decals shall be maintained in legible condition. The
2 certificate of number shall be pocket size and, as otherwise provided
3 in section 5-371, shall be available at all times for inspection on the
4 watercraft for which issued whenever such watercraft is in operation.
5 No number other than the number issued to a watercraft unless granted
6 exemption or exception pursuant to this chapter shall be painted, attached
7 or otherwise displayed on the forward half of such watercraft.

8 B. In the event numbering of a watercraft not previously numbered
9 in the state is made after the beginning of the registration year, the
10 license tax for such year on such watercraft shall be reduced by one-
11 twelfth for each full month of the registration year already expired,
12 but the owner thereof shall pay the full registration fee.

13 C. No watercraft for which a numbering certificate is required
14 shall be purchased, sold or otherwise transferred without assignment
15 by the owner of the current numbering certificate. Within ~~thirty~~
16 FIFTEEN days after such assignment, the person to whom such assignment
17 is made shall MAKE sign-a-new application TO THE DEPARTMENT TO ~~form and~~
18 have the watercraft registered in his name by the department, for which
19 the department shall charge a transfer fee of two dollars. PERSONS
20 DOING BUSINESS AS MARINE DEALERS AND LICENSED AS SUCH BY THIS STATE ARE
21 NOT REQUIRED TO REGISTER IN THEIR NAME ANY WATERCRAFT IN THEIR POSSESSION
22 THAT MAY BE OFFERED FOR RESALE.

23 D. In the event of the loss or destruction of the certificate of
24 number, the department shall issue a duplicate thereof to the owner upon
25 payment of a fee of one dollar.

26 E. The department may issue any certificate of number directly or
27 may authorize any person to act as agent for the issuance thereof in con-
28 formity with this chapter and with any rules and regulations of the com-
29 mission.

30 F. All certificates of number shall expire on December 31 of each
31 year and shall be renewed before March 1 following the day of expiration.

32 G. Every certificate of number awarded pursuant to this chapter
33 shall continue in full force and effect for the calendar year for which
34 it was issued unless sooner terminated or discontinued in accordance with
35 the provisions of this chapter.

36 H. The owner shall furnish the department notice of the transfer
37 of all or any part of his interest other than the creation of a security
38 interest in a watercraft numbered in this state pursuant to the provisions
39 of this chapter or of the destruction or abandonment of such watercraft,
40 within FIFTEEN ~~thirty~~ days thereof. Such transfer, destruction or abandon-
41 ment shall terminate the certificate of number of such watercraft, except
42 that in the case of a transfer of a part interest which does not affect
43 the owner's right to operate such watercraft, the transfer shall not
44 terminate the certificate of number.

45 I. Any holder of a certificate of number shall notify the depart-
46 ment within fifteen days, if his address no longer conforms to the address
47 appearing on the certificate and shall, as a part of such notification,
48 furnish the department with his new address. The commission may provide
49 in its rules and regulations for the surrender of the certificate bearing
50 the former address and its replacement with a certificate bearing the new
51 address or the alteration of an outstanding certificate to show the new
52 address of the holder.

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1 J. All records of the department made or kept pursuant to this
2 section shall be public records.

3 Sec. 2. Section 5-322, Arizona Revised Statutes, is amended
4 to read:

5 5-322. Watercraft to be numbered; exemptions; exceptions

6 A. All undocumented watercraft whether underway, moored or anchored
7 on the waters within the boundaries of the state shall be numbered in
8 accordance with this chapter or by rules and regulations of the commission
9 in accordance with the federally approved numbering system except:

10 1. Foreign watercraft temporarily using the waters of the state.

11 2. Military or public vessels of the United States, except recrea-
12 tional type public vessels.

13 3. Watercraft used solely as life boats.

14 4. Undocumented watercraft operating under a valid temporary
15 certificate issued pursuant to the regulations prescribed by the commission.
16 B. Watercraft owned and operated exclusively by the state or by any
17 political subdivision thereof shall be numbered, but no tax or registra-
18 tion fee shall be paid thereon.

19 C. All nonresident owners of watercraft when in the course of inter-
20 state operation displaying a current and valid number issued under an
21 approved federal numbering system of the United States coast guard, a state,
22 the commonwealth of Puerto Rico, the Virgin Islands, Guam or the District
23 of Columbia shall register such watercraft with the department prior to the
24 expiration of the reciprocity period prescribed by the regulations of the
25 commission.

26 D. All nonresident-owned watercraft, when in the course of inter-
27 state operation and not required to be numbered in their state of principal
28 use, shall comply with the requirements of subsection C of this section.

29 E. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, any person
30 who is a resident of this state and is the owner of a watercraft shall
31 number such watercraft pursuant to section 5-321 prior to operating such
32 watercraft on the waterways of the state.

33 F. WHEN THIS STATE BECOMES THE NEW STATE OF PRINCIPAL USE OF A
34 WATERCRAFT DISPLAYING A CURRENT NUMBER ISSUED UNDER A FEDERALLY APPROVED
35 NUMBERING SYSTEM, THE VALIDITY OF SUCH NUMBER SHALL BE RECOGNIZED FOR A
36 PERIOD OF NINETY DAYS. UPON EXPIRATION OF THE NINETY-DAY PERIOD AND
37 PRIOR TO ANY SUBSEQUENT USE, THE OWNER SHALL NUMBER THE WATERCRAFT PUR-
38 SUANT TO SECTION 5-321.

39 F. G. Each dealer or manufacturer in this state engaged in the
40 sale of watercraft using such watercraft for demonstration shall obtain
41 one or more dealer watercraft certificates of number with the current
42 validating decals. Applications, renewal and display of certificates
43 of number shall be as prescribed in this chapter or by regulations of
44 the commission, except that the annual fee will be two dollars fifty
45 cents for each certificate of number and accompanying current decals.

46 G. H. Owners of commercial watercraft not exempted from the ad
47 valorem property taxes under the provisions of article 9, section 16
48 of the Arizona Constitution shall be exempt from the lieu tax require-
49 ments of section 5-321 this chapter.

50 Sec. 3. Section 5-344, Arizona Revised Statutes, is amended to
51 read:

1 5-344. Overloading

2 A. No watercraft shall be loaded and operated with passengers or
3 cargo beyond its safe carrying capacity or the limitations on the manu-
4 facturer's load capacity plate.

5 B. All new watercraft ~~under twenty-six~~ TWENTY feet in length, AND
6 UNDER designed to carry two or more persons and to be propelled by
7 machinery or oars, offered for sale or manufactured in the state after
8 January 1, 1971, shall have affixed permanently thereto a manufacturer's
9 load capacity plate in a location easily observed from the position de-
10 signed or intended to be occupied by the operator. Canoes and sailboats
11 shall be exempt from the provisions of this section.

12 C. The load capacity plate shall be certified by a licensed manu-
13 facturer, ~~outboard-boating-club-of-America, boating-industry-association~~
14 or the United States coast guard.

15 Sec. 4. Section 5-349, Arizona Revised Statutes, is amended to
16 read:

17 5-349. Watercraft casualties

18 A. The operator of a watercraft involved in a collision, accident
19 or other casualty shall, to the extent he can do so without serious danger
20 to his own watercraft or persons aboard, render all practical and necessary
21 assistance to persons affected to save them from danger caused by the
22 collision, accident or casualty. He shall also give his name, address
23 and the identification of his watercraft to any person injured and to the
24 owners of any property damaged.

25 B. Whenever death OR INJURY results from a watercraft collision,
26 accident or other casualty, a written report shall be submitted within
27 forty-eight hours. For every other collision, accident or other casualty
28 involving property damage, ~~or injury~~, such report shall be submitted
29 within five days after such incident by the operator or owner of the
30 watercraft involved. Such written reports shall be submitted directly
31 to the department for use in statistical studies for casualty prevention.
32 Such reports shall not be used as evidence in any trial, civil or criminal,
33 arising from a collision, accident or other casualty. Upon request such
34 report shall be forwarded to the United States Coast Guard or other autho-
35 rized federal agency to be used in statistical studies for casualty pre-
36 vention.

37 C. To maintain uniformity, watercraft casualty reports shall be
38 on a form approved by the commission.

39 D. Every peace officer who, in the regular course of duty, inves-
40 tigate a watercraft collision, accident or other casualty shall prepare
41 and transmit a report to the department pursuant to subsection B of this
42 section.

Approved by the Governor - May 13, 1975

Filed in the Office of the Secretary of State - May 13, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 39

HOUSE BILL 2368

AN ACT

RELATING TO CITIES AND TOWNS; REMOVING LIBRARIAN RESIDENCY REQUIREMENT, AND
AMENDING SECTION 9-415, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 9-415, Arizona Revised Statutes, is amended
3 to read:

4 9-415. Trustees; organization; appointment of librarian

5 A. The trustees shall have charge of the library and all library
6 property. They shall meet for business purposes on the first Tuesday
7 of each month, and at such other times as they shall appoint, at a
8 place to be provided for the purpose. They may elect from their body
9 a president and secretary, and may adopt an official seal. The secretary
10 shall keep a full statement and account of all property, receipts and
11 expenditures, and a record of the proceedings of the board.

12 B. The trustees may appoint a librarian. ~~who shall be a~~
13 ~~resident of the city or town.~~

Approved by the Governor - May 14, 1975

Filed in the Office of the Secretary of State - May 14, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 40

HOUSE BILL 2090

AN ACT

RELATING TO TRANSPORTATION; PROVIDING FOR THE ADOPTION OF A DIRECTOR'S SEAL OF OFFICE AND THE AUTHENTICATION OF DEPARTMENT RECORDS, AND AMENDING TITLE 28, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-110.01.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 28, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 28-110.01, to read:
4 28-110.01. Director's seal; authentication of records
5 A. THE DIRECTOR SHALL ADOPT A SEAL OF OFFICE WHICH SHALL
6 BE USED TO AUTHENTICATE RECORDS, AND COPIES OF SUCH RECORDS, RE-
7 QUIRED TO BE MADE AND KEPT BY THE DEPARTMENT.
8 B. EACH ASSISTANT DIRECTOR SHALL USE THE DIRECTOR'S SEAL
9 TO AUTHENTICATE RECORDS REQUIRED TO BE MADE AND KEPT WITHIN THE
10 DIVISION DIRECTED BY SUCH ASSISTANT DIRECTOR.
11 C. SUCH AUTHENTICATED RECORDS, OR AUTHENTICATED COPIES
12 THEREOF, SHALL BE RECEIVED IN EVIDENCE WITHOUT FURTHER PROOF OF
13 THEIR AUTHENTICITY.

Approved by the Governor - May 14, 1975

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 41
HOUSE BILL 2192

AN ACT

RELATING TO TRANSPORTATION; PRESCRIBING GROSS WEIGHT FEES ON COMMERCIAL VEHICLES; PROVIDING FOR AN EXEMPTION, AND AMENDING SECTION 28-206, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-206, Arizona Revised Statutes, is amended
3 to read:

4 28-206. Gross weight fees on commercial vehicles

5 A. In addition to the registration fee required, there shall be
6 paid to the vehicle division at the time of application for registration
7 of any motor vehicle or vehicle combination, designed, used or maintained
8 primarily for the transportation of passengers for compensation or for
9 transportation of property including hearses, ambulances and other
10 vehicles used by a mortician in the conduct of his business, a fee pre-
11 scribed for the declared gross weight of the motor vehicle or vehicle
12 combination, according to the following table:

13			Weight fee
14	Gross vehicle weight (pounds)	1974 weight fee	Beginning 1975
15			
16	up to 8,000	\$ 5.00	\$ 5.00
17	8,001 to 10,000	20.00	24.00
18	10,001 to 12,000	35.00	42.00
19	12,001 to 14,000	57.00	69.00
20	14,001 to 16,000	67.00	81.00
21	16,001 to 18,000	80.00	96.00
22	18,001 to 20,000	90.00	108.00
23	20,001 to 22,000	110.00	132.00
24	22,001 to 24,000	120.00	144.00
25	24,001 to 26,000	130.00	156.00
26	26,001 to 28,000	160.00	192.00
27	28,001 to 30,000	180.00	216.00
28	30,001 to 32,000	210.00	252.00

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	Gross vehicle weight (pounds)	1974 weight fee	Weight fee Beginning 1975
1			
2			
3			
4	32,001 to 36,000	\$230.00	\$276.00
5	36,001 to 40,000	260.00	312.00
6	40,001 to 45,000	290.00	348.00
7	45,001 to 50,000	320.00	384.00
8	50,001 to 55,000	350.00	420.00
9	55,001 to 60,000	380.00	456.00
10	60,001 to 65,000	410.00	492.00
11	65,001 to 70,000	440.00	528.00
12	70,001 to 75,000	480.00	576.00
13	75,001 to 80,000	510.00	612.00
14	80,001 and over	7.10 per 1000 lbs.	8.50 per 1000 lbs.

15 B. In addition to the gross weight fee and the registration fee
 16 required, a fee of twenty-seven dollars shall be paid at the time of
 17 application for registration of each trailer or semitrailer which exceeds
 18 ten thousand pounds gross vehicle weight, when such trailer or semitrailer
 19 is operated in combination with a motor vehicle which has paid a weight
 20 fee based on the gross weight of the vehicle combination. When a trailer
 21 or semitrailer is towed by a motor vehicle which has paid a weight fee
 22 based on the gross weight of the towing motor vehicle only, a separate
 23 weight fee shall be paid based on the declared gross weight of the
 24 trailer or semitrailer in accordance with the fee schedule set forth in
 25 subsection A of this section.

26 C. In this section, unless the context otherwise requires:

27 1. "Declared gross weight" means the gross weight in pounds
 28 ascribed to a motor vehicle or vehicle combination by the applicant
 29 for registration.

30 2. "Gross weight" means the sum of the empty weight in pounds of
 31 a motor vehicle combination plus the weight in pounds of the maximum
 32 load to be carried thereon at any one time, except in the case of
 33 vehicles used primarily for the transportation of passengers the gross
 34 weight shall be the sum of the empty weight plus one hundred fifty
 35 pounds per seat for all seats, including the weight in pounds of normal
 36 operation supplies, equipment and accessories.

37 3. "Vehicle combination" means a motor vehicle and the trailers
 38 and semitrailers which it tows.

39 D. Upon any registration issued after the beginning of the regis-
 40 tration year, the weight fees prescribed in this section shall be reduced
 41 by twenty-five per cent for each quarter of the year which has elapsed
 42 since the beginning of the registration year.

43 E. The declared gross weight of a vehicle or vehicle combination
 44 may be increased during the registration year, after the original regis-
 45 tration, by reregistration of the vehicle or vehicle combination. Payment
 46 of an additional fee shall be made based upon the difference between the
 47 fee due at the time of reregistration for the weight class in which the
 48 vehicle or vehicle combination was originally registered and the fee
 49 due at the time of reregistration for the increased weight class. If
 50 during any registration year the declared gross weight of a vehicle or

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1 vehicle combination is reduced, there shall be no reduction or refund
2 allowable for any part of the original weight fee previously paid.

3 F. Any vehicle or vehicle combination being operated under a
4 special permit allowing excess weight pursuant to section 28-1011 shall
5 not be required to declare an increased gross weight nor pay a fee
6 ascribed to such increased gross weight pursuant to this section.

7 G. The fact that a vehicle or vehicle combination may be regis-
8 tered for a declared gross weight in excess of that permissible under
9 section 28-1009 shall be no defense in a prosecution for violation of
10 section 28-1009. No allowance or refund shall be made for fees paid
11 with respect to such excess gross weight.

12 H. Any person who operates, or causes, permits or authorizes to
13 be operated upon the public highways of this state, any vehicle singly
14 or in a vehicle combination, with a gross weight in excess of the
15 vehicle or vehicle combinations declared gross weight shall be guilty
16 of a misdemeanor. In addition, such person shall be deemed to have set
17 a new declared gross weight for such vehicle and shall be required to
18 reregister the vehicle or vehicle combination and pay a fee for the new
19 gross weight or the maximum gross weight allowed by law, whichever is
20 lower, without any allowance or reduction in such fee as provided for
21 in subsections D and E of this section.

22 I. The provisions of this section shall not apply to vehicles
23 commonly referred to as station wagons or to vehicles commonly known
24 as and referred to by manufacturer's rating as one-half ton or less
25 pickup trucks, except those station wagons and one-half ton pickup
26 trucks maintained and operated for the transportation of passengers
27 for compensation or for transportation of property in the furtherance
28 of a commercial enterprise.

29 J. THE FEES IMPOSED BY THIS SECTION SHALL NOT APPLY TO TRAILERS
30 WITH A DECLARED GROSS VEHICLE WEIGHT OF LESS THAN SIX THOUSAND POUNDS,
31 PROVIDED SUCH TRAILERS ARE NOT USED IN THE FURTHERANCE OF A COMMERCIAL
32 ENTERPRISE.

Approved by the Governor - May 14, 1975

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 42

HOUSE BILL 2243

AN ACT

RELATING TO PUBLIC LANDS; PROVIDING AN EXCEPTION TO THE REQUIREMENT THAT STATE LANDS BE EXCHANGED IN SAME COUNTY AS LANDS OFFERED THE STATE, AND AMENDING SECTION 37-604, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 37-604, Arizona Revised Statutes, is amended
3 to read:
4 37-604. Exchange of state land; procedure; limitation
5 and exceptions
6 A. The state land department and selection board, for reasons
7 of proper management, control, protection, or public use of state
8 lands, may exchange state lands managed by the state land department
9 for any other land within the state. The exchange may be made for
10 land owned or held by the United States or agency thereof, other
11 state agencies, counties, municipalities and privately owned lands.
12 B. The state land department shall promulgate rules and regu-
13 lations governing application and procedure for exchange of state
14 land. Such rules and regulations shall include the following require-
15 ments:
16 1. The application shall include:
17 (a) The name, age, residence of the applicant.
18 (b) A description of all lands sought to be exchanged.
19 (c) A list of permanent improvements on the lands to be
20 exchanged.
21 (d) Any lease-hold interest in the land to be exchanged.
22 (e) Accompanying agreements, if any, with the lease-holder or
23 owner of improvements on the lands to be exchanged.
24 2. An application fee shall be paid in the amount of fifty
25 dollars, plus a one hundred fifty dollar appraisal fee, if required.

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1 3. An application initiated by a private owner shall be accom-
2 panied by a deposit equal to the estimated cost of appraising the value
3 of the privately owned property to be exchanged.

4 4. Such additional requirements may be imposed as the state
5 land department from time to time determines to be necessary.

6 C. The exchange of state lands shall be subject to the following
7 requirements:

8 1. All lands exchanged shall be of substantially equal value.

9 2. No county or municipality may be permitted to select lands
10 in another county or municipality.

11 3. State lands known to contain oil, gases and other hydrocarbon
12 substances, coal or stone, metals, minerals, fossils and fertilizer of
13 every name and description, in paying quantities, or uranium, thorium,
14 or any other material, which is or may be determined by the laws of the
15 state, the United States, or competent judicial decision of federal or
16 Arizona state court to be peculiarly essential to the production of
17 fissionable materials, whether or not of commercial value, and state
18 lands adjoining lands upon which there are producing mines, oil or
19 gas wells, or adjoining lands known to contain any of such substances,
20 minerals or metals in paying quantities, or uranium, thorium, or any
21 other material peculiarly essential to the production of fissionable
22 materials, whether or not of commercial value, shall not be exchanged.

23 4. All state lands offered for trade pursuant to this section
24 must be located in the same county as the lands offered to the state;
25 PROVIDING, HOWEVER, THAT UNTIL JUNE 30, 1986, LANDS AT AN ELEVATION
26 OF EIGHT THOUSAND FEET OR MORE ABOVE SEA LEVEL, WHICH ARE LOCATED IN
27 COCONINO COUNTY, SHALL BE EXEMPTED FROM THIS REQUIREMENT IF THE BOARD
28 OF SUPERVISORS OF THE COUNTY IN WHICH LANDS ARE TO BE EXCHANGED FOR
29 COCONINO COUNTY LANDS GIVE THEIR PRIOR APPROVAL.

30 5. Prior to any public notice of a proposed exchange of state
31 lands for privately owned lands, the state land department and selec-
32 tion board shall give thirty days notice in writing, to other inter-
33 ested state agencies, counties, municipalities, and lease-holders on
34 such lands that are or may be affected by the trade.

35 6. Before any state land may be considered for exchange under
36 the provisions of this article, the land shall be classified as
37 suitable for such purposes in accordance with the provisions of section
38 37-212.

39 7. Any person adversely affected by such decision may appeal
40 from the decision as provided in section 37-214.

41 8. If in any single transaction, the total area of state lands
42 to be exchanged is less than five acres and its value, as computed
43 pursuant to section 37-607, is less than twenty thousand dollars, the
44 state land department shall publish notice of said proposed exchange
45 in the same manner and places as is required for the sale of state
46 lands pursuant to section 37-237, which notice shall contain descrip-
47 tions of the properties involved, together with other pertinent terms
48 and conditions of the exchange. Any person residing in the county in
49 which state owned land to be exchanged is located may, within ten days
50 of the date of final publication of notice as provided herein, file a
51 written protest of the exchange at the state land department offices
52 at the state capitol upon forms provided by the state land department.

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1 Upon receipt of such a protest to a contemplated exchange pursuant
2 to this section, the state land commissioner shall, not later than
3 thirty days after receipt of the protest, hold a public hearing at the
4 county seat of the county in which the state lands proposed to be
5 exchanged are located to hear any and all matters properly subject to
6 the proposed exchange. Notice of the public hearing shall be mailed
7 to all protestants and published one time prior to the date of the
8 hearing in the same newspapers used to publish notice of the proposed
9 exchange.

10 9. If, in any single transaction, the total area of state lands
11 to be exchanged is equal to or greater than five acres or its value,
12 as computed pursuant to section 37-607, is equal to twenty thousand
13 dollars or more, the state land department shall publish notice of said
14 proposed exchange in the same manner and places as is required for the
15 sale of state lands pursuant to section 37-237, which notice shall con-
16 tain a description of the properties involved, together with other perti-
17 nent terms and conditions of the exchange. The state land department shall
18 also schedule a public hearing on the exchange contemplated in the notice,
19 which hearing shall be held at the county seat of the county in which the
20 state lands proposed to be exchanged are located. The hearing shall
21 be held not less than fifteen days prior to the date of the proposed
22 exchange, at which time any person may appear and protest such proposed
23 exchange.

24 10. Lands conveyed to the state under this article shall, upon
25 acceptance of title and recording, be dedicated to the same purpose
26 and administered under the same laws to which the lands conveyed were
27 subject, but may be reclassified as provided in section 37-212.

Approved by the Governor - May 14, 1975

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 43

HOUSE BILL 2402

AN ACT

RELATING TO TAXATION; EXEMPTING FROM TRANSACTION PRIVILEGE TAX CHARGES
RECEIVED BY LANDLORDS FOR CERTAIN UTILITY SERVICE TO TENANTS, AND
AMENDING SECTION 42-1314, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 42-1314, Arizona Revised Statutes, is amended
3 to read:

4 42-1314. Operating amusement places; exception; leasing
5 or renting of property; exemption

6 A. The tax imposed by subsection A of section 42-1309 shall be
7 levied and collected at an amount equal to two per cent of the gross
8 proceeds of sales or gross income from the business upon every person
9 engaging or continuing within this state in the following businesses:

10 1. Operating or conducting theaters, movies, operas, shows of any
11 type or nature, exhibitions, concerts, carnivals, circuses, amusement
12 parks, menageries, fairs, races, contests, games, billiard and pool
13 parlors and bowling alleys, public dances, dance halls, boxing and
14 wrestling matches and any business charging admission fees for exhibition,
15 amusement or instruction, other than projects of bona fide religious or
16 educational institutions.

17 2. Leasing or renting tangible personal property for a considera-
18 tion. Sales of tangible personal property to be leased or rented to a
19 person engaged in the business of leasing or renting such tangible
20 personal property for a consideration shall be deemed to be resale sales.
21 The tax prescribed under the terms of this paragraph shall not apply to
22 the leasing or renting of that property which if it had been purchased
23 instead of leased or rented by the lessee would have been exempt pursuant
24 to the provisions of section 42-1312.01, section 42-1321, subsection A,
25 paragraph 5, section 42-1409, subsection A, paragraph 10 or section
26 42-1409, subsection B.

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1 3. Leasing or renting for a consideration the use or occupancy of
2 real property, including any improvements, rights or interest in such
3 property. WHEN A LANDLORD HAS INSTALLED INDIVIDUAL UTILITY METERS FOR
4 EACH TENANT AND SEPARATELY CHARGES EACH SUCH TENANT FOR SUCH SERVICE
5 BASED ON THE READINGS OF EACH SUCH METER, SUCH CHARGES ARE EXEMPT FROM
6 THE TAX IMPOSED BY THIS ARTICLE.

7 B. The tax prescribed under the terms of paragraph 3, subsection
8 A of this section shall not apply to any written lease or rental agree-
9 ment entered into prior to December 1, 1967, provided that such exception
10 shall not apply to the business of hotels, guest houses, dude ranches
11 and resorts, rooming houses, apartment houses, office buildings, auto-
12 mobile storage garages, parking lots or tourist camps, or to the exten-
13 sion or renewal of any such written lease or rental agreement and provided
14 further that such exemption shall not apply to any such written lease or
15 rental agreement unless a rental occupancy tax is paid pursuant to chapter
16 11 of this title.

17 C. The tax prescribed under the terms of subsection A of this
18 section shall not apply to events sponsored by the Arizona coliseum and
19 exposition center board or county fair commissions.

20 D. Films used in operating or conducting theaters or movies, the
21 operation of which is taxed under subsection A, paragraph 1, of this
22 section, shall be exempt under subsection A, paragraph 2, of this section.

23 E. For purposes of paragraph 2 of subsection A of this section,
24 persons engaged in the business of, or continuing in the business of,
25 coin-operated washing, drying and dry cleaning machines or coin-operated
26 car washing machines shall not be deemed to be engaged in the business
27 of leasing or renting tangible personal property for a consideration.
28 This exemption shall not apply to suppliers or distributors of tangible
29 personal property sold or leased to persons engaged in the operation of
30 coin-operated washing, drying, dry cleaning and car wash establishments.

31 F. Effective July 1, 1974 the tax prescribed under the terms of
32 paragraph 3 of subsection A of this section shall not apply to the leasing
33 or renting of dwelling units, lodging facilities or trailer or mobile
34 home spaces which are intended primarily for leasing or renting to persons
35 who reside in such units, facilities or spaces as their permanent or
36 principal places of residence, provided that the units, facilities or
37 spaces are occupied by the same persons for ninety consecutive days or
38 more. The first ninety-day period of any such lease or rental shall be
39 subject to the tax imposed by this section. It is the purpose of this
40 subsection that when the same persons have occupied the same permanent
41 dwelling unit continuously for ninety consecutive days prior to the
42 effective date of this exemption, such tax shall not apply to such lease
43 or rental after the effective date.

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 44

HOUSE BILL 2152

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PROVIDING THAT MEMBERS OF THE STATE RETIREMENT SYSTEM, INCLUDING THOSE ON LEAVE OF ABSENCE, ARE ELIGIBLE UNTIL DECEMBER 31, 1975 TO SELECT COVERAGE UNDER THE RETIREMENT PLAN; PROVIDING FOR TRANSFER BACK TO THE STATE RETIREMENT SYSTEM OR THE RETIREMENT PLAN BY MEMBERS WHO PREVIOUSLY TRANSFERRED THEREFROM TO ANY CERTAIN OPTIONAL RETIREMENT PROGRAM ESTABLISHED BY THE ARIZONA BOARD OF REGENTS AS PROVIDED BY LAW, AND AMENDING SECTIONS 38-745 AND 38-781.03, ARIZONA REVISED STATUTES.

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

2 Section 1. Transfer from state retirement system to retirement
3 plan

4 All employee members of the state retirement system, regardless
5 whether or not they are employees of employer members of the retire-
6 ment plan, shall be eligible to select prior to the close of the busi-
7 ness day on December 31, 1975 coverage under the retirement plan. The
8 selection shall be made in a manner prescribed by the Arizona state re-
9 tirement system board. Selection to participate in the plan, once made,
10 shall be irreversible. The employer and employee accounts of such mem-
11 bers becoming participants shall be transferred to the plan. If the
12 employer of an employee member of the system who selects to transfer to
13 the retirement plan pursuant to this section is not an employer member
14 of the retirement plan, such employer shall, not later than July 1,
15 1976, comply with such provisions of title 38, chapter 5, article 2.1,
16 Arizona Revised Statutes, as are applicable to become an employer mem-
17 ber of the plan and as such shall continue compliance with the provisions
18 of such laws. On July 1, 1976, the selection of members of the system
19 shall become effective to permit the admission of employees to coverage
20 under the plan and payment of contributions by such employer members and
21 employee participants of the plan shall commence on such date.

22 Sec. 2. Members on leave of absence

23 All members of the state retirement system on leave of absence on
24 the effective date of this act, regardless whether or not they are

1 employees of employer members of the retirement plan, shall be given an
 2 opportunity to become a participant in the plan. Leave of absence mem-
 3 bers selecting to become participants in the plan shall, upon return to
 4 employment, be given credit at the appropriate time as determined by the
 5 state retirement system board for the number of years of credited past
 6 service standing to their benefit as indicated by the system's records
 7 as of the date they select to become a participant of the plan. All
 8 leave of absence members, not returning within the prescribed time to
 9 employment with an employer member, shall be deemed to have had their
 10 selection to participate in the plan revoked and shall be granted a re-
 11 tirement benefit provided by the system. Upon return to employment of a
 12 leave of absence member selecting participation in the plan, the total
 13 employer and employee accumulations accumulated on the employee's be-
 14 half shall be transferred to the plan assets.

15 Sec. 3. Section 38-745, Arizona Revised Statutes, is amended to
 16 read:

17 38-745. Membership in retirement system

18 A. All employees and officers of the state and instrumentalities
 19 of the state and all officers and employees of political subdivisions
 20 establishing a retirement system administered by the board pursuant to
 21 the provisions of this article who as a result of state service or ser-
 22 vice for the political subdivision are included in agreements providing
 23 for their coverage under the federal old age and survivors insurance
 24 system, shall be subject to the provisions of this article and shall be
 25 members of the retirement system, except that membership shall not be
 26 mandatory on the part of any employee eligible and electing to partici-
 27 pate in the optional retirement programs established by the Arizona board
 28 of regents pursuant to the authority conferred by section 15-725.02. A
 29 MEMBER WHO TRANSFERS FROM THE SYSTEM TO AN OPTIONAL RETIREMENT PROGRAM
 30 ESTABLISHED PURSUANT TO SECTION 15-725.02 MAY, ON OR BEFORE THE CLOSE OF
 31 THE BUSINESS DAY ON DECEMBER 31, 1975, TRANSFER FROM ANY SUCH PROGRAM
 32 TO THE STATE RETIREMENT SYSTEM AND ALSO RECEIVE CREDIT AS CREDITABLE
 33 SERVICE IN THE STATE RETIREMENT SYSTEM FOR ALL PERIODS OF SUCH SERVICE
 34 ACCUMULATED IN SUCH OPTIONAL RETIREMENT PROGRAM IN THE MANNER PROVIDED
 35 IN THIS SUBSECTION. A PERSON DESIRING TO EFFECT SUCH TRANSFER SHALL
 36 SUBMIT A WRITTEN REQUEST THEREFOR TO THE ARIZONA STATE RETIREMENT
 37 SYSTEM BOARD AND THE DISBURSING OFFICE OF HIS OR HER EMPLOYING INSTITU-
 38 TION AND, WITHIN NINETY DAYS AFTER RETURN TO THE SYSTEM, PAY TO THE
 39 BOARD THE AMOUNT, AS DETERMINED BY THE BOARD WHICH SHALL BE EQUAL TO THE
 40 EMPLOYER AND EMPLOYEE CONTRIBUTIONS, BASED ON HIS OR HER SALARY AT THE
 41 TIME SUCH PERSON TRANSFERRED FROM THE SYSTEM TO THE OPTIONAL RETIREMENT
 42 PROGRAM, TOGETHER WITH INTEREST THEREON AS DETERMINED BY THE BOARD.

43 B. All employees and officers of political subdivisions and in-
 44 strumentalities of political subdivisions whose compensation is pro-
 45 vided wholly or in part from state funds and who are declared to be
 46 state employees and officers by the legislature for retirement purposes
 47 shall, upon such legislative enactment, be subject to the provisions of
 48 this article and shall be members of the retirement system. Any member
 49 whose service has terminated other than by death shall be deemed to be a
 50 member of the retirement system until his contributions made under the
 51 provisions of this article have been refunded.

1 C. A temporary employee whose employment is for a term of not
 2 more than three months may have the option of signing a waiver of mem-
 3 bership and no contributions shall be deducted from his wages or paid
 4 in his behalf by his employer for the period of temporary employment,
 5 but if the employment continues beyond the period of three successive
 6 months his retirement account shall be established as of the beginning
 7 of the next succeeding payroll period following completion of the three
 8 month period.

9 D. Employees and officers shall not become members of the state
 10 employees' retirement system and, if members immediately prior thereto,
 11 shall have their membership status suspended while employed by state de-
 12 partments paying salaries of their officers and employees wholly or in
 13 part from funds received from other sources than appropriations from the
 14 general fund for the period or periods payment of the employer contri-
 15 bution is not made by or on behalf of such departments.

16 Sec. 4. Section 38-781.03, Arizona Revised Statutes, is amended
 17 to read:

18 38-781.03. Eligibility

19 A. All members of the system who are employees of employer members
 20 as of the effective date of this article shall be eligible to elect
 21 coverage under the plan. Election shall be made in a manner prescribed
 22 by the board. An election to participate in the plan, once made, shall
 23 be irreversible. The employer and employee accounts of such members be-
 24 coming participants shall be transferred to the plan. The elections of
 25 members of the system shall become effective on the first day of the
 26 month next following the completion of a ninety day waiting period after
 27 the effective date of the plan. Election of members of the system with
 28 an effective date after the effective date of the plan shall be held in
 29 such a manner as provided by the board to permit the admission of em-
 30 ployees to coverage under the plan only on July 1, of any subsequent
 31 year.

32 B. The following provisions shall apply to all employees hired on
 33 or after the effective date of this plan:

34 1. All employees and officers of the state and instrumentalities
 35 of the state and all officers and employees of political subdivisions
 36 establishing a retirement plan administered by the board pursuant to the
 37 provisions of this article who as a result of state service or service
 38 for the political subdivision are included in agreements providing for
 39 their coverage under the federal old age and survivors insurance system,
 40 shall be subject to the provisions of this article and shall be partici-
 41 pants of the plan, except that membership shall not be mandatory on the
 42 part of any employee eligible and electing to participate in the option-
 43 al retirement programs established by the Arizona board of regents pur-
 44 suant to the authority conferred by section 15-725.02. A PARTICIPANT
 45 WHO TRANSFERS FROM THE PLAN TO AN OPTIONAL RETIREMENT PROGRAM ESTAB-
 46 LISHED PURSUANT TO SECTION 15-725.02 MAY, ON OR BEFORE THE CLOSE OF THE
 47 BUSINESS DAY ON DECEMBER 31, 1975, TRANSFER FROM ANY SUCH PROGRAM TO
 48 THE RETIREMENT PLAN ESTABLISHED BY THIS ARTICLE AND ALSO RECEIVE CREDIT
 49 AS CREDITED FUTURE SERVICE IN THE RETIREMENT PLAN FOR ALL PERIODS
 50 OF SUCH SERVICE ACCUMULATED IN SUCH OPTIONAL RETIREMENT PROGRAM IN THE
 51 MANNER PROVIDED IN THIS SUBSECTION. A PERSON DESIRING TO EFFECT SUCH

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1 TRANSFER SHALL SUBMIT A WRITTEN REQUEST THEREFOR TO THE ARIZONA STATE
2 RETIREMENT SYSTEM BOARD AND THE DISBURSING OFFICER OF HIS OR HER EMPLOY-
3 ING INSTITUTION AND, WITHIN NINETY DAYS AFTER RETURN TO THE PLAN, PAY TO
4 THE BOARD THE AMOUNT, AS DETERMINED BY THE BOARD WHICH SHALL BE EQUAL TO
5 THE EMPLOYER AND EMPLOYEE CONTRIBUTIONS, BASED ON HIS OR HER SALARY AT
6 THE TIME SUCH PERSON TRANSFERRED FROM THE PLAN, TOGETHER WITH INTEREST
7 THEREON AS DETERMINED BY THE BOARD.

8 2. All employees and officers of political subdivisions and in-
9 strumentalities of political subdivisions whose compensation is provided
10 wholly or in part from state funds and who are declared to be state em-
11 ployees and officers by the legislature for retirement purposes shall,
12 upon such legislative enactment, be subject to the provisions of this
13 article and shall be participants of the plan. Any member whose service
14 has terminated other than by death or withdrawal from participation shall
15 be deemed to be a participant of the retirement plan until his death
16 benefit has been paid.

17 3. A temporary employee whose employment is for a term of not
18 more than three months may have the option of signing a waiver of par-
19 ticipation and no contribution shall be deducted from his wages or paid
20 in his behalf by his employer for the period of temporary employment,
21 but if the employment continues beyond the period of three successive
22 months his participation shall be established as of the beginning of the
23 next succeeding payroll period following completion of the three month
24 period.

25 4. Employees and officers shall not become participants of the
26 plan and, if participants immediately prior thereto, shall have their
27 participation status suspended while employed by state departments pay-
28 ing salaries of their officers and employees wholly or in part from
29 funds received from other sources than appropriations from the general
30 fund for the period or periods payment of the employer contribution is
31 not made by or on behalf of such departments.

32 Sec. 5. Emergency

33 To preserve the public peace, health and safety it is necessary
34 that this act become immediately operative. It is therefore declared to
35 be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 15, 1975

Filed in the Office of the Secretary of State - May 16, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 45

SENATE BILL 1105

AN ACT

RELATING TO TRANSPORTATION; EXTENDING THE EXPIRATION DATE OF FIFTY-FIVE MILE PER HOUR SPEED LIMIT, AND AMENDING SECTION 5, CHAPTER 11, LAWS OF 1974.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 5 of Chapter 11, Laws of 1974, is amended to
3 read:
4 Sec. 5. Expiration date
5 The provisions of section 1 of this act shall expire on July 1,
6 1975 July 1, 1977.
7 Sec. 2. Emergency
8 To preserve the public peace, health and safety it is necessary
9 that this act become immediately operative. It is therefore declared
10 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 15, 1975

Filed in the Office of the Secretary of State - May 16, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 46
SENATE BILL 1106

AN ACT

RELATING TO TRANSPORTATION; AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO ACCEPT, EXPEND AND CONTRACT FOR FEDERAL GRANTS, DONATIONS AND AIDS PURSUANT TO FEDERAL LAW FOR TRANSPORTATION PURPOSES, AND AMENDING TITLE 28, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-112.

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

2 Section 1. Title 28, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 28-112, to read:

4 28-112. Acceptance and expenditure of federal funds;
5 limitations

6 A. THE DEPARTMENT MAY ACCEPT AND EXPEND ANY GRANTS, DONATIONS,
7 AIDS OR OTHER FUNDS RECEIVED FROM THE FEDERAL GOVERNMENT, OR ANY AGENCY
8 THEREOF, FOR ANY TRANSPORTATION PURPOSE.

9 B. THE DEPARTMENT MAY CONTRACT AND DO ALL THINGS NECESSARY TO
10 SECURE THE FULL BENEFITS AVAILABLE TO THIS STATE FOR TRANSPORTATION
11 PURPOSES UNDER FEDERAL LAW AND IN SO DOING, MAY COOPERATE WITH FEDERAL,
12 STATE, AND LOCAL GOVERNMENT AGENCIES, PRIVATE AND PUBLIC ORGANIZATIONS
13 AND PRIVATE INDIVIDUALS.

14 C. THE PROVISIONS OF THIS ARTICLE SHALL NOT BE CONSTRUED TO
15 AFFECT THE AUTHORITY OF OTHER AGENCIES OR BOARDS OF THE STATE OR
16 POLITICAL SUBDIVISIONS FROM ACCEPTING, RECEIVING OR EXPENDING GRANTS
17 OR OTHER FUNDS FROM THE FEDERAL GOVERNMENT OR ANY AGENCY THEREOF FOR
18 ANY TRANSPORTATION PURPOSES PURSUANT TO OTHER PROVISIONS OF LAW OR
19 CHARTER.

20 Sec. 2. Emergency

21 To preserve the public peace, health and safety it is necessary
22 that this act become immediately operative. It is therefore declared
23 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 15, 1975

Filed in the Office of the Secretary of State - May 16, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 47

SENATE BILL 1068

AN ACT

RELATING TO EDUCATION; PROVIDING THAT THE TITLE OF EXECUTIVE SECRETARY FOR
COMMUNITY COLLEGE BOARD BE CHANGED TO EXECUTIVE DIRECTOR; PROVIDING FOR
APPOINTMENT OF EXECUTIVE DIRECTOR; PROVIDING FOR IMMUNITY OF BOARD
MEMBERS, AND AMENDING SECTIONS 15-657, 15-658 AND 15-678, ARIZONA REVISED
STATUTES.

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

2 Section 1. Section 15-657, Arizona Revised Statutes, is amended
3 to read:

4 15-657. Officers; organization; bond; meetings; immunity

5 A. The state board shall APPOINT AN EXECUTIVE DIRECTOR WHO SHALL
6 NOT BE A MEMBER OF THE BOARD AND select from its membership an executive
7 secretary, a chairman, treasurer, and any other officers it deems
8 necessary. ~~The same person shall not hold the offices of executive~~
9 ~~secretary and treasurer.~~ The state board shall hold not less than eight
10 meetings annually and may hold such special meetings, at the call of the
11 chairman, as may be deemed necessary or advisable.

12 B. A majority of the membership of the state board shall constitute
13 a quorum for the transaction of business at any meeting regularly called,
14 but a number less than a quorum may adjourn from time to time.

15 C. Members of the state board are immune from personal liability
16 with respect to all acts done and actions taken in good faith within the
17 scope of their authority during duly constituted regular and special
18 meetings. ~~with approval of a majority of the board.~~

19 Sec. 2. Section 15-658, Arizona Revised Statutes, is amended to
20 read:

21 15-658. Compensation of executive director and board members

22 A. The executive secretary DIRECTOR of the state board shall re-
23 ceive compensation as determined pursuant to section 38-611.

24 B. All members of the state board except the superintendent of pub-
25 lic instruction and the director of the division of vocational education

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1 shall receive compensation as determined pursuant to section 38-611 for
2 each day of attendance at board meetings, except the compensation of any
3 member of the board shall not exceed five hundred dollars in any year.

4 Sec. 3. Section 15-678, Arizona Revised Statutes, is amended to
5 read:

6 15-678. Meetings; officers; immunity

7 A. Within twenty days after appointment of the first district
8 board, the superintendent, or superintendents by joint action where the
9 district consists of more than one county, shall call a meeting of the
10 district board by giving at least ten days' notice by registered or
11 certified mail to each board member. At the meeting the district board
12 shall organize by electing a president and a secretary from among its
13 members and may transact any other business relating to the affairs of
14 the district.

15 B. Following the first election of members, the district board
16 shall meet and organize on the first Monday in January each year and
17 shall hold regular monthly meetings at such time and place as the rules
18 of the board provide. Special meetings may be held at the call of the
19 president or upon a call issued in writing signed by a majority of the
20 members of the board.

21 C. Members of the district board are immune from personal liability
22 with respect to all acts done and actions taken in good faith within the
23 scope of their authority during duly constituted regular and special
24 meetings. ~~with approval of a majority of the board.~~

Approved by the Governor - May 15, 1975

Filed in the Office of the Secretary of State - May 16, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 48

SENATE BILL 1036

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PROVIDING REQUIREMENTS FOR WRITTEN MINUTES TAKEN OF CERTAIN OFFICIAL MEETINGS; PROVIDING THAT PUBLIC MEETINGS MAY BE RECORDED; PRESCRIBING CERTAIN EXEMPTIONS FOR CONTRIBUTIONS PAID TO AND BENEFITS RECEIVED BY JUDGES FROM THE JUDGES' RETIREMENT FUND AND BY OFFICERS AND EMPLOYEES OF A CITY FROM A CERTAIN RETIREMENT SYSTEM OR PLAN ESTABLISHED BY SUCH CITY; PROVIDING THAT CONTRIBUTIONS WITHDRAWN BY PUBLIC OFFICERS OR EMPLOYEES FROM CERTAIN RETIREMENT FUNDS, SYSTEMS OR PLANS ARE SUBJECT TO TAX, AND AMENDING SECTIONS 38-431.01, 38-762, 38-781.22, 38-807 AND 38-852, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-431.01, Arizona Revised Statutes, is amended
3 to read:
4 38-431.01. Meetings shall be open to the public
5 A. All official meetings at which any legal action is taken by
6 governing bodies shall be public meetings and all persons so desiring
7 shall be permitted to attend and listen to the deliberations and pro-
8 ceedings.
9 B. ALL governing bodies, except for subcommittees, shall provide
10 for the taking of written minutes of all their OFFICIAL meetings. Such
11 minutes shall ~~be properly and accurately recorded as to all legal action~~
12 ~~taken and open to public inspection except as otherwise specifically~~
13 ~~provided by statute.~~ INCLUDE, BUT NOT BE LIMITED TO:
14 1. THE DATE, TIME AND PLACE OF THE MEETING.
15 2. THE MEMBERS OF THE GOVERNING BODY RECORDED AS EITHER PRESENT
16 OR ABSENT.
17 3. AN ACCURATE DESCRIPTION OF ALL MATTERS PROPOSED, DISCUSSED OR
18 DECIDED, AND THE NAMES OF MEMBERS WHO PROPOSE AND SECOND EACH MOTION.
19 C. THE MINUTES OR A RECORDING SHALL BE OPEN TO PUBLIC INSPECTION
20 THREE WORKING DAYS AFTER THE MEETING EXCEPT AS OTHERWISE SPECIFICALLY
21 PROVIDED BY THIS ARTICLE.
22 D. ALL OR ANY PART OF A PUBLIC MEETING OF A GOVERNING BODY MAY BE
23 RECORDED BY ANY PERSON IN ATTENDANCE BY MEANS OF A TAPE RECORDER, CAMERA
24 OR OTHER MEANS OF SONIC REPRODUCTION, PROVIDED THAT THERE IS NO ACTIVE
25 INTERFERENCE WITH THE CONDUCT OF THE MEETING.

1 Sec. 2. Section 38-762, Arizona Revised Statutes, is amended
2 to read:

3 38-762. Exemption of benefits and contributions from
4 taxation and execution; exception; state
5 retirement system; city retirement system
6 or plan

7 A. The benefits, annuities and pensions, the employee and
8 employer contributions and the securities in the system's accounts
9 provided for in this article AND IN ANY RETIREMENT SYSTEM OR PLAN
10 ESTABLISHED BY A CITY shall be exempt from state, county and municipal
11 taxes, shall not be subject to execution or attachment and shall be
12 nonassignable, PROVIDED THE CITY RETIREMENT SYSTEM OR PLAN WAS ESTAB-
13 LISHED BY THE CITY BEFORE JANUARY 31, 1954 PURSUANT TO THE CHARTER OF
14 SUCH CITY AND SUCH SYSTEM OR PLAN HAS BEEN IN OPERATION CONTINUOUSLY
15 FROM ON OR BEFORE DECEMBER 31, 1954 TO THE EFFECTIVE DATE OF THIS
16 SECTION. CONTRIBUTIONS THAT ARE WITHDRAWN AFTER DECEMBER 31, 1974 BY
17 A PUBLIC OFFICER OR EMPLOYEE FROM THE ACCOUNTS OF THE SYSTEM OR FROM
18 THE ACCOUNTS OF A RETIREMENT SYSTEM OR PLAN ESTABLISHED BY ANY SUCH
19 CITY AND NOT RECEIVED AS BENEFITS THEREFROM SHALL BE SUBJECT TO SUCH TAX.

20 B. Interest, earnings and all other credits pertaining to such
21 benefits, annuities and pensions shall not be subject to execution or
22 attachment and shall be nonassignable.

23 Sec. 3. Section 38-781.22, Arizona Revised Statutes, is amended
24 to read:

25 38-781.22. Exemption of benefits and contributions from
26 taxation and execution; exception

27 A. The benefits, annuities and pensions, the employee and
28 employer contributions and the securities in the plan's accounts
29 provided for in this article shall be exempt from state, county and
30 municipal income taxes, shall not be subject to execution or attach-
31 ment and shall be nonassignable except as specifically provided in
32 this article. CONTRIBUTIONS THAT ARE WITHDRAWN AFTER DECEMBER 31,
33 1974 BY A PUBLIC OFFICER OR EMPLOYEE FROM THE ACCOUNTS OF THE PLAN
34 AND NOT RECEIVED AS BENEFITS THEREFROM SHALL BE SUBJECT TO SUCH TAX.

35 B. Interest, earnings and all other credits pertaining to such
36 benefits, annuities and pensions shall not be subject to execution or
37 attachment and shall be nonassignable.

38 Sec. 4. Section 38-807, Arizona Revised Statutes, is amended
39 to read:

40 38-807. Exemptions from levy, pledge, execution and tax

41 Benefits, employee contributions or employer contributions, in-
42 cluding interest, earnings and all other credits, payable under the
43 provisions of this article shall not be subject in any manner to antic-
44 pation, alienation, sale, transfer, assignment, pledge, encumbrance,
45 charge, garnishment, execution or levy of any kind, either voluntary or
46 involuntary, prior to actually being received by a person entitled to
47 such benefit, contribution, earning or credit and any attempt to antic-
48 ipate, alienate, sell, transfer, assign, pledge, encumber, charge or
49 otherwise dispose of any such right payable hereunder shall be void.
50 THE CONTRIBUTIONS PAID TO AND THE BENEFITS RECEIVED FROM THE JUDGES'
51 RETIREMENT FUND AND EARNINGS ON INVESTMENT OF MONIES IN SUCH FUND SHALL

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1 BE EXEMPT FROM STATE, COUNTY AND MUNICIPAL TAXES, EXCEPT THAT CONTRIBU-
2 TIONS THAT ARE WITHDRAWN FROM SUCH FUND AFTER DECEMBER 31, 1974 BY A
3 JUDGE AND NOT RECEIVED AS BENEFITS THEREFROM SHALL BE SUBJECT TO SUCH
4 TAXES. The judges' retirement fund shall not in any manner be liable
5 for, or subject to, the debts, contracts, liabilities, engagements or
6 torts of any person entitled to such rights hereunder.

7 Sec. 5. Section 38-852, Arizona Revised Statutes, is amended
8 to read:

9 38-852. Exemption of contributions and benefits from
10 taxation; exception

11 The benefits, annuities and pensions, the employee and employer
12 contributions and the securities in the several funds provided for in
13 this article shall be exempt from state, county and municipal taxes;
14 EXCEPT THAT CONTRIBUTIONS THAT ARE WITHDRAWN AFTER DECEMBER 31, 1974
15 BY A PUBLIC OFFICER OR EMPLOYEE FROM THE ACCOUNTS OF THE SYSTEM AND
16 NOT RECEIVED AS BENEFITS THEREFROM SHALL BE SUBJECT TO SUCH TAXES.

17 Sec. 6. Retroactivity

18 The provisions of this act shall be retroactive to, from and
19 after December 31, 1974.

Approved by the Governor - May 15, 1975

Filed in the Office of the Secretary of State - May 16, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 49

SENATE BILL 1039

AN ACT

RELATING TO TAXATION OF INCOME; PROVIDING THAT TAXPAYER WHO COMMENCES OR TERMINATES RESIDENCE IN STATE SHALL APPORTION DEDUCTIONS AND PERSONAL EXEMPTIONS; REPEALING SECTION 43-127.01, ARIZONA REVISED STATUTES, AND AMENDING TITLE 43, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-127.01.

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

2 Section 1. Repeal

3 Section 43-127.01, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 43, chapter 1, article 1, Arizona Revised Statutes,
5 is amended by adding a new section 43-127.01, to read:

6 43-127.01. Apportionment of deductions and
7 personal exemptions

8 A. ANY RESIDENT TAXPAYER, OTHER THAN AN ACTIVE MEMBER OF THE
9 ARMED FORCES OF THE UNITED STATES, OR ANY OTHER AUXILIARY BRANCH, WHO
10 COMMENCES OR TERMINATES HIS RESIDENCY IN THIS STATE DURING ANY ONE TAX-
11 ABLE YEAR, SHALL PRORATE THE FOLLOWING ON THE BASIS SUCH TAXPAYER'S TOTAL
12 ADJUSTED GROSS INCOME FROM ARIZONA SOURCES BEARS TO THE TOTAL ADJUSTED
13 GROSS INCOME FROM ALL SOURCES:

14 1. THE PERSONAL EXEMPTION PROVIDED IN SECTION 43-127, SUBSECTION
15 (a), OF ONE THOUSAND DOLLARS FOR A SINGLE INDIVIDUAL OR TWO THOUSAND
16 DOLLARS FOR A HEAD OF A HOUSEHOLD OR A MARRIED INDIVIDUAL.

17 2. THE DEDUCTION PROVIDED IN SECTION 43-127, SUBSECTION (a),
18 PARAGRAPHS (1), (2) AND (3) FOR THE BLIND, OF FIVE HUNDRED DOLLARS.

19 3. THE DEDUCTION PROVIDED IN SECTION 43-127, SUBSECTIONS (b) AND
20 (c) FOR DEPENDENTS, OF SIX HUNDRED DOLLARS EACH.

21 4. THE DEDUCTION PROVIDED IN SECTION 43-127, SUBSECTION (a),
22 PARAGRAPH (4), SUBDIVISIONS (A) AND (B), FOR PERSONS AGE SIXTY-FIVE OR
23 OLDER, OF ONE THOUSAND DOLLARS.

24 B. ANY NONRESIDENT TAXPAYER, OTHER THAN AN ACTIVE MEMBER OF THE

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1 ARMED FORCES OF THE UNITED STATES, OR ANY OTHER AUXILIARY BRANCH, SHALL
2 PRORATE THE EXEMPTIONS AND DEDUCTIONS SET FORTH IN SUBSECTION A ON THE
3 BASIS SUCH TAXPAYER'S TOTAL ADJUSTED GROSS INCOME FROM ARIZONA SOURCES
4 BEARS TO HIS TOTAL ADJUSTED GROSS INCOME FROM ALL SOURCES. SUCH APPOR-
5 TIONMENT SHALL BE MADE REGARDLESS OF TAXPAYER'S ADJUSTED GROSS INCOME.
6 C. THE PERCENTAGE OF EXEMPTION OR DEDUCTION ALLOWED SHALL BE COM-
7 PUTED BY DIVIDING TAXPAYER'S TOTAL ADJUSTED GROSS INCOME FROM ARIZONA
8 SOURCES BY THE TOTAL ADJUSTED GROSS INCOME FROM ALL SOURCES.

9 Sec. 3. Effective date

10 The provisions of this act shall become effective with the taxable
11 year beginning from and after December 31, 1975.

Approved by the Governor - May 15, 1975

Filed in the Office of the Secretary of State - May 16, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 50

HOUSE BILL 2148

AN ACT

RELATING TO EDUCATION; PRESCRIBING RESPONSIBILITY FOR SUPERVISION OF CONDUCT OF PUPILS; PRESCRIBING DUTIES OF TEACHERS AND GENERAL POWERS AND DUTIES OF BOARD OF TRUSTEES, AND AMENDING SECTIONS 15-201 AND 15-442, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 15-201, Arizona Revised Statutes, is amended to
3 read:

4 15-201. Duties of teachers

5 Every teacher shall:

6 1. Before assuming charge of a school, present his certificate to
7 the county superintendent, who shall record it.

8 2. Immediately notify the superintendent when taking charge of a
9 school or when closing a term of school.

10 3. Enforce the course of study, use of adopted textbooks and the
11 rules and regulations prescribed for schools.

12 4. Hold pupils to strict account for disorderly conduct. ~~on-the-way~~
13 ~~to-and-from-school.~~

14 5. Exercise supervision over pupils on the playgrounds and during
15 recess IF ASSIGNED TO SUCH DUTY.

16 6. Keep a school register, which shall be carefully preserved by
17 the board of trustees as one of the records of the school.

18 7. Furnish reports to the county superintendent as required by
19 the state board of education upon forms furnished by the superintendent
20 of public instruction.

21 8. Make an annual report for the entire school year to the county
22 superintendent at the time and in the manner and on forms prescribed by
23 the state board of education.

24 9. Make such other reports as may be required by the superinten-
25 dent of public instruction, county school superintendent or board of
26 trustees.

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1 Sec. 2. Section 15-442, Arizona Revised Statutes, is amended to
2 read:

3 15-442. General powers and duties

4 A. The board of trustees shall:

- 5 1. Maintain the schools established by them. Schools shall be
6 maintained for the attendance of each pupil for a period of not less
7 than one hundred seventy-five school days, or its equivalent as approved
8 by the superintendent of public instruction for a school approved for
9 extended year operation, in each school year, and if the funds of the
10 district are sufficient, for a longer period, and as far as practicable
11 with equal rights and privileges.
- 12 2. Enforce the courses of study and select all textbooks used
13 in the schools from the multiple lists determined and authorized by
14 the state board of education pursuant to paragraph 18 of section 15-102
15 and purchase the same from the publishers under contracts negotiated by
16 the state board as provided in this title. One-fourth of the amount
17 budgeted for textbooks may be expended for teaching aids relating to
18 the textbooks selected. District school funds may be budgeted and
19 expended by the board for supplementary books, as contained in the
20 lists prepared by the state board of education pursuant to subsection B
21 of section 15-1101, and for such additional textbooks as may be necessary
22 because of an extraordinary increase in enrollment or an act of God,
23 provided that supplementary books shall not be purchased in such
24 quantities as to take the place of the textbooks prescribed by paragraph
25 18 of section 15-102.
- 26 3. Visit every school in the district and examine carefully into
27 its management, condition and needs.
- 28 4. Provide transportation for any child or children when deemed
29 for the best interest of the district, whether within or without the
30 district, county or state.
- 31 5. Exclude from schools all books, publications or papers of a
32 sectarian, partisan or denominational character.
- 33 6. Manage and control the school property within its district.
- 34 7. Purchase school furniture, apparatus, equipment, library books
35 and supplies for the use of the schools.
- 36 8. Rent, furnish, repair and insure the school property of the
37 district.
- 38 9. Construct school buildings when directed to do so by a vote of
39 the district except that a vote shall not be required for construction of
40 school buildings with funds collected pursuant to section 15-445 or
41 received pursuant to article 3 of chapter 16.
- 42 10. Make in the name of the district conveyances of property
43 belonging to the district and sold by the board.
- 44 11. Purchase or sell school sites when authorized by a vote of
45 the district, but such authorization shall not necessarily specify the
46 site to be purchased except that a vote shall not be required for pur-
47 chase of school sites with funds collected pursuant to section 15-445
48 or received pursuant to article 3 of chapter 16.
- 49 12. Construct, improve and furnish buildings used for school
50 purposes when such buildings or premises are leased from the national

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1 park service, when directed to do so by a vote of the district except
2 that a vote shall not be required for constructing, improving, and
3 furnishing buildings with funds collected pursuant to section 15-445
4 or received pursuant to article 3 of chapter 16.

5 13. Purchase school sites or construct, improve and furnish
6 school buildings from the proceeds of the sale of or from insurance
7 recoveries on school property only when directed to do so by a vote
8 of the district.

9 14. HOLD PUPILS TO STRICT ACCOUNT FOR DISORDERLY CONDUCT ON
10 SCHOOL PROPERTY AND PROVIDE FOR ADEQUATE SUPERVISION OVER PUPILS IN
11 ALL INSTRUCTIONAL AND NONINSTRUCTIONAL ACTIVITIES.

12 15. HOLD PUPILS TO STRICT ACCOUNT FOR DISORDERLY CONDUCT ON
13 THE WAY TO AND FROM SCHOOL.

14 B. The board may:

15 1. Expel pupils for misconduct.

16 2. Exclude from the primary grades children under six years of
17 age.

18 3. Make such segregation of groups of pupils as it deems advisable.

19 4. Maintain such special schools during vacation as deemed
20 necessary for the benefit of the pupils of the district.

21 5. Permit a superintendent, principal or their representatives
22 to travel for a school purpose, as determined by a majority vote of
23 the board. By unanimous vote the board may permit members and members-
24 elect of the board to travel for a school purpose. Any expenditure
25 for travel and subsistence shall be as provided under the terms of title
26 38, chapter 4, article 2, and shall be a charge against the budgeted
27 school district funds.

28 6. Rent such buildings as may be necessary.

29 7. Construct or provide in rural districts housing facilities
30 for teachers which the board determines is necessary for the operation
31 of the school.

32 8. Sell to the state, county or city any school property required
33 for a public purpose, provided the sale of the property will not affect
34 the normal operations of a school within the school district.

35 9. Apply the proceeds from the sale of school property or from
36 insurance recoveries to the payment of any outstanding bonded indebtedness
37 of the school district which is payable from the levy of taxes upon
38 property within the district.

39 10. From and after June 30, 1974, annually budget and expend an
40 amount equal to twenty-five one hundred thousandths of the total of the
41 current year operating budget, based on all budget items except capital
42 outlay, for the purpose of belonging to and paying dues in an association
43 of school districts within this state. However, the annual amount
44 budgeted for the membership of any district shall not exceed ten thousand
45 nor be less than twenty-five dollars.

46 11. Enter into long-term lease or lease-purchase agreements for
47 school buildings and grounds for periods exceeding one year.

48 C. Notwithstanding any other provision of law to the contrary,
49 payments on long-term lease or lease-purchase agreements pursuant to
50 subsection B, paragraph 11, of this section shall not be an obligation
51 of the district within the meaning of the constitutional limit against
52 indebtedness set out in article 9, section 8, Constitution of Arizona
53 or subject to the limitations prescribed by section 15-1202.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 51

HOUSE BILL 2332

AN ACT

RELATING TO LABOR; PROVIDING FOR OPTIONAL COMPENSATION METHODS FOR CERTAIN PERSONS ENGAGED IN LAW ENFORCEMENT ACTIVITIES, AND AMENDING TITLE 23, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-392.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 23, chapter 2, article 9, Arizona Revised
3 Statutes, is amended by adding section 23-392, to read:
4 23-392. Overtime compensation for certain law enforcement
5 activities; option; definition
6 A. ANY PERSON ENGAGED IN LAW ENFORCEMENT ACTIVITIES SHALL BE
7 COMPENSATED, FOR EACH HOUR WORKED IN EXCESS OF FORTY HOURS IN ONE WORK
8 WEEK, AT THE OPTION OF SUCH EMPLOYER EITHER AT A RATE OF:
9 1. ONE AND ONE-HALF TIMES THE REGULAR RATE AT WHICH HE IS EM-
10 PLOYED; OR
11 2. ONE HOUR OF COMPENSATORY TIME OFF IN LIEU OF CASH PAYMENT.
12 B. FOR THE PURPOSES OF THIS SECTION, A "PERSON ENGAGED IN LAW
13 ENFORCEMENT ACTIVITIES" MEANS A LAW ENFORCEMENT OFFICER AS DEFINED BY
14 SECTION 38-1001, A PEACE OFFICER AS DEFINED BY SECTION 41-1701, OR
15 ANY SECURITY PERSONNEL RESPONSIBLE FOR CONTROLLING OR MAINTAINING
16 CUSTODY OF INMATES IN CORRECTIONAL INSTITUTIONS MAINTAINED BY A COUNTY,
17 CITY OR TOWN. THE TERM "PERSON ENGAGED IN LAW ENFORCEMENT ACTIVITIES"
18 SHALL NOT INCLUDE ANY SUCH PERSON EMPLOYED IN A BONA FIDE EXECUTIVE OR
19 ADMINISTRATIVE CAPACITY AS DEFINED BY THE EMPLOYER.

Approved by the Governor - May 15, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 52

HOUSE BILL 2149

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PROVIDING THAT A MEMBER OF THE STATE RETIREMENT SYSTEM AND PARTICIPANT OF THE RETIREMENT PLAN MAY BE GRANTED RETIREMENT CREDIT FOR LIMITED PERIOD OF LEAVE OF ABSENCE WITHOUT PAY UPON PAYMENT OF REQUIRED AMOUNTS; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-746.01, AND AMENDING SECTION 38-781.29, ARIZONA REVISED STATUTES.

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

2 Section 1. Title 38, chapter 5, article 2, Arizona Revised
3 Statutes, is amended by adding section 38-746.01, to read:

4 38-746.01. Credit as service for limited leave of
5 absence without pay; requirements

6 A. ANY ACTIVE MEMBER OF THE SYSTEM WHO IS OFFICIALLY GRANTED
7 LEAVE OF ABSENCE FROM EMPLOYMENT WITHOUT PAY MAY ELECT TO BE CREDITED
8 WITH SERVICE FOR RETIREMENT PURPOSES FOR NOT MORE THAN ONE YEAR OF
9 SUCH LEAVE BY PAYING TO THE SYSTEM THE AMOUNTS AS PROVIDED IN SUB-
10 SECTION B OF THIS SECTION, PROVIDED SUCH MEMBER HAS NOT WITHDRAWN
11 CONTRIBUTIONS FROM THE SYSTEM.

12 B. AN ACTIVE MEMBER WHO ELECTS TO BE CREDITED WITH SUCH LEAVE
13 PERIOD AS PROVIDED IN SUBSECTION A SHALL, WITHIN NINETY DAYS AFTER
14 TERMINATING SUCH LEAVE AND RESUMING SUCH EMPLOYMENT, UNLESS EMPLOY-
15 MENT COULD NOT BE RESUMED BECAUSE OF DISABILITY OR NONAVAILABILITY
16 OF A POSITION WITH THE SAME EMPLOYER, PAY TO THE SYSTEM THE AMOUNT
17 EQUAL TO THE EMPLOYER AND EMPLOYEE CONTRIBUTIONS FOR SUCH PERIOD
18 TOGETHER WITH INTEREST AS PROVIDED BY LAW, BASED ON THE SALARY
19 RECEIVED BY SUCH MEMBER BEFORE SUCH LEAVE OF ABSENCE COMMENCED.

20 Sec. 2. Section 38-781.29, Arizona Revised Statutes, is
21 amended to read:

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1 38-781.29. Leave of absence; transfer to plan;
2 credit for leave without pay

3 A. All members of the system on leave of absence as of the
4 effective date of the plan, shall be given an opportunity to become a
5 participant in the plan. Leave of absence members electing to become
6 participants in the plan shall, upon return to employment, be given
7 credit for the number of years of credited past service standing to
8 their benefit as indicated by the system's records as of the effective
9 date of the plan. All leave of absence members, not returning to
10 employment with an employer member, shall be deemed to have had their
11 election to participate in the plan revoked and shall be granted a
12 retirement benefit provided by the system. Upon return to employment
13 of a leave of absence member electing participation in the plan, the
14 total employer and employee accumulations accumulated on the employee's
15 behalf shall be transferred to plan assets.

16 B. ANY ACTIVE PARTICIPANT OF THE PLAN WHO IS OFFICIALLY GRANTED
17 LEAVE OF ABSENCE FROM EMPLOYMENT WITHOUT PAY MAY ELECT TO BE CREDITED
18 WITH FUTURE SERVICE FOR RETIREMENT PURPOSES FOR NOT MORE THAN ONE YEAR
19 OF SUCH LEAVE BY PAYING TO THE PLAN THE AMOUNTS AS PROVIDED IN SUB-
20 SECTION C OF THIS SECTION, PROVIDED SUCH PARTICIPANT HAS NOT WITHDRAWN
21 CONTRIBUTIONS FROM THE PLAN.

22 C. AN ACTIVE PARTICIPANT OF THE PLAN WHO ELECTS TO BE CREDITED
23 WITH SUCH LEAVE PERIOD AS PROVIDED IN SUBSECTION B SHALL, WITHIN NINETY
24 DAYS AFTER TERMINATING SUCH LEAVE AND RESUMING SUCH EMPLOYMENT, UNLESS
25 EMPLOYMENT COULD NOT BE RESUMED BECAUSE OF DISABILITY OR NONAVAILABILITY
26 OF A POSITION WITH THE SAME EMPLOYER, PAY TO THE PLAN THE AMOUNT EQUAL TO
27 THE EMPLOYER AND EMPLOYEE CONTRIBUTIONS FOR SUCH PERIOD TOGETHER WITH
28 INTEREST AS PROVIDED BY LAW, BASED ON THE SALARY RECEIVED BY SUCH
29 PARTICIPANT BEFORE SUCH LEAVE OF ABSENCE COMMENCED.

30 Sec. 3. Emergency

31 To preserve the public peace, health and safety it is necessary
32 that this act become immediately operative. It is therefore declared
33 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 53

HOUSE BILL 2150

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PRESCRIBING DEFINITIONS; REMOVING PROVISIONS THAT PROVIDE FOR APPOINTMENT OF AN ADMINISTRATOR AND FINANCE MANAGER FOR THE STATE RETIREMENT SYSTEM AND THE RETIREMENT PLAN; PROVIDING FOR APPOINTMENT OF A DIRECTOR TO ADMINISTER THE STATE RETIREMENT SYSTEM AND THE RETIREMENT PLAN; PRESCRIBING POWERS AND DUTIES; PRESCRIBING QUALIFICATIONS FOR INVESTMENT MANAGEMENT; AMENDING SECTION 38-741, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 120, SECTION 1; REPEALING SECTIONS 38-743, 38-743.03 AND 38-743.04, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-743 AND SECTION 38-743.01; AMENDING SECTION 38-741, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1970, CHAPTER 136, SECTION 2, AND AMENDING SECTIONS 38-752.01, 38-781.02 AND 38-805, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-741, Arizona Revised Statutes, as amended
3 by Laws 1970, chapter 136, section 2, is amended to read:
4 38-741. Definitions
5 In this article, unless the context otherwise requires:
6 ~~1. "Administrator" means the administrator appointed by the board.~~
7 ~~2.~~ 1. "Board" means the state retirement system board.
8 ~~3.~~ 2. "Creditable service" means prior service, membership service
9 and service after April 8, 1953, in a position not subject to this
10 article.
11 ~~4.~~ 3. "Department" means any department, office, board, commission,
12 instrumentality or other agency of the state.
13 ~~5.~~ 4. "Depository" means a bank in which the monies of the system
14 are deposited and collateralized as provided by law.
15 5. "DIRECTOR" MEANS THE DIRECTOR APPOINTED BY THE BOARD PURSUANT
16 TO THIS ARTICLE.
17 6. "Employee" means any employee of an employer member of the
18 system.
19 7. "Employee contributions" means all amounts paid into the
20 system by a member as compensation deductions.

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1 8. "Employer contributions" means all amounts paid into the
2 system by the state, any department thereof, any instrumentality of the
3 state or any political subdivision or instrumentality thereof employing
4 a member.

5 ~~9. "Finance manager" means the person appointed by the board to~~
6 ~~supervise the financial transactions of the system as delegated by the~~
7 ~~board.~~

8 ~~10.~~ 9. "Fund" means monies, assets or resources or an accumulation
9 thereof.

10 ~~11.~~ 10. "Investment management" means the persons, companies,
11 banks, insurance company investment funds, mutual fund companies, manage-
12 ment or any combination thereof employed by the system with responsibility
13 and authority for investment of the funds of the system.

14 ~~12.~~ 11. "Lieu pension" means the monthly payments to certain
15 retired state employees or to the dependents of certain deceased state
16 employees.

17 ~~13.~~ 12. "Life annuity" means equal monthly installments payable
18 during the member's lifetime after retirement.

19 ~~14.~~ 13. "Pension" means equal monthly installments derived from
20 a member's prior service credits payable during his lifetime after
21 retirement on attaining age sixty-five or thereafter.

22 ~~16.~~ 14. "Plan" means the retirement plan established by the
23 provisions of article 2.1 of this chapter.

24 ~~16.~~ 15. "Political subdivision" means any political subdivision
25 of the state.

26 ~~17.~~ 16. "Prior service" means service for the state or a political
27 subdivision prior to membership in the retirement system.

28 ~~18.~~ 17. "Prior service credits" means the amount allowed for
29 services prior to membership in the retirement system, payable as a
30 pension upon retirement at age sixty-five or thereafter.

31 ~~19.~~ 18. "Retirement account" means the combined employee and
32 employer contributions with interest or earnings thereon including
33 allocations credited as employer contributions pursuant to subsection E
34 of section 38-753.

35 ~~20.~~ 19. "Service" means any compensated employment by the state
36 or any instrumentality thereof and includes periods of nonpaid leave
37 including military leave, provided the relationship of employer-employee
38 has not been terminated at the commencement of the leave period, and
39 employment which is declared by the legislature to be state service for
40 retirement purposes, or service for any county, municipality or political
41 subdivision establishing a retirement system administered by THE DIRECTOR
42 UNDER THE SUPERVISION OF the board pursuant to the provisions of this
43 article.

44 ~~21.~~ 20. "State retirement system account" means a separate,
45 accurate, and detailed accounting on the books and records of the system
46 showing the transactions under the name of the account.

47 ~~22. "Subsidiary board" means the retirement board of the employer~~
48 ~~member of the system consisting of persons selected to administer the~~
49 ~~system as it applies to their members.~~

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1 23+ 21. "System" means the state retirement system established
2 by this article.

3 24+ 22. "Temporary pension" means equal monthly installments
4 payable for a temporary period during the member's lifetime beginning on
5 the date specified in this article and terminating with the member's
6 death or the expiration of the specified temporary period, whichever
7 shall first occur.

8 Sec. 2. Section 38-741, Arizona Revised Statutes, as amended by
9 Laws 1974, chapter 120, section 1, is amended to read:

10 38-741. Definitions

11 A. In this article, unless the context otherwise requires:

12 ~~1. "Administrator" means the administrator appointed by the board.~~

13 2+ 1. "Board" means the state retirement system board.

14 3+ 2. "Creditable service" means prior service, membership service
15 and service after April 8, 1953, in a position not subject to this
16 article.

17 4+ 3. "Department" means any department, office, board, commis-
18 sion, instrumentality or other agency of the state.

19 6+ 4. "Depository" means a bank in which the monies of the system
20 are deposited and collateralized as provided by law.

21 5. "DIRECTOR" MEANS THE DIRECTOR APPOINTED BY THE BOARD PURSUANT
22 TO THIS ARTICLE.

23 6. "Employee" means any employee of an employer member of the
24 system.

CHAPTER 53

1 7. "Employee contributions" means all amounts paid into the
2 system by a member as compensation deductions.

3 8. "Employer contributions" means all amounts paid into the
4 system by the state, any department thereof, any instrumentality of the
5 state or any political subdivision or instrumentality thereof employing
6 a member.

7 ~~9. "Finance manager" means the person appointed by the board to~~
8 ~~supervise the financial transactions of the system as delegated by the~~
9 ~~board.~~

10 ~~10.~~ 9. "Fund" means monies, assets or resources or an accumulation
11 thereof.

12 ~~11.~~ 10. "Investment management" means the persons, companies, banks,
13 insurance company investment funds, mutual fund companies, management
14 or any combination thereof employed by the system with responsibility
15 and authority for investment of the funds of the system.

16 ~~12.~~ 11. "Lieu pension" means the monthly payments to certain
17 retired state employees or to the dependents of certain deceased state em-
18 ployees.

19 ~~13.~~ 12. "Life annuity" means equal monthly installments payable
20 during the member's lifetime after retirement.

21 ~~14.~~ 13. "Normal retirement date" means the first day of the
22 calendar month immediately following an employee's sixty-fifth birthday.

23 ~~15.~~ 14. "Pension" means equal monthly installments derived from a
24 member's prior service credits payable during his lifetime after retire-
25 ment on attaining age sixty-five or thereafter.

26 ~~16.~~ 15. "Plan" means the retirement plan established by the provi-
27 sions of article 2.1 of this chapter.

28 ~~17.~~ 16. "Political subdivision" means any political subdivision of
29 the state.

30 ~~18.~~ 17. "Prior service" means service for the state or a political
31 subdivision prior to membership in the retirement system.

32 ~~19.~~ 18. "Prior service credits" means the amount allowed for
33 services prior to membership in the retirement system, payable as a
34 pension upon retirement at age sixty-five or thereafter.

35 ~~20.~~ 19. "Retirement account" means the combined employee and
36 employer contributions with interest or earnings thereon including alloca-
37 tions credited as employer contributions pursuant to subsection E of section
38 38-753.

39 ~~21.~~ 20. "Service" means any compensated employment by the state
40 or any instrumentality thereof and includes periods of nonpaid leave
41 including military leave, provided the relationship of employer-employee
42 has not been terminated at the commencement of the leave period, and
43 employment which is declared by the legislature to be state service for
44 retirement purposes, or service for any county, municipality or political
45 subdivision establishing a retirement system administered by THE DIRECTOR
46 UNDER THE SUPERVISION OF the board pursuant to the provisions of this
47 article.

48 ~~22.~~ 21. "State retirement system account" means a separate, accurate,
49 and detailed accounting on the books and records of the system showing
50 the transactions under the name of the account.

1 ~~23.--"Subsidiary board" means the retirement board of the employer~~
2 ~~member of the system consisting of persons selected to administer the~~
3 ~~system as it applies to their members.~~

4 24. "System" means the state retirement system established by
5 this article.

6 ~~25.~~ 23. "Temporary pension" means equal monthly installments pay-
7 able for a temporary period during the member's lifetime beginning on the
8 date specified in this article and terminating with the member's death or
9 the expiration of the specified temporary period, whichever shall first
10 occur.

11 B. THE PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE ON JULY
12 1, 1975.

13 Sec. 3. Repeal
14 Sections ~~38-743~~, 38-743.03 and 38-743.04, Arizona Revised Statutes,
15 are repealed.

16 Sec. 4. Title 38, chapter 5, article 2, Arizona Revised Statutes,
17 is amended by adding a new section 38-743 and section 38-743.01, to read:
18 38-743. Powers and duties of system and board

19 A. THE SYSTEM SHALL HAVE THE POWERS AND PRIVILEGES OF A CORPORATION,
20 SHALL HAVE AN OFFICIAL SEAL AND SHALL TRANSACT ALL BUSINESS IN THE NAME
21 "ARIZONA STATE RETIREMENT SYSTEM", AND IN THAT NAME MAY SUE AND BE SUED.

22 B. THE BOARD IS RESPONSIBLE FOR SUPERVISING THE ADMINISTRATION OF
23 THE PROVISIONS OF THIS ARTICLE BY THE DIRECTOR, EXCEPT THE INVESTMENT
24 POWERS AND DUTIES OF INVESTMENT MANAGEMENT.

25 C. THE BOARD MAY:
26 1. DETERMINE THE RIGHTS, BENEFITS OR OBLIGATIONS OF ANY PERSON
27 UNDER THIS ARTICLE AND AFFORD ANY PERSON DISSATISFIED WITH SUCH DETERMINA-
28 TION A HEARING THEREON.
29 2. DETERMINE THE AMOUNT, MANNER AND TIME OF PAYMENT OF ANY BENEFITS
30 UNDER THIS ARTICLE.

31 3. ASSIGN, TRANSFER AND DELIVER ANY AND ALL STOCKS, BONDS AND OTHER
32 INVESTMENTS OWNED BY THE SYSTEM AND ITS PREDECESSOR THE ARIZONA STATE
33 RETIREMENT SYSTEM BOARD WHERE IT IS NOT INCONSISTENT OR DOES NOT IN ANY
34 WAY CONTRAVENE THE SOLE AUTHORITY OF THE INVESTMENT MANAGEMENT FOR
35 INVESTING, REINVESTING, PURCHASING AND SELLING STOCKS, BONDS, AND OTHER
36 INVESTMENTS.

37 4. ADOPT, AMEND OR RESCIND RULES OR REGULATIONS FOR ADMINISTRATION
38 OF THIS ARTICLE.

39 D. THE BOARD SHALL SUBMIT TO THE GOVERNOR AND LEGISLATURE FOR EACH
40 FISCAL YEAR A REPORT OF ITS OPERATIONS AND IN SUCH REPORT SHALL MAKE
41 RECOMMENDATIONS IT DEEMS ADVISABLE FOR AMENDMENTS TO THIS ARTICLE.

42 E. THE AUDITOR GENERAL MAY MAKE AN ANNUAL AUDIT OF THE SYSTEM THE
43 RESULTS OF WHICH SHALL BE TRANSMITTED TO THE GOVERNOR AND THE LEGISLATURE.

44 F. THE DIRECTOR AND ALL PERSONS EMPLOYED BY THE DIRECTOR SHALL BE
45 COMPENSATED AS DETERMINED PURSUANT TO SECTION 38-611.

46 38-743.01. Director; powers and duties
47 A. THE BOARD SHALL APPOINT A DIRECTOR TO SERVE AT THE PLEASURE OF
48 THE BOARD.

49 B. THE DIRECTOR SHALL APPOINT ASSISTANT DIRECTORS WITH APPROVAL
50 OF THE BOARD.

51 C. THE DIRECTOR, UNDER SUPERVISION OF THE BOARD, SHALL:
52 1. ADMINISTER THE PROVISIONS OF THIS ARTICLE, EXCEPT THE INVEST-
53 MENT POWERS AND DUTIES OF INVESTMENT MANAGEMENT.

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1 purchase and sell in the name of the system any of the securities and
2 investments held by the system under the provisions of this article.

3 2. Shall be responsible for making all investment decisions
4 and the execution thereof.

5 3. Shall be multiple.

6 E. Investment management shall not directly or indirectly:

7 1. Have any interest in making any investment or purchasing any
8 annuities from any private insurer or in the gains or profits accruing
9 therefrom.

10 2. For investment management or as agent or partner of others
11 borrow money, funds or deposits of the system, or use such funds or
12 deposits in any manner except as directed under authority of this
13 article.

14 3. Become an endorser, surety or obligor on investments made
15 under authority of this article.

16 F. The board shall have no authority over investment management
17 except in the performance of its administrative powers and duties.

18 Sec. 6. Section 38-781.02, Arizona Revised Statutes, is amended
19 to read:

20 38-781.02. Administration of article; costs

21 A. The officers and personnel required to perform powers and duties
22 in article 2 of this chapter shall also perform such powers and duties in
23 relation to this article, except as otherwise provided in this article.

24 B. The legislature shall annually appropriate to the board from
25 the funds of the plan such amount as may be necessary to carry out the
26 powers and duties of the board OFFICERS AND PERSONNEL in relation to
27 this article as provided in subsection A.

28 Sec. 7. Section 38-805, Arizona Revised Statutes, is amended to
29 read:

30 38-805. Custodian of fund; investments by state employees'
31 retirement system

32 A. All monies set aside or provided for the judges' retirement fund
33 by this article shall be promptly paid to the state treasurer, and upon
34 receipt thereof, he shall place them in the judges' retirement fund. The
35 full amount of the fund is appropriated for the purpose of disbursing the
36 accrued retirement provided for by this article.

37 B. Any portion of the monies of the fund not required to meet accrued
38 retirement payments shall be deposited with the state retirement system
39 for investment as prescribed by the terms of section 38-757. The monies
40 so invested may be kept separately or commingled at the discretion OF THE
41 DIRECTOR OF THE STATE RETIREMENT SYSTEM WHILE ACTING UNDER SUPERVISION OF
42 the state employees' retirement SYSTEM board.

43 Sec. 8. Emergency

44 To preserve the public peace, health and safety it is necessary
45 that this act become immediately operative. It is therefore declared
46 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 54

HOUSE BILL 2206

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PRESCRIBING ACTIVE AND RETIRED PARTICIPANTS OF THE RETIREMENT PLAN WHO SHALL RECEIVE INCREASED BENEFITS GRANTED PURSUANT TO LAWS 1974, CHAPTER 167; PRESCRIBING REEMPLOYMENT CONTRIBUTIONS AND RECOMPUTED BENEFITS FOR REINSTATED MEMBERS; PRESCRIBING LIMITATIONS; AMENDING LAWS 1974, CHAPTER 167, SECTION 7; AMENDING SECTION 38-759, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 120, SECTION 3, AND AMENDING SECTION 38-781.15, ARIZONA REVISED STATUTES.

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

2 Section 1. Laws 1974, chapter 167, section 7, is amended to
3 read:

4 Sec. 7. Applicability of act

5 A. EFFECTIVE JULY 1, 1975, the provisions of this act AND ANY
6 AMENDED VERSIONS OF ANY SECTIONS AMENDED IN THIS ACT THAT ALSO BECOME
7 EFFECTIVE IN 1975 SHALL apply to all credited future service accumulated
8 and hereafter accumulated by PARTICIPANTS WHO WERE active participants
9 ~~of-the-retirement~~ ON JUNE 30, 1974 OR WHO BECAME ACTIVE PARTICIPANTS
10 ON OR AFTER JUNE 30, 1974. PARTICIPANTS WHO BEGAN RECEIVING NORMAL
11 RETIREMENT BENEFITS OR EARLY RETIREMENT BENEFITS UNDER THE plan estab-
12 lished by title 38, chapter 5, article 2.1, Arizona Revised Statutes,
13 ON OR AFTER JULY 1, 1974 SHALL, AT THE PARTICIPANT'S DISCRETION, ON
14 JULY 1, 1975 COMMENCE RECEIVING SUCH PENSION BENEFITS CALCULATED IN
15 ACCORDANCE WITH THE PROVISIONS OF THIS ACT.

16 B. THE BOARD SHALL IMMEDIATELY PROMULGATE RULES AND REGULATIONS
17 TO CONTROL THE ADMINISTRATION OF THIS SECTION, AS AMENDED. SUCH RULES
18 AND REGULATIONS SHALL TAKE EFFECT BEGINNING ON JULY 1, 1975.

19 Sec. 2. Section 38-759, Arizona Revised Statutes, as amended
20 by Laws 1974, chapter 120, section 3, is amended to read:

21 38-759. Retirement from service

22 A. Except as provided in section 38-759.01, a member upon reaching
23 his normal retirement date shall be retired from state service and upon
24 application shall receive a life pension payable in equal monthly install-
25 ments derived from his prior service credit, if any, together with an

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1 annuity for life derived from his retirement account. The annuity shall
2 be payable in equal monthly installments, the amount of which installments
3 shall be determined by the interest and life expectancy tables applic-
4 able at the date of commencement of retirement and based upon the attained
5 age of the annuitant at the commencement of retirement. A member who has
6 retired and is receiving benefits pursuant to this subsection whose death
7 occurs prior to receipt of annuity payments in an amount equal to his
8 retirement account balance immediately preceding retirement, shall have
9 paid to his designated beneficiary or his estate in a lump sum the
10 difference between the said retirement account balance and the total
11 amount of annuity payments received.

12 B. Except as provided in section 38-759.01, a member upon reaching
13 his normal retirement date shall be retired from state service and may,
14 if he has creditable service of not less than five years and upon appli-
15 cation, elect to receive in lieu of his prior service pension, if any,
16 and the annuity payments from his account provided in subsection A of
17 this section the actuarial equivalent of such retirement benefits under
18 one of the following options:

19 1. A life income paying a maximum monthly benefit with all bene-
20 fits ceasing at death.

21 2. An income for ten years certain and for life thereafter, pay-
22 able monthly to the retired member in an amount actuarially ascertained
23 to assure one hundred twenty payments to the retired member or to his
24 designated beneficiary or estate.

25 3. A monthly income during the joint lifetime of the retired mem-
26 ber and another person who has been designated in writing to the board at
27 the time of retirement, and upon the death of the retired member or the
28 other person two-thirds of this amount shall be paid during the surviving
29 lifetime.

30 C. The options provided under subsection B of this section shall
31 be elected at the time the retirement application is made and shall
32 become effective and irrevocable upon payment of the first monthly
33 amount.

34 D. A member who has attained age sixty with creditable service of
35 not less than five years may retire from state service and upon applica-
36 tion receive a life annuity derived from his retirement account and the
37 actuarial equivalent of his prior service pension payable concurrently
38 with such life annuity. The pension and annuity shall be determined and
39 paid in the manner set forth in subsection A of this section.

40 E. In lieu of the benefits provided in subsection D of this section,
41 such member may, upon application, elect to receive the actuarial equiva-
42 lent of such retirement benefits under one of the options set forth in
43 subsection B of this section.

44 F. If a RETIRED member BEGINS OR returns to service ~~after having~~
45 ~~been retired,~~ WITH ANY EMPLOYER MEMBER OF THIS SYSTEM, his OR HER member-
46 ship shall be reinstated. DURING SUCH EMPLOYMENT NO CONTRIBUTIONS MAY
47 BE MADE TO THE SYSTEM BY EITHER SUCH MEMBER OR HIS OR HER EMPLOYER, NOR
48 MAY ANY SERVICE BE CREDITED DURING SUCH EMPLOYMENT, and no further RETIRE-
49 MENT payments shall MAY be made to him SUCH MEMBER until subsequent
50 retirement from service. ~~at which time his retirement benefits shall be~~

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1 ~~recomputed-on-the-basis-of-his-then-attained-age-and-after-adjustment~~
2 ~~for-retirement-benefits-previously-received.~~ UPON SUBSEQUENT RETIREMENT
3 FROM SERVICE, SUCH MEMBER SHALL BE ENTITLED TO RECEIVE RETIREMENT
4 BENEFITS ON THE RECOMPUTED BASIS OF HIS THEN ATTAINED AGE AND AFTER
5 ADJUSTMENT FOR RETIREMENT BENEFITS PREVIOUSLY RECEIVED. IF A RETIRED
6 MEMBER BEGINS OR RETURNS TO SERVICE AS AN ELECTED PUBLIC OFFICER OR TO
7 ANY TYPE OF SERVICE OR EMPLOYMENT WHICH DOES NOT REQUIRE SUCH RETIRED
8 MEMBER TO REINSTATE HIS OR HER MEMBERSHIP IN THIS SYSTEM, THE PAYMENT
9 OF RETIREMENT BENEFITS TO SUCH RETIRED MEMBER PURSUANT TO THIS ARTICLE
10 SHALL NOT BE TERMINATED, WITHHELD OR INTERRUPTED BECAUSE OF BEGINNING
11 OR RETURNING TO SUCH SERVICE OR EMPLOYMENT OR HOLDING SUCH ELECTED
12 OFFICE.

13 G. Notwithstanding anything to the contrary herein, a member who
14 retires from service pursuant to this section and whose total monthly
15 benefit is less than ten dollars, shall be paid in a lump sum the actu-
16 arial equivalent of such monthly benefit.

17 H. Except as provided in section 38-759.01, all state officers
18 and employees and officers and employees who are declared by law to
19 be subject to the provisions of this article, except elected officials
20 or officers designated by law for a definite or an indefinite term and
21 appointive members of boards and commissions, who have attained or
22 exceeded their normal retirement date on and after the effective date
23 of this section, shall be retired and shall not be compensated for state
24 service nor be paid retirement benefits of any kind except as provided
25 by this article. The provisions of this subsection shall likewise apply
26 to officers and employees of political subdivisions of the state which
27 have established a retirement system under the provisions of section
28 38-752.

29 I. Except for participants covered under section 38-781.31,
30 no contributions shall be made either by a participant or his employer,
31 nor any service credited, after the participant has attained his normal
32 retirement date.

33 Sec. 3. Section 38-781.15, Arizona Revised Statutes, is amended
34 to read:

35 38-781.15. Limitations

36 A. If any change or error in the records result in any member or
37 beneficiary receiving from the plan more or less than he would have been
38 entitled to receive had the records been correct, the board shall correct
39 such error, and as far as practicable shall adjust the payments in such
40 manner that the actuarial equivalent of the benefit to which such member
41 or beneficiary was correctly entitled shall be paid.

42 B. If a participant who received a severance benefit upon termina-
43 tion of employment, as provided in section 38-781.12, subsection A, para-
44 graph 1, is subsequently reemployed by an employer, his prior and past
45 service credits shall be cancelled and service shall be credited only
46 from the date his most recent reemployment period commenced. Notwith-
47 standing the foregoing, if such former participant's reemployment occurred
48 within two years after his termination date, and, within sixty days after
49 reemployment he signs a written election consenting to a timely reim-
50 bursement to the fund, he shall be required to redeposit the amount of

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1 his accumulated contributions at the time of his separation from service,
2 with interest thereon to date of redeposit. Upon satisfaction of such
3 obligation, the participant's past and prior service credits acquired by
4 previous employment shall be reinstated.

5 C. If a nondisabled retired participant is EMPLOYED OR reemployed
6 by an ANY employer STATE AGENCY OR POLITICAL SUBDIVISION, THEREBY RE-
7 SUMING HIS PREVIOUS STATUS AS A PARTICIPANT EMPLOYEE AND NOT AS AN
8 ELECTED PUBLIC OFFICER, no pension payments ~~or~~ MAY BE MADE TO SUCH PAR-
9 TICIPANT AND NO contributions ~~shall be required~~ MAY BE MADE BY THE PAR-
10 TICIPANT NOR THE EMPLOYER of such participant, nor MAY any service BE
11 credited, during the period of such reemployment. Upon the subsequent
12 termination of employment by such a participant, he shall be entitled to
13 receive a pension based on his service and compensation arising prior to
14 the date of his previous retirement. THE PAYMENT OF RETIREMENT BENEFITS
15 TO ANY SUCH RETIRED PARTICIPANT UNDER THIS PLAN SHALL NOT BE TERMINATED,
16 WITHHELD NOR INTERRUPTED IF SUCH PARTICIPANT BEGINS OR RETURNS:

17 1. TO SERVICE AS AN ELECTED PUBLIC OFFICER THAT IS SUBJECT TO
18 THE PROVISIONS OF THIS ARTICLE, OR

19 2. TO ANY OTHER TYPE OF SERVICE OR EMPLOYMENT THAT DOES NOT
20 REQUIRE MEMBERSHIP IN THIS PLAN.

21 D. IF A PERSON RETIRED AS A NONDISABLED ELECTED OFFICER PARTICI-
22 PANT RETURNS TO SERVICE AS AN ELECTED OFFICER PARTICIPANT, SUCH
23 PARTICIPANT SHALL BE SUBJECT TO THE SAME RESTRICTIONS ON PENSION PAY-
24 MENTS, CONTRIBUTIONS AND CREDITED SERVICE AND RESUMPTION OF PENSION
25 PAYMENTS UPON SUBSEQUENT TERMINATION OF EMPLOYMENT AS PROVIDED FOR
26 OTHER THAN ELECTED OFFICERS IN SUBSECTION C OF THIS SECTION. THE
27 PAYMENT OF RETIREMENT BENEFITS TO ANY RETIRED NONDISABLED ELECTED
28 OFFICER PARTICIPANT SHALL NOT BE TERMINATED, WITHHELD NOR INTERRUPTED
29 IF SUCH PARTICIPANT BEGINS OR RETURNS TO SERVICE AND BECOMES SUBJECT
30 TO THE PROVISIONS OF THIS PLAN OTHER THAN AS AN ELECTED OFFICER, OR IF
31 SUCH PARTICIPANT BEGINS OR RETURNS TO ANY TYPE OF SERVICE OR EMPLOYMENT
32 THAT DOES NOT REQUIRE MEMBERSHIP IN THIS PLAN.

33 Sec. 4. Emergency

34 To preserve the public peace, health and safety it is necessary
35 that this act become immediately operative. It is therefore declared
36 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 16, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 55

HOUSE BILL 2067

AN ACT

RELATING TO CITIES AND TOWNS; PROVIDING FOR OPTIONAL BONDING OF CITY AND TOWN OFFICERS THROUGH BLANKET BONDS; PROVIDING AN EXCEPTION, AND AMENDING SECTION 9-302, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 9-302, Arizona Revised Statutes, is amended
3 to read:

4 9-302. Bonds of officers

5 A. UNLESS BONDED PURSUANT TO THE PROVISIONS OF SUBSECTION B OF
6 THIS SECTION, every officer of a city or town shall execute and file
7 an official bond, enforceable against the principal and his sureties,
8 conditioned on the due and faithful performance of his official duties,
9 payable to the state and to and for the use and benefit of the municipi-
10 pality or any person who may be injured or aggrieved by the wrongful
11 act or default of the officer in his official capacity. A person
12 injured or aggrieved may bring suit on such bond under the provisions
13 of section 38-260.

14 B. ANY INCORPORATED CITY OR TOWN MAY OBTAIN AND DELIVER TO THE
15 CITY OR TOWN CLERK A BLANKET BOND CONDITIONED ON FAITHFUL PERFORMANCE
16 OF ALL SUCH CITY'S OR TOWN'S OFFICERS PAYABLE TO THE MUNICIPALITY,
17 EXCEPT THE TREASURER OR TAX COLLECTOR BY WHATEVER TITLE KNOWN, WHO
18 SHALL EXECUTE THE OFFICIAL BOND PROVIDED FOR IN SUBSECTION A.

19 Sec. 2. Emergency

20 To preserve the public peace, health and safety it is necessary
21 that this act become immediately operative. It is therefore declared
22 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 16, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 56

HOUSE BILL 2173

AN ACT

RELATING TO TRANSPORTATION; PRESCRIBING AUTHORITY OF DIRECTOR OF DEPARTMENT OF TRANSPORTATION AND OFFICERS, BOARDS AND COMMISSIONS OF COUNTIES, CITIES OR TOWNS TO MARK SCHOOL CROSSWALKS; PROVIDING FOR SCHOOL CROSSINGS ON UNPAVED STREETS OR HIGHWAYS, AND AMENDING SECTION 28-797, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 28-797, Arizona Revised Statutes, is amended
3 to read:

4 28-797. School crossings

5 ~~A. --in front of each school building, or school grounds abutting~~
6 ~~thereon, the director by and with the advice of the school board or~~
7 ~~superintendent of schools, is empowered to mark or cause to be marked~~
8 ~~by the department, or local authorities, a single cross-walk where~~
9 ~~children shall be required to cross the highway.~~

10 A. THE DIRECTOR, WITH RESPECT TO STATE HIGHWAYS, AND THE OFFICER,
11 BOARD OR COMMISSION OF APPROPRIATE JURISDICTION, WITH RESPECT TO COUNTY
12 HIGHWAYS OR CITY OR TOWN STREETS, BY AND WITH THE ADVICE OF THE SCHOOL
13 BOARD OR SUPERINTENDENT OF SCHOOLS, ARE EMPOWERED TO MARK OR CAUSE TO
14 BE MARKED BY THE DEPARTMENT OR LOCAL AUTHORITIES CROSSWALKS IN FRONT OF
15 EACH SCHOOL BUILDING OR SCHOOL GROUNDS ABUTTING THEREON WHERE CHILDREN
16 SHALL BE REQUIRED TO CROSS THE HIGHWAY OR STREET.

17 B. Additional crossings across highways not abutting on school
18 grounds may be approved by the department, or local authorities, upon
19 application of school authorities, with written satisfactory assurance
20 given the department or local authorities that guards will be maintained
21 by the school district at the crossings to enforce the proper use of the
22 crossing by school children.

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1 C. The sign manual shall provide for yellow marking of the school
2 crossing, yellow marking of the center line of the roadway and the
3 erection of portable signs indicating that vehicles must stop when persons
4 are in the crossing. The manual shall also provide the type and wording
5 of portable signs indicating that school is in session, and permanent
6 signs providing warning of approach to school crossings.

7 D. When such crossings are established school authorities shall
8 place within the highway the portable signs indicating that school is
9 in session, placed not to exceed three hundred feet each side of the
10 school crossings, and "Stop When Children In ~~Cross-Walk~~ CROSSWALK" signs
11 at school crossings. School authorities shall maintain these signs when
12 school is in session and shall cause them to be removed immediately
13 thereafter.

14 E. No vehicle APPROACHING THE CROSSWALK shall proceed at a speed
15 to exceed fifteen miles per hour ~~when approaching the cross-walk and~~
16 ~~while~~ between the portable signs placed on the highway indicating "School
17 In Session" and "Stop When Children In ~~Cross-Walk~~ CROSSWALK".

18 F. When the clause "school in session" is used in this section,
19 either referring to the period of time or to signs, it means during
20 school hours or while children are going to or leaving school during
21 opening or closing hours.

22 G. When the school authorities place and maintain the required
23 portable "School In Session" signs and "Stop When Children In ~~Cross~~
24 ~~Walk~~ CROSSWALK" signs, all vehicles shall come to a complete stop at the
25 school crossing when the ~~cross-walk~~ CROSSWALK is occupied by any person.

26 H. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
27 A SCHOOL CROSSING MAY BE ESTABLISHED ON AN UNPAVED HIGHWAY OR STREET
28 ADJACENT TO A SCHOOL WHEN THE AGENCY OF APPROPRIATE JURISDICTION DETER-
29 MINES THE NEED FOR SUCH SCHOOL CROSSING ON THE BASIS OF A TRAFFIC STUDY.
30 SCHOOL CROSSINGS ON UNPAVED HIGHWAYS AND STREETS SHALL BE MARKED BY THE
31 USE OF SIGNS AS PRESCRIBED IN THE MANUAL ON UNIFORM TRAFFIC CONTROL
32 DEVICES.

Approved by the Governor - May 16, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 57

HOUSE BILL 2151

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PROVIDING FOR CONTINUATION OF EMPLOYMENT OF CERTAIN OFFICERS AND EMPLOYEES OF THE STATE AND POLITICAL SUBDIVISIONS THEREOF AFTER NORMAL RETIREMENT DATE; PROVIDING FOR CONTRIBUTIONS TO BE MADE BY AND FOR CERTAIN SUCH OFFICERS AND EMPLOYEES FOR RETIREMENT PURPOSES AND FOR ACCRUAL OF RETIREMENT BENEFITS THEREFOR DURING PERIODS OF SUCH CONTINUED EMPLOYMENT; REPEALING SECTION 38-759.01, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1974, CHAPTER 120, SECTION 4 AND AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-759.01; REPEALING SECTION 38-781.36, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1974, CHAPTER 120, SECTION 11 AND AMENDING TITLE 38, CHAPTER 5, ARTICLE 2.1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-781.36.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Repeal
3 Section 38-759.01, Arizona Revised Statutes, as added by Laws
4 1974, chapter 120, section 4, is repealed.
5 Sec. 2. Title 38, chapter 5, article 2, Arizona Revised Statutes,
6 is amended by adding a new section 38-759.01, to read:
7 38-759.01. Employment beyond normal retirement date; retirement
8 contributions and benefits; exceptions
9 A. THE PERSONNEL BOARD SHALL ADOPT RULES PRESCRIBING THE PRO-
10 CEDURES AND STANDARDS TO BE FOLLOWED FOR THE CONTINUATION OF EMPLOYMENT
11 OF STATE EMPLOYEES BEYOND THE NORMAL RETIREMENT DATE. EACH POLITICAL
12 SUBDIVISION OF THE STATE SHALL ADOPT RULES PRESCRIBING THE PROCEDURES
13 AND STANDARDS TO BE FOLLOWED FOR THE CONTINUATION OF EMPLOYMENT BEYOND
14 THE NORMAL RETIREMENT DATE FOR THE OFFICERS AND EMPLOYEES OF SUCH
15 POLITICAL SUBDIVISION.
16 B. ANY PERSON EMPLOYED AS PROVIDED IN THIS SECTION AS AN OFFICER
17 OR EMPLOYEE OF THE STATE MAY CONTINUE EMPLOYMENT BEYOND THE NORMAL
18 RETIREMENT DATE IF:
19 1. SUCH OFFICER OR EMPLOYEE REQUESTS IN WRITING, SIX MONTHS PRIOR
20 TO SUCH PERSON'S NORMAL RETIREMENT DATE, THAT HE OR SHE BE PERMITTED TO
21 CONTINUE SUCH EMPLOYMENT, EXCEPT THAT IF SUCH PERSON ATTAINS AGE SIXTY-FIVE
22 EARLIER THAN SIX MONTHS AFTER THIS SECTION BECOMES OPERATIVE, THEN SUCH

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1 OFFICER OR EMPLOYEE SHALL SUBMIT SUCH REQUEST WITHIN SUCH EARLIER TIME
2 AS PRESCRIBED BY RULES AND REGULATIONS ADOPTED BY THE PERSONNEL BOARD,
3 AND

4 2. SUCH OFFICER OR EMPLOYEE IS CERTIFIED BY HIS OR HER APPOINTING
5 AUTHORITY AS SPECIALLY FITTED BY REASON OF EXPERIENCE AND TRAINING TO
6 PERFORM THE DUTIES OF HIS OR HER POSITION AND THE APPOINTING AUTHORITY
7 APPROVES THE REQUEST FOR CONTINUED EMPLOYMENT, AND

8 3. THE PERSONNEL BOARD APPROVES SUCH REQUEST PURSUANT TO ITS
9 RULES AND REGULATIONS GOVERNING CONTINUED EMPLOYMENT AFTER THE NORMAL
10 RETIREMENT DATE.

11 C. THE PERSONNEL BOARD SHALL NOT APPROVE A REQUEST FOR A TERM OF
12 CONTINUED EMPLOYMENT OF STATE EMPLOYEES EXCEEDING ONE YEAR BUT MAY
13 APPROVE AS MANY ANNUAL REQUESTS FOR CONTINUED EMPLOYMENT AS IT DEEMS
14 ADVISABLE.

15 D. THE PROVISIONS OF THIS SECTION SHALL BE RETROACTIVELY AVAILABLE
16 TO STATE AND POLITICAL SUBDIVISION OFFICERS AND EMPLOYEES FOR POSSIBLE
17 CONTINUATION OF EMPLOYMENT BEYOND THE NORMAL RETIREMENT DATE:

18 1. BY ANY PERSON EMPLOYED AS AN OFFICER OR EMPLOYEE OF THE STATE
19 OR A POLITICAL SUBDIVISION OF THE STATE ON JUNE 30, 1974, UNTIL SUCH
20 PERSON ATTAINS AGE SEVENTY, PROVIDED SUCH EMPLOYMENT IS CONTINUOUS.
21 DURING SUCH CONTINUED EMPLOYMENT, THE EMPLOYER AND SUCH OFFICER OR EM-
22 PLOYEE SHALL MAKE CONTRIBUTIONS, BASED ON SUCH PERSON'S CURRENT SALARY,
23 TO THE RETIREMENT SYSTEM OR PLAN OR AN OPTIONAL RETIREMENT PROGRAM ES-
24 TABLISHED PURSUANT TO SECTION 15-725.02, OF WHICH SUCH PERSON IS A MEM-
25 BER OR PARTICIPANT, AND SUCH PERSON SHALL ACCRUE BENEFITS FOR RETIRE-
26 MENT PURPOSES FOR SUCH PERIODS OF CONTINUED EMPLOYMENT. THE RATES OF
27 CONTRIBUTIONS AND BENEFITS ACCRUED FOR RETIREMENT PURPOSES SHALL BE THE
28 SAME AS PROVIDED FOR OTHER OFFICERS OR EMPLOYEES OF SUCH EMPLOYER WHO
29 ARE MEMBERS OR PARTICIPANTS OF THE SAME RETIREMENT SYSTEM, PLAN OR OPTION-
30 AL RETIREMENT PROGRAM.

31 2. BY ANY PERSON WHO COMMENCES OR RESUMES EMPLOYMENT WITH THE
32 STATE OR A POLITICAL SUBDIVISION OF THE STATE ON OR AFTER JULY 1, 1974
33 AND HAS NOT ATTAINED AGE SIXTY-FIVE ON OR BEFORE COMMENCING OR RESUMING
34 SUCH EMPLOYMENT. DURING SUCH CONTINUED EMPLOYMENT, AFTER AGE SIXTY-FIVE,
35 SUCH OFFICER OR EMPLOYEE SHALL NOT MAKE CONTRIBUTIONS FROM SALARY TO ANY
36 RETIREMENT SYSTEM, PLAN OR OPTIONAL RETIREMENT PROGRAM BASED ON SUCH
37 CONTINUED EMPLOYMENT AND SHALL NOT ACCRUE ANY RETIREMENT BENEFITS FOR ANY
38 SUCH PERIOD OF CONTINUED EMPLOYMENT.

39 E. THE PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE ON
40 JULY 1, 1975.

41 Sec. 3. Repeal

42 Section 38-781.36, Arizona Revised Statutes, as added by Laws 1974,
43 chapter 120, section 11, is repealed.

44 Sec. 4. Title 38, chapter 5, article 2.1, Arizona Revised
45 Statutes, is amended by adding a new section 38-781.36, to read:

46 38-781.36. Employment beyond normal retirement date; retirement
47 contributions and benefits; exceptions

48 A. THE PERSONNEL BOARD SHALL ADOPT RULES PRESCRIBING THE PRO-
49 CEDURES AND STANDARDS TO BE FOLLOWED FOR THE CONTINUATION OF EMPLOYMENT
50 OF STATE EMPLOYEES BEYOND THE NORMAL RETIREMENT DATE. EACH POLITICAL
51 SUBDIVISION OF THE STATE SHALL ADOPT RULES PRESCRIBING THE PROCEDURES AND
52 STANDARDS TO BE FOLLOWED FOR THE CONTINUATION OF EMPLOYMENT BEYOND THE
53 NORMAL RETIREMENT DATE FOR THE OFFICERS AND EMPLOYEES OF SUCH POLITICAL
54 SUBDIVISION.

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1 B. ANY PERSON EMPLOYED AS PROVIDED IN THIS SECTION AS AN OFFICER
2 OR EMPLOYEE OF THE STATE MAY CONTINUE EMPLOYMENT BEYOND THE NORMAL
3 RETIREMENT DATE IF:

4 1. SUCH OFFICER OR EMPLOYEE REQUESTS IN WRITING, SIX MONTHS PRIOR
5 TO SUCH PERSON'S NORMAL RETIREMENT DATE, THAT HE OR SHE BE PERMITTED TO
6 CONTINUE SUCH EMPLOYMENT, EXCEPT THAT IF SUCH PERSON ATTAINS AGE SIXTY-FIVE
7 EARLIER THAN SIX MONTHS AFTER THIS SECTION BECOMES OPERATIVE, THEN SUCH
8 OFFICER OR EMPLOYEE SHALL SUBMIT SUCH REQUEST WITHIN SUCH EARLIER TIME
9 AS PRESCRIBED BY RULES AND REGULATIONS ADOPTED BY THE PERSONNEL BOARD,
10 AND

11 2. SUCH OFFICER OR EMPLOYEE IS CERTIFIED BY HIS OR HER APPOINTING
12 AUTHORITY AS SPECIALLY FITTED BY REASON OF EXPERIENCE AND TRAINING TO
13 PERFORM THE DUTIES OF HIS OR HER POSITION AND THE APPOINTING AUTHORITY
14 APPROVES THE REQUEST FOR CONTINUED EMPLOYMENT, AND

15 3. THE PERSONNEL BOARD APPROVES SUCH REQUEST PURSUANT TO ITS
16 RULES AND REGULATIONS GOVERNING CONTINUED EMPLOYMENT AFTER THE NORMAL
17 RETIREMENT DATE.

18 C. THE PERSONNEL BOARD SHALL NOT APPROVE A REQUEST FOR A TERM OF
19 CONTINUED EMPLOYMENT OF STATE EMPLOYEES EXCEEDING ONE YEAR BUT MAY APPROVE
20 AS MANY ANNUAL REQUESTS FOR CONTINUED EMPLOYMENT AS IT DEEMS ADVISABLE.

21 D. THE PROVISIONS OF THIS SECTION SHALL BE RETROACTIVELY AVAIL-
22 ABLE TO STATE AND POLITICAL SUBDIVISION OFFICERS AND EMPLOYEES FOR
23 POSSIBLE CONTINUATION OF EMPLOYMENT BEYOND THE NORMAL RETIREMENT DATE:

24 1. BY ANY PERSON EMPLOYED AS AN OFFICER OR EMPLOYEE OF THE STATE
25 OR A POLITICAL SUBDIVISION OF THE STATE ON JUNE 30, 1974, UNTIL SUCH
26 PERSON ATTAINS AGE SEVENTY, PROVIDED SUCH EMPLOYMENT IS CONTINUOUS. DUR-
27 ING SUCH CONTINUED EMPLOYMENT, THE EMPLOYER AND SUCH OFFICER OR EMPLOYEE
28 SHALL MAKE CONTRIBUTIONS, BASED ON SUCH PERSON'S CURRENT SALARY, TO THE
29 RETIREMENT SYSTEM OR PLAN OR AN OPTIONAL RETIREMENT PROGRAM ESTABLISHED
30 PURSUANT TO SECTION 15-725.02, OF WHICH SUCH PERSON IS A MEMBER OR PAR-
31 TICIPANT, AND SUCH PERSON SHALL ACCRUE BENEFITS FOR RETIREMENT PURPOSES
32 FOR SUCH PERIODS OF CONTINUED EMPLOYMENT. THE RATES OF CONTRIBUTIONS
33 AND BENEFITS ACCRUED FOR RETIREMENT PURPOSES SHALL BE THE SAME AS PRO-
34 VIDED FOR OTHER OFFICERS OR EMPLOYEES OF SUCH EMPLOYER WHO ARE MEMBERS
35 OR PARTICIPANTS OF THE SAME RETIREMENT SYSTEM, PLAN OR OPTIONAL RETIRE-
36 MENT PROGRAM.

37 2. BY ANY PERSON WHO COMMENCES OR RESUMES EMPLOYMENT WITH THE
38 STATE OR A POLITICAL SUBDIVISION OF THE STATE ON OR AFTER JULY 1, 1974
39 AND HAS NOT ATTAINED AGE SIXTY-FIVE ON OR BEFORE COMMENCING OR RESUMING
40 SUCH EMPLOYMENT. DURING SUCH CONTINUED EMPLOYMENT, AFTER AGE SIXTY-
41 FIVE, SUCH OFFICER OR EMPLOYEE SHALL NOT MAKE CONTRIBUTIONS FROM SALARY TO
42 ANY RETIREMENT SYSTEM, PLAN OR OPTIONAL RETIREMENT PROGRAM BASED ON SUCH
43 CONTINUED EMPLOYMENT AND SHALL NOT ACCRUE ANY RETIREMENT BENEFITS FOR
44 ANY SUCH PERIOD OF CONTINUED EMPLOYMENT.

45 E. THE PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE ON
46 JULY 1, 1975.

47 Sec. 5. Emergency

48 To preserve the public peace, health and safety it is necessary
49 that this act become immediately operative. It is therefore declared to
50 be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 16, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 58

HOUSE BILL 2258

AN ACT

RELATING TO PUBLIC FINANCES; PROVIDING FOR ISSUANCE OF TAX ANTICIPATION NOTES,
AND AMENDING TITLE 35, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING
ARTICLE 3.1.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 35, chapter 3, Arizona Revised Statutes, is
3 amended by adding article 3.1, sections 35-465 and 35-465.01 through
4 35-465.07, to read:
5 ARTICLE 3.1. TAX ANTICIPATION NOTES
6 35-465. Definitions
7 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
8 1. "CITY" MEANS ANY CITY INCORPORATED UNDER THE LAWS OF THIS
9 STATE. "CITY" ALSO INCLUDES ANY TOWN INCORPORATED UNDER THE LAWS OF
10 THIS STATE.
11 2. "COUNTY" MEANS ANY COUNTY NOW OR HEREAFTER IN EXISTENCE
12 IN THE STATE.
13 3. "FISCAL YEAR" MEANS THE PERIOD COMMENCING ON JULY 1 OF ANY
14 YEAR AND TERMINATING ON JUNE 30 OF THE NEXT SUCCEEDING YEAR.
15 4. "GOVERNING BODY" MEANS THE BODY CONSTITUTED BY LAW TO BE THE
16 LEGISLATIVE DEPARTMENT OF THE TAXING DISTRICT.
17 5. "MUNICIPAL CORPORATION" MEANS ANY SANITARY DISTRICT, ELEC-
18 TRICAL DISTRICT, IRRIGATION DISTRICT, HOSPITAL DISTRICT OR ANY OTHER
19 SIMILAR MUNICIPAL CORPORATION WHICH IS REQUIRED BY LAW TO ADOPT A
20 BUDGET.
21 6. "SCHOOL DISTRICT" MEANS ANY SCHOOL DISTRICT NOW OR HEREAFTER
22 IN EXISTENCE IN THE STATE.
23 7. "STATE" MEANS THE STATE OF ARIZONA.
24 8. "TAXES" MEANS AD VALOREM TAXES TO BE LEVIED IN THE FISCAL
25 YEAR, SALES TAXES AND TRANSACTION PRIVILEGE TAXES LEVIED BY THE TAXING
26 DISTRICT OR RETURNED TO THE TAXING DISTRICT BY THE STATE. THE TERM

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1 "TAXES" DOES NOT INCLUDE SALES OR TRANSACTION PRIVILEGE TAXES WHICH BY
2 LAW OR CONTRACT MUST BE USED BY SUCH DISTRICT FOR SPECIFIED PURPOSES,
3 SUCH AS MOTOR VEHICLE FUEL TAXES AND DOES NOT INCLUDE AMOUNTS RAISED BY
4 THE STATE THROUGH AD VALOREM TAXES OR INCOME TAXES WHICH ARE RETURNED
5 TO THE TAXING DISTRICT.

6 9. "TAXING DISTRICT" MEANS ANY CITY, COUNTY, SCHOOL DISTRICT OR
7 MUNICIPAL CORPORATION HAVING THE POWER TO LEVY AD VALOREM TAXES.

8 35-465.01. Tax anticipation notes

9 AFTER A TAXING DISTRICT HAS ADOPTED A BUDGET FOR THE CURRENT FISCAL
10 YEAR AS PROVIDED BY LAW AND THE GOVERNING BODY THEREOF ASCERTAINS THAT
11 THE TAXES TO BE RECEIVED BY SUCH DISTRICT WILL NOT BE RECEIVED IN TIME
12 TO PAY THE DISTRICT'S PROJECTED EXPENSES, AS SET FORTH IN SUCH BUDGET,
13 THE GOVERNING BODY MAY ISSUE AND SELL TAX ANTICIPATION NOTES, THE
14 PRINCIPAL AND INTEREST ON WHICH ARE TO BE PAID SOLELY FROM THE TAXES
15 ESTIMATED BY SUCH TAXING DISTRICT TO BE RECEIVED WITHIN THE CURRENT
16 FISCAL YEAR.

17 35-465.02. Form of notes

18 THE NOTES MAY BE ISSUED IN ONE OR MORE SERIES, BEAR SUCH DATES, BE
19 IN SUCH DENOMINATION OR DENOMINATIONS, MATURE ON ANY DATE OR DATES OCCUR-
20 RING ON OR PRIOR TO THE LAST DAY OF THE FISCAL YEAR, MATURE IN SUCH
21 AMOUNT OR AMOUNTS, BEAR INTEREST AT SUCH RATE OR RATES NOT EXCEEDING SIX
22 PER CENT PER ANNUM, BE IN SUCH FORM AND BE EXECUTED IN SUCH MEDIUM OF
23 PAYMENT, BE PAYABLE AT SUCH PLACE OR PLACES, AND BE SUBJECT TO SUCH TERMS
24 OF REDEMPTION WITH OR WITHOUT PREMIUM AS THE RESOLUTION OF THE GOVERNING
25 BODY AUTHORIZING THE ISSUANCE OF THE NOTES MAY PROVIDE. THE NOTES MAY
26 BE SOLD AT NOT LESS THAN PAR AT EITHER PUBLIC OR PRIVATE SALE. THE TERM
27 "PUBLIC SALE" SHALL INCLUDE SALE BY EITHER AUCTION OR SEALED BID UPON
28 SUCH TERMS, CONDITIONS AND NOTICE AS THE GOVERNING BODY MAY PRESCRIBE.
29 THE NOTES SHALL BE FULLY NEGOTIABLE FOR ALL PURPOSES AS SET FORTH IN
30 TITLE 44, CHAPTER 14, ARTICLE 3.

31 35-465.03. Limitations on issuance of notes

32 THE AMOUNT OF SUCH NOTES ISSUED BY SUCH TAXING DISTRICT IN ANY
33 FISCAL YEAR SHALL NOT EXCEED FIFTY PER CENT OF THE AGGREGATE OF ALL
34 UNCOLLECTED TAXES ESTIMATED TO BE RECEIVED BY THE DISTRICT IN THE FISCAL
35 YEAR AS SHOWN BY THE CURRENT BUDGET.

36 35-465.04. Application of taxes, principal and interest
37 redemption fund, payment of notes

38 UPON THE ISSUANCE OF ANY TAX ANTICIPATION NOTES ALL TAXES RECEIVED
39 BY THE TAXING DISTRICT SHALL BE COLLECTED AND PAID INTO A SPECIAL FUND
40 TO BE KNOWN AS THE TAX ANTICIPATION NOTE PRINCIPAL AND INTEREST REDEMPTION
41 FUND UNTIL SUCH TIME AS MONIES IN SUCH FUND ARE SUFFICIENT TO PAY WHEN
42 DUE ALL PRINCIPAL AND INTEREST ON THE NOTES. ALL MONIES IN THE SPECIAL
43 FUND SHALL BE USED TO PAY PRINCIPAL AND INTEREST ON THE TAX ANTICIPATION
44 NOTES AND SHALL BE USED FOR NO OTHER PURPOSE. ANY OTHER LAW TO THE
45 CONTRARY NOTWITHSTANDING, THIS ARTICLE SHALL BE FULL AUTHORITY FOR THE
46 PAYMENT WHEN DUE, OR FOR REDEMPTION IN ADVANCE OF MATURITY, OF ALL
47 PRINCIPAL AND INTEREST AND REDEMPTION PREMIUMS ON THE NOTES FROM THE
48 MONIES IN THE SPECIAL FUND.

CHAPTER 59

HOUSE BILL 2401

AN ACT

RELATING TO BANKS AND FINANCIAL INSTITUTIONS; PRESCRIBING IMMEDIATE FAMILY FOR CREDIT UNION PURPOSES; PROVIDING FOR THE TRANSFER OF CERTAIN HOLDINGS TO CREDIT OF LEGAL RESERVE; PRESCRIBING POWERS OF CREDIT UNION AND DIRECTORS; PROVIDING FOR MAJORITY VOTE OF APPROVAL BY CREDIT COMMITTEE; PROVIDING FOR CERTAIN CO-MAKERS ON LOANS; PRESCRIBING AMOUNT OF RESERVES; PROVIDING THAT THE ADMINISTRATOR OF THE NATIONAL CREDIT UNION ADMINISTRATION ACT AS LIQUIDATING AGENT FOR CERTAIN CREDIT UNIONS; PROHIBITING CERTAIN FALSE STATEMENTS AND PROVIDING A PENALTY; PROVIDING FOR GROUP LIFE INSURANCE FOR CERTAIN CREDIT UNION MEMBERS; PRESCRIBING QUALIFICATIONS; PRESCRIBING REQUIREMENTS FOR GROUP CONTRACTS; AMENDING SECTIONS 6-501, 6-506, 6-508, 6-509, 6-513, 6-514, 6-518, 6-520, 6-521 AND 6-530, ARIZONA REVISED STATUTES; AMENDING TITLE 6, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 6-536; AMENDING SECTION 20-1251, ARIZONA REVISED STATUTES, AND AMENDING TITLE 20, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1251.01.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 6-501, Arizona Revised Statutes, is amended
3 to read:
4 6-501. Definitions
5 In this chapter, unless the context otherwise requires:
6 1. "Branch office" means an established place of business of the
7 credit union, other than the home office, authorized by the board of
8 directors and approved by the superintendent.
9 2. A "credit union" is a cooperative nonprofit society, associa-
10 tion or group organized and incorporated in accordance with the
11 provisions of this chapter, for the purposes of creating thrift and
12 self-reliance among its members and to make credit available to people
13 of small means, through a system of cooperative lending at a reasonable
14 and legitimate rate of interest in order to improve their economic and
15 social condition.
-

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- 1 3. "Department" means the state banking department.
2 4. "Extension" or "extension agreement" means the consent of all
3 parties on a note to a modification of the terms of the promissory note
4 and is binding on all parties agreeing to the extension.
5 5. "Immediate family" means persons related by blood, by marriage,
6 or adoption. ~~who live together as one household.~~
7 6. "Impaired" or "impairment", with respect to capital means a
8 condition in which the value of the credit union's asset is less than
9 the aggregate amount of the credit union's liabilities to creditors plus
10 the aggregate value of its share accounts and special investment
11 accounts.
12 7. "Merged credit union" means a credit union which effected a
13 merger with another credit union in accordance with the provisions of
14 this chapter concerning merger.
15 8. "Merger" includes consolidation.
16 9. "Net earnings" means, as determined by application of proper
17 accounting principles, gross income at the end of the fiscal year less
18 operating and all other expenses.
19 10. "Paid-in and unimpaired capital" means, as of a given date,
20 the balance of the paid-in shares and special investment accounts as of
21 such date, less any losses that may have been incurred for which there
22 is no reserve or which have not been charged against undivided earnings.
23 11. "Share account" means withdrawable capital invested in a
24 credit union in accordance with the provisions of this chapter.
25 12. "Special investment account" means any account other than a
26 share account including but not limited to Christmas club accounts,
27 vacation club accounts, or any other such thrift accounts as may be
28 provided in the bylaws of the credit union.
29 13. "Superintendent" means the superintendent of banks, or any
30 authorized agent of the superintendent.
31 Sec. 2. Section 6-506, Arizona Revised Statutes, is amended to
32 read:
33 6-506. Membership
34 Credit union membership shall consist of the subscribers to the
35 application for organization who shall have paid for one or more full
36 shares each, and such other subscribers within the field of membership
37 as may be approved for membership by the board of directors and who
38 shall have paid for one or more full shares. ~~plus a membership fee.~~
39 Sec. 3. Section 6-508, Arizona Revised Statutes, is amended to
40 read:
41 6-508. Issuance of shares; minors
42 A. Shares shall be issued in the name of the owner or may be
43 issued in the name of two or more persons in accordance with title 14,
44 chapter 6, article 1. Only one of such persons need have the common
45 bond of interest or association or occupation specified in this chapter,
46 and only that person may vote in a meeting of the members. A multiple
47 owner not in the field of membership cannot become a member of the
48 credit union. Such persons shall have no voting rights and shall not
49 borrow from the credit union nor continue beyond the current dividend
50 period the share account in the credit union after the death of the

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1 multiple owner member. Shares may be issued in the name of a minor or
2 in trust in such manner as the bylaws may provide, provided the name
3 of the actual beneficiary is disclosed to the credit union.

4 B. Upon authorization of the board of directors, the partial
5 share holdings of a member in excess of ~~one-dollar~~ FIVE DOLLARS which
6 is carried on the books of the credit union at less than par value for
7 a period of two whole years may be credited to the legal reserve of the
8 credit union if upon written notice mailed to the member at his last
9 known address no action to withdraw such funds is taken by the member
10 within thirty days after the mailing of such notice. All like share
11 accounts of ~~one-dollar~~ FIVE DOLLARS or less may be credited to the legal
12 reserve without notice.

13 Sec. 4. Section 6-509, Arizona Revised Statutes, is amended to
14 read:

15 6-509. Powers of credit unions

16 A credit union may:

- 17 1. Receive the funds of its members as payment on shares.
 - 18 2. Receive the funds of its members, EMPLOYERS OF MEMBERS,
19 SPONSORS OR PROFIT OR PENSION TRUSTS OF SUCH MEMBERS, EMPLOYERS OR
20 SPONSORS in special investment accounts.
 - 21 3. Make contracts, sue and be sued.
 - 22 4. Adopt and use a common seal and alter same at pleasure.
 - 23 5. Purchase, lease, own, hold or otherwise dispose of such real
24 property as necessary or incidental to the use, operation or proper
25 conduct of its business.
 - 26 6. Make loans to members for provident or productive purposes.
 - 27 7. Require the payment of an entrance or membership fee.
 - 28 8. Purchase or provide insurance on the lives of its members in
29 an amount equal to their respective share, special investment account
30 and loan balances or any or all of them.
 - 31 9. Borrow money from any source in an aggregate amount not
32 exceeding fifty per cent of the total assets.
 - 33 10. Invest its surplus funds in the manner and as provided in
34 this chapter.
 - 35 11. Deposit its operating funds in banks authorized to do busi-
36 ness in Arizona.
 - 37 12. Assess charges against members in accordance with the bylaws
38 for failure to meet promptly their obligations to the credit union.
 - 39 13. Hold membership in other credit unions organized and oper-
40 ating within the state of Arizona, in the Arizona credit union league,
41 and in other organizations composed of credit unions.
 - 42 14. Declare dividends as provided in this chapter, and to pay
43 earnings on special investment accounts.
 - 44 15. Impress a lien upon the shares, special investment accounts
45 and accumulation of dividends and earnings of any member to the extent
46 of any loans made to him directly or indirectly, or on which he is a
47 surety and for any dues or charges payable by him.
 - 48 16. Change its place of business in Arizona with the written
49 approval of the superintendent.
- 50

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1 17. Sell travelers checks or money orders to members for a
2 reasonable fee.

3 18. Exercise such incidental powers as may be necessary or
4 requisite to enable it to promote and carry on most effectively its
5 purposes.

6 19. Merge with one or more other credit unions in this state
7 having membership with similar associational, occupational interest or
8 as provided in this chapter.

9 20. Purchase or provide insurance for the benefit of the credit
10 union and its members.

11 Sec. 5. Section 6-513, Arizona Revised Statutes, is amended
12 to read:

13 6-513. Powers and duties of directors

14 A. The board of directors shall have general management of the
15 affairs of the credit union and shall meet at least once each month.
16 Minutes of such meetings shall be kept on record in the office of the
17 credit union. At the first meeting held after its organization and at
18 the first meeting after each annual membership meeting, the board of
19 directors shall elect from its own number a chief executive officer who
20 may be designated as chairman of the board or president, a vice-chairman
21 or vice-president, a secretary and a treasurer, of whom the last two
22 named may be the same individual. The board of directors may employ an
23 officer in charge of operations whose title shall be either president or
24 general manager or in lieu thereof, the board of directors may designate
25 the treasurer or an assistant treasurer to be in active charge of the
26 affairs of the credit union.

27 B. The directors shall:

28 1. Act upon applications for membership, or to appoint a member-
29 ship committee or a membership officer OFFICERS from among the members
30 of the credit union, other than the treasurer, assistant treasurers or
31 loan officers who may be authorized by the board to approve applications
32 for membership under such conditions as the board may prescribe, except
33 that such committee or membership officer OFFICERS so authorized, shall
34 submit to the board at each monthly meeting a list of approved or pending
35 applications for membership received since the previous monthly meeting,
36 together with such other related information as the bylaws or the board
37 may require.

38 2. Determine interest rates on loans not to exceed one per cent
39 per month on the unpaid balance. No further or other amount whatever
40 shall be directly or indirectly charged, contracted for, or received by
41 the credit union ~~but such restrictions shall not apply to~~ EXCEPT FOR
42 reasonable charges on delinquent accounts, ~~where action other than the~~
43 ~~normal demand for payment has been taken by the credit union to effect~~
44 ~~collection thereof, or to~~ court costs, reasonable attorney's fees
45 assessed and fixed by the court, lawful fees for the acknowledging,
46 filing and recording or releasing in any public office of any instrument
47 securing a loan AND ANY NECESSARY FEES REQUIRED TO OBTAIN AND PERFECT A
48 LIEN PURSUANT TO THIS CHAPTER.

49 3. Purchase a blanket bond covering the officers, employees,
50 members of official committees, attorneys at law and other agents, with

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1 protection against loss to the credit union caused by dishonesty, negli-
2 gence, burglary, robbery, larceny, theft, holdup, forgery or alteration
3 of instruments, misplacement or mysterious disappearance and for faith-
4 ful performance of duty. The superintendent shall prescribe in rules
5 and regulations the amount of minimum bond coverage required for all
6 credit unions.

7 4. Determine the rate of return to be paid on special investment
8 accounts.

9 5. Declare dividends in the way and manner provided in this
10 chapter and in the bylaws.

11 6. Limit the number of shares and the amount of special invest-
12 ment which may be owned by a member, such limitations to apply alike to
13 all members.

14 7. Establish loan policies in compliance with the law of this
15 chapter and in conformity with the credit union bylaws.

16 8. Have charge of investment of funds. The board may appoint an
17 executive committee of not less than three directors to act for it in
18 the purchase and sale of securities or the making of loans to other
19 credit unions, or both.

20 9. Declare any refund to borrowers of a portion of their interest
21 paid.

22 10. Elect such officers, assistant officers and committees as may
23 be provided in the bylaws.

24 11. Appoint a credit committee of not less than three members
25 and a supervisory committee of not less than three members for periods
26 provided in section 6-512, and fill vacancies occurring between annual
27 meetings on the board of directors, credit committee and supervisory
28 committee until the election or appointment and qualification of their
29 successors.

30 12. Borrow money to carry on the functions of the credit union.

31 13. Designate a depository or depositories for the funds of the
32 credit union.

33 14. Establish and provide for such compensation of loan officers
34 appointed by the credit committee and for auditing assistance required
35 by the supervisory committee.

36 15. Appoint and dismiss employees and fix their compensation.
37 ~~The treasurer or manager may be authorized to employ and dismiss~~
38 ~~employees, but they may not fix compensation.~~ SUCH DUTIES MAY BE DELE-
39 GATED TO THE CHIEF EXECUTIVE OFFICER OF THE CREDIT UNION.

40 16. Remove by a unanimous MAJORITY vote any member of the super-
41 visory or credit committee for failure to perform their HIS OR HER duties
42 in accordance with this chapter, and fill the vacancy, except that where
43 the removed member requests a special meeting of the members for the
44 purpose of considering such removal, the board shall call a special
45 meeting not less than seven days nor more than twenty-one days after
46 such removal and at which meeting such removal shall be upheld or denied
47 by a majority of the members present.

48 17. Perform or authorize any action consistent with this chapter
49 not specifically reserved by the bylaws for the members.

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1 C. The duties of the officers shall be as determined by the board
2 of directors and the bylaws.

3 Sec. 6. Section 6-514, Arizona Revised Statutes, is amended to
4 read:

5 6-514. Credit committee

6 A. The credit committee shall approve each loan and each exten-
7 sion thereof made by the credit union. All applications for loans shall
8 be made in writing and shall state the purpose for which the loan is
9 desired and the endorsements or security offered. All loans shall be
10 approved by a majority of the credit committee ~~and shall have unanimous~~
11 ~~approval of all members~~ present and considering such loan. The credit
12 committee shall have the general supervision of the granting of all
13 loans to members subject to the provisions of the bylaws and any resolu-
14 tions of the board of directors. It shall meet at least once each
15 month, act on all applications for loans before it and shall keep
16 minutes of all meetings and report its activities to the board of direc-
17 tors each month and to the membership annually.

18 B. The credit committee may, subject to the provisions of the
19 bylaws and upon ratification of the board, appoint one or more loan
20 officers. ~~Not more than one of whom may be a member of the credit~~
21 ~~committee.~~ LOAN OFFICERS MAY APPROVE EXTENSION AGREEMENTS AND RELEASES
22 OR EXCHANGE OF COLLATERAL. A written report of loans made shall be sub-
23 mitted by the loan officers to the credit committee at each meeting. The
24 loan officer, subject to the supervision of the committee, may approve
25 applications for loans up to an amount equal to ten per cent of the credit
26 union's paid-in and unimpaired capital or two hundred dollars, whichever
27 is greater, or in excess of such limit if the excess is fully secured
28 by unpledged shares. Loans, EXTENSIONS, RELEASES OR EXCHANGES not
29 approved by the loan officer shall be acted upon by the credit committee.
30 A loan officer may not sign checks or disburse funds for loans he has
31 approved.

32 Sec. 7. Section 6-518, Arizona Revised Statutes, is amended to
33 read:

34 6-518. Loans to members; application; recording; violation

35 A. The funds of the credit union may be loaned to the members for
36 provident or productive purposes and upon such security and terms as
37 the credit committee may approve consistent with the resolutions of the
38 board of directors, the bylaws, and the provisions of this chapter. The
39 funds of the credit union available for loans shall in all cases be used
40 first for loans to members, and preference shall be given to smaller
41 loans in the event sufficient funds are not available to permit all mem-
42 ber loans to be made. A borrower may repay his loan in whole or in part
43 any day during the time that the office of the credit union is open for
44 business.

45 B. Loans may be made to officers and members of the board of
46 directors, credit committee, and supervisory committee under the same
47 general terms and conditions as to other members of the credit union.
48 Any such loans shall require the approval of all members of the credit
49 committee and board of directors where such loan exceeds AN AMOUNT SET

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1 BY THE BOARD OF DIRECTORS OVER the share balance of the borrowing member
2 except the officer, committee member or director benefiting directly or
3 indirectly from the loan who shall not be present at such meeting or
4 vote on the loan application. Loans in excess of shares shall not make
5 a candidate for any office, board of directors, or committee ineligible
6 to be elected as such officer, director or committee member, provided
7 the payment schedule called for in the note is maintained and no increase
8 or renewal of the obligation shall be effected in excess of shares
9 unless approved as otherwise provided in this subsection. No officer,
10 director or committee member may endorse or become co-maker for any
11 borrower EXCEPT SPOUSES AND IMMEDIATE FAMILY MEMBERS.

12 C. All applications for loans shall be made in writing and shall
13 state the purpose for which the loan is desired, the security and such
14 other information as the credit committee may require.

15 D. All contracts, mortgages, financing statement or security
16 instruments securing loans shall be filed or recorded in the county
17 recorder's office in such county or in the office of the secretary of
18 state as the law requires, and all security instruments on vehicles
19 shall be filed or recorded with the motor vehicle division of the state
20 highway department, to secure and make certain the first lien security
21 to the credit union, and any officer or official of any credit union
22 failing or neglecting to immediately file and record such lien shall be
23 liable for any loss to said credit union as a result of the failure to
24 file and record such lien, except that where the credit union has insur-
25 ance or indemnity bond insuring the credit union against such loss this
26 subsection shall not apply.

27 E. Any officer, director or member of the committee of a credit
28 union who knowingly permits a loan to be made or participates in a loan
29 to a non-member of the credit union shall be guilty of a misdemeanor and
30 also shall be primarily liable to the credit union for the amount thus
31 loaned, and the illegality of such acts shall be no defense in any
32 action by the credit union to recover the amount loaned from said non-
33 member and officer, director or committee member.

34 F. All such contracts and obligations of such credit union shall
35 continue in full force and effect, but the credit union shall continue
36 to be operated and regulated in accordance within the provisions of this
37 chapter.

38 Sec. 8. Section 6-520, Arizona Revised Statutes, is amended to
39 read:

40 6-520. Investments

41 A credit union, by action of its board of directors, and within
42 the authority of its bylaws, may invest its funds in any of the
43 following:

44 1. Securities issued as direct obligations and guaranteed by the
45 United States, or an agency of the United States.

46 2. Time deposits, including certificates of deposit, in any bank
47 which is a member of the federal deposit insurance corporation or any
48 successor instrumentality. Deposits in out-of-state banks shall be
49 limited to such accounts as are fully insured by the federal deposit
50 insurance corporation or any successor instrumentality.

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1 3. Shares and savings certificates in any savings and loan
2 association which is a member of the federal savings and loan insurance
3 corporation or any successor instrumentality. Investments in out-of-
4 state associations shall be limited to such accounts as are fully
5 insured by the federal savings and loan insurance corporation or any
6 successor instrumentality.

7 4. Shares and special investments in other credit unions in this
8 state.

9 5. Trust or trusts established for investing directly or collec-
10 tively in securities authorized by paragraph 1 of this section.

11 6. Commercial bonds, rated triple A, and any promissory notes
12 secured by first mortgage liens on residential real property located in
13 Arizona, provided that each of such mortgages meets all the requirements
14 of section 6-519, subsection D, paragraph 6.

15 7. Shares, obligations or preferred stock issues of any agency or
16 association organized either as a stock company, mutual association or
17 membership corporation, provided the membership or stock holdings of
18 such agency or association are PRIMARILY confined or restricted to credit
19 unions or organizations of credit unions, and the purpose for which such
20 agency or association is organized is to service or otherwise assist
21 credit union operations. Such investment shall not exceed five per cent
22 of the credit union's paid-in and unimpaired capital. Action of a credit
23 union in investing funds, in accordance with the provisions of this
24 section, shall not be deemed a violation hereof if its aggregate invest-
25 ments exceed the limitation of this section because of a subsequent
26 reduction in the amount of the credit union's paid-in and unimpaired
27 capital.

28 Sec. 9. Section 6-521, Arizona Revised Statutes, is amended to
29 read:

30 6-521. Reserves

31 A. At the close of each dividend period, not less than ten per
32 cent of the gross-earnings INTEREST EARNED ON LOANS TO INDIVIDUALS of
33 such period shall be set aside as a reserve fund until such fund is
34 equal to five per cent of the outstanding loans to members, excluding
35 loans to other credit unions and, when the reserve equals or exceeds that
36 five per cent, not less than five per cent of gross-earnings INTEREST
37 EARNED ON LOANS TO INDIVIDUALS shall be set aside in the reserve fund
38 until such fund is equal to seven per cent of the outstanding loans to
39 members, excluding loans to other credit unions. Subsequent transfers
40 shall be required only to maintain the seven per cent maximum. All
41 entrance fees, charges and transfer fees shall, after payment of organiza-
42 tion expenses, be added to the fund.

43 B. The reserve fund shall belong to the credit union and shall be
44 used to meet losses except those resulting from an excess of expenses
45 over income and shall not be distributed except on liquidation of the
46 credit union or in accordance with a plan approved by the superintendent.
47 The board of directors may increase, or if such reserve fund equals or
48 exceeds seven per cent of the outstanding loans to members excluding
49 loans to other credit unions, decrease the proportion of the net earnings
50

1 to be thus set aside, and may transfer part or all of the undivided
2 earnings to the reserve fund.

3 C. Special reserves for losses may be ordered by the
4 superintendent.

5 D. The board of directors may establish such other reserves it
6 deems necessary for the purpose of protecting the interest of members.

7 Sec. 10. Section 6-530, Arizona Revised Statutes, is amended to
8 read:

9 6-530. Involuntary dissolution

10 A. The superintendent may forthwith take possession and control
11 of the business and property of any credit union to which this chapter
12 is applicable whenever he finds upon examination or investigation that
13 such credit union is guilty of one or more of the following violations:

14 1. Is in violation of this chapter.

15 2. Is conducting its business in an unauthorized or unsafe manner
16 or in violation of the bylaws of the credit union.

17 3. Is insolvent.

18 4. Has an impairment of its capital.

19 5. Cannot with safety and expediency continue business.

20 6. Has suspended payment of its obligations.

21 7. Is, through its officers, refusing to submit its books, papers,
22 records of affairs for inspection to any examiner.

23 8. Is, through its officers, refusing to be examined regarding
24 its affairs.

25 9. Has been examined by its own supervisory committee and the
26 majority of the committee requested in writing that the superintendent
27 take possession and control.

28 10. In proceeding for voluntary dissolution has, through its
29 liquidating agent, failed to make reasonable progress in the liquidation
30 of its affairs and distribution of its assets.

31 B. The superintendent upon taking possession and control of the
32 credit union, its business and operation, together with the furniture,
33 fixtures, books, records and assets of every description shall determine
34 whether it is practicable and feasible to reorganize the credit union to
35 continue its business, or be merged with another operating credit union.
36 If the superintendent determines that the credit union cannot be reor-
37 ganized, or merged with another operating credit union, he may permit
38 the credit union to operate under his direction and control, or if he
39 determines that the same shall be liquidated through receivership, he
40 shall petition the superior court for authority to liquidate such credit
41 union, and the superior court shall immediately appoint the superinten-
42 dent as the receiver of the credit union without bond, and shall make
43 such other orders, judgments and decrees as is necessary to liquidate
44 such credit union. The receiver shall take possession of and for the
45 purpose of receivership, title to the books, records and assets of every
46 description of such credit union, and shall proceed to collect all debts,
47 dues and claims belonging to it, and, may sell or compound all bad or
48 doubtful debts, and may sell the real and personal property of such
49 credit union, on such terms as the court may direct.

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1 C. Such receiver may sue and defend in his own name with respect
2 to the affairs, assets, claims, debts, and choses in action of such
3 credit union.

4 D. All records of such receivership shall be held by the receiver
5 for a period of two years after the close of the receivership, and at
6 the termination of the two years may then be destroyed.

7 E. All expenses of such receivership, including reasonable
8 receiver, solicitor, and attorney fees, shall be paid out of the assets
9 of such credit union, and all expenses of any preliminary or other exam-
10 inations into the condition of any such credit union or receivership,
11 and all expenses incident and in connection with the possession and
12 control of any credit union office, furniture and fixtures, books,
13 records and assets of every description of such credit union by the
14 receiver for the purpose of reorganization or liquidation through
15 receivership, shall be paid out of the assets of such credit union.

16 F. NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS A, B, C AND D
17 OF THIS SECTION, WHEN SUCH CREDIT UNION IS A FEDERALLY INSURED STATE
18 CREDIT UNION, THE ADMINISTRATOR OF THE NATIONAL CREDIT UNION ADMINISTRA-
19 TION SHALL BE THE LIQUIDATING AGENT INSTEAD OF THE SUPERINTENDENT.

20 Sec. 11. Title 6, chapter 4, article 1, Arizona Revised Statutes,
21 is amended by adding section 6-536, to read:

22 6-536. False statements as to financial condition; penalty
23 ANY PERSON WHO WILFULLY MAKES, CIRCULATES OR TRANSMITS, EXCEPT
24 TO A PUBLIC OFFICER, ANY STATEMENT WRITTEN, PRINTED, OR BY WORD OF
25 MOUTH WHICH IS UNTRUE AND KNOWN BY THE PERSON TO BE UNTRUE CONCERNING THE
26 FINANCIAL CONDITION OR AFFECTS THE SOLVENCY OR FINANCIAL STANDING OF A
27 CREDIT UNION IS GUILTY OF A MISDEMEANOR.

28 Sec. 12. Section 20-1251, Arizona Revised Statutes, is amended
29 to read:

30 20-1251. Requirements for group contracts

31 A. No life insurance policy shall be delivered in this state
32 insuring the lives of more than one individual unless to one of the
33 groups as provided for in SECTION 20-1251.01 AND sections 20-1252 to
34 20-1255, inclusive, and unless in compliance with the other applicable
35 provisions of those sections.

36 B. Subsection A of this section shall not apply to life insurance
37 policies:

38 1. Insuring only individuals related by marriage, blood or legal
39 adoption.

40 2. Insuring only individuals having a common interest through
41 ownership of a business enterprise, or a substantial legal interest
42 or equity therein, and who are actively engaged in the management
43 thereof.

44 3. Insuring only individuals otherwise having an insurable interest
45 in each other's lives.

46 C. Nothing in this article validates any charge or practice
47 illegal under any rule of law or regulation governing usury, small loans,
48 retail installment sales or the like, or extends the application of any
49 such rule of law or regulation to any transaction not otherwise subject
50 thereto.

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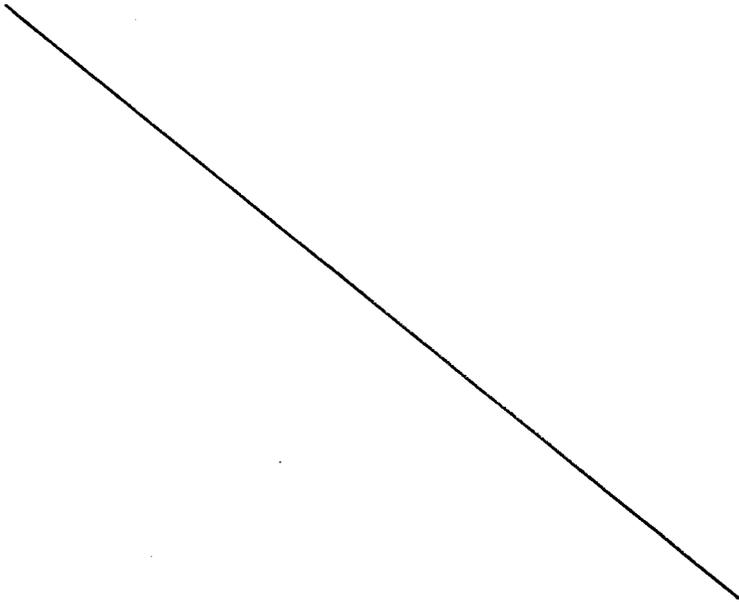
1 Sec. 13. Title 20, chapter 6, article 2, Arizona Revised Statutes,
2 is amended by adding section 20-1251.01, to read:

3 20-1251.01. Credit union groups

4 A. THE LIVES OF A GROUP OF INDIVIDUALS MAY BE INSURED UNDER A
5 POLICY ISSUED TO A CREDIT UNION ORGANIZED UNDER THE LAWS OF THIS STATE
6 OR THE FEDERAL CREDIT UNION ACT, WHICH SHALL BE CONSIDERED THE POLICY-
7 HOLDER, TO INSURE ELIGIBLE MEMBERS FOR AMOUNTS OF INSURANCE RELATED TO
8 THE SHARE BALANCE OF EACH MEMBER, BASED UPON SOME PLAN WHICH WILL
9 PRECLUDE INDIVIDUAL SELECTION, FOR THE BENEFIT OF SOMEONE OTHER THAN THE
10 CREDIT UNION OR ITS OFFICIALS AND SUBJECT TO THE FOLLOWING REQUIREMENTS:

11 1. THE MEMBERS ELIGIBLE FOR INSURANCE UNDER THE POLICY SHALL BE ALL
12 THE MEMBERS OF THE CREDIT UNION WHO MEET STANDARD PHYSICAL REQUIREMENT
13 CONDITIONS OF THE INSURER, OR ALL OF ANY CLASS OR CLASSES OF THEM DETER-
14 MINED BY CONDITIONS PERTAINING TO THEIR AGE OR TO MEMBERSHIP IN THE CREDIT
15 UNION OR BOTH.

16 2. THE PREMIUMS FOR THE POLICY SHALL BE PAID BY THE POLICYHOLDER,
17 EITHER WHOLLY FROM THE CREDIT UNION'S FUNDS OR PARTLY FROM SUCH FUNDS
18 AND PARTLY FROM FUNDS CONTRIBUTED BY THE INSURED MEMBERS SPECIFICALLY FOR
19 THEIR INSURANCE. NO POLICY MAY BE ISSUED ON WHICH THE ENTIRE PREMIUM IS
20 TO BE DERIVED FROM FUNDS CONTRIBUTED BY THE INSURED MEMBERS SPECIFICALLY
21 FOR THEIR INSURANCE. A POLICY ON WHICH PART OF THE PREMIUM IS TO BE
22 DERIVED FROM FUNDS CONTRIBUTED BY THE INSURED MEMBERS SPECIFICALLY FOR
23 THEIR INSURANCE MAY BE PLACED ONLY IF AT LEAST SEVENTY-FIVE PER CENT OF



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1 THE THEN ELIGIBLE MEMBERS, EXCLUDING THOSE WHOSE EVIDENCE OF INDIVIDUAL
2 INSURABILITY IS NOT SATISFACTORY TO THE INSURER, ELECT TO MAKE THE
3 REQUIRED CONTRIBUTION. A POLICY ON WHICH NO PART OF THE PREMIUM IS TO
4 BE DERIVED FROM FUNDS CONTRIBUTED BY THE INSURED MEMBERS SPECIFICALLY
5 FOR THEIR INSURANCE MUST INSURE ALL ELIGIBLE MEMBERS OR ALL EXCEPT THOSE
6 WHOSE EVIDENCE OF INDIVIDUAL INSURABILITY IS NOT SATISFACTORY TO THE
7 INSURER.
8 3. THE POLICY MUST COVER AT LEAST TWENTY-FIVE MEMBERS AT THE DATE
9 OF ISSUE.

Approved by the Governor - May 16, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 60
SENATE BILL 1149

AN ACT

RELATING TO LABOR; PRESCRIBING AMOUNT OF WEEKLY UNEMPLOYMENT COMPENSATION BENEFITS, AND AMENDING SECTION 23-779, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 23-779, Arizona Revised Statutes, is amended
3 to read:
4 23-779. Amount of benefits
5 A. ~~An individual's~~ THE weekly benefit amount OF AN INDIVIDUAL
6 WHOSE BENEFIT YEAR BEGINS ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION
7 shall be an amount equal to one twenty-fifth of ~~his~~ THE PERSON'S total
8 wages for insured work paid during that quarter of ~~his~~ THE PERSON'S
9 base period in which such total wages were highest, but if such amount
10 is more than ~~seventy-eight~~ EIGHTY-FIVE dollars, the weekly benefit
11 amount shall be ~~seventy-eight~~ EIGHTY-FIVE dollars, or if less than
12 ~~seventy-eight~~ EIGHTY-FIVE dollars and if not a multiple of one dollar
13 such amount shall be rounded to the nearest dollar, with an even
14 one-half dollar being rounded to the next higher multiple of one
15 dollar. An individual's benefit amount shall not be redetermined
16 during ~~his~~ THE PERSON'S benefit year because of a new maximum or
17 minimum weekly benefit amount becoming effective during ~~his~~ THE
18 PERSON'S benefit year--; EXCEPT THAT THE REGULAR WEEKLY BENEFIT

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1 AMOUNT AND MAXIMUM REGULAR BENEFITS PAYABLE OF ALL CLAIMANTS WHO HAVE A
2 BENEFIT YEAR CURRENT ON THE EFFECTIVE DATE OF THIS SECTION SHALL BE
3 REDETERMINED FOR WEEKS OF UNEMPLOYMENT BEGINNING ON OR AFTER THE EFFEC-
4 TIVE DATE OF THIS SECTION, AND REGULAR BENEFITS SHALL BE PAID IN
5 ACCORDANCE WITH SUCH REDETERMINATION PROVIDED THAT NO INSURED WORKER
6 SHALL HAVE THE PERSON'S BENEFITS REDUCED OR DENIED BY SUCH REDETERMINA-
7 TION.

8 B. Each eligible individual unemployed with respect to any week
9 shall be paid with respect to such week a benefit in an amount equal to
10 his THE PERSON'S weekly benefit amount less that part of the wages, if
11 any, payable to him THE PERSON with respect to such week which is in excess
12 of fifteen dollars. The benefit, if not a multiple of one dollar, shall be
13 rounded to the nearest dollar, with an even one-half dollar being rounded
14 to the next higher multiple of one dollar.

15 Sec. 2. Emergency

16 To preserve the public peace, health and safety it is necessary that
17 this act become immediately operative. It is therefore declared to be an
18 emergency measure, to take effect as provided by law.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 61

HOUSE BILL 2137

AN ACT

RELATING TO AGRICULTURE AND DAIRYING; PROVIDING THAT LICENSED HAY BROKERS AND DEALERS SHALL REGISTER THE NAME AND ADDRESS OF ANY AGENT WITH THE STATE ENTOMOLOGIST; PROVIDING THAT LICENSEES SHALL KEEP RECORDS OF TRANSACTIONS FOR ONE YEAR; PROVIDING THAT THE STATE ENTOMOLOGIST MAY PUBLISH A LIST OF ALL LICENSEES AND AGENTS; PRESCRIBING EXEMPTIONS; PRESCRIBING AMOUNT OF SURETY BOND FOR LICENSEES; PRESCRIBING GROUNDS FOR DENIAL OR REVOCATION OF LICENSE; PRESCRIBING PENALTY FOR VIOLATIONS AND VENUE FOR CIVIL SUITS AND CRIMINAL PROSECUTIONS; AMENDING SECTION 3-571, ARIZONA REVISED STATUTES; AMENDING TITLE 3, CHAPTER 3, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 3-571.01, AND AMENDING SECTIONS 3-572, 3-573, 3-574 AND 3-576, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 3-571, Arizona Revised Statutes, is amended
3 to read:

4 3-571. Annual licensing; application; fee;
5 record keeping; publication of
6 licensees' names

7 A. No person shall act as a hay broker OR DEALER within this state
8 without first obtaining a license from the state entomologist.

9 B. Applications for the license shall be made in writing upon
10 forms prescribed by the state entomologist, accompanied by a license
11 fee as provided by this section.

12 C. The annual license fee shall be five TEN dollars for each
13 applicant and one dollar for each certified copy of the license issued to
14 the applicant. The license or certified copy thereof shall be in posses-
15 sion of each broker and his SUCH BROKER'S agents AND EACH DEALER AND SUCH
16 DEALER'S AGENTS while transacting business under the terms of this
17 article. Licenses shall expire on December 31 following issuance thereof.
18 A new license may be obtained for an additional period of one year upon

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1 written application therefor, payment of the annual fee and payment of a
2 fee of one dollar for each certified copy to be ~~carried by~~ IN POSSESSION
3 OF the broker, DEALER or his agent during the conduct of his business.
4 ALL LICENSED BROKERS OR DEALERS SHALL ON THE DATE OF DELIVERY OR
5 ISSUANCE OF A CERTIFIED COPY OF A LICENSE TO AN AGENT OR AGENTS, REG-
6 ISTER WITH THE STATE ENTOMOLOGIST THE NAME AND ADDRESS OF ANY AGENT OR
7 AGENTS ACTING IN THEIR BEHALF WHO HAS IN HIS OR HER POSSESSION A CER-
8 TIFIED COPY OF THE BROKER'S OR DEALER'S LICENSE. THE BROKER OR DEALER
9 IS RESPONSIBLE FOR ANY ACTS OF HIS OR HER EMPLOYEES AND AGENTS IN THESE
10 TRANSACTIONS.

11 D. Each applicant for a license shall state the name and address
12 of the applicant, the location of each place or location where the busi-
13 ness of the applicant is being or is intended to be conducted and that
14 the applicant will in the conduct of the business comply with this
15 article and the rules and regulations promulgated thereunder.

16 E. EACH PERSON WHOSE NAME APPEARS ON THE LICENSES SHALL KEEP,
17 FOR A PERIOD OF ONE YEAR FROM THE DATE OF TRANSACTION, COMPLETE RECORDS
18 OF EACH LOAD OF HAY HANDLED. ALL RECORDS PERTAINING TO THE LOADS OF HAY
19 INVOLVED SHALL BE ACCESSIBLE FOR INSPECTION BY THE STATE ENTOMOLOGIST
20 OR AUTHORIZED AGENTS DURING CUSTOMARY BUSINESS HOURS AT THE ADDRESS LISTED
21 ON THE LICENSE.

22 F. THE STATE ENTOMOLOGIST MAY PUBLISH IN PAMPHLET FORM AS OFTEN
23 AS HE OR SHE DEEMS NECESSARY A LIST OF ALL LICENSEES AND AGENTS THAT ARE
24 LICENSED PURSUANT TO THIS ARTICLE TOGETHER WITH ALL NECESSARY REGULATIONS
25 WHICH CONCERN THE ENFORCEMENT OF THIS ARTICLE.

26 Sec. 2. Title 3, chapter 3, article 8, Arizona Revised Statutes,
27 is amended by adding section 3-571.01, to read:

28 3-571.01. Definitions

29 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

30 1. "AGENT" MEANS ANY PERSON WHO, ON BEHALF OF ANY LICENSEE,
31 RECEIVES, CONTRACTS FOR OR SOLICITS ANY HAY FROM A PRODUCER OF SUCH
32 PRODUCT OR WHO NEGOTIATES THE CONSIGNMENT OR PURCHASE OF ANY HAY ON
33 BEHALF OF ANY LICENSEE.

34 2. "BROKER" MEANS ANY PERSON WHO NEGOTIATES THE PURCHASE OF ANY
35 HAY FOR RESALE PURPOSES FROM A PRODUCER WITHOUT TAKING ACTUAL TITLE TO
36 SUCH HAY.

37 3. "CASH BUYER" MEANS ANY PERSON WHO OBTAINS FROM THE PRODUCER
38 OF ANY HAY, TITLE, POSSESSION OR CONTROL OF THE HAY, BUYS OR AGREES TO
39 BUY ANY HAY, BY PAYING TO THE PRODUCER AT THE TIME OF OBTAINING POSSES-
40 SION OR CONTROL OR AT THE TIME OF CONTRACTING FOR THE TITLE, POSSESSION
41 OR CONTROL OF ANY HAY, THE FULL AGREED PRICE OF SUCH HAY IN COIN OR
42 CURRENCY, LAWFUL MONEY OF THE UNITED STATES.

43 4. "CONSUMER" MEANS ANY PERSON WHO BUYS HAY FOR SUCH PERSON'S OWN
44 USE AND NOT FOR RESALE IN ANY FORM.

45 5. "DEALER" MEANS ANY PERSON WHO OBTAINS FROM THE PRODUCER TITLE,
46 POSSESSION, CONTROL OR DELIVERY OF ANY HAY AT A DESIGNATED PRICE FOR THE
47 PURPOSE OF RESALE OR WHO BUYS OR AGREES TO BUY ANY HAY FROM THE PRODUCER
48 OF THE HAY AT A DESIGNATED PRICE FOR RESALE.

49 6. "HAY" MEANS HERBAGE, SOMETIMES INCLUDING THE SEEDS OF GRASSES
50 AND OTHER FORAGE PLANTS, AS LEGUMES, HARVESTED AND USED FOR FEED, EITHER
51 IN A DRY OR GREEN CONDITION. THIS INCLUDES HAY PRESSED INTO CUBES OR
52 DISKS AND TO BE USED AS FEED.

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1 7. "PRODUCER" MEANS ANY PERSON WHO IS ENGAGED IN THE BUSINESS OF
2 GROWING OR PRODUCING ANY HAY.

3 8. "SELL" INCLUDES OFFER FOR SALE, EXPOSE FOR SALE, HAVE IN POSSES-
4 SION FOR SALE, EXCHANGE, BARTER OR TRADE.

5 Sec. 3. Section 3-572, Arizona Revised Statutes, is amended to
6 read:

7 3-572. Exemption

8 The provisions of this article shall apply only to hay brokers
9 OR DEALERS who purchase hay, for resale AND ARE NOT CASH BUYERS, AS
10 DEFINED IN THIS ARTICLE, and shall not apply to a farmer, rancher,
11 dairyman, OR feedlot operator ~~or other person~~ engaged in an agricultural
12 pursuit who purchases hay for use in his own operation.

13 Sec. 4. Section 3-573, Arizona Revised Statutes, is amended to
14 read:

15 3-573. Bond of applicant; action for damages

16 A. Before a license shall be issued to a hay broker OR DEALER, the
17 applicant shall execute and deliver to the state entomologist a surety
18 bond satisfactory to him in the sum of ~~twenty-five-hundred~~ TEN THOUSAND
19 dollars executed by the applicant as principal with OR A PERSONAL BOND
20 HAVING good and sufficient sureties qualifying in double the amount of
21 the bond. The bond shall be conditioned upon the faithful and honest
22 handling of ~~farm-products~~ HAY in accordance with this article. The bond
23 shall be to the state for its use and benefit and of any ~~consignor~~ PRODUCER
24 OR CONSUMER of ~~farm-products~~ HAY covered by this article.

25 B. A ~~consignor~~ PRODUCER OR CONSUMER of ~~farm-products~~ HAY claiming
26 to be injured by the violation of any of the conditions of the bond or of
27 this article may bring an action upon the bond against both principal and
28 surety in a court of competent jurisdiction to recover the damages caused
29 by the violation.

30 Sec. 5. Section 3-574, Arizona Revised Statutes, is amended to
31 read:

32 3-574. Denial or revocation of license

33 A. The state entomologist may refuse to grant a license, and
34 may revoke or suspend a license when he is satisfied that the applicant
35 or licensee has been guilty of any of the following acts:

- 36 1. Has used fraud, or deception OR MISREPRESENTATION in the
37 procurement of a license OR IN THE PROCUREMENT OR DELIVERY OF ANY HAY.
38 2. Has failed to make payment as agreed, upon taking delivery of
39 hay.

40 B. ~~Previous violation by an applicant, or by any person connected~~
41 ~~with him, of any provision of this article, is a ground for denial of~~
42 ~~license.~~

43 Sec. 6. Section 3-576, Arizona Revised Statutes, is amended to
44 read:

45 3-576. Violation; penalty; venue of suits

46 A. ~~A violation of~~ ANY HAY BROKER, DEALER OR AGENT WHO VIOLATES any
47 of the provisions of this article shall be punishable as IS GUILTY OF a
48 misdemeanor PUNISHABLE BY A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE
49 THAN THREE HUNDRED DOLLARS, BY IMPRISONMENT IN THE COUNTY JAIL NOT TO

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1 EXCEED NINETY DAYS OR BOTH, unless the person is exempt as provided in
2 this article. EACH VIOLATION SHALL CONSTITUTE A SEPARATE OFFENSE.

3 B. CIVIL SUITS AND CRIMINAL PROSECUTIONS WHICH ARISE BY VIRTUE
4 OF ANY PROVISION OF THIS ARTICLE MAY BE COMMENCED AND TRIED IN ANY OF
5 THE FOLLOWING:

6 1. THE COUNTY WHERE THE PRODUCT WAS RECEIVED BY THE LICENSEE OR
7 AGENT.

8 2. THE COUNTY IN WHICH THE PRINCIPAL PLACE OF BUSINESS OF SUCH
9 LICENSEE OR AGENT IS LOCATED.

10 3. THE COUNTY IN WHICH THE VIOLATION OF THIS CHAPTER OCCURRED.
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29 *Approved by the Governor - May 19, 1975*

30 *Filed in the Office of the Secretary of State - May 19, 1975*
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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 62

HOUSE BILL 2268

AN ACT

RELATING TO TAXATION; PROVIDING FOR A TRANSACTION PRIVILEGE TAX ON ANIMAL AND
POULTRY FEED, AND AMENDING SECTION 42-1315, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-1315, Arizona Revised Statutes, is amended
3 to read:

4 42-1315. Animal and poultry feed

5 A. The tax imposed by subsection A of section 42-1309 shall be
6 levied and collected at an amount equal to one-fourth of one per cent of
7 the gross proceeds of sales ~~or the gross income from the business~~ OF
8 ANIMAL AND POULTRY FEED upon every person engaging or continuing with-
9 in this state in the business of selling ~~poultry or stock~~ feed, includ-
10 ing salts, vitamins or other additives, ~~to poultrymen or producers of~~
11 ~~poultry and poultry products; or to stockmen or feeders of stock; at~~
12 ~~wholesale prices; for their own use and not for resale~~ FOR ANIMAL OR
13 POULTRY CONSUMPTION.

14 B. PERSONS ENGAGING IN THE BUSINESS OF SELLING FEED AS USED IN
15 THIS SECTION MEANS PERSONS PRIMARILY ENGAGED IN THE SALE OF ANIMAL
16 FEED OR OTHER AGRICULTURE RELATED ITEMS OR PRODUCTS.

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 63

HOUSE BILL 2050

AN ACT

RELATING TO TAXATION; PROVIDING THAT THE DEPARTMENT OF REVENUE SHALL PROHULGATE RULES AND REGULATIONS AS REQUIRED BY FEDERAL OR STATE LAWS OR REGULATIONS OR AS IT DEEMS NECESSARY TO PROTECT CONFIDENTIAL INFORMATION, AND AMENDING SECTION 42-111.03, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-111.03, Arizona Revised Statutes, is amended
3 to read:
4 42-111.03. General powers and duties of the department
5 The department shall administer all matters formerly administered
6 by the department of property valuation, estate tax commissioner and
7 state tax commission, and, in addition to the powers and duties assigned
8 to the department in section 42-111.02, shall:
9 1. Formulate policies, plans and programs to effectuate the mis-
10 sions and purposes of the department.
11 2. Employ personnel subject to the provisions of title 41, chapter
12 4, articles 5 and 6, determine the conditions of employment and prescribe
13 the duties and powers of administrative, professional, technical, secre-
14 tarial, clerical and other personnel as may be necessary in the performance
15 of its duties, and contract for the services of outside advisors, consul-
16 tants and aid as may be reasonably necessary.
17 3. Make contracts and incur obligations within the general scope of
18 its activities and operations subject to the availability of its funds.
19 4. Contract with or assist other departments, agencies or institu-
20 tions of the state, local and federal governments in the furtherance of
21 its purposes, objectives and programs.
22 5. Accept grants, matching funds and direct payments from public or
23 private agencies for the conduct of programs which are consistent with the
24 overall purposes and objectives of the department.
25 6. Provide information and advice within the scope of its duties

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- 1 subject to the laws on confidentiality of information and departmental
2 rules and regulations adopted pursuant thereto.
- 3 7. Advise with and make recommendations to the governor and the
4 legislature on all matters concerning its objectives.
- 5 8. Have an official seal which shall be judicially noticed.
- 6 9. Prescribe the forms for use by cities and counties in the
7 preparation of their budgets and in the submission of all tax data.
- 8 10. Promulgate such rules and regulations as required by federal
9 or state laws or regulations or as the department deems necessary to
10 protect confidential information, provided that no names or other
11 information of any taxpayer, claimant, or employer shall be made available
12 for any political, commercial or other unofficial purpose EXCEPT THAT
13 THE DEPARTMENT SHALL, UPON REQUEST OF ANY PERSON, VERIFY WHETHER OR
14 NOT A PURCHASER HAS A PRIVILEGE TAX LICENSE OR STATE WITHHOLDING TAX
15 NUMBER.
- 16 11. Provide an integrated, coordinated and uniform system of tax
17 administration and revenue collection for the state.

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 64
HOUSE BILL 2035

AN ACT

RELATING TO TAXATION OF INCOME; PRESCRIBING POWERS OF ATTORNEY GENERAL TO ENFORCE PROVISIONS OF TITLE 43; PROVIDING THAT PROSECUTING AUTHORITY UNDER TITLE 43 MAY BE DELEGATED TO COUNTY ATTORNEY, AND AMENDING TITLE 43, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-175.01.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 43, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 43-175.01, to read:
4 43-175.01. Enforcement
5 THE ATTORNEY GENERAL SHALL PROSECUTE IN THE NAME OF THE STATE ALL
6 ACTIONS NECESSARY TO ENFORCE THE PROVISIONS OF THIS TITLE. THE ATTORNEY
7 GENERAL MAY DEFEND ALL ACTIONS BROUGHT AGAINST THE STATE OR AN OFFICER
8 OR AGENCY THEREOF ARISING UNDER THE PROVISIONS OF THIS TITLE. THE
9 ATTORNEY GENERAL MAY DELEGATE THE PROSECUTING AUTHORITY TO ANY COUNTY
10 ATTORNEY FOR PROSECUTION WITHIN THAT COUNTY.

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 65
HOUSE BILL 2029

AN ACT

RELATING TO TRADE AND COMMERCE; AMENDING THE UNIFORM COMMERCIAL CODE; AMENDING TITLE 44, CHAPTER 3.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-352.01; AMENDING SECTIONS 44-2205 AND 44-2208, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 14, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-2217; AMENDING SECTIONS 44-2307, 44-2716 AND 44-3102, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 44, CHAPTER 14, ARTICLE 9, ARIZONA REVISED STATUTES; REPEALING SECTION 44-3103, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 14, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 44-3103; AMENDING SECTIONS 44-3104 THROUGH 44-3106, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 14, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-3113.01; AMENDING SECTIONS 44-3116 THROUGH 44-3118, 44-3122, 44-3123 AND 44-3125 THROUGH 44-3128, ARIZONA REVISED STATUTES; REPEALING SECTION 44-3129, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 14, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 44-3129; AMENDING SECTIONS 44-3133, 44-3134 AND 44-3139 THROUGH 44-3146, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 14, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 44-3146.01 AND 44-3146.02; AMENDING SECTIONS 44-3147, 44-3148, 44-3150, 44-3151 AND 28-325, ARIZONA REVISED STATUTES, AND AMENDING TITLE 44, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 11.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 44, chapter 3.1, article 1, Arizona Revised
3 Statutes, is amended by adding section 44-352.01, to read:
4 44-352.01. Abandoned travelers checks
5 ANY PROPERTY HELD OR OWING BY A BANKING OR FINANCIAL ORGANIZATION
6 OR BUSINESS ASSOCIATION REPRESENTING ANY SUM PAYABLE ON A TRAVELERS
7 CHECK ISSUED OR SOLD IN THIS STATE THAT HAS BEEN OUTSTANDING FOR MORE
8 THAN FIFTEEN YEARS FROM THE DATE OF ISSUANCE SHALL BE PRESUMED ABANDONED.
9 SUCH PROPERTY SHALL NOT BE PRESUMED ABANDONED IF WITHIN SUCH FIFTEEN
10 YEAR PERIOD THE OWNER HAS EITHER:
11 1. CORRESPONDED IN WRITING WITH THE BANKING OR FINANCIAL ORGANIZA-
12 TION OR BUSINESS ASSOCIATION CONCERNING SUCH CHECK OR THE FUNDS; OR

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1 2. OTHERWISE INDICATED AN INTEREST IN SUCH CHECK OR THE FUNDS
2 AS EVIDENCED BY A MEMORANDUM OR OTHER RECORD ON FILE WITH THE BANKING
3 OR FINANCIAL ORGANIZATION OR BUSINESS ASSOCIATION.

4 Sec. 2. Section 44-2205, Arizona Revised Statutes, is amended
5 to read:

6 44-2205. Territorial application of the chapter;
7 parties' power to choose applicable law

8 A. Except as provided hereafter in this section, when a trans-
9 action bears a reasonable relation to this state and also to another
10 state or nation the parties may agree that the law either of this state
11 or of such other state or nation shall govern their rights and duties.
12 Failing such agreement this chapter applies to transactions bearing an
13 appropriate relation to this state.

1 B. Where one of the following provisions of this chapter specifies
 2 the applicable law, that provision governs and a contrary agreement is
 3 effective only to the extent permitted by the law (including the conflict
 4 of laws rules) so specified:

- 5 1. Rights of creditors against sold goods. Section 44-2347.
- 6 2. Applicability of the article on bank deposits and col-
 7 lections. Section 44-2602.
- 8 3. Bulk transfers subject to the article on bulk transfers.
 9 Section 44-2802.
- 10 4. Applicability of the article on investment securities.
 11 Section 44-3006.
- 12 5. ~~Policy and scope~~ PERFECTION PROVISIONS of the article on secured
 13 transactions. ~~Sections 44-2402 and~~ SECTION 44-3103.

14 Sec. 3. Section 44-2208, Arizona Revised Statutes, is amended to
 15 read:

16 44-2208. General definitions

17 Subject to additional definitions contained in the subsequent
 18 articles of this chapter which are applicable to specific articles, and
 19 unless the context otherwise requires, in this chapter:

- 20 1. "Action" in the sense of a judicial proceeding includes recoup-
 21 ment, counterclaim, set-off, suit in equity and any other proceedings in
 22 which rights are determined.
- 23 2. "Aggrieved party" means a party entitled to resort to a remedy.
- 24 3. "Agreement" means the bargain of the parties in fact as found
 25 in their language or by implication from other circumstances including
 26 course of dealing or usage of trade or course of performance as provided
 27 in sections 44-2212 and 44-2315. Whether an agreement has legal conse-
 28 quences is determined by the provisions of this chapter, if applicable;
 29 otherwise by the law of contracts, (section 44-2203). (Compare "Contract".)
- 30 4. "Bank" means any person engaged in the business of banking.
- 31 5. "Bearer" means the person in possession of an instrument, docu-
 32 ment of title, or security payable to bearer or indorsed in blank.
- 33 6. "Bill of lading" means a document evidencing the receipt of
 34 goods for shipment issued by a person engaged in the business of trans-
 35 porting or forwarding goods, and includes an airbill. "Airbill" means
 36 a document serving for air transportation as a bill of lading does for
 37 marine or rail transportation, and includes an air consignment note or
 38 air waybill.
- 39 7. "Branch" includes a separately incorporated foreign branch of
 40 a bank.
- 41 8. "Burden of establishing" a fact means the burden of persuading
 42 the triers of fact that the existence of the fact is more probable than
 43 its non-existence.
- 44 9. "Buyer in ordinary course of business" means a person who in
 45 good faith and without knowledge that the sale to him is in violation
 46 of the ownership rights or security interest of a third party in the
 47 goods buys in ordinary course from a person in the business of selling
 48 goods of that kind but does not include a pawnbroker. ALL PERSONS WHO
 49 SELL MINERALS OR THE LIKE (INCLUDING OIL AND GAS) AT WELLHEAD OR MINEHEAD
 50 SHALL BE DEEMED TO BE PERSONS IN THE BUSINESS OF SELLING GOODS OF THAT

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1 KIND. "Buying" may be for cash or by exchange of other property or on
2 secured or unsecured credit and includes receiving goods or documents of
3 title under a pre-existing contract for sale but does not include a
4 transfer in bulk or as security for or in total or partial satisfaction
5 of a money debt.

6 10. "Conspicuous": A term or clause is conspicuous when it is so
7 written that a reasonable person against whom it is to operate ought to
8 have noticed it. A printed heading in capitals (as: NON-NEGOTIABLE
9 BILL OF LADING) is conspicuous. Language in the body of a form is
10 "conspicuous" if it is in larger or other contrasting type or color.
11 But in a telegram any stated term is "conspicuous". Whether a term or
12 clause is "conspicuous" or not is for decision by the court.

13 11. "Contract" means the total legal obligation which results
14 from the parties' agreement as affected by this chapter and any other
15 applicable rules of law. (Compare "Agreement".)

16 12. "Creditor" includes a general creditor, a secured creditor,
17 a lien creditor and any representative of creditors, including an assignee
18 for the benefit of creditors, a trustee in bankruptcy, a receiver in equity
19 and an executor or administrator of an insolvent debtor's or assignor's
20 estate.

21 13. "Defendant" includes a person in the position of defendant
22 in a cross-action or counterclaim.

23 14. "Delivery" with respect to instruments, documents of title,
24 chattel paper or securities means voluntary transfer of possession.

25 15. "Document of title" includes bill of lading, dock warrant,
26 dock receipt, warehouse receipt or order for the delivery of goods, and
27 also any other document which in the regular course of business or financing
28 is treated as adequately evidencing that the person in possession of it
29 is entitled to receive, hold and dispose of the document and the goods
30 it covers. To be a document of title a document must purport to be issued
31 by or addressed to a bailee and purport to cover goods in the bailee's
32 possession which are either identified or are fungible portions of an
33 identified mass.

34 16. "Fault" means wrongful act, omission or breach.

35 17. "Fungible" with respect to goods or securities means goods
36 or securities of which any unit is, by nature or usage of trade, the
37 equivalent of any other like unit. Goods which are not fungible shall
38 be deemed fungible for the purposes of this chapter to the extent that
39 under a particular agreement or document unlike units are treated as
40 equivalents.

41 18. "Genuine" means free of forgery or counterfeiting.

42 19. "Good faith" means honesty in fact in the conduct or trans-
43 action concerned.

44 20. "Holder" means a person who is in possession of a document
45 of title or an instrument or an investment security drawn, issued or
46 indorsed to him or to his order or to bearer or in blank.

47 21. To "honor" is to pay or to accept and pay, or where a credit
48 so engages to purchase or discount a draft complying with the terms of
49 the credit.

50 22. "Insolvency proceedings" includes any assignment for the

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1 benefit of creditors or other proceedings intended to liquidate or re-
2 habilitate the estate of the person involved.

3 23. A person is "insolvent" who either has ceased to pay his
4 debts in the ordinary course of business or cannot pay his debts as
5 they become due or is insolvent within the meaning of the federal
6 bankruptcy law.

7 24. "Money" means a medium of exchange authorized or adopted
8 by a domestic or foreign government as a part of its currency.

9 25. A person has "notice" of a fact when:

10 (a) He has actual knowledge of it; or

11 (b) He has received a notice or notification of it; or

12 (c) From all the facts and circumstances known to him at the
13 time in question he has reason to know that it exists. A person
14 "knows" or has "knowledge" of a fact when he has actual knowledge of
15 it. "Discover" or "learn" or a word or phrase of similar import refers
16 to knowledge rather than to reason to know. The time and circumstances
17 under which a notice or notification may cease to be effective are not
18 determined by this chapter.

19 26. A person "notifies" or "gives" a notice or notification to
20 another by taking such steps as may be reasonably required to inform
21 the other in ordinary course whether or not such other actually comes
22 to know of it. A person "receives" a notice or notification when:

23 (a) It comes to his attention; or

24 (b) It is duly delivered at the place of business through which
25 the contract was made or at any other place held out by him as the place
26 for receipt of such communications.

27 27. Notice, knowledge or a notice or notification received by an
28 organization is effective for a particular transaction from the time
29 when it is brought to the attention of the individual conducting that
30 transaction, and in any event from the time when it would have been
31 brought to his attention if the organization had exercised due diligence.
32 An organization exercises due diligence if it maintains reasonable routines
33 for communicating significant information to the person conducting the
34 transaction and there is reasonable compliance with the routines. Due
35 diligence does not require an individual acting for the organization to
36 communicate information unless such communication is part of his regular
37 duties or unless he has reason to know of the transaction and that the
38 transaction would be materially affected by the information.

39 28. "Organization" includes a corporation, government or govern-
40 mental subdivision or agency, business trust, estate, trust, partnership
41 or association, two or more persons having a joint or common interest,
42 or any other legal or commercial entity.

43 29. "Party", as distinct from "third party", means a person who
44 has engaged in a transaction or made an agreement within this chapter.

45 30. "Person" includes an individual or an organization. (See
46 section 44-2202).

47 31. "Presumption" or "presumed" means that the trier of fact
48 must find the existence of the fact presumed unless and until evidence
49 is introduced which would support a finding of its non-existence.

50 32. "Purchase" includes taking by sale, discount, negotiation,

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1 mortgage, pledge, lien, issue or re-issue, gift or any other voluntary
2 transaction creating an interest in property.

3 33. "Purchaser" means a person who takes by purchase.

4 34. "Remedy" means any remedial right to which an aggrieved party
5 is entitled with or without resort to a tribunal.

6 35. "Representative" includes an agent, an officer of a corpora-
7 tion or association, and a trustee, executor or administrator of an
8 estate, or any other person empowered to act for another.

9 36. "Rights" includes remedies.

10 37. "Security interest" means an interest in personal property
11 or fixtures which secures payment or performance of an obligation. The
12 retention or reservation of title by a seller of goods notwithstanding
13 shipment or delivery to the buyer (section 44-2346) is limited in effect
14 to a reservation of a "security interest". The term also includes any
15 interest of a buyer of accounts, ~~OR chattel paper, OR CONTRACT RIGHTS~~
16 which is subject to article 9. The special property interest of a buyer
17 of goods on identification of such goods to a contract for sale under
18 section 44-2346 is not a "security interest", but a buyer may also acquire
19 a "security interest" by complying with article 9. Unless a lease or
20 consignment is intended as security, reservation of title thereunder is
21 not a "security interest" but a consignment is in any event subject to
22 the provisions on consignment sales (section 44-2343). Whether a lease
23 is intended as security is to be determined by the facts of each case;
24 however:

25 (a) The inclusion of an option to purchase does not of itself
26 make the lease one intended for security, and

27 (b) An agreement that upon compliance with the terms of the lease
28 the lessee shall become or has the option to become the owner of the
29 property for no additional consideration or for a nominal consideration
30 does make the lease one intended for security.

31 38. "Send" in connection with any writing or notice means to
32 deposit in the mail or deliver for transmission by any other usual means
33 of communication with postage or cost of transmission provided for and
34 properly addressed and in the case of an instrument to an address specified
35 thereon or otherwise agreed, or if there be none to any address reasonable
36 under the circumstances. The receipt of any writing or notice within the
37 time at which it would have arrived if properly sent has the effect of a
38 proper sending.

39 39. "Signed" includes any symbol executed or adopted by a party
40 with present intention to authenticate a writing.

41 40. "Surety" includes guarantor.

42 41. "Telegram" includes a message transmitted by radio, teletype,
43 cable, any mechanical method of transmission, or the like.

44 42. "Term" means that portion of an agreement which relates to a
45 particular matter.

46 43. "Unauthorized" signature or indorsement means one made without
47 actual, implied or apparent authority and includes a forgery.

48 44. "Value". Except as otherwise provided with respect to negotiable
49 instruments and bank collections (sections 44-2533, 44-2617 and 44-2618) a
50 person gives "value" for rights if he acquires them:

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1 (a) In return for a binding commitment to extend credit or for the
2 extension of immediately available credit whether or not drawn upon and
3 whether or not a charge-back is provided for in the event of difficulties
4 in collection; or

5 (b) As security for or in total or partial satisfaction of a pre-
6 existing claim; or

7 (c) By accepting delivery pursuant to a pre-existing contract for
8 purchase; or

9 (d) Generally, in return for any consideration sufficient to
10 support a simple contract.

11 45. "Warehouse receipt" means a receipt issued by a person en-
12 gaged in the business of storing goods for hire.

13 46. "Written" or "writing" includes printing, typewriting or any
14 other intentional reduction to tangible form.

15 Sec. 4. Title 44, chapter 14, article 1, Arizona Revised Statutes,
16 is amended by adding section 44-2217, to read:

17 44-2217. Subordinated obligations

18 AN OBLIGATION MAY BE ISSUED AS SUBORDINATED TO PAYMENT OF ANOTHER
19 OBLIGATION OF THE PERSON OBLIGATED, OR A CREDITOR MAY SUBORDINATE HIS
20 RIGHT TO PAYMENT OF AN OBLIGATION BY AGREEMENT WITH EITHER THE PERSON
21 OBLIGATED OR ANOTHER CREDITOR OF THE PERSON OBLIGATED. SUCH A SUBORDI-
22 NATION DOES NOT CREATE A SECURITY INTEREST AS AGAINST EITHER THE COMMON
23 DEBTOR OR A SUBORDINATED CREDITOR. THIS SECTION SHALL BE CONSTRUED AS
24 DECLARING THE LAW AS IT EXISTED PRIOR TO THE ENACTMENT OF THIS SECTION
25 AND NOT AS MODIFYING IT.

26 Sec. 5. Section 44-2307, Arizona Revised Statutes, is amended to
27 read:

28 44-2307. Goods to be severed from realty; recording

29 A. A contract for the sale of minerals or the like (INCLUDING OIL
30 AND GAS) or a structure or its materials to be removed from realty is a
31 contract for the sale of goods within this article if they are to be
32 severed by the seller but until severance a purported present sale
33 thereof which is not effective as a transfer of an interest in land is
34 effective only as a contract to sell.

35 B. A contract for the sale apart from the land of growing crops
36 or other things attached to realty and capable of severance without
37 material harm thereto but not described in subsection A or of timber
38 to be cut is a contract for the sale of goods within this article whether
39 the subject matter is to be severed by the buyer or by the seller even
40 though it forms part of the realty at the time of contracting, and the
41 parties can by identification effect a present sale before severance.

42 C. The provisions of this section are subject to any third party
43 rights provided by the law relating to realty records, and the contract
44 for sale may be executed and recorded as a document transferring an in-
45 terest in land and shall then constitute notice to third parties of the
46 buyer's rights under the contract for sale.

47 Sec. 6. Section 44-2716, Arizona Revised Statutes, is amended to
48 read:

49 44-2716. Transfer and assignment

50 A. The right to draw under a credit can be transferred or assigned

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1 only when the credit is expressly designated as transferable or assignable.

2 B. Even though the credit specifically states that it is nontrans-
3 ferable or nonassignable the beneficiary may before performance of the
4 conditions of the credit assign his right to proceeds. Such an assign-
5 ment is an assignment of a ~~contract-right~~ AN ACCOUNT under article 9 on
6 secured transactions and is governed by that article except that:

7 1. The assignment is ineffective until the letter of credit or
8 advice of credit is delivered to the assignee which delivery constitutes
9 perfection of the security interest under article 9; and

10 2. The issuer may honor drafts or demands for payment drawn
11 under the credit until it receives a notification of the assignment
12 signed by the beneficiary which reasonably identifies the credit in-
13 volved in the assignment and contains a request to pay the assignee;
14 and

15 3. After what reasonably appears to be such a notification has
16 been received the issuer may without dishonor refuse to accept or pay
17 even to a person otherwise entitled to honor until the letter of credit
18 or advice of credit is exhibited to the issuer.

19 C. Except where the beneficiary has effectively assigned his
20 right to draw or his right to proceeds, nothing in this section limits
21 his right to transfer or negotiate drafts or demands drawn under the
22 credit.

23 Sec. 7. Title of article

24 The designation of title 44, chapter 14, article 9, Arizona Revised
25 Statutes, is changed from "ARTICLE 9. SECURED TRANSACTIONS; SALES OF
26 ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER" to "ARTICLE 9. SECURED
27 TRANSACTIONS; SALES OF ACCOUNTS AND CHATTEL PAPER."

28 Sec. 8. Section 44-3102, Arizona Revised Statutes, is amended to
29 read:

30 44-3102. Policy and subject matter of article

31 A. Except as otherwise provided ~~in section 44-3103 on multiple~~
32 ~~state transactions and~~ in section 44-3104 on excluded transactions,
33 this article applies: ~~so far as concerns any personal property and fix-~~
34 ~~tures within the jurisdiction of this state;~~

35 1. To any transaction (regardless of its form) which is intended
36 to create a security interest in personal property or fixtures including
37 goods, documents, instruments, general intangibles, chattel paper, OR
38 accounts; ~~or contract rights;~~ and also

39 2. To any sale of accounts, ~~contract rights~~ or chattel paper.

40 B. This article applies to security interests created by contract
41 including pledge, assignment, chattel mortgage, chattel trust, trust
42 deed, factor's lien, equipment trust, conditional sale, trust receipt,
43 other lien or title retention contract and lease or consignment intended
44 as security. This article does not apply to statutory liens except as
45 provided in section 44-3131.

46 C. The application of this article to a security interest in a
47 secured obligation is not affected by the fact that the obligation is
48 itself secured by a transaction or interest to which this article does not
49 apply.

50 Sec. 9. Repeal

51 Section 44-3103, Arizona Revised Statutes, is repealed.

1 Sec. 10. Title 44, chapter 14, article 9, Arizona Revised Statutes,
2 is amended by adding a new section 44-3103, to read:

3 44-3103. Perfection of security interests in multiple
4 state transactions

5 A. DOCUMENTS, INSTRUMENTS AND ORDINARY GOODS:

6 1. THIS SUBSECTION APPLIES TO DOCUMENTS AND INSTRUMENTS AND TO
7 GOODS OTHER THAN THOSE COVERED BY A CERTIFICATE OF TITLE DESCRIBED IN
8 SUBSECTION B, MOBILE GOODS DESCRIBED IN SUBSECTION C, AND MINERALS
9 DESCRIBED IN SUBSECTION E.

10 2. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, PERFECTION
11 AND THE EFFECT OF PERFECTION OR NONPERFECTION OF A SECURITY INTEREST
12 IN COLLATERAL ARE GOVERNED BY THE LAW OF THE JURISDICTION WHERE THE
13 COLLATERAL IS WHEN THE LAST EVENT OCCURS ON WHICH IS BASED THE ASSERTION
14 THAT THE SECURITY INTEREST IS PERFECTED OR UNPERFECTED.

15 3. IF THE PARTIES TO A TRANSACTION CREATING A PURCHASE MONEY
16 SECURITY INTEREST IN GOODS IN ONE JURISDICTION UNDERSTAND AT THE TIME
17 THAT THE SECURITY INTEREST ATTACHES THAT THE GOODS WILL BE KEPT IN
18 ANOTHER JURISDICTION, THEN THE LAW OF THE OTHER JURISDICTION GOVERNS
19 THE PERFECTION AND THE EFFECT OF PERFECTION OR NONPERFECTION OF THE
20 SECURITY INTEREST FROM THE TIME IT ATTACHES UNTIL THIRTY DAYS AFTER THE
21 DEBTOR RECEIVES POSSESSION OF THE GOODS AND THEREAFTER IF THE GOODS ARE
22 TAKEN TO THE OTHER JURISDICTION BEFORE THE END OF THE THIRTY-DAY PERIOD.

23 4. WHEN COLLATERAL IS BROUGHT INTO AND KEPT IN THIS STATE WHILE
24 SUBJECT TO A SECURITY INTEREST PERFECTED UNDER THE LAW OF THE JURISDICTION
25 FROM WHICH THE COLLATERAL WAS REMOVED, THE SECURITY INTEREST REMAINS
26 PERFECTED, BUT IF ACTION IS REQUIRED BY SECTIONS 44-3122 THROUGH 44-3139
27 TO PERFECT THE SECURITY INTEREST:

28 (a) IF THE ACTION IS NOT TAKEN BEFORE THE EXPIRATION OF THE PERIOD
29 OF PERFECTION IN THE OTHER JURISDICTION OR THE END OF FOUR MONTHS AFTER
30 THE COLLATERAL IS BROUGHT INTO THIS STATE, WHICHEVER PERIOD FIRST EXPIRES,
31 THE SECURITY INTEREST BECOMES UNPERFECTED AT THE END OF THAT PERIOD AND
32 IS THEREAFTER DEEMED TO HAVE BEEN UNPERFECTED AS AGAINST A PERSON WHO
33 BECAME A PURCHASER AFTER REMOVAL;

34 (b) IF THE ACTION IS TAKEN BEFORE THE EXPIRATION OF THE PERIOD
35 SPECIFIED IN SUBDIVISION (a), THE SECURITY INTEREST CONTINUES PERFECTED
36 THEREAFTER;

37 (c) FOR THE PURPOSE OF PRIORITY OVER A BUYER OF CONSUMER GOODS
38 (SUBSECTION B OF SECTION 44-3128), THE PERIOD OF THE EFFECTIVENESS OF A
39 FILING IN THE JURISDICTION FROM WHICH THE COLLATERAL IS REMOVED IS GOV-
40 ERNED BY THE RULES WITH RESPECT TO PERFECTION IN SUBDIVISIONS (a) AND
41 (b).

42 B. CERTIFICATE OF TITLE:

43 1. THIS SUBSECTION APPLIES TO GOODS COVERED BY A CERTIFICATE OF
44 TITLE ISSUED UNDER A STATUTE OF THIS STATE OR OF ANOTHER JURISDICTION
45 UNDER THE LAW OF WHICH INDICATION OF A SECURITY INTEREST ON THE CER-
46 TIFICATE IS REQUIRED AS A CONDITION OF PERFECTION.

47 2. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, PERFECTION
48 AND THE EFFECT OF PERFECTION OR NONPERFECTION OF THE SECURITY INTEREST
49 ARE GOVERNED BY THE LAW (INCLUDING THE CONFLICT OF LAWS RULES) OF THE
50 JURISDICTION ISSUING THE CERTIFICATE UNTIL FOUR MONTHS AFTER THE GOODS

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1 ARE REMOVED FROM THAT JURISDICTION AND THEREAFTER UNTIL THE GOODS ARE
2 REGISTERED IN ANOTHER JURISDICTION, BUT IN ANY EVENT NOT BEYOND SURRENDER
3 OF THE CERTIFICATE. AFTER THE EXPIRATION OF THAT PERIOD, THE GOODS ARE
4 NOT COVERED BY THE CERTIFICATE OF TITLE WITHIN THE MEANING OF THIS
5 SECTION.

6 3. EXCEPT WITH RESPECT TO THE RIGHTS OF A BUYER DESCRIBED IN
7 PARAGRAPH 4, A SECURITY INTEREST, PERFECTED IN ANOTHER JURISDICTION
8 OTHERWISE THAN BY NOTATION ON A CERTIFICATE OF TITLE, IN GOODS BROUGHT
9 INTO THIS STATE AND THEREAFTER COVERED BY A CERTIFICATE OF TITLE ISSUED
10 BY THIS STATE IS SUBJECT TO THE RULES STATED IN PARAGRAPH 4 OF SUBSEC-
11 TION A.

12 4. IF GOODS ARE BROUGHT INTO THIS STATE WHILE A SECURITY INTEREST
13 THEREIN IS PERFECTED IN ANY MANNER UNDER THE LAW OF THE JURISDICTION
14 FROM WHICH THE GOODS ARE REMOVED AND A CERTIFICATE OF TITLE IS ISSUED
15 BY THIS STATE AND THE CERTIFICATE DOES NOT SHOW THAT THE GOODS ARE
16 SUBJECT TO THE SECURITY INTEREST OR THAT THEY MAY BE SUBJECT TO SECURITY
17 INTERESTS NOT SHOWN ON THE CERTIFICATE, THE SECURITY INTEREST IS SUBOR-
18 DINATE TO THE RIGHTS OF A BUYER OF THE GOODS WHO IS NOT IN THE BUSINESS
19 OF SELLING GOODS OF THAT KIND TO THE EXTENT THAT HE GIVES VALUE AND
20 RECEIVES DELIVERY OF THE GOODS AFTER ISSUANCE OF THE CERTIFICATE AND
21 WITHOUT KNOWLEDGE OF THE SECURITY INTEREST.

22 C. ACCOUNTS, GENERAL INTANGIBLES AND MOBILE GOODS:

23 1. THIS SUBSECTION APPLIES TO ACCOUNTS (OTHER THAN AN ACCOUNT
24 DESCRIBED IN SUBSECTION E ON MINERALS) AND GENERAL INTANGIBLES AND TO
25 GOODS WHICH ARE MOBILE AND WHICH ARE OF A TYPE NORMALLY USED IN MORE
26 THAN ONE JURISDICTION, SUCH AS MOTOR VEHICLES, TRAILERS, ROLLING STOCK,
27 AIRPLANES, SHIPPING CONTAINERS, ROAD BUILDING AND CONSTRUCTION MACHINERY
28 AND COMMERCIAL HARVESTING MACHINERY AND THE LIKE, IF THE GOODS ARE
29 EQUIPMENT OR ARE INVENTORY LEASED OR HELD FOR LEASE BY THE DEBTOR TO
30 OTHERS, AND ARE NOT COVERED BY A CERTIFICATE OF TITLE DESCRIBED IN
31 SUBSECTION B.

32 2. THE LAW (INCLUDING THE CONFLICT OF LAWS RULES) OF THE JURIS-
33 DICTION IN WHICH THE DEBTOR IS LOCATED GOVERNS THE PERFECTION AND THE
34 EFFECT OF PERFECTION OR NONPERFECTION OF THE SECURITY INTEREST.

35 3. IF, HOWEVER, THE DEBTOR IS LOCATED IN A JURISDICTION WHICH IS
36 NOT A PART OF THE UNITED STATES, AND WHICH DOES NOT PROVIDE FOR PERFECTION
37 OF THE SECURITY INTEREST BY FILING OR RECORDING IN THAT JURISDICTION,
38 THE LAW OF THE JURISDICTION IN THE UNITED STATES IN WHICH THE DEBTOR
39 HAS ITS MAJOR EXECUTIVE OFFICE IN THE UNITED STATES GOVERNS THE PERFECTION
40 AND THE EFFECT OF PERFECTION OR NONPERFECTION OF THE SECURITY INTEREST
41 THROUGH FILING. IN THE ALTERNATIVE, IF THE DEBTOR IS LOCATED IN A JURIS-
42 DICTION WHICH IS NOT A PART OF THE UNITED STATES OR CANADA AND THE
43 COLLATERAL IS ACCOUNTS OR GENERAL INTANGIBLES FOR MONEY DUE OR TO BECOME
44 DUE, THE SECURITY INTEREST MAY BE PERFECTED BY NOTIFICATION TO THE ACCOUNT
45 DEBTOR. AS USED IN THIS PARAGRAPH, "UNITED STATES" INCLUDES ITS TERRI-
46 TORIES AND POSSESSIONS AND THE COMMONWEALTH OF PUERTO RICO.

47 4. A DEBTOR SHALL BE DEEMED LOCATED AT HIS PLACE OF BUSINESS IF
48 HE HAS ONE, AT HIS CHIEF EXECUTIVE OFFICE IF HE HAS MORE THAN ONE PLACE
49 OF BUSINESS, OTHERWISE AT HIS RESIDENCE. IF, HOWEVER, THE DEBTOR IS A
50 FOREIGN AIR CARRIER UNDER THE FEDERAL AVIATION ACT OF 1958, AS AMENDED,

1 IT SHALL BE DEEMED LOCATED AT THE DESIGNATED OFFICE OF THE AGENT UPON
2 WHOM SERVICE OF PROCESS MAY BE MADE ON BEHALF OF THE FOREIGN AIR CARRIER.

3 5. A SECURITY INTEREST PERFECTED UNDER THE LAW OF THE JURISDICTION
4 OF THE LOCATION OF THE DEBTOR IS PERFECTED UNTIL THE EXPIRATION OF FOUR
5 MONTHS AFTER A CHANGE OF THE DEBTOR'S LOCATION TO ANOTHER JURISDICTION,
6 OR UNTIL PERFECTION WOULD HAVE CEASED BY THE LAW OF THE FIRST JURISDIC-
7 TION, WHICHEVER PERIOD FIRST EXPIRES. UNLESS PERFECTED IN THE NEW
8 JURISDICTION BEFORE THE END OF THAT PERIOD, IT BECOMES UNPERFECTED
9 THEREAFTER AND IS DEEMED TO HAVE BEEN UNPERFECTED AS AGAINST A PERSON
10 WHO BECAME A PURCHASER AFTER THE CHANGE.

11 D. CHATTEL PAPER:

12 1. THE RULES STATED FOR GOODS IN SUBSECTION A APPLY TO A POSSESSORY
13 SECURITY INTEREST IN CHATTEL PAPER. THE RULES STATED FOR ACCOUNTS IN
14 SUBSECTION C APPLY TO A NONPOSSESSORY SECURITY INTEREST IN CHATTEL PAPER,
15 BUT THE SECURITY INTEREST MAY NOT BE PERFECTED BY NOTIFICATION TO THE
16 ACCOUNT DEBTOR.

17 E. MINERALS:

18 1. PERFECTION AND THE EFFECT OF PERFECTION OR NONPERFECTION OF A
19 SECURITY INTEREST WHICH IS CREATED BY A DEBTOR WHO HAS AN INTEREST IN
20 MINERALS OR THE LIKE (INCLUDING OIL AND GAS) BEFORE EXTRACTION AND WHICH
21 ATTACHES THERETO AS EXTRACTED, OR WHICH ATTACHES TO AN ACCOUNT RESULTING
22 FROM THE SALE THEREOF AT THE WELLHEAD OR MINEHEAD ARE GOVERNED BY THE
23 LAW (INCLUDING THE CONFLICT OF LAWS RULES) OF THE JURISDICTION WHEREIN
24 THE WELLHEAD OR MINEHEAD IS LOCATED.

25 Sec. 11. Section 44-3104, Arizona Revised Statutes, is amended to
26 read:

27 44-3104. Transactions excluded from article

28 This article does not apply:

29 1. To a security interest subject to any statute of the United
30 States such as the ship mortgage act, 1920, to the extent that such
31 statute governs the rights of parties to and third parties affected by
32 transactions in particular types of property; or

33 2. To a landlord's lien; or

34 3. To a lien given by statute or other rule of law for services
35 or materials except as provided in section 44-3131 on priority of such
36 liens; or

37 4. To a transfer of a claim for wages, salary or other compensation
38 of an employee; or

39 ~~5. To an equipment trust covering railway rolling stock; or~~

40 5. TO A TRANSFER BY A GOVERNMENT OR GOVERNMENTAL SUBDIVISION OR
41 AGENCY; OR

42 6. To a sale of accounts, ~~contract rights~~ or chattel paper as part
43 of a sale of the business out of which they arose, or an assignment of
44 accounts, ~~contract rights~~ or chattel paper which is for the purpose of
45 collection only, or a transfer of a ~~contract~~ right TO PAYMENT UNDER A
46 CONTRACT to an assignee who is also to do the performance under the
47 contract OR A TRANSFER OF A SINGLE ACCOUNT TO AN ASSIGNEE IN WHOLE OR
48 PARTIAL SATISFACTION OF A PREEXISTING INDEBTEDNESS; or

49 7. To a transfer of an interest or claim in or under any policy of
50 insurance, ~~or~~, EXCEPT AS PROVIDED WITH RESPECT TO PROCEEDS (SECTION
51 44-3127) AND PRIORITIES IN PROCEEDS (SECTION 44-3133); OR

1 8. To a right represented by a judgment (OTHER THAN A JUDGMENT
2 TAKEN ON A RIGHT TO PAYMENT WHICH WAS COLLATERAL); or

3 9. To any right of set-off; or

4 10. Except to the extent that provision is made for fixtures in
5 section 44-3134, to the creation or transfer of an interest in or lien
6 on real estate, including a lease or rents thereunder; or

7 11. To a transfer in whole or in part of ~~any-of-the-following:~~
8 any claim arising out of tort, ~~any-deposit-, savings-, passbook-or-like~~
9 ~~account-maintained-with-a-bank-, savings-and-loan-association-, credit~~
10 ~~union-or-like-organization-;~~ OR

11 12. TO A TRANSFER OF AN INTEREST IN ANY DEPOSIT ACCOUNT (SUBSECTION
12 A OF SECTION 44-3105), EXCEPT AS PROVIDED WITH RESPECT TO PROCEEDS
13 (SECTION 44-3127) AND PRIORITIES IN PROCEEDS (SECTION 44-3133).

14 Sec. 12. Section 44-3105, Arizona Revised Statutes, is amended to
15 read:

16 44-3105. Definitions and index of definitions

17 A. In this article, unless the context otherwise requires:

18 1. "Account debtor" means the person who is obligated on an account,
19 chattel paper, ~~contract-right~~ or general intangible.

20 2. "ADVANCE MADE PURSUANT TO A COMMITMENT" MEANS AN ADVANCE WHICH
21 THE SECURED PARTY HAS BOUND HIMSELF TO MAKE, WHETHER OR NOT HIS OBLIGATION
22 TO MAKE SUCH ADVANCE IS OR MAY BE CONDITIONED ON AN EVENT NOT WITHIN HIS
23 CONTROL, AND WHETHER OR NOT AN EVENT NOT WITHIN HIS CONTROL HAS RELIEVED
24 OR MAY RELIEVE HIM FROM HIS OBLIGATION.

25 3. "Chattel paper" means a writing or writings which evidence
26 both a monetary obligation and a security interest in or a lease of specific
27 goods. When a transaction is evidenced both by such a security agreement
28 or a lease and by an instrument or a series of instruments, the group
29 of writings taken together constitutes chattel paper.

30 4. "Collateral" means the property subject to a security
31 interest, and includes accounts, ~~contract-rights~~ and chattel paper which
32 have been sold.

33 5. "Debtor" means the person who owes payment or other performance
34 of the obligation secured, whether or not he owns or has rights in the
35 collateral, and includes the seller of accounts, ~~contract-rights~~ or
36 chattel paper. Where the debtor and the owner of the collateral are not
37 the same person, the term "debtor" means the owner of the collateral in
38 any provision of the article dealing with the collateral, the obligor in
39 any provision dealing with the obligation, and may include both where
40 the context so requires.

41 6. "DEPOSIT ACCOUNT" MEANS A DEMAND, TIME, SAVINGS, PASSBOOK OR LIKE
42 ACCOUNT MAINTAINED WITH A BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT
43 UNION OR LIKE ORGANIZATION, OTHER THAN AN ACCOUNT EVIDENCED BY A
44 CERTIFICATE OF DEPOSIT.

45 7. "Document" means document of title as defined in the general
46 definitions of article 1 (section 44-2208)--, AND A RECEIPT OF THE KIND
47 DESCRIBED IN SUBSECTION B OF SECTION 44-2906.

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1 8. "ENCUMBRANCE" INCLUDES REAL ESTATE MORTGAGES AND OTHER LIENS
2 ON REAL ESTATE AND ALL OTHER RIGHTS IN REAL ESTATE THAT ARE NOT OWNERSHIP
3 INTERESTS.

4 ~~6-~~ 9. "Filing" means recording when the proper office under
5 section 44-3140 is that of a county recorder.

6 ~~7-~~ 10. "Goods" includes all things which are movable at the time
7 the security interest attaches or which are fixtures (section 44-3134),
8 but does not include money, documents, instruments, accounts, chattel
9 paper, general intangibles, ~~contract-rights-and-other-things-in-action-~~
10 OR MINERALS OR THE LIKE (INCLUDING OIL AND GAS) BEFORE EXTRACTION.

11 "Goods" also ~~include~~ INCLUDES the unborn young of animals, growing crops
12 and standing timber which is to be cut and removed under a conveyance or
13 contract for sale.

14 ~~8-~~ 11. "Instrument" means a negotiable instrument (defined in
15 section 44-2504), or a security (defined in section 44-3002), or any
16 other writing which evidences a right to the payment of money and is not
17 itself a security agreement or lease and is of a type which is in ordinary
18 course of business transferred by delivery with any necessary indorsement
19 or assignment.

20 ~~9-~~ 12. "Legal description" for purposes of section 44-3142,
21 subsection E, is limited to one which describes the real estate:

22 (a) By reference to a lot, block, tract or parcel as set forth
23 within a recorded subdivision plat,

24 (b) By the use of a metes and bounds or course and distance survey,
25 or

26 (c) By any use of the governmental survey system, with specific
27 identification of the location within any section or sections of a town-
28 ship and range.

29 (d) By reference to the book and page of a properly recorded
30 instrument describing real estate in the manner set forth in (a), (b), or
31 (c) above.

32 13. "MORTGAGE" MEANS A CONSENSUAL INTEREST CREATED BY A REAL
33 ESTATE MORTGAGE, A TRUST DEED ON REAL ESTATE, OR THE LIKE.

34 ~~10-~~ 14. "Security agreement" means an agreement which creates or
35 provides for a security interest.

36 ~~11-~~ 15. "Secured party" means a lender, seller or other person in
37 whose favor there is a security interest, including a person to whom
38 accounts, ~~contract-rights~~ or chattel paper have been sold. When the
39 holders of obligations issued under an indenture of trust, equipment
40 trust agreement or the like are represented by a trustee or other person,
41 the representative is the secured party.

42 B. Other definitions applying to this article and the sections in
43 which they appear are:

44 1. "Account". Section 44-3106.

45 2. "ATTACH". SECTION 44-3116.

46 3. "CONSTRUCTION MORTGAGE". SECTION 44-3134, SUBSECTION A.

47 ~~2-~~ 4. "Consumer goods". Paragraph 1 of section 44-3109.

48 ~~3-~~ "Contract-right". Section 44-3106.

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1 4. 5. "Equipment". Paragraph 2 of section 44-3109.
2 ~~5.~~ 6. "Farm products". Paragraph 3 of section 44-3109.
3 7. "FIXTURE". SECTION 44-3134.
4 8. "FIXTURE FILING". SECTION 44-3134.
5 ~~6.~~ 9. "General intangibles". Section 44-3106.
6 ~~7.~~ 10. "Inventory". Paragraph 4 of section 44-3109.
7 ~~8.~~ 11. "Lien creditor". Subsection C of section 44-3122.
8 ~~9.~~ 12. "Proceeds". Subsection A of section 44-3127.
9 ~~10.~~ 13. "Purchase money security interest". Section 44-3107.
10 14. "UNITED STATES". SECTION 44-3103.
11 C. The following definitions in other articles apply to this article:
12 1. "Check". Section 44-2504.
13 2. "Contract for sale". Section 44-2306.
14 3. "Holder in due course". Section 44-2532.
15 4. "Note". Section 44-2504.
16 5. "Sale". Section 44-2306.
17 D. In addition article 1 contains general definitions and principles
18 of construction and interpretation applicable throughout this article.
19 Sec. 13. Section 44-3106, Arizona Revised Statutes, is amended to
20 read:
21 44-3106. Definitions: "account"; "general intangibles"
22 "Account" means any right to payment for goods sold or leased or
23 for services rendered which is not evidenced by an instrument or chattel
24 paper WHETHER OR NOT IT HAS BEEN EARNED BY PERFORMANCE. "~~Contract-right~~"
25 ~~means-any-right-to-payment-under-a-contract-not-yet-earned-by-performance~~
26 ~~and-not-evidenced-by-an-instrument-or-chattel-paper.~~ "General intangibles"
27 means any personal property (including things in action) other than goods,
28 accounts, ~~contract-rights~~, chattel paper, documents, and instruments
29 AND MONEY.
30 Sec. 14. Title 44, chapter 14, article 9, Arizona Revised Statutes,
31 is amended by adding section 44-3113.01, to read:
32 44-3113.01. Consignment
33 A. A PERSON WHO DELIVERS GOODS UNDER A CONSIGNMENT WHICH IS NOT A
34 SECURITY INTEREST AND WHO WOULD BE REQUIRED TO FILE UNDER THIS ARTICLE
35 BY PARAGRAPH 3 OF SUBSECTION C OF SECTION 44-2343 HAS PRIORITY OVER A
36 SECURED PARTY WHO IS OR BECOMES A CREDITOR OF THE CONSIGNEE AND WHO WOULD
37 HAVE A PERFECTED SECURITY INTEREST IN THE GOODS IF THEY WERE THE PROPERTY
38 OF THE CONSIGNEE, AND ALSO HAS PRIORITY WITH RESPECT TO IDENTIFIABLE CASH
39 PROCEEDS RECEIVED ON OR BEFORE DELIVERY OF THE GOODS TO A BUYER, IF:
40 1. THE CONSIGNOR COMPLIES WITH THE FILING PROVISION OF THE ARTICLE
41 ON SALES WITH RESPECT TO CONSIGNMENTS (PARAGRAPH 3 OF SUBSECTION C OF
42 SECTION 44-2343) BEFORE THE CONSIGNEE RECEIVES POSSESSION OF THE GOODS;
43 AND
44 2. THE CONSIGNOR GIVES NOTIFICATION IN WRITING TO THE HOLDER OF
45 THE SECURITY INTEREST IF THE HOLDER HAS FILED A FINANCING STATEMENT
46 COVERING THE SAME TYPES OF GOODS BEFORE THE DATE OF THE FILING MADE BY
47 THE CONSIGNOR; AND
48 3. THE HOLDER OF THE SECURITY INTEREST RECEIVES THE NOTIFICATION
49 WITHIN FIVE YEARS BEFORE THE CONSIGNEE RECEIVES POSSESSION OF THE GOODS;
50 AND

1 4. THE NOTIFICATION STATES THAT THE CONSIGNOR EXPECTS TO DELIVER
2 GOODS ON CONSIGNMENT TO THE CONSIGNEE, DESCRIBING THE GOODS BY ITEM OR
3 TYPE.

4 B. IN THE CASE OF A CONSIGNMENT WHICH IS NOT A SECURITY INTEREST
5 AND IN WHICH THE REQUIREMENTS OF THE PRECEDING SUBSECTION HAVE NOT BEEN
6 MET, A PERSON WHO DELIVERS GOODS TO ANOTHER IS SUBORDINATE TO A PERSON
7 WHO WOULD HAVE A PERFECTED SECURITY INTEREST IN THE GOODS IF THEY WERE
8 THE PROPERTY OF THE DEBTOR.

9 Sec. 15. Section 44-3116, Arizona Revised Statutes, is amended to
10 read:

11 44-3116. Attachment and enforceability of security interest;
12 proceeds, formal requisites

13 A. Subject to the provisions of section 44-2617 on the security
14 interest of a collecting bank and section 44-3113 on a security interest
15 arising under the article on sales, a security interest is not enforceable
16 against the debtor or third parties WITH RESPECT TO THE COLLATERAL AND
17 DOES NOT ATTACH unless:

18 1. The collateral is in the possession of the secured party;-
19 PURSUANT TO AGREEMENT, or

20 2. the debtor has signed a security agreement which contains a
21 description of the collateral and in addition, when the security interest
22 covers crops ~~or oil, gas or minerals to be extracted~~ GROWING OR TO BE
23 GROWN or timber to be cut, a description of the land concerned;- ; AND
24 ~~in describing collateral, the word "proceeds" is sufficient without~~
25 ~~further description to cover proceeds of any character.~~

26 2. VALUE HAS BEEN GIVEN; AND

27 3. THE DEBTOR HAS RIGHTS IN THE COLLATERAL.

28 B. A SECURITY INTEREST ATTACHES WHEN IT BECOMES ENFORCEABLE AGAINST
29 THE DEBTOR WITH RESPECT TO THE COLLATERAL. ATTACHMENT OCCURS AS SOON AS
30 ALL OF THE EVENTS SPECIFIED IN SUBSECTION A HAVE TAKEN PLACE UNLESS
31 EXPLICIT AGREEMENT POSTPONES THE TIME OF ATTACHING.

32 C. UNLESS OTHERWISE AGREED A SECURITY AGREEMENT GIVES THE SECURED
33 PARTY THE RIGHTS TO PROCEEDS PROVIDED BY SECTION 44-3127.

34 B. D. A transaction, although subject to this article, is also
35 subject to the pawnbrokers law, article 3 of chapter 11, title 44, the
36 motor vehicle time sales disclosure law, article 1 of chapter 2.1, title
37 44, and the small loans law, article 1 of chapter 5, title 6, and in the
38 case of conflict between the provisions of this article and any such
39 statute, the provisions of such statute control. Failure to comply with
40 any applicable statute has only the effect which is specified therein.

41 Sec. 16. Section 44-3117, Arizona Revised Statutes, is amended to
42 read:

43 44-3117. After-acquired property; future advances

44 ~~A--A security interest cannot attach until there is agreement~~
45 ~~(paragraph 3 of section 44-2208) that it attach and value is given and~~
46 ~~the debtor has rights in the collateral.--It attaches as soon as all of~~
47 ~~the events in the preceding sentence have taken place unless explicit~~
48 ~~agreement postpones the time of attaching.~~

49 ~~B--For the purposes of this section the debtor has no rights~~
50 ~~;- in crops until they are planted or otherwise become growing~~

1 crops, ~~in the young of livestock until they are conceived;~~
2 ~~2--in fish until caught, in oil, gas or minerals until they are~~
3 ~~extracted;~~
4 ~~3--in a contract right until the contract has been made;~~
5 ~~4--in an account until it comes into existence.~~
6 6. A. Except as provided in subsection D- B, a security agreement
7 may provide that collateral, ~~whenever acquired,~~ shall secure ANY OR all
8 obligations covered by the security agreement ARE TO BE SECURED BY AFTER-
9 ACQUIRED COLLATERAL.

10 D. B. No security interest attaches under an after-acquired
11 property clause to consumer goods other than accessions (section 44-3135)
12 when given as additional security unless the debtor acquires rights in
13 them within ten days after the secured party gives value.

14 E. C. Obligations covered by a security agreement may include
15 future advances or other value whether or not the advances or value are
16 given pursuant to commitment (SUBSECTION A OF SECTION 44-3105).

17 Sec. 17. Section 44-3118, Arizona Revised Statutes, is amended
18 to read:

19 44-3118. Use or disposition of collateral without accounting
20 permissible

21 A security interest is not invalid or fraudulent against creditors
22 by reason of liberty in the debtor to use, commingle or dispose of all or
23 part of the collateral (including returned or repossessed goods) or to
24 collect or compromise accounts, ~~contract rights~~ or chattel paper, or to
25 accept the return of goods or make repossessions, or to use, commingle
26 or dispose of proceeds, or by reason of the failure of the secured party
27 to require the debtor to account for proceeds or replace collateral.
28 This section does not relax the requirements of possession where per-
29 fection of a security interest depends upon possession of the collateral
30 by the secured party or by a bailee.

31 Sec. 18. Section 44-3122, Arizona Revised Statutes, is amended to
32 read:

33 44-3122. Persons who take priority over unperfected security
34 interests; rights of "lien creditor"

35 A. Except as otherwise provided in subsection B, an unperfected
36 security interest is subordinate to the rights of:

37 1. Persons entitled to priority under section 44-3133.

38 2. A person who becomes a lien creditor ~~without knowledge of the~~
39 ~~security interest and before it~~ THE SECURITY INTEREST is perfected.

40 3. In the case of goods, instruments, documents, and chattel paper,
41 a person who is not a secured party and who is a transferee in bulk
42 or other buyer not in ordinary course of business, OR IS A BUYER OF FARM
43 PRODUCTS IN ORDINARY COURSE OF BUSINESS, to the extent that he gives
44 value and receives delivery of the collateral without knowledge of the
45 security interest and before it is perfected.

46 4. In the case of accounts, ~~contract rights~~, and general intangibles,
47 a person who is not a secured party and who is a transferee to the extent
48 that he gives value without knowledge of the security interest and before
49 it is perfected.

1 B. If the secured party files with respect to a purchase money
2 security interest before or within ten days after the DEBTOR RECEIVES
3 POSSESSION OF THE collateral, ~~comes-into-possession-of-the-debtor~~, he
4 takes priority over the rights of a transferee in bulk or of a lien
5 creditor which arises between the time the security interest attaches
6 and the time of filing.

7 C. A "lien creditor" means a creditor who has acquired a lien on
8 the property involved by attachment, levy or the like and includes an
9 assignee for benefit of creditors from the time of assignment, and a
10 trustee in bankruptcy from the date of the filing of the petition or
11 a receiver in equity from the time of appointment. ~~Unless-all-the~~
12 ~~creditors-represented-had-knowledge-of-the-security-interest-such-a~~
13 ~~representative-of-creditors-is-a-lien-creditor-without-knowledge-even~~
14 ~~though-he-personally-has-knowledge-of-the-security-interest.~~

15 D. A PERSON WHO BECOMES A LIEN CREDITOR WHILE A SECURITY INTEREST
16 IS PERFECTED TAKES SUBJECT TO THE SECURITY INTEREST ONLY TO THE EXTENT
17 THAT IT SECURES ADVANCES MADE BEFORE HE BECOMES A LIEN CREDITOR OR WITHIN
18 FORTY-FIVE DAYS THEREAFTER OR MADE WITHOUT KNOWLEDGE OF THE LIEN OR
19 PURSUANT TO A COMMITMENT ENTERED INTO WITHOUT KNOWLEDGE OF THE LIEN.

20 Sec. 19. Section 44-3123, Arizona Revised Statutes, is amended
21 to read:

22 44-3123. When filing is required to perfect security interest;
23 security interests to which filing provisions of this
24 article do not apply

25 A. A financing statement must be filed to perfect all security
26 interests except the following:

27 1. A security interest in collateral in possession of the secured
28 party under section 44-3126.

29 2. A security interest temporarily perfected in instruments or
30 documents without delivery under section 44-3125 or in proceeds for a
31 ten-day period under section 44-3127.

32 ~~3.--A-purchase-money-security-interest-in-farm-equipment-having~~
33 ~~a-purchase-price-not-in-excess-of-two-thousand-five-hundred-dollars;-but~~
34 ~~filing-is-required-for-a-fixture-under-section-44-3134-or-for-a-motor~~
35 ~~vehicle-required-to-be-licensed.~~

36 3. A SECURITY INTEREST CREATED BY AN ASSIGNMENT OF A BENEFICIAL
37 INTEREST IN A DECEDENT'S ESTATE.

38 4. A purchase money security interest in consumer goods; but filing
39 is required ~~for-a-fixture-under-section-44-3134-or-for-a-motor-vehicle~~
40 ~~required-to-be-licensed~~, FOR A MOTOR VEHICLE REQUIRED TO BE REGISTERED;
41 AND FIXTURE FILING IS REQUIRED FOR PRIORITY OVER CONFLICTING INTERESTS
42 IN FIXTURES TO THE EXTENT PROVIDED IN SECTION 44-3134.

43 5. An assignment of accounts ~~or-contract-rights~~ which does not
44 alone or in conjunction with other assignments to the same assignee
45 transfer a significant part of the outstanding accounts ~~or-contract-rights~~
46 of the assignor.

47 6. A security interest of a collecting bank (section 44-2617) or
48 arising under the article on sales (section 44-3113) or covered in sub-
49 section C of this section.

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1 7. AN ASSIGNMENT FOR THE BENEFIT OF ALL THE CREDITORS OF THE
2 TRANSFEROR, AND SUBSEQUENT TRANSFERS BY THE ASSIGNEE THEREUNDER.

3 B. If a secured party assigns a perfected security interest, no
4 filing under this article is required in order to continue the perfected
5 status of the security interest against creditors of and transferees
6 from the original debtor.

7 ~~C. The filing provisions of this article do not apply to a secu-~~
8 ~~riety interest in property subject to a statute:~~

9 ~~1. Of the United States which provides for a national registration~~
10 ~~or filing of all security interests in such property; or~~

11 ~~2. Of this state which provides for central filing of, or which~~
12 ~~requires indication on a certificate of title of, such security interests~~
13 ~~in such property.~~

14 ~~D. A security interest in property covered by a statute described~~
15 ~~in subsection C can be perfected only by registration or filing under~~
16 ~~that statute or by indication of the security interest on a certificate~~
17 ~~of title or a duplicate thereof by a public official.~~

18 C. THE FILING OF A FINANCING STATEMENT REQUIRED BY THIS
19 ARTICLE IS NOT NECESSARY OR EFFECTIVE TO PERFECT A SECURITY INTEREST IN
20 PROPERTY SUBJECT TO:

21 1. A STATUTE OR TREATY OF THE UNITED STATES WHICH PROVIDES FOR
22 A NATIONAL OR INTERNATIONAL REGISTRATION OR A NATIONAL OR INTERNATIONAL
23 CERTIFICATE OF TITLE OR WHICH SPECIFIES A PLACE OF FILING DIFFERENT FROM
24 THAT SPECIFIED IN THIS ARTICLE FOR FILING OF THE SECURITY INTEREST; OR

25 2. A STATUTE OF THIS STATE (OTHER THAN SECTION 44-3140) WHICH
26 PROVIDES FOR CENTRAL FILING OF, OR WHICH REQUIRES INDICATION ON A CERTIFI-
27 CATE OF TITLE OF, SUCH SECURITY INTEREST IN SUCH PROPERTY, INCLUDING
28 SECTION 28-325, WHICH REQUIRES INDICATION THEREOF ON A CERTIFICATE OF TITLE
29 FOR A VEHICLE REQUIRED TO BE TITLED AND REGISTERED UNDER SECTION 28-302 AND
30 FOR A MOBILE HOME REQUIRED TO BE TITLED UNDER SECTION 42-643; BUT DURING
31 ANY PERIOD IN WHICH SUCH PROPERTY SUBJECT TO SUCH A STATUTE IS INVENTORY
32 HELD FOR SALE BY A PERSON WHO IS IN THE BUSINESS OF SELLING GOODS OF THAT
33 KIND, THE FILING PROVISIONS OF THIS ARTICLE (SECTIONS 44-3140 THROUGH
34 44-3146.02) APPLY TO A SECURITY INTEREST IN THAT COLLATERAL CREATED BY
35 HIM AS DEBTOR; OR

36 3. A CERTIFICATE OF TITLE STATUTE OF ANOTHER JURISDICTION UNDER
37 THE LAW OF WHICH INDICATION OF A SECURITY INTEREST ON THE CERTIFICATE
38 IS REQUIRED AS A CONDITION OF PERFECTION (SUBSECTION B OF SECTION
39 44-3103).

40 D. COMPLIANCE WITH A STATUTE OR TREATY DESCRIBED IN SUBSECTION C
41 IS EQUIVALENT TO THE FILING OF A FINANCING STATEMENT UNDER THIS ARTICLE,
42 AND A SECURITY INTEREST IN PROPERTY SUBJECT TO THE STATUTE OR TREATY CAN
43 BE PERFECTED ONLY BY COMPLIANCE THEREWITH EXCEPT AS PROVIDED IN SECTION
44 44-3103 ON MULTIPLE STATE TRANSACTIONS. DURATION AND RENEWAL OF PERFEC-
45 TION OF A SECURITY INTEREST PERFECTED BY COMPLIANCE WITH THE STATUTE OR
46 TREATY ARE GOVERNED BY THE PROVISIONS OF THE STATUTE OR TREATY; IN OTHER
47 RESPECTS THE SECURITY INTEREST IS SUBJECT TO THIS ARTICLE.

48 E. This subsection applies to "utility security agreements" which
49 are agreements wherein a security interest is given by:

50 1. A railroad or pipe line company.

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1 2. A public service corporation owning or operating properties or
2 facilities used or held for use in connection with the production, trans-
3 mission, or distribution for sale of electricity, power, gas, oil or water,
4 or the rendition of telephone or telegraph service.

5 3. A political subdivision, agency, or municipal corporation owning
6 or operating similar properties or facilities.

7 F. As to utility security agreements, including agreements made
8 prior to January 1, 1968, the provisions of subsection E and this sub-
9 section shall prevail over conflicting provisions of this article, including
10 the provisions of sections 44-3140 to 44-3146, 44-3146.02, inclusive, as to
11 filing, formal requirements and duration and the provisions of section 44-3110
12 as to sufficiency of description. The utility security agreement, or a
13 true copy thereof, or a financing statement with respect thereto, may be
14 filed in the office of the secretary of state. A filing pursuant to this
15 subsection need not contain a legal or other description of real estate
16 to which fixtures covered by the agreement are or may be affixed. The
17 secretary of state shall maintain a separate index for filings made
18 pursuant to this subsection. Filings pursuant to this subsection shall
19 remain effective until terminated, and continuation statements need not
20 be filed.

21 Sec. 20. Section 44-3125, Arizona Revised Statutes, is amended to
22 read:

23 44-3125. Perfection of security interest in instruments, doc-
24 uments, and goods covered by documents; perfection
25 by permissive filing; temporary perfection without
26 filing or transfer of possession

27 A. A security interest in chattel paper or negotiable documents
28 may be perfected by filing. A security interest in MONEY OR instruments
29 (other than instruments which constitute part of chattel paper) can be
30 perfected only by the secured party's taking possession, except as pro-
31 vided in subsections D and E OF THIS SECTION AND SUBSECTIONS B AND C
32 OF SECTION 44-3127 ON PROCEEDS.

33 B. During the period that goods are in the possession of the issuer
34 of a negotiable document therefor, a security interest in the goods is
35 perfected by perfecting a security interest in the document, and any
36 security interest in the goods otherwise perfected during such period
37 is subject thereto.

38 C. A security interest in goods in the possession of a bailee
39 other than one who has issued a negotiable document therefor is perfected
40 by issuance of a document in the name of the secured party or by the
41 bailee's receipt of notification of the secured party's interest or by
42 filing as to the goods.

43 D. A security interest in instruments or negotiable documents
44 is perfected without filing or the taking of possession for a period of
45 twenty-one days from the time it attaches to the extent that it arises
46 for new value given under a written security agreement.

47 E. A security interest remains perfected for a period of twenty-
48 one days without filing where a secured party having a perfected security
49 interest in an instrument, a negotiable document or goods in possession
50 of a bailee other than one who has issued a negotiable document therefor:

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1 1. Makes available to the debtor the goods or documents representing
2 the goods for the purpose of ultimate sale or exchange or for the purpose
3 of loading, unloading, storing, shipping, transshipping, manufacturing,
4 processing or otherwise dealing with them in a manner preliminary to their
5 sale or exchange; ~~OR~~, BUT PRIORITY BETWEEN CONFLICTING SECURITY INTERESTS
6 IN THE GOODS IS SUBJECT TO SUBSECTION B OF SECTION 44-3133; OR

7 2. Delivers the instrument to the debtor for the purpose of ultimate
8 sale or exchange or of presentation, collection, renewal or registration
9 of transfer.

10 F. After the twenty-one day period in subsections D and E perfection
11 depends upon compliance with applicable provisions of this article.

12 Sec. 21. Section 44-3126, Arizona Revised Statutes, is amended to
13 read:

14 44-3126. When possession by secured party perfects security
15 interest without filing

16 A security interest in letters of credit and advices of credit
17 (paragraph 1, subsection B of section 44-2716), goods, instruments,
18 MONEY, negotiable documents or chattel paper may be perfected by the
19 secured party's taking possession of the collateral. If such collateral
20 other than goods covered by a negotiable document is held by a bailee,
21 the secured party is deemed to have possession from the time the bailee
22 receives notification of the secured party's interest. A security
23 interest is perfected by possession from the time possession is taken
24 without relation back and continues only so long as possession is retained,
25 unless otherwise specified in this article. The security interest may be
26 otherwise perfected as provided in this article before or after the
27 period of possession by the secured party.

28 Sec. 22. Section 44-3127, Arizona Revised Statutes, is amended to
29 read:

30 44-3127. "Proceeds"; secured party's rights on disposition of
31 collateral

32 A. "Proceeds" includes whatever is received when ~~collateral or~~
33 ~~proceeds is sold, exchanged, collected or otherwise disposed of. The~~
34 ~~term also includes the account arising when the right to payment is~~
35 ~~earned under a contract right.~~ UPON THE SALE, EXCHANGE, COLLECTION OR
36 OTHER DISPOSITION OF COLLATERAL OR PROCEEDS, INSURANCE PAYABLE BY REASON
37 OF LOSS OR DAMAGE TO THE COLLATERAL IS PROCEEDS, EXCEPT TO THE EXTENT
38 THAT IT IS PAYABLE TO A PERSON OTHER THAN A PARTY TO THE SECURITY AGREEMENT.
39 Money, checks, DEPOSIT ACCOUNTS and the like are "cash proceeds".
40 All other proceeds are "non-cash proceeds".

41 B. Except where this article otherwise provides, a security interest
42 continues in collateral notwithstanding sale, exchange or other
43 disposition thereof ~~by the debtor~~ unless ~~his action~~ THE DISPOSITION was
44 authorized by the secured party in the security agreement or otherwise,
45 and also continues in any identifiable proceeds including collections
46 received by the debtor.

47 C. The security interest in proceeds is a continuously perfected
48 security interest if the interest in the original collateral was perfected
49 but it ceases to be a perfected security interest and becomes unperfected
50 ten days after receipt of the proceeds by the debtor unless:

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1 1. A filed financing statement ~~covering~~ ~~covers~~ the original
2 collateral ~~also covers proceeds, or~~ AND THE PROCEEDS ARE COLLATERAL IN
3 WHICH A SECURITY INTEREST MAY BE PERFECTED BY FILING IN THE OFFICE OR
4 OFFICES WHERE THE FINANCING STATEMENT HAS BEEN FILED AND, IF THE PROCEEDS
5 ARE ACQUIRED WITH CASH PROCEEDS, THE DESCRIPTION OF COLLATERAL IN THE
6 FINANCING STATEMENT INDICATES THE TYPES OF PROPERTY CONSTITUTING THE
7 PROCEEDS; OR

8 2. A FILED FINANCING STATEMENT COVERS THE ORIGINAL COLLATERAL AND
9 THE PROCEEDS ARE IDENTIFIABLE CASH PROCEEDS; OR

10 2. 3. The security interest in the proceeds is perfected before
11 the expiration of the ten-day period.

12 EXCEPT AS PROVIDED IN THIS SECTION, A SECURITY INTEREST IN PROCEEDS CAN
13 BE PERFECTED ONLY BY THE METHODS OR UNDER THE CIRCUMSTANCES PERMITTED
14 IN THIS ARTICLE FOR ORIGINAL COLLATERAL OF THE SAME TYPE.

15 D. In the event of insolvency proceedings instituted by or against
16 a debtor, a secured party with a perfected security interest in pro-
17 ceeds has a perfected security interest ONLY IN THE FOLLOWING PROCEEDS:

18 1. In identifiable non-cash proceeds AND IN SEPARATE DEPOSIT
19 ACCOUNTS CONTAINING ONLY PROCEEDS;

20 2. In identifiable cash proceeds in the form of money which is
21 ~~not~~ NEITHER commingled with other money ~~or~~ NOR deposited in a bank
22 DEPOSIT account prior to the insolvency proceedings;

23 3. In identifiable cash proceeds in the form of checks and the like
24 which are not deposited in a bank DEPOSIT account prior to the insolvency
25 proceedings; and

26 4. In all cash and bank DEPOSIT accounts of the debtor, ~~if other~~
27 cash IN WHICH proceeds have been commingled ~~or deposited in a bank account,~~
28 WITH OTHER FUNDS, but the perfected security interest under this para-
29 graph 4 is:

30 (a) Subject to any right of set-off; and

31 (b) Limited to an amount not greater than the amount of any
32 cash proceeds received by the debtor within ten days before the institu-
33 tion of the insolvency proceedings ~~and commingled or deposited in a bank~~
34 ~~account prior to the insolvency proceedings less the amount of cash~~
35 ~~proceeds received by the debtor and paid over to the secured party~~
36 ~~during the ten-day period.~~ LESS THE SUM OF:

37 i. THE PAYMENTS TO THE SECURED PARTY ON ACCOUNT OF CASH PROCEEDS
38 RECEIVED BY THE DEBTOR DURING SUCH PERIOD AND

39 ii. THE CASH PROCEEDS RECEIVED BY THE DEBTOR DURING SUCH PERIOD
40 TO WHICH THE SECURED PARTY IS ENTITLED UNDER PARAGRAPHS 1 THROUGH 3 OF
41 THIS SUBSECTION.

42 E. If a sale of goods results in an account or chattel paper which
43 is transferred by the seller to a secured party, and if the goods are
44 returned to or are repossessed by the seller or the secured party, the
45 following rules determine priorities:

46 1. If the goods were collateral at the time of sale for an indebted-
47 ness of the seller which is still unpaid, the original security interest
48 attaches again to the goods and continues as a perfected security
49 interest if it was perfected at the time when the goods were sold. If
50 the security interest was originally perfected by a filing which is

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1 still effective, nothing further is required to continue the perfected
2 status; in any other case, the secured party must take possession of
3 the returned or repossessed goods or must file.

4 2. An unpaid transferee of the chattel paper has a security inter-
5 est in the goods against the transferor. Such security interest is
6 prior to a security interest asserted under paragraph 1 to the extent
7 that the transferee of the chattel paper was entitled to priority under
8 section 44-3129.

9 3. An unpaid transferee of the account has a security interest
10 in the goods against the transferor. Such security interest is sub-
11 ordinate to a security interest asserted under paragraph 1.

12 4. A security interest of an unpaid transferee asserted under
13 paragraph 2 or 3 must be perfected for protection against creditors of
14 the transferor and purchasers of the returned or repossessed goods.

15 Sec. 23. Section 44-3128, Arizona Revised Statutes, is amended to
16 read:

17 44-3128. Protection of buyers of goods

18 A. A buyer in ordinary course of business (paragraph 9 of section
19 44-2208) other than a person buying farm products from a person engaged
20 in farming operations takes free of a security interest created by his
21 seller even though the security interest is perfected and even though
22 the buyer knows of its existence.

23 B. In the case of consumer goods ~~and in the case of farm equip-~~
24 ~~ment having an original purchase price not in excess of two thousand~~
25 ~~five hundred dollars (other than fixtures, see section 44-3124), a~~
26 buyer takes free of a security interest even though perfected if he
27 buys without knowledge of the security interest, for value and for his
28 own personal, family or household purposes ~~or his own farming operations~~
29 unless prior to the purchase the secured party has filed a financing
30 statement covering such goods.

31 C. A BUYER OTHER THAN A BUYER IN ORDINARY COURSE OF BUSINESS
32 (SUBSECTION A OF THIS SECTION) TAKES FREE OF A SECURITY INTEREST TO THE
33 EXTENT THAT IT SECURES FUTURE ADVANCES MADE AFTER THE SECURED PARTY
34 ACQUIRES KNOWLEDGE OF THE PURCHASE, OR MORE THAN FORTY-FIVE DAYS AFTER THE
35 PURCHASE, WHICHEVER FIRST OCCURS, UNLESS MADE PURSUANT TO A COMMITMENT
36 ENTERED INTO WITHOUT KNOWLEDGE OF THE PURCHASE AND BEFORE THE EXPIRATION
37 OF THE FORTY-FIVE DAY PERIOD.

38 Sec. 24. Repeal

39 Section 44-3129, Arizona Revised Statutes, is repealed.

40 Sec. 25. Title 44, chapter 14, article 9, Arizona Revised Statutes,
41 is amended by adding a new section 44-3129, to read:

42 44-3129. Purchase of chattel paper and instruments

43 A PURCHASER OF CHATTEL PAPER OR AN INSTRUMENT WHO GIVES NEW VALUE
44 AND TAKES POSSESSION OF IT IN THE ORDINARY COURSE OF HIS BUSINESS HAS
45 PRIORITY OVER A SECURITY INTEREST IN THE CHATTEL PAPER OR INSTRUMENT:

46 1. WHICH IS PERFECTED UNDER SECTION 44-3125 (PERMISSIVE FILING
47 AND TEMPORARY PERFECTION) OR UNDER SECTION 44-3127 (PERFECTION AS TO
48 PROCEEDS) IF HE ACTS WITHOUT KNOWLEDGE THAT THE SPECIFIC PAPER OR INSTRU-
49 MENT IS SUBJECT TO A SECURITY INTEREST; OR

2. WHICH IS CLAIMED MERELY AS PROCEEDS OF INVENTORY SUBJECT TO A SECURITY INTEREST (SECTION 44-3127) EVEN THOUGH HE KNOWS THAT THE SPECIFIC PAPER OR INSTRUMENT IS SUBJECT TO THE SECURITY INTEREST.

Sec. 26. Section 44-3133, Arizona Revised Statutes, is amended to read:

44-3133. Priorities among conflicting security interests in the same collateral

A--The rules of priority stated in the following sections shall govern where applicable:

1--Section 44-2617 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds;

2--Section 44-3122 on certain priorities;

3--Section 44-3125 on goods covered by documents;

4--Section 44-3127 on proceeds and repossessions;

5--Section 44-3128 on buyers of goods;

6--Section 44-3129 on possessory against non-possessory interests in chattel paper or non-negotiable instruments;

7--Section 44-3130 on security interests in negotiable instruments, documents or securities;

8--Section 44-3131 on priorities between perfected security interests and liens by operation of law;

9--Section 44-3134 on security interests in fixtures as against interests in real estate;

10--Section 44-3135 on security interests in accessions as against interest in goods;

11--Section 44-3136 on conflicting security interests where goods lose their identity or become part of a product; and

12--Section 44-3137 on contractual subordination.

A. THE RULES OF PRIORITY STATED IN THIS SECTION AND SECTIONS 44-3122 THROUGH 44-3139 AND IN THE FOLLOWING SECTIONS SHALL GOVERN WHEN APPLICABLE:

1. SECTION 44-2617 WITH RESPECT TO THE SECURITY INTERESTS OF COLLECTING BANKS IN ITEMS BEING COLLECTED, ACCOMPANYING DOCUMENTS AND PROCEEDS;

2. SECTION 44-3103 ON SECURITY INTERESTS RELATED TO OTHER JURISDICTIONS; AND

3. SECTION 44-3113.01 ON CONSIGNMENTS.

B--A purchase money security interest in inventory collateral has priority over a conflicting security interest in the same collateral if:

1--The purchase money security interest is perfected at the time the debtor receives possession of the collateral; and

2--Any secured party whose security interest is known to the holder of the purchase money security interest or who, prior to the date of the filing made by the holder of the purchase money security interest, had filed a financing statement covering the same items or type of inventory, has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest; and

3--Such notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

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1 B. A PERFECTED PURCHASE MONEY SECURITY INTEREST IN INVENTORY HAS
2 PRIORITY OVER A CONFLICTING SECURITY INTEREST IN THE SAME INVENTORY AND
3 ALSO HAS PRIORITY IN IDENTIFIABLE CASH PROCEEDS RECEIVED ON OR BEFORE
4 THE DELIVERY OF THE INVENTORY TO A BUYER IF:
5 1. THE PURCHASE MONEY SECURITY INTEREST IS PERFECTED AT THE TIME
6 THE DEBTOR RECEIVES POSSESSION OF THE INVENTORY; AND
7 2. THE PURCHASE MONEY SECURED PARTY GIVES NOTIFICATION IN WRITING
8 TO THE HOLDER OF THE CONFLICTING SECURITY INTEREST IF THE HOLDER HAD
9 FILED A FINANCING STATEMENT COVERING THE SAME TYPES OF INVENTORY:
10 (a) BEFORE THE DATE OF THE FILING MADE BY THE PURCHASE MONEY
11 SECURED PARTY, OR
12 (b) BEFORE THE BEGINNING OF THE TWENTY-ONE DAY PERIOD WHERE THE
13 PURCHASE MONEY SECURITY INTEREST IS TEMPORARILY PERFECTED WITHOUT FILING
14 OR POSSESSION (SUBSECTION E OF SECTION 44-3125); AND
15 3. THE HOLDER OF THE CONFLICTING SECURITY INTEREST RECEIVES THE
16 NOTIFICATION WITHIN SIX YEARS BEFORE THE DEBTOR RECEIVES POSSESSION OF
17 THE INVENTORY; AND
18 4. THE NOTIFICATION STATES THAT THE PERSON GIVING THE NOTICE HAS
19 OR EXPECTS TO ACQUIRE A PURCHASE MONEY SECURITY INTEREST IN INVENTORY OF
20 THE DEBTOR, DESCRIBING SUCH INVENTORY BY ITEM OR TYPE.
21 C. A purchase money security interest in collateral other than
22 inventory has priority over a conflicting security interest in the same
23 collateral OR ITS PROCEEDS if the purchase money security interest is
24 perfected at the time the debtor receives possession of the collateral
25 or within ten days thereafter.
26 D. In all cases not governed by other rules stated in this section
27 (including cases of purchase money security interests which do not
28 qualify for the special priorities set forth in subsections B and C of
29 this section), priority between conflicting security interests in the
30 same collateral shall be determined as follows: ACCORDING TO THE FOLLOWING
31 RULES:
32 1---in-the-order-of-filing-if-both-are-perfected-by-filing,-regard-
33 less-of-which-security-interest-attached-first-under-subsection-A-of
34 section-44-3117-and-whether-it-attached-before-or-after-filing;
35 2---in-the-order-of-perfection-unless-both-are-perfected-by-filing,
36 regardless-of-which-security-interest-attached-first-under-subsection-A
37 of-section-44-3117-and,-in-the-case-of-a-filed-security-interest,-whether
38 it-attached-before-or-after-filing;-and
39 3---in-the-order-of-attachment-under-subsection-A-of-section
40 44-3117-so-long-as-neither-is-perfected-
41 1. CONFLICTING SECURITY INTERESTS RANK ACCORDING TO PRIORITY IN
42 TIME OF FILING OR PERFECTION. PRIORITY DATES FROM THE TIME A FILING IS
43 FIRST MADE COVERING THE COLLATERAL OR THE TIME THE SECURITY INTEREST IS
44 FIRST PERFECTED, WHICHEVER IS EARLIER, PROVIDED THAT THERE IS NO PERIOD
45 THEREAFTER WHEN THERE IS NEITHER FILING NOR PERFECTION.
46 2. SO LONG AS CONFLICTING SECURITY INTERESTS ARE UNPERFECTED, THE
47 FIRST TO ATTACH HAS PRIORITY.
48 E---For-the-purpose-of-the-priority-rules-of-subsection-B,-a-con-
49 tinuously-perfected-security-interest-shall-be-treated-at-all-times-as-if
50 perfected-by-filing-if-it-was-originally-so-perfected-and-it-shall-be
51 treated-at-all-times-as-if-perfected-otherwise-than-by-filing-if-it-was
52 originally-perfected-otherwise-than-by-filing-

1 E. FOR THE PURPOSES OF SUBSECTION D A DATE OF FILING OR PERFECTION
2 AS TO COLLATERAL IS ALSO A DATE OF FILING OR PERFECTION AS TO PROCEEDS.

3 F. IF FUTURE ADVANCES ARE MADE WHILE A SECURITY INTEREST IS PER-
4 FECTED BY FILING OR THE TAKING OF POSSESSION, THE SECURITY INTEREST HAS
5 THE SAME PRIORITY FOR THE PURPOSES OF SUBSECTION D WITH RESPECT TO THE
6 FUTURE ADVANCES AS IT DOES WITH RESPECT TO THE FIRST ADVANCE. IF A
7 COMMITMENT IS MADE BEFORE OR WHILE THE SECURITY INTEREST IS SO PERFECTED,
8 THE SECURITY INTEREST HAS THE SAME PRIORITY WITH RESPECT TO ADVANCES MADE
9 PURSUANT THERETO. IN OTHER CASES A PERFECTED SECURITY INTEREST HAS PRIORITY
10 FROM THE DATE THE ADVANCE IS MADE.

11 Sec. 27. Section 44-3134, Arizona Revised Statutes, is amended to
12 read:

13 44-3134. Priority of security interests in fixtures

14 A.--~~The rules of this section do not apply to goods incorporated~~
15 ~~into a structure in the manner of lumber, bricks, tile, cement, glass,~~
16 ~~metal work and the like and no security interest in them exists under~~
17 ~~this article unless the structure remains personal property under applic-~~
18 ~~able law.--The law of this state other than this chapter determines whether~~
19 ~~and when other goods become fixtures.--This chapter does not prevent~~
20 ~~creation of an encumbrance upon fixtures or real estate pursuant to the~~
21 ~~law applicable to real estate.~~

22 B.--~~A security interest which attaches to goods before they become~~
23 ~~fixtures takes priority as to the goods over the claims of all persons~~
24 ~~who have an interest in the real estate except as stated in subsection D.~~

25 C.--~~A security interest which attaches to goods after they become~~
26 ~~fixtures is valid against all persons subsequently acquiring interest in~~
27 ~~the real estate except as stated in subsection D but is invalid against~~
28 ~~any person with an interest in the real estate at the time the security~~
29 ~~interest attaches to the goods who has not in writing consented to the~~
30 ~~security interest or disclaimed an interest in the goods as fixtures.~~

31 D.--~~The security interests described in subsections B and C do not~~
32 ~~take priority over:~~

33 1.--~~A subsequent purchaser for value of any interest in the real~~
34 ~~estate; or~~

35 2.--~~A creditor with a lien on the real estate subsequently obtained~~
36 ~~by judicial proceedings; or~~

37 3.--~~A creditor with a prior encumbrance of record on the real estate~~
38 ~~to the extent that he makes subsequent advances;~~
39 ~~if the subsequent purchase is made, the lien by judicial proceedings is~~
40 ~~obtained, or the subsequent advance under the prior encumbrance is made~~
41 ~~or contracted for without actual knowledge or constructive notice under~~
42 ~~the provisions of subsection E of section 44-3142 of the security interest.~~
43 ~~In the determination of priority between any interest in real estate~~
44 ~~described in this subsection and any purchase money security interest~~
45 ~~in collateral affixed to such real estate, the ten-day period provided~~
46 ~~in section 44-3133, subsection G shall not apply.--A purchaser of the real~~
47 ~~estate at a foreclosure sale other than an encumbrancer purchasing at his~~
48 ~~own foreclosure sale is a subsequent purchaser within this section.~~

49 A. IN THIS SECTION AND IN THE PROVISIONS OF SECTIONS 44-3140
50 THROUGH 44-3146 REFERRING TO FIXTURE FILING, UNLESS THE CONTEXT OTHERWISE
51 REQUIRES:

1 1. GOODS ARE "FIXTURES" WHEN THEY BECOME SO RELATED TO PARTICULAR
2 REAL ESTATE THAT AN INTEREST IN THEM ARISES UNDER REAL ESTATE LAW.
3 2. A "FIXTURE FILING" IS THE FILING IN THE OFFICE WHERE A MORTGAGE
4 ON THE REAL ESTATE WOULD BE FILED OR RECORDED OF A FINANCING STATEMENT
5 COVERING GOODS WHICH ARE OR ARE TO BECOME FIXTURES AND CONFORMING TO THE
6 REQUIREMENTS OF SUBSECTION E OF SECTION 44-3141.
7 3. A MORTGAGE IS A "CONSTRUCTION MORTGAGE" TO THE EXTENT THAT IT
8 SECURES AN OBLIGATION INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT
9 ON LAND INCLUDING THE ACQUISITION COST OF THE LAND, IF THE RECORDED
10 WRITING SO INDICATES.
11 B. A SECURITY INTEREST UNDER THIS ARTICLE MAY BE CREATED IN GOODS
12 WHICH ARE FIXTURES OR MAY CONTINUE IN GOODS WHICH BECOME FIXTURES, BUT
13 NO SECURITY INTEREST EXISTS UNDER THIS ARTICLE IN ORDINARY BUILDING
14 MATERIALS INCORPORATED INTO AN IMPROVEMENT ON LAND.
15 C. THIS ARTICLE DOES NOT PREVENT CREATION OF AN ENCUMBRANCE UPON
16 FIXTURES PURSUANT TO REAL ESTATE LAW.
17 D. A PERFECTED SECURITY INTEREST IN FIXTURES HAS PRIORITY OVER THE
18 CONFLICTING INTEREST OF AN ENCUMBRANCER OR OWNER OF THE REAL ESTATE WHERE:
19 1. THE SECURITY INTEREST IS A PURCHASE MONEY SECURITY INTEREST,
20 THE INTEREST OF THE ENCUMBRANCER OR OWNER ARISES BEFORE THE GOODS BECOME
21 FIXTURES, THE SECURITY INTEREST IS PERFECTED BY A FIXTURE FILING BEFORE
22 THE GOODS BECOME FIXTURES OR WITHIN TEN DAYS THEREAFTER, AND THE DEBTOR
23 HAS AN INTEREST OF RECORD IN THE REAL ESTATE OR IS IN POSSESSION OF THE
24 REAL ESTATE; OR
25 2. THE SECURITY INTEREST IS PERFECTED BY A FIXTURE FILING BEFORE
26 THE INTEREST OF THE ENCUMBRANCER OR OWNER IS OF RECORD, THE SECURITY
27 INTEREST HAS PRIORITY OVER ANY CONFLICTING INTEREST OF A PREDECESSOR IN
28 TITLE OF THE ENCUMBRANCER OR OWNER, AND THE DEBTOR HAS AN INTEREST OF
29 RECORD IN THE REAL ESTATE OR IS IN POSSESSION OF THE REAL ESTATE; OR
30 3. THE FIXTURES ARE READILY REMOVABLE EQUIPMENT OR READILY REMOVABLE
31 REPLACEMENTS OF DOMESTIC APPLIANCES WHICH ARE CONSUMER GOODS, AND BEFORE
32 THE GOODS BECOME FIXTURES THE SECURITY INTEREST IS PERFECTED BY ANY METHOD
33 PERMITTED BY THIS ARTICLE; OR
34 4. THE CONFLICTING INTEREST IS A LIEN ON THE REAL ESTATE OBTAINED
35 BY LEGAL OR EQUITABLE PROCEEDINGS AFTER THE SECURITY INTEREST WAS PER-
36 FECTED BY ANY METHOD PERMITTED BY THIS ARTICLE.
37 E. A SECURITY INTEREST IN FIXTURES, WHETHER OR NOT PERFECTED, HAS
38 PRIORITY OVER THE CONFLICTING INTEREST OF AN ENCUMBRANCER OR OWNER OF THE
39 REAL ESTATE WHERE:
40 1. THE ENCUMBRANCER OR OWNER HAS CONSENTED IN WRITING TO THE SECURITY
41 INTEREST OR HAS DISCLAIMED AN INTEREST IN THE GOODS AS FIXTURES; OR
42 2. THE DEBTOR HAS A RIGHT TO REMOVE THE GOODS AS AGAINST THE
43 ENCUMBRANCER OR OWNER. IF THE DEBTOR'S RIGHT TERMINATES, THE PRIORITY
44 OF THE SECURITY INTEREST CONTINUES FOR A REASONABLE TIME.
45 F. NOTWITHSTANDING PARAGRAPH 1 OF SUBSECTION D BUT OTHERWISE SUB-
46 JECT TO SUBSECTIONS D AND E, A SECURITY INTEREST IN FIXTURES IS SUBORDINATE
47 TO A CONSTRUCTION MORTGAGE RECORDED BEFORE THE GOODS BECOME FIXTURES IF THE
48 GOODS BECOME FIXTURES BEFORE THE COMPLETION OF THE CONSTRUCTION. TO THE
49 EXTENT THAT IT IS GIVEN TO REFINANCE A CONSTRUCTION MORTGAGE, A MORTGAGE
50 HAS THE SAME PRIORITY AS THE CONSTRUCTION MORTGAGE. A MORTGAGE IS GIVEN

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1 TO REFINANCE A CONSTRUCTION MORTGAGE WHENEVER THE MORTGAGE PROCEEDS ARE
2 USED TO SATISFY, REDUCE, ACQUIRE OR OTHERWISE REFINANCE THE CONSTRUCTION
3 MORTGAGE OBLIGATION.

4 G. IN CASES NOT WITHIN SUBSECTIONS A THROUGH F, A SECURITY INTEREST
5 IN FIXTURES IS SUBORDINATE TO THE CONFLICTING INTEREST OF AN ENCUMBRANCER
6 OR OWNER OF THE RELATED REAL ESTATE WHO IS NOT THE DEBTOR.

7 E. H. When ~~under subsections B or 6 and B-a~~ THE secured party has
8 priority over ~~the claims of all persons who have interests in~~ ALL OWNERS
9 AND ENCUMBRANCERS OF the real estate, he may, on default, subject to the
10 provisions of sections 44-3147 to 44-3153, inclusive, remove his collateral
11 from the real estate but he must reimburse any encumbrancer or owner of
12 the real estate who is not the debtor and who has not otherwise agreed
13 for the cost of repair of any physical injury, but not for any diminution
14 in value of the real estate caused by the absence of the goods removed
15 or by any necessity for replacing them. A person entitled to reimburse-
16 ment may refuse permission to remove until the secured party gives adequate
17 security for the performance of this obligation.

18 Sec. 28. Section 44-3139, Arizona Revised Statutes, is amended to
19 read:

20 44-3139. Defenses against assignee; modification of contract
21 after notification of assignment; term prohibit-
22 ing assignment ineffective; identification and
23 proof of assignment

24 A. Unless an account debtor has made an enforceable agreement
25 not to assert defenses or claims arising out of a sale as provided in
26 section 44-3119 the rights of an assignee are subject to:

27 1. All the terms of the contract between the account debtor and
28 assignor and any defense or claim arising therefrom; and

29 2. Any other defense or claim of the account debtor against the
30 assignor which accrues before the account debtor receives notification
31 of the assignment.

32 B. So far as the right to payment OR A PART THEREOF under an
33 assigned contract ~~right has not already become an account~~, HAS NOT BEEN
34 FULLY EARNED BY PERFORMANCE, and notwithstanding notification of the
35 assignment, any modification of or substitution for the contract made
36 in good faith and in accordance with reasonable commercial standards is
37 effective against an assignee unless the account debtor has otherwise
38 agreed but the assignee acquires corresponding rights under the modified
39 or substituted contract. The assignment may provide that such modifica-
40 tion or substitution is a breach by the assignor.

41 C. The account debtor is authorized to pay the assignor until the
42 account debtor receives notification that the ~~account~~ AMOUNT DUE OR TO
43 BECOME DUE has been assigned and that payment is to be made to the
44 assignee. A notification which does not reasonably identify the rights
45 assigned is ineffective. If requested by the account debtor, the assignee
46 must seasonably furnish reasonable proof that the assignment has been made
47 and unless he does so the account debtor may pay the assignor.

48 D. A term in any contract between an account debtor and an as-
49 signor ~~which~~ IS INEFFECTIVE IF IT prohibits assignment of an account
50 ~~or contract right to which they are parties is ineffective.~~ OR PROHIBITS

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1 CREATION OF A SECURITY INTEREST IN A GENERAL INTANGIBLE FOR MONEY DUE OR
2 TO BECOME DUE OR REQUIRES THE ACCOUNT DEBTOR'S CONSENT TO SUCH ASSIGNMENT
3 OR SECURITY INTEREST.

4 Sec. 29. Section 44-3140, Arizona Revised Statutes, is amended
5 to read:

6 44-3140. Place of filing; erroneous filing; removal of
7 collateral

8 A. The proper place to file in order to perfect a security
9 interest is as follows:

10 1. When the collateral is equipment used in farming operations, or
11 farm products, or accounts, ~~contract rights~~ or general intangibles
12 arising from or relating to the sale of farm products by a farmer, or
13 consumer goods, then in the office of the county recorder in the county
14 of the debtor's residence or if the debtor is not a resident of this
15 state, then in the office of the county recorder in the county where
16 the goods are kept, and in addition when the collateral is crops GROWING
17 OR TO BE GROWN, THEN in the office of the county recorder in the county
18 where the land ~~on which the crops are growing or to be grown~~ is located.

19 2. When the collateral is goods ~~which at the time the security~~
20 ~~interest attaches are or are to become fixtures or when the collateral is~~
21 ~~timber to be cut, or IS MINERALS OR THE LIKE (INCLUDING OIL AND GAS) OR~~
22 ~~ACCOUNTS SUBJECT TO SUBSECTION E OF SECTION 44-3103, OR WHEN THE FINANCING~~
23 ~~STATEMENT IS FILED AS A FIXTURE FILING (SECTION 44-3134) AND THE COLLATERAL~~
24 ~~IS GOODS WHICH ARE OR ARE TO BECOME FIXTURES, then in the office where a~~
25 ~~mortgage on the real estate concerned would be filed or recorded.~~

26 3. In all other cases, in the office of the secretary of state.

27 B. A filing which is made in good faith in an improper place or
28 not in all of the places required by this section is nevertheless effec-
29 tive with regard to any collateral as to which the filing complied with
30 the requirements of this article and is also effective with regard to
31 collateral covered by the financing statement against any person who
32 has knowledge of the contents of such financing statement.

33 C. A filing which is made in the proper place in this state con-
34 tinues effective even though the debtor's residence or place of business
35 or the location of the collateral or its use, whichever controlled the
36 original filing, is thereafter changed.

37 D. ~~If collateral is brought into this state from another jurisdic-~~
38 ~~tion,~~ The rules stated in section 44-3103 determine whether filing is
39 necessary in this state.

40 E. FOR THE PURPOSES OF THIS SECTION, THE RESIDENCE OF AN ORGANIZA-
41 TION IS ITS PLACE OF BUSINESS IF IT HAS ONE OR ITS CHIEF EXECUTIVE OFFICE
42 IF IT HAS MORE THAN ONE PLACE OF BUSINESS.

43 Sec. 30. Section 44-3141, Arizona Revised Statutes, is amended to
44 read:

45 44-3141. Formal requisites of financing statement; amendments;
46 mortgage as financing statement

47 A. A financing statement is sufficient if it GIVES THE NAMES OF
48 THE DEBTOR AND THE SECURED PARTY, is signed by the debtor, ~~and the secured~~
49 ~~party, designates by typing or printing the names and mailing addresses~~
50 ~~of both the debtor and the secured party~~ GIVES AN ADDRESS OF THE SECURED

1 PARTY FROM WHICH INFORMATION CONCERNING THE SECURITY INTEREST MAY BE
 2 OBTAINED, GIVES A MAILING ADDRESS OF THE DEBTOR and contains a statement
 3 indicating the types, or describing the items, of collateral. A financing
 4 statement may be filed before a security agreement is made or a security
 5 interest otherwise attaches. When the financing statement covers crops
 6 growing or to be grown, ~~or timber to be cut, or goods which are or are~~
 7 ~~to become fixtures~~; the statement must also contain a description of the
 8 real estate concerned. WHEN THE FINANCING STATEMENT COVERS TIMBER TO BE
 9 CUT OR COVERS MINERALS OR THE LIKE (INCLUDING OIL AND GAS) OR ACCOUNTS
 10 SUBJECT TO SUBSECTION E OF SECTION 44-3103, OR WHEN THE FINANCING STATE-
 11 MENT IS FILED AS A FIXTURE FILING (SECTION 44-3134) AND THE COLLATERAL IS
 12 GOODS WHICH ARE OR ARE TO BECOME FIXTURES, THE STATEMENT MUST ALSO COMPLY
 13 WITH SUBSECTION E. A copy of the security agreement is sufficient as a
 14 financing statement if it contains the above information and is signed by
 15 ~~both parties~~ THE DEBTOR. A CARBON, PHOTOGRAPHIC OR OTHER REPRODUCTION
 16 OF A SECURITY AGREEMENT OR A FINANCING STATEMENT IS SUFFICIENT AS A
 17 FINANCING STATEMENT IF THE SECURITY AGREEMENT SO PROVIDES OR IF THE
 18 ORIGINAL HAS BEEN FILED IN THIS STATE.

19 B. A financing statement which otherwise complies with subsection
 20 A is sufficient ~~although~~ WHEN it is signed ~~only~~ by the secured party
 21 INSTEAD OF THE DEBTOR when IF it is filed to perfect a security interest in:

22 1. Collateral already subject to a security interest in another
 23 jurisdiction when it is brought into this state, OR WHEN THE DEBTOR'S
 24 LOCATION IS CHANGED TO THIS STATE. Such a financing statement must state
 25 that the collateral was brought into this state OR THAT THE DEBTOR'S
 26 LOCATION WAS CHANGED TO THIS STATE under such circumstances-- ; OR

27 2. Proceeds under section 44-3127 if the security interest in the
 28 original collateral was perfected. Such a financing statement must
 29 describe the original collateral-- ; OR

30 3. COLLATERAL AS TO WHICH THE FILING HAS LAPPED; OR
 31 4. COLLATERAL ACQUIRED AFTER A CHANGE OF NAME, IDENTITY OR CORPORATE
 32 STRUCTURE OF THE DEBTOR (SUBSECTION G).

33 C. A form substantially as follows is sufficient to comply with
 34 subsection A:

35 Name of debtor (or assignor)
 36 Address
 37 Name of secured party (or assignee)
 38 Address

39 1. This financing statement covers the following types (or items)
 40 of property:

41 (Describe)
 42 2. (If collateral is crops) The above described crops are growing
 43 or are to be grown on:

44 (Describe Real Estate)
 45 ~~3. (If collateral is goods which are or are to become fixtures)~~
 46 ~~The above described goods are affixed or to be affixed to:~~
 47 ~~(Describe Real Estate)~~

48 3. IF COLLATERAL IS GOODS WHICH ARE OR ARE TO BECOME FIXTURES,
 49 TIMBER TO BE CUT, OR MINERALS OR THE LIKE (INCLUDING OIL AND GAS) OR
 50 ACCOUNTS TO BE FINANCED AT THE WELLHEAD OR MINEHEAD OF THE WELL OR MINE:

1 (DESCRIBE REAL ESTATE)

2 AND THIS FINANCING STATEMENT IS TO BE FILED IN THE OFFICE WHERE A MORTGAGE

3 ON THE REAL ESTATE WOULD BE RECORDED. (IF THE DEBTOR DOES NOT HAVE AN

4 INTEREST OF RECORD) THE NAME OF A RECORD OWNER IS

5 4. (If ~~proceeds or~~ products of collateral are claimed) ~~Proceeds---~~

6 Products of the collateral are also covered.

7 ~~Signature of Debtor (or Assignor)-----~~

8 ~~Signature of Secured Party (or Assignee)-----~~

9 ~~By---(If collateral is timber to be cut)--The above described timber~~

10 ~~is growing on~~

11 ~~(Describe Real Estate)-----~~

12 (USE [

13 WHICHEVER [SIGNATURE OF DEBTOR (OR ASSIGNOR)

14 IS [

15 APPLICABLE) [SIGNATURE OF SECURED PARTY (OR ASSIGNEE)

16 D. ~~The term "financing statement" as used in this article means~~

17 ~~the original financing statement and any amendments but if~~ A FINANCING

18 STATEMENT MAY BE AMENDED BY FILING A WRITING SIGNED BY BOTH THE DEBTOR

19 AND THE SECURED PARTY. AN AMENDMENT DOES NOT EXTEND THE PERIOD OF

20 EFFECTIVENESS OF A FINANCING STATEMENT. IF ANY AMENDMENT ADDS COLLATERAL,

21 it is effective as to the added collateral only from the filing date of

22 the amendment. IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES,

23 THE TERM "FINANCING STATEMENT" MEANS THE ORIGINAL FINANCING STATEMENT

24 AND ANY AMENDMENTS.

25 E. A FINANCING STATEMENT COVERING TIMBER TO BE CUT OR COVERING

26 MINERALS OR THE LIKE (INCLUDING OIL AND GAS) OR ACCOUNTS SUBJECT TO SUB-

27 SECTION E OF SECTION 44-3103, OR A FINANCING STATEMENT FILED AS A FIXTURE

28 FILING (SECTION 44-3134), MUST SHOW THAT IT COVERS THIS TYPE OF COLLATERAL,

29 MUST RECITE THAT IT IS TO BE FILED IN THE OFFICE WHERE A MORTGAGE ON THE

30 REAL ESTATE WOULD BE RECORDED, AND THE FINANCING STATEMENT MUST CONTAIN A

31 LEGAL DESCRIPTION OF THE REAL ESTATE. IF THE DEBTOR DOES NOT HAVE AN

32 INTEREST OF RECORD IN THE REAL ESTATE, THE FINANCING STATEMENT MUST SHOW

33 THE NAME OF A RECORD OWNER.

34 F. A MORTGAGE IS EFFECTIVE AS A FINANCING STATEMENT FILED AS A

35 FIXTURE FILING FROM THE DATE OF ITS RECORDING IF:

36 1. THE GOODS ARE DESCRIBED IN THE MORTGAGE BY ITEM OR TYPE,

37 2. THE GOODS ARE OR ARE TO BECOME FIXTURES RELATED TO THE REAL

38 ESTATE DESCRIBED IN THE MORTGAGE,

39 3. THE MORTGAGE COMPLIES WITH THE REQUIREMENTS FOR A FINANCING

40 STATEMENT IN THIS SECTION OTHER THAN A RECITAL THAT IT IS TO BE FILED

41 IN THE REAL ESTATE RECORDS, AND

42 4. THE MORTGAGE IS DULY RECORDED. NO FEE WITH REFERENCE TO THE

43 FINANCING STATEMENT IS REQUIRED OTHER THAN THE REGULAR RECORDING AND

44 SATISFACTION FEES WITH RESPECT TO THE MORTGAGE.

45 G. A FINANCING STATEMENT SUFFICIENTLY SHOWS THE NAME OF THE DEBTOR

46 IF IT GIVES THE INDIVIDUAL, PARTNERSHIP OR CORPORATE NAME OF THE DEBTOR,

47 WHETHER OR NOT IT ADDS OTHER TRADE NAMES OR THE NAMES OF PARTNERS. WHERE

48 THE DEBTOR SO CHANGES HIS NAME OR IN THE CASE OF AN ORGANIZATION ITS

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1 NAME, IDENTITY OR CORPORATE STRUCTURE THAT A FILED FINANCING STATEMENT
2 BECOMES SERIOUSLY MISLEADING, THE FILING IS NOT EFFECTIVE TO PERFECT A
3 SECURITY INTEREST IN COLLATERAL ACQUIRED BY THE DEBTOR MORE THAN FOUR
4 MONTHS AFTER THE CHANGE, UNLESS A NEW APPROPRIATE FINANCING STATEMENT
5 IS FILED BEFORE THE EXPIRATION OF THAT TIME. A FILED FINANCING STATEMENT
6 REMAINS EFFECTIVE WITH RESPECT TO COLLATERAL TRANSFERRED BY THE DEBTOR
7 EVEN THOUGH THE SECURED PARTY KNOWS OF OR CONSENTS TO THE TRANSFER.

8 E. H. A financing statement substantially complying with the
9 requirements of this section is effective even though it contains minor
10 errors which are not seriously misleading.

11 Sec. 31. Section 44-3142, Arizona Revised Statutes, is amended to
12 read:

13 44-3142. What constitutes filing; duration of filing; effect
14 of lapsed filing; duties of filing officer

15 A. Presentation for filing of a financing statement and tender of
16 the filing fee or acceptance of the statement by the filing officer
17 constitutes filing under this article.

18 B. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION F, a filed financing
19 statement is effective for a period of six years from the date of filing.
20 The effectiveness of a filed financing statement lapses on the expiration
21 of such six year period unless a continuation statement is filed prior
22 to such lapse. IF A SECURITY INTEREST PERFECTED BY FILING EXISTS AT THE
23 TIME INSOLVENCY PROCEEDINGS ARE COMMENCED BY OR AGAINST THE DEBTOR, THE
24 SECURITY INTEREST REMAINS PERFECTED UNTIL TERMINATION OF THE INSOLVENCY
25 PROCEEDINGS AND THEREAFTER FOR A PERIOD OF SIXTY DAYS OR UNTIL EXPIRATION
26 OF THE SIX YEAR PERIOD, WHICHEVER OCCURS LATER. Upon ~~such~~ lapse the
27 security interest becomes unperfected, UNLESS IT IS PERFECTED WITHOUT
28 FILING. IF THE SECURITY INTEREST BECOMES UNPERFECTED UPON LAPSE, IT IS
29 DEEMED TO HAVE BEEN UNPERFECTED AS AGAINST A PERSON WHO BECAME A PURCHASER
30 OR LIEN CREDITOR BEFORE LAPSE.

31 C. A continuation statement may be filed by the secured party of
32 record within six months prior to the end of the six year period.
33 Any such continuation statement must be signed by the secured party
34 ~~of record~~, identify the original statement by giving the date and the
35 names of the parties thereto and the file number thereof and state
36 that the original statement is continued. A CONTINUATION STATEMENT
37 SIGNED BY A PERSON OTHER THAN THE SECURED PARTY OF RECORD MUST BE
38 ACCOMPANIED BY A SEPARATE WRITTEN STATEMENT OF ASSIGNMENT SIGNED BY THE
39 SECURED PARTY OF RECORD AND COMPLYING WITH SUBSECTION B OF SECTION 44-
40 3144, INCLUDING PAYMENT OF THE REQUIRED FEE. Upon timely filing of the
41 continuation statement, the effectiveness of the original statement is
42 continued for six years from the time when it would otherwise have lapsed,
43 whereupon it lapses in the same manner as provided in subsection B, unless
44 another continuation statement is filed prior to such lapse. Succeeding
45 continuation statements may be filed in the same manner to continue the
46 effectiveness of the original financing statement.

47 D. The secretary of state shall mark each statement with a con-
48 secutive file number and with the date and hour of filing and shall hold
49 the statement OR A MICROFILM OR OTHER PHOTOGRAPHIC COPY THEREOF for public
50 inspection. In addition the secretary of state shall ~~index~~ ARRANGE the
51 statements ALPHABETICALLY under the names NAME of both the debtor. and
52 ~~the secured-party.~~

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1 E. The county recorder shall record the statement and when so
2 recorded deliver the statement to the secured party. Such record
3 shall be indexed under the names of both the debtor and the secured
4 party. ~~If the statement describes real property, WHEN A FINANCING STATE-~~
5 ~~MENT COVERS TIMBER TO BE CUT OR COVERS MINERALS OR THE LIKE (INCLUDING~~
6 ~~OIL AND GAS) OR ACCOUNTS SUBJECT TO SUBSECTION E OF SECTION 44-3103,~~
7 ~~OR IS FILED AS FIXTURE FILING, the recorder shall also index the state-~~
8 ~~ment in the index of real estate mortgages UNDER THE NAMES OF THE DEBTOR~~
9 ~~AND ANY OWNER OF RECORD SHOWN ON THE FINANCING STATEMENT AS IF THEY WERE~~
10 ~~THE GRANTORS AND UNDER THE NAME OF THE SECURED PARTY AS IF HE WERE THE~~
11 ~~GRANTEE THEREUNDER. A statement covering goods which are or are to~~
12 ~~become fixtures shall not constitute constructive notice to any person~~
13 ~~in the classes described in paragraphs 1, 2 and 3 of subsection D of~~
14 ~~section 44-3124, unless the statement contains a legal description of~~
15 ~~the real estate affected thereby.~~

16 F. A REAL ESTATE MORTGAGE WHICH IS EFFECTIVE AS A FIXTURE FILING
17 UNDER SUBSECTION F OF SECTION 44-3141 REMAINS EFFECTIVE AS A FIXTURE
18 FILING UNTIL THE MORTGAGE IS RELEASED OR SATISFIED OF RECORD OR ITS
19 EFFECTIVENESS OTHERWISE TERMINATES AS TO THE REAL ESTATE.

20 Sec. 32. Section 44-3143, Arizona Revised Statutes, is amended to
21 read:

22 44-3143. Termination statement

23 A. IF A FINANCING STATEMENT COVERING CONSUMER GOODS IS FILED ON OR
24 AFTER JANUARY 1, 1976, THEN WITHIN TEN DAYS FOLLOWING RECEIPT OF WRITTEN
25 DEMAND BY THE DEBTOR AFTER THERE IS NO OUTSTANDING SECURED OBLIGATION
26 AND NO COMMITMENT TO MAKE ADVANCES, INCUR OBLIGATIONS OR OTHERWISE GIVE
27 VALUE, THE SECURED PARTY MUST FILE WITH EACH FILING OFFICER WITH WHOM
28 THE FINANCING STATEMENT WAS FILED, A TERMINATION STATEMENT TO THE EFFECT
29 THAT HE NO LONGER CLAIMS A SECURITY INTEREST UNDER THE FINANCING STATEMENT,
30 WHICH SHALL BE IDENTIFIED BY FILE NUMBER, OR IN THE CASE OF A FILING WITH
31 THE COUNTY RECORDER BY DOCKET AND PAGE NUMBER. IN OTHER CASES whenever
32 there is no outstanding secured obligation and no commitment to make
33 advances, incur obligations or otherwise give value, the secured party
34 must on written demand by the debtor send the debtor, FOR EACH FILING
35 OFFICER WITH WHOM THE FINANCING STATEMENT WAS FILED, a TERMINATION state-
36 ment TO THE EFFECT that he no longer claims a security interest under
37 the financing statement, which shall be identified by file number, OR IN
38 THE CASE OF A FILING WITH THE COUNTY RECORDER BY DOCKET AND PAGE NUMBER. A
39 termination statement signed by a person other than the secured party of
40 record must ~~include or~~ be accompanied by the assignment or a SEPARATE
41 WRITTEN statement OF ASSIGNMENT SIGNED by the secured party of record
42 ~~that he has assigned the security interest to the signer of the termina-~~
43 ~~tion statement.~~ COMPLYING WITH SUBSECTION B OF SECTION 44-3144, INCLUDING
44 PAYMENT OF THE REQUIRED FEE. If the affected secured party fails to FILE
45 SUCH A TERMINATION STATEMENT AS REQUIRED BY THIS SUBSECTION, OR TO send
46 such a termination statement within ten days after proper demand therefor
47 he shall be liable to the debtor for one hundred dollars, and in addition

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1 for any loss caused to the debtor by such failure.

2 B. If the secured party is an organization maintaining branches
3 or branch offices, the request herein provided for shall be sent to the
4 branch or branch office at which the secured transaction was entered
5 or at which the debtor is to make payment of his obligation.

6 C. On presentation to the secretary of state of such a termination
7 statement he must note it in the index. ~~The secretary of state shall~~
8 ~~remove from the files, mark "terminated" and send or deliver to the~~
9 ~~secured party the financing statement and any continuation statement,~~
10 ~~statement of assignment or statement of release pertaining thereto.~~ IF
11 HE HAS RECEIVED THE TERMINATION STATEMENT IN DUPLICATE, HE SHALL RETURN
12 ONE COPY OF THE TERMINATION STATEMENT TO THE SECURED PARTY STAMPED TO
13 SHOW THE TIME OF RECEIPT THEREOF. IF HE HAS A MICROFILM OR OTHER PHOTO-
14 GRAPHIC RECORD OF THE FINANCING STATEMENT, AND OF ANY RELATED CONTINUATION
15 STATEMENT, STATEMENT OF ASSIGNMENT AND STATEMENT OF RELEASE, HE MAY REMOVE
16 THE ORIGINALS FROM THE FILES AT ANY TIME AFTER RECEIPT OF THE TERMINATION
17 STATEMENT, OR IF HE HAS NO SUCH RECORD, HE MAY REMOVE THEM FROM THE FILES
18 AT ANY TIME AFTER ONE YEAR AFTER RECEIPT OF THE TERMINATION STATEMENT.

19 D. On presentation to the county recorder of such a termination
20 statement, he shall record the termination statement and note it in
21 the index OR INDICES. When so recorded the county recorder shall deliver
22 the termination statement to the debtor.

23 Sec. 33. Section 44-3144, Arizona Revised Statutes, is amended
24 to read:

25 44-3144. Assignment of security interest; duties of filing
26 officer

27 A. A financing statement may disclose an assignment of a security
28 interest in the collateral described in the FINANCING statement by
29 indication in the FINANCING statement of the name and address of the
30 assignee or by an assignment itself or a copy thereof on the face or back
31 of the statement. ~~Either the original secured party or the assignee may~~
32 ~~sign this statement as the secured party.~~ On presentation to the secre-
33 tary of state of such a financing statement the secretary of state shall
34 mark the same as provided in subsection D of section 44-3142. On presen-
35 tation to the county recorder of such a financing statement he shall
36 record the same as provided in subsection E of section 44-3142, and when
37 so recorded he shall deliver the statement to the assignee.

38 B. A secured party may assign of record all or a part of his rights
39 under a financing statement by the filing IN THE PLACE WHERE THE ORIGINAL
40 FINANCING STATEMENT WAS FILED of a separate written statement of assign-
41 ment signed by the secured party of record and setting forth the name of
42 the secured party of record and the debtor, the file number and the date
43 of filing of the financing statement and the name and address of the
44 assignee and containing a description of the collateral assigned. A copy
45 of the assignment is sufficient as a separate statement if it complies
46 with the preceding sentence. On presentation to the secretary of state
47 of such a separate statement, the secretary of state shall mark such

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1 separate statement with the date and hour of the filing. On presentation
2 to the county recorder of such a separate statement the county recorder
3 shall record the separate statement, and when so recorded he shall
4 deliver the statement of assignment to the assignee. Each officer shall
5 note the assignment on the index of the financing statement, OR IN THE
6 CASE OF A FIXTURE FILING, OR A FILING COVERING TIMBER TO BE CUT, OR
7 COVERING MINERALS OR THE LIKE (INCLUDING OIL AND GAS) OR ACCOUNTS SUBJECT
8 TO SUBSECTION E OF SECTION 44-3103, HE SHALL INDEX THE ASSIGNMENT UNDER
9 THE NAME OF THE ASSIGNOR AS GRANTOR AND, HE SHALL INDEX THE ASSIGNMENT
10 OF THE FINANCING STATEMENT UNDER THE NAME OF THE ASSIGNEE AS GRANTEE.
11 NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, AN ASSIGNMENT OF
12 RECORD OF A SECURITY INTEREST IN A FIXTURE CONTAINED IN A MORTGAGE EFFECTIVE
13 AS A FIXTURE FILING (SUBSECTION F OF SECTION 44-3141) MAY BE MADE ONLY BY
14 AN ASSIGNMENT OF THE MORTGAGE IN THE MANNER PROVIDED BY THE LAW OF THIS
15 STATE OTHER THAN THIS CHAPTER.

16 C. After the disclosure or filing of an assignment under this sec-
17 tion, the assignee is the secured party of record.

18 Sec. 34. Section 44-3145, Arizona Revised Statutes, is amended
19 to read:

20 44-3145. Release of collateral; duties of filing officer

21 A secured party of record may by his signed statement release all
22 or a part of any collateral described in a filed financing statement.
23 The statement of release is sufficient if it contains a description of
24 the collateral being released, the name and address of the debtor, the
25 name and address of the secured party, and the file number of the
26 financing statement. A STATEMENT OF RELEASE SIGNED BY A PERSON OTHER
27 THAN THE SECURED PARTY OF RECORD MUST BE ACCOMPANIED BY A SEPARATE
28 WRITTEN STATEMENT OF ASSIGNMENT SIGNED BY THE SECURED PARTY OF RECORD
29 AND COMPLYING WITH SUBSECTION B OF SECTION 44-3144, INCLUDING PAYMENT
30 OF THE REQUIRED FEE. Upon presentation of such a statement OF RELEASE
31 to the secretary of state he shall mark the statement with the hour and
32 date of filing and shall note the same upon the margin of the index of
33 the filing of the financing statement. Upon presentation of such a
34 statement to the county recorder, he shall record the statement and note
35 the same upon the margin of the index of the recording of the financial
36 statement. When so recorded the county recorder shall deliver the
37 statement of release to the debtor.

38 Sec. 35. Section 44-3146, Arizona Revised Statutes, is amended to
39 read:

40 44-3146. Information from filing officer

41 A. If a- THE person filing any financing statement, termination
42 statement, statement of assignment, or statement of release, OR NOTICE
43 OF PROPOSED DISPOSITION OF COLLATERAL, furnishes the filing officer a
44 copy thereof, the filing officer shall upon request note upon the copy
45 the file number and date and hour of the filing of the original and
46 deliver or send the copy to such person.

47 B. Upon request of any person, the filing officer shall issue his
48 certificate showing whether there is on file or record on the date and
49 hour stated therein, any presently effective financing statement naming

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1 a particular debtor, and any statement of assignment thereof, AND ANY
2 NOTICE OF PROPOSED DISPOSITION OF COLLATERAL, and if there is, giving
3 the date and hour of filing or recording of each such statement AND
4 NOTICE and the name and address of each secured party therein. UPON
5 REQUEST THE FILING OFFICER SHALL FURNISH A COPY OF ANY FILED FINANCING
6 STATEMENT OR STATEMENT OF ASSIGNMENT OR NOTICE OF PROPOSED DISPOSITION
7 OF COLLATERAL.

8 Sec. 36. Title 44, chapter 14, article 9, Arizona Revised Statutes,
9 is amended by adding sections 44-3146.01 and 44-3146.02, to read:

10 44-3146.01. Financing statements covering consigned
11 or leased goods

12 A CONSIGNOR OR LESSOR OF GOODS MAY FILE A FINANCING STATEMENT
13 USING THE TERMS "CONSIGNOR", "CONSIGNEE", "LESSOR", "LESSEE" OR THE
14 LIKE INSTEAD OF THE TERMS SPECIFIED IN SECTION 44-3141. THE PROVISIONS
15 OF SECTIONS 44-3140 THROUGH 44-3146.02 SHALL APPLY AS APPROPRIATE TO SUCH
16 A FINANCING STATEMENT BUT ITS FILING SHALL NOT OF ITSELF BE A FACTOR IN
17 DETERMINING WHETHER OR NOT THE CONSIGNMENT OR LEASE IS INTENDED AS SECURITY
18 (SECTION 44-2208, PARAGRAPH 37). HOWEVER, IF IT IS DETERMINED FOR OTHER
19 REASONS THAT THE CONSIGNMENT OR LEASE IS SO INTENDED, A SECURITY INTEREST
20 OF THE CONSIGNOR OR LESSOR WHICH ATTACHES TO THE CONSIGNED OR LEASED GOODS
21 IS PERFECTED BY SUCH FILING.

22 44-3146.02. Notice of proposed disposition of collateral

23 A. A SECURED PARTY PROPOSING TO DISPOSE OF THE COLLATERAL UNDER
24 SECTION 44-3150 OR TO RETAIN THE COLLATERAL IN SATISFACTION OF THE
25 OBLIGATION UNDER SECTION 44-3151 MAY, AT THE TIME OF SENDING NOTIFICATION
26 TO THE DEBTOR OR THEREAFTER, FILE A NOTICE OF PROPOSED DISPOSITION OF
27 COLLATERAL.

28 B. THE NOTICE IS SUFFICIENT IF IT GIVES THE NAMES OF THE DEBTOR
29 AND THE SECURED PARTY, IS SIGNED BY THE SECURED PARTY, GIVES AN ADDRESS
30 OF THE SECURED PARTY FROM WHICH INFORMATION CONCERNING THE SECURITY
31 INTEREST MAY BE OBTAINED, GIVES A MAILING ADDRESS OF THE DEBTOR, AND
32 CONTAINS A STATEMENT IDENTIFYING THE COLLATERAL. ON PRESENTATION TO THE
33 FILING OFFICER OF SUCH NOTICE HE SHALL INDEX THE NOTICE IN THE NAME OF
34 THE DEBTOR AND MARK IT WITH THE DATE AND HOUR OF FILING. IF HE HAS
35 RECEIVED THE NOTICE IN DUPLICATE, HE SHALL RETURN ONE COPY TO THE SECURED
36 PARTY STAMPED TO SHOW THE TIME OF RECEIPT THEREOF.

37 C. IF THE SECURED PARTY FILES A NOTICE OF PROPOSED DISPOSITION
38 OF COLLATERAL, IT SHALL BE FILED IN THE SAME OFFICE WHERE A FINANCING
39 STATEMENT WAS OR COULD HAVE BEEN FILED TO PERFECT THE SECURED PARTY'S
40 SECURITY INTEREST IN THE COLLATERAL.

41 D. A FILED NOTICE OF PROPOSED DISPOSITION OF COLLATERAL SHALL BE
42 EFFECTIVE FOR SIX MONTHS. THE EFFECTIVENESS OF A FILED NOTICE LAPSES ON
43 THE EXPIRATION OF THE SIX MONTH PERIOD.

44 E. A NOTICE OF PROPOSED DISPOSITION OF COLLATERAL SUBSTANTIALLY
45 COMPLYING WITH THE REQUIREMENTS OF THIS SECTION IS EFFECTIVE EVEN THOUGH
46 IT CONTAINS MINOR ERRORS WHICH ARE NOT SERIOUSLY MISLEADING.

47 Sec. 37. Section 44-3147, Arizona Revised Statutes, is amended
48 to read:

49 44-3147. Default; procedure when security agreement covers
50 both real and personal property

1 A. When a debtor is in default under a security agreement, a secured
 2 party has the rights and remedies provided in sections 44-3147 to 44-3153,
 3 inclusive, and except as limited by subsection C those provided in the
 4 security agreement. He may reduce his claim to judgment, foreclose or
 5 otherwise enforce the security interest by any available judicial pro-
 6 cedure. If the collateral is documents the secured party may proceed
 7 either as to the documents or as to the goods covered thereby. A secured
 8 party in possession has the rights, remedies and duties provided in
 9 section 44-3120. The rights and remedies referred to in this subsection
 10 are cumulative.

11 B. After default, the debtor has the rights and remedies provided
 12 in sections 44-3147 to 44-3153, inclusive, those provided in the security
 13 agreement and those provided in section 44-3120.

14 C. To the extent that they give rights to the debtor and impose
 15 duties on the secured party, the rules stated in the subsections referred
 16 to below may not be waived or varied except as provided with respect to
 17 compulsory disposition of collateral (~~subsection A of~~ SUBSECTION C OF
 18 SECTION 44-3150 AND section 44-3151) and with respect to redemption of
 19 collateral (section 44-3152) but the parties may by agreement determine
 20 the standards by which the fulfillment of these rights and duties is to
 21 be measured if such standards are not manifestly unreasonable:

22 1. Subsection B of section 44-3148 and subsection B of section
 23 44-3150 insofar as they require accounting for surplus proceeds of
 24 collateral;

25 2. Subsection C of section 44-3150 and subsection A of section
 26 44-3151 which deal with disposition of collateral;

27 3. Subsection B of section 44-3151 which deals with acceptance of
 28 collateral as discharge of obligation;

29 4. Section 44-3152 which deals with redemption of collateral; and

30 5. Subsection A of section 44-3153 which deals with the secured
 31 party's liability for failure to comply with sections 44-3147 to 44-3153,
 32 inclusive.

33 D. If the security agreement covers both real and personal property,
 34 the secured party may proceed under sections 44-3147 to 44-3153, in-
 35 clusive, as to the personal property or he may proceed as to both the
 36 real and the personal property in accordance with his rights and remedies
 37 in respect of the real property in which case the provisions of sections
 38 44-3147 to 44-3153, inclusive, do not apply.

39 E. When a secured party has reduced his claim to judgment the
 40 lien of any levy which may be made upon his collateral by virtue of any
 41 execution based upon the judgment shall relate back to the date of the
 42 perfection of the security interest in such collateral. A judicial sale,
 43 pursuant to such execution, is a foreclosure of the security interest by
 44 judicial procedure within the meaning of this section, and the secured
 45 party may purchase at the sale and thereafter hold the collateral free
 46 of any other requirements of this article.

47 Sec. 38. Section 44-3148, Arizona Revised Statutes, is amended
 48 to read:

49 44-3148. Collection rights of secured party

50 A. When so agreed and in any event on default the secured party

1 is entitled to notify an account debtor or the obligor on an instrument
 2 to make payment to him whether or not the assignor was theretofore
 3 making collections on the collateral, and also to take control of any
 4 proceeds to which he is entitled under section 44-3127.

5 B. A secured party who by agreement is entitled to charge back
 6 uncollected collateral or otherwise to full or limited recourse against
 7 the debtor and who undertakes to collect from the account debtors or
 8 obligors must proceed in a commercially reasonable manner and may
 9 deduct his reasonable expenses of realization from the collections. If
 10 the security agreement secures an indebtedness, the secured party must
 11 account to the debtor for any surplus, and unless otherwise agreed, the
 12 debtor is liable for any deficiency. But, if the underlying transaction
 13 was a sale of accounts, ~~contract rights~~, or chattel paper, the debtor
 14 is entitled to any surplus or is liable for any deficiency only if the
 15 security agreement so provides.

16 Sec. 39. Section 44-3150, Arizona Revised Statutes, is amended to
 17 read:

18 44-3150. Secured party's right to dispose of collateral after
 19 default; effect of disposition

20 A. A secured party after default may sell, lease or otherwise dis-
 21 pose of any or all of the collateral in its then condition or following
 22 any commercially reasonable preparation or processing. Any sale of goods
 23 is subject to the article on sales (article 2). The proceeds of disposition
 24 shall be applied in the order following to:

25 1. The reasonable expenses of retaking, holding, preparing for
 26 sale OR LEASE, selling, LEASING and the like and, to the extent provided
 27 for in the agreement and not prohibited by law, the reasonable attorneys'
 28 fees and legal expenses incurred by the secured party.

29 2. The satisfaction of indebtedness secured by the security
 30 interest under which the disposition is made.

31 3. The satisfaction of indebtedness secured by any subordinate
 32 security interest in the collateral if written notification of demand
 33 therefor is received before distribution of the proceeds is completed.
 34 If requested by the secured party, the holder of a subordinate security
 35 interest must seasonably furnish reasonable proof of his interest, and
 36 unless he does so, the secured party need not comply with his demand.

37 B. If the security interest secures an indebtedness, the secured
 38 party must account to the debtor for any surplus, and, unless otherwise
 39 agreed, the debtor is liable for any deficiency. But if the underlying
 40 transaction was a sale of accounts, ~~contract rights~~, or chattel paper,
 41 the debtor is entitled to any surplus or is liable for any deficiency
 42 only if the security agreement so provides.

43 C. Disposition of the collateral may be by public or private
 44 proceedings and may be made by way of one or more contracts. Sale or
 45 other disposition may be as a unit or in parcels and at any time and
 46 place and on any terms but every aspect of the disposition including
 47 the method, manner, time, place and terms must be commercially reason-
 48 able. Unless collateral is perishable or threatens to decline speedily
 49 in value or is of a type customarily sold on a recognized market,

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1 reasonable notification of the time and place of any public sale or rea-
2 sonable notification of the time after which any private sale or other
3 intended disposition is to be made shall be sent by the secured party
4 to the debtor, ~~and except in the case of consumer goods to any other~~
5 ~~person who has a security interest in the collateral and who has duly~~
6 ~~filed a financing statement indexed in the name of the debtor in this~~
7 ~~state or who is known by the secured party to have a security interest~~
8 ~~in the collateral.~~ IF HE HAS NOT SIGNED AFTER DEFAULT A STATEMENT
9 RENOUNCING OR MODIFYING HIS RIGHT TO NOTIFICATION OF SALE. IN THE CASE
10 OF CONSUMER GOODS NO OTHER NOTIFICATION NEED BE SENT. IN OTHER CASES
11 NOTIFICATION SHALL BE SENT TO ANY PERSON WHO (AT THE TIME OF THE FILING
12 OF A NOTICE OF PROPOSED DISPOSITION OF COLLATERAL BY THE SECURED PARTY
13 UNDER SECTION 44-3146.02) EITHER WAS IN POSSESSION OF THE COLLATERAL OR
14 WAS THE PERSON FROM WHOM THE SECURED PARTY OBTAINED POSSESSION OF THE
15 COLLATERAL OR HAD DULY FILED A FINANCING STATEMENT INDEXED IN THE NAME
16 OF THE DEBTOR IN THIS STATE. The secured party may buy at any public
17 sale and if the collateral is of a type customarily sold in a recognized
18 market or is of a type which is the subject of widely distributed stan-
19 dard price quotations he may buy at private sale.

20 D. When collateral is disposed of by a secured party after de-
21 fault, the disposition transfers to a purchaser for value all of the
22 debtor's rights therein, discharges the security interest under which
23 it is made and any security interest or lien subordinate thereto.
24 The purchaser takes free of all such rights and interests even though
25 the secured party fails to comply with the requirements of sections
26 44-3147 to 44-3153, inclusive, or of any judicial proceedings:

27 1. In the case of a public sale, if the purchaser has no knowledge
28 of any defects in the sale and if he does not buy in collusion with the
29 secured party, other bidders or the person conducting the sale; or

30 2. In any other case, if the purchaser acts in good faith.

31 E. A person who is liable to a secured party under a guaranty,
32 indorsement, repurchase agreement or the like and who receives a trans-
33 fer of collateral from the secured party or is subrogated to his rights
34 has thereafter the rights and duties of the secured party. Such a
35 transfer of collateral is not a sale or disposition of the collateral
36 under this article.

37 Sec. 40. Section 44-3151, Arizona Revised Statutes, is amended
38 to read:

39 44-3151. Compulsory disposition of collateral; acceptance
40 of the collateral as discharge of obligation

41 A. If the debtor has paid sixty per cent of the cash price in the
42 case of a purchase money security interest in consumer goods or sixty
43 per cent of the loan in the case of another security interest in consumer
44 goods, and has not signed after default a statement renouncing or modify-
45 ing his rights under sections 44-3147 to 44-3153, inclusive, a secured
46 party who has taken possession of collateral must dispose of it under
47 section 44-3150 and if he fails to do so within ninety days after he
48 takes possession the debtor at his option may recover in conversion or
49 under subsection A of section 44-3153 on secured party's liability.

1 B. In any other case involving consumer goods or any other col-
 2 lateral a secured party in possession may, after default, propose to
 3 retain the collateral in satisfaction of the obligation. Written notice
 4 of such proposal shall be sent to the debtor and ~~except in the case of~~
 5 ~~consumer goods to any other secured party who has a security interest in~~
 6 ~~the collateral and who has duly filed a financing statement indexed in the~~
 7 ~~name of the debtor in this state or is known by the secured party in~~
 8 ~~possession to have a security interest in it. If the debtor or other~~
 9 ~~person entitled to receive notification objects in writing within thirty~~
 10 ~~days from the receipt of the notification or if any other secured party~~
 11 ~~objects in writing within thirty days after the secured party obtains~~
 12 ~~possession the secured party must dispose of the collateral under section~~
 13 ~~44-3150. IF HE HAS NOT SIGNED AFTER DEFAULT A STATEMENT RENOUNCING OR~~
 14 ~~MODIFYING HIS RIGHTS UNDER THIS SUBSECTION. IN THE CASE OF CONSUMER~~
 15 ~~GOODS NO OTHER NOTICE NEED BE GIVEN. IN OTHER CASES NOTICE SHALL BE SENT~~
 16 ~~TO ANY PERSON WHO (AT THE TIME OF THE FILING OF A NOTICE OF PROPOSED~~
 17 ~~DISPOSITION OF COLLATERAL BY THE SECURED PARTY UNDER SECTION 44-3146.02)~~
 18 ~~EITHER HAD DULY FILED A FINANCING STATEMENT INDEXED IN THE NAME OF THE~~
 19 ~~DEBTOR IN THIS STATE OR WAS THE PERSON FROM WHOM THE SECURED PARTY~~
 20 ~~OBTAINED POSSESSION OF THE COLLATERAL. IF THE SECURED PARTY RECEIVES~~
 21 ~~OBJECTION IN WRITING FROM A PERSON ENTITLED TO RECEIVE NOTIFICATION WITHIN~~
 22 ~~TWENTY-ONE DAYS AFTER THE NOTICE WAS SENT, THE SECURED PARTY MUST DISPOSE~~
 23 ~~OF THE COLLATERAL UNDER SECTION 44-3150. In the absence of such written~~
 24 ~~objection the secured party may retain the collateral in satisfaction of~~
 25 ~~the debtor's obligation.~~

26 Sec. 41. Title 44, chapter 14, Arizona Revised Statutes, is
 27 amended by adding article 11, sections 44-3301 through 44-3307, to read:

28 ARTICLE 11. ADDITIONAL
 29 TRANSITION PROVISIONS

30 44-3301. Preservation of previous provisions for
 31 transition

32 THE PROVISIONS OF ARTICLE 10 OF THIS CHAPTER SHALL CONTINUE TO
 33 APPLY TO THIS ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS ARTICLE,
 34 AND FOR THIS PURPOSE THE PROVISIONS OF THIS CHAPTER IN EFFECT PRIOR TO
 35 THE EFFECTIVE DATE OF THIS ARTICLE AND THIS ARTICLE AND THE PROVISIONS OF
 36 LAW ENACTED THEREWITH ARE CONSIDERED AS ONE CONTINUOUS STATUTE.

37 44-3302. Transition to new amendatory provisions;
 38 general rule

39 TRANSACTIONS VALIDLY ENTERED INTO AFTER DECEMBER 31, 1967, AND
 40 BEFORE JANUARY 1, 1976, AND WHICH WERE SUBJECT TO THE PROVISIONS OF THIS
 41 CHAPTER PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE AND WHICH WOULD BE
 42 SUBJECT TO THIS ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS
 43 ARTICLE IF THEY HAD BEEN ENTERED INTO AFTER JANUARY 1, 1976, AND THE
 44 RIGHTS, DUTIES AND INTERESTS FLOWING FROM SUCH TRANSACTIONS REMAIN
 45 VALID AFTER THE LATTER DATE AND MAY BE TERMINATED, COMPLETED, CONSUMMATED
 46 OR ENFORCED AS REQUIRED OR PERMITTED BY THIS ARTICLE AND THE PROVISIONS
 47 OF LAW ENACTED WITH THIS ARTICLE. SECURITY INTERESTS ARISING OUT OF
 48 SUCH TRANSACTIONS WHICH ARE PERFECTED WHEN THIS ARTICLE AND THE PROVISIONS
 49 OF LAW ENACTED WITH THIS ARTICLE BECOME EFFECTIVE SHALL REMAIN PERFECTED
 50 UNTIL THEY LAPSE AS PROVIDED IN THIS ARTICLE AND THE PROVISIONS OF LAW

1 ENACTED WITH THIS ARTICLE, AND MAY BE CONTINUED AS PERMITTED BY THIS
2 ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS ARTICLE, EXCEPT AS
3 STATED IN SECTION 44-3304.

4 44-3303. Transition provision on change of requirement
5 of filing

6 A SECURITY INTEREST FOR THE PERFECTION OF WHICH FILING OR THE
7 TAKING OF POSSESSION WAS REQUIRED UNDER THIS CHAPTER PRIOR TO THE
8 EFFECTIVE DATE OF THIS ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH
9 THIS ARTICLE AND WHICH ATTACHED PRIOR TO JANUARY 1, 1976, BUT WAS NOT
10 PERFECTED SHALL BE DEEMED PERFECTED ON JANUARY 1, 1976, IF THIS ARTICLE
11 AND THE PROVISIONS OF LAW ENACTED WITH THIS ARTICLE PERMIT PERFECTION
12 WITHOUT FILING OR AUTHORIZE FILING IN THE OFFICE OR OFFICES WHERE A
13 PRIOR INEFFECTIVE FILING WAS MADE.

14 44-3304. Transition provision on change of place of filing

15 A. A FINANCING STATEMENT OR CONTINUATION STATEMENT FILED PRIOR
16 TO JANUARY 1, 1976, WHICH DID NOT LAPSE PRIOR TO JANUARY 1, 1976, SHALL
17 REMAIN EFFECTIVE FOR THE PERIOD PROVIDED IN THIS CHAPTER PRIOR TO THE
18 EFFECTIVE DATE OF THIS ARTICLE BUT NOT LESS THAN SIX YEARS AFTER THE
19 FILING.

20 B. WITH RESPECT TO ANY COLLATERAL ACQUIRED BY THE DEBTOR SUBSE-
21 QUENT TO DECEMBER 31, 1975, ANY EFFECTIVE FINANCING STATEMENT OR CON-
22 TINUATION STATEMENT DESCRIBED IN THIS SECTION SHALL APPLY ONLY IF THE
23 FILING OR FILINGS ARE IN THE OFFICE OR OFFICES THAT WOULD BE APPROPRIATE
24 TO PERFECT THE SECURITY INTERESTS IN THE NEW COLLATERAL UNDER THIS
25 ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS ARTICLE.

26 C. THE EFFECTIVENESS OF ANY FINANCING STATEMENT OR CONTINUATION
27 STATEMENT FILED PRIOR TO JANUARY 1, 1976, MAY BE CONTINUED BY A CONTINUA-
28 TION STATEMENT AS PERMITTED BY THIS ARTICLE AND THE PROVISIONS OF LAW
29 ENACTED WITH THIS ARTICLE, EXCEPT THAT IF THIS ARTICLE AND THE PROVISIONS
30 OF LAW ENACTED WITH THIS ARTICLE REQUIRES A FILING IN AN OFFICE WHERE
31 THERE WAS NO PREVIOUS FINANCING STATEMENT, A NEW FINANCING STATEMENT
32 CONFORMING TO SECTION 44-3305 SHALL BE FILED IN SUCH OFFICE.

33 D. IF THE RECORD OF A MORTGAGE OF REAL ESTATE WOULD HAVE BEEN
34 EFFECTIVE AS A FIXTURE FILING OF GOODS DESCRIBED THEREIN IF THIS ARTICLE
35 AND THE PROVISIONS OF LAW ENACTED WITH THIS ARTICLE HAD BEEN IN EFFECT
36 ON THE DATE OF RECORDING THE MORTGAGE, THE MORTGAGE SHALL BE DEEMED
37 EFFECTIVE AS A FIXTURE FILING AS TO SUCH GOODS UNDER SUBSECTION F OF
38 SECTION 44-3141 ON JANUARY 1, 1976.

39 44-3305. Required refilings

40 A. IF A SECURITY INTEREST IS PERFECTED OR HAS PRIORITY WHEN THIS
41 ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS ARTICLE BECOME EFFEC-
42 TIVE AS TO ALL PERSONS OR AS TO CERTAIN PERSONS WITHOUT ANY FILING OR
43 RECORDING, AND IF THE FILING OF A FINANCING STATEMENT WOULD BE REQUIRED
44 FOR THE PERFECTION OR PRIORITY OF THE SECURITY INTEREST AGAINST THOSE
45 PERSONS UNDER THIS ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS
46 ARTICLE, THE PERFECTION AND PRIORITY RIGHTS OF THE SECURITY INTEREST
47 CONTINUE UNTIL THREE YEARS AFTER JANUARY 1, 1976. THE PERFECTION WILL
48 THEN LAPSE UNLESS A FINANCING STATEMENT IS FILED AS PROVIDED IN SUBSECTION
49 D OR UNLESS THE SECURITY INTEREST IS PERFECTED OTHERWISE THAN BY FILING.

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1 B. IF A SECURITY INTEREST IS PERFECTED WHEN THIS ARTICLE AND THE
2 PROVISIONS OF LAW ENACTED WITH THIS ARTICLE TAKE EFFECT UNDER A LAW OTHER
3 THAN THIS CHAPTER WHICH REQUIRES NO FURTHER FILING, REFILEING OR RECORDING
4 TO CONTINUE ITS PERFECTION, PERFECTION CONTINUES UNTIL AND WILL LAPSE
5 JANUARY 1, 1979, UNLESS A FINANCING STATEMENT IS FILED AS PROVIDED IN
6 SUBSECTION D OR UNLESS THE SECURITY INTEREST IS PERFECTED OTHERWISE THAN
7 BY FILING, OR UNLESS UNDER SUBSECTION C OF SECTION 44-3123 THE OTHER LAW
8 CONTINUES TO GOVERN FILING.

9 C. IF A SECURITY INTEREST IS PERFECTED BY A FILING, REFILEING OR
10 RECORDING UNDER A LAW REPEALED BY THIS ARTICLE AND THE PROVISIONS OF LAW
11 ENACTED WITH THIS ARTICLE WHICH REQUIRED FURTHER FILING, REFILEING OR
12 RECORDING TO CONTINUE ITS PERFECTION, PERFECTION CONTINUES AND WILL
13 LAPSE ON THE DATE PROVIDED BY THE LAW SO REPEALED FOR SUCH FURTHER FILING,
14 REFILEING OR RECORDING UNLESS A FINANCING STATEMENT IS FILED AS PROVIDED
15 IN SUBSECTION D OR UNLESS THE SECURITY INTEREST IS PERFECTED OTHERWISE
16 THAN BY FILING.

17 D. A FINANCING STATEMENT MAY BE FILED WITHIN SIX MONTHS BEFORE
18 THE PERFECTION OF A SECURITY INTEREST WOULD OTHERWISE LAPSE. ANY SUCH
19 FINANCING STATEMENT MAY BE SIGNED BY EITHER THE DEBTOR OR THE SECURED
20 PARTY. IT MUST IDENTIFY THE SECURITY AGREEMENT, STATEMENT OR NOTICE
21 (HOWEVER DENOMINATED IN ANY STATUTE OR OTHER LAW REPEALED OR MODIFIED BY
22 THIS ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS ARTICLE), STATE
23 THE OFFICE WHERE AND THE DATE WHEN THE LAST FILING, REFILEING OR RECORDING,
24 IF ANY, WAS MADE WITH RESPECT THERETO, AND THE FILING NUMBER, IF ANY, OR
25 BOOK AND PAGE, IF ANY, OF RECORDING AND FURTHER STATE THAT THE SECURITY
26 AGREEMENT, STATEMENT OR NOTICE, HOWEVER DENOMINATED, IN ANOTHER FILING
27 OFFICE UNDER THIS CHAPTER OR UNDER ANY STATUTE OR OTHER LAW REPEALED OR
28 MODIFIED BY THIS ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS
29 ARTICLE IS STILL EFFECTIVE. SECTIONS 44-3140 AND 44-3103 DETERMINE THE
30 PROPER PLACE TO FILE SUCH A FINANCING STATEMENT. EXCEPT AS SPECIFIED IN
31 THIS SUBSECTION, THE PROVISIONS OF SUBSECTION C OF SECTION 44-3142 FOR
32 CONTINUATION STATEMENTS APPLY TO SUCH A FINANCING STATEMENT.

33 44-3306. Transition provisions as to priorities

34 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THIS CHAPTER PRIOR
35 TO THE EFFECTIVE DATE OF THIS ARTICLE AND THE PROVISIONS OF LAW ENACTED
36 WITH THIS ARTICLE SHALL APPLY TO ANY QUESTIONS OF PRIORITY IF THE POSI-
37 TIONS OF THE PARTIES WERE FIXED PRIOR TO JANUARY 1, 1976. IN OTHER
38 CASES QUESTIONS OF PRIORITY SHALL BE DETERMINED BY THIS ARTICLE AND THE
39 PROVISIONS OF LAW ENACTED WITH THIS ARTICLE.

40 44-3307. Presumption that rule of law continues unchanged

41 UNLESS A CHANGE IN LAW HAS CLEARLY BEEN MADE, THE PROVISIONS OF
42 THIS ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS ARTICLE SHALL
43 BE DEEMED DECLARATORY OF THE MEANING OF THIS CHAPTER PRIOR TO THE EFFEC-
44 TIVE DATE OF THIS ARTICLE AND THE PROVISIONS OF LAW ENACTED WITH THIS
45 ARTICLE.

46 Sec. 42. Section 28-325, Arizona Revised Statutes, is amended to
47 read:

48 28-325. Liens and encumbrances

49 A. No conditional sale contract, conditional lease, chattel
50 mortgage or other lien or encumbrance, title retention instrument or

1 other instrument affecting or evidencing title to, ownership of, or
2 reservation of title to any registered vehicle, other than a lien
3 dependent upon possession, is valid as against the creditors of an owner
4 acquiring a lien by levy or attachment, or subsequent purchasers or en-
5 cumbrancers without notice, until the requirements of this section have
6 been complied with.

7 B. There shall be deposited with the vehicle division a copy of
8 the instrument creating and evidencing such lien or encumbrance, which
9 shall be executed in the manner required by the laws of this state and
10 accompanied by the certificate of title last issued for the vehicle.
11 If the vehicle is of a type subject to registration under this article
12 but has not been registered and no certificate of title has been issued
13 therefor, the copy of the instrument creating the lien or encumbrance
14 shall be accompanied by the application of the owner for an original
15 registration and issuance of an original certificate of title and by
16 the fees provided by law.

17 C. Upon receipt of the application and documents as provided in
18 this section, the vehicle division shall file them, endorsing thereon
19 the date and hour received at the central office of the division, and
20 when satisfied as to the genuineness and regularity of the application
21 shall issue a new certificate of title, giving the name of the owner, a
22 statement of all liens or encumbrances and the amount thereof certified
23 to the vehicle division as existing against the vehicle.

24 D. The vehicle division shall maintain an appropriate index of
25 all liens, encumbrances or title retention instruments filed as provided
26 by this section.

27 E. The filing and issuance of a new certificate of title as pro-
28 vided in this section shall constitute constructive notice to creditors
29 of the owner or to subsequent purchasers of all liens and encumbrances
30 against the vehicle described therein, except those authorized by law
31 which are dependent upon possession. If the documents referred to in
32 this section are received and filed in the central office of the vehicle
33 division within ten days after the date of execution thereof, the con-
34 structive notice shall date from the time of execution, but otherwise
35 the notice shall date from the time of receipt and filing of the docu-
36 ments by the vehicle division as shown by its endorsement thereon.

37 F. The method provided in subsection E for giving constructive
38 notice of a lien or encumbrance upon a registered vehicle shall be
39 exclusive, except as to liens dependent upon possession, and any lien,
40 encumbrance or title retention instrument or document evidencing any of
41 them, filed as provided by this section, is exempt from the provisions
42 of law which otherwise require or relate to the recording or filing of
43 instruments creating or evidencing title retention or other liens or
44 encumbrances upon vehicles of a type subject to registration under this
45 article.

46 G. When final payment is made on a lien or encumbrance recorded
47 under this section, the holder thereof shall make and deliver to the
48 lienor or encumbrancer a satisfaction thereof. Upon delivery to the
49 vehicle division by the lienor or encumbrancer of the certificate of
50 title to the vehicle on which the lien or encumbrance was given, together

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1 with satisfaction thereof, the division shall satisfy the lien or encum-
2 brance on its records and on the certificate of title to the vehicle.

3 H. No county recorder shall receive for filing or recording any
4 conditional sales contract, conditional lease, chattel mortgage or other
5 lien or encumbrance, title retention instrument or other instrument
6 affecting or evidencing title to, ownership of, or reservation of title
7 to any registered vehicle, but nothing contained in this section shall
8 prohibit a county recorder from receiving and filing an assignment,
9 satisfaction or release of any such instruments theretofore filed in his
10 office.

11 I. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS SECTION,
12 A SECURITY INTEREST IN INVENTORY, AS THAT TERM IS DEFINED IN SECTION
13 44-3109, CONSISTING IN WHOLE OR IN PART OF VEHICLES REQUIRED TO BE TITLED
14 AND REGISTERED UNDER SECTION 28-302 OR OF MOBILE HOMES REQUIRED TO BE
15 TITLED UNDER SECTION 42-643, SHALL BE PERFECTED IN ACCORDANCE WITH THE
16 FILING PROVISIONS OF TITLE 44, CHAPTER 14, ARTICLE 9 (SECTIONS 44-3140
17 THROUGH 44-3146.02) TO THE EXTENT THAT THOSE PROVISIONS ARE APPLICABLE
18 BY VIRTUE OF THE PROVISIONS OF SECTION 44-3123.

19 Sec. 43. Effective dates

20 A. The provisions of this act, except as provided in subsection
21 B, shall become effective at 12:01 A.M. on January 1, 1976.

22 B. The provisions of subsection D, section 44-3142, of section
23 30 of this act shall become effective as otherwise provided by law.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 66

HOUSE BILL 2027

AN ACT

RELATING TO WATERS; DELETING REFERENCE TO FIFTY-YEAR FLOOD IN FLOODPLAIN DELINEATION; PRESCRIBING REQUIREMENTS FOR OPERATIONS IN WATERCOURSE; PROVIDING FOR ASSISTANCE TO CITIES, TOWNS AND COUNTIES IN DELINEATING FLOODPLAINS; AMENDING SECTIONS 45-2341 THROUGH 45-2343, ARIZONA REVISED STATUTES, AND AMENDING TITLE 45, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 15.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 45-2341, Arizona Revised Statutes, is amended
3 to read:
4 45-2341. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Area of jurisdiction" means:
7 (a) For an incorporated town or city, all of the lands within the
8 town or city.
9 (b) For a county, all of the unincorporated areas of the county.
10 2. "Dwelling unit" means a place of residence and may be located
11 in a single or multiple-dwelling building.
12 3. "Flood" or "flood waters" means a temporary overflow of water
13 on lands not normally covered by water.
14 ~~4. "Fifty-year flood" means a flood that has a two-per-cent chance~~
15 ~~of occurring, based upon the criteria established by the Arizona water~~
16 ~~commission.~~
17 5. 4. "One hundred-year flood" means a flood that has a one per
18 cent chance of occurring, based upon the criteria established by the
19 Arizona water commission.
20 6. 5. "Floodplain" means the relatively flat areas or low lands
21 adjoining the channel of a watercourse, or areas where drainage is or may
22 be restricted by man-made structures which have been or may be covered
23 partially or wholly by floodwater, ~~but shall compose an area not less than~~
24 ~~that area confined by the fifty-year flood and shall not exceed that area~~
25 ~~confined by~~ FROM the one hundred-year flood.

1 7- 6. "Floodplain regulations" means the codes, ordinances and
2 other regulations relating to the use of land and construction within the
3 channel and floodplain areas, including zoning ordinances, subdivision
4 regulations, building codes, housing codes, setback requirements, open
5 area regulations and similar methods of control affecting the use and
6 development of the areas.

7 8- 7. "Person" means any individual or his agent, firm, partner-
8 ship, association, corporation, or agent of the aforementioned groups,
9 or the state or any agency or political subdivision thereof.

10 9- 8. "Floodplain board" means the governing body of an incor-
11 porated town or city, charter city or county.

12 10- 9. "Watercourse" means any lake, river, creek, stream, wash,
13 arroyo, channel or other body of water having banks and bed through which
14 waters flow at least periodically. The term may include specifically
15 designated areas in which substantial flood damage may occur.

16 Sec. 2. Section 45-2342, Arizona Revised Statutes, is amended to
17 read:

18 45-2342. Flood magnitude criteria; floodplain delineation;
19 regulations

20 A. Within sixty days after the effective date of this act SECTION,
21 the Arizona water commission shall develop and adopt criteria for estab-
22 lishing the fifty-and one hundred-year floods FLOOD for the state of
23 Arizona.

24 B. ~~Within one hundred eighty days after the effective date of this~~
25 ~~act,~~ The floodplain board, within its area of jurisdiction shall delineate
26 OR MAY REQUIRE, BY ORDINANCE, DEVELOPERS OF SUBDIVISIONS TO DELINEATE for
27 areas where development is ongoing or imminent, and thereafter as develop-
28 ment becomes imminent, floodplains consistent with the criteria developed
29 by the Arizona water commission. The floodplains so designated shall be
30 submitted to the water commission.

31 C. The floodplain board shall adopt floodplain regulations which
32 shall include the following:

33 1. Regulations for all subdivision of land, construction of dwell-
34 ing units or commercial or industrial structures or uses which may divert,
35 retard or obstruct flood water and threaten public health, safety or the
36 general welfare.

37 2. Regulations which establish minimum flood protection elevations
38 and flood damage prevention requirements for uses, structures and facil-
39 ities which are vulnerable to flood damage. Regulations adopted under
40 this section are to be in accordance with state and local land use plans
41 and ordinances, if any.

42 3. Regulations which provide for coordination by the floodplain
43 board with all other interested and affected political subdivisions and
44 state agencies.

45 4. Regulations which require that any dwelling built within a
46 floodplain shall be constructed so as to place the minimum floor elevation
47 of the dwelling unit above the high water line of the one hundred-year
48 flood.

49 D. Floodplain boards may enter into cooperative agreements pursuant
50 to title 11, chapter 7, article 3 for the delineation of floodplains and

1 adoption of regulations within such floodplain.

2 E. Floodplain regulations enacted pursuant to this article may only
3 be adopted after a public hearing at which parties in interest and other
4 citizens have an opportunity to be heard. At least thirty days prior to
5 the hearing, a notice of the time and place of hearing shall be published
6 in a newspaper of general circulation within the area of jurisdiction of
7 the floodplain board or if no newspaper of general circulation is regularly
8 published within the area of jurisdiction, in a newspaper of general circu-
9 lation regularly published nearest the area of jurisdiction. A notice
10 of any hearing accompanied by a copy of each of the proposed rules and
11 regulations shall be furnished to the Arizona water commission at least
12 thirty days prior to the date of such hearing. A copy of any regulation
13 adopted by a floodplain board pursuant to this article shall within five
14 days thereafter be filed with the Arizona water commission.

15 F. One hundred eighty days after the effective date of this article,
16 and at all times thereafter, all subdivision of land, construction of
17 dwelling units or commercial or industrial structures or future development
18 within delineated floodplain areas is prohibited unless:

19 1. Seventy-five percent PER CENT of such floodplain area within a
20 platted and approved subdivision to be developed and utilized for such
21 units and structures has been so developed and utilized on the effective
22 date of this article; or

23 2. Prior to regulations having been adopted, a special permit is
24 granted by the floodplain board; or

25 3. A special permit is granted by the state agency having the
26 primary land management administrative duty over the lands if development
27 or construction is to be on lands owned or held in trust by the state; or

28 4. Floodplain regulations have been adopted pursuant to this
29 article for such floodplain area and are in full force and effect.

30 G. The floodplain board prior to adopting regulations may issue a
31 special permit authorizing construction or development when the floodplain
32 board finds that construction or development is not a danger to persons or
33 property.

34 H. Nothing in this article or any regulations adopted pursuant to
35 this article shall:

36 1. Affect existing uses of property or the right to the continuation
37 of the use.

38 2. Affect reasonable repair or alteration of property for the pur-
39 poses for which such property was used on the effective date of this act
40 SECTION or any regulations affecting such property takes effect.

41 3. AFFECT REASONABLE REPAIR OF STRUCTURES CONSTRUCTED WITH THE
42 WRITTEN AUTHORIZATION REQUIRED BY SECTION 45-2343.

43 4. Affect or apply to facilities constructed or installed
44 pursuant to a certificate of environmental compatibility issued under the
45 authority of title 40, chapter 2, article 6.2.

46 I. Within one hundred twenty days after completion of construction
47 of any flood control protective works, the floodplain in the area benefited
48 by such works shall be redefined.

49 Sec. 3. Section 45-2343, Arizona Revised Statutes, is amended
50 to read:

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1 45-2343. Authorization required for construction in
2 watercourses; exemptions

3 A. No person shall construct any structure which will divert, retard
4 or obstruct the flow of waters in any watercourse without securing written
5 authorization from the floodplain board in which the watercourse is located.

6 B. Written authorization shall not be required nor shall the flood-
7 plain board prohibit:

8 1. The construction of bridges, culverts, dikes and other structures
9 necessary to the construction of public highways, roads and streets inter-
10 secting or crossing a watercourse.

11 2. The construction of storage dams for watering livestock or wild-
12 life, structures on banks of a creek, stream, river, wash, arroyo, or other
13 watercourses to prevent erosion of or damage to adjoining land, or dams
14 for the conservation of flood waters as permitted by title 45, chapter 3.

15 3. Construction of tailing dams and waste disposal areas for use in
16 connection with mining and metallurgical operations. THIS PARAGRAPH DOES
17 NOT EXEMPT THOSE SAND AND GRAVEL OPERATIONS WHICH WILL DIVERT, RETARD OR
18 OBSTRUCT THE FLOW OF WATERS IN ANY WATERCOURSE FROM ACQUIRING AUTHORIZATION
19 FROM THE FLOODPLAIN BOARD PURSUANT TO REGULATIONS ADOPTED BY SUCH BOARD UNDER
20 THIS CHAPTER.

21 4. OTHER CONSTRUCTION WHEN IT HAS BEEN DETERMINED BY THE BOARD THAT
22 WRITTEN AUTHORIZATION IS UNNECESSARY.

23 4- 5. Any flood control district, county, city, town or other
24 political subdivision from exercising powers granted to it under this
25 chapter.

26 C. In addition to other penalties or remedies otherwise provided by
27 law, the state of Arizona, any political subdivision, or any person who may
28 be damaged as a result of the diversion, retardation or obstruction of a
29 watercourse shall have the right to commence, maintain and prosecute any
30 appropriate action or pursue any remedy to enjoin, abate or otherwise
31 prevent any person from violating or continuing to violate any provision
32 of this section. If any person is found to be in violation of any provi-
33 sion of this section, the court shall require the violator to comply with
34 this section or remove the obstruction and restore the watercourse to
35 its original state.

36 Sec. 4. Title 45, Arizona Revised Statutes, is amended by adding
37 chapter 15, article 1, sections 45-2801 through 45-2806, to read:

38 CHAPTER 15

39 FLOODPLAIN DELINEATION ASSISTANCE

40 ARTICLE 1. GENERAL PROVISIONS

41 45-2801. Definitions

42 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

43 1. "AREA OF JURISDICTION" MEANS:

44 (a) FOR AN INCORPORATED TOWN OR CITY, ALL OF THE LANDS WITHIN THE
45 TOWN OR CITY.

46 (b) FOR A COUNTY, ALL OF THE UNINCORPORATED AREAS OF THE COUNTY.

47 2. "COMMISSION" MEANS THE STATE FLOODPLAIN COORDINATING AGENCY AS
48 NOW AND FROM TIME TO TIME HEREAFTER IS DESIGNATED BY THE GOVERNOR OF
49 ARIZONA.

50 3. "FLOODPLAIN" MEANS THE RELATIVELY FLAT AREAS OF LOW LANDS

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1 ADJOINING THE CHANNEL OF A WATERCOURSE, OR AREAS WHERE DRAINAGE IS OR
2 MAY BE RESTRICTED BY MAN-MADE STRUCTURES WHICH HAVE BEEN OR MAY BE COVERED
3 PARTIALLY OR WHOLLY BY FLOODWATER FROM THE ONE HUNDRED-YEAR FLOOD.

4 4. "FLOODPLAIN BOARD" MEANS THE GOVERNING BODY OF AN INCORPORATED
5 TOWN OR CITY, CHARTER CITY, OR COUNTY.

6 5. "FLOODWAY" MEANS THE CHANNEL OF A WATERCOURSE AND THOSE POR-
7 TIONS OF ADJOINING FLOODPLAINS WHICH ARE REASONABLY REQUIRED TO CARRY
8 AND DISCHARGE A ONE HUNDRED-YEAR FLOOD.

9 6. "ONE HUNDRED-YEAR FLOOD" MEANS A FLOOD THAT HAS A ONE PER CENT
10 CHANCE OF OCCURRING, BASED UPON THE CRITERIA ESTABLISHED BY THE ARIZONA
11 WATER COMMISSION.

12 7. "TOPOGRAPHIC MAPS" MEAN MAPS OF THE FLOODPLAIN OF A SUFFICIENTLY
13 LARGE SCALE SHOWING, IN DETAIL, MAN-MADE AND NATURAL FEATURES OF A WATER-
14 COURSE, INCLUDING ITS RELIEF BY MEANS OF CONTOUR LINES OF EQUAL ELEVATION
15 WITH AN INTERVAL OF FROM TWO TO FIVE FEET.

16 8. "WATERCOURSE" MEANS ANY LAKE, RIVER, CREEK, STREAM, WASH,
17 ARROYO, CHANNEL OR OTHER BODY OF WATER HAVING BANKS AND BED THROUGH
18 WHICH WATERS FLOW AT LEAST PERIODICALLY. THE TERM MAY INCLUDE SPECIF-
19 ICALLY DESIGNATED AREAS IN WHICH SUBSTANTIAL FLOOD DAMAGE MAY OCCUR.

20 45-2802. Assistance for floodplain delineations

21 A. WHEN A FLOODPLAIN BOARD IS REQUIRED TO DELINEATE A FLOODPLAIN
22 PURSUANT TO SECTION 45-2342, SUBSECTION B, AND SUCH FLOODPLAIN HAS NOT
23 HERETOFORE BEEN DELINEATED WITH SUFFICIENT ACCURACY TO ALLOW ADOPTION OF
24 REGULATIONS PURSUANT TO SECTION 45-2342, SUBSECTION C, THE FLOODPLAIN
25 BOARD MAY REQUEST THE COMMISSION FOR ASSISTANCE IN OBTAINING DELINEATIONS
26 OF THE FLOODPLAIN.

27 B. PROVIDED SUFFICIENT FUNDS HAVE BEEN APPROPRIATED, THE COMMIS-
28 SION MAY, AT THEIR OPTION EITHER PROVIDE THE ENGINEERING AND TECHNICAL
29 SERVICES NECESSARY TO DELINEATE THE FLOODPLAINS AND FLOODWAY AND
30 DETERMINE WATER SURFACE PROFILE DATA ASSOCIATED WITH SUCH DELINEATIONS
31 OR DISBURSE FUNDS FOR SUCH SERVICES TO THE REQUESTING FLOODPLAIN BOARD.

32 C. IF A FLOODPLAIN BOARD CHOOSES TO BE REIMBURSED FOR COSTS
33 INCURRED TO HAVE FLOODPLAINS DELINEATED AFTER THE EFFECTIVE DATE OF
34 THIS CHAPTER, MONEY APPROPRIATED TO THE COMMISSION SHALL BE DISBURSED
35 UPON ORDER OF THE COMMISSION AFTER APPLICATION BY SUCH FLOODPLAIN BOARD
36 SHOWING THE NECESSITY AND PURPOSE OF THE EXPENDITURES FOR WHICH REIM-
37 BURSEMENT IS REQUIRED.

38 D. THE COMMISSION MAY REFUSE TO PROVIDE FINANCIAL OR TECHNICAL
39 ASSISTANCE ALLOWED BY THIS SECTION IF, IN THE OPINION OF THE COMMIS-
40 SION, SUCH ASSISTANCE IS NOT NECESSARY FOR THE REQUESTING FLOODPLAIN
41 BOARD TO COMPLY WITH SECTION 45-2342.

42 45-2803. No assistance may be made for topographic mapping

43 NO STATE FUNDS OR ASSISTANCE ALLOWED BY THIS CHAPTER WILL BE PRO-
44 VIDED TO A FLOODPLAIN BOARD TO AID IN THE PREPARATION OF TOPOGRAPHIC MAPS
45 OR TO GATHER OTHER ELEVATION OR CHANNEL CROSS-SECTIONAL DATA NECESSARY,
46 AS DETERMINED BY THE COMMISSION, FOR MAKING HYDRAULIC AND HYDROLOGIC
47 COMPUTATIONS FOR DETERMINATION OF FLOODPLAIN AND FLOODWAY LIMITS. SUCH
48 COSTS SHALL BE A LOCAL RESPONSIBILITY.

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1 45-2804. Commission may contract for work
2 THE COMMISSION MAY CONTRACT WITH PRIVATE ENGINEERING FIRMS OR OTHER
3 GOVERNMENTAL AGENCIES TO CARRY OUT THE PROVISIONS OF THIS CHAPTER.
4 45-2805. Assistance in flood insurance program
5 A. THE COMMISSION IS DESIGNATED AS THE STATE COORDINATOR OF THE
6 NATIONAL FLOOD INSURANCE PROGRAM TO ASSIST LOCAL JURISDICTIONS IN COMPLYING
7 WITH THE REQUIREMENTS OF SUCH PROGRAM AND ARIZONA STATE LAW.
8 B. THE COMMISSION IS DESIGNATED AS THE STATE COORDINATOR OF THE
9 ARMY CORPS OF ENGINEERS FLOODPLAIN MANAGEMENT SERVICES PROGRAM AND SHALL
10 COORDINATE FLOODPLAIN INFORMATION STUDIES OF FEDERAL, STATE AND LOCAL
11 AGENCIES AND MAKE RECOMMENDATIONS TO SUCH AGENCIES.
12 45-2806. Guidelines; regulations
13 THE COMMISSION MAY ADOPT AND PROMULGATE RULES AND REGULATIONS NEC-
14 ESSARY FOR THE ORDERLY EFFECTUATION OF THIS CHAPTER.
15 Sec. 5. Appropriations; purposes
16 Beginning with the fiscal year 1976, the commission shall budget
17 and request appropriation for such funds as are deemed necessary for the
18 implementation of this act.
19 Sec. 6. Emergency
20 To preserve the public peace, health and safety, it is necessary
21 that this act become immediately operative. It is therefore declared
22 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 67

HOUSE BILL 2180

AN ACT

RELATING TO LIVESTOCK AND ANIMALS; PROVIDING FOR CERTAIN WAIVERS OF LIVESTOCK INSPECTION; REMOVING CERTAIN HIDE INSPECTION FEES; PROVIDING THAT LIVESTOCK SANITARY BOARD MAY WAIVE BRAND INSPECTION, HIDE INSPECTION AND MEAT STAMPING, AND AMENDING SECTIONS 24-262, 24-267, 24-606, 24-608 AND 24-632, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 24-262, Arizona Revised Statutes, is amended
3 to read:

4 24-262. Method, place and time of inspection of livestock

5 A. Inspectors shall inspect livestock for health, marks and
6 brands at loading stations, at places of exit from the state and at
7 places where livestock are gathered to be sold, slaughtered, trans-
8 ported, conveyed, shipped or driven from their range for any purpose
9 whatever EXCEPT WHEN LIVESTOCK IS BEING MOVED FROM PASTURE TO PASTURE
10 AND NO CHANGE OF OWNERSHIP, SLAUGHTER, OR OTHER DISPOSITION IS INVOLVED
11 AND THE OWNER HAS NOTIFIED THE BOARD OF THE TIME, DATE AND PLACE OF SUCH
12 MOVEMENT, AFTER SUCH NOTIFICATION, THE BOARD MAY WAIVE INSPECTION.

13 B. Brand inspections shall be made by daylight and in a manner
14 which enables the inspector personally to see, inspect and record each
15 and every mark and brand. Inspections of livestock for health at a
16 slaughter house may be made by other than daylight if adequate arti-
17 ficial light is provided.

18 C. Upon being advised that livestock is subject to inspection,
19 inspectors shall arrange for the inspection of the livestock and inspect
20 such livestock within twelve hours.

21 Sec. 2. Section 24-267, Arizona Revised Statutes, is amended
22 to read:

23 24-267. Inspection of livestock to be slaughtered, sold
24 or transported; violation; penalty

25 A. Livestock shall not be slaughtered, sold or driven, trans-
26 ported, shipped or conveyed from its accustomed range, or driven, trans-
27 ported, shipped or conveyed from this state, or driven, transported,
28 shipped or conveyed from a pasture or other place where it has been
29 kept, unless the animals have been inspected by an inspector for health,
30 brands and marks immediately before they are slaughtered, sold, driven,

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1 transported, shipped or conveyed and the inspection fee paid thereon.

2 B. The owner of the livestock to be slaughtered, sold, driven,
3 transported, shipped or conveyed as provided in subsection A shall notify
4 the nearest inspector of his intention.

5 C. IF LIVESTOCK IS TO BE TRANSPORTED, DRIVEN, SHIPPED OR CONVEYED
6 FROM PASTURE TO PASTURE AND NOT FOR SALE, SLAUGHTER OR CHANGE OF OWNER-
7 SHIP AND THE LIVESTOCK OWNER NOTIFIES THE BOARD OF THE TIME, DATE AND
8 PLACE OF SUCH MOVEMENT, THE BOARD MAY WAIVE INSPECTION.

9 ~~6.~~ D. A person violating any provision of this section is guilty
10 of a misdemeanor punishable by a fine of not less than fifty nor more than
11 three hundred dollars, by imprisonment in the county jail for not less
12 than thirty nor more than one hundred eighty days, or both.

13 Sec. 3. Section 24-606, Arizona Revised Statutes, is amended
14 to read:

15 24-606. Pre-slaughter brand inspection of hides

16 A. Every person licensed to slaughter livestock, sheep, goats,
17 horses, mules or other equines shall, before slaughter, notify the
18 nearest livestock inspector of the location of the slaughter house
19 and the time it is proposed to slaughter the animals.

20 B. Livestock shall not be slaughtered until the animals have
21 been inspected, unless inspection before slaughter be waived by the
22 board. When livestock are slaughtered, the inspector shall inspect
23 the hides for brands and marks, and tag or mark the same in manner
24 prescribed by the board, unless such tagging or marking be waived by
25 the board.

26 ~~C. For each hide inspected as provided by this section, the~~
27 ~~livestock inspector shall charge and be paid fifteen cents.~~

28 Sec. 4. Section 24-608, Arizona Revised Statutes, is amended
29 to read:

30 24-608. Receiving uninspected hides for transportation;
31 sale of uninspected hides; penalty

32 A. It is unlawful for a person to receive for transportation
33 hides of livestock until they have been brand inspected, and it is
34 unlawful for any person to sell hides of livestock until they have
35 been brand inspected, UNLESS SUCH BRAND INSPECTION IS WAIVED BY THE
36 BOARD.

37 B. A person violating this section is guilty of a misdemeanor
38 punishable by a fine of not less than twenty nor more than one hundred
39 dollars, by imprisonment for not less than ten nor more than sixty
40 days, or both.

41 Sec. 5. Section 24-632, Arizona Revised Statutes, is amended
42 to read:

43 24-632. Brand inspection of hides; violation; penalty

44 A. The meat of livestock shall not be possessed, sold,
45 offered for sale, given or exchanged unless the whole hide of the
46 animal has been inspected for marks and brands and the meat thereof
47 stamped as provided in this section, UNLESS SUCH HIDE INSPECTION
48 AND MEAT STAMPING IS WAIVED BY THE BOARD.

49 B. The hide of the animal shall be inspected for brands and
50 marks and the hide marked as provided by the board so that it may

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1 be identified. The meat of the carcass shall be stamped "brand
2 inspected" upon the hind quarter, side, shoulder, neck and shank
3 of both sides of the carcass with a stamp adopted and furnished by
4 the board.

5 ~~C. The inspector shall collect fifteen cents for each hide~~
6 ~~inspected.~~

7 B. C. This section shall not apply to producers who slaughter
8 livestock for the purpose of using the meat as food for themselves or
9 their immediate family or employees, nor shall this section be con-
10 strued to require that meat bearing a federal OR STATE meat inspection
11 stamp be stamped as provided in this section unless the possessor so
12 desires.

13 E. D. A person who violates any provision of this section is
14 guilty of a misdemeanor punishable by a fine of not less than fifty
15 nor more than three hundred dollars, imprisonment in the county jail
16 not less than thirty nor more than one hundred and eighty days, or
17 both.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 68

HOUSE BILL 2346

AN ACT

RELATING TO CRIMES; PRESCRIBING PENALTIES FOR THROWING OR SHOOTING OBJECT AT TRAIN, MOTOR VEHICLE, AIRCRAFT OR WATERCRAFT, AND AMENDING SECTION 13-1022, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-1022, Arizona Revised Statutes, is
3 amended to read:
4 13-1022. Unlawful to throw or shoot object at train,
5 motor vehicle, aircraft or watercraft.
6 A person who throws or shoots an object with intent to cause
7 damage, at any railroad train, motor vehicle, aircraft or watercraft,
8 or at any person riding thereon, whether the train, motor vehicle,
9 aircraft or watercraft is in motion or not in motion, is guilty of
10 ~~a misdemeanor~~ AN OFFENSE, unless such act is done in the performance
11 of such person's official duties. IF SAID RAILROAD TRAIN, MOTOR
12 VEHICLE, AIRCRAFT OR WATERCRAFT IS NOT OCCUPIED, SUCH ACT SHALL BE
13 PUNISHABLE AS A MISDEMEANOR. IF SAID RAILROAD TRAIN, MOTOR VEHICLE,
14 AIRCRAFT OR WATERCRAFT IS OCCUPIED BY ANY PERSON AT THE TIME OF SUCH
15 ACT, SUCH ACT SHALL BE PUNISHABLE BY EITHER IMPRISONMENT IN THE COUNTY
16 JAIL FOR NOT MORE THAN ONE YEAR OR IMPRISONMENT IN THE STATE PRISON
17 FOR NOT LESS THAN ONE YEAR NOR MORE THAN FIVE YEARS.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 69

HOUSE BILL 2315

AN ACT

RELATING TO CORPORATIONS; PROVIDING FOR FORMING AND REGULATION OF CORPORATIONS;
REPEALING TITLE 10, CHAPTER 1, ARTICLES 1 THROUGH 13 AND 17, ARIZONA
REVISED STATUTES; AMENDING TITLE 10, CHAPTER 1, ARIZONA REVISED STATUTES,
BY ADDING NEW ARTICLES 1 THROUGH 12; AMENDING SECTIONS 6-412, 6-463,
6-812 AND 10-504, ARIZONA REVISED STATUTES; REPEALING SECTION 10-505,
ARIZONA REVISED STATUTES, AND AMENDING SECTIONS 10-908, 20-228, 20-729
AND 20-1577, ARIZONA REVISED STATUTES.

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

2 Section 1. Repeal

3 Title 10, chapter 1, articles 1 through 13 and 17, Arizona Revised
4 Statutes, are repealed.

5 Sec. 2. Title 10, chapter 1, Arizona Revised Statutes, is amended
6 by adding new articles 1 through 12, to read:

7 ARTICLE 1. SUBSTANTIVE PROVISIONS

8 10-001. Short title

9 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE ARIZONA BUSINESS
10 CORPORATION ACT.

11 10-002. Definitions

12 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

13 1. "CORPORATION" OR "DOMESTIC CORPORATION" MEANS A CORPORATION
14 FOR PROFIT SUBJECT TO THE PROVISIONS OF THIS CHAPTER, EXCEPT A FOREIGN
15 CORPORATION.

16 2. "FOREIGN CORPORATION" MEANS A CORPORATION FOR PROFIT OR-
17 GANIZED UNDER LAWS OTHER THAN THE LAWS OF THIS STATE.

18 3. "ARTICLES OF INCORPORATION" MEANS THE ORIGINAL OR RESTATED
19 ARTICLES OF INCORPORATION, ARTICLES OF CONSOLIDATION OR ARTICLES OF
20 MERGER AND ALL AMENDMENTS THERETO.

21 4. "SHARES" MEANS THE UNITS INTO WHICH THE PROPRIETARY INTERESTS
22 IN A CORPORATION ARE DIVIDED.

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1 5. "SUBSCRIBER" MEANS ONE WHO SUBSCRIBES FOR SHARES IN A CORPO-
2 RATION, WHETHER BEFORE OR AFTER INCORPORATION.

3 6. "SHAREHOLDER" MEANS ONE WHO IS A HOLDER OF RECORD OF SHARES IN
4 A CORPORATION.

5 7. "AUTHORIZED SHARES" MEANS THE SHARES OF ALL CLASSES WHICH THE
6 CORPORATION IS AUTHORIZED TO ISSUE.

7 8. "TREASURY SHARES" MEANS SHARES OF A CORPORATION WHICH HAVE
8 BEEN ISSUED, HAVE BEEN SUBSEQUENTLY ACQUIRED BY AND BELONG TO THE COR-
9 PORATION, AND HAVE NOT, EITHER BY REASON OF THE ACQUISITION OR THERE-
10 AFTER, BEEN CANCELLED OR RESTORED TO THE STATUS OF AUTHORIZED BUT UN-
11 ISSUED SHARES. TREASURY SHARES SHALL BE DEEMED TO BE "ISSUED" SHARES
12 BUT NOT "OUTSTANDING" SHARES.

13 9. "NET ASSETS" MEANS THE AMOUNT BY WHICH THE TOTAL ASSETS OF A
14 CORPORATION EXCEED THE TOTAL DEBTS OF THE CORPORATION.

15 10. "STATED CAPITAL" MEANS, AT ANY PARTICULAR TIME, THE SUM OF:

16 (a) THE PAR VALUE OF ALL SHARES OF THE CORPORATION HAVING A PAR
17 VALUE THAT HAVE BEEN ISSUED.

18 (b) THE AMOUNT OF THE CONSIDERATION RECEIVED BY THE CORPORATION
19 FOR ALL SHARES OF THE CORPORATION WITHOUT PAR VALUE THAT HAVE BEEN IS-
20 SUED, EXCEPT SUCH PART OF THE CONSIDERATION THEREFOR AS MAY HAVE BEEN
21 ALLOCATED TO CAPITAL SURPLUS IN A MANNER PERMITTED BY LAW.

22 (c) SUCH AMOUNTS NOT INCLUDED IN SUBDIVISIONS (a) AND (b) OF
23 THIS PARAGRAPH AS HAVE BEEN TRANSFERRED TO STATED CAPITAL OF THE CORPO-
24 RATION, WHETHER UPON THE ISSUE OF SHARES AS A SHARE DIVIDEND OR OTHER-
25 WISE, MINUS ALL REDUCTIONS FROM SUCH SUM AS HAVE BEEN EFFECTED IN A
26 MANNER PERMITTED BY LAW.

27 IRRESPECTIVE OF THE MANNER OF DESIGNATION THEREOF BY THE LAWS UNDER
28 WHICH A FOREIGN CORPORATION IS ORGANIZED, THE STATED CAPITAL OF A
29 FOREIGN CORPORATION SHALL BE DETERMINED ON THE SAME BASIS AND IN THE
30 SAME MANNER AS STATED CAPITAL OF A DOMESTIC CORPORATION, FOR THE
31 PURPOSE OF COMPUTING FEES, FRANCHISE TAXES AND OTHER CHARGES IM-
32 POSED BY THIS CHAPTER.

33 11. "SURPLUS" MEANS THE EXCESS OF THE NET ASSETS OF A CORPORA-
34 TION OVER ITS STATED CAPITAL.

35 12. "EARNED SURPLUS" MEANS THE PORTION OF THE SURPLUS OF A
36 CORPORATION EQUAL TO THE BALANCE OF ITS NET PROFITS, INCOME, GAINS
37 AND LOSSES FROM THE DATE OF INCORPORATION, OR FROM THE LATEST DATE
38 WHEN A DEFICIT WAS ELIMINATED BY AN APPLICATION OF ITS CAPITAL SURPLUS
39 OR STATED CAPITAL OR OTHERWISE, AFTER DEDUCTING SUBSEQUENT DISTRIBU-
40 TIONS TO SHAREHOLDERS AND TRANSFERS TO STATED CAPITAL AND CAPITAL
41 SURPLUS TO THE EXTENT SUCH DISTRIBUTIONS AND TRANSFERS ARE MADE OUT
42 OF EARNED SURPLUS. EARNED SURPLUS SHALL INCLUDE ALSO ANY PORTION OF
43 SURPLUS ALLOCATED TO EARNED SURPLUS IN MERGERS, CONSOLIDATIONS OR
44 ACQUISITIONS OF ALL OR SUBSTANTIALLY ALL OF THE OUTSTANDING SHARES
45 OR OF THE PROPERTY AND ASSETS OF ANOTHER CORPORATION, DOMESTIC OR
46 FOREIGN.

47 13. "CAPITAL SURPLUS" MEANS THE ENTIRE SURPLUS OF A CORPORATION
48 OTHER THAN ITS EARNED SURPLUS.

49 14. "INSOLVENT" MEANS INABILITY OF A CORPORATION TO PAY ITS
50 DEBTS AS THEY BECOME DUE IN THE USUAL COURSE OF ITS BUSINESS.

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1 15. "EMPLOYEE" INCLUDES OFFICERS BUT NOT DIRECTORS. A DIRECTOR
2 MAY ACCEPT DUTIES WHICH MAKE HIM ALSO AN EMPLOYEE.

3 16. "MAIL", "TO MAIL" OR "HAVE MAILED" MEANS TO DEPOSIT OR HAVE
4 DEPOSITED A COMMUNICATION IN THE UNITED STATES MAILS, WITH FIRST-CLASS
5 OR AIRMAIL POSTAGE PREPAID.

6 17. "AFFILIATE" OR "AFFILIATE OF A CORPORATION" MEANS A PERSON
7 CONTROLLING, CONTROLLED BY OR UNDER COMMON CONTROL WITH SUCH CORPORA-
8 TION. AN INDIVIDUAL WHO CONTROLS A CORPORATION IS ALSO AN AFFILIATE
9 OF SUCH CORPORATION.

10 18. "ACKNOWLEDGED" OR "ACKNOWLEDGEMENT" MEANS AN ACKNOWLEDGEMENT
11 PURSUANT TO TITLE 33, CHAPTER 4, ARTICLE 5.

12 19. "LIQUIDATE ITS ASSETS AND BUSINESS" INCLUDES THE DISTRIBUTION
13 OF ASSETS, THE PAYMENT OF OBLIGATIONS AND DEBTS, THE DISCONTINUANCE OF
14 BUSINESS OR ANY ONE OR MORE THEREOF.

15 20. "COMMISSION" MEANS THE ARIZONA CORPORATION COMMISSION.

16 21. "WATER USERS' ASSOCIATION" MEANS A CORPORATION WHICH OPERATES
17 A FEDERAL RECLAMATION PROJECT PURSUANT TO A CONTRACT WITH THE UNITED
18 STATES.

19 22. "BOARD OF DIRECTORS" SHALL INCLUDE THE GOVERNING BODY OR
20 BODIES OF A WATER USERS' ASSOCIATION IF THE ARTICLES OF INCORPORATION
21 OF SUCH WATER USERS' ASSOCIATION PROVIDE FOR A GOVERNING BODY OR BODIES
22 DENOMINATED OTHER THAN AS A BOARD OF DIRECTORS.

23 10-003. Purposes

24 CORPORATIONS MAY BE ORGANIZED UNDER THIS CHAPTER FOR ANY LAWFUL
25 PURPOSE OR PURPOSES NOT SPECIFICALLY PROHIBITED TO CORPORATIONS UNDER
26 LAWS OF THIS STATE.

27 10-004. General powers

28 A. EACH CORPORATION SHALL HAVE POWER TO:

29 1. HAVE PERPETUAL SUCCESSION BY ITS CORPORATE NAME UNLESS A
30 LIMITED PERIOD OF DURATION IS STATED IN ITS ARTICLES OF INCORPORATION.

31 2. SUE, BE SUED, COMPLAIN AND DEFEND IN ITS CORPORATE NAME.

32 3. HAVE A CORPORATE SEAL WHICH MAY BE ALTERED AT PLEASURE, AND
33 TO USE THE SAME BY CAUSING IT, OR A FACSIMILE THEREOF, TO BE IMPRESSED
34 OR AFFIXED OR IN ANY OTHER MANNER REPRODUCED.

35 4. PURCHASE, TAKE, RECEIVE, LEASE OR OTHERWISE ACQUIRE, OWN,
36 HOLD, IMPROVE, USE AND OTHERWISE DEAL IN AND WITH REAL OR PERSONAL
37 PROPERTY, OR ANY INTEREST THEREIN, WHEREVER SITUATED.

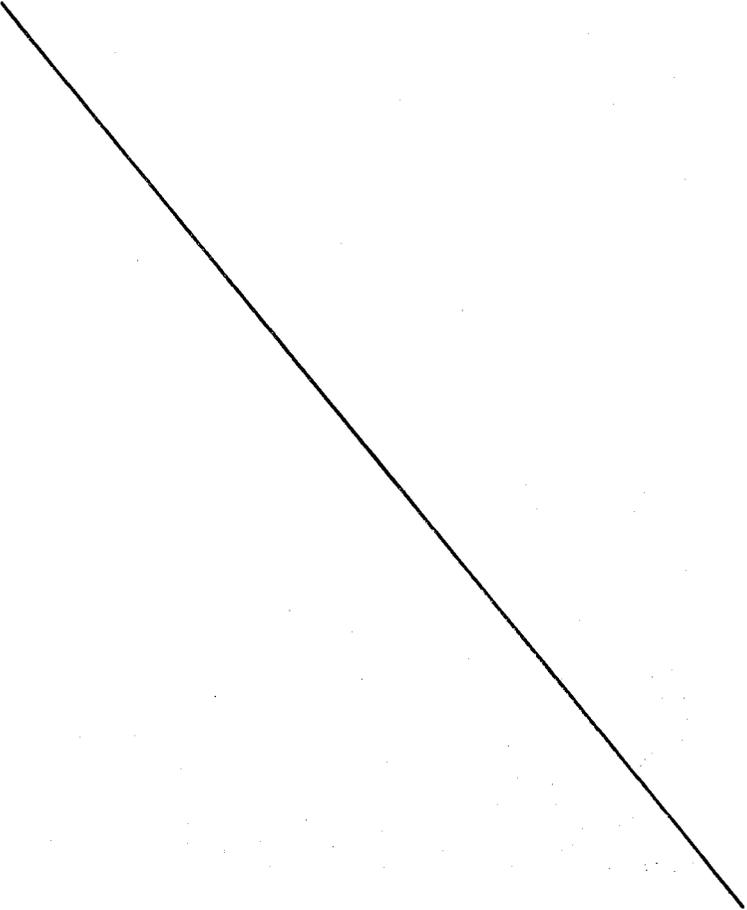
38 5. SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, TRANSFER,
39 OPTION AND OTHERWISE DISPOSE OF ALL OR ANY PART OF ITS PROPERTY AND
40 ASSETS.

41 6. LEND MONEY AND USE ITS CREDIT TO ASSIST ITS EMPLOYEES.

42 7. PURCHASE, TAKE, RECEIVE, SUBSCRIBE FOR OR OTHERWISE ACQUIRE,
43 OWN, HOLD, VOTE, USE, EMPLOY, SELL, MORTGAGE, LEND, PLEDGE OR OTHERWISE
44 DISPOSE OF, AND OTHERWISE USE AND DEAL IN AND WITH, SHARES OR OTHER
45 INTERESTS IN, OR OBLIGATIONS OF, OTHER DOMESTIC OR FOREIGN CORPORATIONS,
46 NONPROFIT CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS, LIMITED PARTNERSHIPS
47 OR INDIVIDUALS, OR DIRECT OR INDIRECT OBLIGATIONS OF THE UNITED STATES
48 OR OF ANY OTHER GOVERNMENT, STATE, TERRITORY, GOVERNMENTAL DISTRICT OR
49 MUNICIPALITY OR OF ANY INSTRUMENTALITY THEREOF.

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1 8. MAKE CONTRACTS, INCLUDING CONTRACTS OF GUARANTY, SURETYSHIP
2 AND INDEMNIFICATION AND INCUR LIABILITIES, BORROW MONEY AT SUCH RATES
3 OF INTEREST AS THE CORPORATION MAY DETERMINE, ISSUE ITS NOTES, BONDS
4 AND OTHER OBLIGATIONS, AND SECURE ANY OF ITS OBLIGATIONS BY MORTGAGE,
5 DEED OF TRUST, SECURITY AGREEMENT, PLEDGE OR OTHER ENCUMBRANCE OF ALL
6 OR ANY OF ITS PROPERTY, FRANCHISES AND INCOME.
7 9. LEND MONEY FOR ITS CORPORATE PURPOSES, INVEST AND REINVEST
8 ITS FUNDS AND TAKE AND HOLD REAL AND PERSONAL PROPERTY AS SECURITY FOR



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1 THE PAYMENT OF FUNDS SO LOANED OR INVESTED.

2 10. CONDUCT ITS BUSINESS, CARRY ON ITS OPERATIONS AND HAVE
3 OFFICES AND EXERCISE ITS POWERS WITHIN OR OUTSIDE THIS STATE.

4 11. ELECT OR APPOINT OFFICERS AND AGENTS OF THE CORPORATION AND
5 DEFINE THEIR DUTIES AND FIX THEIR COMPENSATION.

6 12. MAKE AND ALTER BYLAWS, NOT INCONSISTENT WITH ITS ARTICLES OF
7 INCORPORATION OR WITH THE LAWS OF THIS STATE, FOR THE ADMINISTRATION,
8 REGULATION AND MANAGEMENT OF THE AFFAIRS OF THE CORPORATION.

9 13. MAKE DONATIONS FOR PUBLIC, CHARITABLE, SCIENTIFIC OR EDUCA-
10 TIONAL PURPOSES.

11 14. PAY PENSIONS AND ESTABLISH PENSION PLANS, PENSION TRUSTS,
12 PROFIT-SHARING PLANS, PROFIT-SHARING TRUSTS, STOCK BONUS PLANS, STOCK
13 OPTION PLANS AND OTHER INCENTIVE PLANS FOR ANY AND ALL OF ITS DIRECTORS,
14 OFFICERS OR EMPLOYEES, OR ANY OR ALL OF THOSE OF ITS AFFILIATES.

15 15. BE A PROMOTER, INCORPORATOR, PARTNER, MEMBER, ASSOCIATE OR
16 MANAGER OF ANY CORPORATION, PARTNERSHIP, JOINT VENTURE, TRUST OR OTHER
17 ENTERPRISE.

18 16. HAVE AND EXERCISE ALL POWERS NECESSARY OR CONVENIENT TO
19 EFFECT ITS PURPOSES.

20 B. NOTWITHSTANDING ANY OF THE PROVISIONS OF THIS SECTION, EACH
21 CORPORATION MAY, IN ITS ARTICLES OF INCORPORATION, DENY, LIMIT, OR
22 OTHERWISE REDUCE IN ANY LAWFUL MANNER ANY OF THE POWERS SET FORTH
23 IN SUBSECTION A. UNLESS SO DENIED, LIMITED OR OTHERWISE REDUCED THE
24 POWERS ENUMERATED IN THIS SECTION ARE TO BE CONSTRUED BROADLY.

25 10-005. Indemnification of officers, directors, employees
26 and agents

27 A. A CORPORATION SHALL HAVE POWER TO INDEMNIFY ANY PERSON WHO
28 WAS OR IS A PARTY OR IS THREATENED TO BE MADE A PARTY TO ANY THREATENED,
29 PENDING OR COMPLETED ACTION, SUIT OR PROCEEDING, WHETHER CIVIL, CRIMINAL,
30 ADMINISTRATIVE OR INVESTIGATIVE, OTHER THAN AN ACTION BY OR IN THE
31 RIGHT OF THE CORPORATION, BY REASON OF THE FACT THAT HE IS OR WAS
32 A DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF THE CORPORATION, OR IS OR
33 WAS SERVING AT THE REQUEST OF THE CORPORATION AS A DIRECTOR, OFFICER,
34 EMPLOYEE OR AGENT OF ANOTHER CORPORATION, PARTNERSHIP, JOINT VENTURE,
35 TRUST OR OTHER ENTERPRISE, AGAINST EXPENSES, INCLUDING ATTORNEYS' FEES,
36 AND AGAINST JUDGMENTS, FINES AND AMOUNTS PAID IN SETTLEMENT ACTUALLY
37 AND REASONABLY INCURRED BY HIM IN CONNECTION WITH SUCH ACTION, SUIT OR
38 PROCEEDING IF HE ACTED, OR FAILED TO ACT, IN GOOD FAITH AND IN A MANNER
39 HE REASONABLY BELIEVED TO BE IN OR NOT OPPOSED TO THE BEST INTERESTS OF
40 THE CORPORATION, AND, WITH RESPECT TO ANY CRIMINAL ACTION OR PROCEEDING,
41 HAD NO REASONABLE CAUSE TO BELIEVE HIS CONDUCT WAS UNLAWFUL. THE TER-
42 MINATION OF ANY ACTION, SUIT OR PROCEEDING BY JUDGMENT, ORDER, SETTLE-
43 MENT, CONVICTION, OR UPON A PLEA OF NOLO CONTENDERE OR ITS EQUIVALENT,
44 SHALL NOT, OF ITSELF, CREATE A PRESUMPTION THAT THE PERSON ACTED, OR
45 FAILED TO ACT, OTHER THAN IN GOOD FAITH AND IN A MANNER WHICH HE REA-
46 SONABLY BELIEVED TO BE IN OR NOT OPPOSED TO THE BEST INTERESTS OF THE
47 CORPORATION, AND, WITH RESPECT TO ANY CRIMINAL ACTION OR PROCEEDING,
48 HAD REASONABLE CAUSE TO BELIEVE THAT HIS CONDUCT WAS UNLAWFUL.

49 B. A CORPORATION SHALL HAVE POWER TO INDEMNIFY ANY PERSON WHO
50 WAS OR IS A PARTY OR IS THREATENED TO BE MADE A PARTY TO ANY THREATENED,

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1 PENDING OR COMPLETED ACTION OR SUIT BY OR IN THE RIGHT OF THE CORPORA-
2 TION TO PROCURE A JUDGMENT IN ITS FAVOR BY REASON OF THE FACT THAT HE
3 IS OR WAS A DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF THE CORPORATION,
4 OR IS OR WAS SERVING AT THE REQUEST OF THE CORPORATION AS A DIRECTOR,
5 OFFICER, EMPLOYEE OR AGENT OF ANOTHER CORPORATION, PARTNERSHIP, JOINT
6 VENTURE, TRUST OR OTHER ENTERPRISE AGAINST EXPENSES, INCLUDING
7 ATTORNEYS' FEES BUT EXCLUDING JUDGMENTS AND FINES AND, EXCEPT AS
8 HEREINAFTER SET FORTH, AMOUNTS PAID IN SETTLEMENT, ACTUALLY AND
9 REASONABLY INCURRED BY HIM IN CONNECTION WITH THE DEFENSE OR SETTLE-
10 MENT OF SUCH ACTION OR SUIT IF HE ACTED, OR FAILED TO ACT, IN GOOD
11 FAITH AND IN A MANNER HE REASONABLY BELIEVED TO BE IN OR NOT OPPOSED
12 TO THE BEST INTERESTS OF THE CORPORATION AND EXCEPT THAT NO INDEMNIFICA-
13 TION SHALL BE MADE IN RESPECT OF ANY CLAIM, ISSUE OR MATTER AS TO WHICH
14 SUCH PERSON SHALL HAVE BEEN ADJUDGED TO BE LIABLE FOR NEGLIGENCE OR
15 MISCONDUCT IN THE PERFORMANCE OF HIS DUTY TO THE CORPORATION UNLESS AND
16 ONLY TO THE EXTENT THAT THE COURT IN WHICH SUCH ACTION OR SUIT WAS
17 BROUGHT SHALL DETERMINE UPON APPLICATION THAT, DESPITE THE ADJUDICATION
18 OF LIABILITY BUT IN VIEW OF ALL CIRCUMSTANCES OF THE CASE, SUCH PERSON
19 IS FAIRLY AND REASONABLY ENTITLED TO INDEMNITY FOR SUCH EXPENSES WHICH
20 SUCH COURT SHALL DEEM PROPER. THE COURT IN WHICH ANY SUCH ACTION OR
21 SUIT WAS BROUGHT MAY DETERMINE UPON APPLICATION THAT, IN VIEW OF ALL
22 CIRCUMSTANCES OF THE CASE, INDEMNITY FOR AMOUNTS PAID IN SETTLEMENT
23 IS PROPER AND MAY ORDER INDEMNITY FOR THE AMOUNTS SO PAID IN SETTLEMENT
24 AND FOR THE EXPENSES, INCLUDING ATTORNEYS' FEES, ACTUALLY AND REASONABLY
25 PAID IN CONNECTION WITH SUCH APPLICATION, TO THE EXTENT THE COURT DEEMS
26 PROPER.

27 C. TO THE EXTENT THAT A DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF
28 A CORPORATION HAS BEEN SUCCESSFUL ON THE MERITS OR OTHERWISE IN DEFENSE
29 OF ANY ACTION, SUIT OR PROCEEDING REFERRED TO IN SUBSECTION A OR B, OR
30 IN DEFENSE OF ANY CLAIM, ISSUE OR MATTER THEREIN, HE SHALL BE INDEMNIFIED
31 AGAINST EXPENSES, INCLUDING ATTORNEYS' FEES, ACTUALLY AND REASONABLY
32 INCURRED BY HIM IN CONNECTION THEREWITH.

33 D. ANY INDEMNIFICATION UNDER SUBSECTION A OR B, UNLESS ORDERED
34 BY A COURT, SHALL BE MADE BY THE CORPORATION ONLY AS AUTHORIZED IN THE
35 SPECIFIC CASE UPON A DETERMINATION THAT INDEMNIFICATION OF THE DIRECTOR,
36 OFFICER, EMPLOYEE OR AGENT IS PROPER IN THE CIRCUMSTANCES BECAUSE HE
37 HAS MET THE APPLICABLE STANDARD OF CONDUCT SET FORTH IN SUBSECTION A OR
38 B. SUCH DETERMINATION SHALL BE MADE BY ANY ONE OF THE FOLLOWING:

39 1. BY THE BOARD OF DIRECTORS BY A MAJORITY VOTE OF A QUORUM
40 CONSISTING OF DIRECTORS WHO WERE NOT PARTIES TO SUCH ACTION, SUIT OR
41 PROCEEDING.

42 2. IF SUCH A QUORUM IS NOT OBTAINABLE, THEN IN A WRITTEN OPINION
43 OF INDEPENDENT LEGAL COUNSEL APPOINTED BY A MAJORITY OF THE DISINTER-
44 ESTED DIRECTORS FOR THAT PURPOSE.

45 3. IF THERE ARE NO DISINTERESTED DIRECTORS, BY THE COURT OR OTHER
46 BODY BEFORE WHICH THE ACTION, SUIT OR PROCEEDING WAS BROUGHT OR ANY
47 COURT OF COMPETENT JURISDICTION UPON THE APPROVAL OF AN APPLICATION
48 BY ANY PERSON SEEKING INDEMNIFICATION, IN WHICH CASE INDEMNIFICATION
49 MAY INCLUDE THE EXPENSES, INCLUDING ATTORNEYS' FEES, ACTUALLY AND REA-
50 SONABLY PAID IN CONNECTION WITH SUCH APPLICATION.

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1 4. BY THE SHAREHOLDERS.

2 E. EXPENSES, INCLUDING ATTORNEYS' FEES, INCURRED IN DEFENDING
3 A CIVIL OR CRIMINAL ACTION, SUIT OR PROCEEDING MAY BE PAID BY THE CORPO-
4 RATION IN ADVANCE OF THE FINAL DISPOSITION OF SUCH ACTION, SUIT OR PRO-
5 CEEDING AS AUTHORIZED IN THE MANNER PROVIDED IN SUBSECTION D UPON
6 RECEIPT OF AN UNDERTAKING BY OR ON BEHALF OF THE DIRECTOR, OFFICER,
7 EMPLOYEE OR AGENT TO REPAY SUCH AMOUNT UNLESS IT SHALL ULTIMATELY BE
8 DETERMINED THAT HE IS ENTITLED TO BE INDEMNIFIED BY THE CORPORATION AS
9 AUTHORIZED IN THIS SECTION.

10 F. THE INDEMNIFICATION PROVIDED BY THIS SECTION SHALL NOT BE
11 DEEMED EXCLUSIVE OF ANY OTHER RIGHTS TO WHICH THOSE INDEMNIFIED MAY
12 BE ENTITLED UNDER ANY BYLAW, AGREEMENT, VOTE OF SHAREHOLDERS OR DIS-
13 INTERESTED DIRECTORS OR OTHERWISE, BOTH AS TO ACTION IN HIS OFFICIAL
14 CAPACITY AND AS TO ACTION IN ANOTHER CAPACITY WHILE HOLDING SUCH OF-
15 FICE, AND SHALL CONTINUE AS TO A PERSON WHO HAS CEASED TO BE A DIRECTOR,
16 OFFICER, EMPLOYEE OR AGENT AND SHALL INURE TO THE BENEFIT OF THE
17 HEIRS, EXECUTORS AND ADMINISTRATORS OF SUCH A PERSON.

18 G. A CORPORATION SHALL HAVE POWER TO PURCHASE AND MAINTAIN
19 INSURANCE ON BEHALF OF ANY PERSON WHO IS OR WAS A DIRECTOR, OFFICER,
20 EMPLOYEE OR AGENT OF THE CORPORATION, OR IS OR WAS SERVING AT THE
21 REQUEST OF THE CORPORATION AS A DIRECTOR, OFFICER, EMPLOYEE OR AGENT
22 OF ANOTHER CORPORATION, PARTNERSHIP, JOINT VENTURE, TRUST OR OTHER
23 ENTERPRISE AGAINST ANY LIABILITY ASSERTED AGAINST HIM AND INCURRED
24 BY HIM IN ANY SUCH CAPACITY OR ARISING OUT OF HIS STATUS AS SUCH,
25 WHETHER OR NOT THE CORPORATION WOULD HAVE THE POWER TO INDEMNIFY
26 HIM AGAINST SUCH LIABILITY UNDER THE PROVISIONS OF THIS SECTION.

27 H. THE PROVISIONS OF THIS SECTION SHALL APPLY TO INDEMNIFICATION
28 OF ALL ACTS OR ALLEGED ACTS AND FAILURES TO ACT OR ALLEGED FAILURES
29 TO ACT WITH RESPECT TO ANY CORPORATION, WHETHER NOW EXISTING OR HERE-
30 AFTER FORMED, WITHOUT THE NECESSITY OF SUCH CORPORATION HAVING A PRO-
31 VISION IN ITS ARTICLES OF INCORPORATION OR BYLAWS FOR SUCH PURPOSES
32 OR AMENDING ITS ARTICLES OF INCORPORATION OR BYLAWS, TO CONFORM TO
33 THIS SECTION.

34 10-006. Right of corporation to acquire and dispose of its
35 own shares

36 A. A CORPORATION SHALL HAVE THE RIGHT TO PURCHASE, TAKE, RECEIVE
37 OR OTHERWISE ACQUIRE, HOLD, OWN, PLEDGE, TRANSFER OR OTHERWISE DISPOSE
38 OF ITS OWN SHARES, BUT PURCHASES OF ITS OWN SHARES, WHETHER DIRECT OR
39 INDIRECT, SHALL BE MADE ONLY TO THE EXTENT OF UNRESERVED AND UNRESTRICTED
40 EARNED SURPLUS AVAILABLE THEREFOR, AND, IF THE ARTICLES OF INCORPORATION
41 SO PERMIT OR WITH THE AFFIRMATIVE VOTE OF THE HOLDERS OF A MAJORITY OF
42 ALL SHARES ENTITLED TO VOTE THEREON, TO THE EXTENT OF UNRESERVED AND
43 UNRESTRICTED CAPITAL SURPLUS AVAILABLE THEREFOR.

44 B. TO THE EXTENT THAT EARNED SURPLUS OR CAPITAL SURPLUS IS USED
45 AS THE MEASURE OF THE CORPORATION'S RIGHT TO PURCHASE ITS OWN SHARES,
46 SUCH SURPLUS SHALL BE RESTRICTED SO LONG AS SUCH SHARES ARE HELD AS
47 TREASURY SHARES, AND UPON THE DISPOSITION OR CANCELLATION OF ANY SUCH
48 SHARES THE RESTRICTION SHALL BE REMOVED PRO TANTO.

49 C. NOTWITHSTANDING THE FOREGOING LIMITATION, A CORPORATION MAY
50 PURCHASE OR OTHERWISE ACQUIRE ITS OWN SHARES FOR THE PURPOSE OF:

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- 1 1. ELIMINATING FRACTIONAL SHARES.
2 2. COLLECTING OR COMPROMISING INDEBTEDNESS TO THE CORPORATION.
3 3. PAYING DISSENTING SHAREHOLDERS ENTITLED TO PAYMENT FOR THEIR
4 SHARES UNDER THE PROVISIONS OF THIS CHAPTER.
5 4. EFFECTING, SUBJECT TO THE OTHER PROVISIONS OF THIS CHAPTER,
6 THE RETIREMENT OF ITS REDEEMABLE SHARES BY REDEMPTION OR BY PURCHASE
7 AT NOT TO EXCEED THE REDEMPTION PRICE.

8 D. NO PURCHASE OF OR PAYMENT FOR ITS OWN SHARES SHALL BE MADE
9 AT A TIME WHEN THE CORPORATION IS INSOLVENT OR WHEN SUCH PURCHASE OR
10 PAYMENT WOULD MAKE IT INSOLVENT.

11 10-007. Defense of ultra vires

12 NO ACT OF A CORPORATION AND NO CONVEYANCE OR TRANSFER OF REAL OR
13 PERSONAL PROPERTY TO OR BY A CORPORATION SHALL BE INVALID BY REASON OF
14 THE FACT THAT THE CORPORATION WAS WITHOUT CAPACITY OR POWER TO DO SUCH
15 ACT OR TO MAKE OR RECEIVE SUCH CONVEYANCE OR TRANSFER, BUT SUCH LACK OF
16 CAPACITY OR POWER MAY BE ASSERTED:

17 1. IN A PROCEEDING BY A SHAREHOLDER AGAINST THE CORPORATION TO
18 ENJOIN THE DOING OF ANY ACT OR THE TRANSFER OF REAL OR PERSONAL PROP-
19 erty BY OR TO THE CORPORATION. IF THE UNAUTHORIZED ACT OR TRANSFER
20 SOUGHT TO BE ENJOINED IS BEING, OR IS TO BE, PERFORMED OR MADE PUR-
21 SUANT TO A CONTRACT TO WHICH THE CORPORATION IS A PARTY, THE COURT
22 MAY, IF ALL OF THE PARTIES TO THE CONTRACT ARE PARTIES TO THE PRO-
23 CEEDING AND IF IT DEEMS THE SAME TO BE EQUITABLE, SET ASIDE AND ENJOIN
24 THE PERFORMANCE OF SUCH CONTRACT, AND IN SO DOING MAY ALLOW TO THE
25 CORPORATION OR TO THE OTHER PARTIES TO THE CONTRACT, AS THE CASE MAY
26 BE, COMPENSATION FOR THE LOSS OR DAMAGE SUSTAINED BY EITHER OF THEM
27 WHICH MAY RESULT FROM THE ACTION OF THE COURT IN SETTING ASIDE AND
28 ENJOINING THE PERFORMANCE OF SUCH CONTRACT, BUT ANTICIPATED PROFITS
29 TO BE DERIVED FROM THE PERFORMANCE OF THE CONTRACT SHALL NOT BE
30 AWARDED BY THE COURT AS A LOSS OR DAMAGE SUSTAINED.

31 2. IN A PROCEEDING BY THE CORPORATION, WHETHER ACTING DIRECTLY
32 OR THROUGH A RECEIVER, TRUSTEE OR OTHER LEGAL REPRESENTATIVE, OR THROUGH
33 SHAREHOLDERS IN A REPRESENTATIVE SUIT, AGAINST THE INCUMBENT OR FORMER
34 OFFICERS OR DIRECTORS OF THE CORPORATION.

35 3. IN A PROCEEDING BY THE ATTORNEY GENERAL, AS PROVIDED IN
36 THIS CHAPTER, TO DISSOLVE THE CORPORATION, OR IN A PROCEEDING BY THE
37 ATTORNEY GENERAL TO ENJOIN THE CORPORATION FROM THE TRANSACTION OF
38 UNAUTHORIZED BUSINESS.

39 10-008. Corporate name

40 A. THE CORPORATE NAME:

41 1. SHALL CONTAIN THE WORD "ASSOCIATION", "BANK", "CORPORATION",
42 "COMPANY", "INCORPORATED" OR "LIMITED" OR SHALL CONTAIN AN ABBREVIATION
43 OF ONE OF SUCH WORDS.

44 2. SHALL NOT CONTAIN ANY WORD OR PHRASE LIKELY TO MISLEAD THE
45 PUBLIC OR WHICH INDICATES OR IMPLIES THAT IT IS ORGANIZED FOR ANY PUR-
46 POSE OTHER THAN ANY SPECIFIC PURPOSE CONTAINED IN ITS ARTICLES OF
47 INCORPORATION.

48 3. SHALL NOT BE THE SAME AS, OR DECEPTIVELY SIMILAR TO, THE
49 NAME OF ANY DOMESTIC CORPORATION EXISTING UNDER THE LAWS OF THIS
50 STATE OR ANY FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN

1 THIS STATE, OR A NAME THE EXCLUSIVE RIGHT TO WHICH IS, AT THE TIME,
2 RESERVED IN THE MANNER PROVIDED IN THIS CHAPTER, OR ANY TRADE NAME
3 REGISTERED WITH THE SECRETARY OF STATE, EXCEPT THAT THIS PROVISION
4 SHALL NOT APPLY IF THE APPLICANT FILES WITH THE COMMISSION EITHER OF
5 THE FOLLOWING:

6 (a) THE WRITTEN CONSENT OF SUCH OTHER CORPORATION OR HOLDER OF
7 A RESERVED OR TRADE NAME TO USE THE SAME OR DECEPTIVELY SIMILAR NAME
8 AND ONE OR MORE WORDS ARE ADDED TO MAKE SUCH NAME DISTINGUISHABLE FROM
9 SUCH OTHER NAME.

10 (b) A CERTIFIED COPY OF A FINAL DECREE OF A COURT OF COMPETENT
11 JURISDICTION ESTABLISHING THE PRIOR RIGHT OF THE APPLICANT TO THE USE
12 OF SUCH NAME IN THIS STATE.

13 4. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH 1 OF THIS
14 SUBSECTION, SHALL NOT INCLUDE THE WORDS "BANK", "DEPOSIT", "TRUST" OR
15 "TRUST COMPANY" SEPARATELY OR IN COMBINATION TO INDICATE OR CONVEY
16 THE IDEA THAT THE CORPORATION IS ENGAGED IN BANKING OR TRUST BUSINESS
17 UNLESS SUCH CORPORATION IS TO BE AND BECOMES ACTIVELY AND SUBSTANTIALLY
18 ENGAGED IN THE BANKING OR TRUST BUSINESS OR SUCH CORPORATION IS A HOLDING
19 COMPANY HOLDING SUBSTANTIAL INTEREST IN COMPANIES ACTIVELY AND SUBSTAN-
20 Tially ENGAGED IN THE BANKING OR TRUST BUSINESS.

21 B. A CORPORATION WITH WHICH ANOTHER CORPORATION, DOMESTIC OR
22 FOREIGN, IS MERGED, OR WHICH IS FORMED BY THE REORGANIZATION OR CON-
23 SOLIDATION OF ONE OR MORE DOMESTIC OR FOREIGN CORPORATIONS OR UPON
24 A SALE, LEASE OR OTHER DISPOSITION TO OR EXCHANGE WITH, A DOMESTIC
25 CORPORATION OF ALL OR SUBSTANTIALLY ALL THE ASSETS OF ANOTHER
26 CORPORATION, DOMESTIC OR FOREIGN, INCLUDING ITS NAME, MAY HAVE THE
27 SAME NAME AS THAT USED IN THIS STATE BY ANY OF SUCH CORPORATIONS IF
28 SUCH OTHER CORPORATION WAS ORGANIZED UNDER THE LAWS OF, OR IS AUTHO-
29 RIZED TO TRANSACT BUSINESS IN, THIS STATE.

30 10-009. Reserved name

31 A. THE EXCLUSIVE RIGHT TO THE USE OF A CORPORATE NAME MAY BE
32 RESERVED BY:

33 1. ANY PERSON INTENDING TO ORGANIZE A CORPORATION UNDER THIS
34 CHAPTER.

35 2. ANY DOMESTIC CORPORATION INTENDING TO CHANGE ITS NAME.

36 3. ANY FOREIGN CORPORATION INTENDING TO MAKE APPLICATION FOR
37 A CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS IN THIS STATE.

38 4. ANY FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS
39 IN THIS STATE AND INTENDING TO CHANGE ITS NAME.

40 5. ANY PERSON INTENDING TO ORGANIZE A FOREIGN CORPORATION AND
41 INTENDING TO HAVE SUCH CORPORATION MAKE APPLICATION FOR A CERTIFICATE
42 OF AUTHORITY TO TRANSACT BUSINESS IN THIS STATE.

43 B. THE RESERVATION SHALL BE MADE BY FILING WITH THE COMMISSION
44 AN APPLICATION TO RESERVE A SPECIFIED CORPORATE NAME, EXECUTED BY THE
45 APPLICANT. IF THE COMMISSION FINDS THAT THE NAME IS AVAILABLE FOR
46 CORPORATE USE, IT SHALL RESERVE THE SAME FOR THE EXCLUSIVE USE OF THE
47 APPLICANT FOR A PERIOD OF ONE HUNDRED TWENTY DAYS.

48 C. THE RIGHT TO THE EXCLUSIVE USE OF A SPECIFIED CORPORATE NAME
49 SO RESERVED MAY BE TRANSFERRED TO ANY OTHER PERSON OR CORPORATION BY
50 FILING IN THE OFFICE OF THE COMMISSION A NOTICE OF SUCH TRANSFER, EX-
51 ECUTED BY THE APPLICANT FOR WHOM THE NAME WAS RESERVED, AND SPECIFYING
52 THE NAME AND ADDRESS OF THE TRANSFEREE.

1 10-012. Known place of business and statutory agent
2 EACH CORPORATION DOING BUSINESS IN THIS STATE SHALL HAVE AND
3 CONTINUOUSLY MAINTAIN IN THIS STATE:
4 1. A KNOWN PLACE OF BUSINESS WHICH SHALL BE THE OFFICE OF ITS
5 STATUTORY AGENT, UNLESS OTHERWISE DESIGNATED IN ITS ARTICLES OF INCORPO-
6 RATION OR IN A STATEMENT FILED PURSUANT TO SECTION 10-013.
7 2. A STATUTORY AGENT, WHICH AGENT MAY BE EITHER AN INDIVIDUAL
8 WHO HAS BEEN A RESIDENT OF THIS STATE FOR THREE YEARS, A DOMESTIC
9 CORPORATION OR A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS
10 IN THIS STATE.
11 10-013. Change of known place of business or statutory agent
12 A. A CORPORATION MAY CHANGE ITS KNOWN PLACE OF BUSINESS OR ITS
13 STATUTORY AGENT, OR BOTH, UPON FILING IN THE OFFICE OF THE COMMISSION
14 A STATEMENT SETTING FORTH:
15 1. THE NAME OF THE CORPORATION.
16 2. THE ADDRESS OF ITS THEN KNOWN PLACE OF BUSINESS.
17 3. IF THE ADDRESS OF ITS KNOWN PLACE OF BUSINESS IS TO BE
18 CHANGED, THE ADDRESS TO WHICH IT IS TO BE CHANGED.
19 4. THE NAME AND ADDRESS OF ITS THEN STATUTORY AGENT.
20 5. IF ITS STATUTORY AGENT OR HIS ADDRESS IS TO BE CHANGED, THE
21 NAME AND ADDRESS OF ITS SUCCESSOR, STATUTORY AGENT OR THE NEW ADDRESS.
22 6. THAT SUCH CHANGE WAS DULY AUTHORIZED BY THE CORPORATION.
23 B. SUCH STATEMENT SHALL BE EXECUTED BY THE CORPORATION BY ITS
24 PRESIDENT OR A VICE-PRESIDENT AND DELIVERED TO THE COMMISSION. UPON
25 SUCH DELIVERY, THE CHANGE OF ADDRESS OF THE KNOWN PLACE OF BUSINESS OR
26 STATUTORY AGENT, OR THE APPOINTMENT OF A NEW STATUTORY AGENT, OR BOTH,
27 AS THE CASE MAY BE, SHALL BECOME EFFECTIVE.
28 C. ANY STATUTORY AGENT OF A CORPORATION MAY RESIGN AS SUCH AGENT
29 UPON FILING A WRITTEN NOTICE THEREOF, EXECUTED IN DUPLICATE, WITH THE
30 COMMISSION, WHICH SHALL FORTHWITH MAIL A COPY THEREOF TO THE CORPORATION
31 AT ITS KNOWN PLACE OF BUSINESS. THE APPOINTMENT OF SUCH AGENT SHALL
32 TERMINATE UPON THE EXPIRATION OF THIRTY DAYS AFTER RECEIPT OF SUCH
33 NOTICE BY THE COMMISSION.
34 D. IF A STATUTORY AGENT CHANGES HIS OR ITS BUSINESS ADDRESS TO
35 ANOTHER PLACE WITHIN THE STATE, HE OR IT MAY CHANGE SUCH ADDRESS AND
36 THE ADDRESS OF THE KNOWN PLACE OF BUSINESS OF ANY CORPORATION OR CORPO-
37 RATIONS OF WHICH HE OR IT IS STATUTORY AGENT BY FILING A STATEMENT AS
38 REQUIRED ABOVE EXCEPT THAT IT NEED BE SIGNED ONLY BY THE STATUTORY
39 AGENT AND NEED NOT BE RESPONSIVE TO PARAGRAPH 5 OR 6 OF SUBSECTION A
40 AND MUST RECITE THAT A COPY OF THE STATEMENT HAS BEEN MAILED TO THE
41 CORPORATION OR CORPORATIONS.
42 10-014. Service of process on corporation
43 A. THE STATUTORY AGENT SO APPOINTED BY A CORPORATION SHALL BE
44 AN AGENT OF SUCH CORPORATION UPON WHOM ANY PROCESS, NOTICE OR DEMAND
45 REQUIRED OR PERMITTED BY LAW TO BE SERVED UPON THE CORPORATION MAY BE
46 SERVED, AND WHICH, WHEN SO SERVED, SHALL BE LAWFUL PERSONAL SERVICE
47 ON THE CORPORATION.
48 B. PROCESS, NOTICE OR DEMAND MAY BE SERVED UPON AN OFFICER,
49 DIRECTOR OR MANAGING AGENT OF THE CORPORATION IN LIEU OF THE STATUTORY
50 AGENT. WHENEVER A CORPORATION SHALL FAIL TO APPOINT OR MAINTAIN A

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1 STATUTORY AGENT AT THE ADDRESS SHOWN ON THE RECORDS OF THE COMMISSION,
2 THE COMMISSION SHALL BE AN AGENT OF SUCH CORPORATION UPON WHOM ANY
3 SUCH PROCESS, NOTICE OR DEMAND MAY BE SERVED. SERVICE ON THE COMMISS-
4 SION OF ANY SUCH PROCESS, NOTICE OR DEMAND SHALL BE MADE BY DELIVERING
5 TO AND LEAVING WITH THE COMMISSION DUPLICATE COPIES OF SUCH PROCESS,
6 NOTICE OR DEMAND. WHEN SO SERVED THE COMMISSION SHALL IMMEDIATELY
7 CAUSE ONE OF THE COPIES THEREOF TO BE FORWARDED BY MAIL, ADDRESSED TO
8 THE CORPORATION AT ITS LAST KNOWN PLACE OF BUSINESS. ANY SERVICE MADE
9 ON THE COMMISSION SHALL BE RETURNABLE IN ACCORDANCE WITH APPLICABLE
10 LAW RELATIVE TO PERSONAL SERVICE ON THE CORPORATION. WHEN SERVICE IS
11 MADE ON THE COMMISSION, WHETHER UNDER THIS CHAPTER OR ANY RULE OF
12 COURT, THE CORPORATION SHALL HAVE THIRTY DAYS TO RESPOND IN ADDITION
13 TO THE TIME OTHERWISE PROVIDED BY LAW.

14 C. THE COMMISSION SHALL KEEP A PERMANENT RECORD OF ALL PROCESSES,
15 NOTICES AND DEMANDS SERVED UPON IT UNDER THIS SECTION, AND SHALL RECORD
16 THEREIN THE TIME OF SUCH SERVICE AND ITS ACTION WITH REFERENCE THERETO.

17 10-015. Authorized shares

18 A. EACH CORPORATION SHALL HAVE POWER TO CREATE AND ISSUE THE
19 NUMBER OF SHARES STATED IN ITS ARTICLES OF INCORPORATION. SUCH SHARES
20 MAY BE DIVIDED INTO ONE OR MORE CLASSES, ANY OR ALL OF WHICH CLASSES
21 MAY CONSIST OF SHARES WITH PAR VALUE OR SHARES WITHOUT PAR VALUE, WITH
22 SUCH DESIGNATIONS, PREFERENCES, LIMITATIONS AND RELATIVE RIGHTS AS SHALL
23 BE STATED IN THE ARTICLES OF INCORPORATION. THE ARTICLES OF INCORPO-
24 RATION MAY LIMIT OR DENY THE VOTING RIGHTS OF OR PROVIDE SPECIAL VOTING
25 RIGHTS FOR THE SHARES OF ANY CLASS TO THE EXTENT NOT INCONSISTENT WITH
26 THE PROVISIONS OF ARTICLE 14, SECTION 10 OF THE CONSTITUTION OF THE
27 STATE OF ARIZONA.

28 B. EXCEPT AS PROVIDED IN SUBSECTION C OR D, WITHOUT LIMITING
29 THE AUTHORITY HEREIN CONTAINED, A CORPORATION, WHEN SO PROVIDED IN
30 ITS ARTICLES OF INCORPORATION, MAY ISSUE SHARES OF PREFERRED OR SPECIAL
31 CLASSES, OR OF ANY SERIES THEREOF:

32 1. SUBJECT TO THE RIGHT OF THE CORPORATION TO REDEEM ANY OF
33 SUCH SHARES AT THE PRICE OR PRICES FIXED BY THE ARTICLES OF INCORPO-
34 RATION FOR THE REDEMPTION THEREOF.

35 2. ENTITLING THE HOLDERS THEREOF TO CUMULATIVE, NONCUMULATIVE
36 OR PARTIALLY CUMULATIVE DIVIDENDS.

37 3. HAVING PREFERENCE OVER ANY OTHER CLASS OR CLASSES OF SHARES
38 AS TO THE PAYMENT OF DIVIDENDS.

39 4. HAVING PREFERENCE IN THE ASSETS OF THE CORPORATION OVER ANY
40 OTHER CLASS OR CLASSES OF SHARES UPON THE VOLUNTARY OR INVOLUNTARY
41 LIQUIDATION OF THE CORPORATION.

42 5. CONVERTIBLE INTO, OR EXCHANGEABLE FOR, SHARES OF ANY OTHER
43 CLASS OR SHARES OF ANY SERIES OF THE SAME OR ANY OTHER CLASS, PROVIDED
44 THAT ANY SUCH CONVERSION OR EXCHANGE SHALL BE EITHER AT THE OPTION OF
45 THE HOLDER OR UPON THE HAPPENING OF A SPECIFIED EVENT BUT SHALL NOT BE
46 AT THE OPTION OF THE CORPORATION AND PROVIDED FURTHER, THAT SHARES
47 WITHOUT PAR VALUE SHALL NOT BE CONVERTED INTO, OR EXCHANGED FOR, SHARES
48 WITH PAR VALUE UNLESS THAT PART OF THE STATED CAPITAL OF THE CORPORATION
49 REPRESENTED BY SUCH SHARES WITHOUT PAR VALUE IS, AT THE TIME OF CONVER-
50 SION OR EXCHANGE, AT LEAST EQUAL TO THE AGGREGATE PAR VALUE OF THE SHARES

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1 INTO WHICH THE SHARES WITHOUT PAR VALUE ARE TO BE CONVERTED OR EXCHANGED,
2 OR THE AMOUNT OF ANY SUCH DEFICIENCY IS TRANSFERRED FROM SURPLUS TO STATED
3 CAPITAL.

4 C. A CORPORATION SHALL NOT ISSUE COMMON SHARES OF ANY CLASS OR OF
5 SERIES THEREOF WHICH ARE SUBJECT TO THE RIGHTS OF THE CORPORATION TO
6 REDEEM UNLESS THE CORPORATION AT THE TIME HAS OUTSTANDING A CLASS
7 OR SERIES OF COMMON SHARES THAT IS NOT SUBJECT TO REDEMPTION.

8 D. A CORPORATION SHALL NOT ISSUE REDEEMABLE OR OTHER SHARES
9 WHICH PURPORT BY THEIR TERMS TO GRANT TO ANY HOLDER THEREOF THE RIGHT
10 TO COMPEL THE CORPORATION TO REDEEM SUCH SHARES EXCEPT THAT AN OPEN-
11 END INVESTMENT COMPANY, AS DEFINED IN AN ACT OF CONGRESS ENTITLED
12 "INVESTMENT COMPANY ACT OF 1940", MAY, IF ITS ARTICLES SO PROVIDE
13 AND UPON COMPLIANCE WITH THAT ACT, ISSUE SHARES WHICH ARE REDEEMABLE
14 AT THE OPTION OF THE HOLDER.

15 10-016. Issuance of shares of preferred or special
16 classes in series

17 A. IF THE ARTICLES OF INCORPORATION SO PROVIDE, THE SHARES OF
18 ANY CLASS MAY BE DIVIDED INTO AND ISSUED IN SERIES. IF THE SHARES OF
19 ANY SUCH CLASS ARE TO BE ISSUED IN SERIES, THEN EACH SERIES SHALL BE
20 SO DESIGNATED AS TO DISTINGUISH THE SHARES THEREOF FROM THE SHARES OF
21 ALL OTHER SERIES WITHIN THAT CLASS AND FROM ALL OTHER CLASSES. ALL
22 SHARES OF THE SAME CLASS SHALL BE IDENTICAL EXCEPT AS TO THE RELATIVE
23 RIGHTS AND PREFERENCES, AS SET FORTH IN SUBSECTION B. NOTWITHSTANDING
24 ANY OTHER PROVISION OF THIS CHAPTER, A SERIES MAY NOT BE FURTHER SUB-
25 DIVIDED INTO SUB-SERIES.

26 B. THE ARTICLES OF INCORPORATION MAY FIX, FROM TIME TO TIME
27 BEFORE ISSUANCE, THE DESIGNATIONS, PREFERENCES, PRIVILEGES AND VOTING
28 POWERS OF THE SHARES OF EACH SERIES OF SUCH CLASS AND THE RESTRICTIONS
29 OR QUALIFICATIONS THEREOF, INCLUDING, WITHOUT LIMITING THE AUTHORITY
30 HEREIN CONTAINED, THE FOLLOWING:

31 1. THE SERIES DESIGNATION AND AUTHORIZED NUMBER OF SHARES.

32 2. THE RATE OF DIVIDEND, IF ANY, THE DATE OR DATES ON WHICH
33 SUCH DIVIDENDS MAY BE PAYABLE AND THE EXTENT TO WHICH SUCH DIVIDENDS
34 MAY BE CUMULATIVE.

35 3. WHETHER SHARES MAY BE REDEEMED AND, IF SO, THE REDEMPTION
36 PRICE AND THE TERMS AND CONDITIONS OF REDEMPTION.

37 4. THE AMOUNT OR AMOUNTS TO BE RECEIVED BY THE HOLDERS IN THE
38 EVENT OF VOLUNTARY AND INVOLUNTARY LIQUIDATION OF THE CORPORATION.

39 5. SINKING FUND PROVISIONS, IF ANY, FOR THE REDEMPTION OR
40 PURCHASE OF SHARES.

41 6. THE TERMS AND CONDITIONS, IF ANY, ON WHICH SHARES MAY BE
42 CONVERTED.

43 7. VOTING RIGHTS, IF ANY.

44 C. IF THE STATED DIVIDENDS AND AMOUNTS PAYABLE ON LIQUIDATION
45 ARE NOT PAID IN FULL, THE SHARES OF ALL SERIES OF THE SAME CLASS SHALL
46 SHARE RATABLY IN THE PAYMENT OF DIVIDENDS INCLUDING ACCUMULATIONS, IF
47 ANY, IN ACCORDANCE WITH THE SUMS WHICH WOULD BE PAYABLE ON SAID SHARES
48 IF ALL DIVIDENDS WERE DECLARED AND PAID IN FULL, AND IN ANY DISTRIBU-
49 TION OF ASSETS OTHER THAN BY WAY OF DIVIDENDS IN ACCORDANCE WITH THE
50 SUMS WHICH WOULD BE PAYABLE ON SUCH DISTRIBUTION IF ALL SUMS PAYABLE
51 WERE DISCHARGED IN FULL.

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1 D. IF THE ARTICLES OF INCORPORATION SHALL EXPRESSLY VEST AU-
2 THORITY IN THE BOARD OF DIRECTORS, THEN, THE BOARD OF DIRECTORS SHALL
3 HAVE AUTHORITY TO DIVIDE ANY OR ALL CLASSES INTO SERIES AND FIX AND
4 DETERMINE THE DESIGNATIONS, PREFERENCES, PRIVILEGES AND VOTING POWERS
5 OF THE SHARES OF EACH SERIES SO ESTABLISHED AND THE RESTRICTIONS AND
6 QUALIFICATIONS THEREOF AS IN THIS SECTION PROVIDED, TO THE EXTENT THAT
7 THE ARTICLES OF INCORPORATION SHALL NOT HAVE ESTABLISHED SERIES AND
8 FIXED AND DETERMINED THE VARIATIONS IN SUCH SHARES.

9 E. IN ORDER FOR THE BOARD OF DIRECTORS TO ESTABLISH A SERIES,
10 WHERE AUTHORITY SO TO DO IS CONTAINED IN THE ARTICLES OF INCORPORATION,
11 THE BOARD OF DIRECTORS SHALL ADOPT A RESOLUTION SETTING FORTH THE DES-
12 IGNATION OF THE SERIES AND FIXING AND DETERMINING THE RELATIVE PEF-
13 ERENCES, PRIVILEGES AND VOTING POWERS OF THE SHARES OF SUCH SERIES AND
14 THE RESTRICTIONS OR QUALIFICATIONS THEREOF, OR SO MUCH THEREOF AS SHALL
15 NOT BE FIXED AND DETERMINED BY THE ARTICLES OF INCORPORATION.

16 F. PRIOR TO THE ISSUE OF ANY SHARES OF A SERIES ESTABLISHED BY
17 RESOLUTION ADOPTED BY THE BOARD OF DIRECTORS, THE CORPORATION SHALL FILE
18 IN THE OFFICE OF THE COMMISSION A CERTIFICATE ENTITLED "CERTIFICATE OF
19 (NAME OF CORPORATION) PURSUANT TO SECTION 10-016" SETTING FORTH:

20 1. THE NAME OF THE CORPORATION.

21 2. A COPY OF THE RESOLUTION ESTABLISHING AND DESIGNATING THE
22 SERIES, AND FIXING AND DETERMINING THE RELATIVE PREFERENCES, PRIV-
23 ILLEGES AND VOTING POWERS OF THE SHARES OF SUCH SERIES AND THE RESTRIC-
24 TIONS OR QUALIFICATIONS THEREOF.

25 3. THE DATE OF ADOPTION OF SUCH RESOLUTION.

26 4. THAT SUCH RESOLUTION WAS DULY ADOPTED BY THE BOARD OF
27 DIRECTORS.

28 G. THE ORIGINAL AND ONE OR MORE COPIES OF SUCH CERTIFICATE
29 SHALL BE EXECUTED BY THE CORPORATION BY ITS PRESIDENT OR VICE-PRESIDENT
30 AND BY ITS SECRETARY OR AN ASSISTANT SECRETARY, AND THEIR SIGNATURES
31 SHALL BE ACKNOWLEDGED, AND SHALL BE DELIVERED TO THE COMMISSION. THE
32 COMMISSION SHALL, AFTER DETERMINING THAT SUCH CERTIFICATE APPEARS IN
33 ALL RESPECTS TO CONFORM TO THE REQUIREMENTS OF THIS CHAPTER AND TO LAW,
34 FILE SUCH CERTIFICATE IN ACCORDANCE WITH THE PROVISIONS OF SECTION
35 10-055.

36 H. UPON THE FILING OF SUCH STATEMENT WITH THE COMMISSION, THE
37 RESOLUTION ESTABLISHING AND DESIGNATING THE SERIES AND FIXING AND
38 DETERMINING THE RELATIVE RIGHTS AND PREFERENCES THEREOF SHALL BECOME
39 EFFECTIVE AND SHALL CONSTITUTE AN AMENDMENT OF THE ARTICLES OF INCOR-
40 PORATION.

41 10-017. Subscriptions for shares

42 A. A SUBSCRIPTION FOR SHARES OF A CORPORATION TO BE ORGANIZED
43 SHALL BE IRREVOCABLE FOR A PERIOD OF ONE YEAR FROM THE DATE OF THE
44 SUBSCRIPTION, UNLESS OTHERWISE PROVIDED BY THE TERMS OF THE SUBSCRIP-
45 TION OR UNLESS ALL OF THE SUBSCRIBERS CONSENT TO THE REVOCATION OF SUCH
46 SUBSCRIPTION.

47 B. A SUBSCRIPTION FOR SHARES, WHETHER MADE BEFORE OR AFTER
48 FORMATION OF A CORPORATION, SHALL NOT BE ENFORCEABLE UNLESS IN WRITING
49 AND SIGNED BY THE PARTY TO BE CHARGED OR HIS AGENT.

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1 C. UNLESS OTHERWISE PROVIDED IN THE SUBSCRIPTION, SUBSCRIPTIONS
2 FOR SHARES, WHETHER MADE BEFORE OR AFTER THE ORGANIZATION OF A CORPORA-
3 TION, SHALL BE PAID IN FULL AT SUCH TIME, OR IN SUCH INSTALLMENTS AND AT
4 SUCH TIMES, AS SHALL BE DETERMINED BY THE BOARD OF DIRECTORS. ANY CALL
5 MADE BY THE BOARD OF DIRECTORS FOR PAYMENT ON SUBSCRIPTIONS SHALL BE
6 UNIFORM AS TO ALL SHARES OF THE SAME CLASS OR AS TO ALL SHARES OF
7 THE SAME SERIES, AS THE CASE MAY BE. IN CASE OF DEFAULT IN THE PAYMENT
8 OF ANY INSTALLMENT OR CALL WHEN SUCH PAYMENT IS DUE, THE CORPORATION
9 MAY PROCEED TO COLLECT THE AMOUNT DUE IN THE SAME MANNER AS ANY DEBT
10 DUE THE CORPORATION. THE SUBSCRIPTION MAY PRESCRIBE OTHER PENALTIES FOR
11 FAILURE TO PAY INSTALLMENTS OR CALLS THAT MAY BECOME DUE, BUT NO PENALTY
12 WORKING A FORFEITURE OF A SUBSCRIPTION, OR OF THE AMOUNTS PAID THEREON,
13 SHALL BE DECLARED AS AGAINST ANY SUBSCRIBER UNLESS THE AMOUNT DUE THEREON
14 SHALL REMAIN UNPAID FOR A PERIOD OF TWENTY DAYS AFTER WRITTEN DEMAND HAS
15 BEEN MADE THEREFOR. IF MAILED, SUCH WRITTEN DEMAND SHALL BE DEEMED TO
16 BE MADE WHEN DEPOSITED IN THE UNITED STATES MAIL IN A SEALED ENVELOPE
17 ADDRESSED TO THE SUBSCRIBER, HIS AGENT OR ASSIGNEE, AT HIS LAST POST-
18 OFFICE ADDRESS KNOWN TO THE CORPORATION. IN THE EVENT OF THE SALE BY
19 THE CORPORATION OF ANY SUBSCRIBED SHARES BY REASON OF ANY FORFEITURE,
20 THE EXCESS OF PROCEEDS REALIZED OVER THE AMOUNT DUE AND UNPAID ON
21 SUCH SHARES SHALL BE PAID TO THE DELINQUENT SUBSCRIBER, HIS AGENT OR
22 ASSIGNEE, OR TO HIS LEGAL REPRESENTATIVE, AFTER FIRST DEDUCTING THE
23 REASONABLE EXPENSES INCURRED IN SELLING THE SHARES.

24 D. UNLESS OTHERWISE PROVIDED IN THE SUBSCRIPTION, THE BOARD OF
25 DIRECTORS SHALL HAVE POWER TO RELEASE, SETTLE OR COMPROMISE, ON SUCH
26 TERMS AND CONDITIONS AS THE BOARD MAY PRESCRIBE, ANY SUBSCRIPTION OR
27 ANY CLAIM, DISPUTE OR ACTION ARISING OUT OF A SUBSCRIPTION FOR SHARES.

28 10-018. Consideration for shares

29 A. SHARES HAVING A PAR VALUE MAY BE ISSUED FOR SUCH CONSIDERA-
30 TION EXPRESSED IN DOLLARS, NOT LESS THAN THE PAR VALUE THEREOF, AS SHALL
31 BE FIXED FROM TIME TO TIME BY THE BOARD OF DIRECTORS OR THE SHAREHOLDERS
32 IF THE ARTICLES OF INCORPORATION RESERVE TO THE SHAREHOLDERS THE RIGHT
33 TO FIX SUCH CONSIDERATION.

34 B. SHARES WITHOUT PAR VALUE MAY BE ISSUED FOR SUCH CONSIDERATION
35 EXPRESSED IN DOLLARS AS MAY BE FIXED FROM TIME TO TIME BY THE BOARD OF
36 DIRECTORS UNLESS THE ARTICLES OF INCORPORATION RESERVE TO THE SHARE-
37 HOLDERS THE RIGHT TO FIX THE CONSIDERATION.

38 C. TREASURY SHARES, WITH OR WITHOUT PAR VALUE, MAY BE DISPOSED
39 OF BY THE CORPORATION FOR SUCH CONSIDERATION EXPRESSED IN DOLLARS AS
40 MAY BE FIXED FROM TIME TO TIME BY THE BOARD OF DIRECTORS UNLESS THE
41 ARTICLES OF INCORPORATION RESERVE TO THE SHAREHOLDERS THE RIGHT TO
42 FIX THE CONSIDERATION.

43 D. IF THE ARTICLES OF INCORPORATION RESERVE TO THE SHAREHOLDERS
44 THE RIGHT TO DETERMINE THE CONSIDERATION FOR THE ISSUE OF ANY SHARES,
45 THE SHAREHOLDERS SHALL, UNLESS THE ARTICLES REQUIRE A GREATER VOTE, DO
46 SO BY A MAJORITY OF THE OUTSTANDING SHARES ENTITLED TO VOTE THEREON.

47 E. THAT PART OF THE SURPLUS OF A CORPORATION WHICH IS TRANS-
48 FERRED TO STATED CAPITAL UPON THE ISSUANCE OF SHARES AS A SHARE DIVIDEND
49 SHALL BE DEEMED TO BE THE CONSIDERATION FOR THE ISSUANCE OF SUCH SHARES.

50 F. IN THE EVENT OF THE ISSUANCE OF SHARES UPON THE CONVERSION

1 OR EXCHANGE OF INDEBTEDNESS OR SHARES, THE CONSIDERATION FOR THE SHARES
2 SO ISSUED SHALL BE THE TOTAL OF:
3 1. THE PRINCIPAL SUM OF, AND ACCRUED INTEREST ON, THE INDEBTEDNESS
4 SO EXCHANGED OR CONVERTED, OR THE STATED CAPITAL THEN REPRESENTED BY
5 THE SHARES SO EXCHANGED OR CONVERTED.
6 2. THAT PART OF SURPLUS, IF ANY, TRANSFERRED TO STATED CAPITAL
7 UPON THE ISSUANCE OF SHARES FOR THE SHARES SO EXCHANGED OR CONVERTED.
8 3. ANY ADDITIONAL CONSIDERATION PAID TO THE CORPORATION UPON THE
9 ISSUANCE OF SHARES FOR THE INDEBTEDNESS OR SHARES SO EXCHANGED OR CON-
10 VERTED.
11 10-019. Payment for shares
12 A. THE CONSIDERATION FOR THE ISSUANCE OF SHARES MAY BE PAID TO
13 THE CORPORATION OR A WHOLLY OWNED SUBSIDIARY THEREOF, IN WHOLE OR IN
14 PART, IN CASH, IN OTHER PROPERTY, TANGIBLE OR INTANGIBLE, OR IN LABOR
15 OR SERVICES ACTUALLY PERFORMED FOR THE CORPORATION. SHARES SHALL BE
16 DEEMED TO BE FULLY PAID AND NONASSESSABLE WHEN PAYMENT OF THE CONSIDERA-
17 TION FOR WHICH SUCH SHARES ARE TO BE ISSUED HAS BEEN RECEIVED BY THE
18 CORPORATION OR A WHOLLY OWNED SUBSIDIARY THEREOF.
19 B. NEITHER PROMISSORY NOTES NOR FUTURE SERVICES SHALL CONSTITUTE
20 PAYMENT OR PART PAYMENT FOR THE ISSUANCE OF SHARES OF A CORPORATION.
21 C. IN THE ABSENCE OF BAD FAITH IN THE VALUATION OF THE CON-
22 sideration, THE JUDGMENT OF THE BOARD OF DIRECTORS OR THE SHAREHOLDERS,
23 AS THE CASE MAY BE, AS TO THE VALUE OF THE CONSIDERATION RECEIVED FOR
24 SHARES SHALL BE CONCLUSIVE.
25 10-020. Stock rights and options
26 SUBJECT TO ANY PROVISIONS SET FORTH IN ITS ARTICLES OF INCORPORA-
27 TION, A CORPORATION MAY CREATE AND ISSUE, WHETHER OR NOT IN CONNECTION
28 WITH THE ISSUANCE AND SALE OF ANY OF ITS SHARES OR OTHER SECURITIES,
29 RIGHTS OR OPTIONS ENTITLING THE HOLDERS THEREOF TO PURCHASE FROM THE
30 CORPORATION SHARES OF ANY CLASS OR CLASSES. SUCH RIGHTS OR OPTIONS
31 SHALL BE EVIDENCED IN WRITING IN SUCH MANNER AS THE BOARD OF DIRECTORS
32 SHALL APPROVE AND, SUBJECT TO THE PROVISIONS OF THE ARTICLES OF INCOR-
33 PORATION, SHALL SET FORTH THE TERMS UPON WHICH, THE TIME OR TIMES, WHICH
34 MAY BE LIMITED OR UNLIMITED IN DURATION, WITHIN WHICH AND THE PRICE OR
35 PRICES AT WHICH SUCH SHARES MAY BE PURCHASED FROM THE CORPORATION UPON
36 THE EXERCISE OF ANY SUCH RIGHT OR OPTION. SUCH EVIDENCE OF RIGHTS OR
37 OPTIONS MAY BE BY A WRITTEN RESOLUTION OF THE BOARD OF DIRECTORS, OR
38 BY OTHER WRITING. UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF INCOR-
39 PORATION, IF SUCH RIGHTS OR OPTIONS HAVE BEEN OR ARE TO BE ISSUED TO
40 DIRECTORS, OFFICERS OR EMPLOYEES AS SUCH OF THE CORPORATION OR OF ANY
41 AFFILIATE THEREOF, AND NOT TO THE SHAREHOLDERS GENERALLY, THEIR ISSUANCE
42 SHALL BE APPROVED OR RATIFIED BY THE AFFIRMATIVE VOTE OF THE HOLDERS OF
43 A MAJORITY OF THE SHARES ENTITLED TO VOTE THEREON OR SHALL BE AUTHORIZED
44 BY AND CONSISTENT WITH A PLAN APPROVED OR RATIFIED BY SUCH A VOTE OF
45 SHAREHOLDERS. IN THE ABSENCE OF BAD FAITH IN THE TRANSACTION, THE
46 JUDGMENT OF THE BOARD OF DIRECTORS AS TO THE ADEQUACY OF THE CONSIDERATION
47 RECEIVED FOR SUCH RIGHTS OR OPTIONS SHALL BE CONCLUSIVE. THE PRICE
48 OR PRICES TO BE RECEIVED FOR ANY SHARES UPON THE EXERCISE OF SUCH
49 RIGHTS OR OPTIONS SHALL BE GOVERNED BY SECTION 10-018.

10-021. Determination of amount of stated capital

A. IN CASE OF THE ISSUANCE BY A CORPORATION OF SHARES HAVING A PAR VALUE, THE CONSIDERATION RECEIVED THEREFOR SHALL CONSTITUTE STATED CAPITAL TO THE EXTENT OF THE PAR VALUE OF SUCH SHARES, AND THE EXCESS, IF ANY, OF SUCH CONSIDERATION SHALL CONSTITUTE CAPITAL SURPLUS.

B. IN CASE OF THE ISSUANCE BY A CORPORATION OF SHARES WITHOUT PAR VALUE, THE ENTIRE CONSIDERATION RECEIVED THEREFOR SHALL CONSTITUTE STATED CAPITAL UNLESS THE CORPORATION SHALL DETERMINE AS PROVIDED IN THIS SECTION THAT ONLY A PART THEREOF SHALL BE STATED CAPITAL. WITHIN A PERIOD OF SIXTY DAYS AFTER THE ISSUANCE OF ANY SHARES WITHOUT PAR VALUE, THE BOARD OF DIRECTORS MAY ALLOCATE TO CAPITAL SURPLUS ANY PORTION OF THE CONSIDERATION RECEIVED FOR THE ISSUANCE OF SUCH SHARES. NO SUCH ALLOCATION SHALL BE MADE OF ANY PORTION OF THE CONSIDERATION RECEIVED FOR SHARES WITHOUT PAR VALUE HAVING A PREFERENCE IN THE ASSETS OF THE CORPORATION IN THE EVENT OF INVOLUNTARY LIQUIDATION EXCEPT THE AMOUNT, IF ANY, OF SUCH CONSIDERATION IN EXCESS OF SUCH PREFERENCE.

C. IF SHARES HAVE BEEN OR ARE TO BE ISSUED BY A CORPORATION IN MERGER OR CONSOLIDATION OR IN ACQUISITION OF ALL OR SUBSTANTIALLY ALL OF THE OUTSTANDING SHARES OR OF THE PROPERTY AND ASSETS OF ANOTHER CORPORATION, WHETHER DOMESTIC OR FOREIGN, ANY AMOUNT THAT WOULD OTHERWISE CONSTITUTE CAPITAL SURPLUS UNDER THE FOREGOING PROVISIONS OF THIS SECTION MAY INSTEAD BE ALLOCATED TO EARNED SURPLUS BY THE BOARD OF DIRECTORS OF THE ISSUING CORPORATION EXCEPT THAT ITS AGGREGATE EARNED SURPLUS SHALL NOT EXCEED THE SUM OF THE EARNED SURPLUSES AS DEFINED IN THIS CHAPTER OF THE ISSUING CORPORATION AND OF ALL OTHER CORPORATIONS, DOMESTIC OR FOREIGN, THAT WERE MERGED OR CONSOLIDATED OR OF WHICH THE SHARES OR ASSETS WERE ACQUIRED.

D. THE STATED CAPITAL OF A CORPORATION MAY BE INCREASED FROM TIME TO TIME BY RESOLUTION OF THE BOARD OF DIRECTORS DIRECTING THAT ALL OR A PART OF THE SURPLUS OF THE CORPORATION BE TRANSFERRED TO STATED CAPITAL. THE BOARD OF DIRECTORS MAY DIRECT THAT THE AMOUNT OF THE SURPLUS SO TRANSFERRED SHALL BE DEEMED TO BE STATED CAPITAL IN RESPECT OF ANY DESIGNATED CLASS OF SHARES.

10-022. Expenses of organization, reorganization and financing
THE REASONABLE CHARGES AND EXPENSES OF ORGANIZATION OR REORGANIZATION OF A CORPORATION, AND THE REASONABLE EXPENSES OF AND COMPENSATION FOR THE SALE OR UNDERWRITING OF ITS SHARES, MAY BE PAID OR ALLOWED BY SUCH CORPORATION OUT OF THE CONSIDERATION RECEIVED BY IT IN PAYMENT FOR ITS SHARES WITHOUT THEREBY RENDERING SUCH SHARES NOT FULLY PAID OR ASSESSABLE.

10-023. Certificates representing shares; use of facsimile signatures on share certificates and other securities

A. EXCEPT FOR THE SHARES OF A WATER USERS' ASSOCIATION, THE SHARES OF A CORPORATION SHALL BE REPRESENTED BY CERTIFICATES SIGNED BY THE PRESIDENT OR A VICE-PRESIDENT AND THE SECRETARY OR AN ASSISTANT SECRETARY OF THE CORPORATION, AND MAY BE SEALED WITH THE SEAL OF THE CORPORATION OR A FACSIMILE THEREOF. THE SIGNATURES OF SUCH OFFICERS UPON A CERTIFICATE MAY BE FACSIMILES IF THE CERTIFICATE IS COUNTERSIGNED BY A TRANSFER AGENT OR REGISTERED BY A REGISTRAR, OTHER

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1 THAN THE CORPORATION ITSELF OR AN EMPLOYEE OF THE CORPORATION. NO
2 CERTIFICATE SHALL BE ISSUED FOR ANY SHARE UNTIL SUCH SHARE IS FULLY
3 PAID.

4 B. EVERY CERTIFICATE REPRESENTING SHARES ISSUED BY A CORPORATION
5 WHICH IS AUTHORIZED TO ISSUE SHARES OF MORE THAN ONE CLASS SHALL SET
6 FORTH OR SUMMARIZE UPON THE FACE OR BACK OF THE CERTIFICATE, OR SHALL
7 STATE THAT THE CORPORATION WILL FURNISH TO ANY SHAREHOLDER UPON REQUEST
8 AND WITHOUT CHARGE, A FULL STATEMENT OF THE DESIGNATIONS, PREFERENCES,
9 LIMITATIONS, AND RELATIVE RIGHTS OF THE SHARES OF EACH CLASS AUTHORIZED
10 TO BE ISSUED, AND IF THE CORPORATION IS AUTHORIZED TO ISSUE ANY PREFERRED
11 OR SPECIAL CLASS IN SERIES, THE VARIATIONS IN THE RELATIVE RIGHTS AND
12 PREFERENCES BETWEEN THE SHARES OF EACH SUCH SERIES SO FAR AS THE SAME
13 HAVE BEEN FIXED AND DETERMINED AND THE AUTHORITY OF THE BOARD OF DIREC-
14 TORS TO FIX AND DETERMINE THE RELATIVE RIGHTS AND PREFERENCES OF SUB-
15 SEQUENT SERIES.

16 C. EACH CERTIFICATE REPRESENTING SHARES SHALL STATE UPON THE
17 FACE THEREOF:

18 1. THAT THE CORPORATION IS ORGANIZED UNDER THE LAWS OF THIS
19 STATE.

20 2. THE NAME OF THE PERSON TO WHOM ISSUED.

21 3. THE NUMBER AND CLASS OF SHARES, AND THE DESIGNATION OF
22 THE SERIES, IF ANY, WHICH SUCH CERTIFICATE REPRESENTS.

23 4. THE PAR VALUE OF EACH SHARE REPRESENTED BY SUCH CERTIFICATE,
24 OR A STATEMENT THAT THE SHARES ARE WITHOUT PAR VALUE.

25 D. NO RESTRICTION ON THE RIGHT TO TRANSFER SHARES AND NO
26 RESERVATION OF LIEN ON SHARES SHALL BE EFFECTIVE AGAINST A TRANSFeree
27 OF SUCH SHARES UNLESS THERE IS SET FORTH ON THE FACE OR THE BACK OF
28 SUCH CERTIFICATE ONE OF THE FOLLOWING:

29 1. A STATEMENT OF THE TERMS OF SUCH RESTRICTION OR RESERVATION.

30 2. A SUMMARY OF THE TERMS OF SUCH RESTRICTION OR RESERVATION
31 AND A STATEMENT THAT THE CORPORATION WILL MAIL TO THE SHAREHOLDER A
32 COPY OF SUCH RESTRICTION OR RESERVATION WITHOUT CHARGE WITHIN FIVE
33 DAYS AFTER RECEIPT OF WRITTEN REQUEST THEREFOR.

34 3. IF SUCH RESTRICTION OR RESERVATION IS CONTAINED IN THE
35 ARTICLES OF INCORPORATION OR BYLAWS OF THE CORPORATION, OR IN AN
36 INSTRUMENT IN WRITING TO WHICH THE CORPORATION IS A PARTY, A STATE-
37 MENT TO THAT EFFECT AND A STATEMENT THAT THE CORPORATION WILL MAIL
38 TO THE SHAREHOLDER A COPY OF SUCH RESTRICTION OR RESERVATION WITHOUT
39 CHARGE WITHIN FIVE DAYS AFTER RECEIPT OF WRITTEN REQUEST THEREFOR.

40 4. IF SUCH RESTRICTION OR RESERVATION IS CONTAINED IN AN INSTRU-
41 MENT IN WRITING, OTHER THAN THE ARTICLES OF INCORPORATION, BYLAWS OF THE
42 CORPORATION OR AN INSTRUMENT IN WRITING TO WHICH THE CORPORATION IS A
43 PARTY, A STATEMENT TO THAT EFFECT.

44 E. THE SIGNATURES OF THE OFFICERS OF A CORPORATION AND THE SEAL
45 OF THE CORPORATION UPON ANY BOND, DEBENTURE OR OTHER DEBT SECURITY ISSUED
46 BY THE CORPORATION MAY BE FACSIMILES IF THE INSTRUMENT IS AUTHENTICATED
47 OR COUNTERSIGNED BY A TRUSTEE OR TRANSFER AGENT, OR REGISTERED BY A
48 REGISTRAR, OTHER THAN THE CORPORATION ITSELF OR AN EMPLOYEE OF THE
49 CORPORATION.

50 F. IN CASE ANY OFFICER WHO HAS SIGNED OR WHOSE FACSIMILE SIGNATURE

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1 HAS BEEN PLACED UPON A SHARE CERTIFICATE OR UPON A BOND, DEBENTURE OR
2 OTHER DEBT SECURITY AS PROVIDED IN THIS SECTION SHALL HAVE CEASED FOR
3 ANY REASON TO BE SUCH OFFICER BEFORE SUCH CERTIFICATE OR INSTRUMENT IS
4 ISSUED, IT MAY BE ISSUED BY THE CORPORATION WITH THE SAME EFFECT AS IF
5 HE WERE SUCH OFFICER AT THE DATE OF ITS ISSUE.

6 G. A WATER USERS' ASSOCIATION MAY ELECT TO HAVE ITS SHARES REPRESENTED BY CERTIFICATE AS PROVIDED IN THIS SECTION.

7 10-024. Fractional shares

8 A. A CORPORATION MAY:

9 1. ISSUE FRACTIONS OF A SHARE.

10 2. ARRANGE FOR THE DISPOSITION OF FRACTIONAL INTERESTS BY THOSE
11 ENTITLED THERETO.

12 3. PAY IN CASH THE FAIR VALUE OF FRACTIONS OF A SHARE AS DETERMINED BY THE BOARD OF DIRECTORS AS OF A TIME FIXED BY IT.

13 4. ISSUE SCRIP IN REGISTERED OR BEARER FORM OVER THE MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF THE CORPORATION OR ITS AGENT WHICH SHALL ENTITLE THE HOLDER TO RECEIVE A CERTIFICATE FOR A FULL SHARE UPON THE SURRENDER OF SUCH SCRIP AGGREGATING A FULL SHARE.

14 B. A CERTIFICATE FOR A FRACTIONAL SHARE SHALL, BUT SCRIP SHALL NOT UNLESS OTHERWISE PROVIDED THEREIN, ENTITLE THE HOLDER TO THE RIGHTS OF A SHAREHOLDER. THE BOARD OF DIRECTORS MAY CAUSE SCRIP TO BE ISSUED SUBJECT TO THE CONDITION THAT IT SHALL BECOME VOID IF NOT EXCHANGED FOR CERTIFICATES REPRESENTING FULL SHARES BEFORE A SPECIFIED DATE, OR SUBJECT TO THE CONDITION THAT THE SHARES FOR WHICH SCRIP IS EXCHANGEABLE MAY BE SOLD BY THE CORPORATION AND THE PROCEEDS THEREOF DISTRIBUTED TO THE HOLDERS OF SCRIP, OR SUBJECT TO ANY OTHER CONDITIONS WHICH THE BOARD OF DIRECTORS MAY DEEM ADVISABLE.

15 10-025. Liability of subscribers and shareholders

16 A. UNLESS THE ARTICLES OF INCORPORATION PROVIDE OTHERWISE, A HOLDER OF OR SUBSCRIBER FOR SHARES OF A CORPORATION SHALL BE UNDER NO OBLIGATION TO THE CORPORATION OR ITS CREDITORS WITH RESPECT TO SUCH SHARES OTHER THAN THE OBLIGATION TO PAY TO THE CORPORATION THE FULL CONSIDERATION FOR WHICH SUCH SHARES WERE ISSUED OR TO BE ISSUED.

17 B. ANY PERSON BECOMING A HOLDER OF SHARES OR OF A SUBSCRIPTION FOR SHARES IN GOOD FAITH AND WITHOUT KNOWLEDGE OR ACTUAL NOTICE THAT THE FULL CONSIDERATION THEREFOR HAS NOT BEEN PAID SHALL NOT BE PERSONALLY LIABLE TO THE CORPORATION OR ITS CREDITORS FOR ANY UNPAID PORTION OF SUCH CONSIDERATION.

18 C. AN EXECUTOR, ADMINISTRATOR, CONSERVATOR, GUARDIAN, TRUSTEE, ASSIGNEE FOR THE BENEFIT OF CREDITORS, OR RECEIVER SHALL NOT BE PERSONALLY LIABLE TO THE CORPORATION AS A HOLDER OF OR SUBSCRIBER FOR SHARES OF A CORPORATION BUT THE ESTATE AND FUNDS IN HIS HANDS SHALL BE SO LIABLE.

19 D. NO HOLDER OF SHARES AS COLLATERAL SECURITY SHALL BE PERSONALLY LIABLE AS A SHAREHOLDER.

20 E. FOR THE PURPOSES OF THIS SECTION, "HOLDER" INCLUDES ANY PERSON DEFINED AS A "PURCHASER" IN SECTION 44-2208.

21 10-026. Shareholders' preemptive rights

22 THE SHAREHOLDERS OF A CORPORATION SHALL HAVE NO PREEMPTIVE RIGHT TO ACQUIRE UNISSUED OR TREASURY SHARES OF THE CORPORATION, OR SECURITIES OF THE CORPORATION CONVERTIBLE INTO OR CARRYING A RIGHT TO SUBSCRIBE TO OR ACQUIRE SHARES, EXCEPT TO THE EXTENT, IF ANY, THAT SUCH RIGHT IS PROVIDED IN THE ARTICLES OF INCORPORATION. ALL PREEMPTIVE RIGHTS EXPRESSLY

1 CREATED BY ARTICLES OF INCORPORATION EXISTING AS OF THE EFFECTIVE DATE
2 OF THIS CHAPTER SHALL NOT BE AFFECTED BY THIS SECTION.

3 10-027. Bylaws

4 THE ORIGINAL BYLAWS OF A CORPORATION MAY BE ADOPTED BY THE INCOR-
5 PORATORS OR BY THE INITIAL BOARD OF DIRECTORS. THE POWER TO ALTER, AMEND
6 OR REPEAL THE BYLAWS OR ADOPT NEW BYLAWS, SUBJECT TO REPEAL OR CHANGE BY
7 ACTION OF THE SHAREHOLDERS, SHALL BE VESTED IN THE BOARD OF DIRECTORS
8 UNLESS RESERVED TO THE SHAREHOLDERS BY THE ARTICLES OF INCORPORATION.
9 THE BYLAWS MAY CONTAIN ANY PROVISION, NOT INCONSISTENT WITH LAW OR THE
10 ARTICLES OF INCORPORATION, RELATING TO THE BUSINESS OF THE CORPORATION,
11 THE CONDUCT OF ITS AFFAIRS, ITS RIGHTS OR POWERS, AND THE RIGHTS OR
12 POWERS OF ITS STOCKHOLDERS, DIRECTORS, OFFICERS OR EMPLOYEES.

13 10-028. Meetings of shareholders

14 A. MEETINGS OF SHAREHOLDERS MAY BE HELD AT SUCH PLACE WITHIN
15 OR WITHOUT THIS STATE AS MAY BE STATED IN OR FIXED IN ACCORDANCE WITH
16 THE BYLAWS. IF NO OTHER PLACE IS STATED OR SO FIXED, MEETINGS SHALL
17 BE HELD AT THE KNOWN PLACE OF BUSINESS OF THE CORPORATION.

18 B. AN ANNUAL MEETING OF THE SHAREHOLDERS SHALL BE HELD AT SUCH
19 TIME AS MAY BE STATED IN OR FIXED IN ACCORDANCE WITH THE BYLAWS. IF
20 THE ANNUAL MEETING IS NOT HELD WITHIN ANY THIRTEEN MONTH PERIOD THE
21 SUPERIOR COURT OF THE COUNTY OF THE KNOWN PLACE OF BUSINESS OF THE
22 CORPORATION MAY, ON THE APPLICATION OF ANY SHAREHOLDER, ORDER A
23 MEETING TO BE HELD. FAILURE TO HOLD THE ANNUAL MEETING SHALL NOT
24 WORK A FORFEITURE OF THE CORPORATE CHARTER OR DISSOLUTION OF THE
25 CORPORATION.

26 C. SPECIAL MEETINGS OF THE SHAREHOLDERS MAY BE CALLED BY THE
27 BOARD OF DIRECTORS, THE HOLDERS OF NOT FEWER THAN ONE-TENTH OF ALL THE
28 SHARES ENTITLED TO VOTE AT THE MEETING, OR SUCH OTHER PERSONS AS MAY
29 BE AUTHORIZED IN THE ARTICLES OF INCORPORATION OR THE BYLAWS.

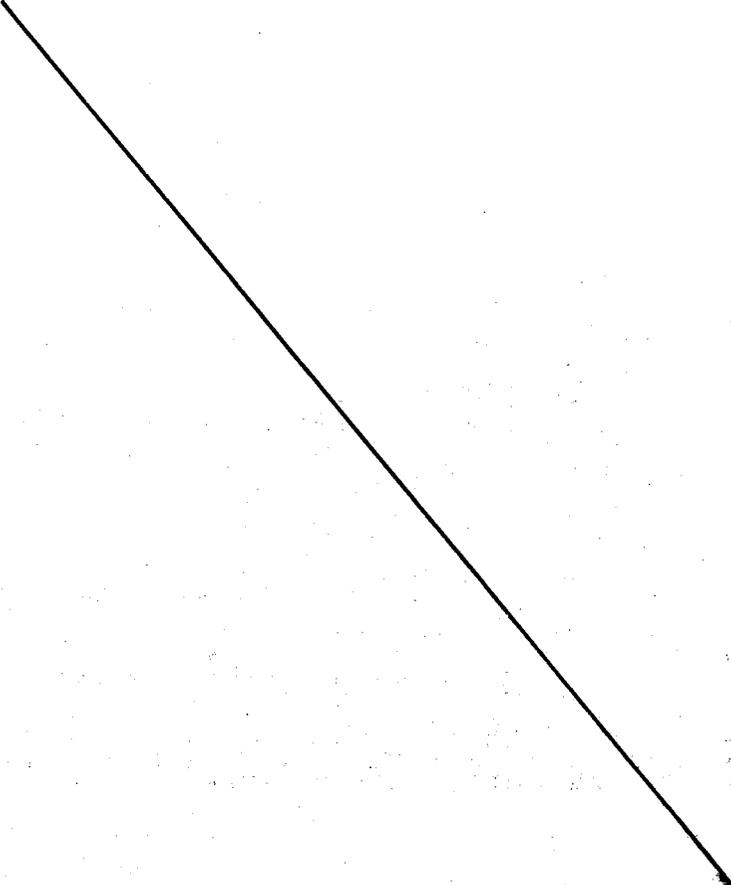
30 D. ANY WATER USERS' ASSOCIATION MAY PROVIDE IN ITS ARTICLES OF
31 INCORPORATION OR BYLAWS FOR ANY METHOD OF ELECTING ITS GOVERNING BODY
32 OR BODIES ON A BIENNIAL OR MORE FREQUENT BASIS, IN WHICH EVENT SUCH
33 WATER USERS' ASSOCIATION SHOULD HAVE NO OBLIGATION TO HOLD AN ANNUAL
34 MEETING NOTWITHSTANDING THE PROVISIONS OF SUBSECTION B OF THIS SECTION
35 AND SECTION 10-036. WHENEVER A MEETING OF SHAREHOLDERS IS REQUIRED OR
36 PERMITTED UNDER THE PROVISIONS OF THIS CHAPTER, A WATER USERS' ASSOCIA-
37 TION MAY, WITHOUT CONDUCTING SUCH A MEETING, ACCOMPLISH THE PURPOSE OF
38 SUCH MEETING THROUGH AN ELECTION BY ITS SHAREHOLDERS PURSUANT TO THE
39 PROVISIONS OF ITS ARTICLES OF INCORPORATION.

40 10-029. Notice of shareholders' meetings

41 WRITTEN NOTICE STATING THE PLACE, DAY AND HOUR OF THE MEETING
42 AND, IN CASE OF A SPECIAL MEETING, THE PURPOSE OR PURPOSES FOR WHICH
43 THE MEETING IS CALLED, SHALL BE DELIVERED NOT LESS THAN TEN NOR MORE
44 THAN FIFTY DAYS BEFORE THE DATE OF THE MEETING, EITHER PERSONALLY OR
45 BY MAIL, BY AN OFFICER OF THE CORPORATION AT THE DIRECTION OF THE PERSON
46 OR PERSONS CALLING THE MEETING, TO EACH SHAREHOLDER OF RECORD ENTITLED
47 TO VOTE AT SUCH MEETING. IF MAILED, SUCH NOTICE SHALL BE DEEMED TO BE
48 DELIVERED WHEN DEPOSITED IN THE UNITED STATES, POSTAGE PREPAID, MAIL
49 ADDRESSED TO THE SHAREHOLDER AT HIS ADDRESS AS IT APPEARS ON THE STOCK

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1 TRANSFER BOOKS OF THE CORPORATION. WHEN A MEETING IS ADJOURNED TO AN-
2 OTHER TIME OR PLACE, UNLESS THE BYLAWS OTHERWISE REQUIRE, NOTICE NEED
3 NOT BE GIVEN OF THE ADJOURNED MEETING IF THE TIME AND PLACE THEREOF
4 ARE ANNOUNCED AT THE MEETING AT WHICH THE ADJOURNMENT IS TAKEN. AT
5 THE ADJOURNED MEETING THE CORPORATION MAY TRANSACT ANY BUSINESS WHICH
6 MIGHT HAVE BEEN TRANSACTED AT THE ORIGINAL MEETING. IF THE ADJOURNMENT
7 IS FOR MORE THAN THIRTY DAYS, OR IF AFTER THE ADJOURNMENT A NEW RECORD
8 DATE IS FIXED FOR THE ADJOURNED MEETING, A NOTICE OF THE ADJOURNED
9 MEETING SHALL BE GIVEN TO EACH SHAREHOLDER OF RECORD ENTITLED TO VOTE
10 AT THE MEETING.



1 10-030. Fixing date for determination of shareholders of record

2 A. IN ORDER THAT THE CORPORATION MAY DETERMINE THE SHAREHOLDERS
 3 ENTITLED TO NOTICE OF OR TO VOTE AT ANY MEETING OF SHAREHOLDERS OR ANY
 4 ADJOURNMENT THEREOF, OR TO EXPRESS CONSENT TO CORPORATE ACTION IN
 5 WRITING WITHOUT A MEETING, OR ENTITLED TO RECEIVE PAYMENT OF ANY
 6 DIVIDEND OR OTHER DISTRIBUTION OR ALLOTMENT OF ANY RIGHTS, OR EN-
 7 TITLED TO EXERCISE ANY RIGHTS IN RESPECT OF ANY CHANGE, CONVERSION
 8 OR EXCHANGE OF SHARES OR FOR THE PURPOSE OF ANY OTHER LAWFUL ACTION,
 9 THE BOARD OF DIRECTORS MAY FIX, IN ADVANCE, A RECORD DATE, WHICH SHALL
 10 NOT BE MORE THAN SIXTY NOR LESS THAN TEN DAYS BEFORE THE DATE OF SUCH
 11 MEETING, NOR MORE THAN SIXTY DAYS PRIOR TO ANY OTHER ACTION.

12 B. IF NO RECORD DATE IS FIXED:

13 1. THE RECORD DATE FOR DETERMINING SHAREHOLDERS ENTITLED TO
 14 NOTICE OF OR TO VOTE AT A MEETING OF SHAREHOLDERS SHALL BE AT FOUR
 15 O'CLOCK IN THE AFTERNOON ON THE DAY BEFORE THE DAY ON WHICH NOTICE IS
 16 GIVEN, OR, IF NOTICE IS WAIVED, AT THE COMMENCEMENT OF THE MEETING.

17 2. THE RECORD DATE FOR DETERMINING SHAREHOLDERS ENTITLED TO
 18 EXPRESS CONSENT TO CORPORATE ACTION IN WRITING WITHOUT MEETING SHALL
 19 BE THE TIME OF THE DAY ON WHICH THE FIRST WRITTEN CONSENT IS SERVED ON
 20 THE CORPORATION AS PROVIDED IN SECTION 10-014.

21 3. THE RECORD DATE FOR DETERMINING SHAREHOLDERS ENTITLED TO
 22 EXPRESS CONSENT TO CORPORATE ACTION IN WRITING WITHOUT A MEETING SHALL
 23 BE THE TIME OF THE DAY ON WHICH THE RESOLUTION RELATING THERETO IS
 24 ADOPTED.

25 C. A DETERMINATION OF SHAREHOLDERS OF RECORD ENTITLED TO NOTICE
 26 OF OR TO VOTE AT A MEETING OF SHAREHOLDERS SHALL APPLY TO ANY ADJOURN-
 27 MENT OF THE MEETING; PROVIDED, HOWEVER, THAT THE BOARD OF DIRECTORS MAY
 28 FIX A NEW RECORD DATE FOR THE ADJOURNED MEETING AND FURTHER PROVIDED
 29 THAT THE ADJOURNMENT OR ADJOURNMENTS DO NOT EXCEED THIRTY DAYS IN THE
 30 AGGREGATE.

31 10-031. Voting record

32 A. THE OFFICER OR AGENT HAVING CHARGE OF THE STOCK TRANSFER BOOKS
 33 FOR SHARES OF A CORPORATION SHALL MAKE A COMPLETE RECORD OF THE SHARE-
 34 HOLDERS ENTITLED TO VOTE AT SUCH MEETING OR ANY ADJOURNMENT THEREOF,
 35 ARRANGED IN ALPHABETICAL ORDER, WITH THE ADDRESS OF AND THE NUMBER OF
 36 SHARES HELD BY EACH. SUCH RECORD SHALL BE PRODUCED AND KEPT OPEN AT THE
 37 TIME AND PLACE OF THE MEETING AND SHALL BE SUBJECT TO THE INSPECTION OF
 38 ANY SHAREHOLDER DURING THE WHOLE TIME OF THE MEETING FOR THE PURPOSES
 39 THEREOF.

40 B. FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION
 41 SHALL NOT AFFECT THE VALIDITY OF ANY ACTION TAKEN AT SUCH MEETING.

42 C. AN OFFICER OR AGENT HAVING CHARGE OF THE STOCK TRANSFER
 43 BOOKS WHO SHALL FAIL TO PREPARE THE RECORD OF SHAREHOLDERS, OR PRODUCE
 44 AND KEEP IT OPEN FOR INSPECTION AT THE MEETING, AS PROVIDED IN THIS
 45 SECTION, SHALL BE LIABLE TO ANY SHAREHOLDER SUFFERING DAMAGE ON AC-
 46 COUNT OF SUCH FAILURE, TO THE EXTENT OF SUCH DAMAGE.

47 10-032. Quorum of shareholders

48 UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF INCORPORATION, A
 49 MAJORITY OF THE SHARES ENTITLED TO VOTE, REPRESENTED IN PERSON OR BY
 50 PROXY, SHALL CONSTITUTE A QUORUM AT A MEETING OF SHAREHOLDERS, BUT IN

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1 NO EVENT SHALL A QUORUM CONSIST OF LESS THAN ONE-THIRD OF THE SHARES
2 ENTITLED TO VOTE AT THE MEETING. ALL SHARES REPRESENTED AND ENTITLED
3 TO VOTE ON ANY SINGLE SUBJECT MATTER WHICH MAY BE BROUGHT BEFORE THE
4 MEETING SHALL BE COUNTED FOR THE PURPOSES OF A QUORUM. ONLY THOSE
5 SHARES ENTITLED TO VOTE ON A PARTICULAR SUBJECT MATTER SHALL BE COUNTED
6 FOR THE PURPOSES OF VOTING ON THAT SUBJECT MATTER. BUSINESS MAY BE
7 CONDUCTED ONCE A QUORUM IS PRESENT AND MAY CONTINUE UNTIL ADJOURNMENT
8 OF THE MEETING NOTWITHSTANDING THE WITHDRAWAL OR TEMPORARY ABSENCE OF
9 SUFFICIENT SHARES TO REDUCE THE NUMBER PRESENT TO LESS THAN A QUORUM.
10 UNLESS THE VOTE OF A GREATER NUMBER OF VOTING BY CLASSES IS REQUIRED
11 BY THIS CHAPTER OR THE ARTICLES OF INCORPORATION OR BYLAWS, THE AF-
12 FIRMATIVE VOTE OF THE MAJORITY OF THE SHARES THEN REPRESENTED AT THE
13 MEETING AND ENTITLED TO VOTE ON THE SUBJECT MATTER SHALL BE THE ACT OF
14 THE SHAREHOLDERS; PROVIDED, HOWEVER, THAT IF THE SHARES THEN REPRESENTED
15 ARE LESS THAN REQUIRED TO CONSTITUTE A QUORUM, THE AFFIRMATIVE VOTE MUST
16 BE SUCH AS WOULD CONSTITUTE A MAJORITY IF A QUORUM WERE PRESENT; PRO-
17 VIDED FURTHER, THE AFFIRMATIVE VOTE OF A MAJORITY OF THE SHARES THEN
18 PRESENT IS SUFFICIENT IN ALL CASES TO ADJOURN A MEETING.

19 10-033. Voting of shares

20 A. EACH OUTSTANDING SHARE OR FRACTION THEREOF, REGARDLESS OF
21 CLASS, SHALL BE ENTITLED TO ONE VOTE OR CORRESPONDING FRACTION THEREOF
22 ON EACH MATTER SUBMITTED TO A VOTE AT A MEETING OF SHAREHOLDERS,
23 EXCEPT AS MAY BE OTHERWISE PROVIDED IN THIS CHAPTER OR THE ARTICLES
24 OF INCORPORATION. IF THE ARTICLES OF INCORPORATION PROVIDE FOR MORE
25 OR LESS THAN ONE VOTE FOR ANY SHARE, ON ANY MATTER, EVERY REFERENCE
26 IN THIS CHAPTER TO A MAJORITY OR OTHER PROPORTION OF SHARES SHALL
27 REFER TO SUCH A MAJORITY OR OTHER PROPORTION OF VOTES ENTITLED TO BE
28 CAST.

29 B. SHARES OF ITS OWN STOCK BELONGING TO THE CORPORATION OR TO
30 ANOTHER CORPORATION, IF A MAJORITY OF THE SHARES ENTITLED TO VOTE IN
31 THE ELECTIONS OF DIRECTORS OF SUCH OTHER CORPORATION IS HELD BY THE
32 CORPORATION, SHALL NEITHER BE ENTITLED TO VOTE NOR COUNTED FOR QUORUM
33 PURPOSES. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS LIMITING THE
34 RIGHT OF THE CORPORATION TO VOTE ITS OWN STOCK HELD BY IT IN A FIDU-
35 CIARY CAPACITY.

36 C. A SHAREHOLDER MAY VOTE EITHER IN PERSON OR BY PROXY EXECUTED
37 IN WRITING BY THE SHAREHOLDER OR BY HIS DULY AUTHORIZED ATTORNEY-IN-FACT.
38 NO PROXY SHALL BE VALID AFTER ELEVEN MONTHS FROM THE DATE OF ITS EXECU-
39 TION, UNLESS OTHERWISE PROVIDED IN THE PROXY. A DULY EXECUTED PROXY
40 SHALL BE IRREVOCABLE IF IT STATES THAT IT IS IRREVOCABLE AND IF, AND
41 ONLY AS LONG AS, IT IS COUPLED WITH AN INTEREST SUFFICIENT IN LAW TO
42 SUPPORT AN IRREVOCABLE POWER. A PROXY MAY BE MADE IRREVOCABLE REGARD-
43 LESS OF WHETHER THE INTEREST WITH WHICH IT IS COUPLED IS AN INTEREST IN
44 THE SHARE ITSELF OR AN INTEREST IN THE CORPORATION GENERALLY. A PROXY
45 IS NOT REVOKED BY THE DEATH OR INCAPACITY OF THE MAKER UNLESS, BEFORE
46 THE VOTE IS COUNTED OR QUORUM IS DETERMINED, WRITTEN NOTICE OF THE DEATH
47 OR INCAPACITY IS GIVEN TO THE CORPORATION.

48 D. AT EACH ELECTION FOR DIRECTORS EVERY SHAREHOLDER ENTITLED TO
49 VOTE AT SUCH ELECTION SHALL HAVE THE RIGHT TO VOTE, IN PERSON OR BY
50 PROXY, THE NUMBER OF SHARES OWNED BY HIM FOR AS MANY PERSONS AS THERE

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1 ARE DIRECTORS TO BE ELECTED AND FOR WHOSE ELECTION HE HAS A RIGHT TO
2 VOTE, OR TO CUMULATE HIS VOTES BY GIVING ONE CANDIDATE AS MANY VOTES
3 AS THE NUMBER OF HIS SHARES SHALL EQUAL, OR BY DISTRIBUTING SUCH VOTES
4 ON THE SAME PRINCIPLE AMONG ANY NUMBER OF SUCH CANDIDATES.

5 E. SHARES STANDING IN THE NAME OF ANOTHER CORPORATION, DOMESTIC
6 OR FOREIGN, MAY BE VOTED BY SUCH OFFICER, AGENT OR PROXY AS THE BYLAWS
7 OF SUCH OTHER CORPORATION MAY PRESCRIBE, OR, IN THE ABSENCE OF SUCH
8 PROVISION, AS THE BOARD OF DIRECTORS OF SUCH OTHER CORPORATION MAY
9 DETERMINE.

10 F. SHARES HELD BY AN ADMINISTRATOR, EXECUTOR, GUARDIAN OR CON-
11 SERVATOR MAY BE VOTED BY HIM, EITHER IN PERSON OR BY PROXY, WITHOUT A
12 TRANSFER OF SUCH SHARES INTO HIS NAME. SHARES STANDING IN THE NAME OF
13 A TRUSTEE, OTHER THAN A TRUSTEE IN BANKRUPTCY, MAY BE VOTED BY HIM,
14 EITHER IN PERSON OR BY PROXY, BUT NO SUCH TRUSTEE SHALL BE ENTITLED
15 TO VOTE SHARES HELD BY HIM WITHOUT A TRANSFER OF SUCH SHARES INTO HIS
16 NAME.

17 G. SHARES STANDING IN THE NAME OF A RECEIVER, TRUSTEE IN BANK-
18 RUPTCY, OR ASSIGNEE FOR THE BENEFIT OF CREDITORS MAY BE VOTED BY SUCH
19 REPRESENTATIVE, EITHER IN PERSON OR BY PROXY. SHARES HELD BY OR UNDER
20 THE CONTROL OF SUCH A RECEIVER OR TRUSTEE MAY BE VOTED BY SUCH RECEIVER
21 OR TRUSTEE, EITHER IN PERSON OR BY PROXY, WITHOUT THE TRANSFER THEREOF
22 INTO HIS NAME IF AUTHORITY SO TO DO BE CONTAINED IN AN APPROPRIATE
23 ORDER OF THE COURT BY WHICH SUCH RECEIVER OR TRUSTEE WAS APPOINTED.

24 H. A SHAREHOLDER WHOSE SHARES ARE PLEDGED SHALL BE ENTITLED TO
25 VOTE SUCH SHARES UNTIL THE SHARES HAVE BEEN TRANSFERRED INTO THE NAME
26 OF THE PLEDGEE, AND THEREAFTER THE PLEDGEE SHALL BE ENTITLED TO VOTE
27 THE SHARES SO TRANSFERRED.

28 I. IF SHARES STAND IN THE NAMES OF TWO OR MORE PERSONS, WHETHER
29 FIDUCIARIES, MEMBERS OF A PARTNERSHIP, JOINT TENANTS, TENANTS IN COMMON,
30 TENANTS BY THE ENTIRETY OR TENANTS BY COMMUNITY PROPERTY OR OTHERWISE,
31 OR IF TWO OR MORE PERSONS HAVE THE SAME FIDUCIARY RELATIONSHIP RESPECTING
32 THE SAME SHARES, UNLESS THE CORPORATION IS GIVEN WRITTEN NOTICE TO THE
33 CONTRARY AND IS FURNISHED WITH A COPY OF THE INSTRUMENT OR ORDER APPOINT-
34 ING THEM OR CREATING THE RELATIONSHIP WHEREIN IT IS SO PROVIDED, THEIR
35 ACTS WITH RESPECT TO VOTING SHALL HAVE THE FOLLOWING EFFECT:

36 1. IF ONLY ONE VOTES, HIS ACT BINDS.

37 2. IF MORE THAN ONE VOTES, THE ACT OF THE MAJORITY SO VOTING
38 BINDS ALL.

39 3. IF MORE THAN ONE VOTES, BUT THE VOTE IS EVENLY SPLIT ON ANY
40 PARTICULAR MATTER, EACH FACTION MAY VOTE THE SHARES IN QUESTION PRO-
41 PORTIONALLY.

42 J. SHARES STANDING IN THE NAME OF A MARRIED WOMAN BUT NOT ALSO
43 STANDING IN THE NAME OF HER HUSBAND WITH SUCH A DESIGNATION OF THE
44 MUTUAL RELATIONSHIP ON THE CERTIFICATE, MAY BE VOTED AND ALL RIGHTS
45 INCIDENT THERETO MAY BE EXERCISED IN THE SAME MANNER AS IF SHE WERE
46 UNMARRIED.

47 K. ON AND AFTER THE DATE ON WHICH WRITTEN NOTICE OF REDEMPTION
48 OF REDEEMABLE SHARES HAS BEEN MAILED TO THE HOLDERS THEREOF AND A SUM
49 SUFFICIENT TO REDEEM SUCH SHARES HAS BEEN DEPOSITED WITH A BANK OR ANY
50 SAVINGS AND LOAN ASSOCIATION OR WHOLLY OWNED SUBSIDIARY THEREOF, IN THE

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1 STATE, AS A TRUST-FUND, WITH IRREVOCABLE INSTRUCTION AND AUTHORITY TO
2 PAY THE REDEMPTION PRICE TO THE HOLDERS THEREOF UPON SURRENDER OF
3 CERTIFICATES THEREFOR, SUCH SHARES SHALL NOT BE ENTITLED TO VOTE ON
4 ANY MATTER AND SHALL NOT BE DEEMED TO BE OUTSTANDING SHARES.

5 L. A WATER USERS' ASSOCIATION MAY, NOTWITHSTANDING THE OTHER
6 PROVISIONS OF THIS SECTION, PROVIDE IN ITS ARTICLES OF INCORPORATION
7 THE QUALIFICATIONS OF SHAREHOLDERS TO VOTE, ELIMINATE THE RIGHT TO
8 VOTE BY PROXY, SPECIFY THE LOCATIONS WHERE VOTES MAY BE CAST, AND
9 LIMIT VOTING TO NATURAL PERSONS. A WATER USERS' ASSOCIATION MAY
10 ADOPT BYLAWS FOR THE REGISTRATION OF VOTERS AND METHOD OF HOLDING
11 ELECTIONS.

12 10-034. Voting trusts and agreements among shareholders

13 A. ANY NUMBER OF SHAREHOLDERS OF A CORPORATION MAY CREATE A
14 VOTING TRUST FOR THE PURPOSE OF CONFERRING UPON A TRUSTEE, WHICH MAY
15 BE A CORPORATION AUTHORIZED BY ITS ARTICLES TO ACT AS A TRUSTEE, OR
16 TRUSTEES THE RIGHT TO VOTE OR OTHERWISE REPRESENT THEIR SHARES BY
17 ENTERING INTO A WRITTEN VOTING TRUST AGREEMENT BETWEEN SUCH SHARE-
18 HOLDERS AND THE TRUSTEE OR TRUSTEES SPECIFYING THE TERMS AND CONDITIONS
19 OF THE VOTING TRUST, BY DEPOSITING AN EXECUTED COUNTERPART OF THE
20 AGREEMENT WITH THE CORPORATION AT ITS KNOWN PLACE OF BUSINESS, AND
21 BY TRANSFERRING THEIR SHARES TO SUCH TRUSTEE OR TRUSTEES FOR THE
22 PURPOSES OF THE AGREEMENT. SUCH TRUSTEE OR TRUSTEES SHALL KEEP A
23 RECORD OF THE HOLDERS OF A BENEFICIAL INTEREST IN THE VOTING TRUST,
24 GIVING THE NAMES AND ADDRESSES OF ALL SUCH HOLDERS AND THE NUMBER
25 AND CLASS OF THE SHARES IN RESPECT OF WHICH SUCH HOLDER HAS A
26 BENEFICIAL INTEREST, AND SHALL DEPOSIT A COPY OF SUCH RECORD WITH THE
27 CORPORATION AT ITS KNOWN PLACE OF BUSINESS. TO THE EXTENT PROVIDED IN
28 THE VOTING TRUST AGREEMENT THE TRUSTEE MAY ISSUE TO SUCH HOLDERS VOTING
29 TRUST CERTIFICATES EVIDENCING THEIR BENEFICIAL INTEREST IN THE VOTING
30 TRUST. THE COUNTERPART OF THE VOTING TRUST AGREEMENT AND THE COPY OF
31 SUCH RECORD SO DEPOSITED WITH THE CORPORATION SHALL BE SUBJECT TO THE
32 SAME RIGHT OF EXAMINATION BY A SHAREHOLDER OF THE CORPORATION, IN PER-
33 SON OR BY AGENT OR ATTORNEY, AS ARE THE BOOKS AND RECORDS OF THE COR-
34 PORATION, AND SUCH COUNTERPART AND SUCH COPY OF SUCH RECORD SHALL BE
35 SUBJECT TO EXAMINATION BY ANY HOLDER OF RECORD OF A BENEFICIAL INTEREST
36 IN THE VOTING TRUST, EITHER IN PERSON OR BY AGENT OR ATTORNEY, AT ANY
37 REASONABLE TIME FOR ANY PROPER PURPOSE.

38 B. NO VOTING TRUST AGREEMENT SHALL BE MADE IRREVOCABLE FOR A
39 PERIOD OF MORE THAN TEN YEARS, UNLESS THE RIGHTS TO VOTE OR OTHERWISE
40 REPRESENT THE SHARES SUBJECT TO THE VOTING TRUST ARE COUPLED WITH AN
41 INTEREST SUFFICIENT IN LAW TO SUPPORT AN IRREVOCABLE POWER, INCLUDING,
42 WITHOUT LIMITATION, AN INTEREST IN THE SHARES OR AN INTEREST IN THE
43 CORPORATION GENERALLY, IN WHICH CASE THE VOTING TRUST AGREEMENT MAY
44 BE MADE IRREVOCABLE UNTIL THE INTEREST TERMINATES OR FOR A PERIOD OF
45 TEN YEARS, WHICHEVER IS LONGER.

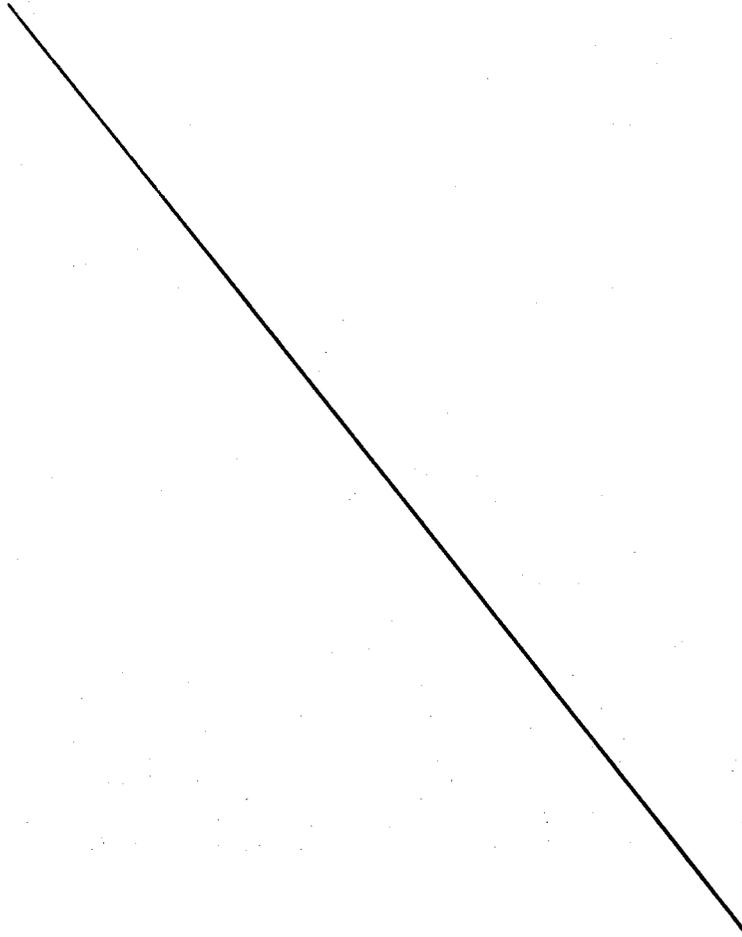
46 C. AGREEMENTS AMONG SHAREHOLDERS REGARDING THE VOTING OF THEIR
47 SHARES, TRUSTS FOR PURPOSES OTHER THAN VOTING OR OTHERWISE REPRESENTING
48 SHARES, AND OTHER CONTRACTS OR TRANSFERS AFFECTING SHARES OF CORPORATION
49 OR THE HOLDERS THEREOF SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS

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1 SECTION REGARDING VOTING TRUSTS. THE RIGHTS CONFERRED BY THIS SECTION
2 ARE IN ADDITION TO RIGHTS OTHERWISE PROVIDED BY LAW.

3 10-035. Board of directors

4 THE BUSINESS AND AFFAIRS OF A CORPORATION SHALL BE MANAGED BY A
5 BOARD OF DIRECTORS EXCEPT AS MAY BE OTHERWISE RESERVED TO THE SHARE-
6 HOLDERS IN THE ARTICLES OF INCORPORATION. DIRECTORS NEED NOT BE
7 RESIDENTS OF THIS STATE OR SHAREHOLDERS OF THE CORPORATION UNLESS THE
8 ARTICLES OF INCORPORATION OR BYLAWS MAY PRESCRIBE OTHER QUALIFICATIONS



1 FOR DIRECTORS. THE BOARD OF DIRECTORS SHALL HAVE AUTHORITY TO FIX THE
 2 COMPENSATION OF DIRECTORS FOR SERVICES IN ANY CAPACITY UNLESS OTHER-
 3 WISE PROVIDED IN THE ARTICLES OF INCORPORATION OR BYLAWS.

4 10-036. Number and election of directors

5 THE BOARD OF DIRECTORS OF A CORPORATION SHALL CONSIST OF ONE OR
 6 MORE MEMBERS. THE NUMBER OF DIRECTORS SHALL BE FIXED BY, OR IN THE
 7 MANNER PROVIDED IN, THE ARTICLES OF INCORPORATION OR THE BYLAWS. THE
 8 NUMBER OF DIRECTORS MAY BE INCREASED OR DECREASED FROM TIME TO TIME BY
 9 AMENDMENT TO, OR IN THE MANNER PROVIDED IN, THE ARTICLES OF INCORPORATION
 10 OR THE BYLAWS, BUT NO DECREASE SHALL HAVE THE EFFECT OF SHORTENING
 11 THE TERM OF ANY INCUMBENT DIRECTOR. THE MEMBERS OF THE INITIAL BOARD
 12 OF DIRECTORS SHALL BE NAMED IN THE ARTICLES OF INCORPORATION. AT THE
 13 FIRST ANNUAL MEETING OF SHAREHOLDERS AND AT EACH ANNUAL MEETING
 14 THEREAFTER THE SHAREHOLDERS SHALL ELECT DIRECTORS TO HOLD OFFICE UNTIL
 15 THE NEXT SUCCEEDING ANNUAL MEETING, EXCEPT IN CASE OF THE CLASSIFICATION
 16 OF DIRECTORS AS PERMITTED BY THIS CHAPTER. EACH DIRECTOR SHALL HOLD
 17 OFFICE UNTIL HIS SUCCESSOR IS ELECTED AND QUALIFIED, OR UNTIL HIS
 18 EARLIER RESIGNATION OR REMOVAL. ANY DIRECTOR MAY RESIGN AT ANY TIME
 19 UPON WRITTEN NOTICE TO THE CORPORATION.

20 10-037. Classification of directors

21 WHEN THE ARTICLES OF INCORPORATION PROVIDE FOR A BOARD OF DI-
 22 RECTORS OF A FIXED NUMBER OF NINE OR MORE MEMBERS, THE ARTICLES OF
 23 INCORPORATION MAY PROVIDE IN LIEU OF ELECTING THE WHOLE NUMBER OF
 24 DIRECTORS ANNUALLY, THAT THE DIRECTORS BE DIVIDED INTO EITHER TWO OR
 25 THREE CLASSES, THE NUMBER IN EACH CLASS TO BE FIXED NEARLY AS EQUAL IN
 26 NUMBER AS POSSIBLE. THE TERM OF OFFICE OF DIRECTORS OF THE FIRST CLASS
 27 TO EXPIRE AT THE FIRST ANNUAL MEETING OF SHAREHOLDERS AFTER THEIR ELEC-
 28 TION, THAT OF THE SECOND CLASS TO EXPIRE AT THE SECOND ANNUAL MEETING
 29 AFTER THEIR ELECTION, AND THAT OF THE THIRD CLASS, IF ANY, TO EXPIRE
 30 AT THE THIRD ANNUAL MEETING AFTER THEIR ELECTION. AT EACH ANNUAL
 31 MEETING AFTER SUCH CLASSIFICATION THE NUMBER OF DIRECTORS EQUAL TO THE
 32 NUMBER OF THE CLASS WHOSE TERM EXPIRES AT THE TIME OF SUCH MEETING SHALL
 33 BE ELECTED TO HOLD OFFICE UNTIL THE SECOND SUCCEEDING ANNUAL MEETING,
 34 IF THERE BE TWO CLASSES, OR UNTIL THE THIRD SUCCEEDING ANNUAL MEETING,
 35 IF THERE BE THREE CLASSES. NO CLASSIFICATION OF DIRECTORS SHALL BE
 36 EFFECTIVE PRIOR TO THE FIRST ANNUAL MEETING OF SHAREHOLDERS.

37 10-038. Vacancies

38 ANY VACANCY OCCURRING IN THE BOARD OF DIRECTORS MAY BE FILLED
 39 BY THE AFFIRMATIVE VOTE OF A MAJORITY OF THE REMAINING DIRECTORS THOUGH
 40 NOT LESS THAN A QUORUM, OR BY A SOLE REMAINING DIRECTOR, AND ANY
 41 DIRECTOR SO CHOSEN SHALL HOLD OFFICE UNTIL THE NEXT ELECTION OF
 42 DIRECTORS WHEN HIS SUCCESSOR IS ELECTED AND QUALIFIED. ANY NEWLY CREATED
 43 DIRECTORSHIP SHALL BE DEEMED A VACANCY. UNLESS OTHERWISE PROVIDED IN
 44 THE ARTICLES OF INCORPORATION OR THE BYLAWS, WHEN ONE OR MORE DIRECTORS
 45 SHALL RESIGN FROM THE BOARD, EFFECTIVE AT A FUTURE TIME, A MAJORITY OF
 46 THE DIRECTORS THEN IN OFFICE, INCLUDING THOSE WHO HAVE SO RESIGNED,
 47 SHALL HAVE POWER TO FILL SUCH VACANCY OR VACANCIES, THE VOTE THEREON
 48 TO TAKE EFFECT WHEN SUCH RESIGNATION OR RESIGNATIONS SHALL BECOME
 49 EFFECTIVE, AND EACH DIRECTOR SO CHOSEN SHALL HOLD OFFICE AS HEREIN
 50 PROVIDED IN THE FILLING OF OTHER VACANCIES. IF AT ANY TIME, BY REASON

1 OF DEATH OR RESIGNATION OR OTHER CAUSE, A CORPORATION SHOULD HAVE NO
 2 DIRECTORS IN OFFICE, THEN ANY OFFICER OR ANY STOCKHOLDER OR AN EXECUTOR,
 3 ADMINISTRATOR, TRUSTEE OR GUARDIAN OF A STOCKHOLDER, OR OTHER FIDUCIARY
 4 ENTRUSTED WITH LIKE RESPONSIBILITY FOR THE PERSON OR ESTATE OF A STOCK-
 5 HOLDER, MAY CALL A SPECIAL MEETING OF STOCKHOLDERS.

6 10-039. Removal of directors

7 A. AT A MEETING OF SHAREHOLDERS CALLED EXPRESSLY FOR THAT PUR-
 8 POSE, DIRECTORS MAY BE REMOVED IN THE MANNER PROVIDED IN THIS SECTION.
 9 ANY DIRECTOR OR THE ENTIRE BOARD OF DIRECTORS MAY BE REMOVED, WITH OR
 10 WITHOUT CAUSE, BY A VOTE OF THE HOLDERS OF A MAJORITY OF THE SHARES
 11 THEN ENTITLED TO VOTE AT AN ELECTION OF DIRECTORS.

12 B. IN THE CASE OF A CORPORATION HAVING CUMULATIVE VOTING, IF
 13 LESS THAN THE ENTIRE BOARD IS TO BE REMOVED, NO ONE OF THE DIRECTORS
 14 MAY BE REMOVED IF THE VOTES CAST AGAINST HIS REMOVAL WOULD BE SUFFICIENT
 15 TO ELECT HIM IF THEN CUMULATIVELY VOTED AT AN ELECTION OF THE ENTIRE
 16 BOARD OF DIRECTORS, OR, IF THERE BE CLASSES OF DIRECTORS, AT AN ELECTION
 17 OF THE CLASS OF DIRECTORS OF WHICH HE IS A PART.

18 C. WHENEVER THE HOLDERS OF THE SHARES OF ANY CLASS ARE ENTITLED
 19 TO ELECT ONE OR MORE DIRECTORS BY THE PROVISIONS OF THE ARTICLES OF
 20 INCORPORATION, THE PROVISIONS OF THIS SECTION SHALL APPLY, IN RESPECT
 21 TO THE REMOVAL OF A DIRECTOR OR DIRECTORS SO ELECTED, TO THE VOTE OF
 22 THE HOLDERS OF THE OUTSTANDING SHARES OF THAT CLASS AND NOT TO THE
 23 VOTE OF THE OUTSTANDING SHARES AS A WHOLE.

24 10-040. Quorum of directors

25 A MAJORITY OF THE NUMBER OF DIRECTORS THEN SERVING SHALL CON-
 26 STITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS UNLESS A GREATER
 27 NUMBER IS REQUIRED BY THE BYLAWS, OR A DIFFERENT NUMBER IS PROVIDED
 28 FOR IN THE ARTICLES OF INCORPORATION. IN NO CASE SHALL LESS THAN
 29 ONE-THIRD OF THE NUMBER OF DIRECTORS THEN SERVING NOR LESS THAN TWO
 30 DIRECTORS CONSTITUTE A QUORUM, EXCEPT THAT WHEN A BOARD OF ONE DIRECTOR
 31 IS AUTHORIZED, THEN ONE DIRECTOR SHALL CONSTITUTE A QUORUM. THE ACT
 32 OF THE MAJORITY OF THE DIRECTORS PRESENT AT A MEETING AT WHICH
 33 A QUORUM IS PRESENT SHALL BE THE ACT OF THE BOARD OF DIRECTORS, UNLESS
 34 THE ACT OF A GREATER NUMBER IS REQUIRED BY THE ARTICLES OF INCORPORATION
 35 OR THE BYLAWS.

36 10-041. Director conflicts of interest

37 A. NO CONTRACT OR OTHER TRANSACTION BETWEEN A CORPORATION AND
 38 ONE OR MORE OF ITS DIRECTORS OR ANY OTHER CORPORATION, FIRM, ASSOCIATION
 39 OR ENTITY IN WHICH ONE OR MORE OF ITS DIRECTORS ARE DIRECTORS OR
 40 OFFICERS OR ARE FINANCIALLY INTERESTED, SHALL BE EITHER VOID OR VOIDABLE
 41 BECAUSE OF SUCH RELATIONSHIP OR INTEREST OR BECAUSE SUCH DIRECTOR OR DI-
 42 RECTORS ARE PRESENT AT THE MEETING OF THE BOARD OF DIRECTORS OR A COM-
 43 MITTEE THEREOF WHICH AUTHORIZES, APPROVES OR RATIFIES SUCH CONTRACT OR
 44 TRANSACTION OR BECAUSE HIS OR THEIR VOTES ARE COUNTED FOR SUCH PURPOSE,
 45 IF:

46 1. THE FACT OF SUCH RELATIONSHIP OR INTEREST IS DISCLOSED OR
 47 KNOWN TO THE BOARD OF DIRECTORS OR COMMITTEE WHICH AUTHORIZES, APPROVES
 48 OR RATIFIES THE CONTRACT OR TRANSACTION BY A VOTE OR CONSENT SUFFICIENT
 49 FOR THE PURPOSE WITHOUT COUNTING THE VOTES OR CONSENTS OF SUCH INTERESTED
 50 DIRECTORS; OR

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1 2. THE FACT OF SUCH RELATIONSHIP OR INTEREST IS DISCLOSED OR
2 KNOWN TO THE SHAREHOLDERS ENTITLED TO VOTE AND THEY AUTHORIZE, AP-
3 PROVE OR RATIFY SUCH CONTRACT OR TRANSACTION BY VOTE OR WRITTEN
4 CONSENT; OR

5 3. THE CONTRACT OR TRANSACTION IS FAIR AND REASONABLE TO THE
6 CORPORATION AT THE TIME THE CONTRACT OR TRANSACTION IS AUTHORIZED,
7 APPROVED OR RATIFIED, IN THE LIGHT OF CIRCUMSTANCES KNOWN TO THOSE
8 ENTITLED TO VOTE THEREON AT THAT TIME.

9 B. ANY PERSON SEEKING TO ESTABLISH THAT A CONTRACT OR TRANS-
10 ACTION DESCRIBED IN THIS SECTION IS VOID OR VOIDABLE FOR ANY REASON
11 SET FORTH IN THIS SECTION SHALL FIRST PROVE, BY A PREPONDERANCE OF
12 THE EVIDENCE, THAT THE PROVISIONS OF PARAGRAPHS 1, 2 AND 3 OF SUBSEC-
13 TION A ARE NOT APPLICABLE.

14 C. COMMON OR INTERESTED DIRECTORS MAY BE COUNTED IN DETERMINING
15 THE PRESENCE OF A QUORUM AT A MEETING OF THE BOARD OF DIRECTORS OR A
16 COMMITTEE THEREOF WHICH AUTHORIZES, APPROVES OR RATIFIES SUCH CONTRACT
17 OR TRANSACTION.

18 10-042. Executive and other committees

19 A. THE BOARD OF DIRECTORS, BY RESOLUTION ADOPTED BY A MAJORITY
20 OF THE FULL BOARD OF DIRECTORS, MAY DESIGNATE FROM AMONG ITS MEMBERS
21 AN EXECUTIVE COMMITTEE AND ONE OR MORE OTHER COMMITTEES EACH OF WHICH,
22 TO THE EXTENT PROVIDED IN SUCH RESOLUTION OR IN THE ARTICLES OF INCOR-
23 PORATION OR THE BYLAWS OF THE CORPORATION, SHALL HAVE AND MAY EXERCISE
24 ALL THE AUTHORITY OF THE BOARD OF DIRECTORS, BUT NO SUCH COMMITTEE
25 SHALL HAVE THE AUTHORITY OF THE BOARD OF DIRECTORS IN REFERENCE TO
26 THE FOLLOWING MATTERS:

27 1. THE SUBMISSION TO SHAREHOLDERS PURSUANT TO THE REQUIREMENT
28 OF THIS CHAPTER OF ANY ACTION THAT REQUIRES SHAREHOLDERS' AUTHORIZATION
29 OR APPROVAL UNDER THIS CHAPTER.

30 2. THE FILLING OF VACANCIES ON THE BOARD OF DIRECTORS OR IN ANY
31 COMMITTEE OF THE BOARD OF DIRECTORS.

32 3. THE AMENDMENT OR REPEAL OF THE BYLAWS, OR THE ADOPTION
33 OF NEW BYLAWS.

34 4. THE FIXING OF COMPENSATION OF DIRECTORS FOR SERVING ON
35 THE BOARD OR ON ANY COMMITTEE OF THE BOARD OF DIRECTORS.

36 B. THE BOARD OF DIRECTORS, WITH OR WITHOUT CAUSE, MAY DIS-
37 SOLVE ANY SUCH COMMITTEE OR REMOVE ANY MEMBER THEREOF AT ANY TIME.
38 THE DESIGNATION OF ANY SUCH COMMITTEE AND THE DELEGATION THERETO OF
39 AUTHORITY SHALL NOT OPERATE TO RELIEVE THE BOARD OF DIRECTORS, OR ANY
40 MEMBER THEREOF, OF ANY RESPONSIBILITY IMPOSED BY LAW.

41 10-043. Place and notice of directors' meetings

42 A. MEETINGS OF THE BOARD OF DIRECTORS, REGULAR OR SPECIAL, MAY
43 BE HELD EITHER WITHIN OR WITHOUT THIS STATE, AND MAY BE HELD BY MEANS
44 OF CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT BY MEANS
45 OF WHICH ALL PERSONS PARTICIPATING IN THE MEETING CAN HEAR EACH OTHER,
46 AND PARTICIPATION IN A MEETING PURSUANT TO THIS SECTION SHALL CONSTITUTE
47 PRESENCE IN PERSON AT SUCH MEETING.

48 B. REGULAR MEETINGS OF THE BOARD OF DIRECTORS MAY BE HELD WITH
49 OR WITHOUT NOTICE AS PRESCRIBED IN THE BYLAWS. SPECIAL MEETINGS OF THE
50 BOARD OF DIRECTORS SHALL BE HELD UPON SUCH NOTICE AS IS PRESCRIBED IN

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1 THE BYLAWS. ATTENDANCE OF A DIRECTOR AT A MEETING SHALL CONSTITUTE
2 A WAIVER OF NOTICE OF SUCH MEETING, EXCEPT WHERE A DIRECTOR ATTENDS
3 A MEETING FOR THE EXPRESS PURPOSE OF OBJECTING TO THE TRANSACTION OF
4 ANY BUSINESS BECAUSE THE MEETING IS NOT LAWFULLY CALLED OR CONVENED.
5 NEITHER THE BUSINESS TO BE TRANSACTED AT, NOR THE PURPOSE OF, ANY
6 REGULAR OR SPECIAL MEETING OF THE BOARD OF DIRECTORS NEED BE SPECIFIED
7 IN THE NOTICE OR WAIVER OF NOTICE OF SUCH MEETING UNLESS REQUIRED BY
8 THE ARTICLES OF INCORPORATION OR THE BYLAWS.

9 10-044. Action by directors without a meeting
10 UNLESS OTHERWISE PROVIDED BY THE ARTICLES OF INCORPORATION OR
11 BYLAWS, ANY ACTION REQUIRED BY THIS CHAPTER TO BE TAKEN AT A MEETING
12 OF THE DIRECTORS OF A CORPORATION, OR ANY ACTION WHICH MAY BE TAKEN
13 AT A MEETING OF THE DIRECTORS OR OF A COMMITTEE, MAY BE TAKEN WITHOUT
14 A MEETING IF ALL DIRECTORS OR COMMITTEE MEMBERS, AS THE CASE MAY BE,
15 CONSENT THERETO IN WRITING. SUCH CONSENT SHALL HAVE THE SAME EFFECT
16 AS A UNANIMOUS VOTE.

17 10-045. Dividends

18 A. THE BOARD OF DIRECTORS OF A CORPORATION MAY, FROM TIME TO
19 TIME, DECLARE AND THE CORPORATION MAY PAY DIVIDENDS IN CASH, PROPERTY,
20 OR ITS OWN SHARES, EXCEPT WHEN THE CORPORATION IS INSOLVENT OR WHEN
21 THE PAYMENT THEREOF WOULD RENDER THE CORPORATION INSOLVENT OR WHEN THE
22 DECLARATION OR PAYMENT THEREOF WOULD BE CONTRARY TO ANY RESTRICTION
23 CONTAINED IN THE ARTICLES OF INCORPORATION, SUBJECT TO THE FOLLOWING
24 PROVISIONS:

25 1. DIVIDENDS MAY BE DECLARED AND PAID IN CASH OR PROPERTY ONLY
26 OUT OF THE UNRESERVED AND UNRESTRICTED EARNED SURPLUS OF THE CORPORA-
27 TION, OR OUT OF THE UNRESERVED AND UNRESTRICTED NET EARNINGS OF THE
28 CURRENT FISCAL YEAR AND THE NEXT PRECEDING FISCAL YEAR TAKEN AS A
29 SINGLE PERIOD, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

30 2. IF PROVIDED FOR IN ITS ARTICLES OF INCORPORATION, THE DI-
31 RECTORS OF ANY CORPORATION ENGAGED IN THE EXPLOITATION OF WASTING
32 ASSETS, INCLUDING BUT NOT LIMITED TO A CORPORATION ENGAGED IN THE EX-
33 PLOITATION OF NATURAL RESOURCES OR OTHER WASTING ASSETS, INCLUDING
34 PATENTS, OR ENGAGED PRIMARILY IN THE LIQUIDATION OF SPECIFIC ASSETS,
35 MAY DETERMINE THE UNRESERVED AND UNRESTRICTED EARNED SURPLUS, SUCH
36 DIVIDENDS SHALL BE IDENTIFIED AS A DISTRIBUTION OF SUCH RESERVES AND
37 THE AMOUNT PER SHARE PAID FROM SUCH RESERVES SHALL BE DISCLOSED TO
38 THE SHAREHOLDERS RECEIVING THE SAME CONCURRENTLY WITH THE DISTRIBUTION
39 THEREOF.

40 3. DIVIDENDS MAY BE DECLARED AND PAID IN ITS OWN TREASURY SHARES.

41 4. DIVIDENDS MAY BE DECLARED AND PAID IN ITS OWN AUTHORIZED BUT
42 UNISSUED SHARES OUT OF ANY UNRESERVED AND UNRESTRICTED SURPLUS OF THE
43 CORPORATION UPON THE FOLLOWING CONDITIONS:

44 (a) IF A DIVIDEND IS PAYABLE IN ITS OWN SHARES HAVING A PAR VALUE,
45 SUCH SHARES SHALL BE ISSUED AT NOT LESS THAN THE PAR VALUE THEREOF
46 AND THERE SHALL BE TRANSFERRED TO STATED CAPITAL AT THE TIME SUCH
47 DIVIDEND IS PAID AN AMOUNT OF SURPLUS EQUAL TO THE AGGREGATE PAR VALUE
48 OF THE SHARES TO BE ISSUED AS A DIVIDEND.

49 (b) IF A DIVIDEND IS PAYABLE IN ITS OWN SHARES WITHOUT PAR
50 VALUE, SUCH SHARES SHALL BE ISSUED AT SUCH STATED VALUE AS SHALL BE

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1 FIXED BY THE BOARD OF DIRECTORS BY RESOLUTION ADOPTED AT THE TIME
2 SUCH DIVIDEND IS DECLARED, AND THERE SHALL BE TRANSFERRED TO STATED
3 CAPITAL AT THE TIME SUCH DIVIDEND IS PAID AN AMOUNT OF SURPLUS EQUAL
4 TO THE AGGREGATE STATED VALUE SO FIXED IN RESPECT TO SUCH SHARES; AND
5 THE AMOUNT PER SHARE SO TRANSFERRED TO STATED CAPITAL SHALL BE DIS-
6 CLOSED TO THE SHAREHOLDERS RECEIVING SUCH DIVIDEND CONCURRENTLY WITH
7 THE PAYMENT THEREOF.

8 5. NO DIVIDEND PAYABLE IN SHARES OF ANY CLASS SHALL BE PAID TO
9 THE HOLDERS OF SHARES OF ANY OTHER CLASS UNLESS THE ARTICLES OF INCOR-
10 PORATION SO PROVIDE OR SUCH PAYMENT IS AUTHORIZED BY THE AFFIRMATIVE
11 VOTE OR THE WRITTEN CONSENT OF THE HOLDERS OF AT LEAST A MAJORITY OF
12 THE OUTSTANDING SHARES OF THE CLASS IN WHICH THE PAYMENT IS TO BE MADE.

13 B. A SPLIT-UP OR DIVISION OF THE ISSUED SHARES OF ANY CLASS
14 INTO A GREATER NUMBER OF SHARES OF THE SAME CLASS WITHOUT INCREASING
15 THE STATED CAPITAL OF THE CORPORATION SHALL NOT BE CONSTRUED TO BE
16 A SHARE DIVIDEND WITHIN THE MEANING OF THIS SECTION.

17 10-046. Distributions from capital surplus

18 A. THE BOARD OF DIRECTORS OF A CORPORATION MAY, FROM TIME TO
19 TIME, DISTRIBUTE ON A PRO RATA BASIS TO ITS SHAREHOLDERS OUT OF CAPITAL
20 SURPLUS OF THE CORPORATION A PORTION OF ITS ASSETS, IN CASH OR PROPERTY,
21 SUBJECT TO THE FOLLOWING PROVISIONS:

22 1. NO SUCH DISTRIBUTION SHALL BE MADE AT A TIME WHEN THE COR-
23 PORATION IS INSOLVENT OR WHEN SUCH DISTRIBUTION WOULD RENDER THE
24 CORPORATION INSOLVENT.

25 2. NO SUCH DISTRIBUTION SHALL BE MADE UNLESS THE ARTICLES OF
26 INCORPORATION SO PROVIDE OR SUCH DISTRIBUTION IS AUTHORIZED BY THE
27 AFFIRMATIVE VOTE OF THE HOLDERS OF A MAJORITY OF THE OUTSTANDING
28 SHARES OF EACH CLASS WHETHER OR NOT ENTITLED TO VOTE THEREON BY THE
29 PROVISIONS OF THE ARTICLES OF INCORPORATION OF THE CORPORATION.

30 3. NO SUCH DISTRIBUTION SHALL BE MADE TO THE HOLDERS OF ANY
31 CLASS OF SHARES UNLESS ALL CUMULATIVE DIVIDENDS ACCRUED ON CLASSES
32 OF SHARES ENTITLED TO PREFERENTIAL DIVIDENDS SHALL HAVE BEEN FULLY
33 PAID.

34 4. NO SUCH DISTRIBUTION SHALL BE MADE TO THE HOLDERS OF ANY
35 CLASS OF SHARES WHICH WOULD REDUCE THE REMAINING NET ASSETS OF THE
36 CORPORATION BELOW THE AGGREGATE PREFERENTIAL AMOUNT PAYABLE IN EVENT
37 OF INVOLUNTARY LIQUIDATION TO THE HOLDERS OF SHARES HAVING PREFEREN-
38 TIAL RIGHTS TO THE ASSETS OF THE CORPORATION IN THE EVENT OF LIQUIDA-
39 TION.

40 5. EACH SUCH DISTRIBUTION, WHEN MADE, SHALL BE IDENTIFIED AS A
41 DISTRIBUTION FROM CAPITAL SURPLUS AND THE AMOUNT PER SHARE DISCLOSED
42 TO THE SHAREHOLDERS RECEIVING THE SAME CONCURRENTLY WITH THE DISTRIBU-
43 TION THEREOF.

44 B. THE BOARD OF DIRECTORS OF A CORPORATION MAY ALSO, FROM TIME
45 TO TIME, DISTRIBUTE TO THE HOLDERS OF ITS OUTSTANDING SHARES HAVING A
46 CUMULATIVE PREFERENTIAL RIGHT TO RECEIVE DIVIDENDS, IN DISCHARGE OF
47 THEIR CUMULATIVE DIVIDEND RIGHTS, PAYMENTS IN CASH OUT OF THE CAPITAL
48 SURPLUS OF THE CORPORATION, IF AT THE TIME THE CORPORATION HAS NO
49 EARNED SURPLUS AND IS NOT INSOLVENT AND WOULD NOT THEREBY BE RENDERED
50 INSOLVENT. EACH SUCH DISTRIBUTION WHEN MADE, SHALL BE IDENTIFIED AS

1 A PAYMENT OUT OF CAPITAL SURPLUS AND IN DISCHARGE OF CUMULATIVE DIVIDEND
2 RIGHTS.

3 10-047. Loans to employees and directors

4 A CORPORATION SHALL NOT LEND MONEY TO OR USE ITS CREDIT TO
5 ASSIST ITS DIRECTORS WITHOUT AUTHORIZATION IN THE PARTICULAR CASE BY
6 ITS SHAREHOLDERS, BUT MAY LEND MONEY TO AND USE ITS CREDIT TO ASSIST
7 ANY EMPLOYEE OF THE CORPORATION OR OF AN AFFILIATE CORPORATION, IN-
8 CLUDING ANY SUCH EMPLOYEE WHO IS A DIRECTOR OF THE CORPORATION, IF
9 THE BOARD OF DIRECTORS DECIDES THAT SUCH LOAN OR ASSISTANCE MAY REA-
10 SONABLY BE EXPECTED TO BENEFIT THE CORPORATION. THE PROVISIONS OF
11 THIS SECTION DO NOT APPLY TO BANKS, SAVINGS AND LOAN ASSOCIATIONS,
12 INSURANCE COMPANIES OR TO LOANS PERMITTED UNDER ANY STATUTE REG-
13 ULATING ANY SPECIAL CLASSES OF CORPORATIONS.

14 10-048. Liability of directors in certain cases

15 A. IN ADDITION TO ANY OTHER LIABILITIES IMPOSED BY LAW UPON
16 DIRECTORS OF A CORPORATION:

17 1. DIRECTORS OF A CORPORATION WHO VOTE FOR OR ASSENT TO THE
18 DECLARATION OF ANY DIVIDEND OR OTHER DISTRIBUTION OF THE ASSETS OF
19 A CORPORATION TO ITS SHAREHOLDERS CONTRARY TO THE PROVISIONS OF THIS
20 CHAPTER OR CONTRARY TO ANY RESTRICTIONS CONTAINED IN THE ARTICLES OF
21 INCORPORATION, SHALL BE JOINTLY AND SEVERALLY LIABLE TO THE CORPORA-
22 TION FOR THE AMOUNT OF SUCH DIVIDEND WHICH IS PAID OR THE VALUE OF
23 SUCH ASSETS WHICH ARE DISTRIBUTED IN EXCESS OF THE AMOUNT OF SUCH
24 DIVIDEND OR DISTRIBUTION WHICH COULD HAVE BEEN PAID OR DISTRIBUTED
25 WITHOUT A VIOLATION OF THE PROVISIONS OF THIS CHAPTER OR THE RESTRI-
26 CTIONS IN THE ARTICLES OF INCORPORATION.

27 2. DIRECTORS OF A CORPORATION WHO VOTE FOR OR ASSENT TO THE
28 PURCHASE OF ITS OWN SHARES CONTRARY TO THE PROVISIONS OF THIS CHAPTER
29 OR CONTRARY TO ANY RESTRICTIONS CONTAINED IN THE ARTICLES OF INCOR-
30 PORATION SHALL BE JOINTLY AND SEVERALLY LIABLE TO THE CORPORATION FOR
31 THE AMOUNT OF CONSIDERATION PAID FOR SUCH SHARES WHICH IS IN EXCESS
32 OF THE MAXIMUM AMOUNT WHICH COULD HAVE BEEN PAID THEREFOR WITHOUT A
33 VIOLATION OF THE PROVISIONS OF THIS CHAPTER.

34 3. THE DIRECTORS OF A CORPORATION WHO VOTE FOR OR ASSENT TO
35 ANY DISTRIBUTION OF ASSETS OF A CORPORATION TO ITS SHAREHOLDERS DURING
36 THE LIQUIDATION OF THE CORPORATION WITHOUT THE PAYMENT AND DISCHARGE
37 OF, OR MAKING ADEQUATE PROVISION FOR, ALL KNOWN DEBTS, OBLIGATIONS,
38 AND LIABILITIES OF THE CORPORATION SHALL BE JOINTLY AND SEVERALLY
39 LIABLE TO THE CORPORATION FOR THE VALUE OF SUCH ASSETS WHICH ARE
40 DISTRIBUTED, TO THE EXTENT THAT SUCH DEBTS, OBLIGATIONS AND LIA-
41 BILITIES OF THE CORPORATION ARE NOT THEREAFTER PAID AND DISCHARGED.

42 B. A DIRECTOR OF A CORPORATION WHO IS PRESENT AT A MEETING
43 OF ITS BOARD OF DIRECTORS AT WHICH ACTION ON ANY CORPORATE MATTER
44 UNDER SUBSECTION A IS TAKEN SHALL BE PRESUMED TO HAVE ASSENTED TO
45 THE ACTION TAKEN UNLESS HIS DISSSENT SHALL BE ENTERED IN THE MINUTES
46 OF THE MEETING OR UNLESS HE SHALL FILE HIS WRITTEN DISSSENT TO SUCH
47 ACTION WITH THE SECRETARY OF THE MEETING BEFORE THE ADJOURNMENT
48 THEREOF OR SHALL FORWARD SUCH DISSSENT BY REGISTERED OR CERTIFIED MAIL
49 TO THE SECRETARY OF THE CORPORATION BEFORE FIVE O'CLOCK IN THE AFTER-
50 NOON OF THE NEXT DAY WHICH IS NOT A HOLIDAY OR A SATURDAY AFTER THE

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1 ADJOURNMENT OF THE MEETING. SUCH RIGHT TO DISSENT SHALL NOT APPLY TO
2 A DIRECTOR WHO VOTED IN FAVOR OF SUCH ACTION.

3 C. A DIRECTOR SHALL NOT BE LIABLE UNDER SUBSECTION A IF HE
4 RELIED AND ACTED IN GOOD FAITH UPON FINANCIAL STATEMENTS OF THE COR-
5 PORATION REPRESENTED TO HIM TO BE CORRECT BY THE PRESIDENT OR THE
6 OFFICER OF SUCH CORPORATION HAVING CHARGE OF ITS BOOKS OF ACCOUNT,
7 OR STATED IN A WRITTEN REPORT BY AN INDEPENDENT PUBLIC OR CERTIFIED
8 PUBLIC ACCOUNTANT OR FIRM OF SUCH ACCOUNTANTS FAIRLY TO REFLECT THE
9 FINANCIAL CONDITION OF SUCH CORPORATION, NOR SHALL HE BE SO LIABLE IF
10 IN GOOD FAITH IN DETERMINING THE AMOUNT AVAILABLE FOR ANY SUCH DIVI-
11 DEND OR DISTRIBUTION HE CONSIDERED THE ASSETS TO BE OF THEIR BOOK
12 VALUE.

13 D. ANY DIRECTOR AGAINST WHOM A CLAIM SHALL BE ASSERTED UNDER OR
14 PURSUANT TO THIS SECTION FOR THE PAYMENT OF A DIVIDEND OR OTHER DIS-
15 TRIBUTION OF ASSETS OF A CORPORATION AND WHO SHALL BE HELD LIABLE
16 THEREON, SHALL BE ENTITLED TO CONTRIBUTION FROM THE SHAREHOLDERS WHO
17 ACCEPTED OR RECEIVED ANY SUCH DIVIDEND OR ASSETS, KNOWING SUCH DIVI-
18 DEND OR DISTRIBUTION TO HAVE BEEN MADE IN VIOLATION OF THIS CHAPTER,
19 IN PROPORTION TO THE AMOUNTS RECEIVED BY THEM.

20 E. ANY DIRECTOR AGAINST WHOM A CLAIM SHALL BE ASSERTED UNDER
21 OR PURSUANT TO THIS SECTION SHALL BE ENTITLED TO CONTRIBUTION FROM THE
22 OTHER DIRECTORS WHO VOTED FOR OR ASSENTED TO THE ACTION UPON WHICH THE
23 CLAIM IS ASSERTED.

24 F. NO LIABILITY UNDER THIS SECTION SHALL BE ASSERTED MORE THAN
25 FOUR YEARS FROM THE TIME THE CLAIM ACCRUED.

26 10-049. Provisions relating to actions by shareholders

27 A. NO ACTION SHALL BE BROUGHT IN THIS STATE BY A SHAREHOLDER IN
28 THE RIGHT OF A DOMESTIC OR FOREIGN CORPORATION UNLESS THE PLAINTIFF WAS
29 A HOLDER OF RECORD OF SHARES OR OF VOTING TRUST BENEFICIAL INTEREST
30 THEREFOR AT THE TIME OF THE TRANSACTION OF WHICH HE COMPLAINS, OR HIS
31 SHARES OR VOTING TRUST BENEFICIAL INTEREST THEREAFTER DEVOLVED UPON HIM
32 BY OPERATION OF LAW FROM A PERSON WHO WAS A HOLDER OF RECORD AT SUCH TIME.

33 B. IN ANY ACTION HEREAFTER INSTITUTED IN THE RIGHT OF ANY
34 DOMESTIC OR FOREIGN CORPORATION BY THE HOLDER OR HOLDERS OF RECORD
35 OF SHARES OF SUCH CORPORATION OR OF VOTING TRUST BENEFICIAL INTEREST
36 THEREFOR, THE COURT HAVING JURISDICTION, UPON FINAL JUDGMENT AND A FIND-
37 ING THAT THE ACTION WAS BROUGHT WITHOUT REASONABLE CAUSE, MAY REQUIRE
38 THE PLAINTIFF OR PLAINTIFFS TO PAY TO THE PARTIES NAMED AS DEFENDANT THE
39 REASONABLE EXPENSES, INCLUDING FEES OF ATTORNEYS, INCURRED BY THEM IN THE
40 DEFENSE OF SUCH ACTION.

41 C. IN ANY ACTION NOW PENDING OR HEREAFTER INSTITUTED OR MAIN-
42 TAINED IN THE RIGHT OF ANY DOMESTIC OR FOREIGN CORPORATION BY THE
43 HOLDER OR HOLDERS OF RECORD OF LESS THAN FIVE PER CENT OF THE OUT-
44 STANDING SHARES OF ANY CLASS OF SUCH CORPORATION OR OF VOTING TRUST
45 BENEFICIAL INTEREST THEREFOR, UNLESS THE SHARES OR VOTING TRUST BENE-
46 FICIAL INTEREST SO HELD HAVE A MARKET VALUE IN EXCESS OF TWENTY-FIVE
47 THOUSAND DOLLARS, THE CORPORATION IN WHOSE RIGHT SUCH ACTION IS BROUGHT
48 SHALL BE ENTITLED AT ANY TIME BEFORE FINAL JUDGEMENT TO REQUIRE THE
49 PLAINTIFF OR PLAINTIFFS TO GIVE SECURITY FOR THE REASONABLE EXPENSES,
50 INCLUDING FEES OF ATTORNEYS, THAT MAY BE INCURRED BY IT IN CONNECTION

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1 WITH SUCH ACTION OR MAY BE INCURRED BY OTHER PARTIES NAMED AS DEFENDANT
2 FOR WHICH IT MAY BECOME LEGALLY LIABLE. MARKET VALUE SHALL BE DETERMINED
3 AS OF THE DATE THAT THE PLAINTIFF INSTITUTES THE ACTION OR, IN THE CASE
4 OF AN INTERVENOR, AS OF THE DATE THAT HE BECOMES A PARTY TO THE ACTION.
5 THE AMOUNT OF SUCH SECURITY MAY FROM TIME TO TIME BE INCREASED OR DE-
6 CREASED, IN THE DISCRETION OF THE COURT, UPON SHOWING THAT THE SECURITY
7 PROVIDED HAS OR MAY BECOME INADEQUATE OR IS EXCESSIVE. THE CORPORATION
8 SHALL HAVE RECOURSE TO SUCH SECURITY IN SUCH AMOUNT AS THE COURT HAVING
9 JURISDICTION SHALL DETERMINE UPON THE TERMINATION OF SUCH ACTION, WHETHER
10 OR NOT THE COURT FINDS THE ACTION WAS BROUGHT WITHOUT REASONABLE CAUSE.

11 10-050. Officers

12 A. THE OFFICERS OF A CORPORATION SHALL CONSIST OF A PRESIDENT,
13 ONE OR MORE VICE-PRESIDENTS AS MAY BE PRESCRIBED BY THE BYLAWS, A
14 SECRETARY, AND A TREASURER, EACH OF WHOM SHALL BE ELECTED BY THE BOARD
15 OF DIRECTORS AT SUCH TIME AND IN SUCH MANNER AS MAY BE PRESCRIBED BY
16 THE BYLAWS. SUCH OTHER OFFICERS AND ASSISTANT OFFICERS AND AGENTS AS
17 MAY BE DEEMED NECESSARY MAY BE ELECTED OR APPOINTED BY THE BOARD OF
18 DIRECTORS OR CHOSEN IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY THE
19 BYLAWS. ANY TWO OR MORE OFFICES MAY BE HELD BY THE SAME PERSON, EXCEPT
20 THE OFFICES OF PRESIDENT AND SECRETARY.

21 B. ALL OFFICERS AND AGENTS OF THE CORPORATION, AS BETWEEN THEM-
22 SELVES AND THE CORPORATION, SHALL HAVE SUCH AUTHORITY AND PERFORM SUCH
23 DUTIES IN THE MANAGEMENT OF THE CORPORATION AS MAY BE PROVIDED IN THE
24 BYLAWS, OR AS MAY BE DETERMINED BY RESOLUTION OF THE BOARD OF DIRECTORS
25 NOT INCONSISTENT WITH THE BYLAWS.

26 10-051. Removal of officers

27 ANY OFFICER OR AGENT MAY BE REMOVED BY THE BOARD OF DIRECTORS
28 WHENEVER IN ITS JUDGMENT THE BEST INTERESTS OF THE CORPORATION WILL BE
29 SERVED THEREBY, BUT SUCH REMOVAL SHALL BE WITHOUT PREJUDICE TO THE
30 CONTRACT RIGHTS, IF ANY, OF THE PERSON SO REMOVED. ELECTION OR AP-
31 POINTMENT OF AN OFFICER OR AGENT SHALL NOT OF ITSELF CREATE CONTRACT
32 RIGHTS.

33 10-052. Books and records

34 A. EACH CORPORATION SHALL KEEP CORRECT AND COMPLETE BOOKS AND
35 RECORDS OF ACCOUNT AND SHALL KEEP MINUTES OF THE PROCEEDINGS OF ITS
36 SHAREHOLDERS AND BOARD OF DIRECTORS AND COMMITTEES THEREOF; AND SHALL
37 KEEP AT ITS STATUTORY AGENT'S OFFICE, OR ITS PRINCIPAL PLACE OF BUS-
38 INESS, OR AT THE OFFICE OF ITS TRANSFER AGENT OR REGISTRAR, A RECORD
39 OF ITS SHAREHOLDERS, GIVING THE NAMES AND ADDRESSES OF ALL SHARE-
40 HOLDERS AND THE NUMBER AND CLASS OF THE SHARES HELD BY EACH. ANY
41 BOOKS, RECORDS AND MINUTES MAY BE IN WRITTEN FORM OR IN ANY OTHER
42 FORM CAPABLE OF BEING CONVERTED INTO WRITTEN FORM WITHIN A REASONABLE
43 TIME.

44 B. ANY PERSON WHO SHALL HAVE BEEN A HOLDER OF RECORD OF SHARES
45 OR OF VOTING TRUST BENEFICIAL INTEREST THEREFOR AT LEAST SIX MONTHS
46 IMMEDIATELY PRECEDING HIS DEMAND OR SHALL BE THE HOLDER OF RECORD OF,
47 OR THE HOLDER OF RECORD OF VOTING TRUST BENEFICIAL INTEREST FOR, AT
48 LEAST FIVE PER CENT OF ALL THE OUTSTANDING SHARES OF THE CORPORATION,
49 UPON WRITTEN DEMAND AS PROVIDED IN SECTION 10-014 STATING THE PURPOSE
50 THEREOF, SHALL HAVE THE RIGHT TO EXAMINE, IN PERSON, OR BY AGENT OR

1 ATTORNEY, AT ANY REASONABLE TIME OR TIMES, FOR ANY PROPER PURPOSE ITS
 2 RELEVANT BOOKS AND RECORDS OF ACCOUNTS, MINUTES, AND RECORD OF SHARE-
 3 HOLDERS AND TO MAKE COPIES OF OR EXTRACTS THEREFROM.

4 C. ANY OFFICER OR AGENT WHO, OR A CORPORATION WHICH, SHALL
 5 REFUSE TO ALLOW ANY SUCH SHAREHOLDER OR HOLDER OF VOTING TRUST BENE-
 6 FICIAL INTEREST, OR HIS AGENT OR ATTORNEY, SO TO EXAMINE AND MAKE COPIES
 7 OF OR EXTRACTS FROM ITS BOOKS AND RECORDS OF ACCOUNTS, MINUTES, AND
 8 RECORD OF SHAREHOLDERS, FOR ANY PROPER PURPOSE, SHALL BE CIVILLY LIABLE
 9 TO SUCH SHAREHOLDER OR HOLDER OF VOTING TRUST BENEFICIAL INTEREST IN AN
 10 AMOUNT EQUAL TO FIVE HUNDRED DOLLARS OR TEN PER CENT OF THE VALUE OF THE
 11 SHARES OWNED BY SUCH SHAREHOLDER, OR IN RESPECT OF WHICH SUCH VOTING
 12 TRUST BENEFICIAL INTEREST ARE ISSUED, ON THE DATE OF THE DEMAND, WHICH-
 13 EVER IS GREATER IN ADDITION TO ANY OTHER DAMAGES OR REMEDY AFFORDED HIM
 14 BY LAW. IT SHALL BE A DEFENSE TO ANY ACTION UNDER THIS SECTION THAT
 15 THE PERSON SUING THEREFOR HAS WITHIN TWO YEARS SOLD OR OFFERED FOR SALE
 16 ANY LIST OF SHAREHOLDERS OR OF HOLDERS OF VOTING TRUST BENEFICIAL INTER-
 17 EST FOR SHARES OF SUCH CORPORATION OR ANY OTHER CORPORATION OR HAS AIDED
 18 OR ABETTED ANY PERSON IN PROCURING ANY LIST OF SHAREHOLDERS OR OF
 19 HOLDERS OF VOTING TRUST BENEFICIAL INTEREST FOR ANY SUCH PURPOSE, OR HAS
 20 IMPROPERLY USED OR PERMITTED TO BE USED ANY INFORMATION SECURED THROUGH
 21 ANY PRIOR EXAMINATION OF THE BOOKS AND RECORDS OF ACCOUNTS, OR MINUTES,
 22 OR RECORD OF SHAREHOLDERS OR OF HOLDERS OF VOTING TRUST BENEFICIAL INTER-
 23 EST FOR SHARES OF SUCH CORPORATION OR ANY OTHER CORPORATION, OR WAS NOT
 24 ACTING IN GOOD FAITH OR FOR A PROPER PURPOSE IN MAKING HIS DEMAND.

25 D. NOTHING HEREIN CONTAINED SHALL IMPAIR THE POWER OF ANY COURT
 26 OF COMPETENT JURISDICTION, UPON PROOF BY A SHAREHOLDER OR HOLDER OF
 27 VOTING TRUST BENEFICIAL INTEREST OF PROPER PURPOSE, IRRESPECTIVE OF THE
 28 PERIOD OF TIME DURING WHICH SUCH SHAREHOLDER OR HOLDER OF VOTING TRUST
 29 BENEFICIAL INTEREST SHALL HAVE BEEN A SHAREHOLDER OR RECORD OR A HOLDER
 30 OF RECORD OF VOTING TRUST BENEFICIAL INTEREST, AND IRRESPECTIVE OF THE
 31 NUMBER OF SHARES HELD BY HIM OR REPRESENTED BY VOTING TRUST BENEFICIAL
 32 INTEREST HELD BY HIM, TO COMPEL THE PRODUCTION FOR EXAMINATION OR COPY-
 33 ING BY SUCH SHAREHOLDER OR HOLDER OF VOTING TRUST BENEFICIAL INTEREST
 34 OF THE BOOKS AND RECORDS OF ACCOUNTS, MINUTES AND RECORD OF SHAREHOLDERS
 35 OF A CORPORATION.

36 E. UPON THE WRITTEN REQUEST OF ANY SHAREHOLDER OR HOLDER OF
 37 VOTING TRUST BENEFICIAL INTEREST FOR SHARES OF A CORPORATION, THE COR-
 38 PORATION SHALL MAIL TO SUCH SHAREHOLDER OR HOLDER OF VOTING TRUST BENE-
 39 FICIAL INTEREST ITS MOST RECENT FINANCIAL STATEMENTS SHOWING IN REASON-
 40 ABLE DETAIL ITS ASSETS AND LIABILITIES AND THE RESULTS OF ITS OPERATIONS.

41 ARTICLE 2. INCORPORATION

42 10-053. Incorporators

43 TWO OR MORE PERSONS CAPABLE OF CONTRACTING MAY ACT AS INCORPORATORS
 44 OF A CORPORATION BY SIGNING AND DELIVERING TO THE COMMISSION AN ORIGINAL
 45 AND ONE OR MORE COPIES OF ARTICLES OF INCORPORATION FOR SUCH CORPORATION.

46 10-054. Articles of incorporation

47 A. THE ARTICLES OF INCORPORATION SHALL SET FORTH:

48 1. THE NAME OF THE CORPORATION.

49 2. THE PERIOD OF DURATION, IF LESS THAN PERPETUAL.

50 3. THE PURPOSE OR PURPOSES FOR WHICH THE CORPORATION IS ORGANIZED
 51 WHICH MAY BE STATED TO BE, OR TO INCLUDE, THE TRANSACTION OF ANY OR ALL

- 1 LAWFUL BUSINESS FOR WHICH CORPORATIONS MAY BE INCORPORATED UNDER THIS
2 CHAPTER.
- 3 4. A BRIEF STATEMENT OF THE CHARACTER OF BUSINESS WHICH THE
4 CORPORATION INITIALLY INTENDS ACTUALLY TO CONDUCT IN THIS STATE. SUCH
5 STATEMENT SHALL NOT LIMIT THE CHARACTER OF BUSINESS WHICH THE CORPORATION
6 ULTIMATELY CONDUCTS.
- 7 5. THE AGGREGATE NUMBER OF SHARES WHICH THE CORPORATION SHALL
8 HAVE AUTHORITY TO ISSUE; IF SUCH SHARES ARE TO CONSIST OF ONE CLASS
9 ONLY, THE PAR VALUE OF EACH OF SUCH SHARES, OR A STATEMENT THAT ALL OF
10 SUCH SHARES ARE WITHOUT PAR VALUE; OR, IF SUCH SHARES ARE TO BE DIVIDED
11 INTO CLASSES, THE NUMBER OF SHARES OF EACH CLASS, AND A STATEMENT OF THE
12 PAR VALUE OF THE SHARES OF EACH SUCH CLASS OR THAT SUCH SHARES ARE TO
13 BE WITHOUT PAR VALUE.
- 14 6. IF THE SHARES ARE TO BE DIVIDED INTO CLASSES, THE DESIGNATION
15 OF EACH CLASS AND A STATEMENT OF THE PREFERENCES, LIMITATIONS AND
16 RELATIVE RIGHTS IN RESPECT OF THE SHARES OF EACH CLASS.
- 17 7. IF THE CORPORATION IS TO ISSUE THE SHARES OF ANY PREFERRED
18 OR SPECIAL CLASS IN SERIES, THEN THE DESIGNATION OF EACH SERIES AND
19 A STATEMENT OF THE VARIATIONS IN THE RELATIVE RIGHTS AND PREFERENCES
20 AS BETWEEN SERIES INSOFAR AS THE SAME ARE TO BE FIXED IN THE ARTICLES
21 OF INCORPORATION, AND A STATEMENT OF ANY AUTHORITY TO BE VESTED IN
22 THE BOARD OF DIRECTORS TO ESTABLISH SERIES AND FIX AND DETERMINE THE
23 VARIATIONS IN THE RELATIVE RIGHTS AND PREFERENCES AS BETWEEN SERIES.
- 24 8. IF ANY PREEMPTIVE RIGHT IS TO BE GRANTED TO SHAREHOLDERS,
25 THE PROVISIONS THEREFOR.
- 26 9. THE NAME AND ADDRESS OF ITS INITIAL STATUTORY AGENT.
- 27 10. THE NUMBER OF DIRECTORS CONSTITUTING THE INITIAL BOARD OF
28 DIRECTORS AND THE NAMES AND ADDRESSES OF THE PERSONS WHO ARE TO SERVE
29 AS DIRECTORS UNTIL THE FIRST ANNUAL MEETING OF SHAREHOLDERS OR UNTIL
30 THEIR SUCCESSORS BE ELECTED AND QUALIFY.
- 31 11. THE NAME AND ADDRESS OF EACH INCORPORATOR.
- 32 12. ANY OTHER PROVISION, NOT INCONSISTENT WITH LAW, WHICH THE
33 INCORPORATORS ELECT TO SET FORTH.
- 34 B. IT SHALL NOT BE NECESSARY TO SET FORTH IN THE ARTICLES OF
35 INCORPORATION ANY OF THE CORPORATE POWERS ENUMERATED IN THIS CHAPTER.
- 36 10-055. Filing of articles of incorporation;
37 determination by commission; publication
- 38 A. WHEN THE ARTICLES OF INCORPORATION HAVE BEEN DELIVERED FOR
39 FILING AND ALL FEES PAID, THE COMMISSION SHALL, BEFORE FILING THEM,
40 DETERMINE THAT THE ARTICLES:
- 41 1. SET FORTH THE INFORMATION REQUIRED BY SECTION 10-054.
42 2. DO NOT ADOPT AS THE NAME OF THE CORPORATION A NAME WHICH
43 IS IN VIOLATION OF ANY PROVISION OF SECTION 10-008.
44 3. APPEAR IN ALL OTHER RESPECTS TO CONFORM TO THE REQUIREMENTS
45 OF THIS CHAPTER AND TO LAW.
- 46 B. UPON MAKING SUCH DETERMINATION, WHICH SHALL BE MADE WITHIN
47 FIVE WORKING DAYS AFTER DELIVERY OF THE ARTICLES, THE COMMISSION
48 SHALL FILE THE ORIGINAL ARTICLES AND ENDORSE ON EACH ADDITIONAL
49 COPY DELIVERED THE WORD "FILED" WITH APPLICABLE DATE AND RETURN SUCH
50 ADDITIONAL COPIES TO THE INCORPORATORS OR THEIR REPRESENTATIVE.

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1 C. WITHIN SIXTY DAYS AFTER SUCH FILING THERE SHALL BE PUBLISHED,
2 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OF THE KNOWN PLACE
3 OF BUSINESS, FOR THREE CONSECUTIVE PUBLICATIONS, A COPY OF THE ARTICLES
4 OF INCORPORATION. AN AFFIDAVIT EVIDENCING SUCH PUBLICATION SHALL BE
5 FILED WITHIN NINETY DAYS AFTER FILING OF THE ARTICLES OF INCORPORATION.

6 10-056. Effect of filing articles of incorporation

7 UPON THE FILING OF THE ARTICLES OF INCORPORATION, THE CORPORATE
8 EXISTENCE SHALL BEGIN, AND SUCH FILING SHALL BE CONCLUSIVE EVIDENCE
9 THAT ALL CONDITIONS PRECEDENT REQUIRED TO BE PERFORMED BY THE INCOR-
10 PORATORS HAVE BEEN COMPLIED WITH AND THAT THE CORPORATION HAS BEEN
11 INCORPORATED UNDER THIS CHAPTER, EXCEPT AS AGAINST THIS STATE IN A PRO-
12 CEEDING TO REVOKE OR CANCEL SUCH FILING OR FOR INVOLUNTARY DISSOLUTION
13 OF THE CORPORATION.

10-057. Organization meeting

1 AFTER THE FILING OF THE ARTICLES OF INCORPORATION AN ORGANIZATIONAL
2 MEETING OF THE BOARD OF DIRECTORS NAMED IN THE ARTICLES OF INCORPORATION
3 SHALL BE HELD, EITHER WITHIN OR WITHOUT THIS STATE, AT THE CALL OF A
4 MAJORITY OF THE DIRECTORS NAMED IN THE ARTICLES OF INCORPORATION, FOR
5 THE PURPOSE OF ADOPTING BYLAWS, ELECTING OFFICERS AND TRANSACTING SUCH
6 OTHER BUSINESS AS MAY COME BEFORE THE MEETING. THE DIRECTORS CALLING
7 THE MEETING SHALL GIVE AT LEAST THREE DAYS' NOTICE THEREOF BY MAIL,
8 STATING THE TIME AND PLACE OF THE MEETING. SUCH NOTICE MAY BE WAIVED
9 IN WRITING, AT ANY TIME. ATTENDANCE AT THE MEETING SHALL CONSTITUTE A
10 WAIVER OF NOTICE OF SUCH MEETING.

ARTICLE 3. AMENDMENTS

10-058. Right to amend articles of incorporation

11 A. A CORPORATION MAY AMEND ITS ARTICLES OF INCORPORATION, FROM
12 TIME TO TIME, IN ANY AND AS MANY RESPECTS AS MAY BE DESIRED, SO LONG
13 AS ITS ARTICLES OF INCORPORATION AS AMENDED CONTAIN ONLY SUCH PROVI-
14 SIONS AS MIGHT BE LAWFULLY CONTAINED IN ORIGINAL ARTICLES OF INCORPORA-
15 TION AT THE TIME OF MAKING SUCH AMENDMENT, AND, IF A CHANGE IN SHARES
16 OR THE RIGHTS OF SHARES OR RIGHTS OF SHAREHOLDERS IS TO BE MADE, SUCH
17 PROVISIONS AS MAY BE NECESSARY TO EFFECT SUCH CHANGE, EXCHANGE, RE-
18 CLASSIFICATION OR CANCELLATION.

19 B. IN PARTICULAR, AND WITHOUT LIMITATION UPON SUCH GENERAL
20 POWER OF AMENDMENT, A CORPORATION MAY AMEND ITS ARTICLES OF INCORPORA-
21 TION, FROM TIME TO TIME, SO AS:

22 1. TO CHANGE ITS CORPORATE NAME.

23 2. TO CHANGE ITS PERIOD OF DURATION.

24 3. TO CHANGE, ENLARGE OR DIMINISH ITS CORPORATE PURPOSES.

25 4. TO INCREASE OR DECREASE THE AGGREGATE NUMBER OF SHARES, OR
26 SHARES OF ANY CLASS OR SERIES, WHICH THE CORPORATION HAS AUTHORITY TO
27 ISSUE.

28 5. TO INCREASE OR DECREASE THE PAR VALUE OF THE AUTHORIZED
29 SHARES OF ANY CLASS OR SERIES HAVING A PAR VALUE, WHETHER ISSUED OR
30 UNISSUED.

31 6. TO EXCHANGE, CLASSIFY, RECLASSIFY OR CANCEL ALL OR ANY
32 PART OF ITS SHARES, WHETHER ISSUED OR UNISSUED.

33 7. TO CHANGE THE DESIGNATION OF ALL OR ANY PART OF ITS SHARES,
34 WHETHER ISSUED OR UNISSUED, AND TO CHANGE THE PREFERENCES, LIMITATIONS,
35 AND THE RELATIVE RIGHTS IN RESPECT OF ALL OR ANY PART OF ITS SHARES,
36 WHETHER ISSUED OR UNISSUED.

37 8. TO CHANGE SHARES HAVING A PAR VALUE, WHETHER ISSUED OR UN-
38 ISSUED, INTO THE SAME OR A DIFFERENT NUMBER OF SHARES WITHOUT PAR VALUE,
39 AND TO CHANGE SHARES WITHOUT PAR VALUE, WHETHER ISSUED OR UNISSUED, INTO
40 THE SAME OR A DIFFERENT NUMBER OF SHARES HAVING A PAR VALUE.

41 9. TO CHANGE THE SHARES OF ANY CLASS OR SERIES, WHETHER ISSUED
42 OR UNISSUED, AND WHETHER WITH OR WITHOUT PAR VALUE, INTO A DIFFERENT
43 NUMBER OF SHARES OF THE SAME CLASS OR SERIES OR INTO THE SAME OR A
44 DIFFERENT NUMBER OF SHARES, EITHER WITH OR WITHOUT PAR VALUE, OF OTHER
45
46
47

1 CLASSES OR SERIES THEREOF.

2 10. TO CREATE NEW CLASSES OR SERIES OF SHARES HAVING RIGHTS AND
3 PREFERENCES EITHER PRIOR AND SUPERIOR OR SUBORDINATE AND INFERIOR TO THE
4 SHARES OF ANY CLASS OR SERIES THEN AUTHORIZED, WHETHER ISSUED OR UNISSUED.

5 11. TO CANCEL OR OTHERWISE AFFECT THE RIGHT OF THE HOLDERS OF
6 THE SHARES OF ANY CLASS OR SERIES TO RECEIVE DIVIDENDS WHICH HAVE
7 ACCRUED BUT HAVE NOT BEEN DECLARED.

8 12. TO DIVIDE ANY CLASS OF SHARES, WHETHER ISSUED OR UNISSUED,
9 INTO SERIES AND FIX AND DETERMINE THE DESIGNATIONS OF SUCH SERIES AND
10 THE VARIATIONS IN THE RELATIVE RIGHTS AND PREFERENCES AS BETWEEN THE
11 SHARES OF SUCH SERIES.

12 13. TO AUTHORIZE THE BOARD OF DIRECTORS TO ESTABLISH, OUT OF
13 AUTHORIZED BUT UNISSUED SHARES, SERIES OF ANY CLASS OF SHARES AND FIX
14 AND DETERMINE THE RELATIVE RIGHTS AND PREFERENCES OF THE SHARES OF ANY
15 SERIES SO ESTABLISHED.

16 14. TO AUTHORIZE THE BOARD OF DIRECTORS TO FIX AND DETERMINE
17 THE RELATIVE RIGHTS AND PREFERENCES OF THE AUTHORIZED BUT UNISSUED
18 SHARES OF SERIES THERETOFORE ESTABLISHED IN RESPECT OF WHICH EITHER
19 THE RELATIVE RIGHTS AND PREFERENCES HAVE NOT BEEN FIXED AND DETER-
20 MINED OR THE RELATIVE RIGHTS AND PREFERENCES THERETOFORE FIXED AND
21 DETERMINED ARE TO BE CHANGED.

22 15. TO REVOKE, DIMINISH OR ENLARGE THE AUTHORITY OF THE BOARD
23 OF DIRECTORS TO ESTABLISH SERIES OUT OF AUTHORIZED BUT UNISSUED SHARES
24 OF ANY CLASS AND FIX AND DETERMINE THE RELATIVE RIGHTS AND PREFERENCES
25 OF THE SHARES OF ANY SERIES SO ESTABLISHED.

26 16. TO LIMIT, DENY OR GRANT TO SHAREHOLDERS OF ANY CLASS OR
27 SERIES THE PREEMPTIVE RIGHT TO ACQUIRE ADDITIONAL OR TREASURY SHARES
28 OF THE CORPORATION, WHETHER THEN OR THEREAFTER AUTHORIZED.

29 10-059. Procedure to amend articles of incorporation

30 A. AMENDMENTS TO THE ARTICLES OF INCORPORATION SHALL BE MADE
31 IN THE FOLLOWING MANNER:

32 1. THE BOARD OF DIRECTORS SHALL ADOPT A RESOLUTION SETTING
33 FORTH THE PROPOSED AMENDMENT AND, IF SHARES HAVE BEEN ISSUED, DIRECT-
34 ING THAT IT BE SUBMITTED TO A VOTE AT A MEETING OF SHAREHOLDERS, WHICH
35 MAY BE EITHER THE ANNUAL OR A SPECIAL MEETING. IF NO SHARES HAVE BEEN
36 ISSUED, THE PROVISIONS FOR ADOPTION BY SHAREHOLDERS SHALL NOT APPLY
37 AND THE AMENDMENT SHALL BE ADOPTED BY A RESOLUTION OF THE BOARD OF
38 DIRECTORS.

39 2. WRITTEN NOTICE SETTING FORTH THE PROPOSED AMENDMENT SHALL
40 BE GIVEN TO EACH SHAREHOLDER OF RECORD ENTITLED TO VOTE THEREON WITHIN
41 THE TIME AND IN THE MANNER PROVIDED IN THIS CHAPTER FOR THE GIVING OF
42 NOTICE OF MEETINGS OF SHAREHOLDERS. IF THE MEETING BE AN ANNUAL MEETING,
43 THE PROPOSED AMENDMENT MAY BE INCLUDED IN THE NOTICE OF SUCH ANNUAL
44 MEETING.

45 3. AT SUCH MEETING A VOTE OF THE SHAREHOLDERS ENTITLED TO VOTE
46 THEREON SHALL BE TAKEN ON THE PROPOSED AMENDMENT. THE PROPOSED AMEND-
47 MENT SHALL BE ADOPTED UPON RECEIVING THE AFFIRMATIVE VOTE OF THE HOLDERS
48 OF A MAJORITY OF THE SHARES ENTITLED TO VOTE THEREON, UNLESS ANY CLASS
49 OR SERIES OF SHARES IS ENTITLED TO VOTE THEREON AS A CLASS, IN WHICH
50 EVENT THE PROPOSED AMENDMENT SHALL BE ADOPTED UPON RECEIVING THE

1 AFFIRMATIVE VOTE OF THE HOLDERS OF A MAJORITY OF THE SHARES OF EACH
2 CLASS OR SERIES OF SHARES ENTITLED TO VOTE THEREON AS A CLASS AND OF THE
3 TOTAL SHARES ENTITLED TO VOTE THEREON.

4 B. ANY NUMBER OF AMENDMENTS MAY BE SUBMITTED TO THE SHAREHOLDERS
5 AND VOTED UPON BY THEM AT ONE MEETING.

6 10-060. Class voting on amendments

7 THE HOLDERS OF THE OUTSTANDING SHARES OF A CLASS, INCLUDING ANY
8 SERIES THEREOF, SHALL BE ENTITLED TO VOTE AS A CLASS UPON A PROPOSED
9 AMENDMENT, WHETHER OR NOT ENTITLED TO VOTE THEREON BY THE PROVISIONS
10 OF THE ARTICLES OF INCORPORATION, IF THE AMENDMENT WOULD:

11 1. INCREASE OR DECREASE THE AGGREGATE NUMBER OF AUTHORIZED SHARES
12 OF SUCH CLASS.

13 2. INCREASE OR DECREASE THE PAR VALUE OF THE SHARES OF SUCH CLASS.

14 3. EFFECT AN EXCHANGE, RECLASSIFICATION OR CANCELLATION OF ALL
15 OR PART OF THE SHARES OF SUCH CLASS.

16 4. EFFECT AN EXCHANGE, OR CREATE A RIGHT OF EXCHANGE, OF ALL OR
17 ANY PART OF THE SHARES OF ANOTHER CLASS OR SERIES INTO THE SHARES OF
18 SUCH CLASS.

19 5. CHANGE THE DESIGNATIONS, PREFERENCES, LIMITATIONS OR RELATIVE
20 RIGHTS OF THE SHARES OF SUCH CLASS.

21 6. CHANGE THE SHARES OF SUCH CLASS, WHETHER WITH OR WITHOUT PAR
22 VALUE, INTO THE SAME OR A DIFFERENT NUMBER OF SHARES, EITHER WITH OR
23 WITHOUT PAR VALUE, OF THE SAME CLASS OR SERIES OR ANOTHER CLASS OR
24 CLASSES OR SERIES THEREOF.

25 7. CREATE A NEW CLASS OR SERIES OF SHARES HAVING RIGHTS AND PREF-
26 ERENCES OR THE NUMBER OF AUTHORIZED SHARES, OF ANY CLASS OR SERIES
27 HAVING RIGHTS AND PREFERENCES PRIOR OR SUPERIOR TO THE SHARES OF SUCH
28 CLASS.

29 8. IN THE CASE OF A CLASS OF SHARES, DIVIDE THE SHARES OF SUCH
30 CLASS INTO SERIES OR FURTHER SERIES AND FIX AND DETERMINE THE DESIGNATION
31 OF SUCH SERIES AND THE VARIATIONS IN THE RELATIVE RIGHTS AND PREFERENCES
32 BETWEEN THE SHARES OF SUCH SERIES, OR AUTHORIZE THE BOARD OF DIRECTORS
33 TO DO SO.

34 9. LIMIT OR DENY ANY EXISTING PREEMPTIVE RIGHTS OF THE SHARES
35 OF SUCH CLASS.

36 10. CANCEL OR OTHERWISE AFFECT DIVIDENDS ON THE SHARES OF SUCH
37 CLASS WHICH HAVE ACCRUED BUT HAVE NOT BEEN DECLARED.

38 10-061. Articles of amendment

39 THE ARTICLES OF AMENDMENT SHALL BE EXECUTED IN DUPLICATE BY THE
40 CORPORATION BY ITS PRESIDENT OR A VICE-PRESIDENT AND BY ITS SECRETARY
41 OR AN ASSISTANT SECRETARY, AND THEIR SIGNATURES SHALL BE ACKNOWLEDGED
42 AND SHALL SET FORTH:

43 1. THE NAME OF THE CORPORATION.

44 2. THE AMENDMENTS SO ADOPTED.

45 3. THE DATE OF THE ADOPTION OF THE AMENDMENT BY THE SHAREHOLDERS,
46 OR BY THE BOARD OF DIRECTORS WHERE NO SHARES HAVE BEEN ISSUED.

47 4. THE NUMBER OF SHARES OUTSTANDING, AND THE NUMBER OF SHARES
48 ENTITLED TO VOTE THEREON, AND IF THE SHARES OF ANY CLASS ARE ENTITLED
49 TO VOTE THEREON AS A CLASS, THE DESIGNATION AND NUMBER OF OUTSTANDING
50 SHARES ENTITLED TO VOTE THEREON OF EACH SUCH CLASS.

1 5. THE NUMBER OF SHARES VOTED FOR AND AGAINST SUCH AMENDMENT,
2 RESPECTIVELY, AND, IF THE SHARES OF ANY CLASS ARE ENTITLED TO VOTE
3 THEREON AS A CLASS, THE NUMBER OF SHARES OF EACH SUCH CLASS VOTED FOR
4 AND AGAINST SUCH AMENDMENT, RESPECTIVELY, OR IF NO SHARES HAVE BEEN
5 ISSUED, A STATEMENT TO THAT EFFECT.

6 6. IF SUCH AMENDMENT PROVIDES FOR AN EXCHANGE, RECLASSIFICATION
7 OR CANCELLATION OF ISSUED SHARES, AND IF THE MANNER IN WHICH THE SAME
8 SHALL BE EFFECTED IS NOT SET FORTH IN THE AMENDMENT, THEN A STATEMENT OF
9 THE MANNER IN WHICH THE SAME SHALL BE EFFECTED.

10 7. IF SUCH AMENDMENT EFFECTS A CHANGE IN THE AMOUNT OF STATED
11 CAPITAL, THEN A STATEMENT OF THE MANNER IN WHICH THE SAME IS EFFECTED
12 AND A STATEMENT, EXPRESSED IN DOLLARS, OF THE AMOUNT OF STATED CAPITAL
13 AS CHANGED BY SUCH AMENDMENT.

14 10-062. Filing of articles of amendment; publication

15 A. WHEN THE ARTICLES OF AMENDMENT HAVE BEEN DELIVERED FOR FILING
16 AND ALL FEES PAID, THE COMMISSION SHALL, BEFORE FILING THEM, DETERMINE
17 THAT THE ARTICLES:

18 1. SET FORTH THE INFORMATION REQUIRED BY SECTION 10-061.
19 2. APPEAR IN ALL OTHER RESPECTS TO CONFORM TO THE REQUIREMENTS
20 OF THIS CHAPTER AND TO LAW.

21 B. UPON MAKING SUCH DETERMINATION, THE COMMISSION SHALL FILE
22 THE ARTICLES OF AMENDMENT IN THE MANNER PROVIDED FOR FILING ORIGINAL
23 ARTICLES IN SECTION 10-055.

24 C. WITHIN SIXTY DAYS AFTER SUCH FILING THERE SHALL BE PUBLISHED,
25 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OF THE KNOWN PLACE
26 OF BUSINESS, FOR THREE CONSECUTIVE PUBLICATIONS, A COPY OF THE ARTICLES
27 OF AMENDMENT. AN AFFIDAVIT EVIDENCING SUCH PUBLICATION SHALL BE FILED
28 WITHIN NINETY DAYS AFTER FILING OF THE ARTICLES OF AMENDMENT.

29 10-063. Effect of amendment

30 A. UPON THE FILING OF THE ARTICLES OF AMENDMENT WITH THE COMMIS-
31 SION, THE AMENDMENT SHALL BECOME EFFECTIVE AND THE ARTICLES OF INCORPO-
32 RATION SHALL BE DEEMED TO BE AMENDED ACCORDINGLY.

33 B. NO AMENDMENT SHALL AFFECT ANY EXISTING CLAIM IN FAVOR OF OR
34 AGAINST SUCH CORPORATION, OR ANY PENDING ACTION OR PROCEEDING TO WHICH
35 SUCH CORPORATION SHALL BE A PARTY, OR THE EXISTING RIGHTS OF PERSONS
36 OTHER THAN SHAREHOLDERS; AND, IN THE EVENT THE CORPORATE NAME SHALL BE
37 CHANGED BY AMENDMENT, NO ACTION OR PROCEEDING BROUGHT BY OR AGAINST SUCH
38 CORPORATION UNDER ITS FORMER NAME SHALL ABATE FOR THAT REASON.

39 10-064. Restated articles of incorporation

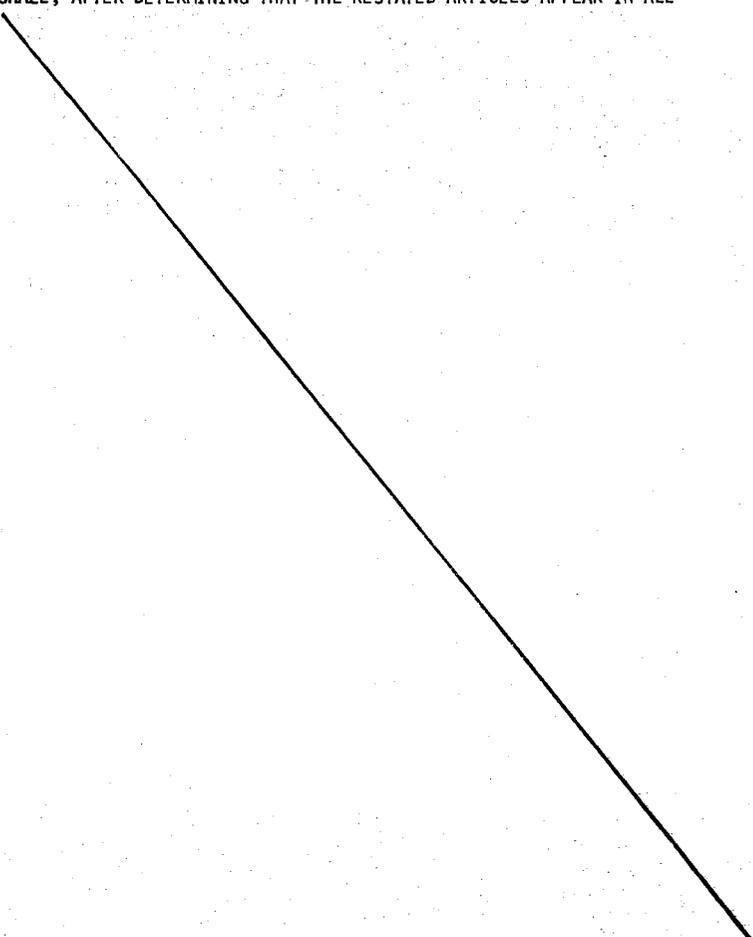
40 A. A DOMESTIC CORPORATION MAY AT ANY TIME RESTATE ITS ARTICLES OF
41 INCORPORATION AS THERETOFORE AMENDED, BY A RESOLUTION ADOPTED BY THE
42 BOARD OF DIRECTORS.

43 B. UPON THE ADOPTION OF SUCH RESOLUTION, RESTATED ARTICLES OF
44 INCORPORATION SHALL BE EXECUTED BY THE CORPORATION BY ITS PRESIDENT OR
45 A VICE-PRESIDENT AND BY ITS SECRETARY OR ASSISTANT SECRETARY AND THEIR
46 SIGNATURES SHALL BE ACKNOWLEDGED AND SHALL SET FORTH ALL OF THE OPERATIVE
47 PROVISIONS OF THE ARTICLES OF INCORPORATION AS THERETOFORE AMENDED TO-
48 GETHER WITH A STATEMENT THAT THE RESTATED ARTICLES OF INCORPORATION
49 CORRECTLY SET FORTH WITHOUT CHANGE THE PROVISIONS OF THE ARTICLES OF

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1 INCORPORATION AS THERETOFORE AMENDED AND THAT THE RESTATED ARTICLES OF
2 INCORPORATION SUPERSEDE THE ORIGINAL ARTICLES OF INCORPORATION AND ALL
3 AMENDMENTS THERETO.

4 C. THE ORIGINAL AND ONE OR MORE COPIES OF THE RESTATED ARTICLES
5 OF INCORPORATION SHALL BE DELIVERED TO THE COMMISSION. THE COMMISSION
6 SHALL, AFTER DETERMINING THAT THE RESTATED ARTICLES APPEAR IN ALL



1 RESPECTS TO CONFORM TO THE REQUIREMENTS OF THIS CHAPTER AND TO LAW,
2 FILE THE RESTATED ARTICLES IN THE MANNER PROVIDED FOR FILING ORIGINAL
3 ARTICLES IN SECTION 10-055.

4 D. UPON THE FILING OF THE RESTATED ARTICLES OF INCORPORATION WITH
5 THE COMMISSION, THE RESTATED ARTICLES OF INCORPORATION SHALL BECOME
6 EFFECTIVE AND SHALL SUPERSEDE THE ORIGINAL ARTICLES OF INCORPORATION AND
7 ALL AMENDMENTS THERETO.

8 10-065. Amendment of articles of incorporation in
9 reorganization proceedings

10 A. WHENEVER A PLAN OR REORGANIZATION OF A CORPORATION HAS BEEN
11 CONFIRMED BY DECREE OR ORDER OF A COURT OF COMPETENT JURISDICTION IN
12 PROCEEDINGS FOR THE REORGANIZATION OF SUCH CORPORATION, PURSUANT TO
13 THE PROVISIONS OF ANY APPLICABLE STATUTE OF THE UNITED STATES OR OF
14 THIS STATE RELATING TO REORGANIZATIONS OF CORPORATIONS, THE ARTICLES
15 OF INCORPORATION OF THE CORPORATION MAY BE AMENDED, IN THE MANNER PRO-
16 VIDED IN THIS SECTION, IN AS MANY RESPECTS AS MAY BE NECESSARY TO
17 CARRY OUT THE PLAN AND PUT IT INTO EFFECT, SO LONG AS THE ARTICLES
18 OF INCORPORATION AS AMENDED CONTAIN ONLY SUCH PROVISIONS AS MIGHT BE
19 LAWFULLY CONTAINED IN ORIGINAL ARTICLES OF INCORPORATION AT THE TIME
20 OF MAKING SUCH AMENDMENT.

21 B. IN PARTICULAR AND WITHOUT LIMITATION UPON SUCH GENERAL POWER
22 OF AMENDMENT, THE ARTICLES OF INCORPORATION MAY BE AMENDED FOR SUCH
23 PURPOSE SO AS TO:

24 1. CHANGE THE CORPORATE NAME, PERIOD OF DURATION OR CORPORATE
25 PURPOSES OF THE CORPORATION.

26 2. REPEAL, ALTER OR AMEND THE BYLAWS OF THE CORPORATION.

27 3. CHANGE THE AGGREGATE NUMBER OF SHARES OR SHARES OF ANY CLASS,
28 OR SERIES THEREOF, WHICH THE CORPORATION HAS AUTHORITY TO ISSUE SUBSE-
29 QUENT TO SUCH AMENDMENT.

30 4. CHANGE THE PREFERENCES, LIMITATIONS AND RELATIVE RIGHTS IN
31 RESPECT OF ALL OR ANY PART OF THE SHARES OF THE CORPORATION, AND CLASSIFY,
32 RECLASSIFY OR CANCEL ALL OR ANY PART THEREOF, WHETHER ISSUED OR UNISSUED.

33 5. AUTHORIZE THE ISSUANCE AND FIX THE TERMS AND CONDITIONS OF
34 BONDS, DEBENTURES OR OTHER OBLIGATIONS OF THE CORPORATION, WHICH MAY BE
35 CONVERTIBLE INTO SHARES OF ANY CLASS OR SERIES THEREOF, OR WHICH MAY
36 BEAR WARRANTS OR OTHER EVIDENCES OF OPTIONAL RIGHTS TO PURCHASER OR
37 SUBSCRIBE FOR SHARES OF ANY CLASS OR SERIES THEREOF.

38 6. CONSTITUTE OR RECONSTITUTE AND CLASSIFY OR RECLASSIFY THE
39 BOARD OF DIRECTORS OF THE CORPORATION, AND APPOINT DIRECTORS OR OFFICERS
40 OR BOTH IN PLACE OF OR IN ADDITION TO ALL OR ANY OF THE DIRECTORS OR
41 OFFICERS THEN IN OFFICE.

42 C. AMENDMENTS TO THE ARTICLES OF INCORPORATION PURSUANT TO
43 THIS SECTION SHALL BE MADE IN THE FOLLOWING MANNER:

44 1. ARTICLES OF AMENDMENT APPROVED BY DECREE OR ORDER OF SUCH
45 COURT SHALL BE EXECUTED BY SUCH PERSON OR PERSONS AS THE COURT SHALL
46 DESIGNATE OR APPOINT FOR THE PURPOSE, AND ALL SUCH SIGNATURES SHALL
47 BE ACKNOWLEDGED. SUCH ARTICLES OF AMENDMENT SHALL SET FORTH THE
48 NAME OF THE CORPORATION, THE AMENDMENTS OF THE ARTICLES OF INCORPORATION
49 APPROVED BY THE COURT, THE DATE OF THE DECREE OR ORDER APPROVING
50 THE ARTICLES OF AMENDMENT, THE TITLE OF THE PROCEEDINGS IN WHICH THE

1 DECREE OR ORDER WAS ENTERED, AND A STATEMENT THAT SUCH DECREE OR ORDER
2 WAS ENTERED BY A COURT HAVING JURISDICTION OF THE PROCEEDINGS FOR THE
3 REORGANIZATION OF THE CORPORATION PURSUANT TO THE PROVISIONS OF AN
4 APPLICABLE STATUTE OF THE UNITED STATES OR OF THIS STATE.

5 2. THE ORIGINAL AND ONE OR MORE COPIES OF THE ARTICLES OF AMEND-
6 MENT SHALL BE DELIVERED TO THE COMMISSION. THE COMMISSION SHALL, AFTER
7 DETERMINING THAT THE ARTICLES OF AMENDMENT APPEAR IN ALL RESPECTS TO
8 CONFORM TO THE REQUIREMENTS OF THIS CHAPTER AND TO LAW, FILE SUCH
9 ARTICLES IN THE MANNER PROVIDED FOR FILING ORIGINAL ARTICLES IN SECTION
10 10-055.

11 D. THE AMENDMENT SHALL BECOME EFFECTIVE AND THE ARTICLES OF INCOR-
12 PORATION SHALL BE DEEMED TO BE AMENDED ACCORDINGLY UPON THE FILING OF
13 THE ARTICLES OF AMENDMENT WITH THE COMMISSION OR UPON SUCH OTHER DATE,
14 ON OR AFTER THE DATE OF THE COURT ORDER, AS MAY BE PROVIDED IN THE
15 ARTICLES OF AMENDMENT IN ACCORDANCE WITH THE COURT ORDER, WITHOUT
16 ANY ACTION THEREON BY THE DIRECTORS OR SHAREHOLDERS OF THE CORPORATION
17 AND WITH THE SAME EFFECT AS IF THE AMENDMENTS HAD BEEN ADOPTED BY
18 UNANIMOUS ACTION OF THE DIRECTORS AND SHAREHOLDERS OF THE CORPORATION.

19 10-066. Restriction on redemption or purchase of
20 redeemable shares

21 NO REDEMPTION OR PURCHASE OF REDEEMABLE SHARES SHALL BE MADE BY A
22 CORPORATION WHEN IT IS INSOLVENT OR WHEN SUCH REDEMPTION OR PURCHASE
23 WOULD RENDER IT INSOLVENT, OR WHICH WOULD REDUCE THE NET ASSETS BELOW
24 THE AGGREGATE AMOUNT PAYABLE TO THE HOLDERS OF SHARES HAVING PRIOR OR
25 EQUAL RIGHTS TO THE ASSETS OF THE CORPORATION UPON INVOLUNTARY
26 DISSOLUTION.

27 10-067. Cancellation of redeemable shares by
28 redemption or purchase

29 A. WHEN REDEEMABLE SHARES OF A CORPORATION ARE REDEEMED OR
30 PURCHASED BY THE CORPORATION, THE REDEMPTION OR PURCHASE SHALL EFFECT
31 A CANCELLATION OF SUCH SHARES, AND A STATEMENT OF CANCELLATION SHALL
32 BE FILED WITH THE COMMISSION AS PROVIDED IN THIS SECTION. THEREUPON
33 SUCH SHARES SHALL BE RESTORED TO THE STATUS OF AUTHORIZED BUT UNISSUED
34 SHARES, UNLESS THE ARTICLES OF INCORPORATION PROVIDE THAT SUCH SHARES
35 WHEN REDEEMED OR PURCHASED SHALL NOT BE REISSUED, IN WHICH CASE THE
36 FILING OF THE STATEMENT OF CANCELLATION SHALL CONSTITUTE AN AMENDMENT
37 TO THE ARTICLES OF INCORPORATION AND SHALL REDUCE THE NUMBER OF SHARES
38 OF THE CLASS SO CANCELLED WHICH THE CORPORATION IS AUTHORIZED TO ISSUE
39 BY THE NUMBER OF SHARES SO CANCELLED.

40 B. THE STATEMENT OF CANCELLATION SHALL BE EXECUTED BY THE
41 CORPORATION AND SHALL SET FORTH:

42 1. THE NAME OF THE CORPORATION.

43 2. THE NUMBER OF REDEEMABLE SHARES CANCELLED THROUGH REDEMPTION
44 OR PURCHASE, ITEMIZED BY CLASSES AND SERIES.

45 3. THE AGGREGATE NUMBER OF ISSUED SHARES, ITEMIZED BY CLASSES
46 AND SERIES, AFTER GIVING EFFECT TO SUCH CANCELLATION.

47 4. THE AMOUNT, EXPRESSED IN DOLLARS, OF THE STATED CAPITAL OF
48 THE CORPORATION AFTER GIVING EFFECT TO SUCH CANCELLATION.

49 5. IF THE ARTICLES OF INCORPORATION PROVIDE THAT THE CANCELLED
50 SHARES SHALL NOT BE REISSUED, THE NUMBER OF SHARES WHICH THE CORPORATION

1 WILL HAVE AUTHORITY TO ISSUE ITEMIZED BY CLASSES AND SERIES, AFTER
2 GIVING EFFECT TO SUCH CANCELLATION.

3 C. THE ORIGINAL AND ONE OR MORE COPIES OF SUCH STATEMENT SHALL
4 BE DELIVERED TO THE COMMISSION. THE COMMISSION SHALL, AFTER DETERMINING
5 THAT SUCH STATEMENT APPEARS IN ALL RESPECTS TO CONFORM WITH THE
6 REQUIREMENTS OF THIS CHAPTER AND TO LAW, FILE SUCH STATEMENT IN THE
7 MANNER PROVIDED IN SECTION 10-055.

8 D. UPON THE FILING OF SUCH STATEMENT OF CANCELLATION, THE STATED
9 CAPITAL OF THE CORPORATION SHALL BE DEEMED TO BE REDUCED BY THAT PART
10 OF THE STATED CAPITAL WHICH WAS, AT THE TIME OF SUCH CANCELLATION,
11 REPRESENTED BY THE SHARES SO CANCELLED.

12 E. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO
13 FORBID A CANCELLATION OF SHARES OR A REDUCTION OF STATED CAPITAL IN
14 ANY OTHER MANNER PERMITTED BY THIS CHAPTER.

15 10-068. Cancellation of other reacquired shares

16 A. A CORPORATION MAY AT ANY TIME, BY RESOLUTION OF ITS BOARD
17 OF DIRECTORS, CANCEL ALL OR ANY PART OF THE SHARES OF THE CORPORATION
18 OF ANY CLASS REACQUIRED BY IT, OTHER THAN REDEEMABLE SHARES REDEEMED
19 OR PURCHASED, AND IN SUCH EVENT A STATEMENT OF CANCELLATION SHALL BE
20 FILED AS PROVIDED IN THIS SECTION.

21 B. THE STATEMENT OF CANCELLATION SHALL BE EXECUTED BY THE COR-
22 PORATION BY ITS PRESIDENT OR A VICE-PRESIDENT AND BY ITS SECRETARY OR
23 AN ASSISTANT SECRETARY, AND THEIR SIGNATURES SHALL BE ACKNOWLEDGED
24 AND SHALL SET FORTH:

25 1. THE NAME OF THE CORPORATION.

26 2. THE NUMBER OF THE REACQUIRED SHARES CANCELLED BY RESOLUTION
27 DULY ADOPTED BY THE BOARD OF DIRECTORS, ITEMIZED BY CLASSES AND SERIES,
28 AND THE DATE OF ITS ADOPTION.

29 3. THE AGGREGATE NUMBER OF ISSUED SHARES, ITEMIZED BY CLASSES
30 AND SERIES, AFTER GIVING EFFECT TO SUCH CANCELLATION.

31 4. THE AMOUNT, EXPRESSED IN DOLLARS, OF THE STATED CAPITAL OF
32 THE CORPORATION AFTER GIVING EFFECT TO SUCH CANCELLATION.

33 C. THE ORIGINAL AND ONE OR MORE COPIES OF SUCH STATEMENT SHALL
34 BE DELIVERED TO THE COMMISSION. THE COMMISSION SHALL, AFTER DETERMINING
35 THAT SUCH STATEMENT APPEARS IN ALL RESPECTS TO CONFORM WITH THE REQUIRE-
36 MENTS OF THIS CHAPTER AND TO LAW, FILE SUCH STATEMENT IN THE MANNER
37 PROVIDED IN SECTION 10-055.

38 D. UPON THE FILING OF SUCH STATEMENT OF CANCELLATION, THE STATED
39 CAPITAL OF THE CORPORATION SHALL BE DEEMED TO BE REDUCED BY THAT PART
40 OF THE STATED CAPITAL WHICH WAS, AT THE TIME OF SUCH CANCELLATION,
41 REPRESENTED BY THE SHARES SO CANCELLED, AND THE SHARES SO CANCELLED
42 SHALL BE RESTORED TO THE STATUS OF AUTHORIZED BUT UNISSUED SHARES.

43 E. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO
44 FORBID A CANCELLATION OF SHARES OR A REDUCTION OF STATED CAPITAL IN ANY
45 OTHER MANNER PERMITTED BY THIS CHAPTER.

46 10-069. Reduction of stated capital in certain cases

47 A. A REDUCTION OF THE STATED CAPITAL OF A CORPORATION, WHERE
48 SUCH REDUCTION IS NOT ACCOMPANIED BY ANY ACTION REQUIRING AN AMENDMENT
49 OF THE ARTICLES OF INCORPORATION AND NOT ACCOMPANIED BY A CANCELLATION
50 OF SHARES, MAY BE MADE IN THE FOLLOWING MANNER:

51 1. THE BOARD OF DIRECTORS SHALL ADOPT A RESOLUTION SETTING

1 FORTH THE AMOUNT OF THE PROPOSED REDUCTION AND THE MANNER IN WHICH THE
 2 REDUCTION SHALL BE EFFECTED, AND DIRECTING THAT THE QUESTION OF SUCH
 3 REDUCTION BE SUBMITTED TO A VOTE AT A MEETING OF SHAREHOLDERS, WHICH
 4 MAY BE EITHER AN ANNUAL OR A SPECIAL MEETING.

5 2. WRITTEN NOTICE, STATING THAT THE PURPOSE OR ONE OF THE PURPOSES
 6 OF SUCH MEETING IS TO CONSIDER THE QUESTION OF REDUCING THE STATED
 7 CAPITAL OF THE CORPORATION IN THE AMOUNT AND MANNER PROPOSED BY THE
 8 BOARD OF DIRECTORS, SHALL BE GIVEN TO EACH SHAREHOLDER OF RECORD ENTITLED
 9 TO VOTE THEREON WITHIN THE TIME AND IN THE MANNER PROVIDED IN THIS
 10 CHAPTER FOR THE GIVING OF NOTICE OF MEETINGS OF SHAREHOLDERS.

11 3. AT SUCH MEETING A VOTE OF THE SHAREHOLDERS ENTITLED TO VOTE
 12 THEREON SHALL BE TAKEN ON THE QUESTION OF APPROVING THE PROPOSED
 13 REDUCTION OF STATED CAPITAL, WHICH SHALL REQUIRE FOR ITS ADOPTION THE
 14 AFFIRMATIVE VOTE OF THE HOLDERS OF A MAJORITY OF THE SHARES ENTITLED
 15 TO VOTE THEREON.

16 B. WHEN A REDUCTION OF THE STATED CAPITAL OF A CORPORATION HAS
 17 BEEN APPROVED AS PROVIDED IN THIS SECTION, A STATEMENT SHALL BE EXECUTED
 18 BY THE CORPORATION BY ITS PRESIDENT OR A VICE-PRESIDENT AND BY ITS
 19 SECRETARY OR AN ASSISTANT SECRETARY, AND THEIR SIGNATURES SHALL BE
 20 ACKNOWLEDGED AND SHALL SET FORTH:

21 1. THE NAME OF THE CORPORATION.

22 2. A COPY OF THE RESOLUTION OF THE SHAREHOLDERS APPROVING SUCH
 23 REDUCTION AND THE DATE OF ITS ADOPTION.

24 3. THE NUMBER OF SHARES OUTSTANDING AND THE NUMBER OF SHARES
 25 ENTITLED TO VOTE THEREON.

26 4. THE NUMBER OF SHARES VOTED FOR AND AGAINST SUCH REDUCTION,
 27 RESPECTIVELY.

28 5. A STATEMENT OF THE MANNER IN WHICH SUCH REDUCTION IS EFFECTED,
 29 AND A STATEMENT, EXPRESSED IN DOLLARS, OF THE AMOUNT OF STATED CAPITAL
 30 OF THE CORPORATION AFTER GIVING EFFECT TO SUCH REDUCTION.

31 C. THE ORIGINAL AND ONE OR MORE COPIES OF SUCH STATEMENT SHALL
 32 BE DELIVERED TO THE COMMISSION. THE COMMISSION SHALL, AFTER DETERMINING
 33 THAT SUCH STATEMENT APPEARS IN ALL RESPECTS TO CONFORM WITH THE REQUIRE-
 34 MENTS OF THIS CHAPTER AND TO LAW, FILE SUCH STATEMENT IN THE MANNER
 35 PROVIDED IN SECTION 10-055.

36 D. UPON THE FILING OF SUCH STATEMENT, THE STATED CAPITAL OF
 37 THE CORPORATION SHALL BE REDUCED AS THEREIN SET FORTH.

38 E. NO REDUCTION OF STATED CAPITAL SHALL BE MADE UNDER THE PRO-
 39 VISIONS OF THIS SECTION WHICH WOULD REDUCE THE AMOUNT OF THE AGGREGATE
 40 STATED CAPITAL OF THE CORPORATION TO AN AMOUNT EQUAL TO OR LESS THAN
 41 THE AGGREGATE PREFERENTIAL AMOUNTS PAYABLE UPON ALL ISSUED SHARES HAVING
 42 A PREFERENTIAL RIGHT IN THE ASSETS OF THE CORPORATION IN THE EVENT OF
 43 INVOLUNTARY LIQUIDATION, PLUS THE AGGREGATE PAR VALUE OF ALL ISSUED
 44 SHARES HAVING A PAR VALUE BUT NO PREFERENTIAL RIGHT IN THE ASSETS OF
 45 THE CORPORATION IN THE EVENT OF INVOLUNTARY LIQUIDATION.

46 10-070. Special provisions relating to surplus and reserves

47 A. THE SURPLUS, IF ANY, CREATED BY OR ARISING OUT OF A REDUCTION
 48 OF THE STATED CAPITAL OF A CORPORATION SHALL BE CAPITAL SURPLUS.

49 B. THE CAPITAL SURPLUS OF A CORPORATION MAY BE INCREASED FROM
 50 TIME TO TIME BY RESOLUTION OF THE BOARD OF DIRECTORS DIRECTING THAT

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1 ALL OR A PART OF THE EARNED SURPLUS OF THE CORPORATION BE TRANSFERRED
2 TO CAPITAL SURPLUS.

3 C. UNLESS OTHERWISE RESTRICTED IN ITS ARTICLES OF INCORPORATION,
4 A CORPORATION MAY, BY RESOLUTION OF ITS BOARD OF DIRECTORS, APPLY ANY
5 PART OR ALL OF ITS CAPITAL SURPLUS TO THE REDUCTION OR ELIMINATION OF
6 ANY DEFICIT ARISING FROM LOSSES, HOWEVER INCURRED, BUT ONLY AFTER FIRST
7 ELIMINATING THE EARNED SURPLUS, IF ANY, OF THE CORPORATION BY APPLYING
8 SUCH LOSSES AGAINST EARNED SURPLUS AND ONLY TO THE EXTENT THAT SUCH
9 LOSSES EXCEED THE EARNED SURPLUS, IF ANY. EACH SUCH APPLICATION OF
10 CAPITAL SURPLUS SHALL, TO THE EXTENT THEREOF, EFFECT A REDUCTION OF
11 CAPITAL SURPLUS.

12 D. A CORPORATION MAY, BY RESOLUTION OF ITS BOARD OF DIRECTORS,
13 CREATE A RESERVE OR RESERVES OUT OF ITS EARNED SURPLUS FOR ANY PROPER
14 PURPOSE OR PURPOSES, AND MAY ABOLISH ANY SUCH RESERVE IN THE SAME MANNER.
15 EARNED SURPLUS OF THE CORPORATION TO THE EXTENT SO RESERVED SHALL NOT
16 BE AVAILABLE FOR THE PAYMENT OF DIVIDENDS OR OTHER DISTRIBUTIONS
17 BY THE CORPORATION EXCEPT AS EXPRESSLY PERMITTED BY THIS CHAPTER.

18 ARTICLE 4. MERGER OR CONSOLIDATION

19 10-071. Procedure for merger

20 A. ANY TWO OR MORE DOMESTIC CORPORATIONS MAY MERGE INTO ONE OF
21 SUCH CORPORATIONS PURSUANT TO A PLAN OF MERGER APPROVED IN THE MANNER
22 PROVIDED IN THIS CHAPTER.

23 B. THE BOARD OF DIRECTORS OF EACH CORPORATION SHALL, BY RESOLUTION
24 ADOPTED BY EACH SUCH BOARD, APPROVE A PLAN OF MERGER SETTING FORTH:

25 1. THE NAMES OF THE CORPORATIONS PROPOSING TO MERGE, AND THE
26 NAME OF THE CORPORATION INTO WHICH THEY PROPOSE TO MERGE, WHICH IS
27 HEREINAFTER DESIGNATED AS THE SURVIVING CORPORATION.

28 2. THE TERMS AND CONDITIONS OF THE PROPOSED MERGER.

29 3. THE MANNER AND BASIS OF CONVERTING THE SHARES OF EACH
30 CORPORATION INTO SHARES, OBLIGATIONS OR OTHER SECURITIES OF THE SURVIVING
31 CORPORATION OR OF ANY OTHER CORPORATION OR, IN WHOLE OR IN PART, INTO
32 CASH OR OTHER PROPERTY.

33 4. SUCH CHANGES IN THE ARTICLES OF INCORPORATION OF THE SURVIVING
34 CORPORATION AS ARE DESIRED TO BE EFFECTED BY SUCH MERGER, OR, IF NO
35 SUCH CHANGES ARE DESIRED, A STATEMENT THAT THE ARTICLES OF INCORPORATION
36 OF WHICH ONE OF THE MERGING CORPORATIONS SHALL BE THE ARTICLES OF
37 INCORPORATION OF THE SURVIVING CORPORATION.

38 5. SUCH OTHER PROVISIONS WITH RESPECT TO THE PROPOSED MERGER AS
39 ARE DEEMED NECESSARY OR DESIRABLE.

40 10-072. Procedure for consolidation

41 A. ANY TWO OR MORE DOMESTIC CORPORATIONS MAY CONSOLIDATE INTO A
42 NEW CORPORATION PURSUANT TO A PLAN OF CONSOLIDATION APPROVED IN THE
43 MANNER PROVIDED IN THIS CHAPTER.

44 B. THE BOARD OF DIRECTORS OF EACH CORPORATION SHALL, BY A RESO-
45 LUTION ADOPTED BY EACH SUCH BOARD, APPROVE A PLAN OF CONSOLIDATION
46 SETTING FORTH:

47 1. THE NAMES OF THE CORPORATIONS PROPOSING TO CONSOLIDATE,
48 AND THE NAME OF THE NEW CORPORATION INTO WHICH THEY PROPOSE TO CONSOLI-
49 DATE, WHICH IS HEREINAFTER DESIGNATED AS THE NEW CORPORATION.

50 2. THE TERMS AND CONDITIONS OF THE PROPOSED CONSOLIDATION.

1 3. THE MANNER AND BASIS OF CONVERTING THE SHARES OF EACH
2 CORPORATION INTO SHARES, OBLIGATIONS OR OTHER SECURITIES OF THE NEW
3 CORPORATION OR OF ANY OTHER CORPORATION OR, IN WHOLE OR IN PART, INTO
4 CASH OR OTHER PROPERTY.

5 4. WITH RESPECT TO THE NEW CORPORATION, ALL THE PROVISIONS OF
6 THE ARTICLES OF CONSOLIDATION, WHICH AS A MINIMUM SHALL INCLUDE, ALL
7 OF THE STATEMENTS REQUIRED TO BE SET FORTH IN ARTICLES OF INCORPORATION
8 FOR CORPORATIONS ORGANIZED UNDER THIS CHAPTER.

9 5. SUCH OTHER PROVISIONS WITH RESPECT TO THE PROPOSED CONSOLI-
10 DATION AS ARE DEEMED NECESSARY OR DESIRABLE.

11 10-073. Approval by shareholders

12 A. THE BOARD OF DIRECTORS OF EACH CORPORATION, UPON APPROVING
13 SUCH PLAN OF MERGER OR PLAN OF CONSOLIDATION, SHALL, BY RESOLUTION,
14 DIRECT THAT THE PLAN BE SUBMITTED TO A VOTE AT A MEETING OF SHARE-
15 HOLDERS, WHICH MAY BE EITHER AN ANNUAL OR A SPECIAL MEETING. WRITTEN
16 NOTICE SHALL BE GIVEN TO EACH SHAREHOLDER OF RECORD, WHETHER OR NOT
17 ENTITLED TO VOTE AT SUCH MEETING, NOT LESS THAN TWENTY DAYS BEFORE SUCH
18 MEETING, IN THE MANNER PROVIDED IN THIS CHAPTER FOR THE GIVING OF NOTICE
19 OF MEETINGS OF SHAREHOLDERS, AND, WHETHER THE MEETING BE AN ANNUAL OR
20 A SPECIAL MEETING, SHALL STATE THAT THE PURPOSE OR ONE OF THE PURPOSES
21 IS TO CONSIDER THE PROPOSED PLAN OF MERGER OR CONSOLIDATION. A COPY OF
22 THE PLAN OF MERGER OR PLAN OF CONSOLIDATION, AS THE CASE MAY BE, SHALL
23 BE INCLUDED IN OR ENCLOSED WITH SUCH NOTICE.

24 B. AT EACH SUCH MEETING, A VOTE OF THE SHAREHOLDERS SHALL BE
25 TAKEN ON THE PROPOSED PLAN OF MERGER OR CONSOLIDATION. THE PLAN OF
26 MERGER OR CONSOLIDATION SHALL BE APPROVED UPON RECEIVING THE AFFIRMATIVE
27 VOTE OF THE HOLDERS OF A MAJORITY OF THE SHARES ENTITLED TO VOTE THEREON
28 OF EACH SUCH CORPORATION, UNLESS ANY CLASS OR SERIES OF SHARES OF ANY
29 SUCH CORPORATION IS ENTITLED TO VOTE THEREON AS A CLASS OR SERIES,
30 IN WHICH EVENT, AS TO SUCH CORPORATION, THE PLAN OF MERGER, OR CON-
31 SOLIDATION SHALL BE APPROVED UPON RECEIVING THE AFFIRMATIVE VOTE OF THE
32 HOLDERS OF A MAJORITY OF THE SHARES OF EACH CLASS OR SERIES OF SHARES
33 ENTITLED TO VOTE THEREON AS A CLASS OR SERIES AND OF THE TOTAL SHARES
34 ENTITLED TO VOTE THEREON. ANY CLASS OR SERIES OF SHARES OF ANY SUCH
35 CORPORATION SHALL BE ENTITLED TO VOTE AS A CLASS OR SERIES IF THE PLAN
36 OF MERGER OR CONSOLIDATION, AS THE CASE MAY BE, CONTAINS ANY PROVISION
37 WHICH, IF CONTAINED IN A PROPOSED AMENDMENT TO ARTICLES OF INCORPORATION,
38 WOULD ENTITLE SUCH CLASS OF SHARES TO VOTE AS A CLASS OR SERIES.

39 C. NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTIONS A AND B, UNLESS
40 REQUIRED BY ITS ARTICLES OF INCORPORATION, NO VOTE OF STOCKHOLDERS OF
41 THE CORPORATION SURVIVING A MERGER SHALL BE NECESSARY TO AUTHORIZE A
42 MERGER IF:

43 1. THE PLAN OF MERGER DOES NOT AMEND IN ANY RESPECT THE ARTICLES
44 OF INCORPORATION OF SUCH CORPORATION.

45 2. EACH SHARE OF STOCK OF SUCH CORPORATION OUTSTANDING IMMEDIATELY
46 PRIOR TO THE MERGER BECOMING EFFECTIVE SHALL REMAIN OUTSTANDING IMMEDIATELY
47 AFTER THE MERGER AS AN IDENTICAL SHARE OF SUCH CORPORATION.

48 3. EITHER NO SHARES OF COMMON STOCK OF SUCH CORPORATION AND NO
49 SHARES, SECURITIES OR OBLIGATIONS CONVERTIBLE INTO SUCH STOCK ARE TO BE
50 ISSUED OR DELIVERED UNDER THE PLAN OF MERGER, OR THE AUTHORIZED BUT

1 UNISSUED SHARES OR THE TREASURY SHARES OF COMMON STOCK OF THE SURVIVING
2 CORPORATION TO BE ISSUED OR DELIVERED UNDER THE PLAN OF MERGER PLUS THOSE
3 INITIALLY ISSUABLE UPON CONVERSION OF ANY OTHER SHARES, SECURITIES OR
4 OBLIGATIONS TO BE ISSUED OR DELIVERED UNDER SUCH PLAN DO NOT EXCEED
5 TWENTY PER CENT OF THE SHARES OF COMMON STOCK OF SUCH CORPORATION OUT-
6 STANDING IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THE MERGER. IF A
7 PLAN OF MERGER IS ADOPTED PURSUANT TO THIS SUBSECTION, A STATEMENT THAT
8 THE PLAN HAS BEEN SO ADOPTED AND THAT, AS OF THE DATE OF SUCH STATEMENT,
9 THE OUTSTANDING SHARES OF THE CORPORATION WERE SUCH AS TO RENDER THIS
10 SUBSECTION APPLICABLE SHALL BE ATTACHED TO SUCH PLAN. THE PLAN SO
11 APPROVED AND SET FORTH IN THE ARTICLES OF MERGER AND DELIVERED TO THE
12 COMMISSION FOR FILING PURSUANT TO THIS CHAPTER SHALL CONSTITUTE A
13 REPRESENTATION BY THE OFFICER EXECUTING SUCH STATEMENT THAT THE FACTS
14 CONTAINED IN SUCH STATEMENT REMAIN TRUE IMMEDIATELY PRIOR TO SUCH
15 DELIVERY.

16 D. AT ANY TIME PRIOR TO THE FILING OF THE ARTICLES OF MERGER
17 OR CONSOLIDATION, THE MERGER OR CONSOLIDATION MAY BE ABANDONED PURSUANT
18 TO PROVISIONS THEREFOR, IF ANY, SET FORTH IN THE PLAN OF MERGER OR
19 CONSOLIDATION.

20 10-074. Articles of merger or consolidation; publication

21 A. UPON APPROVAL BY THE SHAREHOLDERS, ARTICLES OF MERGER OR
22 ARTICLES OF CONSOLIDATION SHALL BE EXECUTED BY EACH CORPORATION BY ITS
23 PRESIDENT OR A VICE-PRESIDENT AND BY ITS SECRETARY OR AN ASSISTANT
24 SECRETARY, AND THEIR SIGNATURES SHALL BE ACKNOWLEDGED AND SHALL SET
25 FORTH:

26 1. THE PLAN OF MERGER OR THE PLAN OF CONSOLIDATION.

27 2. AS TO EACH CORPORATION, THE NUMBER OF SHARES OUTSTANDING,
28 AND IF THE SHARES OF ANY CLASS OR SERIES ARE ENTITLED TO VOTE AS A
29 CLASS OR SERIES, THE DESIGNATION AND NUMBER OF OUTSTANDING SHARES OF
30 EACH SUCH CLASS OR SERIES.

31 3. AS TO EACH CORPORATION, THE NUMBER OF SHARES VOTED FOR AND
32 AGAINST SUCH PLAN, RESPECTIVELY, AND, IF THE SHARES OF ANY CLASS OR
33 SERIES ARE ENTITLED TO VOTE AS A CLASS OR SERIES, THE NUMBER OF SHARES
34 OF EACH SUCH CLASS OR SERIES VOTED FOR AND AGAINST SUCH PLAN,
35 RESPECTIVELY.

36 B. THE ORIGINAL AND ONE OR MORE COPIES OF THE ARTICLES OF MERGER
37 OR CONSOLIDATION AND OF THE RESTATED ARTICLES OF INCORPORATION, IF ANY,
38 SHALL BE DELIVERED TO THE COMMISSION. THE COMMISSION SHALL AFTER
39 DETERMINING THAT SUCH DOCUMENTS APPEAR IN ALL RESPECTS TO CONFORM TO
40 THE REQUIREMENTS OF THIS CHAPTER AND TO LAW, FILE SUCH DOCUMENTS IN THE
41 MANNER PROVIDED IN SECTION 10-055.

42 C. WITHIN SIXTY DAYS AFTER SUCH FILING THERE SHALL BE PUBLISHED,
43 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OF THE KNOWN PLACE
44 OF BUSINESS OF THE SURVIVING CORPORATION OR NEW CORPORATION FOR THREE
45 CONSECUTIVE PUBLICATIONS, EITHER A COPY OF THE PLAN OF MERGER OR THE
46 PLAN OF CONSOLIDATION OR THE FOLLOWING INFORMATION:

47 1. THE NAME AND ADDRESS OF THE KNOWN PLACE OF BUSINESS OF THE
48 SURVIVING CORPORATION OR THE NEW CORPORATION.

49 2. THE NAME AND ADDRESS OF THE STATUTORY AGENT OF THE SURVIVING
50 CORPORATION OR THE NEW CORPORATION.

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- 1 3. A BRIEF STATEMENT FAIRLY SETTING FORTH THE SUBSTANCE OF THE
2 PLAN OF MERGER OR THE PLAN OF CONSOLIDATION.
3 4. A BRIEF STATEMENT OF THE CHARACTER OF THE BUSINESS IN WHICH
4 THE SURVIVING CORPORATION OR NEW CORPORATION IS TO BE INITIALLY ACTUALLY
5 ENGAGED.
6 5. THE NAMES AND ADDRESSES OF THE DIRECTORS AND OFFICERS OF THE
7 SURVIVING CORPORATION OR NEW CORPORATION.
8 AN AFFIDAVIT EVIDENCING SUCH PUBLICATION SHALL BE FILED WITHIN NINETY
9 DAYS AFTER FILING OF THE ARTICLES OF MERGER OR CONSOLIDATION AND OF
10 THE RESTATED ARTICLES OF INCORPORATION, IF ANY.
11 10-075. Merger of subsidiary corporation
12 A. ANY CORPORATION OWNING AT LEAST NINETY PER CENT OF THE OUT-
13 STANDING SHARES OF EACH CLASS AND SERIES OF ANOTHER CORPORATION MAY
14 MERGE SUCH OTHER CORPORATION INTO ITSELF WITHOUT APPROVAL BY A VOTE OF
15 THE SHAREHOLDERS OF EITHER CORPORATION. ITS BOARD OF DIRECTORS SHALL,
16 BY RESOLUTION, APPROVE A PLAN OF MERGER SETTING FORTH:
17 1. THE NAME OF THE SUBSIDIARY CORPORATION AND THE NAME OF THE
18 CORPORATION OWNING AT LEAST NINETY PER CENT OF ITS SHARES, WHICH IS
19 HEREINAFTER DESIGNATED AS THE SURVIVING CORPORATION.

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1 2. THE MANNER AND BASIS OF CONVERTING THE SHARES OF THE SUB-
2 SIDIARY CORPORATION INTO SHARES, OBLIGATIONS OR OTHER SECURITIES OF
3 THE SURVIVING CORPORATION OR OF ANY OTHER CORPORATION OR, IN WHOLE OR
4 IN PART, INTO CASH OR OTHER PROPERTY.

5 B. A COPY OF SUCH PLAN OF MERGER SHALL BE MAILED TO EACH SHARE-
6 HOLDER OF RECORD OF THE SUBSIDIARY CORPORATION.

7 C. ARTICLES OF MERGER SHALL BE EXECUTED BY THE SURVIVING CORPORA-
8 TION BY ITS PRESIDENT OR A VICE-PRESIDENT AND BY ITS SECRETARY OR AN
9 ASSISTANT SECRETARY, AND THEIR SIGNATURES SHALL BE ACKNOWLEDGED AND
10 SHALL SET FORTH:

11 1. THE PLAN OF MERGER.

12 2. THE NUMBER OF OUTSTANDING SHARES OF EACH CLASS AND SERIES OF
13 THE SUBSIDIARY CORPORATION AND THE NUMBER OF SUCH SHARES OF EACH CLASS
14 AND SERIES OWNED BY THE SURVIVING CORPORATION.

15 3. THE DATE OF MAILING THE PLAN OF MERGER TO SHAREHOLDERS OF THE
16 SUBSIDIARY CORPORATION.

17 D. ON OR AFTER THE THIRTIETH DAY AFTER THE MAILING OF A COPY OF
18 THE PLAN OF MERGER TO SHAREHOLDERS OF THE SUBSIDIARY CORPORATION
19 ORIGINALS AND ONE OR MORE COPIES OF THE ARTICLES OF MERGER SHALL BE
20 DELIVERED TO THE COMMISSION. THE COMMISSION SHALL, AFTER DETERMINING
21 THAT SUCH ARTICLES APPEAR IN ALL RESPECTS TO CONFORM TO THE REQUIRE-
22 MENTS OF THIS CHAPTER AND TO LAW, FILE SUCH ARTICLES IN THE MANNER
23 PROVIDED IN SECTION 10-055.

24 10-076. Effect of merger or consolidation

25 A. THE MERGER OR CONSOLIDATION SHALL BE EFFECTED UPON THE FILING
26 OF THE ARTICLES OF MERGER OR THE ARTICLES OF CONSOLIDATION WITH THE
27 COMMISSION OR AT SUCH SUBSEQUENT DATE AFTER FILING AS MAY BE PROVIDED
28 IN THE PLAN OF MERGER OR CONSOLIDATION.

29 B. WHEN SUCH MERGER OR CONSOLIDATION HAS BEEN EFFECTED:

30 1. THE SEVERAL CORPORATIONS PARTIES TO THE PLAN OF MERGER OR
31 CONSOLIDATION SHALL BE A SINGLE CORPORATION, WHICH, IN THE CASE OF A
32 MERGER SHALL BE THAT CORPORATION DESIGNATED IN THE PLAN OF MERGER AS
33 THE SURVIVING CORPORATION, AND, IN THE CASE OF A CONSOLIDATION, SHALL
34 BE THE NEW CORPORATION PROVIDED FOR IN THE PLAN OF CONSOLIDATION.

35 2. THE SEPARATE EXISTENCE OF ALL CORPORATIONS PARTIES TO THE
36 PLAN OF MERGER OR CONSOLIDATION, EXCEPT THE SURVIVING OR NEW CORPORA-
37 TION, SHALL CEASE.

38 3. SUCH SURVIVING OR NEW CORPORATION SHALL HAVE ALL THE RIGHTS,
39 PRIVILEGES, IMMUNITIES AND POWERS AND SHALL BE SUBJECT TO ALL THE DUTIES
40 AND LIABILITIES OF A CORPORATION ORGANIZED UNDER THIS CHAPTER.

41 4. SUCH SURVIVING OR NEW CORPORATION SHALL THEREUPON AND THERE-
42 AFTER POSSESS ALL THE RIGHTS, PRIVILEGES, IMMUNITIES AND FRANCHISES, OF
43 A PUBLIC AS WELL AS OF A PRIVATE NATURE, OF EACH OF THE MERGING OR CON-
44 SOLIDATING CORPORATIONS; AND ALL PROPERTY, REAL, PERSONAL AND MIXED,
45 AND ALL DEBTS DUE ON WHATEVER ACCOUNT, INCLUDING SUBSCRIPTIONS TO SHARES,
46 AND ALL OTHER CHOSES IN ACTION, AND ALL AND EVERY OTHER INTEREST OF OR
47 BELONGING TO OR DUE TO EACH OF THE CORPORATIONS SO MERGED OR CONSOLIDATED,
48 SHALL BE TAKEN AND DEEMED TO BE TRANSFERRED TO AND VESTED IN SUCH SINGLE
49 CORPORATION WITHOUT FURTHER ACT OR DEED; AND THE TITLE TO ANY REAL ESTATE,
50 OR ANY INTEREST THEREIN, VESTED IN ANY OF SUCH CORPORATIONS SHALL NOT

1 REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF SUCH MERGER OR
2 CONSOLIDATION.

3 5. SUCH SURVIVING OR NEW CORPORATION SHALL THENCEFORTH BE
4 RESPONSIBLE AND LIABLE FOR ALL THE LIABILITIES AND OBLIGATIONS OF EACH
5 OF THE CORPORATIONS SO MERGED OR CONSOLIDATED; AND ANY CLAIM EXISTING
6 OR ACTION OR PROCEEDING PENDING BY OR AGAINST SUCH CORPORATION MAY BE
7 PROSECUTED AS IF SUCH MERGER OR CONSOLIDATION HAD NOT TAKEN PLACE, OR
8 SUCH SURVIVING OR NEW CORPORATION MAY BE SUBSTITUTED IN ITS PLACE.
9 NEITHER THE RIGHTS OF CREDITORS NOR ANY LIENS UPON THE PROPERTY OF ANY
10 SUCH CORPORATION SHALL BE IMPAIRED BY SUCH MERGER OR CONSOLIDATION.

11 6. IN THE CASE OF A MERGER, THE ARTICLES OF INCORPORATION OF THE
12 SURVIVING CORPORATION SHALL BE DEEMED TO BE AMENDED TO THE EXTENT, IF
13 ANY, THAT CHANGES IN ITS ARTICLES OF INCORPORATION ARE STATED IN THE
14 RESTATED ARTICLES OF INCORPORATION FILED WITH THE ARTICLES OF MERGER;
15 AND, IN THE CASE OF A CONSOLIDATION, THE STATEMENTS SET FORTH IN THE
16 ARTICLES OF CONSOLIDATION AND WHICH ARE REQUIRED OR PERMITTED TO BE
17 SET FORTH IN THE ARTICLES OF INCORPORATION OF CORPORATIONS ORGANIZED
18 UNDER THIS CHAPTER SHALL BE DEEMED TO BE THE ORIGINAL ARTICLES OF
19 INCORPORATION OF THE NEW CORPORATION.

20 10-077. Merger or consolidation of domestic and foreign
21 corporations

22 A. ONE OR MORE FOREIGN CORPORATIONS AND ONE OR MORE DOMESTIC
23 CORPORATIONS MAY BE MERGED OR CONSOLIDATED IN THE FOLLOWING MANNER, IF
24 SUCH MERGER OR CONSOLIDATION IS PERMITTED BY THE LAWS UNDER WHICH EACH
25 SUCH FOREIGN CORPORATION IS ORGANIZED:

26 1. EACH DOMESTIC CORPORATION SHALL COMPLY WITH THE PROVISIONS
27 OF THIS CHAPTER WITH RESPECT TO THE MERGER OR CONSOLIDATION, AS THE
28 CASE MAY BE, OF DOMESTIC CORPORATIONS AND EACH FOREIGN CORPORATION
29 SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF THE LAWS UNDER WHICH IT
30 IS ORGANIZED.

31 2. IF THE SURVIVING OR NEW CORPORATION, AS THE CASE MAY BE, IS
32 TO BE GOVERNED BY THE LAWS OF ANY JURISDICTION OTHER THAN THIS STATE, IT
33 SHALL COMPLY WITH THE PROVISIONS OF THIS CHAPTER WITH RESPECT TO FOREIGN
34 CORPORATIONS IF IT IS TO TRANSACT BUSINESS IN THIS STATE, AND IN EVERY
35 CASE IT SHALL FILE WITH THE COMMISSION OF THIS STATE:

36 (a) AN AGREEMENT THAT IT MAY BE SERVED WITH PROCESS IN THIS STATE
37 IN ANY PROCEEDING FOR THE ENFORCEMENT OF ANY OBLIGATION OF ANY DOMESTIC
38 CORPORATION WHICH IS A PARTY TO SUCH MERGER OR CONSOLIDATION AND IN ANY
39 PROCEEDING FOR THE ENFORCEMENT OF THE RIGHTS OF A DISSENTING SHAREHOLDER
40 OF ANY SUCH DOMESTIC CORPORATION AGAINST THE SURVIVING OR NEW CORPORATION.

41 (b) AN IRREVOCABLE APPOINTMENT OF THE COMMISSION, OF THIS STATE
42 AS ITS AGENT TO ACCEPT SERVICE OF PROCESS IN ANY SUCH PROCEEDING.

43 (c) AN AGREEMENT THAT IT WILL PAY TO THE DISSENTING SHAREHOLDERS
44 OF ANY SUCH DOMESTIC CORPORATION THE AMOUNT, IF ANY, TO WHICH THEY SHALL
45 BE ENTITLED UNDER THE PROVISIONS OF THIS CHAPTER WITH RESPECT TO THE
46 RIGHTS OF DISSENTING SHAREHOLDERS.

47 B. THE EFFECT OF SUCH MERGER OR CONSOLIDATION SHALL BE THE
48 SAME AS IN THE CASE OF THE MERGER OR CONSOLIDATION OF DOMESTIC CORPO-
49 RATIONS, IF THE SURVIVING OR NEW CORPORATION IS TO BE GOVERNED BY THE
50 LAWS OF THIS STATE. IF THE SURVIVING OR NEW CORPORATION IS TO BE

1 GOVERNED BY THE LAWS OF ANY JURISDICTION OTHER THAN THIS STATE, THE
 2 EFFECT OF SUCH MERGER OR CONSOLIDATION SHALL BE THE SAME AS IN THE
 3 CASE OF THE MERGER OR CONSOLIDATION OF DOMESTIC CORPORATIONS EXCEPT
 4 INSOFAR AS THE LAWS OF SUCH OTHER JURISDICTION PROVIDE OTHERWISE.

5 C. AT ANY TIME PRIOR TO THE FILING OF THE ARTICLES OF MERGER
 6 OR CONSOLIDATION, THE MERGER OR CONSOLIDATION MAY BE ABANDONED PURSUANT
 7 TO PROVISIONS THEREFOR, IF ANY, SET FORTH IN THE PLAN OF MERGER OR
 8 CONSOLIDATION.

9 ARTICLE 5. SALE OF BUSINESS

10 10-078. Sale of assets in regular course of business
 11 and mortgage or pledge of assets

12 THE SALE, LEASE, EXCHANGE OR OTHER DISPOSITION OF ALL, OR SUB-
 13 STANTIALLY ALL, THE PROPERTY AND ASSETS OF A CORPORATION IN THE USUAL
 14 AND REGULAR COURSE OF ITS BUSINESS AND THE MORTGAGE OR PLEDGE OF ANY OR
 15 ALL PROPERTY AND ASSETS OF A CORPORATION WHETHER OR NOT IN THE USUAL
 16 AND REGULAR COURSE OF BUSINESS MAY BE MADE UPON SUCH TERMS AND CONDI-
 17 TIONS AND FOR SUCH CONSIDERATION, WHICH MAY CONSIST IN WHOLE OR IN PART
 18 OF CASH OR OTHER PROPERTY, INCLUDING SHARES, OBLIGATIONS OR OTHER SECUR-
 19 ITIES OF ANY OTHER CORPORATION, DOMESTIC OR FOREIGN, AS SHALL BE
 20 AUTHORIZED BY ITS BOARD OF DIRECTORS; AND IN ANY SUCH CASE NO AUTHORIZA-
 21 TION OR CONSENT OF THE SHAREHOLDERS SHALL BE REQUIRED.

22 10-079. Sale of assets other than in regular course of business

23 A SALE, LEASE, EXCHANGE OR OTHER DISPOSITION OF ALL, OR SUBSTAN-
 24 Tially ALL, THE PROPERTY AND ASSETS, WITH OR WITHOUT THE GOOD WILL OF A
 25 CORPORATION, IF NOT IN THE USUAL AND REGULAR COURSE OF ITS BUSINESS,
 26 MAY BE MADE UPON SUCH TERMS AND CONDITIONS AND FOR SUCH CONSIDERATION,
 27 WHICH MAY CONSIST IN WHOLE OR IN PART OF CASH OR OTHER PROPERTY, INCLUD-
 28 ING SHARES, OBLIGATIONS OR OTHER SECURITIES OF ANY OTHER CORPORATION,
 29 DOMESTIC OR FOREIGN, AS MAY BE AUTHORIZED IN THE FOLLOWING MANNER:

30 1. THE BOARD OF DIRECTORS SHALL ADOPT A RESOLUTION RECOMMENDING
 31 SUCH SALE, LEASE, EXCHANGE OR OTHER DISPOSITION AND DIRECTING THE SUB-
 32 MISSION THEREOF TO A VOTE AT A MEETING OF SHAREHOLDERS, WHICH MAY BE
 33 EITHER AN ANNUAL OR A SPECIAL MEETING.

34 2. WRITTEN NOTICE SHALL BE GIVEN TO EACH SHAREHOLDER OF RECORD,
 35 WHETHER OR NOT ENTITLED TO VOTE AT SUCH MEETING, NOT LESS THAN TWENTY
 36 DAYS BEFORE SUCH MEETING, IN THE MANNER PROVIDED IN THIS CHAPTER FOR
 37 THE GIVING OF NOTICE OF MEETINGS OF SHAREHOLDERS, AND, WHETHER THE
 38 MEETING BE AN ANNUAL OR A SPECIAL MEETING, SHALL STATE THAT THE PURPOSE,
 39 OR ONE OF THE PURPOSES IS TO CONSIDER THE PROPOSED SALE, LEASE, EXCHANGE
 40 OR OTHER DISPOSITION.

41 3. AT SUCH MEETING THE SHAREHOLDERS MAY AUTHORIZE SUCH SALE,
 42 LEASE, EXCHANGE OR OTHER DISPOSITION AND MAY FIX, OR MAY AUTHORIZE THE
 43 BOARD OF DIRECTORS TO FIX, ANY OR ALL OF THE TERMS AND CONDITIONS THERE-
 44 OF AND THE CONSIDERATION TO BE RECEIVED BY THE CORPORATION THEREFOR.
 45 SUCH AUTHORIZATION SHALL REQUIRE THE AFFIRMATIVE VOTE OF THE HOLDERS OF
 46 A MAJORITY OF THE SHARES OF THE CORPORATION ENTITLED TO VOTE THEREON,
 47 UNLESS ANY CLASS OR SERIES OF SHARES IS ENTITLED TO VOTE THEREON AS A
 48 CLASS, IN WHICH EVENT SUCH AUTHORIZATION SHALL REQUIRE THE AFFIRMATIVE
 49 VOTE OF THE HOLDERS OF A MAJORITY OF THE SHARES OF EACH CLASS OR SERIES
 50 OF SHARES ENTITLED TO VOTE AS A CLASS THEREON AND OF THE TOTAL SHARES

1 ENTITLED TO VOTE THEREON.

2 4. AFTER SUCH AUTHORIZATION BY A VOTE OF SHAREHOLDERS, THE BOARD
3 OF DIRECTORS NEVERTHELESS, IN ITS DISCRETION, MAY ABANDON SUCH SALE,
4 LEASE, EXCHANGE OR OTHER DISPOSITION OF ASSETS, SUBJECT TO THE RIGHTS
5 OF THIRD PARTIES UNDER ANY CONTRACTS RELATING THERETO, WITHOUT FURTHER
6 ACTION OR APPROVAL BY SHAREHOLDERS.

7 ARTICLE 6. DISSENTERS' RIGHTS

8 10-080. Right of shareholders to dissent

9 A. ANY SHAREHOLDER OF A CORPORATION SHALL HAVE THE RIGHT TO DIS-
10 SENT FROM ANY OF THE FOLLOWING CORPORATE ACTIONS:

11 1. ANY PLAN OF MERGER OR CONSOLIDATION TO WHICH THE CORPORATION
12 IS A PARTY; OR

13 2. ANY SALE OR EXCHANGE OF ALL OR SUBSTANTIALLY ALL OF THE PROP-
14 erty AND ASSETS OF THE CORPORATION NOT MADE IN THE USUAL AND REGULAR
15 COURSE OF ITS BUSINESS, INCLUDING A SALE IN DISSOLUTION, BUT NOT IN-
16 CLUDING A SALE PURSUANT TO AN ORDER OF A COURT HAVING JURISDICTION IN
17 THE PREMISES OR A SALE FOR CASH ON TERMS REQUIRING THAT ALL OR SUB-
18 STANTIALLY ALL OF THE NET PROCEEDS OF SALE BE DISTRIBUTED TO THE SHARE-
19 HOLDERS IN ACCORDANCE WITH THEIR RESPECTIVE INTERESTS WITHIN ONE YEAR
20 AFTER THE DATE OF SALE.

21 B. A SHAREHOLDER MAY DISSENT AS TO LESS THAN ALL OF THE SHARES
22 REGISTERED IN HIS NAME ON THE DATE HIS WRITTEN OBJECTION IS FIRST FILED
23 AND AS TO NO GREATER NUMBER OF SHARES THAN THOSE FOR WHICH SUCH WRITTEN
24 OBJECTION WAS FILED. IN THAT EVENT, HIS RIGHTS SHALL BE DETERMINED AS
25 IF THE SHARES AS TO WHICH HE HAS DISSENTED AND HIS OTHER SHARES WERE
26 REGISTERED IN THE NAMES OF DIFFERENT SHAREHOLDERS.

27 C. THIS SECTION SHALL NOT APPLY TO THE SHAREHOLDERS OF THE SUR-
28 VIVING CORPORATION IN A MERGER IF A VOTE OF THE SHAREHOLDERS OF SUCH
29 CORPORATION IS NOT NECESSARY TO AUTHORIZE SUCH MERGER. NOR SHALL IT
30 APPLY TO THE HOLDERS OF SHARES OF ANY CLASS OR SERIES IF THE SHARES OF
31 SUCH CLASS OR SERIES WERE REGISTERED ON A NATIONAL SECURITIES EXCHANGE
32 ON THE DATE FIXED TO DETERMINE THE SHAREHOLDERS AT WHICH A PLAN OF
33 MERGER OR CONSOLIDATION OR A PROPOSED SALE OR EXCHANGE OF PROPERTY AND
34 ASSETS IS TO BE ACTED UPON OR SUCH SHARES WERE HELD OF RECORD BY NOT
35 LESS THAN TWO THOUSAND SHAREHOLDERS, UNLESS THE ARTICLES OF INCORPORA-
36 TION OF THE CORPORATION SHALL OTHERWISE PROVIDE.

37 10-081. Rights of dissenting shareholders

38 A. TO BE ENTITLED TO COMPENSATION AS A DISSENTING SHAREHOLDER TO
39 A MERGER OR CONSOLIDATION, A SHAREHOLDER MUST:

40 1. FILE WRITTEN OBJECTION TO THE PROPOSED MERGER OR CONSOLIDATION
41 AS PROVIDED HEREIN.

42 2. NOT VOTE IN FAVOR OF THE PROPOSED MERGER OR CONSOLIDATION AS
43 PROVIDED HEREIN.

44 3. MAKE A DEMAND FOR COMPENSATION AS PROVIDED HEREIN.

45 B. ANY SHAREHOLDER ELECTING TO EXERCISE SUCH RIGHT OF DISSENT
46 SHALL FILE WITH THE CORPORATION, PRIOR TO THE TAKING OF THE VOTE AT
47 THE MEETING OF SHAREHOLDERS AT WHICH SUCH PROPOSED MERGER OR CONSOLI-
48 DATION IS SUBMITTED TO A VOTE, A WRITTEN OBJECTION TO SUCH PROPOSED
49 MERGER OR CONSOLIDATION STATING THE SHARES AND CERTIFICATE NUMBERS TO
50 WHICH SUCH OBJECTION APPLIES. THE CORPORATION SURVIVING OR RESULTING

1 FROM ANY MERGER OR CONSOLIDATION SHALL WITHIN TEN DAYS AFTER SUCH MEETING
 2 NOTIFY EACH SHAREHOLDER OF ANY CORPORATION SO MERGING OR CONSOLIDATING
 3 WHO OBJECTED THERETO IN WRITING AND WHOSE SHARES EITHER WERE NOT ENTITLED
 4 TO VOTE OR WERE NOT VOTED IN FAVOR OF THE MERGER OR CONSOLIDATION AND
 5 WHO FILED SUCH WRITTEN OBJECTION WITH THE CORPORATION BEFORE THE TAKING
 6 OF THE VOTE ON THE MERGER OR CONSOLIDATION, THAT THE MERGER OR CONSOLI-
 7 DATION HAS BEEN APPROVED. SHAREHOLDERS NOT ENTITLED TO SUCH NOTICE SHALL
 8 BE BOUND BY SUCH MERGER OR CONSOLIDATION AND SHALL CONTINUE TO ENJOY THE
 9 RIGHTS OF A SHAREHOLDER AS THOUGH WRITTEN OBJECTION WAS NOT FILED. SUCH
 10 NOTICE SHALL LIKEWISE BE GIVEN TO EACH SHAREHOLDER WHOSE CORPORATION
 11 APPROVED OF THE MERGER OR CONSOLIDATION PURSUANT TO SECTION 10-075,
 12 WITHOUT A MEETING OF THE SHAREHOLDERS, AND WHO EITHER DID NOT, OR HAD
 13 NO RIGHT TO, CONSENT IN WRITING TO SUCH MERGER OR CONSOLIDATION.

14 C. SUCH NOTICES SHALL ALSO CONTAIN AN OFFER BY THE CORPORATION
 15 TO PURCHASE THE SHARES AS TO WHICH THE SHAREHOLDER OBJECTED AND SHALL BE
 16 ACCOMPANIED BY A BALANCE SHEET OF THE CORPORATION, THE SHARES OF WHICH
 17 THE DISSENTING SHAREHOLDER HOLDS, AS OF THE LATEST AVAILABLE DATE AND
 18 NOT MORE THAN TWELVE MONTHS PRIOR TO SUCH MEETING OF SHAREHOLDERS, AND
 19 A PROFIT AND LOSS STATEMENT OF SUCH CORPORATION FOR THE TWELVE MONTHS'
 20 PERIOD ENDED ON THE DATE OF SUCH BALANCE SHEET.

21 D. IF WITHIN TWENTY DAYS AFTER THE DATE OF MAILING BY THE CORPORA-
 22 TION SURVIVING OR RESULTING FROM THE MERGER OR CONSOLIDATION OF THE
 23 NOTICE AND OFFER, ANY SUCH SHAREHOLDER SHALL DEMAND IN WRITING PAYMENT
 24 OF THE FAIR VALUE OF HIS SHARES IN ACCORDANCE WITH THE OFFER, THE SUR-
 25 VIVING OR RESULTING CORPORATION SHALL, WITHIN THIRTY DAYS AFTER THE
 26 EXPIRATION OF THE PERIOD OF TWENTY DAYS, PAY TO HIM THE FAIR VALUE OF
 27 HIS SHARES UPON SURRENDER OF THE CERTIFICATE OR CERTIFICATES REPRESENTING
 28 SUCH SHARES.

29 E. TO BE ENTITLED TO COMPENSATION AS A DISSENTING SHAREHOLDER
 30 TO A SALE OR EXCHANGE OF ALL OR SUBSTANTIALLY ALL OF THE PROPERTY AND
 31 ASSETS OF THE CORPORATION AS DEFINED IN SECTION 10-080, A SHAREHOLDER
 32 MUST:

- 33 1. FILE WRITTEN OBJECTION TO THE PROPOSED SALE OR EXCHANGE AS
- 34 PROVIDED HEREIN.
- 35 2. NOT VOTE IN FAVOR OF THE PROPOSED SALE OR EXCHANGE AS PRO-
- 36 VIDED HEREIN.
- 37 3. MAKE A DEMAND FOR COMPENSATION AS PROVIDED HEREIN.

38 F. ANY SHAREHOLDER ELECTING TO EXERCISE SUCH RIGHT OF DISSENT
 39 SHALL FILE WITH THE CORPORATION, PRIOR TO THE TAKING OF THE VOTE AT THE
 40 MEETING OF SHAREHOLDERS AT WHICH SUCH PROPOSED SALE OR EXCHANGE IS SUB-
 41 MITTED TO A VOTE, A WRITTEN OBJECTION TO SUCH PROPOSED SALE OR EXCHANGE
 42 STATING THE SHARES AND CERTIFICATE NUMBERS TO WHICH SUCH OBJECTION
 43 APPLIES. THE CORPORATION SHALL WITHIN TEN DAYS AFTER SUCH MEETING
 44 NOTIFY EACH SHAREHOLDER WHO OBJECTED THERETO IN WRITING AND WHOSE SHARES
 45 EITHER WERE NOT ENTITLED TO VOTE OR WERE NOT VOTED IN FAVOR OF THE
 46 SALE OR EXCHANGE AND WHO FILED SUCH WRITTEN OBJECTION WITH THE CORPORA-
 47 TION BEFORE THE TAKING OF THE VOTE, THAT THE SALE OR EXCHANGE HAS BEEN
 48 APPROVED. SHAREHOLDERS NOT ENTITLED TO SUCH NOTICE SHALL BE BOUND BY
 49 SUCH SALE OR EXCHANGE AND SHALL CONTINUE TO ENJOY THE RIGHTS OF A SHARE-
 50 HOLDER AS THOUGH WRITTEN OBJECTION WAS NOT FILED. SUCH NOTICES SHALL

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1 ALSO CONTAIN AN OFFER BY THE CORPORATION TO PURCHASE SUCH SHARES AS TO
2 WHICH THE SHAREHOLDER OBJECTED AND SHALL BE ACCOMPANIED BY A BALANCE
3 SHEET OF THE CORPORATION AS OF THE LATEST AVAILABLE DATE AND NOT MORE
4 THAN TWELVE MONTHS PRIOR TO THE MAKING OF SUCH OFFER, AND A PROFIT AND
5 LOSS STATEMENT OF SUCH CORPORATION FOR THE TWELVE MONTHS' PERIOD ENDED ON
6 THE DATE OF SUCH BALANCE SHEET.

7 G. IF WITHIN TWENTY DAYS AFTER THE DATE OF MAILING BY THE CORPO-
8 RATION OF THE NOTICE AND OFFER, ANY SUCH SHAREHOLDER SHALL DEMAND IN
9 WRITING PAYMENT OF THE FAIR VALUE OF HIS SHARES IN ACCORDANCE WITH THE
10 OFFER, THE CORPORATION SHALL, WITHIN THIRTY DAYS AFTER THE EXPIRATION
11 OF THE PERIOD OF TWENTY DAYS, PAY TO HIM THE FAIR VALUE OF HIS SHARES
12 UPON SURRENDER OF THE CERTIFICATE OR CERTIFICATES REPRESENTING SUCH
13 SHARES.

14 H. IF THE DEMAND OF THE SHAREHOLDER EXCEEDS THE OFFER, THE COR-
15 PORATION AND THE SHAREHOLDER MAY NEGOTIATE THE FAIR VALUE DURING THE
16 THIRTY DAYS AFTER THE EXPIRATION OF THE TWENTY DAYS AND IF AGREEMENT
17 IS REACHED DURING THAT PERIOD THE CORPORATION SHALL PAY THE SHAREHOLDER
18 WITHIN FIFTEEN DAYS AFTER THE SURRENDER OF THE CERTIFICATE OR CERTIFI-
19 CATES REPRESENTING SUCH SHARES.

20 I. UPON PAYMENT OF THE AGREED VALUE THE DISSENTING SHAREHOLDERS
21 SHALL CEASE TO HAVE ANY INTEREST IN SUCH SHARES. ANY SHAREHOLDER EN-
22 TITLED TO, AND GIVEN NOTICE WHO FAILS TO MAKE DEMAND WITHIN THE TWENTY
23 DAY PERIOD SHALL BE BOUND BY THE TERMS OF THE MERGER OR CONSOLIDATION
24 AND ANY CORPORATE PROCEEDINGS WHICH MAY HAVE BEEN TAKEN DURING THE IN-
25 TERIM AND SHALL CONTINUE TO BE ENTITLED TO ENJOY THE RIGHTS OF A SHARE-
26 HOLDER.

27 J. IF DURING THE PERIOD OF THIRTY DAYS FOLLOWING THE PERIOD OF
28 TWENTY DAYS PROVIDED FOR HEREIN THE CORPORATION AND ANY SUCH SHAREHOLDER
29 FAIL TO AGREE UPON THE FAIR VALUE OF SUCH SHARES, ANY SUCH SHAREHOLDER,
30 OR THE CORPORATION SURVIVING OR RESULTING FROM THE MERGER OR CONSOLIDA-
31 TION, MAY COMMENCE AN ACTION, WITHIN FOUR MONTHS AFTER SUCH THIRTY DAY
32 PERIOD, IN THE SUPERIOR COURT IN ANY COUNTY WHERE A KNOWN PLACE OF BUSI-
33 NESS OF ANY CORPORATION INVOLVED IN SUCH MERGER OR CONSOLIDATION IS OR
34 WAS LOCATED. IF MORE THAN ONE SUCH ACTION IS COMMENCED WITHIN THE FOUR
35 MONTHS PERIOD THEY SHALL BE CONSOLIDATED. THERE SHALL BE NO RIGHT TO
36 TRIAL BY JURY IN ANY ACTION FILED PURSUANT TO THIS SECTION.

37 K. THE FAIR VALUE OF A SHARE SHALL BE FIXED AS OF THE DAY PRIOR
38 TO THAT ON WHICH THE SHAREHOLDER'S VOTE WAS TAKEN, PROVIDED THAT IN NO
39 EVENT SHALL THE AMOUNT THEREOF EXCEED THAT SPECIFIED IN THE DEMAND OF
40 THE PARTICULAR SHAREHOLDER. THERE SHALL BE EXCLUDED FROM THE FAIR VALUE
41 ANY INCREASE OR DECREASE ATTRIBUTABLE TO THE MERGER OR CONSOLIDATION,
42 OR ANY PROSPECTS OF THE MERGER OR CONSOLIDATION PRIOR THERETO.

43 L. THE COURT SHALL DETERMINE WHICH SHAREHOLDERS HAVE COMPLIED
44 WITH THE PROVISIONS OF THIS SECTION AND HAVE BECOME ENTITLED TO THE
45 VALUATION OF AND PAYMENT FOR THEIR SHARES. THE COURT MAY IN ITS
46 DISCRETION APPOINT A MASTER TO HAVE SUCH POWERS AND AUTHORITY AS ARE
47 CONFERRED UPON MASTERS BY LAW, BY THE RULES OF CIVIL PROCEDURES FOR
48 THE SUPERIOR COURTS OF ARIZONA OR BY THE ORDER OF APPOINTMENT. THE
49 MASTER'S REPORT SHALL BE SUBJECT TO EXCEPTIONS TO BE HEARD BEFORE THE
50 COURT, BOTH UPON THE LAW AND THE FACTS. THE COURT SHALL BY ITS JUDG-
51 MENT DETERMINE THE VALUE OF THE STOCK OF THE SHAREHOLDERS ENTITLED TO

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1 PAYMENT THEREFOR AND SHALL DIRECT THE PAYMENT OF SUCH VALUE TOGETHER
2 WITH INTEREST, IF ANY, AT A RATE AND FROM A DATE DETERMINED BY THE
3 COURT IN ITS DISCRETION, TO THE SHAREHOLDERS ENTITLED THERETO BY THE
4 SURVIVING OR RESULTING CORPORATION UPON THE TRANSFER TO IT OF THE CER-
5 TIFICATES REPRESENTING SUCH SHARES. UPON PAYMENT OF THE JUDGMENT,
6 THE DISSSENTING SHAREHOLDER SHALL CEASE TO HAVE ANY INTEREST IN SUCH
7 SHARES.

8 M. THE COSTS OF ANY SUCH ACTION SHALL BE DETERMINED BY THE
9 COURT AND SHALL BE ASSESSED AS THE COURT MAY DEEM EQUITABLE. THE COURT,
10 IN ITS DISCRETION, MAY AWARD TO ANY PARTY SUCH PARTY'S EXPENSES, IN-
11 CLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES FOR EXPERTS EMPLOYED
12 BY SUCH PARTY, IN THE EVENT THAT THE ULTIMATE DETERMINATION OF FAIR
13 VALUE VARIED MATERIALLY FROM WHAT HAD BEEN OFFERED OR DEMANDED BY THE
14 OPPOSITE PARTY.

15 N. THE COURT MAY REQUIRE AT ANY STAGE OF THE ACTION, THAT THE
16 SHAREHOLDERS WHO DEMANDED PAYMENT OF THEIR SHARES SUBMIT THEIR CERTIFI-
17 CATES TO THE CORPORATION FOR NOTATION THEREON OF THE PENDENCY OF THE
18 ACTION, AND IF ANY SHAREHOLDER FAILS TO COMPLY WITH SUCH DIRECTION, THE
19 COURT MAY DISMISS THE PROCEEDINGS AS TO SUCH SHAREHOLDER. IF SHARES
20 REPRESENTED BY A CERTIFICATE ON WHICH NOTATION HAS BEEN SO MADE SHALL
21 BE TRANSFERRED, EACH NEW CERTIFICATE ISSUED THEREFOR SHALL BEAR SIMILAR
22 NOTATION, TOGETHER WITH THE NAME OF THE ORIGINAL DISSSENTING HOLDER OF
23 SUCH SHARES, AND A TRANSFEREE OF SUCH SHARES SHALL ACQUIRE BY SUCH
24 TRANSFER NO RIGHTS IN THE CORPORATION OTHER THAN THOSE WHICH THE ORIGI-
25 NAL DISSSENTING SHAREHOLDER HAD AFTER MAKING DEMAND FOR PAYMENT OF THE
26 FAIR VALUE THEREOF.

27 O. ANY SHAREHOLDER WHO HAS DEMANDED PAYMENT FOR HIS SHARES AS
28 HEREIN PROVIDED SHALL NOT THEREAFTER BE ENTITLED TO VOTE SUCH SHARES
29 FOR ANY PURPOSE OR BE ENTITLED TO EXERCISE ANY OTHER RIGHTS OF A
30 SHAREHOLDER INCLUDING, WITHOUT LIMITATION, THE RIGHT TO THE PAYMENT OF
31 DIVIDENDS OR OTHER DISTRIBUTION ON THOSE SHARES, EXCEPT DIVIDENDS OR
32 OTHER DISTRIBUTION PAYABLE TO SHAREHOLDERS OF RECORD AT A DATE WHICH
33 IS PRIOR TO THAT ON WHICH THE SHAREHOLDER'S VOTE WAS TAKEN ON THE PRO-
34 POSSED MERGER OR CONSOLIDATION, UNLESS THE ACTION TO BE FILED IN THE
35 SUPERIOR COURT AS PROVIDED FOR HEREIN SHALL NOT BE FILED WITHIN THE
36 TIME PROVIDED, OR THE ACTION BE DISMISSED AS TO SUCH SHAREHOLDER, OR
37 UNLESS SUCH SHAREHOLDER SHALL WITH THE WRITTEN APPROVAL OF THE CORPORA-
38 TION DELIVER TO THE CORPORATION A WRITTEN WITHDRAWAL OF HIS OBJECTIONS
39 TO AND AN ACCEPTANCE OF THE MERGER OR CONSOLIDATION, IN ANY OF WHICH
40 CASES THE RIGHT OF SUCH SHAREHOLDER TO PAYMENT FOR HIS SHARES SHALL
41 CEASE AND HE SHALL BE BOUND BY THE MERGER OR CONSOLIDATION AND ANY
42 CORPORATE PROCEEDINGS WHICH MAY HAVE BEEN TAKEN IN THE INTERIM.

43 P. SHARES ACQUIRED BY A CORPORATION PURSUANT TO PAYMENT OF THE
44 AGREED VALUE THEREFOR OR TO PAYMENT OF THE JUDGMENT ENTERED THEREFOR,
45 AS IN THIS SECTION PROVIDED, MAY BE HELD AND DISPOSED OF BY SUCH CORPO-
46 RATION AS IN THE CASE OF OTHER TREASURY SHARES, EXCEPT THAT, IN THE
47 CASE OF A MERGER OR CONSOLIDATION, THEY MAY BE HELD AND DISPOSED OF AS
48 THE PLAN OF MERGER OR CONSOLIDATION MAY OTHERWISE PROVIDE.

49 ARTICLE 7. VOLUNTARY DISSOLUTION AND LIQUIDATION

50 10-082. Voluntary dissolution by incorporators

51 A. A CORPORATION WHICH HAS NOT COMMENCED BUSINESS AND WHICH HAS

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1 NOT ISSUED ANY SHARES, MAY BE VOLUNTARILY DISSOLVED BY ITS INCORPORATORS
2 AT ANY TIME IN THE FOLLOWING MANNER:

3 1. AN ORIGINAL AND ONE OR MORE COPIES OF ARTICLES OF DISSOLUTION
4 SHALL BE EXECUTED BY A MAJORITY OF THE INCORPORATORS, AND THEIR SIGNA-
5 TURES SHALL BE ACKNOWLEDGED AND SHALL SET FORTH:

- 6 (a) THE NAME OF THE CORPORATION.
7 (b) THE DATE OF ITS INCORPORATION.
8 (c) THAT NONE OF ITS SHARES HAS BEEN ISSUED.
9 (d) THAT THE CORPORATION HAS NOT COMMENCED BUSINESS.
10 (e) THAT THE AMOUNT, IF ANY, ACTUALLY PAID IN ON SUBSCRIPTIONS
11 FOR ITS SHARES, LESS ANY PART THEREOF DISBURSED FOR NECESSARY EXPENSES,
12 HAS BEEN RETURNED TO THOSE ENTITLED THERETO.

13 (f) THAT NO DEBTS OF THE CORPORATION REMAIN UNPAID.
14 (g) THAT A MAJORITY OF THE INCORPORATORS ELECT THAT THE CORPORA-
15 TION BE DISSOLVED.

16 2. THE ORIGINAL AND ONE OR MORE COPIES OF THE ARTICLES OF DISSO-
17 LUTION SHALL BE DELIVERED TO THE COMMISSION. THE COMMISSION SHALL, AFTER
18 DETERMINING THAT SUCH ARTICLES APPEAR IN ALL RESPECTS TO CONFORM TO THE
19 REQUIREMENTS OF THIS CHAPTER AND TO LAW, FILE SUCH ARTICLES IN THE
20 MANNER PROVIDED IN SECTION 10-055.

21 B. UPON THE FILING OF SUCH ARTICLES OF DISSOLUTION WITH COM-
22 MISSION, THE EXISTENCE OF THE CORPORATION SHALL CEASE.

23 10-083. Voluntary dissolution by consent of shareholders

24 A CORPORATION MAY BE VOLUNTARILY DISSOLVED BY THE WRITTEN CONSENT
25 OF ALL OF ITS SHAREHOLDERS. UPON THE EXECUTION OF SUCH WRITTEN CONSENT,
26 A STATEMENT OF INTENT TO DISSOLVE SHALL BE EXECUTED IN DUPLICATE BY THE
27 CORPORATION BY ITS PRESIDENT OR A VICE-PRESIDENT AND BY ITS SECRETARY
28 OR AN ASSISTANT SECRETARY, AND VERIFIED BY ONE OF THE OFFICERS SIGNING
29 SUCH STATEMENT. SUCH STATEMENT SHALL SET FORTH:

- 30 1. THE NAME OF THE CORPORATION.
31 2. THE NAMES AND RESPECTIVE ADDRESSES OF ITS OFFICERS.
32 3. THE NAMES AND RESPECTIVE ADDRESSES OF ITS DIRECTORS.
33 4. A COPY OF THE WRITTEN CONSENT SIGNED BY ALL SHAREHOLDERS
34 OF THE CORPORATION.

35 5. A STATEMENT THAT SUCH WRITTEN CONSENT HAS BEEN SIGNED BY
36 ALL SHAREHOLDERS OF THE CORPORATION OR SIGNED IN THEIR NAMES BY THEIR
37 ATTORNEYS THEREUNTO DULY AUTHORIZED.

38 10-084. Voluntary dissolution by act of corporation

39 A CORPORATION MAY BE DISSOLVED BY THE ACT OF THE CORPORATION
40 WHEN AUTHORIZED IN THE FOLLOWING MANNER:

41 1. THE BOARD OF DIRECTORS SHALL ADOPT A RESOLUTION RECOMMENDING
42 THAT THE CORPORATION BE DISSOLVED, AND DIRECTING THAT THE QUESTION
43 OF SUCH DISSOLUTION BE SUBMITTED TO A VOTE AT A MEETING OF SHAREHOLDERS,
44 WHICH MAY BE EITHER AN ANNUAL OR A SPECIAL MEETING.

45 2. WRITTEN NOTICE SHALL BE GIVEN TO EACH SHAREHOLDER OF RECORD
46 ENTITLED TO VOTE AT SUCH MEETING WITHIN THE TIME AND IN THE MANNER PRO-
47 VIDED IN THIS CHAPTER FOR THE GIVING OF NOTICE OF MEETINGS OF SHARE-
48 HOLDERS, AND, WHETHER THE MEETING BE AN ANNUAL OR SPECIAL MEETING, SHALL
49 STATE THAT THE PURPOSE, OR ONE OF THE PURPOSES OF SUCH MEETING IS TO
50 CONSIDER THE ADVISABILITY OF DISSOLVING THE CORPORATION.

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1 3. AT SUCH MEETING A VOTE OF SHAREHOLDERS ENTITLED TO VOTE THEREAT
2 SHALL BE TAKEN ON A RESOLUTION TO DISSOLVE THE CORPORATION. SUCH RESO-
3 LUTION SHALL BE ADOPTED UPON RECEIVING THE AFFIRMATIVE VOTE OF THE
4 HOLDERS OF A MAJORITY OF THE SHARES OF THE CORPORATION ENTITLED TO VOTE
5 THEREON, UNLESS ANY CLASS OR SERIES OF SHARES IS ENTITLED TO VOTE THEREON
6 AS A CLASS, IN WHICH EVENT THE RESOLUTION SHALL BE ADOPTED UPON RECEIVING
7 THE AFFIRMATIVE VOTE OF THE HOLDERS OF A MAJORITY OF THE SHARES OF EACH
8 CLASS OR SERIES OF SHARES ENTITLED TO VOTE THEREON AS A CLASS AND OF THE
9 TOTAL SHARES ENTITLED TO VOTE THEREON.

10 4. UPON THE ADOPTION OF SUCH RESOLUTION, A STATEMENT OF INTENT TO
11 DISSOLVE SHALL BE EXECUTED IN DUPLICATE BY THE CORPORATION BY ITS
12 PRESIDENT OR A VICE PRESIDENT AND BY ITS SECRETARY OR AN ASSISTANT
13 SECRETARY, AND VERIFIED BY ONE OF THE OFFICERS SIGNING SUCH STATEMENT,
14 WHICH STATEMENT SHALL SET FORTH:

- 15 (a) THE NAME OF THE CORPORATION.
- 16 (b) THE NAMES AND RESPECTIVE ADDRESSES OF ITS OFFICERS.
- 17 (c) THE NAMES AND RESPECTIVE ADDRESSES OF ITS DIRECTORS.
- 18 (d) A COPY OF THE RESOLUTION ADOPTED BY THE SHAREHOLDERS

19 AUTHORIZING THE DISSOLUTION OF THE CORPORATION.

20 (e) THE NUMBER OF SHARES OUTSTANDING, AND, IF THE SHARES OF
21 ANY CLASS ARE ENTITLED TO VOTE AS A CLASS, THE DESIGNATION AND NUMBER
22 OF OUTSTANDING SHARES OF EACH SUCH CLASS.

23 (f) THE NUMBER OF SHARES VOTED FOR AND AGAINST THE RESOLUTION,
24 RESPECTIVELY, AND, IF THE SHARES OF ANY CLASS ARE ENTITLED TO VOTE
25 AS A CLASS, THE NUMBER OF SHARES OF EACH SUCH CLASS VOTED FOR AND
26 AGAINST THE RESOLUTION, RESPECTIVELY.

27 10-085. Filing of statement of intent to dissolve

28 A. AN ORIGINAL AND ONE OR MORE COPIES OF THE STATEMENT OF INTENT
29 TO DISSOLVE, WHETHER BY CONSENT OF SHAREHOLDERS OR BY ACT OF THE CORPORATION,
30 SHALL BE DELIVERED TO THE COMMISSION.

31 B. THE COMMISSION SHALL, AFTER DETERMINING THAT SUCH STATEMENT
32 APPEARS IN ALL RESPECTS TO CONFORM TO THE REQUIREMENTS OF THIS CHAPTER
33 AND TO LAW, FILE SUCH STATEMENT IN THE MANNER PROVIDED IN SECTION
34 10-055.

35 10-086. Effect of statement of intent to dissolve

36 UPON THE FILING BY THE COMMISSION OF A STATEMENT OF INTENT TO
37 DISSOLVE, WHETHER BY CONSENT OF SHAREHOLDERS OR BY ACT OF THE CORPORA-
38 TION, THE CORPORATION SHALL CEASE TO CARRY ON ITS BUSINESS, EXCEPT
39 INSOFAR AS MAY BE NECESSARY FOR THE WINDING UP THEREOF, BUT ITS
40 CORPORATE EXISTENCE SHALL CONTINUE UNTIL THE FILING OF THE ARTICLES
41 OF DISSOLUTION OR UNTIL A DECREE DISSOLVING THE CORPORATION HAS
42 BEEN ENTERED BY A COURT OF COMPETENT JURISDICTION.

43 10-087. Procedure after filing of statement of intent
44 to dissolve

45 A. AFTER THE FILING BY THE COMMISSION OF A STATEMENT OF INTENT TO
46 DISSOLVE:

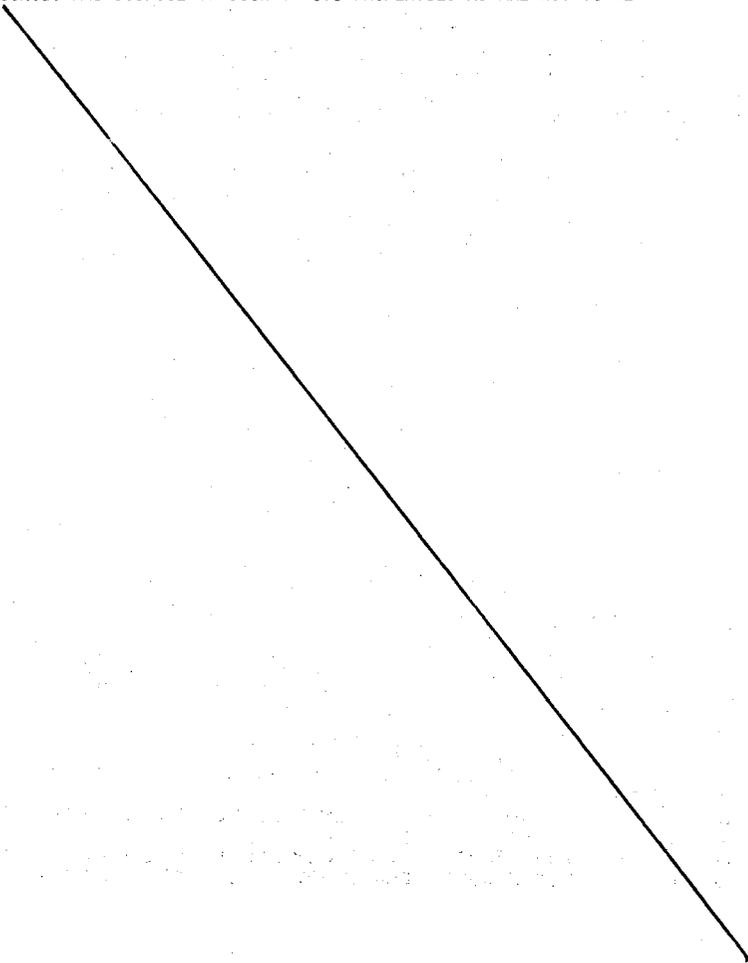
47 1. THE CORPORATION SHALL IMMEDIATELY CAUSE NOTICE THEREOF TO
48 BE MAILED TO EACH KNOWN CREDITOR OF THE CORPORATION.

49 2. WITHIN THIRTY DAYS AFTER SUCH FILING THERE SHALL BE PUBLISHED,
50 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OF THE KNOWN PLACE

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1 OF BUSINESS, FOR THREE CONSECUTIVE PUBLICATIONS, A COPY OF THE STATEMENT
2 OF INTENT TO DISSOLVE. AN AFFIDAVIT EVIDENCING SUCH PUBLICATION SHALL
3 BE FILED WITHIN FORTY-FIVE DAYS AFTER FILING OF THE STATEMENT OF INTENT
4 TO DISSOLVE.

5 3. THE CORPORATION SHALL PROCEED TO COLLECT ITS ASSETS,
6 CONVEY AND DISPOSE OF SUCH OF ITS PROPERTIES AS ARE NOT TO BE



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1 DISTRIBUTED IN KIND TO ITS SHAREHOLDERS, PAY, SATISFY AND DISCHARGE ITS
2 LIABILITIES AND OBLIGATIONS AND DO ALL OTHER ACTS REQUIRED TO LIQUIDATE
3 ITS BUSINESS AND AFFAIRS, AND, AFTER PAYING OR ADEQUATELY PROVIDING FOR
4 THE PAYMENT OF ALL ITS OBLIGATIONS, DISTRIBUTE THE REMAINDER OF ITS
5 ASSETS, EITHER IN CASE OR IN KIND, AMONG ITS SHAREHOLDERS ACCORDING TO
6 THEIR RESPECTIVE RIGHTS AND INTERESTS.

7 4. THE CORPORATION, AT ANY TIME DURING THE LIQUIDATION OF ITS
8 BUSINESS AND AFFAIRS, AND DISSOLUTION OF THE CORPORATION MAY MAKE APPLI-
9 CATION TO THE SUPERIOR COURT IN THE COUNTY IN WHICH THE KNOWN PLACE OF
10 BUSINESS OR PRINCIPAL PLACE OF BUSINESS OF THE CORPORATION IS SITUATED,
11 TO HAVE THE LIQUIDATION AND DISSOLUTION CONTINUED UNDER THE SUPERVISION
12 OF THE COURT AS PROVIDED IN THIS CHAPTER.

13 B. ADEQUATE PROVISIONS FOR THE DISCHARGE OF OBLIGATIONS WITHIN
14 THE MEANING OF THIS SECTION AND SECTION 10-092 SHALL BE CONSIDERED TO
15 HAVE BEEN MADE IF PAYMENT THEREOF HAS BEEN ASSUMED OR GUARANTEED IN GOOD
16 FAITH BY ONE OR MORE FINANCIALLY RESPONSIBLE CORPORATIONS OR OTHER PER-
17 SONS, BY THE UNITED STATES OR AN AGENCY THEREOF. THE METHOD PROVIDED IN
18 THIS SECTION SHALL NOT BE CONSIDERED THE EXCLUSIVE MEANS OF MAKING
19 ADEQUATE PROVISION FOR THE DISCHARGE OF OBLIGATIONS.

20 10-088. Revocation of voluntary dissolution proceedings
21 by consent of shareholders

22 A. BY THE WRITTEN CONSENT OF ALL OF ITS SHAREHOLDERS, A CORPORATION
23 MAY, AT ANY TIME PRIOR TO THE FILING OF THE ARTICLES OF DISSOLUTION
24 BY THE COMMISSION, REVOKE VOLUNTARY DISSOLUTION PROCEEDINGS THERE-
25 TEOFRE TAKEN, IN THE FOLLOWING MANNER:

26 B. UPON THE EXECUTION OF SUCH WRITTEN CONSENT, A STATEMENT OF
27 REVOCATION OF VOLUNTARY DISSOLUTION PROCEEDINGS SHALL BE EXECUTED IN
28 DUPLICATE BY THE CORPORATION BY ITS PRESIDENT OR A VICE-PRESIDENT AND
29 BY ITS SECRETARY OR AN ASSISTANT SECRETARY, AND VERIFIED BY ONE OF
30 THE OFFICERS SIGNING SUCH STATEMENT, WHICH STATEMENT SHALL SET FORTH:

- 31 1. THE NAME OF THE CORPORATION.
- 32 2. THE NAMES AND RESPECTIVE ADDRESSES OF ITS OFFICERS.
- 33 3. THE NAMES AND RESPECTIVE ADDRESSES OF ITS DIRECTORS.
- 34 4. A COPY OF THE WRITTEN CONSENT SIGNED BY ALL SHAREHOLDERS
35 OF THE CORPORATION REVOKING SUCH VOLUNTARY DISSOLUTION PROCEEDINGS.
- 36 5. THAT SUCH WRITTEN CONSENT HAS BEEN SIGNED BY ALL SHAREHOLDERS
37 OF THE CORPORATION OR SIGNED IN THEIR NAMES BY THEIR ATTORNEYS THERE-
38 UNTO DULY AUTHORIZED.

39 10-089. Revocation of voluntary dissolution proceedings
40 by act of the corporation and shareholder approval

41 BY THE ACT OF THE CORPORATION, A CORPORATION MAY, AT ANY TIME PRIOR
42 TO THE FILING OF THE ARTICLES OF DISSOLUTION BY THE COMMISSION, REVOKE
43 VOLUNTARY DISSOLUTION PROCEEDINGS THERETOFRE TAKEN, IN THE FOLLOWING
44 MANNER:

- 45 1. THE BOARD OF DIRECTORS SHALL ADOPT A RESOLUTION RECOMMENDING
46 THAT THE VOLUNTARY DISSOLUTION PROCEEDINGS BE REVOKED, AND DIRECTING
47 THAT THE QUESTION OF SUCH REVOCATION BE SUBMITTED TO A VOTE AT A SPECIAL
48 MEETING OF SHAREHOLDERS.
- 49 2. WRITTEN NOTICE, STATING THAT THE PURPOSE OR ONE OF THE PURPOSES
50 OF SUCH MEETING IS TO CONSIDER THE ADVISABILITY OF REVOKING THE

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1 VOLUNTARY DISSOLUTION PROCEEDINGS, SHALL BE GIVEN TO EACH SHAREHOLDER OF
2 RECORD ENTITLED TO VOTE AT SUCH MEETING WITHIN THE TIME AND IN THE MANNER
3 PROVIDED IN THIS CHAPTER FOR THE GIVING OF NOTICE OF SPECIAL MEETINGS OF
4 SHAREHOLDERS.

5 3. AT SUCH MEETING A VOTE OF THE SHAREHOLDERS ENTITLED TO VOTE
6 THEREAT SHALL BE TAKEN ON A RESOLUTION TO REVOKE THE VOLUNTARY DISSOLU-
7 TION PROCEEDINGS, WHICH SHALL REQUIRE FOR ITS ADOPTION THE AFFIRMATIVE
8 VOTE OF THE HOLDERS OF A MAJORITY OF THE SHARES ENTITLED TO VOTE THEREON.

9 4. UPON THE ADOPTION OF SUCH RESOLUTION, A STATEMENT OF REVOCA-
10 TION OF VOLUNTARY DISSOLUTION PROCEEDINGS SHALL BE EXECUTED IN DUPLICATE
11 BY THE CORPORATION BY ITS PRESIDENT OR VICE-PRESIDENT AND BY ITS SECRETARY
12 OR AN ASSISTANT SECRETARY, AND VERIFIED BY ONE OF THE OFFICERS SIGNING
13 SUCH STATEMENT, WHICH STATEMENT SHALL SET FORTH:

14 (a) THE NAME OF THE CORPORATION.
15 (b) THE NAMES AND RESPECTIVE ADDRESSES OF ITS OFFICERS.
16 (c) THE NAMES AND RESPECTIVE ADDRESSES OF ITS DIRECTORS.
17 (d) A COPY OF THE RESOLUTION ADOPTED BY THE SHAREHOLDERS REVOKING
18 THE VOLUNTARY DISSOLUTION PROCEEDINGS.

19 (e) THE NUMBER OF SHARES OUTSTANDING.
20 (f) THE NUMBER OF SHARES VOTED FOR AND AGAINST THE RESOLUTION,
21 RESPECTIVELY.

22 10-090. Filing of statement of revocation of
23 voluntary dissolution

24 A. THE ORIGINAL AND ONE OR MORE COPIES OF THE STATEMENT OF REVOCATION
25 OF VOLUNTARY DISSOLUTION PROCEEDINGS WHETHER BY CONSENT OF SHAREHOLDERS
26 OR BY ACT OF THE CORPORATION SHALL BE DELIVERED TO THE COMMISSION.

27 B. THE COMMISSION SHALL, AFTER DETERMINING THAT SUCH STATEMENT APPEARS
28 IN ALL RESPECTS TO CONFORM TO THE REQUIREMENTS OF THIS CHAPTER AND TO LAW,
29 FILE SUCH STATEMENT IN THE MANNER PROVIDED IN SECTION 10-055.

30 10-091. Effect of statement of revocation of voluntary
31 dissolution proceedings

32 UPON THE FILING BY THE COMMISSION OF A STATEMENT OF REVOCATION
33 OF VOLUNTARY DISSOLUTION PROCEEDINGS, WHETHER BY CONSENT OF SHAREHOLDERS
34 OR BY ACT OF THE CORPORATION, THE REVOCATION OF THE VOLUNTARY DISSOLUTION
35 PROCEEDINGS SHALL BECOME EFFECTIVE AND THE CORPORATION MAY AGAIN CARRY
36 ON ITS BUSINESS.

37 10-092. Articles of dissolution

38 A. IF VOLUNTARY DISSOLUTION PROCEEDINGS HAVE NOT BEEN REVOKED,
39 THEN WHEN ALL DEBTS, LIABILITIES AND OBLIGATIONS OF THE CORPORATION HAVE
40 BEEN PAID AND DISCHARGED, OR ADEQUATE PROVISION HAS BEEN MADE
41 THEREFOR, AND ALL OF THE REMAINING PROPERTY AND ASSETS OF THE COR-
42 PORATION HAVE BEEN DISTRIBUTED TO ITS SHAREHOLDERS, ARTICLES OF
43 DISSOLUTION SHALL BE EXECUTED BY THE CORPORATION BY ITS PRESIDENT OR
44 A VICE-PRESIDENT AND BY ITS SECRETARY OR AN ASSISTANT SECRETARY, AND
45 THEIR SIGNATURES SHALL BE ACKNOWLEDGED AND SHALL SET FORTH:

46 1. THE NAME OF THE CORPORATION.
47 2. THE NAMES AND RESPECTIVE ADDRESSES OF ITS DIRECTORS AND OF
48 THOSE OFFICERS EXECUTING THE ARTICLES OF DISSOLUTION.
49 3. THAT THE COMMISSION HAS THERETOFORE FILED A STATEMENT OF

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1 INTENT TO DISSOLVE THE CORPORATION, AND THE DATE ON WHICH SUCH STATE-
2 MENT WAS FILED.

3 4. THAT ALL DEBTS, OBLIGATIONS AND LIABILITIES OF THE CORPORATION
4 HAVE BEEN PAID AND DISCHARGED OR THAT ADEQUATE PROVISION HAS BEEN MADE
5 THEREFOR.

6 5. THAT ALL THE REMAINING PROPERTY AND ASSETS OF THE CORPORATION
7 HAVE BEEN DISTRIBUTED AMONG ITS SHAREHOLDERS IN ACCORDANCE WITH THEIR
8 RESPECTIVE RIGHTS AND INTERESTS.

9 6. THAT THERE ARE NO SUITS PENDING AGAINST THE CORPORATION IN ANY
10 COURT, OR THAT ADEQUATE PROVISION HAS BEEN MADE FOR THE SATISFACTION
11 OF ANY JUDGMENT, ORDER OR DECREE WHICH MAY BE ENTERED AGAINST IT IN ANY
12 PENDING SUIT.

13 B. THE ARTICLES OF DISSOLUTION SHALL NOT BE CONSIDERED COMPLETE
14 UNTIL THE COMMISSION HAS RECEIVED A NOTICE FROM THE DEPARTMENT OF REVENUE
15 TO THE EFFECT THAT THE TAX LEVIED UNDER THE PROVISIONS OF TITLE 42,
16 CHAPTER 8, ARTICLE 1 AGAINST THE CORPORATION HAS BEEN PAID, OR UNTIL IT
17 IS NOTIFIED BY THE DEPARTMENT OF REVENUE THAT SUCH CORPORATION IS NOT
18 SUBJECT TO SUCH TAX AND FURTHER HAS RECEIVED FROM THE DEPARTMENT OF
19 REVENUE ITS CERTIFICATE ISSUED PURSUANT TO SECTION 43-197.

20 10-093. Filing of articles of dissolution

21 A. THE ORIGINAL AND ONE OR MORE COPIES OF SUCH ARTICLES OF
22 DISSOLUTION SHALL BE DELIVERED TO THE COMMISSION. THE COMMISSION SHALL,
23 AFTER DETERMINING THAT SUCH ARTICLES APPEAR IN ALL RESPECTS TO CONFORM
24 TO THE REQUIREMENTS OF THIS CHAPTER AND TO LAW, FILE SUCH ARTICLES IN
25 THE MANNER PROVIDED IN SECTION 10-055.

26 B. UPON THE FILING OF SUCH ARTICLES OF DISSOLUTION THE EXISTENCE
27 OF THE CORPORATION SHALL CEASE, EXCEPT FOR THE PURPOSE OF SUITS, OTHER
28 PROCEEDINGS AND APPROPRIATE CORPORATE ACTION BY SHAREHOLDERS, DIRECTORS
29 AND OFFICERS AS PROVIDED IN THIS CHAPTER.

30 ARTICLE 8. INVOLUNTARY DISSOLUTION

31 10-094. Involuntary dissolution

32 A CORPORATION MAY BE DISSOLVED INVOLUNTARILY BY A JUDGMENT OF THE
33 SUPERIOR COURT IN AN ACTION FILED AGAINST IT BY THE ATTORNEY GENERAL
34 WHEN ANY ONE OF THE FOLLOWING IS ESTABLISHED:

35 1. THE CORPORATION HAS FAILED TO FILE ITS ANNUAL REPORT OR PAY
36 ANNUAL REPORT FEES WITHIN THE TIME REQUIRED BY THIS CHAPTER.

37 2. THE CORPORATION PROCURED ITS FORMATION THROUGH FRAUDULENT
38 MISREPRESENTATION OR CONCEALMENT OF MATERIAL FACT.

39 3. THE CORPORATION HAS CONTINUED TO EXCEED OR ABUSE THE AUTHORITY
40 CONFERRED UPON IT BY LAW.

41 4. THE CORPORATION HAS FAILED FOR THIRTY DAYS TO APPOINT AND
42 MAINTAIN A STATUTORY AGENT IN THIS STATE.

43 5. THE CORPORATION HAS FAILED TO FILE THE STATEMENT OF CHANGE
44 OF STATUTORY AGENT REQUIRED BY THIS CHAPTER WITHIN THIRTY DAYS AFTER
45 SUCH CHANGE IS DULY AUTHORIZED BY THE CORPORATION.

46 6. THE CORPORATION HAS CONTINUED OR PERSISTED OVER A PERIOD
47 OF TIME TO CONDUCT ITS BUSINESS IN A FRAUDULENT OR OTHERWISE ILLEGAL
48 MANNER.

49 10-095. Revocation by commission

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1 A. WHEN A CORPORATION HAS FAILED TO PAY AN ANNUAL FEE OR PENALTIES,
2 OR FILE AN ANNUAL REPORT WITHIN THREE MONTHS AFTER DUE, OR TO MAKE PUBLI-
3 CATION AND FILE AFFIDAVIT OF ANY PUBLICATION SO REQUIRED BY THIS CHAPTER
4 WITHIN ONE YEAR AFTER DUE OR TO FILE A CERTIFICATE OF DISCLOSURE OR ANSWER
5 INTERROGATORIES AS PRESCRIBED IN SECTION 10-128, THEN THE COMMISSION SHALL
6 MAKE A FINDING OF ANY SUCH FACTS AND ENTER AN ORDER REQUIRING THE CORPORA-
7 TION TO SHOW CAUSE, AT A TIME THEREIN NAMED, WHY THE FILING OF ITS
8 ARTICLES OF INCORPORATION SHOULD NOT BE REVOKED.

9 B. THE TIME NAMED IN THE ORDER TO SHOW CAUSE SHALL NOT BE LESS
10 THAN TWENTY DAYS. THE ORDER TO SHOW CAUSE SHALL BE SERVED UPON THE
11 CORPORATION BY DELIVERY TO ITS STATUTORY AGENT, OR BY REGISTERED OR
12 CERTIFIED MAIL TO THE STATUTORY AGENT AT HIS ADDRESS LAST KNOWN TO THE
13 COMMISSION.

14 C. IF AT THE TIME FIXED IN THE ORDER TO SHOW CAUSE THE CORPORATION
15 FAILS TO RESPOND THERETO AND SHOW CAUSE, THE COMMISSION SHALL ENTER AN
16 ORDER REVOKING THE FILING OF THE ARTICLES OF INCORPORATION OF SUCH
17 CORPORATION.

18 D. WITHIN SIX MONTHS FROM THE DATE OF THE REVOCATION ORDER, THE
19 CORPORATION MAY APPLY FOR REINSTATEMENT. IF THE CORPORATION HAS SINCE
20 FILED THE REPORT, MADE THE REQUIRED PUBLICATION, FILED A CERTIFICATE OF
21 DISCLOSURE OR INTERROGATORIES, AND PAID ANY FEES, PENALTIES, OR COSTS
22 INCURRED BY THE COMMISSION, THE COMMISSION SHALL ENTER AN ORDER REIN-
23 STATING THE CORPORATION AND VACATING ITS REVOCATION ORDER.

24 E. THE COMMISSION SHALL MAKE AVAILABLE TO THE PUBLIC A LIST,
25 COMPILED MONTHLY, OF THE CORPORATIONS FOR WHICH ARTICLES OF INCORPORA-
26 TION WERE REVOKED DURING THE PRECEDING MONTH.

27 10-096. Venue and process

28 ACTIONS BY THE ATTORNEY GENERAL FOR THE INVOLUNTARY DISSOLUTION
29 OF A CORPORATION SHALL BE COMMENCED EITHER IN THE SUPERIOR COURT OF THE
30 COUNTY IN WHICH THE KNOWN PLACE OF BUSINESS OR STATUTORY AGENT OF THE
31 CORPORATION IS SITUATED, OR IF THE CORPORATION HAS FAILED TO MAINTAIN A
32 STATUTORY AGENT OR KNOWN PLACE OF BUSINESS, THEN IN THE SUPERIOR COURT
33 OF MARICOPA COUNTY. PROCESS SHALL ISSUE AND BE SERVED AS IN OTHER CIVIL
34 ACTIONS.

35 10-097. Jurisdiction of court to liquidate assets and
36 business of corporation

37 A. THE SUPERIOR COURT SHALL HAVE FULL POWER TO LIQUIDATE THE
38 ASSETS AND BUSINESS OF A CORPORATION:

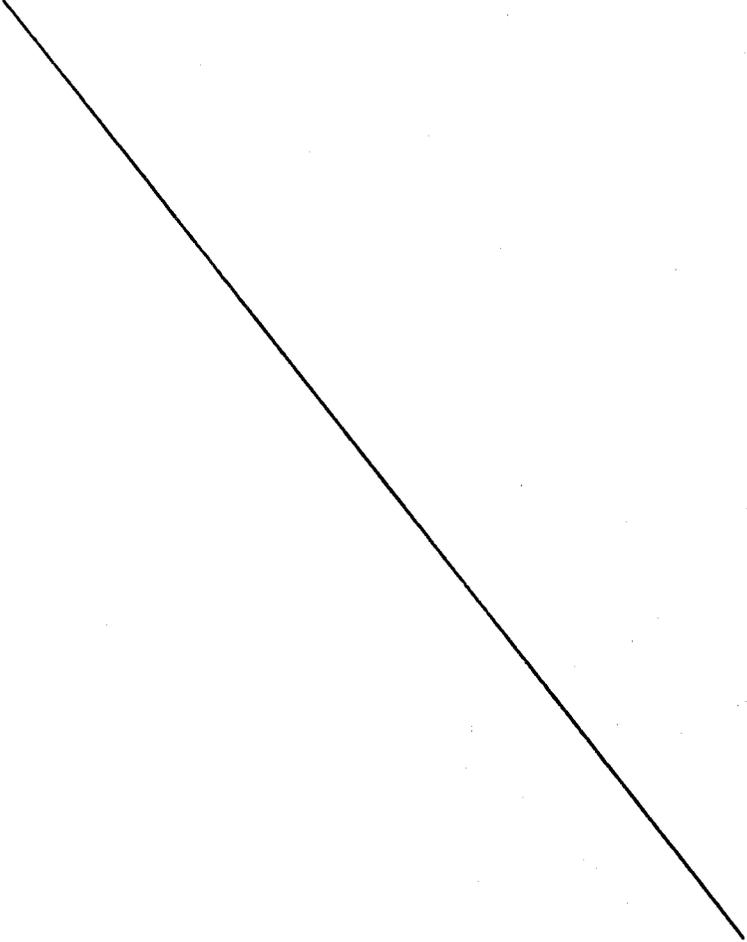
39 1. IN ACTION BY A SHAREHOLDER WHEN IT IS ESTABLISHED THAT EITHER:
40 (a) THE DIRECTORS ARE DEADLOCKED IN THE MANAGEMENT OF THE CORPORATE
41 AFFAIRS AND THE SHAREHOLDERS ARE UNABLE TO BREAK THE DEADLOCK, AND THAT
42 IRREPARABLE INJURY TO THE CORPORATION IS BEING SUFFERED OR IS THREATENED
43 BY REASON THEREOF.

44 (b) THE SHAREHOLDERS ARE DEADLOCKED IN VOTING POWER AND HAVE
45 FAILED, FOR A PERIOD WHICH INCLUDES AT LEAST TWO CONSECUTIVE ANNUAL MEET-
46 ING DATES, TO ELECT SUCCESSORS TO DIRECTORS WHOSE TERMS HAVE EXPIRED
47 OR WOULD HAVE EXPIRED UPON THE ELECTION OF THEIR SUCCESSORS.

48 2. IN AN ACTION BY A CREDITOR WHEN EITHER:

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1 (a) THE CLAIM OF THE CREDITOR HAS BEEN REDUCED TO JUDGMENT AND
2 AN EXECUTION THEREON RETURNED UNSATISFIED AND IT IS ESTABLISHED THAT
3 THE CORPORATION IS INSOLVENT; OR
4 (b) WHEN THE CORPORATION HAS ADMITTED IN WRITING THAT THE CLAIM
5 OF THE CREDITOR IS DUE AND OWING AND IT IS ESTABLISHED THAT THE
6 CORPORATION IS INSOLVENT.



1 3. UPON APPLICATION BY A CORPORATION WHICH HAS FILED A STATEMENT
2 OF INTENT TO DISSOLVE, AS PROVIDED IN THIS CHAPTER, TO HAVE ITS LIQUIDA-
3 TION CONTINUED UNDER THE SUPERVISION OF THE COURT.

4 4. WHEN AN ACTION HAS BEEN FILED BY THE ATTORNEY GENERAL TO DIS-
5 SOLVE A CORPORATION AND IT IS ESTABLISHED THAT LIQUIDATION OF ITS BUSI-
6 NESS AND AFFAIRS SHOULD PRECEDE THE ENTRY OF A JUDGMENT OF DISSOLUTION.

7 B. PROCEEDINGS UNDER SUBSECTION A SHALL BE BROUGHT IN THE COUNTY
8 IN WHICH THE KNOWN PLACE OF BUSINESS OR THE PRINCIPAL OFFICE OF THE
9 CORPORATION IS SITUATED.

10 C. IT SHALL NOT BE NECESSARY TO MAKE SHAREHOLDERS PARTIES TO
11 ANY SUCH ACTION OR PROCEEDING UNLESS RELIEF IS SOUGHT AGAINST THEM PER-
12 SONALLY.

13 10-098. Procedure in liquidation of corporation by court

14 A. IN PROCEEDINGS TO LIQUIDATE THE ASSETS AND BUSINESS OF A CORPO-
15 RATION THE COURT SHALL HAVE POWER TO ISSUE INJUNCTIONS, TO APPOINT A
16 RECEIVER OR RECEIVERS PENDENTE LITE, WITH SUCH POWERS AND DUTIES AS THE
17 COURT, FROM TIME TO TIME, MAY DIRECT, AND TO TAKE SUCH OTHER PROCEEDINGS
18 AS MAY BE REQUISITE TO PRESERVE THE CORPORATE ASSETS WHEREVER SITUATED,
19 AND CARRY ON THE BUSINESS OF THE CORPORATION UNTIL A FULL HEARING CAN BE
20 HAD.

21 B. AFTER A HEARING HAD UPON SUCH NOTICE AS THE COURT MAY DIRECT
22 TO BE GIVEN TO ALL PARTIES TO THE PROCEEDINGS AND TO ANY OTHER PARTIES
23 IN INTEREST DESIGNATED BY THE COURT, THE COURT MAY APPOINT A LIQUIDATING
24 RECEIVER OR RECEIVERS WITH AUTHORITY TO COLLECT THE ASSETS OF THE CORPORA-
25 TION, INCLUDING ALL AMOUNTS OWING TO THE CORPORATION BY SUBSCRIBERS ON
26 ACCOUNT OF ANY UNPAID PORTION OF THE CONSIDERATION FOR THE ISSUANCE OF
27 SHARES. SUCH LIQUIDATING RECEIVER OR RECEIVERS SHALL HAVE AUTHORITY,
28 SUBJECT TO THE ORDER OF THE COURT, TO SELL, CONVEY AND DISPOSE OF ALL OR
29 ANY PART OF THE ASSETS OF THE CORPORATION WHEREVER SITUATED, EITHER AT
30 PUBLIC OR PRIVATE SALE. THE ASSETS OF THE CORPORATION OR THE PROCEEDS
31 RESULTING FROM A SALE, CONVEYANCE OR OTHER DISPOSITION THEREOF SHALL
32 BE APPLIED TO THE EXPENSES OF SUCH LIQUIDATION AND TO THE PAYMENT OF
33 THE LIABILITIES AND OBLIGATIONS OF THE CORPORATION, AND ANY REMAINING
34 ASSETS OR PROCEEDS SHALL BE DISTRIBUTED AMONG ITS SHAREHOLDERS ACCORD-
35 ING TO THEIR RESPECTIVE RIGHTS AND INTERESTS. THE ORDER APPOINTING
36 SUCH LIQUIDATING RECEIVER OR RECEIVERS SHALL STATE THEIR POWERS AND
37 DUTIES. SUCH POWERS AND DUTIES MAY BE INCREASED OR DIMINISHED AT ANY
38 TIME DURING THE PROCEEDINGS.

39 C. THE COURT SHALL HAVE POWER TO ALLOW FROM TIME TO TIME AS EX-
40 PENSES OF THE LIQUIDATION COMPENSATION TO THE RECEIVER OR RECEIVERS AND
41 TO ATTORNEYS IN THE PROCEEDING, AND TO DIRECT THE PAYMENT THEREOF OUT OF
42 THE ASSETS OF THE CORPORATION OR THE PROCEEDS OF ANY SALE OR DISPOSITION
43 OF SUCH ASSETS.

44 D. A RECEIVER OF A CORPORATION APPOINTED UNDER THE PROVISIONS OF
45 THIS SECTION SHALL HAVE AUTHORITY TO SUE AND DEFEND IN ALL COURTS IN
46 HIS OWN NAME AS RECEIVER OF SUCH CORPORATION. THE COURT APPOINTING
47 SUCH RECEIVER SHALL HAVE EXCLUSIVE JURISDICTION OF THE CORPORATION AND
48 ITS PROPERTY, WHEREVER SITUATED.

49 10-100. Filing of claims in liquidation proceedings
50 IN PROCEEDINGS TO LIQUIDATE THE ASSETS AND BUSINESS OF A

1 CORPORATION THE COURT MAY REQUIRE ALL CREDITORS OF THE CORPORATION TO
 2 FILE WITH THE CLERK OF THE COURT AND WITH THE RECEIVER, IN SUCH FORM AS
 3 THE COURT MAY PRESCRIBE, PROOFS UNDER OATH OF THEIR RESPECTIVE CLAIMS.
 4 IF THE COURT REQUIRES THE FILING OF CLAIMS IT SHALL FIX A DATE, WHICH
 5 SHALL BE NOT LESS THAN FOUR MONTHS FROM THE DATE OF THE ORDER, AS THE
 6 LAST DAY FOR THE FILING OF CLAIMS, AND SHALL PRESCRIBE THE NOTICE THAT
 7 SHALL BE GIVEN TO CREDITORS AND CLAIMANTS OF THE DATE SO FIXED. PRIOR
 8 TO THE DATE SO FIXED, THE COURT MAY EXTEND THE TIME FOR THE FILING OF
 9 CLAIMS. CREDITORS AND CLAIMANTS FAILING TO FILE PROOFS OF CLAIM ON OR
 10 BEFORE THE DATE SO FIXED MAY BE BARRED, BY ORDER OF COURT, FROM PARTI-
 11 CIPATING IN THE DISTRIBUTION OF THE ASSETS OF THE CORPORATION.

12 10-101. Discontinuance of liquidation proceedings

13 THE LIQUIDATION OF THE ASSETS AND BUSINESS OF A CORPORATION MAY
 14 BE DISCONTINUED AT ANY TIME DURING THE LIQUIDATION PROCEEDINGS WHEN
 15 IT IS ESTABLISHED THAT CAUSE FOR LIQUIDATION NO LONGER EXISTS. IN
 16 SUCH EVENT THE COURT SHALL DISMISS THE PROCEEDINGS AND DIRECT THE RE-
 17 CEIVER TO REDELIVER TO THE CORPORATION ALL ITS REMAINING PROPERTY AND
 18 ASSETS.

19 10-102. Judgment of involuntary dissolution

20 IN PROCEEDINGS TO LIQUIDATE THE ASSETS AND BUSINESS OF A CORPORA-
 21 TION, WHEN THE COSTS AND EXPENSES OF SUCH PROCEEDINGS AND ALL DEBTS,
 22 OBLIGATIONS AND LIABILITIES OF THE CORPORATION SHALL HAVE BEEN PAID AND
 23 DISCHARGED AND ALL OF ITS REMAINING PROPERTY AND ASSETS DISTRIBUTED TO
 24 ITS SHAREHOLDERS, OR IN CASE ITS PROPERTY AND ASSETS ARE NOT SUFFICIENT
 25 TO SATISFY AND DISCHARGE SUCH COSTS, EXPENSES, DEBTS AND OBLIGATIONS,
 26 ALL THE PROPERTY AND ASSETS HAVE BEEN APPLIED SO FAR AS THEY WILL GO TO
 27 THEIR PAYMENT, THE COURT SHALL ENTER A JUDGMENT DISSOLVING THE CORPORA-
 28 TION, WHEREUPON THE EXISTENCE OF THE CORPORATION SHALL CEASE.

29 10-103. Filing of judgment of dissolution

30 WHEN THE SUPERIOR COURT ENTERS A JUDGMENT DISSOLVING A CORPORATION,
 31 THE CLERK OF SUCH COURT SHALL CAUSE A CERTIFIED COPY OF THE JUDGMENT TO
 32 BE FILED WITH THE COMMISSION. NO FILING FEE SHALL BE CHARGED BY THE
 33 COMMISSION.

34 10-104. Deposit with state treasurer of amount due
 35 certain shareholders

36 UPON THE VOLUNTARY OR INVOLUNTARY DISSOLUTION OF A CORPORATION,
 37 THE PORTION OF THE ASSETS DISTRIBUTABLE TO A CREDITOR OR SHAREHOLDER
 38 WHO IS UNKNOWN OR CANNOT BE FOUND, OR WHO IS UNDER DISABILITY AND THERE
 39 IS NO PERSON LEGALLY COMPETENT TO RECEIVE SUCH DISTRIBUTIVE PORTION,
 40 SHALL BE REDUCED TO CASH AND DEPOSITED WITH THE STATE TREASURER AND
 41 SHALL BE PAID OVER TO SUCH CREDITOR OR SHAREHOLDER OR TO HIS LEGAL
 42 REPRESENTATIVE UPON PROOF SATISFACTORY TO THE STATE TREASURER OF HIS
 43 RIGHT THERETO.

44 10-105. Survival of remedy after dissolution

45 THE DISSOLUTION OF A CORPORATION EITHER BY THE ISSUANCE OF A
 46 CERTIFICATE OF DISSOLUTION BY THE COMMISSION, BY A JUDGMENT OF COURT
 47 WHEN THE COURT HAS NOT LIQUIDATED THE ASSETS AND BUSINESS OF THE COR-
 48 PORATION AS PROVIDED IN THIS CHAPTER, BY ORDER OF THE COMMISSION RE-
 49 VOKING THE CERTIFICATE OF INCORPORATION UNDER THE PROVISIONS OF SECTION
 50 10-095 OR BY EXPIRATION OF ITS PERIOD OF DURATION, SHALL NOT TAKE AWAY

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1 OR IMPAIR ANY REMEDY AVAILABLE TO OR AGAINST SUCH CORPORATION, ITS DI-
2 RECTORS, OFFICERS OR SHAREHOLDERS, FOR ANY RIGHT OR CLAIM EXISTING, OR
3 ANY LIABILITY INCURRED, PRIOR TO SUCH DISSOLUTION. ANY SUCH ACTION OR
4 PROCEEDING BY OR AGAINST THE CORPORATION MAY BE PROSECUTED OR DEFENDED
5 BY THE CORPORATION IN ITS CORPORATE NAME. THE SHAREHOLDERS, DIRECTORS
6 AND OFFICERS SHALL HAVE POWER TO TAKE SUCH CORPORATE OR OTHER ACTION
7 AS SHALL BE APPROPRIATE TO PROTECT SUCH REMEDY, RIGHT OR CLAIM. IF
8 SUCH CORPORATION WAS DISSOLVED BY THE EXPIRATION OF ITS PERIOD OF DURA-
9 TION, SUCH CORPORATION MAY AMEND ITS ARTICLES OF INCORPORATION AT ANY
10 TIME WITHIN FIVE YEARS OF THE EXPIRATION OF ITS PERIOD OF DURATION.

11 ARTICLE 9. FOREIGN CORPORATIONS

12 10-106. Admission of foreign corporation

13 A. NO FOREIGN CORPORATION SHALL HAVE THE RIGHT TO TRANSACT BUSI-
14 NESS IN THIS STATE UNTIL IT SHALL HAVE BEEN AUTHORIZED TO DO SO AS PRO-
15 VIDED IN THIS CHAPTER. NO FOREIGN CORPORATION SHALL BE AUTHORIZED UNDER
16 THIS CHAPTER TO TRANSACT IN THIS STATE ANY BUSINESS WHICH A CORPORATION
17 ORGANIZED UNDER THIS CHAPTER IS NOT PERMITTED TO TRANSACT. A FOREIGN
18 CORPORATION SHALL NOT BE DENIED AUTHORITY BY REASON OF THE FACT THAT THE
19 LAWS UNDER WHICH SUCH CORPORATION IS ORGANIZED GOVERNING ITS ORGANIZA-
20 TION AND INTERNAL AFFAIRS DIFFER FROM THE LAWS OF THIS STATE, AND NOTHING
21 IN THIS CHAPTER SHALL BE CONSTRUED TO AUTHORIZE THIS STATE TO REGULATE
22 THE ORGANIZATION OR THE INTERNAL AFFAIRS OF SUCH CORPORATION.

23 B. WITHOUT EXCLUDING OTHER ACTIVITIES WHICH MAY NOT CONSTITUTE
24 TRANSACTING BUSINESS IN THIS STATE, A FOREIGN CORPORATION SHALL NOT BE
25 CONSIDERED TO BE TRANSACTING BUSINESS IN THIS STATE, FOR THE PURPOSES
26 OF THIS CHAPTER, BY REASON OF CARRYING ON IN THIS STATE ANY ONE OR MORE
27 OF THE FOLLOWING ACTIVITIES:

28 1. MAINTAINING OR DEFENDING ANY ACTION OR SUIT OR ANY ADMINIS-
29 TRATIVE OR ARBITRATION PROCEEDING, OR EFFECTING THE SETTLEMENT THEREOF
30 OR THE SETTLEMENT OF CLAIMS OR DISPUTES.

31 2. HOLDING MEETINGS OF ITS DIRECTORS OR SHAREHOLDERS OR CARRYING
32 ON OTHER ACTIVITIES CONCERNING ITS INTERNAL AFFAIRS.

33 3. MAINTAINING CHECKING OR SAVINGS ACCOUNTS.

34 4. MAINTAINING OFFICES OR AGENCIES FOR THE TRANSFER, EXCHANGE
35 AND REGISTRATION OF ITS SECURITIES, OR APPOINTING AND MAINTAINING
36 TRUSTEES OR DEPOSITARIES WITH RELATION TO ITS SECURITIES.

37 5. EFFECTING SALES THROUGH INDEPENDENT CONTRACTORS.

38 6. SOLICITING OR RECEIVING ORDERS OUTSIDE THIS STATE IN PURSUANCE
39 OF LETTERS, CIRCULARS, CATALOGS OR OTHER FORMS OF ADVERTISING OR SOLICI-
40 TATION AND ACCEPTING SUCH ORDERS OUTSIDE THIS STATE AND FILLING THEM WITH
41 GOODS SHIPPED INTO THIS STATE.

42 7. CREATING EVIDENCES OF DEBT, MORTGAGES OR LIENS ON REAL OR PER-
43 SONAL PROPERTY.

44 8. SECURING OR COLLECTING DEBTS OR ENFORCING ANY RIGHTS IN
45 PROPERTY SECURING THE SAME.

46 9. TRANSACTING BUSINESS WHICH IS WHOLLY INTERSTATE IN CHARACTER.

47 10. CONDUCTING AN ISOLATED TRANSACTION COMPLETED WITHIN A PERIOD
48 OF THIRTY DAYS AND NOT IN THE COURSE OF A NUMBER OF REPEATED TRANSACTIONS
49 OF LIKE NATURE.

50 C. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE QUESTION

1 OF WHETHER ANY FOREIGN CORPORATION IS SUBJECT TO SERVICE OF PROCESS
2 AND SUIT IN THIS STATE.

3 D. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO INSURANCE
4 CORPORATIONS OR TO ANY CORPORATION TRANSACTING IN THIS STATE ONLY THE
5 BUSINESS OF LENDING FUNDS TO RELIGIOUS, SOCIAL OR BENEVOLENT ASSOCIATIONS.

6 10-107. Powers of foreign corporation

7 A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS UNDER THIS
8 CHAPTER SHALL, UNTIL WITHDRAWAL AS PROVIDED IN THIS CHAPTER, ENJOY THE
9 SAME, BUT NO GREATER, RIGHTS AND PRIVILEGES AS A DOMESTIC CORPORATION
10 ORGANIZED FOR THE PURPOSES SET FORTH IN THE APPLICATION PURSUANT TO
11 WHICH AUTHORITY IS ISSUED; AND, EXCEPT AS IN THIS CHAPTER OTHERWISE
12 PROVIDED, SHALL BE SUBJECT TO THE SAME DUTIES, RESTRICTIONS, PENALTIES
13 AND LIABILITIES NOW OR HEREAFTER IMPOSED UPON A DOMESTIC CORPORATION
14 OF LIKE CHARACTER.

15 10-108. Corporate name of foreign corporation

16 NO AUTHORITY SHALL BE GIVEN TO A FOREIGN CORPORATION UNLESS THE
17 CORPORATE NAME OF SUCH CORPORATION:

18 1. SHALL CONTAIN THE WORD "ASSOCIATION", "BANK", "CORPORATION",
19 "COMPANY", "INCORPORATED", OR "LIMITED", OR SHALL CONTAIN AN ABBREVIATION
20 OF ONE OF SUCH WORDS, OR SUCH CORPORATION SHALL, FOR USE IN THIS STATE,
21 ADD AT THE END OF ITS NAME ONE OF SUCH WORDS OR AN ABBREVIATION THEREOF.

22 2. SHALL NOT CONTAIN ANY WORD OR PHRASE LIKELY TO MISLEAD THE
23 PUBLIC OR WHICH INDICATES OR IMPLIES THAT IT IS ORGANIZED FOR ANY PUR-
24 POSE OTHER THAN ANY SPECIFIC PURPOSE CONTAINED IN ITS ARTICLES OF INCOR-
25 PORATION.

26 3. SHALL NOT BE THE SAME AS, OR DECEPTIVELY SIMILAR TO, THE NAME
27 OF ANY DOMESTIC CORPORATION EXISTING UNDER THE LAWS OF THIS STATE OR
28 ANY FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE,
29 OR A NAME THE EXCLUSIVE RIGHT TO WHICH IS, AT THE TIME, RESERVED IN
30 THE MANNER PROVIDED IN THIS CHAPTER OR ANY TRADE NAME REGISTERED WITH
31 THE SECRETARY OF STATE, EXCEPT THAT THIS PROVISION SHALL NOT APPLY IF
32 THE FOREIGN CORPORATION APPLYING FOR AUTHORITY FILES WITH THE COMMISSION
33 ANY ONE OF THE FOLLOWING:

34 (a) A RESOLUTION OF ITS BOARD OF DIRECTORS ADOPTING A FICTITIOUS
35 NAME FOR USE IN TRANSACTING BUSINESS IN THIS STATE WHICH FICTITIOUS NAME
36 IS NOT DECEPTIVELY SIMILAR TO THE NAME OF ANY DOMESTIC CORPORATION OR OF
37 ANY FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE
38 OR TO ANY NAME RESERVED AS PROVIDED IN THIS CHAPTER, OR ANY TRADE NAME
39 REGISTERED WITH THE SECRETARY OF STATE.

40 (b) THE WRITTEN CONSENT OF SUCH OTHER CORPORATION OR HOLDER OF
41 A RESERVED OR TRADE NAME TO USE THE SAME OR DECEPTIVELY SIMILAR NAME
42 AND ONE OR MORE WORDS ARE ADDED TO MAKE SUCH NAME DISTINGUISHABLE FROM
43 SUCH OTHER NAME.

44 (c) A CERTIFIED COPY OF A FINAL DECREE OF A COURT OF COMPETENT
45 JURISDICTION ESTABLISHING THE PRIOR RIGHT OF SUCH FOREIGN CORPORATION
46 TO THE USE OF SUCH NAME IN THIS STATE.

47 4. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH 1 OF THIS SECTION,
48 SHALL NOT INCLUDE THE WORDS "BANK", "DEPOSIT", "TRUST" OR "TRUST COMPANY"
49 SEPARATELY OR IN COMBINATION TO INDICATE OR CONVEY THE IDEA THAT THE
50 CORPORATION IS ENGAGED IN BANKING OR TRUST BUSINESS UNLESS SUCH CORPORATION
51 IS TO BE AND BECOMES ACTIVELY AND SUBSTANTIALLY ENGAGED IN BANKING OR TRUST
52 BUSINESS OR SUCH CORPORATION IS A HOLDING COMPANY HOLDING SUBSTANTIAL

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1 INTEREST IN COMPANIES ACTIVELY AND SUBSTANTIALLY ENGAGED IN BANKING OR
2 TRUST BUSINESS.

3 10-109. Change of name by foreign corporation

4 WHENEVER A FOREIGN CORPORATION WHICH IS AUTHORIZED TO TRANSMIT
5 BUSINESS IN THIS STATE SHALL CHANGE ITS NAME TO ONE UNDER WHICH
6 AUTHORITY WOULD NOT BE GRANTED TO IT ON APPLICATION THEREFOR, IT SHALL
7 NOT THEREAFTER TRANSMIT ANY BUSINESS IN THIS STATE UNTIL IT HAS CHANGED
8 ITS NAME TO A NAME WHICH IS AVAILABLE TO IT UNDER THE LAWS OF THIS STATE
9 OR HAS OTHERWISE COMPLIED WITH THE PROVISIONS OF THIS CHAPTER.

10 10-110. Application for authority to transact business

11 A. A FOREIGN CORPORATION, IN ORDER TO PROCURE AUTHORITY TO TRANS-
12 ACT BUSINESS IN THIS STATE, SHALL MAKE APPLICATION THEREFOR TO THE
13 COMMISSION, WHICH APPLICATION SHALL SET FORTH:

14 1. THE NAME OF THE CORPORATION AND THE JURISDICTION UNDER THE
15 LAWS OF WHICH IT IS INCORPORATED.

16 2. IF THE NAME OF THE CORPORATION DOES NOT CONTAIN THE WORD
17 "ASSOCIATION", "BANK", "CORPORATION", "COMPANY", "INCORPORATED", OR
18 "LIMITED" OR DOES NOT CONTAIN AN ABBREVIATION OF ONE OF SUCH WORDS,
19 THEN THE NAME OF THE CORPORATION WITH THE WORD OR ABBREVIATION WHICH
20 IT ELECTS TO ADD THERETO FOR USE IN THIS STATE.

21 3. THE DATE OF INCORPORATION AND THE PERIOD OF DURATION OF THE
22 CORPORATION.

23 4. THE ADDRESS OF THE PRINCIPAL OFFICE OF THE CORPORATION IN THE
24 JURISDICTION UNDER THE LAWS OF WHICH IT IS INCORPORATED.

25 5. THE ADDRESS OF THE PROPOSED KNOWN PLACE OF BUSINESS OF THE
26 CORPORATION IN THIS STATE, AND THE NAME AND ADDRESS OF ITS PROPOSED
27 STATUTORY AGENT IN THIS STATE.

28 6. THE PURPOSE OR PURPOSES OF THE CORPORATION WHICH IT PROPOSES
29 TO PURSUE IN THE TRANSACTION OF BUSINESS IN THIS STATE, WHICH MAY BE
30 STATED TO BE, OR TO INCLUDE, THE TRANSACTION OF ANY OR ALL LAWFUL BUSI-
31 NESS IN WHICH CORPORATIONS MAY ENGAGE IN THIS STATE.

32 7. THE NAMES AND RESPECTIVE ADDRESSES OF THE DIRECTORS AND
33 OFFICERS OF THE CORPORATION.

34 8. A STATEMENT OF THE AGGREGATE NUMBER OF SHARES WHICH THE COR-
35 PORATION HAS AUTHORITY TO ISSUE, ITEMIZED BY CLASSES, PAR VALUE OF
36 SHARES, SHARES WITHOUT PAR VALUE, AND SERIES, IF ANY, WITHIN A CLASS.

37 9. A STATEMENT OF THE AGGREGATE NUMBER OF ISSUED SHARES ITEMIZED
38 BY CLASSES, PAR VALUE OF SHARES, SHARES WITHOUT PAR VALUE, AND SERIES,
39 IF ANY, WITHIN A CLASS.

40 10. A STATEMENT, EXPRESSED IN DOLLARS, OF THE AMOUNT OF STATED
41 CAPITAL OF THE CORPORATION, AS DEFINED IN THIS CHAPTER.

42 11. A BRIEF STATEMENT OF THE CHARACTER OF BUSINESS WHICH THE
43 CORPORATION INITIALLY INTENDS ACTUALLY TO CONDUCT IN THIS STATE. SUCH
44 STATEMENT SHALL NOT LIMIT THE CHARACTER OF BUSINESS WHICH THE CORPORATION
45 ULTIMATELY CONDUCTS.

46 B. SUCH APPLICATION SHALL BE EXECUTED BY THE CORPORATION BY ITS
47 PRESIDENT OR A VICE-PRESIDENT AND BY ITS SECRETARY OR AN ASSISTANT SECRE-
48 TARY, AND THEIR SIGNATURES SHALL BE ACKNOWLEDGED.

49 10-111. Filing of application for authority; publication

50 A. THE ORIGINAL AND ONE OR MORE COPIES OF THE APPLICATION OF THE
51 FOREIGN CORPORATION FOR AUTHORITY TO TRANSMIT BUSINESS SHALL BE DELIVERED

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1 TO THE COMMISSION, TOGETHER WITH A COPY OF ITS ARTICLES OF INCORPORATION
2 AND ALL AMENDMENTS THERETO, DULY AUTHENTICATED BY THE PROPER OFFICER OF
3 THE JURISDICTION UNDER THE LAWS OF WHICH IT IS INCORPORATED. THE COMMISS-
4 SION SHALL, AFTER DETERMINING THAT THE APPLICATION SETS FORTH THE
5 INFORMATION REQUIRED BY SECTION 10-110, DOES NOT USE AS THE NAME OF
6 THE CORPORATION IN THIS STATE A NAME WHICH IS IN VIOLATION OF ANY PROVI-
7 SION OF SECTION 10-108 AND APPEARS IN ALL OTHER RESPECTS TO CONFORM TO
8 THE REQUIREMENTS OF THIS ARTICLE AND TO LAW, FILE THE ORIGINAL applica-
9 TION AND ENDORSE ON EACH ADDITIONAL COPY DELIVERED THE WORD "FILED" WITH
10 APPLICABLE DATE, WHICH ADDITIONAL COPIES SHALL BE RETURNED TO THE
11 REPRESENTATIVES OF THE CORPORATION.

12 B. WITHIN SIXTY DAYS AFTER FILING OF SUCH APPLICATION FOR
13 AUTHORITY TO TRANSACT BUSINESS THERE SHALL BE PUBLISHED, IN A NEWSPAPER
14 OF GENERAL CIRCULATION IN THE COUNTY OF THE KNOWN PLACE OF BUSINESS, FOR
15 THREE CONSECUTIVE PUBLICATIONS, A COPY OF THE APPLICATION FOR AUTHORITY
16 TO TRANSACT BUSINESS. AN AFFIDAVIT EVIDENCING SUCH PUBLICATION SHALL BE
17 FILED WITHIN NINETY DAYS AFTER FILING OF THE APPLICATION FOR AUTHORITY.

18 10-112. Effect of filing application

19 UPON THE FILING OF THE APPLICATION FOR AUTHORITY THE FOREIGN
20 CORPORATION SHALL BE AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE
21 FOR THOSE PURPOSES SET FORTH IN ITS APPLICATION, SUBJECT, HOWEVER,
22 TO THE RIGHT OF THIS STATE TO SUSPEND OR TO REVOKE SUCH AUTHORITY AS
23 PROVIDED IN THIS CHAPTER. THE FILING OF SUCH APPLICATION SHALL NOT
24 AUTHORIZE THE FOREIGN CORPORATION TO TRANSACT BUSINESS NOT AUTHORIZED
25 BY ITS ARTICLES OF INCORPORATION OR THE LAWS OF THE JURISDICTION UNDER
26 WHICH IT IS INCORPORATED.

27 10-113. Known place of business and statutory agent
28 of foreign corporation

29 EACH FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN
30 THIS STATE SHALL HAVE AND CONTINUOUSLY MAINTAIN IN THIS STATE:

31 1. A KNOWN PLACE OF BUSINESS WHICH SHALL BE THE OFFICE OF ITS
32 STATUTORY AGENT, UNLESS OTHERWISE DESIGNATED IN ITS APPLICATION FOR
33 AUTHORITY OR IN A STATEMENT FILED PURSUANT TO SECTION 10-115.

34 2. A STATUTORY AGENT, WHICH AGENT MAY BE EITHER AN INDIVIDUAL
35 WHO HAS BEEN A RESIDENT OF THIS STATE FOR THREE YEARS, A DOMESTIC
36 CORPORATION, OR A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS
37 IN THIS STATE.

38 10-114. Change of known place of business or statutory
39 agent of foreign corporation

40 A. A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN THIS
41 STATE MAY CHANGE ITS KNOWN PLACE OF BUSINESS OR CHANGE ITS STATUTORY
42 AGENT, OR BOTH, UPON FILING IN THE OFFICE OF THE COMMISSION A STATEMENT
43 SETTING FORTH:

- 44 1. THE NAME OF THE CORPORATION.
- 45 2. THE ADDRESS OF ITS THEN KNOWN PLACE OF BUSINESS.
- 46 3. IF THE ADDRESS OF ITS KNOWN PLACE OF BUSINESS IS TO BE
47 CHANGED, THE ADDRESS TO WHICH IT IS TO BE CHANGED.
- 48 4. THE NAME AND ADDRESS OF ITS THEN STATUTORY AGENT.
- 49 5. IF ITS STATUTORY AGENT OR HIS ADDRESS IS TO BE CHANGED, THE
50 NAME AND ADDRESS OF ITS SUCCESSOR STATUTORY AGENT OR THE NEW ADDRESS.

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1 6. THAT SUCH CHANGE WAS DULY AUTHORIZED BY THE CORPORATION.
2 B. SUCH STATEMENT SHALL BE EXECUTED BY THE CORPORATION BY ITS
3 PRESIDENT OR A VICE-PRESIDENT, AND DELIVERED TO THE COMMISSION. UPON
4 SUCH DELIVERY THE CHANGE OF ADDRESS OF THE KNOWN PLACE OF BUSINESS OR
5 STATUTORY AGENT, OR THE APPOINTMENT OF A NEW STATUTORY AGENT, OR BOTH,
6 AS THE CASE MAY BE, SHALL BECOME EFFECTIVE.
7 C. IF A STATUTORY AGENT CHANGES HIS OR ITS BUSINESS ADDRESS TO
8 ANOTHER PLACE WITHIN THE STATE, HE OR IT MAY CHANGE SUCH ADDRESS AND THE
9 ADDRESS OF THE KNOWN PLACE OF BUSINESS OF ANY CORPORATION OF WHICH HE
10 OR IT IS STATUTORY AGENT BY DELIVERY OF A STATEMENT AS REQUIRED ABOVE
11 EXCEPT THAT IT NEED BE SIGNED ONLY BY THE STATUTORY AGENT AND NEED NOT
12 BE RESPONSIVE TO PARAGRAPH 5 OR 6 OF SUBSECTION A AND MUST RECITE THAT
13 A COPY OF THE STATEMENT HAS BEEN MAILED TO THE CORPORATION.
14 D. ANY STATUTORY AGENT OF A FOREIGN CORPORATION MAY RESIGN AS
15 SUCH AGENT BY DELIVERING A WRITTEN NOTICE THEREOF, EXECUTED IN DUPLICATE,
16 TO THE COMMISSION, WHICH SHALL FORTHWITH MAIL A COPY THEREOF TO THE
17 CORPORATION AT ITS PRINCIPAL OFFICE IN THE JURISDICTION UNDER THE LAWS
18 OF WHICH IT IS INCORPORATED. THE APPOINTMENT OF SUCH AGENT SHALL TERMI-
19 NATE UPON THE EXPIRATION OF THIRTY DAYS AFTER RECEIPT OF SUCH NOTICE
20 BY THE COMMISSION.
21 E. ANY NOTICE OR STATEMENT DELIVERED PURSUANT TO THIS SECTION
22 SHALL BE MARKED "RECEIVED" BY THE COMMISSION WITH THE MONTH, DAY AND
23 YEAR OF THE RECEIPT SET FORTH THEREON.
24 10-115. Service of process on foreign corporation
25 A. THE STATUTORY AGENT SO APPOINTED BY A FOREIGN CORPORATION
26 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE SHALL BE AN AGENT OF SUCH
27 CORPORATION UPON WHOM ANY PROCESS, NOTICE OR DEMAND REQUIRED OR PERMITTED
28 BY LAW TO BE SERVED UPON THE CORPORATION MAY BE SERVED, AND WHICH, WHEN
29 SO SERVED, SHALL BE LAWFUL PERSONAL SERVICE ON THE CORPORATION.
30 B. PROCESS, NOTICE OR DEMAND MAY BE SERVED UPON AN OFFICER,
31 DIRECTOR OR MANAGING AGENT OF THE CORPORATION IN LIEU OF THE STATUTORY
32 AGENT. WHENEVER A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS
33 IN THIS STATE SHALL FAIL TO APPOINT OR MAINTAIN STATUTORY AGENT AT THE
34 ADDRESS SHOWN ON THE RECORDS OF THE COMMISSION, THE COMMISSION SHALL BE
35 AN AGENT OF SUCH CORPORATION UPON WHOM ANY SUCH PROCESS, NOTICE OR
36 DEMAND MAY BE SERVED. SERVICE ON THE COMMISSION OF ANY SUCH PROCESS,
37 NOTICE OR DEMAND SHALL BE MADE BY DELIVERING TO AND LEAVING WITH THE
38 COMMISSION DUPLICATE COPIES OF SUCH PROCESS, NOTICE OR DEMAND. WHEN SO
39 SERVED THE COMMISSION SHALL IMMEDIATELY CAUSE ONE OF SUCH COPIES THEREOF
40 TO BE FORWARDED BY MAIL, ADDRESSED TO THE CORPORATION AT ITS LAST KNOWN
41 PRINCIPAL OFFICE IN THE JURISDICTION UNDER THE LAWS OF WHICH IT IS
42 INCORPORATED. ANY SERVICE SO MADE ON THE COMMISSION SHALL BE RETURNABLE
43 IN ACCORDANCE WITH APPLICABLE LAW RELATIVE TO PERSONAL SERVICE ON THE
44 CORPORATION. WHEN SERVICE IS MADE ON THE COMMISSION, WHETHER UNDER THIS
45 CHAPTER OR ANY RULE OF COURT, THE CORPORATION SHALL HAVE THIRTY DAYS TO
46 RESPOND IN ADDITION TO THE TIME OTHERWISE PROVIDED BY LAW.
47 C. THE COMMISSION SHALL KEEP A PERMANENT RECORD OF ALL PROCESSES,
48 NOTICES AND DEMANDS SERVED UPON IT UNDER THIS SECTION, AND SHALL RECORD
49 THEREIN THE TIME OF SUCH SERVICE AND ITS ACTION WITH REFERENCE THERETO.

1 D. NOTHING HEREIN CONTAINED SHALL LIMIT OR AFFECT THE RIGHT TO
2 SERVE ANY PROCESS, NOTICE OR DEMAND, REQUIRED OR PERMITTED BY LAW TO BE
3 SERVED UPON A FOREIGN CORPORATION IN ANY OTHER MANNER NOW OR HEREAFTER
4 PERMITTED BY LAW.

5 10-116. Amendment to articles of incorporation of
6 foreign corporation

7 A. WHENEVER THE ARTICLES OF INCORPORATION OF A FOREIGN CORPORATION
8 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE ARE AMENDED OR RESTATED,
9 WHETHER BY MERGER, CONSOLIDATION, REORGANIZATION OR OTHERWISE, SUCH
10 FOREIGN CORPORATION SHALL, WITHIN SIXTY DAYS AFTER SUCH AMENDMENT OR
11 RESTATEMENT BECOMES EFFECTIVE, FILE IN THE OFFICE OF THE COMMISSION A
12 COPY OF SUCH AMENDMENT DULY AUTHENTICATED BY THE PROPER OFFICER OF THE
13 STATE OR COUNTRY UNDER THE LAWS OF WHICH IT IS INCORPORATED; BUT THE
14 FILING THEREOF SHALL NOT OF ITSELF AUTHORIZE SUCH CORPORATION TO TRANS-
15 ACT BUSINESS IN THIS STATE UNDER ANY OTHER NAME THAN THE NAME SET FORTH
16 IN ITS FILED APPLICATION FOR AUTHORITY.

17 B. WHENEVER THE ARTICLES OF INCORPORATION OF A FOREIGN CORPORATION
18 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE ARE AMENDED OR RESTATED,
19 EITHER BY MERGER, CONSOLIDATION, REORGANIZATION OR OTHERWISE, SO AS TO
20 ALTER OR CHANGE THE INFORMATION SET FORTH IN ITS APPLICATION FOR AUTHORITY
21 TO TRANSACT BUSINESS, SUCH FOREIGN CORPORATION SHALL, WITHIN SIXTY DAYS
22 AFTER SUCH AMENDMENT OR RESTATEMENT BECOMES EFFECTIVE, FILE IN THE
23 OFFICE OF THE COMMISSION A RESTATEMENT OF ALL THE INFORMATION CONTAINED
24 IN ITS APPLICATION FOR AUTHORITY TO TRANSACT BUSINESS, AS AMENDED,
25 INCLUDING INFORMATION NOT SPECIFICALLY ALTERED BY SUCH AMENDMENT OR
26 RESTATEMENT.

27 C. WITHIN THIRTY DAYS AFTER THE FILING OF THE RESTATEMENT OF
28 INFORMATION REQUIRED BY SUBSECTION B OF THIS SECTION, THERE SHALL BE
29 PUBLISHED, IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OF ITS
30 KNOWN PLACE OF BUSINESS, FOR THREE CONSECUTIVE PUBLICATIONS, A COPY OF
31 SUCH RESTATEMENT OF INFORMATION. AN AFFIDAVIT EVIDENCING SUCH PUBLI-
32 CATION SHALL BE FILED WITHIN THIRTY DAYS AFTER COMPLETION OF SUCH
33 PUBLICATION.

34 10-117. Merger of foreign corporation authorized to
35 transact business in this state

36 WHENEVER A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN
37 THIS STATE SHALL BE A PARTY TO A STATUTORY MERGER PERMITTED BY THE LAWS
38 OF THE JURISDICTION UNDER THE LAWS OF WHICH IT IS INCORPORATED, AND SUCH
39 CORPORATION SHALL BE THE SURVIVING CORPORATION, IT SHALL, WITHIN SIXTY
40 DAYS AFTER SUCH MERGER BECOMES EFFECTIVE, FILE WITH THE COMMISSION A
41 COPY OF A CERTIFICATE OF MERGER, THE ARTICLES OF MERGER OR THE MERGER
42 AGREEMENT, DULY AUTHENTICATED BY THE PROPER OFFICER OF THE JURISDICTION
43 UNDER THE LAWS OF WHICH SUCH STATUTORY MERGER WAS EFFECTED; AND IT
44 SHALL NOT BE NECESSARY FOR SUCH CORPORATION TO PROCURE NEW AUTHORITY
45 TO TRANSACT BUSINESS IN THIS STATE UNLESS THE NAME OF SUCH CORPORATION
46 BE CHANGED THEREBY OR UNLESS THE CORPORATION DESIRES TO PURSUE IN THIS
47 STATE OTHER OR ADDITIONAL PURPOSES THAN THOSE WHICH IT IS THEN AUTHORIZED
48 TO TRANSACT IN THIS STATE.

49 10-118. New authority

50 A. A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN THIS
51 STATE SHALL PROCURE NEW AUTHORITY IN THE EVENT IT CHANGES ITS CORPORATE

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1 NAME, OR DESIRES TO PURSUE IN THIS STATE OTHER OR ADDITIONAL PURPOSES
2 THAN THOSE SET FORTH IN ITS PRIOR APPLICATION OF AUTHORITY, BY MAKING
3 APPLICATION THEREFOR TO THE COMMISSION.

4 B. THE REQUIREMENTS IN RESPECT TO THE FORM AND CONTENTS OF SUCH
5 APPLICATION, THE MANNER OF ITS EXECUTION, ITS FILING WITH THE COMMISSION,
6 THE GIVING OF AUTHORITY AND THE EFFECT THEREOF, SHALL BE THE SAME AS IN
7 THE CASE OF AN ORIGINAL APPLICATION FOR AUTHORITY TO TRANSACT BUSINESS.

8 10-119. Withdrawal of foreign corporation

9 A. A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN THIS
10 STATE MAY WITHDRAW FROM THIS STATE UPON EXECUTING AND DELIVERING FOR
11 FILING BY THE COMMISSION AN APPLICATION FOR WITHDRAWAL. THE APPLICATION
12 FOR WITHDRAWAL, SHALL SET FORTH:

13 1. THE NAME OF THE CORPORATION AND THE JURISDICTION UNDER THE
14 LAWS OF WHICH IT IS INCORPORATED.

15 2. THAT THE CORPORATION IS NOT TRANSACTING BUSINESS IN THIS
16 STATE.

17 3. THAT THE CORPORATION SURRENDERS ITS AUTHORITY TO TRANSACT
18 BUSINESS IN THIS STATE.

19 4. THAT THE CORPORATION REVOKES THE AUTHORITY OF ITS STATUTORY
20 AGENT IN THIS STATE TO ACCEPT SERVICE OF PROCESS AND CONSENTS THAT
21 SERVICE OF PROCESS IN ANY ACTION, SUIT OR PROCEEDING BASED UPON ANY
22 CAUSE OF ACTION ARISING IN THIS STATE DURING THE TIME THE CORPORATION
23 WAS AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE MAY THEREAFTER BE
24 MADE ON SUCH CORPORATION BY SERVICE THEREOF ON THE COMMISSION.

25 5. A POST OFFICE ADDRESS TO WHICH THE COMMISSION MAY MAIL A COPY
26 OF ANY PROCESS AGAINST THE CORPORATION THAT MAY BE SERVED ON IT.

27 B. THE APPLICATION FOR WITHDRAWAL SHALL BE EXECUTED BY THE
28 CORPORATION BY ITS PRESIDENT OR A VICE-PRESIDENT AND BY ITS SECRETARY
29 OR AN ASSISTANT SECRETARY, OR, IF THE CORPORATION IS IN THE HANDS OF
30 A RECEIVER OR TRUSTEE, SHALL BE EXECUTED ON BEHALF OF THE CORPORATION
31 BY SUCH RECEIVER OR TRUSTEE. ALL SIGNATURES SHALL BE ACKNOWLEDGED.

32 C. THE APPLICATION FOR WITHDRAWAL SHALL NOT BE CONSIDERED COMPLETE
33 UNTIL THE COMMISSION HAS RECEIVED A NOTICE FROM THE STATE TAX COMMISSION
34 TO THE EFFECT THAT THE TAX LEVIED UNDER THE PROVISIONS OF ARTICLE 1 OF
35 CHAPTER 8 OF TITLE 42 AGAINST THE CORPORATION HAS BEEN PAID, OR UNTIL
36 IT IS NOTIFIED BY THE STATE TAX COMMISSION THAT THE APPLICANT IS NOT
37 SUBJECT TO SUCH TAX AND FURTHER HAS RECEIVED FROM THE STATE TAX COMMISSION
38 ITS CERTIFICATE ISSUED PURSUANT TO THE PROVISIONS OF SECTION 43-197.

39 D. THE APPLICATION FOR WITHDRAWAL SHALL NOT BE CONSIDERED COMPLETE
40 UNTIL THE COMMISSION HAS RECEIVED AN AFFIDAVIT FROM THE CORPORATION THAT
41 IT HAS CAUSED TO BE PUBLISHED, AND THERE HAS BEEN PUBLISHED, IN A NEWS-
42 PAPER OF GENERAL CIRCULATION IN THE COUNTY OF THE KNOWN PLACE OF BUSINESS,
43 FOR THREE CONSECUTIVE PUBLICATIONS, A COPY OF THE APPLICATION FOR
44 WITHDRAWAL.

45 10-120. Filing of application for withdrawal

46 A. THE ORIGINAL AND ONE OR MORE COPIES OF AN APPLICATION FOR
47 WITHDRAWAL SHALL BE DELIVERED TO THE COMMISSION. THE COMMISSION SHALL,
48 AFTER DETERMINING THAT SUCH APPLICATION APPEARS IN ALL RESPECTS TO
49 CONFORM TO THE REQUIREMENTS OF THIS ARTICLE AND TO LAW, AND WHEN ALL
50 FEES HAVE BEEN PAID AS IN THIS CHAPTER PRESCRIBED, FILE SUCH APPLICATION
51 IN THE MANNER PROVIDED IN SECTION 10-111.

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1 B. UPON THE FILING OF THE APPLICATION OF WITHDRAWAL, THE
2 AUTHORITY OF THE CORPORATION TO TRANACT BUSINESS IN THIS STATE SHALL
3 CEASE.

4 10-121. Revocation of authority

5 A. THE AUTHORITY OF A FOREIGN CORPORATION TO TRANACT BUSINESS
6 IN THIS STATE MAY BE REVOKED BY THE COMMISSION UPON ANY ONE OF THE
7 FOLLOWING CONDITIONS:

8 1. THE CORPORATION HAS FAILED TO FILE ITS ANNUAL REPORT WITHIN
9 THE TIME REQUIRED BY THIS CHAPTER, OR HAS FAILED TO PAY ANY FEES OR
10 PENALTIES PRESCRIBED BY THIS CHAPTER WHEN THEY HAVE BECOME DUE AND
11 PAYABLE.

12 2. THE CORPORATION HAS FAILED TO APPOINT AND MAINTAIN A
13 STATUTORY AGENT IN THIS STATE AS REQUIRED BY THIS CHAPTER.

14 3. THE CORPORATION HAS FAILED, AFTER CHANGE OF ITS KNOWN PLACE
15 OF BUSINESS OR STATUTORY AGENT, TO FILE IN THE OFFICE OF THE COMMISSION
16 A STATEMENT OF SUCH CHANGE AS REQUIRED BY THIS CHAPTER.

17 4. THE CORPORATION HAS FAILED TO FILE IN THE OFFICE OF THE
18 COMMISSION ANY AMENDMENT TO OR RESTATEMENT OF ITS ARTICLES OF INCOR-
19 PORATION OR ANY CERTIFICATE OF MERGER, ARTICLES OF MERGER OR MERGER
20 AGREEMENT WITHIN THE TIME PRESCRIBED BY THIS CHAPTER.

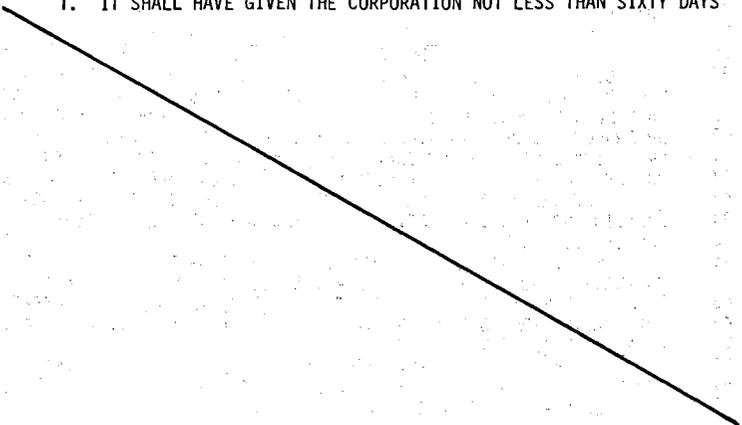
21 5. THE CORPORATION HAS FAILED TO MAKE ANY PUBLICATION REQUIRED
22 BY THIS CHAPTER AND FILE AFFIDAVIT OF PUBLICATION THEREOF WITHIN THE
23 TIME PRESCRIBED BY THIS CHAPTER.

24 6. OFFICERS OR OTHER REPRESENTATIVES OF THE CORPORATION HAVE
25 MADE ANY MISREPRESENTATION OF A MATERIAL MATTER IN ANY APPLICATION,
26 REPORT, AFFIDAVIT OR OTHER DOCUMENT SUBMITTED BY SUCH CORPORATION
27 PURSUANT TO THIS CHAPTER.

28 7. THE CORPORATION HAS FAILED TO FILE A CERTIFICATE OF DISCLOSURE
29 OR ANSWER INTERROGATORIES AS PRESCRIBED IN SECTION 10-128.

30 B. THE AUTHORITY OF A FOREIGN CORPORATION SHALL NOT BE REVOKED
31 BY THE COMMISSION UNLESS:

32 1. IT SHALL HAVE GIVEN THE CORPORATION NOT LESS THAN SIXTY DAYS



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1 NOTICE THEREOF BY MAIL ADDRESSED TO ITS KNOWN PLACE OF BUSINESS IN
2 THIS STATE.

3 2. THE CORPORATION SHALL FAIL PRIOR TO REVOCATION TO FILE SUCH
4 ANNUAL REPORT, OR PAY SUCH FEES, OR PENALTIES, OR FILE THE REQUIRED
5 STATEMENT OF CHANGE OF STATUTORY AGENT OR KNOWN PLACE OF BUSINESS, OR
6 FILE SUCH ARTICLES OF AMENDMENT OR ARTICLES OF MERGER, OR MAKE THE
7 PUBLICATION REQUIRED HEREUNDER, OR CORRECT SUCH MISREPRESENTATION.

8 C. THE COMMISSION SHALL MAKE AVAILABLE TO THE PUBLIC A LIST,
9 COMPILED MONTHLY, OF THE FOREIGN CORPORATIONS FOR WHICH AUTHORITY TO
10 TRANSMIT BUSINESS IN THIS STATE HAS BEEN REVOKED DURING THE PRECEDING
11 MONTH.

12 10-122. Issuance of certificate of revocation

13 A. UPON REVOKING ANY SUCH AUTHORITY, THE COMMISSION SHALL:

14 1. ISSUE A CERTIFICATE OF REVOCATION IN DUPLICATE.

15 2. FILE ONE OF SUCH CERTIFICATES IN ITS OFFICE.

16 3. MAIL TO SUCH CORPORATION AT ITS KNOWN PLACE OF BUSINESS IN
17 THIS STATE A NOTICE OF SUCH REVOCATION ACCOMPANIED BY ONE OF SUCH
18 CERTIFICATES.

19 B. UPON THE ISSUANCE OF SUCH CERTIFICATE OF REVOCATION, THE
20 AUTHORITY OF THE CORPORATION TO TRANSMIT BUSINESS IN THIS STATE SHALL
21 CEASE.

22 10-123. Application to corporations heretofore authorized
23 to transact business in this state

24 FOREIGN CORPORATIONS WHICH ARE DULY AUTHORIZED TO TRANSMIT BUSINESS
25 IN THIS STATE AT THE TIME THIS CHAPTER TAKES EFFECT, FOR A PURPOSE OR
26 PURPOSES FOR WHICH A CORPORATION MIGHT SECURE SUCH AUTHORITY UNDER THIS
27 CHAPTER, SHALL, SUBJECT TO ANY LIMITATIONS OF THEIR AUTHORITY, BE
28 ENTITLED TO ALL THE RIGHTS AND PRIVILEGES APPLICABLE TO FOREIGN
29 CORPORATIONS PROCURING AUTHORITY TO TRANSMIT BUSINESS IN THIS STATE
30 UNDER THIS CHAPTER, AND FROM THE TIME THIS CHAPTER TAKES EFFECT SUCH
31 CORPORATIONS SHALL BE SUBJECT TO ALL THE LIMITATIONS, RESTRICTIONS,
32 LIABILITIES AND DUTIES PRESCRIBED HEREIN FOR FOREIGN CORPORATIONS
33 PROCURING AUTHORITY TO TRANSMIT BUSINESS IN THIS STATE UNDER THIS
34 CHAPTER.

35 10-124. Transacting business without authority

36 A. NO FOREIGN CORPORATION TRANSMITTING BUSINESS IN THIS STATE
37 WITHOUT AUTHORITY SHALL BE PERMITTED TO MAINTAIN ANY ACTION, SUIT OR
38 PROCEEDING IN ANY COURT OF THIS STATE, UNTIL SUCH CORPORATION SHALL
39 HAVE BEEN AUTHORIZED TO TRANSMIT BUSINESS. NOR SHALL ANY ACTION, SUIT
40 OR PROCEEDING BE MAINTAINED IN ANY COURT OF THIS STATE BY ANY SUCCESSOR
41 OR ASSIGNEE OF SUCH CORPORATION ON ANY RIGHT, CLAIM OR DEMAND ARISING
42 OUT OF THE TRANSACTION OF BUSINESS BY SUCH CORPORATION IN THIS STATE,
43 UNTIL AUTHORITY TO TRANSMIT BUSINESS HAS BEEN OBTAINED BY SUCH COR-
44 PORATION OR BY A CORPORATION WHICH HAS ACQUIRED ALL OR SUBSTANTIALLY
45 ALL OF ITS ASSETS.

46 B. THE FAILURE OF A FOREIGN CORPORATION TO OBTAIN AUTHORITY
47 TO TRANSMIT BUSINESS IN THIS STATE SHALL NOT IMPAIR THE VALIDITY
48 OF ANY CONTRACT OR ACT OF SUCH CORPORATION, AND SHALL NOT PREVENT SUCH
49 CORPORATION FROM DEFENDING ANY ACTION, SUIT OR PROCEEDING IN ANY
50 COURT OF THIS STATE.

51 C. A FOREIGN CORPORATION WHICH TRANSMITS BUSINESS IN THIS
52 STATE WITHOUT AUTHORITY SHALL BE LIABLE TO THIS STATE, FOR THE
53 YEARS OR PORTIONS THEREOF DURING WHICH IT TRANSMITTED BUSINESS IN

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1 THIS STATE WITHOUT AUTHORITY, IN AN AMOUNT EQUAL TO ALL FEES WHICH
2 WOULD HAVE BEEN IMPOSED BY THIS CHAPTER UPON SUCH CORPORATION HAD
3 IT DULY APPLIED FOR AND RECEIVED AUTHORITY TO TRANSACT BUSINESS IN THIS
4 STATE AS REQUIRED BY THIS CHAPTER AND THEREAFTER FILED ALL REPORTS
5 REQUIRED BY THIS CHAPTER, PLUS ALL PENALTIES IMPOSED BY THIS CHAPTER
6 FOR FAILURE TO PAY SUCH FEES. THE ATTORNEY GENERAL SHALL HAVE AUTHORITY
7 TO BRING PROCEEDINGS TO RECOVER ALL AMOUNTS DUE THIS STATE UNDER
8 THE PROVISIONS OF THIS SECTION.

9 D. THE ATTORNEY GENERAL OR ANY OTHER PERSON MAY BRING AND MAINTAIN
10 AN ACTION TO ENJOIN ANY FOREIGN CORPORATION FROM TRANSACTING BUSINESS IN
11 THIS STATE WITHOUT AUTHORITY. UPON A FOREIGN CORPORATION OBTAINING
12 AUTHORITY SUCH ACTION SHALL BE DISMISSED BUT THE PLAINTIFF THEREIN SHALL
13 RECOVER HIS COSTS AND REASONABLE ATTORNEYS' FEES. A DETERMINATION BY
14 A COURT OF COMPETENT JURISDICTION IN THIS STATE THAT A PARTY TO THE
15 ACTION IS A FOREIGN CORPORATION WHICH WAS REQUESTED TO BUT FAILED TO
16 QUALIFY AS A FOREIGN CORPORATION UNDER THIS CHAPTER SHALL BE PRIMA
17 FACIE EVIDENCE AGAINST SUCH FOREIGN CORPORATION IN ANY OTHER ACTION
18 BROUGHT BY OR AGAINST IT BY ANY OTHER PERSON OF SUCH REQUIREMENT TO
19 AND FAILURE TO QUALIFY.

20 ARTICLE 10. REPORTS AND FILINGS



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1 10-125. Annual report of domestic and foreign corporations
2 A. EACH DOMESTIC CORPORATION, AND EACH FOREIGN CORPORATION
3 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE, SHALL FILE WITH THE
4 COMMISSION AN ANNUAL REPORT SETTING FORTH:
5 1. THE NAME OF THE CORPORATION AND THE JURISDICTION UNDER THE
6 LAWS OF WHICH IT IS INCORPORATED.
7 2. THE ADDRESS OF THE KNOWN PLACE OF BUSINESS OF THE CORPORATION
8 IN THIS STATE, AND THE NAME AND ADDRESS OF ITS STATUTORY AGENT IN THIS
9 STATE, AND, IN CASE OF A FOREIGN CORPORATION, THE ADDRESS OF ITS PRIN-
10 CIPAL OFFICE IN THE JURISDICTION UNDER THE LAWS OF WHICH IT IS INCOR-
11 PORATED.
12 3. A BRIEF STATEMENT OF THE CHARACTER OF THE BUSINESS IF ANY,
13 IN WHICH THE CORPORATION IS ACTUALLY ENGAGED IN THIS STATE.
14 4. THE NAMES AND RESPECTIVE ADDRESSES OF THE DIRECTORS AND
15 OFFICERS OF THE CORPORATION, AND THE DATES OF THEIR TAKING OFFICE.
16 5. A STATEMENT OF THE AGGREGATE NUMBER OF SHARES WHICH THE
17 CORPORATION HAS AUTHORITY TO ISSUE, ITEMIZED BY CLASSES, PAR VALUE
18 OF SHARES, SHARES WITHOUT PAR VALUE, AND SERIES, IF ANY, WITHIN A CLASS.
19 6. A STATEMENT OF THE AGGREGATE NUMBER OF ISSUED SHARES, ITEMIZED
20 BY CLASSES, PAR VALUE OF SHARES, SHARES WITHOUT PAR VALUE, AND SERIES,
21 IF ANY, WITHIN A CLASS.
22 7. THE NAMES OF SHAREHOLDERS OF RECORD OF THE CORPORATION HOLDING
23 MORE THAN TWENTY PER CENT OF ANY CLASS OF SHARES ISSUED BY THE CORPORA-
24 TION, INCLUDING PERSONS BENEFICIALLY HOLDING SUCH SHARES THROUGH
25 NOMINEES.
26 8. A BALANCE SHEET AS OF THE CLOSE OF THE FISCAL YEAR ADOPTED
27 BY THE CORPORATION FOR THE PURPOSES OF TITLE 43 RELATING TO TAXATION
28 OF INCOME PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
29 PRINCIPLES.
30 9. THE CERTIFICATE OF DISCLOSURE REQUIRED BY SECTION 10-128.
31 B. SUCH ANNUAL REPORT SHALL BE EXECUTED BY THE CORPORATION BY
32 ITS PRESIDENT, A VICE-PRESIDENT, SECRETARY, AN ASSISTANT SECRETARY OR
33 TREASURER, OR, IF THE CORPORATION IS IN THE HANDS OF A RECEIVER OR
34 TRUSTEE, IT SHALL BE EXECUTED ON BEHALF OF THE CORPORATION AND
35 VERIFIED BY SUCH RECEIVER OR TRUSTEE. ALL SIGNATURES SHALL BE ACKNOWL-
36 EDGED.
37 C. THE DATE OF FILING THE ANNUAL REPORT AND PAYING THE ANNUAL
38 FEE FOR EACH CORPORATION SHALL BE ON OR BEFORE THE FIFTEENTH DAY OF
39 THE FOURTH MONTH AFTER THE CLOSE OF THE FISCAL YEAR ADOPTED BY THE
40 CORPORATION FOR THE PURPOSES OF TITLE 43 RELATING TO TAXATION OF INCOME.
41 D. IF A CORPORATION IS UNABLE TO FILE THE ANNUAL REPORT REQUIRED
42 BY THIS SECTION WITHIN THE PERIOD OF TIME PRESCRIBED BY THIS SECTION,
43 THE CORPORATION SHALL, WITHIN SUCH PERIOD, MAKE WRITTEN REQUEST TO THE
44 COMMISSION FOR AN ADDITIONAL PERIOD OF TIME, NOT TO EXCEED THREE MONTHS,
45 IN WHICH TO MAKE THE ANNUAL REPORT. THE REQUEST FOR AN ADDITIONAL
46 PERIOD OF TIME SHALL BE ACCOMPANIED BY THE ANNUAL REGISTRATION FEE

1 REQUIRED BY LAW, AFTER RECEIPT OF THE WRITTEN REQUEST AND THE REGISTRA-
2 TION FEE, THE COMMISSION SHALL GRANT THE REQUEST.

3 E. IF THE ANNUAL REPORT IS NOT FILED AND THE FEE PAID WITHIN THE
4 TIME SPECIFIED BY THIS SECTION, THE COMMISSION SHALL ASSESS AND, UPON
5 COLLECTION, REMIT TO THE STATE TREASURER, PENALTIES OF TWENTY PER CENT
6 PER MONTH OR FRACTION THEREOF, OF THE FEES THEN DUE UNTIL PAYMENT IS
7 MADE OR THE FILING IS REVOKED.

8 10-126. Date of filing of annual report of domestic and
9 foreign corporations

10 SUCH ANNUAL REPORT OF A DOMESTIC OR FOREIGN CORPORATION SHALL BE
11 DELIVERED TO THE COMMISSION AND THE ANNUAL FEE PAID ON OR BEFORE THE
12 FIFTEENTH DAY OF THE FOURTH MONTH AFTER THE CLOSE OF THE FISCAL YEAR
13 ADOPTED BY THE CORPORATION FOR THE PURPOSES OF TITLE 43 RELATING TO
14 TAXATION OF INCOME, EXCEPT WHEN EXTENDED UNDER THE PROVISIONS OF
15 SECTION 10-125.

16 10-127. Financial report to shareholders

17 EACH DOMESTIC CORPORATION HAVING MORE THAN TEN SHAREHOLDERS SHALL
18 CAUSE A FINANCIAL REPORT OF THE CORPORATION TO BE DELIVERED OR MAILED
19 TO ITS SHAREHOLDERS OF RECORD AT LEAST ONCE IN EACH YEAR. SUCH REPORT
20 SHALL BE DISTRIBUTED TO SHAREHOLDERS WITHIN FOUR MONTHS AFTER THE END
21 OF THE FISCAL YEAR OF THE CORPORATION AND SHALL INCLUDE THE YEAR END
22 BALANCE SHEET AND STATEMENT OF INCOME.

23 10-128. Certificate of disclosure of violations

24 A. ALL DOMESTIC CORPORATIONS AND FOREIGN CORPORATIONS TRANS-
25 ACTING BUSINESS IN THIS STATE SHALL DELIVER A CERTIFICATE OF DISCLOSURE
26 TO THE COMMISSION AS PROVIDED IN THIS SECTION. FOR THE PURPOSES OF THIS
27 SECTION, THE TERM "CORPORATION" SHALL INCLUDE ALL CORPORATIONS, EXCEPT
28 PROFESSIONAL CORPORATIONS, AND BUSINESS TRUSTS SUBJECT TO THIS CHAPTER.
29 THE CERTIFICATE, DATED WITHIN THIRTY DAYS OF THE DELIVERY DATE, SWORN
30 TO BY THE PERSONS EXECUTING AND NOTARIZED, SHALL CONTAIN THE FOLLOWING
31 INFORMATION REGARDING ALL OFFICERS, DIRECTORS, TRUSTEES, INCORPORATORS
32 AND PERSONS CONTROLLING OR HOLDING OVER TEN PER CENT OF THE ISSUED AND
33 OUTSTANDING COMMON SHARES OR TEN PER CENT OF ANY OTHER PROPRIETARY,
34 BENEFICIAL OR MEMBERSHIP INTEREST IN THE CORPORATION:

35 1. WHETHER ANY SUCH PERSONS HAVE BEEN CONVICTED OF A FELONY
36 INVOLVING A TRANSACTION IN SECURITIES, CONSUMER FRAUD OR ANTITRUST IN
37 ANY STATE OR FEDERAL JURISDICTION WITHIN THE SEVEN YEAR PERIOD IMMEDI-
38 ATELY PRECEDING THE EXECUTION OF THE CERTIFICATE.

39 2. WHETHER ANY OF SUCH PERSONS HAVE BEEN CONVICTED OF A FELONY,
40 THE ESSENTIAL ELEMENTS OF WHICH CONSISTED OF FRAUD, MISREPRESENTATION,
41 THEFT BY FALSE PRETENSES, OR RESTRAINT OF TRADE OR MONOPOLY IN ANY STATE
42 OR FEDERAL JURISDICTION WITHIN THE SEVEN YEAR PERIOD IMMEDIATELY PRE-
43 CEDING THE EXECUTION OF THE CERTIFICATE.

44 3. WHETHER ANY OF SUCH PERSONS ARE, OR HAVE BEEN, SUBJECT TO
45 AN INJUNCTION, JUDGMENT, DECREE OR PERMANENT ORDER OF ANY STATE OR
46 FEDERAL COURT ENTERED WITHIN THE SEVEN YEAR PERIOD IMMEDIATELY PRE-
47 CEDING THE EXECUTION OF THE CERTIFICATE, WHERE SUCH INJUNCTION,
48 JUDGMENT, DECREE OR PERMANENT ORDER:

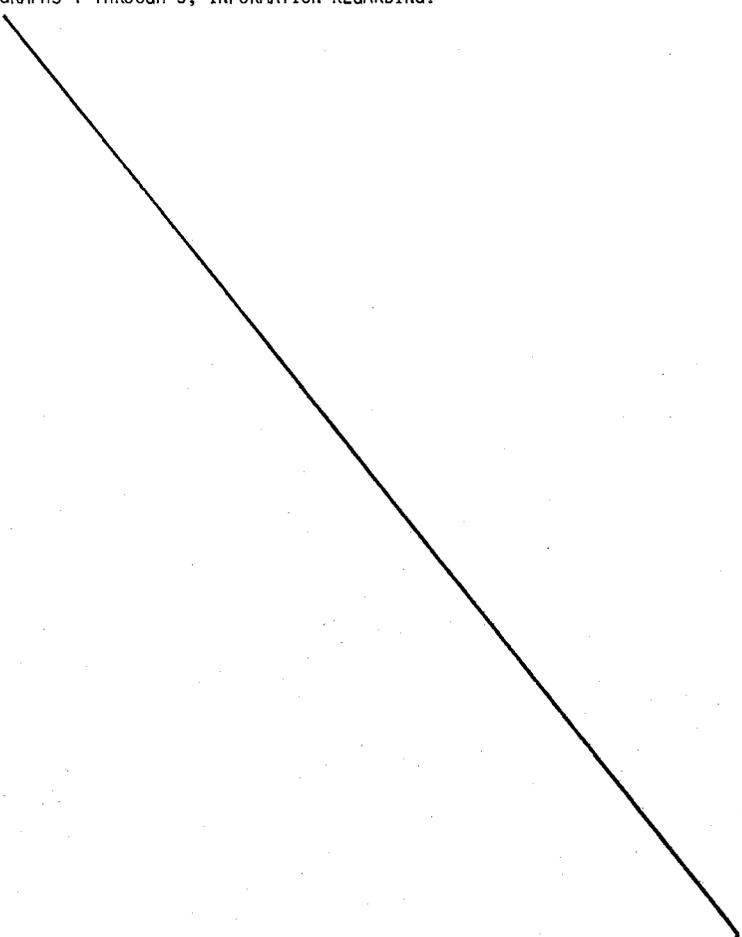
49 (a) INVOLVED THE VIOLATION OF FRAUD OR REGISTRATION PROVISIONS
50 OF THE SECURITIES LAWS OF THAT JURISDICTION; OR

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1 (b) INVOLVED THE VIOLATION OF THE CONSUMER FRAUD LAWS OF THAT
2 JURISDICTION; OR

3 (c) INVOLVED THE VIOLATION OF THE ANTITRUST OR RESTRAINT OF
4 TRADE LAWS OF THAT JURISDICTION.

5 4. WITH REGARD TO ANY SUCH PERSONS WHO HAVE BEEN CONVICTED OF
6 THE CRIMES OR THE SUBJECT OF THE JUDICIAL ACTION DESCRIBED IN PARA-
7 GRAPHS 1 THROUGH 3, INFORMATION REGARDING:



1 (a) IDENTIFICATION OF SUCH PERSONS, INCLUDING WITHOUT LIMITATION
2 PRESENT FULL NAME, ALL PRIOR NAMES OR ALIASES, INCLUDING FULL BIRTH NAME,
3 PRESENT HOME ADDRESS AND ALL PRIOR ADDRESSES FOR IMMEDIATELY PRECEDING
4 SEVEN YEAR PERIOD, DATE AND LOCATION OF BIRTH, AND SOCIAL SECURITY NUMBER.

5 (b) THE NATURE AND DESCRIPTION OF EACH CONVICTION OR JUDICIAL
6 ACTION, THE DATE AND LOCATION, THE COURT AND PUBLIC AGENCY INVOLVED, AND
7 THE FILE OR CAUSE NUMBER OF THE CASE.

8 B. THE INITIAL CERTIFICATE OF DISCLOSURE SHALL BE DELIVERED AT
9 LEAST FIVE DAYS PRIOR TO FILING BY THE COMMISSION OF ARTICLES OF
10 INCORPORATION OR TRUST OR APPLICATION FOR AUTHORITY TO TRANSACT BUSINESS.
11 ALL INCORPORATORS SHALL EXECUTE THE INITIAL CERTIFICATE OF DISCLOSURE,
12 AND SUCH CERTIFICATE SHALL CONTAIN ALL INFORMATION REQUIRED BY SUB-
13 SECTION A, EXCEPT WITH REGARD TO INITIAL OFFICERS, DIRECTORS OR
14 TRUSTEES NOT YET APPOINTED OR ELECTED, IN WHICH CASE SUCH INCORPORATORS
15 SHALL GIVE ASSURANCE THAT AN AMENDED CERTIFICATE OF DISCLOSURE CON-
16 TAINING ALL REMAINING INFORMATION WILL BE DELIVERED WITHIN SIXTY DAYS
17 OF FILING OF THE ARTICLES OF INCORPORATION. THE INITIAL CERTIFICATE
18 OF DISCLOSURE DELIVERED BY A FOREIGN CORPORATION SEEKING AUTHORITY
19 SHALL CONTAIN ALL THE INFORMATION REQUIRED BY SUBSECTION A, EXCEPT
20 WHERE SUCH CORPORATION WAS INCORPORATED WITHIN SIXTY DAYS PRIOR TO
21 DELIVERY, IN WHICH CASE SUCH CORPORATION SHALL COMPLETE THE CERTIFICATE
22 IN THE SAME MANNER AND ACCORDING TO THE PROCEDURE FOR INCORPORATORS
23 OF A DOMESTIC CORPORATION. ARTICLES OF INCORPORATION OR AN APPLICATION
24 FOR AUTHORITY, AS APPLICABLE, SHALL NOT BE FILED BY THE COMMISSION UNTIL
25 COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBSECTION FOR INITIAL
26 CERTIFICATES OF DISCLOSURE.

27 C. ALL EXISTING DOMESTIC AND FOREIGN CORPORATIONS SHALL DELIVER
28 A CERTIFICATE OF DISCLOSURE, EXECUTED BY ANY TWO EXECUTIVE OFFICERS OR
29 DIRECTORS OF SUCH CORPORATION, WITH THE ANNUAL REPORT REQUIRED BY
30 SECTION 10-125. IF SUCH CERTIFICATE IS NOT DELIVERED WITHIN NINETY
31 DAYS AFTER THE DUE DATE OF THE ANNUAL REPORT, THE COMMISSION SHALL
32 REVOKE THE FILING OF ARTICLES OF INCORPORATION OR APPLICATION FOR
33 AUTHORITY OF THAT CORPORATION IN ACCORDANCE WITH THE PROVISIONS OF
34 THIS CHAPTER.

35 D. IF ANY CORPORATION IS INCORPORATED OR AUTHORIZED TO DO
36 BUSINESS AFTER THE DELIVERY OF AN INITIAL CERTIFICATE OF DISCLOSURE
37 NOT CONTAINING ALL INFORMATION REQUIRED BY SUBSECTION A WITH THE
38 ASSURANCE OF THE INCORPORATORS OR ORGANIZERS TO FILE AN AMENDED
39 CERTIFICATE OF DISCLOSURE, AND THAT CORPORATION DOES NOT DELIVER
40 SUCH AMENDED CERTIFICATE WITHIN THE TIME PROVIDED IN SUBSECTION B,
41 THEN THE COMMISSION SHALL REVOKE THE FILING OF THE ARTICLES OF
42 INCORPORATION OR AUTHORITY OF THAT CORPORATION IN ACCORDANCE WITH
43 THIS CHAPTER.

44 E. IF ANY OF THE PERSONS DESCRIBED IN SUBSECTION A HAVE BEEN
45 CONVICTED OF THE CRIMES OR SUBJECT OF THE JUDICIAL ACTION DESCRIBED
46 THEREIN, THE COMMISSION MAY DIRECT DETAILED INTERROGATORIES TO SUCH
47 PERSONS REQUIRING ANY ADDITIONAL RELEVANT INFORMATION DEEMED
48 NECESSARY BY THE COMMISSION. SUCH INTERROGATORIES SHALL BE COMPLETELY
49 ANSWERED WITHIN THIRTY DAYS AFTER MAILING THEREOF. WITH RESPECT TO
50 CORPORATIONS INCORPORATING OR SEEKING AUTHORITY TO TRANSACT BUSINESS,

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1 NO ARTICLES OF INCORPORATION OR APPLICATION FOR AUTHORITY SHALL BE FILED
2 UNTIL ALL OUTSTANDING INTERROGATORIES HAVE BEEN ANSWERED TO THE SATIS-
3 FACTION OF THE COMMISSION. WITH RESPECT TO EXISTING DOMESTIC AND FOREIGN
4 CORPORATIONS, IF THE INTERROGATORIES ARE NOT ANSWERED AS PROVIDED HEREIN,
5 OR THE ANSWERS THERETO OTHERWISE INDICATE PROPER GROUNDS FOR A REVOCATION,
6 THE COMMISSION SHALL INITIATE SUCH REVOCATION IN ACCORDANCE WITH THE
7 PROVISIONS OF THIS CHAPTER.

8 F. THE COMMISSION SHALL, ON A QUARTERLY UPDATED BASIS, PROVIDE THE
9 ATTORNEY GENERAL A LIST OF ALL PERSONS CONVICTED OF THE CRIMES OR THE
10 SUBJECT OF THE JUDICIAL ACTION DESCRIBED IN SUBSECTION A AS INDICATED BY
11 THE CERTIFICATES OF DISCLOSURE FILED DURING THE PRECEDING THREE MONTHS.

12 G. ANY PERSON EXECUTING, OR CONTRIBUTING, INFORMATION FOR A
13 CERTIFICATE OF DISCLOSURE WHO, WITH KNOWLEDGE, MAKES ANY UNTRUE STATEMENT
14 OF MATERIAL FACT OR WITHHOLDS ANY MATERIAL FACT WITH REGARD TO THE INFOR-
15 MATION REQUIRED IN SUBSECTION A SHALL BE GUILTY OF A MISDEMEANOR
16 AND SHALL BE FINED NOT LESS THAN FIVE HUNDRED NOR MORE THAN TWO
17 THOUSAND DOLLARS OR IMPRISONED UP TO ONE YEAR, OR BOTH.

18 10-129. Filing fees

19 THE COMMISSION SHALL CHARGE AND COLLECT FOR IN ADVANCE AND REMIT
20 TO THE STATE TREASURER THE FOLLOWING FEES OR PENALTIES:

21 1. FILING ARTICLES OF INCORPORATION OF A DOMESTIC CORPORATION,
22 FIFTY DOLLARS.

23 2. FILING ARTICLES OF INCORPORATION OF A NONPROFIT DOMESTIC
24 CORPORATION, THIRTY DOLLARS.

25 3. FILING AN APPLICATION OF A FOREIGN CORPORATION FOR AUTHORITY
26 TO TRANSACT BUSINESS IN THIS STATE, FIFTY DOLLARS.

27 4. FILING AN APPLICATION OF A NONPROFIT FOREIGN CORPORATION FOR
28 AUTHORITY TO TRANSACT BUSINESS IN THIS STATE, THIRTY DOLLARS.

29 5. FILING OF ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS,
30 THIRTY DOLLARS.

31 6. FILING OF ANNUAL REPORT OF NONPROFIT DOMESTIC AND FOREIGN
32 CORPORATIONS, TEN DOLLARS.

33 7. FILING AN APPLICATION TO RESERVE A CORPORATE NAME, TEN
34 DOLLARS.

35 8. AT TIME OF ANY SERVICE OF PROCESS ON IT AS STATUTORY AGENT
36 OF A CORPORATION, TWENTY-FIVE DOLLARS, WHICH AMOUNT MAY BE RECOVERED
37 AS TAXABLE COSTS BY THE PARTY TO THE SUIT OR ACTION CAUSING SUCH SERVICE
38 TO BE MADE IF SUCH PARTY PREVAILS IN THE SUIT OR ACTION.

39 9. FOR COPIES OR REPRODUCTIONS OF DOCUMENTS ON FILE, FIFTY CENTS
40 PER PAGE.

41 10. REINSTATEMENT OF DOMESTIC CORPORATIONS UNDER REVOCATION, ONE
42 HUNDRED DOLLARS, IN ADDITION TO OTHER FEES AND PENALTIES DUE.

43 11. A PENALTY OF ONE HUNDRED DOLLARS PAYABLE IN ADDITION TO
44 OTHER FEES SHALL ACCRUE AND BECOME PAYABLE IF A FOREIGN CORPORATION
45 FAILS TO FILE AN AMENDMENT, RESTATED ARTICLES WHICH INCLUDE AN AMEND-
46 MENT, OR ARTICLES OF MERGER WITHIN SIXTY DAYS OF THE TIME OF FILING
47 IN THE JURISDICTION IN WHICH THE CORPORATION IS DOMICILED.

1 ARTICLE 11. PENALTIES AND LIABILITIES

2 10-135. Civil liability for false statements

3 A. IF A REPORT, CERTIFICATE OR OTHER STATEMENT MADE, OR PUBLIC
4 NOTICE GIVEN BY, THE OFFICERS OR DIRECTORS OF A CORPORATION IS FALSE
5 IN A MATERIAL REPRESENTATION, OR IF ANY BOOK, RECORD OR ACCOUNT OF THE
6 CORPORATION IS KNOWINGLY OR WRONGFULLY ALTERED, THE OFFICERS, DIRECTORS
7 OR AGENTS KNOWINGLY OR WRONGFULLY AUTHORIZING, SIGNING OR MAKING THE
8 FALSE REPORT, CERTIFICATE, OTHER STATEMENT OR NOTICE OR AUTHORIZING OR
9 MAKING THE WRONGFUL ALTERATION ARE JOINTLY AND SEVERALLY PERSONALLY
10 LIABLE TO A PERSON WHO HAS BECOME A CREDITOR OR SHAREHOLDER OF THE
11 CORPORATION UPON THE FAITH OF THE FALSE MATERIAL REPRESENTATION OR
12 ALTERATION THEREIN FOR ALL DAMAGES RESULTING THEREFROM.

13 B. AN ACTION FOR THE LIABILITY IMPOSED BY THIS SECTION SHALL BE
14 COMMENCED WITHIN TWO YEARS AFTER DISCOVERY OF THE FALSE REPRESENTATION
15 OR ALTERATION AND WITHIN SIX YEARS AFTER THE CERTIFICATE, REPORT, PUB-
16 LIC NOTICE OR OTHER STATEMENT OR THE ALTERATION HAS BEEN MADE OR GIVEN
17 BY THE OFFICERS, DIRECTORS OR AGENTS OF THE CORPORATION.

18 10-136. Penalties imposed upon officers and
19 directors, or agents

20 A. EACH OFFICER AND DIRECTOR OF A CORPORATION, DOMESTIC OR
21 FOREIGN, WHO KNOWINGLY FAILS OR REFUSES WITHIN THE TIME PRESCRIBED BY
22 THIS CHAPTER TO ANSWER TRUTHFULLY AND FULLY ANY INTERROGATORIES PROPOUNDED
23 TO HIM BY THE COMMISSION IN ACCORDANCE WITH THE PROVISIONS OF THIS
24 CHAPTER, OR WHO SIGNS ANY ARTICLES, STATEMENT, REPORT, APPLICATION OR
25 OTHER DOCUMENT FILED WITH THE COMMISSION WHICH IS KNOWN TO SUCH OFFICER
26 OR DIRECTOR TO BE FALSE IN ANY MATERIAL RESPECT, SHALL BE DEEMED TO BE
27 GUILTY OF A MISDEMEANOR, AND UPON CONVICTION THEREOF SHALL BE FINED NOT
28 LESS THAN FIVE HUNDRED NOR MORE THAN TWO THOUSAND DOLLARS OR IMPRISONED
29 UP TO ONE YEAR, OR BOTH.

30 B. ANY OFFICER OR AGENT OF A CORPORATION WHO KNOWINGLY FALSIFIES
31 OR WRONGFULLY ALTERS THE BOOKS, RECORDS OR ACCOUNTS OF A CORPORATION

1 SHALL BE GUILTY OF A MISDEMEANOR AND SUBJECT TO FINE OR IMPRISONMENT,
2 OR BOTH, AS PRESCRIBED BY SUBSECTION A.

3 ARTICLE 12. GENERAL PROVISIONS

4 10-137. Interrogatories by the commission

5 THE COMMISSION MAY PROPOUND TO ANY CORPORATION, DOMESTIC OR
6 FOREIGN, SUBJECT TO THE PROVISIONS OF THIS CHAPTER, AND TO ANY OFFICER
7 OR DIRECTOR THEREOF, SUCH INTERROGATORIES AS MAY BE REASONABLY NECESSARY
8 AND PROPER TO ENABLE IT TO ASCERTAIN WHETHER SUCH CORPORATION HAS
9 COMPLIED WITH ALL THE PROVISIONS OF THIS CHAPTER APPLICABLE TO SUCH
10 CORPORATION. SUCH INTERROGATORIES SHALL BE ANSWERED WITHIN THIRTY
11 DAYS AFTER THE MAILING THEREOF, OR WITHIN SUCH ADDITIONAL TIME AS SHALL
12 BE FIXED BY THE COMMISSION, AND THE ANSWERS THERETO SHALL BE FULL AND
13 COMPLETE AND SHALL BE MADE IN WRITING AND UNDER OATH. IF SUCH INTER-
14 ROGATORIES BE DIRECTED TO AN INDIVIDUAL THEY SHALL BE ANSWERED BY HIM,
15 AND IF DIRECTED TO A CORPORATION THEY SHALL BE ANSWERED BY THE PRESIDENT,
16 VICE-PRESIDENT, SECRETARY OR ASSISTANT SECRETARY THEREOF. THE COMMISSION
17 NEED NOT FILE ANY DOCUMENT TO WHICH SUCH INTERROGATORIES RELATE UNTIL SUCH
18 INTERROGATORIES HAVE BEEN ANSWERED AS HEREIN PROVIDED, AND NOT THEN IF THE
19 ANSWERS THERETO DISCLOSE THAT SUCH DOCUMENT IS NOT IN CONFORMITY WITH
20 THE PROVISIONS OF THIS CHAPTER. THE COMMISSION SHALL CERTIFY TO THE
21 ATTORNEY GENERAL FOR SUCH ACTION AS THE ATTORNEY GENERAL MAY DEEM
22 APPROPRIATE, ALL INTERROGATORIES AND ANSWERS THERETO WHICH DISCLOSE A
23 VIOLATION OF ANY OF THE PROVISIONS OF THIS CHAPTER.

24 10-138. Information disclosed by interrogatories

25 INTERROGATORIES PROPOUNDED BY THE COMMISSION AND THE ANSWERS
26 THERETO SHALL NOT BE OPEN TO PUBLIC INSPECTION NOR SHALL THE COMMISSION
27 DISCLOSE ANY FACTS OR INFORMATION OBTAINED THEREFROM EXCEPT INSOFAR AS
28 HIS OFFICIAL DUTY MAY REQUIRE THE SAME TO BE MADE PUBLIC OR IN THE EVENT
29 SUCH INTERROGATORIES OR THE ANSWERS THERETO ARE REQUIRED FOR EVIDENCE
30 IN ANY CRIMINAL PROCEEDING OR IN ANY OTHER ACTION BY THIS STATE.

31 10-139. Powers of corporation commission

32 THE COMMISSION SHALL HAVE THE POWER AND AUTHORITY REASONABLY
33 NECESSARY TO ENABLE IT TO ADMINISTER THIS CHAPTER EFFICIENTLY AND TO
34 PERFORM THE DUTIES THEREIN IMPOSED UPON IT.

10-141. Certified copies to be received in evidence

ALL COPIES OF DOCUMENTS FILED WITH THE COMMISSION IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER WHEN CERTIFIED BY IT, SHALL BE TAKEN AND RECEIVED IN ALL COURTS, PUBLIC OFFICES, AND OFFICIAL BODIES AS PRIMA FACIE EVIDENCE OF THE FACTS THEREIN STATED. A CERTIFICATE BY THE COMMISSION UNDER SEAL, AS TO THE EXISTENCE OR NONEXISTENCE OF THE FACTS RELATING TO CORPORATIONS SHALL BE TAKEN AND RECEIVED IN ALL COURTS, PUBLIC OFFICES, AND OFFICIAL BODIES AS PRIMA FACIE EVIDENCE OF THE EXISTENCE OR NONEXISTENCE OF THE FACTS THEREIN STATED.

10-142. Forms to be furnished by commission

A. ALL REPORTS REQUIRED BY THIS CHAPTER TO BE FILED IN THE OFFICE OF THE COMMISSION SHALL BE MADE ON THE ORIGINALS OF FORMS WHICH SHALL BE PRESCRIBED AND FURNISHED BY THE COMMISSION. FORMS FOR ALL OTHER DOCUMENTS TO BE FILED IN THE OFFICE OF THE COMMISSION SHALL BE FURNISHED BY THE COMMISSION ON REQUEST THEREFOR, BUT THE USE THEREOF, UNLESS OTHERWISE SPECIFICALLY PRESCRIBED IN THIS CHAPTER, SHALL NOT BE MANDATORY.

B. ARTICLES OF INCORPORATION OF DOMESTIC AND FOREIGN CORPORATIONS, AMENDMENTS THERETO AND ANY OTHER DOCUMENTS PRESENTED TO THE COMMISSION FOR FILING SHALL BE LEGIBLE AND CAPABLE OF MICROFILM OR OTHER PROCESS REDUCTION AND SUBSEQUENT LEGIBLE REPRODUCTION THEREFROM, AS DETERMINED BY THE COMMISSION.

10-143. Greater voting requirements

WHENEVER, WITH RESPECT TO ANY ACTION TO BE TAKEN BY THE SHAREHOLDERS OF A CORPORATION, THE ARTICLES OF INCORPORATION OR BYLAWS REQUIRE THE VOTE OR CONCURRENCE OF THE HOLDERS OF A GREATER PROPORTION OF THE SHARES, OR OF ANY CLASS OR SERIES THEREOF, THAN REQUIRED BY THIS CHAPTER WITH RESPECT TO SUCH ACTION, THE PROVISIONS OF THE ARTICLES OF INCORPORATION OR BYLAWS SHALL CONTROL.

10-144. Waiver of notice

WHENEVER ANY NOTICE IS REQUIRED TO BE GIVEN TO ANY SHAREHOLDER OR DIRECTOR OF A CORPORATION UNDER THE PROVISIONS OF THIS CHAPTER OR UNDER THE PROVISIONS OF THE ARTICLES OF INCORPORATION OR BYLAWS OF THE CORPORATION, A WAIVER THEREOF IN WRITING SIGNED BY THE PERSON OR PERSONS ENTITLED TO SUCH NOTICE, WHETHER BEFORE OR AFTER THE TIME STATED THEREIN, SHALL BE EQUIVALENT TO THE GIVING OF SUCH NOTICE. ATTENDANCE OF A PERSON AT A MEETING SHALL CONSTITUTE A WAIVER OF NOTICE OF SUCH MEETING, EXCEPT WHEN THE PERSON ATTENDS A MEETING FOR THE EXPRESS PURPOSE OF OBJECTING TO THE TRANSACTION OF ANY BUSINESS BECAUSE THE MEETING IS NOT LAWFULLY CALLED OR CONVENED.

10-145. Action by shareholders without a meeting

A. ANY ACTION REQUIRED BY THIS CHAPTER TO BE TAKEN AT A MEETING OF THE SHAREHOLDERS OF A CORPORATION, OR ANY ACTION WHICH MAY BE TAKEN AT A MEETING OF THE SHAREHOLDERS, MAY BE TAKEN WITHOUT A MEETING IF A CONSENT IN WRITING, SETTING FORTH THE ACTION SO TAKEN, SHALL BE SIGNED BY ALL OF THE SHAREHOLDERS ENTITLED TO VOTE WITH RESPECT TO THE SUBJECT MATTER THEREOF.

B. SUCH CONSENT SHALL HAVE THE SAME EFFECT AS A UNANIMOUS VOTE OF SHAREHOLDERS, AND MAY BE STATED AS SUCH IN ANY ARTICLES OR DOCUMENT FILED WITH THE COMMISSION UNDER THIS CHAPTER.

10-146. Unauthorized assumption of corporate powers

2 ALL PERSONS WHO ASSUME TO ACT AS A CORPORATION WITHOUT AUTHORITY
3 SO TO DO OR WHO PROCURED INCORPORATION THROUGH FRAUDULENT MISSTATEMENTS
4 OR OMISSIONS OF MATERIAL FACT IN DOCUMENTS FILED WITH THE COMMISSION,
5 SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL DEBTS AND LIABILITIES
6 INCURRED OR ARISING AS A RESULT THEREOF.

10-147. Application to existing corporations

7 A. THE PROVISIONS OF THIS CHAPTER SHALL APPLY TO ALL EXISTING COR-
8 PORATIONS ORGANIZED UNDER ANY GENERAL ACT OF THIS STATE PROVIDING FOR
9 THE ORGANIZATION OF CORPORATIONS FOR A PURPOSE OR PURPOSES FOR WHICH A
10 CORPORATION MIGHT BE ORGANIZED UNDER THIS CHAPTER; PROVIDED, HOWEVER,
11 THAT ALL PROVISIONS OF THE ARTICLES OF INCORPORATION OF ANY SUCH EXIST-
12 ING CORPORATION, WHICH PROVISIONS WERE VALID IMMEDIATELY PRIOR TO THE
13 EFFECTIVE DATE OF THIS CHAPTER, SHALL REMAIN IN FULL FORCE AND EFFECT
14 AS TO SUCH EXISTING CORPORATION:

15 1. UNTIL THE END OF THE TERM FOR WHICH SUCH CORPORATION WAS FORMED
16 TO ENDURE OR HAD BEEN PREVIOUSLY RENEWED, OR UNTIL AN AMENDMENT OR
17 RESTATEMENT OF THE ARTICLES OF INCORPORATION, OR A MERGER, CONSOLIDATION
18 OR REORGANIZATION OF SUCH CORPORATION.

19 2. UPON SUCH AN AMENDMENT, RESTATEMENT, MERGER, CONSOLIDATION OR
20 REORGANIZATION, ALL OF THE PROVISIONS OF THE THEN ARTICLES OF INCORPO-
21 RATION SHALL COMPLY WITH THE THEN PROVISIONS OF THIS CHAPTER.

22 B. ANY EXISTING CORPORATION ORGANIZED UNDER ANY GENERAL LAW OF
23 THIS STATE WHICH WAS FORMED TO ENDURE FOR ANY PERIOD WHICH WAS LESS
24 THAN PERPETUAL AND ANY CORPORATION ORGANIZED UNDER THIS CHAPTER TO
25 ENDURE FOR A PERIOD WHICH WAS LESS THAN PERPETUAL MAY BE RENEWED,
26 EITHER DURING THE PERIOD FOR WHICH IT WAS PREVIOUSLY FORMED, PREVIOUS
27 RENEWAL OR WITHIN THE FIVE YEAR PERIOD OF THE EXPIRATION OF SUCH PERIOD
28 AS PROVIDED UNDER SECTION 10-106, BY AMENDMENT TO THE ARTICLES OF
29 INCORPORATION AS PROVIDED IN SECTIONS 10-058 THROUGH 10-063.

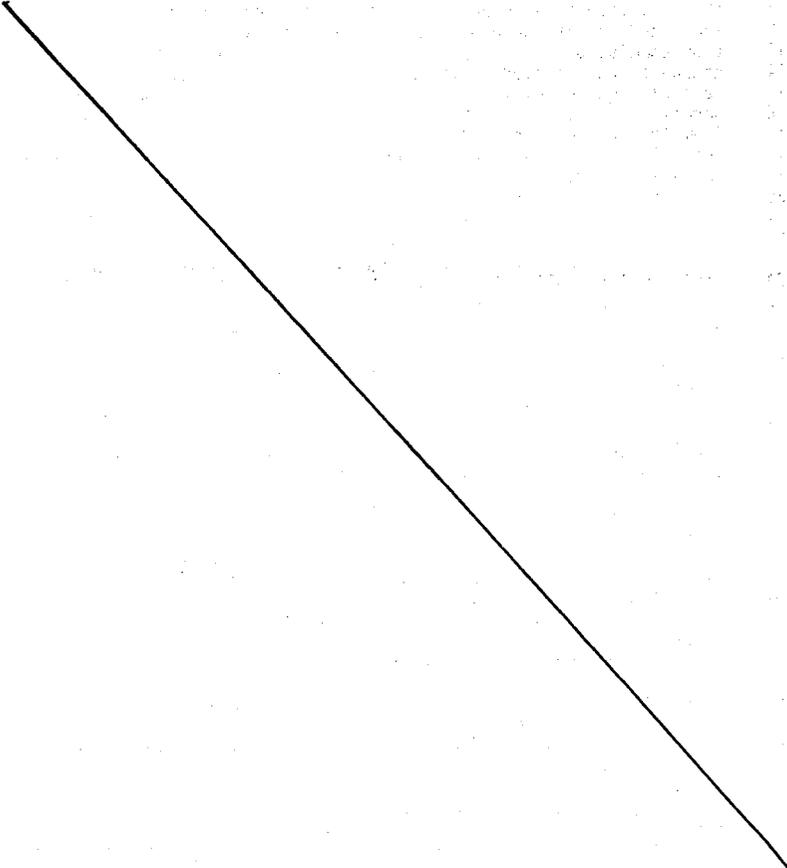
30 C. ANY EXISTING CORPORATION WHICH WAS ORIGINALLY ORGANIZED UNDER
31 THE LAWS OF THE TERRITORY OF ARIZONA MAY ELECT TO AMEND OR RESTATE ITS
32 ARTICLES OF INCORPORATION AND RETAIN ANY PREVIOUSLY VALID PROVISIONS
33 OF ITS ARTICLES OF INCORPORATION, EVEN IF SUCH PREVIOUSLY VALID PRO-
34 VISIONS OF ITS ARTICLES OF INCORPORATION ARE IN CONFLICT WITH ANY PRO-
35 VISIONS OF THIS CHAPTER. UPON SUCH AMENDMENT OR RESTATEMENT ALL THE
36 PROVISIONS OF THIS CHAPTER WHICH ARE NOT SPECIFICALLY IN CONFLICT WITH
37 SUCH AMENDED OR RESTATED ARTICLES OF INCORPORATION SHALL BE APPLICABLE
38 TO SUCH EXISTING CORPORATIONS WHICH WERE ORIGINALLY ORGANIZED UNDER THE
39 LAWS OF THE TERRITORY OF ARIZONA. THE PREVIOUSLY VALID PROVISIONS OF
40 ITS ARTICLES OF INCORPORATION WHICH ARE SPECIFICALLY RETAINED SHALL
41 APPLY TO SUCH EXISTING CORPORATION ORIGINALLY ORGANIZED UNDER THE LAWS
42 OF THE TERRITORY OF ARIZONA, ALL PERSONS CONTRACTING OR IN ANY MANNER
43 DEALING THERWITH, ALL ITS SHAREHOLDERS, SUBSCRIBERS, AFFILIATES,
44 DIRECTORS, OFFICERS AND EMPLOYEES.

10-148. Application to foreign and interstate commerce

45 THE PROVISIONS OF THIS CHAPTER SHALL APPLY TO COMMERCE WITH FOREIGN
46 NATIONS AND AMONG THE SEVERAL STATES ONLY INSOFAR AS THE SAME MAY BE
47 PERMITTED UNDER THE PROVISIONS OF THE CONSTITUTION OF THE UNITED STATES.
48
49

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1 10-149. Effect of repeal of prior acts
2 THE REPEAL OF A PRIOR ACT BY THIS CHAPTER SHALL NOT AFFECT ANY
3 RIGHT ACCRUED OR ESTABLISHED, OR ANY LIABILITY OR PENALTY INCURRED,
4 UNDER THE PROVISIONS OF SUCH ACT, PRIOR TO THE REPEAL THEREOF.
5 Sec. 3. Section 6-412, Arizona Revised Statutes, is amended
6 to read:
7 6-412. Completion of organization
8 A. When the board of directors has organized as provided in this



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1 chapter and the report of such organization has been filed with the
2 superintendent, he shall make a thorough examination into the affairs of
3 the proposed association, and if he approves the articles of incorpora-
4 tion and is satisfied that all the requirements of this chapter have
5 been complied with, and that no intervening circumstance has occurred to
6 change the superintendent's findings made pursuant to this chapter, upon
7 payment into the superintendent's office of the fees for such examina-
8 tion, he shall issue a certificate authorizing the filing of the arti-
9 cles of incorporation with the corporation commission and the taking of
10 the other steps required by title 10, ~~chapter 1, article 2~~, to complete
11 the formation of a corporation. Upon the appointment of a statutory
12 agent and the issuance of a certificate of incorporation by the corpora-
13 tion commission and the payment into escrow with a responsible corporate
14 escrow agent approved by the superintendent of the amount of the initial
15 capital required by this chapter, the superintendent shall issue a
16 permit conditioned upon the association securing within twelve months
17 from the date of such permit insurance of its insurable accounts by the
18 federal savings and loan insurance corporation, or any successor instru-
19 mentality, pursuant to the laws of the United States and the rules and
20 regulations of such corporation.

21 B. Unless such insurance is secured within such period the permit
22 shall be deemed revoked unless the superintendent, upon good cause shown,
23 shall extend the time for securing such insurance for a single fixed
24 period which shall not exceed six months. The association shall not
25 operate as a savings and loan association under the laws of this state
26 or transact any other business than that necessary to secure such insur-
27 ance until it has secured such insurance. If such insurance is not
28 secured within the time provided by this chapter or as extended by the
29 superintendent, all amounts collected as subscriptions to the required
30 capital shall be returned to the subscribers without reduction.

31 C. All existing associations doing business under this chapter
32 shall, within one year from the effective date of this chapter, submit
33 to the superintendent evidence of their having insurance of accounts
34 with an instrumentality of the United States; provided, however, that
35 if an existing association has filed a bona fide application for such
36 insurance after the effective date of this chapter and diligently pur-
37 sues its application, and additional time is required for the granting
38 of such insurance, the superintendent may extend said one-year period
39 for not to exceed an additional six months.

40 Sec. 4. Section 6-463, Arizona Revised Statutes, is amended
41 to read:

42 6-463. Conversion from federal to state association

43 A. Any federal association may become an association operating
44 under this chapter, pursuant to the laws and regulations of the United
45 States and in accordance with the following procedure:

46 1. The board of directors shall by a majority vote of all the
47 directors adopt by resolution a plan of conversion which shall set forth
48 among other terms:

49 (a) A financial statement of the association as of the last busi-
50 ness day of the month preceding the adoption of the plan.

51 (b) The disposition of the withdrawable value of all accounts,
52 general and other reserves and surplus.

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1 (c) The disposition of any obligation or liabilities.

2 (d) The disposition of the assets of the association.

3 2. Such plan and resolution shall be submitted to the superinten-
4 dent at least fifteen days prior to the members' meeting at which action
5 of the members is to be taken. If the superintendent, after appropriate
6 examination, shall find that the association complies sufficiently with
7 the requirements of this chapter to entitle it to become an association
8 operating under this chapter, he shall approve the plan of conversion.
9 He may prescribe terms and conditions, to be fulfilled either prior to
10 or after the conversion, to cause the association to conform with the
11 requirements of this chapter.

12 3. After receipt of the superintendent's approval, the plan of
13 conversion may be submitted at an annual or special meeting of the mem-
14 bers; and the plan will be adopted upon receiving, in the affirmative,
15 fifty-one per cent or more of the total number of votes which all mem-
16 bers of the association are entitled to cast. Thereupon, such action
17 shall be taken by the members to adopt articles of incorporation, to
18 elect directors, to adopt by-laws, and to elect officers, as is pre-
19 scribed for a new association in article 2 of this chapter. A report
20 of proceedings at such meeting, certified by the president or a vice-
21 president and attested by the secretary, shall be filed promptly with
22 the superintendent.

23 4. If the superintendent finds that such proceedings have been
24 in accordance with the provisions of this section, he shall issue a cer-
25 tificate authorizing the filing of the articles of incorporation with
26 the corporation commission and the taking of the other steps required
27 by title 10, ~~chapter 1, article 2~~, to complete the formation of a cor-
28 poration. Upon the issuance of a certificate of incorporation by the
29 corporation commission, the superintendent shall issue a certificate of
30 conversion.

31 5. The expenses of any examination made by or at the direction
32 of the superintendent in connection with such conversion shall be paid
33 by the converting association as a fee for special examination as autho-
34 rized by section 6-125.

35 B. The conversion shall be effective upon the compliance with the
36 laws and regulations of the United States and the provisions of this
37 section.

38 Sec. 5. Section 6-812, Arizona Revised Statutes, is amended
39 to read:

40 6-812. Foreign corporations

41 No foreign corporation without a valid license to do business
42 under title 10, chapter 1, article 7 9, shall transact any escrow busi-
43 ness in this state.

44 Sec. 6. Section 10-504, Arizona Revised Statutes, is amended
45 to read:

46 10-504. Required delivery to commission; certified copy
47 of trust instrument

48 A. Any business trust desiring to transact business in this state
49 shall ~~file with~~ DELIVER TO the ~~corporation~~ commission:

50 1. An executed copy of the articles, declaration of trust or trust
51 agreement by which the trust was created and all amendments thereto, or
52 a true copy thereof certified to be such by a trustee of the trust before

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1 an official authorized to administer oaths or by a public official of
2 another state, territory or country in whose office an executed copy
3 thereof is on file. Such true copy shall be certified within sixty days
4 before it is ~~filed-with~~ DELIVERED TO the ~~corporation~~ commission.

5 2. A verified list of the names, residences and post office addresses
6 of its trustees.

7 3. An affidavit setting forth its assumed business name, if any.

8 4. If a domestic business trust, the name of its statutory agent
9 appointed as provided for domestic corporations in section ~~10-127~~ 10-012.
10 A foreign business trust shall ~~file~~ DELIVER TO THE COMMISSION, as provided
11 for ~~foreign-corporations~~ in section ~~10-481~~ 10-012, the location of its
12 statutory office, the name of its statutory agent and its irrevocable
13 consent to service of process, duly signed by a sufficient number of its
14 trustees to bind the business trust by such irrevocable consent, or
15 accompanied by a duly certified copy of an order or resolution of its
16 trustees authorizing the execution and ~~fileing~~ DELIVERY of such irrevocable
17 consent.

18 B. The business trust shall file a copy of its articles, declara-
19 tion of trust or trust agreement by which it was created, certified by
20 the corporation commission, in the office of the county recorder in the
21 county where the principal place of business of the trust is located,
22 where such certified copy shall be indexed and recorded.

23 C. When a business trust has complied with the ~~fileing-and-recording~~
24 DELIVERY requirements as provided in subsections A and B of this section,
25 the ~~corporation~~ commission shall ~~issue-to-a~~ , AFTER DETERMINING THAT THE
26 REQUIREMENTS OF THIS CHAPTER AND OTHER PROVISIONS OF LAW HAVE BEEN SATIS-
27 FIED, FILE SUCH DELIVERED DOCUMENTS OF FOREIGN AND domestic business
28 ~~trust-a-certificate-of-organization,-or-to-a-foreign-business-trust~~
29 ~~a-license-to-do-business-in-this-state~~, TRUSTS and such business trust
30 TRUSTS may thereupon commence business.

31 Sec. 7. Repeal

32 Section 10-505, Arizona Revised Statutes, is repealed.

33 Sec. 8. Section 10-908, Arizona Revised Statutes, is amended
34 to read:

35 10-908. Number of incorporators; continuity of life;
36 centralized management; corporate liability;
37 transferability of interest

38 A professional corporation shall:

39 1. Be formed by one or more persons licensed to render the same
40 category of professional service with the object and purpose of engaging
41 in the practice of such profession and rendering such professional ser-
42 vice and dividing the gains therefrom.

43 2. Be organized ~~for-a-stated-number-of-years,-not-in-excess-of~~
44 ~~twenty-five,-subject-to-renewal~~ pursuant to section ~~10-161~~ THE PROVISIONS
45 OF CHAPTER 1, ARTICLE 2 OF THIS TITLE.

46 3. Cease to exist only upon the first to happen of the following
47 events:

48 (a) The death of the last surviving shareholder.

49 (b) Voluntary or involuntary dissolution pursuant to the laws
50 governing the same for Arizona private corporations organized for profit.

1 4. Be governed by a board of directors elected by the shareholders
2 and represented by officers elected by the board of directors, and, if
3 desired, by an executive committee elected by the board of directors.
4 Anything in this chapter to the contrary notwithstanding, a professional
5 corporation need have only one director and one officer.

6 5. Provide that the private property of shareholders be exempt
7 from liability for corporate debts except as set forth in section 10-905.

8 6. Permit shares to be transferable to persons duly licensed to
9 perform the same category of professional service as that for which the
10 professional corporation was organized, or to the professional corporation
11 itself, provided that this shall not be construed to prohibit such
12 further lawful restrictions thereon upon which the shareholders may
13 agree.

14 Sec. 9. Section 20-228, Arizona Revised Statutes, is amended
15 to read:

16 20-228. Exemption of insurers from general corporation
17 reports and fees

18 Other provisions of law notwithstanding, no authorized insurer or
19 surplus line insurer shall be required to file with the corporation
20 commission the annual report required of corporations by section ~~10-211~~
21 10-126. Every such insurer shall be exempt from payment of the annual
22 registration fee required by such section, and from the annual report fee
23 required by section ~~10-104~~ 10-129.

24 Sec. 10. Section 20-729, Arizona Revised Statutes, is amended
25 to read:

26 20-729. Conversion of stock insurer to mutual insurer

27 A. A domestic stock insurer other than a title insurer may be-
28 come a domestic mutual insurer pursuant to such plan and procedure as
29 may be approved in advance by the director of insurance.

30 B. The director shall not approve any such plan, procedure or
31 mutualization unless:

32 1. It is equitable to both stockholders and policyholders.

33 2. It is subject to approval by a vote of the holders of not less
34 than three-fourths of the insurer's capital stock having voting rights
35 and by a vote of not less than two-thirds of the insurer's policyholders
36 who vote on such plan in person, by proxy or by mail pursuant to such
37 notice and procedure as may be approved by the director.

38 3. If a life insurer, the right to vote thereon is limited to
39 those policyholders whose policies have face amounts of not less than
40 one thousand dollars and have been in force for one year or more.

41 4. Mutualization will result in retirement of shares of the in-
42 surer's capital stock at a price not in excess of the fair market value
43 thereof as determined by competent disinterested appraisers.

44 5. The plan provides for the purchase of the shares of any non-
45 consenting stockholder in accordance with the provisions of ~~section 10-~~
46 ~~347~~ TITLE 10, CHAPTER 1, ARTICLE 6, and such nonconsenting stockholders
47 shall have all the rights and restrictions applicable under such section
48 to stockholders of a private corporation who do not consent to the
49 agreed manner of converting the shares of stock of such private corpo-
50 ration upon proposal for consolidation.

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1 without the invalid provision or application, and to this end the
2 provisions of this act are severable.
3 Sec. 13. Effective date
4 The provisions of this act shall become effective from and after
5 June 30, 1976.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 70

HOUSE BILL 2212

AN ACT

RELATING TO WATERS; PRESCRIBING ESTIMATE OF FINANCIAL REQUIREMENTS AND DETERMINATION OF TAX RATE FOR CERTAIN IRRIGATION DISTRICTS, AND AMENDING SECTIONS 45-1712 AND 45-1714, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 45-1712, Arizona Revised Statutes, is amended
3 to read:
4 45-1712. Estimate of annual financial requirements
5 A. The board of directors, not later than July 1 each year, shall
6 estimate the amount of money required to meet the obligations of the
7 district for the next fiscal year, including maturing bonds and interest,
8 maintenance and operating and current expenses, together with such ad-
9 ditional amount necessary to meet any deficiency in the payment of items
10 of expense incurred during any previous year, and to provide funds for
11 purchases of lands sold for delinquent taxes. The board may include in
12 the estimate the amount of money required for the repayment of all or
13 any part of district taxes paid for any preceding year in any case in
14 which the district taxes remaining unpaid for such year have been can-
15 celled as provided in section 45-1725.
16 B. The estimates shall be fully itemized to show the amount re-
17 quired for each of the funds into which the money of the district is
18 divided by the treasurer, and the total amount of the estimated ex-
19 penses.
20 C. The estimate shall be entered in full upon the records of the
21 district and a certified copy thereof transmitted to the board of super-
22 visors of each county in which any lands of the district are located,
23 together with a certified copy of the records showing the total number
24 of acres of taxable land of the district and a description of such

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1 portions thereof as are located in each county, including all lands within
2 the boundaries of the district not excluded by an order made under the
3 provisions of this chapter.

4 D. If an irrigation district has not ~~for~~ WITHIN a period of ~~ten~~
5 ~~years-next-preceding-the-making-of-the-estimate~~ FIVE YEARS AFTER THE FIRST
6 DELIVERY OF CENTRAL ARIZONA PROJECT WATER TO A PROJECT WITHIN THE
7 CENTRAL ARIZONA WATER CONSERVATION DISTRICT SERVICE AREA delivered irri-
8 gation water to the landowners of the district through its own facilities,
9 or by arrangement with another irrigation district or canal company or
10 with the United States, or does not have an irrigation project or works
11 under construction, the board of directors shall include in such estimate
12 amounts sufficient to:

- 13 1. Pay past due bonds.
- 14 2. Create a sinking fund on outstanding bonded indebtedness of the
15 district and pay the interest thereon.
- 16 3. Pay all indebtedness of the district legally incurred prior to
17 July 1, 1951.
- 18 4. Meet the contingent and current expenses of the district not
19 exceeding five hundred dollars for the ensuing fiscal year.

20 E. No other item of expenditure shall be included in the estimate
21 of expenditures of a district under subsection D.

22 Sec. 2. Section 45-1714, Arizona Revised Statutes, is amended to
23 read:

24 45-1714. Determination of tax rate

25 A. The board of supervisors of each county in which taxable lands
26 of an irrigation district are situated shall add to the amount certified
27 by the board of directors of the district as the total amount necessary
28 to be raised by taxation for any fiscal year, an additional amount equal
29 to fifteen per cent of the gross amount so certified and, based upon the
30 total so ascertained, shall fix and determine the rate per acre at which
31 each acre of taxable lands of the district shall be taxed in the county
32 for district purposes. The total of each assessment shall be computed
33 at the acreage amount so fixed and extended upon the rolls by the offi-
34 cers authorized by law to compute and extend state and county taxes
35 thereon. The amount shall be assessed to the same person to whom the
36 state and county taxes are assessed and the board shall levy the taxes
37 so assessed in the same manner and at the same time as the levy of state
38 and county taxes. When so levied the district taxes shall become a lien
39 upon the real estate taxed which shall be in force and effect until the
40 taxes and all penalties and interest thereon are paid.

41 B. The fiscal year of an irrigation district shall begin July 1
42 and end June 30.

43 C. When a tax levied and assessed to meet an existing obligation
44 is in force, uncollected and unexpended, a reassessment or second levy
45 for the same purpose shall not be made, whether or not the obligation is
46 changed in form.

47 D. If an irrigation district ~~for~~ WITHIN a period of ~~ten-years-next~~
48 ~~preceding-the-levy-of-the-tax~~ FIVE YEARS AFTER THE FIRST DELIVERY OF
49 CENTRAL ARIZONA PROJECT WATER TO A PROJECT WITHIN THE CENTRAL ARIZONA
50 WATER CONSERVATION DISTRICT SERVICE AREA has not actually delivered

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- 1 irrigation water to the landowners of the district through its own
2 facilities, or by arrangement with another irrigation district or canal
3 company, or with the United States, or does not have an irrigation
4 project or works under actual construction, the board of supervisors
5 shall levy a tax against property in the district only in an amount
6 sufficient to:
- 7 1. Pay past due and unpaid bonds.
 - 8 2. Create a sinking fund to pay the bonded indebtedness of the
9 district and the interest thereon.
 - 10 3. Pay any indebtedness of the district legally incurred prior to
11 July 1, 1951.
 - 12 4. Meet current and contingent expenses of the district not to
13 exceed five hundred dollars for the ensuing fiscal year.
- 14 Sec. 3. Emergency
15 To preserve the public peace, health and safety, it is necessary
16 that this act become immediately operative. It is therefore declared
17 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 19, 1975

Filed in the Office of the Secretary of State - May 19, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 71

SENATE BILL 1395

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PROVIDING AN EXCEPTION FOR NOTICE, MINUTES OF MEETINGS AND EQUITABLE RELIEF FOR PUBLIC MEETINGS AND PROCEEDINGS; PRESCRIBING A LIMITATION, AND AMENDING SECTION 38-431.08, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 38-431.08, Arizona Revised Statutes,
3 is amended to read:

4 38-431.08. Exception, limitation

5 A. The provisions of this article shall not apply to any
6 judicial proceeding or any political caucus.

7 B. THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO ANY
8 CONFERENCE COMMITTEE OF THE LEGISLATURE EXCEPT ALL SUCH MEETINGS
9 SHALL BE OPEN TO THE PUBLIC.

10 Sec. 2. Emergency

11 To preserve the public peace, health and safety it is necessary
12 that this act become immediately operative. It is therefore
13 declared to be an emergency measure, to take effect as
14 provided by law.

Approved by the Governor - May 20, 1975

Filed in the Office of the Secretary of State - May 21, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 72

HOUSE BILL 2236

AN ACT

RELATING TO TRANSPORTATION; PROVIDING FOR CHAUFFEUR AND OPERATOR LICENSE SUSPENSION HEARING IN COUNTY WHERE VIOLATION ALLEGEDLY OCCURRED WHEN REQUESTED BY A LAW ENFORCEMENT AGENCY, AND AMENDING SECTION 28-446, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 28-446, Arizona Revised Statutes, is amended
3 to read:

4 28-446. Authority of department to suspend or revoke
5 license or require attendance at driver
6 improvement school

7 A. The department is authorized to suspend the license of an
8 operator or chauffeur or to require any licensee to attend and success-
9 fully complete approved training and educational sessions designed to
10 improve the safety and habits of drivers, upon a showing by the depart-
11 ment's records or other sufficient evidence that the licensee:

12 1. Has committed an offense for which mandatory revocation of
13 license is required upon conviction.

14 2. Has been involved as a driver in any accident resulting in the
15 death or personal injury of another or serious property damage.

16 3. Has been convicted with such frequency of serious offenses
17 against traffic regulations governing the movement of vehicles as to
18 indicate a disrespect for traffic laws and a disregard for the safety
19 of other persons on the highways.

20 4. Has been convicted of reckless driving as provided in section
21 28-693 or is an habitually reckless or negligent driver of a motor
22 vehicle.

23 5. Is incompetent to drive a motor vehicle.

24 6. Has permitted an unlawful or fraudulent use of the license.

CHAPTER 72

1 7. Has committed an offense in another state which if committed
2 in this state would be grounds for suspension or revocation.

3 8. Has been convicted of driving or of being in actual physical
4 control of a motor vehicle while under the influence of intoxicating
5 liquor or drugs.

6 9. Has refused to submit to tests required by section 28-691.

7 B. Upon suspending the license of a person or requiring any
8 licensee to attend and successfully complete approved training and
9 educational sessions designed to improve the safety and habits of
10 drivers, as authorized in subsection A of this section, the department
11 shall forthwith notify the licensee in writing and upon his request
12 shall afford him an opportunity for a hearing as early as practical
13 within not to exceed twenty days after receipt of the request in the
14 county wherein the licensee resides unless the department and the
15 licensee agree that the hearing may be held in some other county LAW
16 ENFORCEMENT AGENCY ISSUING THE CITATION OR AFFIDAVIT WHICH AUTHORIZES
17 THE SUSPENSION OR REVOCATION REQUESTS AT THE TIME OF ISSUANCE OF THE
18 CITATION OR FILING OF THE AFFIDAVIT THAT THE HEARING BE HELD IN THE
19 COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED. Upon the hearing the
20 department or its duly authorized agent may administer oaths and may
21 issue subpoenas for the attendance of witnesses and the production of
22 relevant books and papers and may require a re-examination of the licensee.
23 At the hearing the department shall either rescind its order of suspension
24 or its order requiring the licensee to attend and successfully complete
25 approved training and educational sessions or, good cause appearing
26 therefor, may uphold or extend the order, revoke the license or make
27 any order within its discretionary power under this section which is in
28 the interest of public safety. If any licensee receives notice requiring
29 him to attend and successfully complete approved training and educational
30 sessions and the department receives information that this order is not
31 being or has not been complied with, the department may amend the order
32 to one of suspension or revocation.

33 C. When the department exercises the discretion granted under
34 subsections A and B of this section and issues an order requiring any
35 licensee to attend and successfully complete approved training and educa-
36 tional sessions designed to improve the safety and habits of drivers,
37 the licensee shall immediately deliver his operator's or chauffeur's
38 license to the department and the department shall issue the licensee
39 a temporary license of sufficient duration to enable the licensee to
40 complete the required training and educational sessions. Upon successful
41 completion of the approved training and educational sessions, any licensee
42 who was issued a temporary license for the purpose of successfully com-
43 pleting the required training and educational sessions shall forthwith
44 return the temporary license to the department. Once the temporary
45 license has been returned, the department shall re-issue the licensee
46 his permanent license with any reasonable restrictions placed thereon
47 which are in the interest of public safety.

48 D. Governmental agencies, corporations or other individuals who
49 conduct such training sessions approved by the department shall be
50 entitled to collect a fee reasonable and commensurate for this training,
51 but in no event shall this fee exceed ten dollars.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 73

HOUSE BILL 2325

AN ACT

MAKING AN APPROPRIATION TO THE STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES.

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

2 Section 1. Appropriation; purposes

3 The sum of four million one hundred eighty-eight thousand six
4 hundred dollars is appropriated to the state board of directors for com-
5 munity colleges subject to the audit and approval of the auditor general
6 to be available for the following purposes in the following amounts:

7	1. Operational expenses	\$3,352,000
8	2. Capital outlay	836,600
9	Total	<u>\$4,188,600</u>

10 Sec. 2. Emergency

11 To preserve the public peace, health and safety it is necessary
12 that this act become immediately operative. It is therefore declared
13 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 74

HOUSE BILL 2283

AN ACT

RELATING TO STATE GOVERNMENT; PROVIDING THAT MARICOPA COUNTY BE THE FISCAL AGENT FOR THE RIO SALADO PROJECT AND THE INITIATOR OF INTERGOVERNMENTAL AGREEMENTS; PROVIDING THAT INTERGOVERNMENTAL AGREEMENTS MAY CONTAIN CERTAIN PROVISIONS.

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

2 Section 1. Duties of Maricopa county for Rio Salado project

3 Maricopa county, through its board of supervisors, shall:

4 1. Be the fiscal agent to receive and disburse all state
5 appropriated funds for the Rio Salado project.

6 2. Initiate the creation of a contract or contracts, pursuant
7 to title 11, chapter 7, article 3, Arizona Revised Statutes, regarding
8 the administration of the Rio Salado project between all governmental
9 entities within the scope of such project to insure that each govern-
10 mental entity affected shall be fairly considered. Such contract or
11 contracts shall:

12 (a) Provide a method of arbitration for the resolution of any
13 nonlegal conflict which may arise between contracting governmental
14 entities, other than those conflicts affecting only a particular
15 governmental entity, such as planning and zoning, if such particular
16 matter does not adversely affect the integrity of the project.

17 (b) Provide for formation of an advisory committee composed of
18 representatives of the contracting agencies and interested citizen
19 organizations. Such committee shall advise the contracting agencies in
20 the coordination among contracting agencies of all matters involving the
21 Rio Salado Project and may review and comment upon any plan or develop-
22 ment involving such project.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 75

SENATE BILL 1059

AN ACT

RELATING TO CRIMES; CLASSIFYING DIGGING, TAKING OR CARRYING AWAY CERTAIN MATERIALS FROM CITY OR TOWN LOTS WITHOUT PERMISSION OF THE OWNER AND CERTAIN DUMPING, DEPOSITING, PLACING, THROWING OR LEAVING OF CERTAIN OBJECTS, SUBSTANCES OR TRASH ON LAND WITHOUT PERMISSION OF THE OWNER AS AN UNLAWFUL TRESPASS, AND AMENDING SECTION 13-712, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-712, Arizona Revised Statutes, is amended to
3 read:
4 13-712. Trespass upon property; methods; punishment
5 A person is guilty of a misdemeanor, punishable by a fine of not
6 more than three hundred dollars, by imprisonment in the county jail for
7 not more than six months, or both, who wilfully commits any trespass by
8 either:
9 1. Cutting down, destroying or injuring any kind of wood or tim-
10 ber standing or growing upon the lands of another, or carrying away any
11 kind of wood or timber lying on such lands.
12 2. Maliciously injuring or severing from the freehold of another
13 anything attached thereto, or the produce thereof.
14 3. Digging, taking or carrying away from a lot situated within the
15 limits of an incorporated city or town, without ~~license~~ PERMISSION of the
16 owner or legal occupant thereof, any earth, soil, stones, ores or minerals.
17 4. Digging, taking or carrying away from any land in a city or
18 town, delineated on the map or plan of the city or town, or otherwise
19 recognized or established as a street, alley, avenue or park, without
20 ~~license~~ PERMISSION of the proper authorities, any earth, soil, stone,
21 ores or minerals.
22 5. DUMPING ANY EARTH, SOIL, STONES, ORES OR MINERALS ON ANY LAND
23 WITHOUT PERMISSION OF THE OWNER.
24 6. DUMPING, DEPOSITING, PLACING, THROWING OR LEAVING REFUSE,
25 RUBBISH, DEBRIS, FILTHY OR ODORIFEROUS OBJECTS, SUBSTANCES OR OTHER TRASH,
26 ORGANIC OR INORGANIC, INCLUDING DEAD ANIMALS ON ANY LAND WITHOUT PERMISSION
27 OF THE OWNER.

CHAPTER 75

- 1 5+ 7. Putting up, affixing, fastening, printing or painting upon
2 any private or public property, without ~~license~~ PERMISSION from the
3 owner, a notice, advertisement or designation of, or a name for any
4 commodity, whether for sale or otherwise, or any picture, sign or
5 device intended to call attention thereto.
6 6+ 8. Wilfully opening, tearing down or destroying a fence on the
7 enclosed land of another, or opening a gate, bar or fence of another and
8 wilfully leaving it open without permission of the owner.
9 7+ 9. Maliciously tearing down, mutilating or destroying a legally
10 placed signboard or other notice.
11 8+ 10. Entering an enclosure belonging to or occupied by another
12 for the purpose of hunting, shooting, killing or destroying game within
13 the enclosure, without first having obtained permission from the owner
14 of the enclosure.
15 9+ 11. Loitering or prowling upon the private property of another,
16 without the consent of or lawful business with the owner or occupant
17 thereof.
18 10+ 12. Destroying or injuring livestock, growing crops or pasture
19 land.
20 11+ 13. Parking of vehicles in such a manner as to deprive live-
21 stock of access to the only reasonably available water.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 76

SENATE BILL 1035

AN ACT

RELATING TO TAXATION; PROVIDING FOR A REFUND OR REDUCTION IN THE REMAINING TAXES FOR ERRONEOUS PAYMENT OF TAXES; PROVIDING FOR THE CORRECTION OF OMISSIONS, ERRORS AND DEFECTS RELATING TO PROPERTY VALUED BY THE DEPARTMENT; PROVIDING FOR CERTAIN WRITTEN NOTICES; AMENDING SECTIONS 11-505 AND 42-405, ARIZONA REVISED STATUTES, AND AMENDING TITLE 42, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-126.01.

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

2 Section 1. Section 11-505, Arizona Revised Statutes, is amended
3 to read:

4 11-505. Refund of overpayments and duplicate tax
5 payments

6 A. The board of supervisors, subject to the prior approval of
7 the department of ~~property-valuation~~ REVENUE, may authorize the county
8 treasurer to refund to any taxpayer or his agent, any overpayments of
9 real or personal property taxes resulting from a ~~clerical~~ AN error in
10 billing such taxes or any duplicate payments of real or personal property
11 taxes provided a claim for such refund is made by the taxpayer or his
12 agent within one year from the date of such duplicate payment or over-
13 payment.

14 B. The treasurer shall be entitled to credit for such refunds
15 in the next accounting after such repayment with each of the political
16 subdivisions and the state to which such overpayment or duplicate pay-
17 ment may have been transmitted in the event he had previously trans-
18 mitted such overpayment or duplicate payment or payments to any of the
19 political subdivisions of the state or to the state.

20 Sec. 2. Title 42, chapter 1, article 2, Arizona Revised Statutes,
21 is amended by adding section 42-126.01, to read:

22 42-126.01. Omissions, errors or defects in form;
23 refunds and reductions

24 A. FOR PROPERTIES VALUED BY THE DEPARTMENT PURSUANT TO THIS TITLE,
25 ANY OMISSION, ERROR OR DEFECT IN AN ASSESSMENT LIST OR TAX ROLL MAY BE
26 SUPPLIED OR CORRECTED BY THE DEPARTMENT OR AT THE DEPARTMENT'S DIRECTION.

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1 WHEN SUCH OMISSION, ERROR OR DEFECT HAS BEEN CARRIED INTO ANY DELINQUENT
2 LIST OR INTO ANY PUBLICATION PROVIDED FOR BY THIS TITLE, THE LIST OR
3 PUBLICATION MAY BE AMENDED AND REPUBLISHED, OR NOTICE OF THE CORRECTION
4 MAY BE PUBLISHED AND POSTED IN THE MANNER PROVIDED BY THIS TITLE FOR
5 THE PUBLICATION AND POSTING OF THE ORIGINAL LIST AND NOTICE.

6 B. WHEN PAYMENT OF ALL OR A PORTION OF THE TAXES HAS BEEN MADE TO
7 THE COUNTY TREASURER, THE PROVISIONS OF SECTIONS 11-505 AND 11-506 SHALL
8 GOVERN. WHEN PAYMENT OF ALL OR A PORTION OF THE TAXES HAS BEEN MADE TO
9 THE DEPARTMENT, THE TAXPAYER OR THE TAXPAYER'S AGENT SHALL, WITHIN ONE
10 YEAR FROM DATE OF SUCH PAYMENT, MAKE APPLICATION TO THE STATE TREASURER
11 FOR A REFUND OR REDUCTION IN THE REMAINING AMOUNT DUE, WHICHEVER IS
12 APPLICABLE, AND THE STATE TREASURER SHALL GRANT SUCH REFUND OR REDUCTION
13 UPON CERTIFICATION THAT THE REFUND OR REDUCTION IS DUE BY THE DEPARTMENT.

14 C. NO CHANGE PURSUANT TO THIS SECTION WHICH RESULTS IN AN INCREASE
15 IN ANY VALUATION SHALL BE MADE BY THE DEPARTMENT OR AT THE DIRECTION OF
16 THE DEPARTMENT WITHOUT FIRST GIVING AT LEAST FIVE DAYS' NOTICE BY CERTIFIED
17 MAIL RETURN RECEIPT REQUESTED TO THE OWNER OF THE PROPERTY TO BE AFFECTED
18 AT THE ADDRESS SHOWN ON THE THEN EXISTING TAX ROLL OF THE INTENTION OF
19 THE DEPARTMENT TO DO SO AND OF THE TIME AND PLACE OF THE HEARING OF THE
20 DEPARTMENT OR OF THE BOARD OF SUPERVISORS AT WHICH SUCH INCREASE IS
21 PROPOSED TO BE ACCOMPLISHED.

22 Sec. 3. Section 42-405, Arizona Revised Statutes, is amended to
23 read:

24 42-405. Omissions, errors or defects in form

25 A. Omissions, errors or defects in an assessment list or tax roll,
26 ~~when it can be ascertained from the records of the county assessor what~~
27 ~~was intended,~~ may be supplied or corrected by the assessor, at any time
28 before the return of the assessment roll to the county treasurer, or by
29 the county treasurer at any time thereafter, subject in either case to
30 the prior approval of the department and the county board of supervisors.
31 When such omission, error or defect has been carried into the delinquent
32 list or into the publication provided for by this article, the list or
33 publication may be amended and republished, or notice of the correction
34 may be published and posted in the manner provided by this article for
35 the publication and posting of the original list and notice.

36 B. NO CHANGE PURSUANT TO THIS SECTION WHICH RESULTS IN AN INCREASE
37 IN ANY VALUATION SHALL BE APPROVED BY THE BOARD OF SUPERVISORS WITHOUT
38 GIVING AT LEAST FIVE DAYS' NOTICE BY CERTIFIED MAIL RETURN RECEIPT
39 REQUESTED TO THE OWNER OF THE PROPERTY TO BE AFFECTED AT THE ADDRESS
40 SHOWN ON THE THEN EXISTING TAX ROLL OF THE BOARD'S INTENTION TO DO SO
41 AND OF THE TIME AND PLACE OF THE HEARING OF THE BOARD AT WHICH APPROVAL
42 OF SUCH INCREASE IS PROPOSED TO BE ACCOMPLISHED.

43 Sec. 4. Emergency

44 To preserve the public peace, health and safety it is necessary
45 that this act become immediately operative. It is therefore declared
46 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 77

SENATE BILL 1087

AN ACT

RELATING TO TAXATION OF INCOME; PRESCRIBING SOURCES OF INCOME INCLUDED IN COMPUTATION OF AMOUNT OF CREDIT ALLOWED FOR PROPERTY TAXES PAID; DEFINING INCOME, AND AMENDING SECTION 43-128.01, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 43-128.01, Arizona Revised Statutes, is
3 amended to read:
4 43-128.01. Credit allowed taxpayers - credit for
5 property taxes paid
6 (a) Credit, residents sixty-five years of age or older. There
7 shall be allowed to each resident a credit against the taxes imposed
8 by this title for a taxable year for property taxes accrued or rent
9 constituting property taxes accrued, or both, in that taxable year,
10 in accordance with the subsection (b), if:
11 (1) Such resident attained the age of sixty-five years prior
12 to or during the taxable year;
13 (2) The assessed valuation of all property owned in whole or
14 in part by such person during the taxable year was less than five
15 thousand dollars; and
16 (3) Such person either:
17 (i) Did not live with his spouse or any legal dependents and
18 had an income from all sources in the taxable year of less than three
19 thousand five hundred dollars, or
20 (ii) Lived with his spouse or one or more legal dependents and
21 the combined income from all sources in the taxable year of all persons
22 residing in the residence was less than five thousand dollars.
23 (b) Amount of credit. The credit allowed under subsection
24 (a) shall be computed as follows:
25 (1) For a person eligible under subparagraph (3)(i) of subsection
26 (a), according to the following table:

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Household Income	Percentage of property tax accrued or rent constituting property tax accrued allowed as credit
\$ 0-1,750	100%
1,750-2,100	90%
2,100-2,450	70%
2,450-2,800	50%
2,800-3,150	40%
3,150-3,500	30%

(2) For a person eligible under subparagraph (3)(ii) of sub-section (a), according to the following table:

Household Income	Percentage of property tax accrued or rent constituting property tax accrued allowed as credit
\$ 0-2,500	100%
2,500-3,000	90%
3,000-3,500	70%
3,500-4,000	50%
4,000-4,500	40%
4,500-5,000	30%

(c) Disposition of unused credit; offset against tax liabilities;
refund. Disposition of the claimant's allowable credit shall be as provided below.

(1) If the allowable amount of such claim exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes, after audit by the ~~commission~~ DEPARTMENT, shall be paid in the same manner as a refund granted under section 43-184. No interest shall be allowed on any payment made to a claimant pursuant to this section.

(2) The amount of any claim otherwise payable for relief for property taxes accrued or rent constituting property taxes accrued may be applied by the ~~commission~~ DEPARTMENT against any liability outstanding on the books of the ~~commission~~ DEPARTMENT against the claimant, or against his or her spouse who was a member of the claimant's household in the taxable year.

(d) Public welfare recipients excluded. No claim for relief for property taxes accrued or rent paid shall be allowed to any person who was a recipient of public funds for the payment of property taxes or rent during the taxable year.

(e) Administration. The ~~commission~~ DEPARTMENT shall make available suitable forms with instructions for claimants, including a form which may be included with or as a part of the individual income tax blank. The claim shall be in such form as the ~~commission~~ DEPARTMENT may prescribe.

(f) Filing date; extension of time. No claim with respect to property taxes accrued or with respect to rent constituting property

1 taxes accrued shall be allowed or paid unless the claim is actually
 2 filed on or before April 15 for the next preceding calendar year.
 3 The ~~commission~~ DEPARTMENT may, upon request, grant for a period not
 4 to exceed six months an extension of time for filing the claim.

5 (g) Limitation on number of claimants. Only one claimant
 6 per household per year shall be entitled to relief pursuant to this
 7 section.

8 (h) Definitions. In this section unless the context other-
 9 wise requires:

10 (1) "Claimant" means a person who has filed a claim for credit
 11 under this section and was a resident of this state during the entire
 12 taxable year. In the case of a claim for rent constituting property
 13 taxes accrued, the claimant shall have rented property in this state
 14 during the entire taxable year and shall have occupied the same resi-
 15 dence quarters for at least six months of that year. When two individuals
 16 of a household are able to meet the qualifications for a claimant, they
 17 may determine between them as to who the claimant shall be. If
 18 they are unable to agree, the matter shall be referred to the state
 19 ~~tax-commission~~ DEPARTMENT and its decision shall be final. If a
 20 homestead is occupied by two or more individuals and more than one
 21 individual is able to qualify as a claimant, and some or all of the
 22 qualified individuals are not related, the individuals may determine
 23 among them as to who the claimant shall be. If they are unable to
 24 agree, the matter shall be referred to the ~~commission~~ DEPARTMENT, and
 25 its decision shall be final.

26 (2) ~~"Commission" means the state tax commission.~~

27 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

28 (3) "Gross rent" means rental paid solely for the right of
 29 occupancy of a homestead or space rental paid to a landlord for the
 30 parking of a mobile home, exclusive of charges for any utilities,
 31 services, furniture, furnishings or personal property appliances
 32 furnished by the landlord as a part of the rental agreement, whether
 33 or not expressly set out in the rental agreement. If the ~~commission~~
 34 DEPARTMENT is satisfied that the gross rent charge was excessive, it
 35 may adjust the gross rent to a reasonable amount for purposes of the
 36 claim.

37 (4) "Homestead" means the dwelling, whether owned or rented by
 38 the claimant, and so much of the land surrounding it, not exceeding
 39 one acre, as is reasonably necessary for use of the dwelling as a home,
 40 and may consist of a part of a multi-dwelling or multi-purpose building
 41 and a part of the land upon which it is built. "Homestead" may also
 42 include a mobile home and the land upon which it is located.

43 (5) "Household" means the household of the claimant and such
 44 other persons as resided with the claimant in his homestead during
 45 the taxable year.

46 (6) "Household income" means all income received by all persons
 47 of a household in a taxable year while members of the household.

48 (7) "Income" means:

49 (i) The sum of adjusted gross income as defined by the ~~commission,~~
 50 DEPARTMENT; AND

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1 (ii) The amount of capital gains excluded from adjusted gross
2 income; AND
3 (iii) Alimony; PAYMENTS; AND
4 (iv) Support money; AND
5 (v) Nontaxable strike benefits; AND ~~cash public assistance and~~
6 ~~relief, not including relief granted under this section;~~
7 (vi) NONTAXABLE INTEREST RECEIVED FROM THE FEDERAL GOVERNMENT OR
8 ANY OF ITS INSTRUMENTALITIES; AND
9 (vii) The gross amount of any pension or annuity NOT OTHERWISE
10 EXEMPTED. ~~including railroad retirement benefits, all payments received~~
11 ~~under the federal social security act, state unemployment insurance laws,~~
12 ~~and veterans disability pensions, nontaxable interest received from the~~
13 ~~federal government or any of its instrumentalities, INCOME SHALL NOT~~
14 INCLUDE MONIES RECEIVED FROM CASH PUBLIC ASSISTANCE AND RELIEF, RELIEF
15 GRANTED UNDER THE PROVISIONS OF THIS SECTION, RAILROAD RETIREMENT BENEFITS,
16 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT, ALL PAYMENTS
17 RECEIVED UNDER ARIZONA STATE UNEMPLOYMENT INSURANCE LAWS, ALL PAYMENTS
18 RECEIVED FROM VETERANS DISABILITY PENSIONS, ALL PAYMENTS RECEIVED AS
19 workmen's compensation, and the gross amount of "loss of time" insurance.
20 ~~It does not include~~, gifts from nongovernmental sources, or surplus foods
21 or other relief in kind supplied by a governmental agency.

22 (8) "Property taxes accrued" means property taxes reduced by
23 property tax reduction pursuant to title 42, chapter 2, article 5.1 or
24 property tax reduction pursuant to title 42, chapter 3, article 4, and
25 exclusive of special assessments, delinquent interest and charges for
26 service, levied on the first two thousand dollars of assessed valuation
27 of a claimant's homestead in this state in any taxable year. If a home-
28 stead is owned by two or more persons or entities as joint tenants or
29 tenants in common, and one or more persons or entities are not a member
30 of claimant's household, "property taxes accrued" is that part of property
31 taxes levied on the homestead which reflects the ownership percentage
32 of the claimant and his household. For purposes of this paragraph
33 property taxes are "levied" when the tax roll is delivered to the
34 county treasurer for collection. If a claimant and his household
35 own their homestead part of the taxable year and rent it or a different
36 homestead for part of the same year, "property taxes accrued" means
37 only taxes levied on the homestead when both owned and occupied by the
38 claimant at the time of the levy, multiplied by the percentage of
39 twelve months that such property was owned and occupied by the house-
40 hold as its homestead during the taxable year. When a household owns
41 and occupies two or more different homesteads in this state in the
42 same taxable year, property taxes accrued shall relate only to that
43 property occupied by the household as a homestead on the levy date.
44 If a homestead is an integral part of a larger unit such as a farm,
45 or a multi-purpose or multi-dwelling building, property taxes accrued
46 shall be that percentage of the total property taxes accrued as the
47 value of the homestead is of the total value. For purposes of this
48 paragraph "unit" refers to the parcel of property covered by a single
49 tax statement of which the homestead is a part.

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State of Arizona
Senate
Thirty-second Legislature
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CHAPTER 78

SENATE BILL 1100

AN ACT

RELATING TO TRANSPORTATION; PROVIDING FOR PERSONALIZED NUMBER PLATES ON MOTOR VEHICLES REGISTERED WITH THE MOTOR VEHICLE DIVISION; PROVIDING EXCEPTIONS, AND AMENDING SECTION 28-302.01, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-302.01, Arizona Revised Statutes, is
3 amended to read:
4 28-302.01. Personalized number plates; application;
5 design; transfer fees

6 A. Any person who is the registered owner of a passenger motor
7 vehicle registered with the motor vehicle division or who makes appli-
8 cation for an original or renewal registration of a passenger motor
9 vehicle may, upon payment of the fee prescribed in section 28-205,
10 apply to the motor vehicle division for personalized number plates,
11 which shall be affixed to the passenger motor vehicle for which
12 registration is sought in lieu of the regular number plates.

13 B. An applicant for issuance of personalized number plates or
14 renewal of such plates in the subsequent year pursuant to this section
15 shall file an application therefor in such form and by such date as the
16 motor vehicle division may require, indicating thereon the combination
17 of letters or numbers, or both, requested as a registration number.
18 There shall be no duplication of registration numbers, and the motor
19 vehicle division may refuse to issue any combination of letters or num-
20 bers, or both, that may carry connotations offensive to good taste and
21 decency or which would be misleading or a duplication of other number
22 plates.

23 C. Personalized number plates shall be issued only to the reg-
24 istered owner of the vehicle on which they are to be displayed.

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1 D. When any person who has been issued personalized number plates
2 applies to the motor vehicle division for transfer of such plates to a
3 subsequently acquired passenger motor vehicle, a transfer fee of twelve
4 dollars shall be charged in addition to all other appropriate fees.

5 E. When any person who has been issued personalized number plates
6 sells, trades or otherwise releases ownership of the vehicle upon which
7 such plates have been displayed, he shall immediately report the trans-
8 fer of such plates to the motor vehicle division or he shall surrender
9 such plates to the division forthwith and release his priority to the
10 letters or numbers, or combination thereof, displayed on the personalized
11 number plates.

12 F. The personalized number plates shall be the same color and
13 design as regular passenger-motor-vehicle number plates, and shall con-
14 sist of numbers or letters, or any combination thereof not exceeding six
15 positions and not less than two positions. They shall not conflict with
16 existing passenger, commercial, trailer, motorcycle or special number
17 plates series.

18 G. "Personalized number plates", as used in this section, means
19 number plates that have displayed upon them the registration number as-
20 signed to the passenger motor vehicle for which such registration number
21 was issued in a combination of letters or numbers, or both, requested
22 by the owner of the vehicle.

23 H. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO MOTORCYCLES,
24 MOTOR-DRIVEN CYCLES OR VEHICLES SUBJECT TO THE PROVISIONS OF SECTION
25 28-206.

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Senate
Thirty-second Legislature
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CHAPTER 79

SENATE BILL 1104

AN ACT

RELATING TO TRANSPORTATION; PROVIDING FOR PRESERVATION OF CERTAIN LANDMARK SIGNS; REMOVING GRACE PERIOD FOR CERTAIN NONCONFORMING SIGNS; PRESCRIBING PROCEDURES FOR ACQUISITION OR RELOCATION OF CERTAIN JUNKYARDS, AND AMENDING SECTIONS 28-2102, 28-2105 AND 28-2132, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 28-2102, Arizona Revised Statutes, is
3 amended to read:

4 28-2102. Outdoor advertising authorized

5 A. The following outdoor advertising may be placed or maintained
6 along interstate, secondary and primary systems within six hundred
7 sixty feet of the edge of the right-of-way:

8 1. Directional or other official signs or notices that are re-
9 quired or authorized by law, including but not limited to, signs
10 pertaining to natural wonders, scenic and historic attractions.

11 2. Signs, displays and devices advertising activities conducted
12 on the property upon which they are located.

13 3. Signs, displays and devices advertising the sale or lease
14 of property upon which they are located.

15 4. Signs, displays and devices lawfully placed after April 1,
16 1970, in business areas.

17 5. Signs, displays and devices lawfully placed after the effec-
18 tive date of this article in zoned or unzoned commercial or industrial
19 areas inside municipal limits, or after April 1, 1972, in unzoned
20 commercial or industrial areas outside of municipal limits.

21 6. Signs, displays and devices lawfully existing on April 1,
22 1970, which are located in business areas, and in zoned commercial
23 or industrial areas outside of municipal limits.

1 7. Signs, displays and devices lawfully existing on the effective
2 date of this article which are located in zoned or unzoned commercial
3 or industrial areas inside municipal limits, or on April 1, 1972, in
4 unzoned commercial or industrial areas outside of municipal limits.

5 B. Outdoor advertising authorized under subsection A, paragraphs
6 1, 4 and 5 of this section shall conform with standards contained, and
7 shall bear permits required, in regulations promulgated by the director
8 under the provisions of this article, except that such authorized out-
9 door advertising along highways in the secondary system which are not
10 state highways need only bear permits required by the responsible
11 county or municipal authority.

12 C. Outdoor advertising authorized under paragraphs 6 and 7,
13 subsection A of this section need not conform to standards contained,
14 but shall bear permits required, in regulations promulgated by the
15 director under the provisions of this article, except that such autho-
16 rized outdoor advertising along highways in the secondary system which
17 are not state highways need only bear permits required by the responsi-
18 ble county or municipal authority.

19 D. SIGNS LAWFULLY IN EXISTENCE ON OCTOBER 22, 1965 WHICH ARE
20 DETERMINED BY THE DIRECTOR, SUBJECT TO THE APPROVAL OF THE SECRETARY
21 OF TRANSPORTATION AS PROVIDED FOR BY SECTION 131 (c) OF TITLE 23 OF
22 THE UNITED STATES CODE, TO BE LANDMARK SIGNS, INCLUDING SIGNS ON FARM
23 STRUCTURES OR NATURAL SURFACES, OF HISTORIC OR ARTISTIC SIGNIFICANCE
24 THE PRESERVATION OF WHICH WOULD BE CONSISTENT WITH THE PURPOSES OF
25 THIS ARTICLE, MAY BE PRESERVED OR MAINTAINED.

26 Sec. 2. Section 28-2105, Arizona Revised Statutes, is amended
27 to read:

28 28-2105. Authority to acquire outdoor advertising
29 and property rights; compensation;
30 removal

31 ~~A.--Outdoor advertising lawfully in existence along the interstate~~
32 ~~or federal aid secondary or primary systems on September 1, 1965 which~~
33 ~~does not conform to the provisions of this article, shall not be required~~
34 ~~to be removed until July 1, 1976.--Any other outdoor advertising lawfully~~
35 ~~erected which does not conform to the provisions of this article shall~~
36 ~~not be required to be removed until the end of the fifth year after it~~
37 ~~becomes nonconforming.~~

38 ~~B.--If compensation is required by federal law, and if federal~~
39 ~~participation in such compensation is required by federal law, noncon-~~
40 ~~forming outdoor advertising shall not be required to be removed until~~
41 ~~federal funds for the federal share of compensation therefor as required~~
42 ~~by such federal law have been made available to the department.~~

43 G. A. The director shall acquire by gift, agreement, purchase,
44 exchange, eminent domain or other lawful means, all right, title, lease-
45 hold, and interest in any outdoor advertising together with the right
46 of the owner of the real property on which such outdoor advertising is
47 located to erect and maintain such outdoor advertising thereon, when
48 the outdoor advertising is prohibited by this article. Damages resulting
49 from any taking of property in eminent domain shall be ascertained in
50 the manner provided by law.

1 B. IF COMPENSATION IS REQUIRED BY FEDERAL LAW, AND IF FEDERAL
 2 PARTICIPATION IN SUCH COMPENSATION IS REQUIRED BY FEDERAL LAW, NON-
 3 CONFORMING OUTDOOR ADVERTISING SHALL NOT BE REQUIRED TO BE REMOVED
 4 UNTIL FEDERAL FUNDS FOR THE FEDERAL SHARE OF COMPENSATION THEREFOR
 5 AS REQUIRED BY SUCH FEDERAL LAW HAVE BEEN MADE AVAILABLE TO THE
 6 DEPARTMENT.

7 D. C. When outdoor advertising is placed after the effective
 8 date of this article, contrary to provisions of this article or the
 9 regulations promulgated by the director, or when a permit is not
 10 obtained as prescribed in this article, the outdoor advertising shall
 11 be deemed unlawful. The director shall give notice by certified mail
 12 of his intention to remove advertising deemed unlawful to both the
 13 owner or the occupant of the land on which such outdoor advertising
 14 is located and the owner of the outdoor advertising, if the latter is
 15 known, or if unknown, by posting notice in a conspicuous place on such
 16 outdoor advertising. Within seven days after such notice is mailed or
 17 posted the owner of the land or the outdoor advertising may make a
 18 written request to the director for a hearing to show cause why the
 19 outdoor advertising should not be removed. The director shall designate
 20 a hearing officer, who shall be an administrative employee of the de-
 21 partment, to conduct and preside at such hearings. When a hearing is
 22 requested under this provision, the hearing shall be held within thirty
 23 days thereafter and the party requesting the hearing shall be given at
 24 least five days' notice of the time of such hearing. All hearings shall
 25 be conducted at department administrative offices. A full and complete
 26 record and transcript of the hearing shall be taken. The presiding
 27 officer shall within ten days after the hearing make a written determina-
 28 tion of his findings of fact, conclusions and decision and shall mail a
 29 copy of the same, by certified mail, to the owner or the party who
 30 requested the hearing. If the decision is adverse to the party, the
 31 party may within ten days after the decision is rendered, petition the
 32 superior court of the county wherein the outdoor advertising is located
 33 to determine whether the decision of the hearing officer was lawful and
 34 reasonable. If the decision of the court upholds that of the director,
 35 all costs from the time of the administrative hearing, including court
 36 costs, shall be borne by the owner of the land or the outdoor adver-
 37 tising or both. If a hearing before the director is not requested, or
 38 if there is no appeal taken from the director's decision of such hearing,
 39 or if the director's decision is affirmed on appeal, the director shall
 40 immediately remove the offending outdoor advertising. The owner of the
 41 outdoor advertising or the owner or occupant of the land or the owner
 42 of the outdoor advertising and the owner or occupant of the land shall
 43 be liable for the costs of such removal. The director shall incur no
 44 liability for such removal.

45 Sec. 3. Section 28-2132, Arizona Revised Statutes, is amended
 46 to read:

47 28-2132. Junkyards; screening by director; screening
 48 by owner; acquisition; relocation; regula-
 49 tions

50 A. If it is considered feasible by the director, any junkyard in
 51 existence on the effective date of this article which is located within

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1 one thousand feet of the nearest edge of the right-of-way of the inter-
2 state or primary systems, and is visible from the main-traveled way of
3 the interstate or primary systems may be screened by the director. The
4 screening shall be at locations on the right-of-way so that the junkyard
5 is not visible from the main-traveled way of the interstate or primary
6 systems.

7 B. IF THE DIRECTOR DETERMINES THAT THE TOPOGRAPHY OF THE LAND
8 ADJOINING THE INTERSTATE OR PRIMARY SYSTEMS WILL NOT PERMIT ADEQUATE
9 SCREENING OF SUCH JUNKYARDS OR THAT THE SCREENING WOULD NOT BE ECO-
10 NOMICALLY FEASIBLE, HE MAY REQUIRE THE RELOCATION, REMOVAL OR DISPOSAL
11 OF THE JUNKYARD AND ITS JUNK BY AGREEMENT, PURCHASE, EXCHANGE, EMINENT
12 DOMAIN OR MAY ACQUIRE SUCH JUNKYARD AND ITS JUNK BY GIFT OR OTHER LAWFUL
13 MEANS. IF THE DIRECTOR DETERMINES THAT IT IS IN THE BEST INTEREST OF
14 THE STATE, HE MAY ACQUIRE IN THE NAME OF THE STATE SUCH LAND OR SUCH
15 INTEREST IN SUCH LAND AS IS NECESSARY TO ACCOMPLISH THE PURPOSES OF
16 THIS ARTICLE.

17 C. THE OWNERS OF JUNKYARDS LOCATED WITHIN ONE THOUSAND FEET
18 OF THE NEAREST EDGE OF THE RIGHT-OF-WAY OF THE INTERSTATE OR PRIMARY
19 SYSTEMS AND VISIBLE FROM THE MAIN-TRAVELED WAY OF SUCH SYSTEMS WHOSE
20 PROPERTY IS TAKEN IN EMINENT DOMAIN SHALL BE ENTITLED TO THE PAYMENT
21 OF DAMAGES AND TO APPLICABLE RELOCATION ASSISTANCE PAYMENTS, EXCEPT
22 THAT THE OWNERS OF SUCH JUNKYARDS SHALL NOT BE ENTITLED TO SUCH PAY-
23 MENTS IF SUCH JUNKYARDS WERE ESTABLISHED AFTER MAY 11, 1971 UNLESS
24 THEY DID NOT CONSTITUTE PUBLIC NUISANCES PURSUANT TO THIS ARTICLE
25 WHEN ESTABLISHED AND WERE NOT OTHERWISE UNLAWFULLY ESTABLISHED IN VIO-
26 LATION OF MUNICIPAL OR COUNTY ORDINANCES.

27 B- D. The director shall promulgate and enforce regulations
28 governing the location, planting, construction and maintenance, including
29 the materials used, in screening junkyards as required under the pro-
30 visions of this article.

31 G- E. The provisions of this section shall not apply to junk-
32 yards operated within areas adjacent to the interstate system and the
33 primary system which are within one thousand feet of the nearest edge
34 of the right-of-way and which are within areas zoned for industrial
35 use or within unzoned industrial areas.

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State of Arizona
Senate
Thirty-second Legislature
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CHAPTER 80

SENATE BILL 1108

AN ACT

RELATING TO TRANSPORTATION; PROVIDING FOR THE REGISTRATION OF VEHICLES WHERE CERTIFICATES OF TITLE ARE NOT PRESENTED TO THE DEPARTMENT; PROVIDING FOR WITHHOLDING ISSUANCE OF CERTIFICATES OF TITLE; PROVIDING FOR CONDITIONAL ISSUANCE OF CERTIFICATES OF TITLE UPON FILING OF A SURETY BOND, AND AMENDING TITLE 28, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-304.01.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 28, chapter 3, article 1, Arizona Revised
3 Statutes, is amended by adding section 28-304.01, to read:
4 28-304.01. Registration without certificate of
5 title; bond

6 IF THE DEPARTMENT IS NOT SATISFIED AS TO THE OWNERSHIP OF THE
7 VEHICLE OR THAT THERE ARE NO UNDISCLOSED SECURITY INTERESTS IN IT, THE
8 DEPARTMENT MAY REGISTER THE VEHICLE BUT SHALL EITHER:

9 1. WITHHOLD ISSUANCE OF A CERTIFICATE OF TITLE UNTIL THE APPLI-
10 CANT PRESENTS DOCUMENTS REASONABLY SUFFICIENT TO SATISFY THE DEPARTMENT
11 AS TO THE APPLICANT'S OWNERSHIP OF THE VEHICLE AND THAT THERE ARE NO
12 UNDISCLOSED SECURITY INTERESTS IN IT, OR

13 2. AS A CONDITION OF ISSUING A CERTIFICATE OF TITLE, REQUIRE
14 THE APPLICANT TO FILE WITH THE DEPARTMENT A BOND IN THE FORM PRESCRIBED
15 BY THE DEPARTMENT AND EXECUTED BY THE APPLICANT AND EITHER ACCOMPANIED
16 BY THE DEPOSIT OF CASH WITH THE DEPARTMENT OR ALSO EXECUTED BY A PERSON
17 AUTHORIZED TO CONDUCT A SURETY BUSINESS IN THIS STATE. THE BOND SHALL
18 BE IN AN AMOUNT EQUAL TO ONE AND ONE-HALF TIMES THE VALUE OF THE VEHICLE
19 AS DETERMINED BY THE DEPARTMENT AND CONDITIONED TO INDEMNIFY ANY PRIOR
20 OWNER AND LIENHOLDER AND ANY SUBSEQUENT PURCHASER OF THE VEHICLE OR
21 PERSON ACQUIRING ANY SECURITY INTEREST IN IT AND THEIR RESPECTIVE SUC-
22 CESSORS IN INTEREST AGAINST ANY EXPENSE, LOSS OR DAMAGE, INCLUDING
23 REASONABLE ATTORNEY'S FEES, BY REASON OF THE ISSUANCE OF THE CERTIFI-
24 CATE OF TITLE OF THE VEHICLE OR ON ACCOUNT OF ANY DEFECT IN OR UNDISCLOSED
25 SECURITY INTEREST UPON THE RIGHT, TITLE AND INTEREST OF THE APPLICANT IN

CHAPTER 80

1 AND TO THE VEHICLE. ANY SUCH INTERESTED PERSON HAS A RIGHT OF ACTION
2 TO RECOVER ON THE BOND FOR ANY BREACH OF ITS CONDITIONS, BUT THE
3 AGGREGATE LIABILITY OF THE SURETY TO ALL PERSONS SHALL NOT EXCEED THE
4 AMOUNT OF THE BOND. THE BOND AND ANY DEPOSIT ACCOMPANYING IT SHALL
5 BE RETURNED AT THE END OF THREE YEARS OR PRIOR THERETO IF THE VEHICLE
6 IS NO LONGER REGISTERED IN THIS STATE AND THE CURRENTLY VALID CER-
7 TIFICATE OF TITLE IS SURRENDERED TO THE DEPARTMENT, UNLESS THE
8 DEPARTMENT HAS BEEN NOTIFIED OF THE PENDENCY OF AN ACTION TO RECOVER
9 ON THE BOND.

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Thirty-second Legislature
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CHAPTER 81

SENATE BILL 1138

AN ACT

RELATING TO TRANSPORTATION; PROVIDING THAT AIRCRAFT DEALERS PRIMARILY ENGAGED IN SALE OF LIGHTER-THAN-AIR AIRCRAFT ARE EXEMPT FROM BONDING REQUIREMENTS, AND AMENDING SECTION 28-1773, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-1773, Arizona Revised Statutes, is amended
3 to read:
4 28-1773. Bond required; exception; definition
5 The aircraft dealer shall file with the department a continuous
6 corporate surety bond to the state of Arizona in the sum of ten thousand
7 dollars conditioned for the faithful performance of all sales
8 contracts or agreements and guaranteeing payment of all outstanding
9 taxes and fees. The surety of any such bond may cancel such bond upon
10 giving notice in writing to the department and the aircraft dealer
11 sixty days before the cancellation date. Thereafter the surety shall
12 be relieved of liability for any breach of conditions occurring after
13 the cancellation date. When a surety shall have any cause to cancel
14 the bond of an aircraft dealer and gives notice thereof, the department
15 shall immediately notify such aircraft dealer by certified mail
16 addressed to the last known address of the aircraft dealer, that the
17 aircraft dealer shall discontinue sales until such time as a new bond
18 meeting the qualifications of this section is filed with the department.
19 THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO AIRCRAFT
20 DEALERS ENGAGED PRIMARILY IN THE SALE OF NEW OR USED LIGHTER-THAN-AIR
21 AIRCRAFT. FOR THE PURPOSES OF THIS SECTION, "LIGHTER-THAN-AIR AIRCRAFT"
22 MEANS AN AIRCRAFT THAT CAN RISE AND REMAIN SUSPENDED BY USING CONTAINED
23 GAS WHOSE MOLECULAR WEIGHT IS LESS THAN THE MOLECULAR WEIGHT OF THE AIR
24 DISPLACED BY SUCH GAS.

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 82

SENATE BILL 1168

AN ACT

RELATING TO CRIMES; PROHIBITING RETENTION OF VEHICLES LEASED FOR THIRTY-ONE DAYS OR LESS, AND AMENDING SECTION 13-677, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-677, Arizona Revised Statutes, is
3 amended to read:

4 13-677. Unlawful failure to return rented vehicle;
5 notice

6 A. It shall be unlawful for any person, without notice to and
7 permission of the lessor of a motor vehicle leased for a period of
8 ~~less than thirty~~ THIRTY-ONE days OR LESS, to fail without good cause
9 to return such motor vehicle within seventy-two hours after the time
10 provided for such return in a rental agreement.

11 B. The lessor shall include within the rental agreement, in
12 bold print, clear written notice to the lessee of the date and time
13 on which return of the motor vehicle is required and of the penalties
14 to which he shall be subject upon failure to return the motor vehicle
15 within seventy-two hours of that date and time.

16 C. It shall be a defense to prosecution under this section
17 that the defendant was physically incapacitated and unable to request
18 or obtain permission of the lessor to retain the vehicle or that the
19 vehicle itself was in such a condition, through no fault of the de-
20 fendant, that it could not be returned to the lessor within such time.

21 D. Any person who commits an unlawful act under this section
22 shall be punished by imprisonment in the state prison for not less
23 than one nor more than three years, or by imprisonment in a county
24 jail for not to exceed six months, or by a fine not exceeding five
25 hundred dollars or by both such fine and imprisonment.

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Thirty-second Legislature
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CHAPTER 83

SENATE BILL 1211

AN ACT

RELATING TO HIGHWAYS; PROVIDING THAT QUALIFIED ELECTORS FOR CERTAIN ELECTIONS NEED NOT BE REAL PROPERTY TAXPAYERS; PROVIDING THAT THE SPECIAL ROAD DISTRICT TAX LEVY BE MADE UPON ALL REAL PROPERTY AND MOBILE HOMES WITHIN THE DISTRICT, AND AMENDING SECTIONS 18-251, 18-252, 18-256, 18-257, 18-260, 18-261 AND 18-263, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 18-251, Arizona Revised Statutes, is amended
3 to read:

4 18-251. Petition to form district; call for election

5 A. Special road districts may be formed when a petition, signed
6 by twenty-five taxpayers within a proposed district, not more than ten
7 miles in length nor more than one mile in width, is presented to the
8 board of supervisors of a county requesting the formation of a special
9 road district under the provisions of this article, and defining the
10 boundaries of the proposed district.

11 B. Upon presentation of the petition, the board shall within
12 twenty days call an election of the qualified electors ~~who are real~~
13 ~~property-taxpayers~~ within the proposed district to vote upon the forma-
14 tion of the district.

15 C. Notice of the time, place and purpose of the election shall
16 be posted in three public places in the proposed district and at the
17 front door of the court house of the county in which the proposed dis-
18 trict is located at least ten days before the election.

19 D. The election shall be conducted as nearly as possible as
20 prescribed by law for school bond elections, except that the board
21 shall select the clerks and judges of election from among the electors
22 within the district.

23 Sec. 2. Section 18-252, Arizona Revised Statutes, is amended
24 to read:

25 18-252. Qualifications of voters; ballots

26 A. No person shall vote at the election or at any election held
27 in the district unless he is a qualified elector of the district; AND

1 has resided within the district for not less than thirty days next
 2 preceding the election ~~and-is-a-real-property-taxpayer-within-the-district.~~

3 B. The ballots at such election shall contain the words "For special
 4 road district", "yes" and "no", with the words "yes" and "no" followed by
 5 a square in which the voter may express his choice by marking a cross. The
 6 election officers shall make return of the election to the board of super-
 7 visors who shall canvass the return and declare the result.

8 Sec. 3. Section 18-256, Arizona Revised Statutes, is amended to
 9 read:

10 18-256. Special road tax; limitation on amount; election
 11 to exceed limits

12 A. For the purpose of construction, maintenance and repair of the
 13 roads, driveways, highways and bridges within the special road district,
 14 a special road tax shall be levied on all ~~taxable-lands~~ REAL PROPERTY
 15 AND MOBILE HOMES within the district. The board of trustees shall on
 16 or before July 1 in each year certify to the board of supervisors the
 17 amount of money required by the district for the ensuing fiscal year,
 18 and thereupon the board of supervisors shall levy a special tax upon all
 19 ~~taxable-lands~~ REAL PROPERTY AND MOBILE HOMES within the district suffi-
 20 cient to produce the amount so certified, not exceeding seventy-five cents
 21 per one hundred dollars of assessed valuation of the ~~lands~~ REAL PROPERTY
 22 AND MOBILE HOMES in the district, except as otherwise provided in this
 23 article.

24 B. The tax shall be levied and collected as county taxes are levied
 25 and collected, and when collected shall be kept by the county treasurer
 26 in a special fund designated "road district no. fund" to be paid
 27 out only on the order of the trustees of the district.

28 C. If it is deemed necessary or advisable by the board of trustees
 29 to expend for that purpose a larger amount annually for not exceeding five
 30 years than can be raised by the taxes provided by this section, it shall
 31 call a special election of qualified electors ~~who-are-real-property-tax-~~
 32 ~~payers~~ of the district to determine whether a greater tax levy shall be
 33 made annually for that period.

34 D. The election shall be called by the board of trustees by post-
 35 ing notice thereof in three public places in the district and at the front
 36 door of the court house at least ten days before the election, stating
 37 the time, place and purpose of the election.

38 E. The ballots at the election shall have printed on them "For a tax
 39 levy to produce the sum of (here insert amount desired) dollars annually
 40 for _____ years", "Yes" and "No", with the words "Yes" and "No" followed
 41 by a square in which the voter may express his choice by marking a cross.
 42 The election shall be conducted and canvassed as nearly as possible as
 43 elections of school trustees are conducted.

44 F. If two thirds of the votes cast at the election are in favor
 45 of increased tax levy, the board of supervisors shall levy annually for
 46 the period of the annual expenditures upon all ~~the-taxable-lands~~ REAL
 47 PROPERTY AND MOBILE HOMES of the district such a tax as will produce the
 48 amount voted, which shall be collected as other county taxes are collected
 49 and shall be placed to the credit of the road district.

1 Sec. 4. Section 18-257, Arizona Revised Statutes, is amended to
2 read:

3 18-257. Road improvement bonds; call for special
4 election

5 If it is deemed necessary or advisable by the board of trustees of
6 the district to expend in the construction or maintenance of roads, drive-
7 ways and highways within the district a larger amount of money than can be
8 raised by the seventy-five cent tax levy per one hundred dollars as speci-
9 fied in this article, the board of trustees may, in lieu of raising the
10 tax as provided by section 18-256, call an election and submit to the
11 qualified electors ~~who are real property taxpayers~~ of the district the
12 question of whether or not bonds of the district shall be issued and sold
13 to raise money to make road improvements within the district.

14 Sec. 5. Section 18-260, Arizona Revised Statutes, is amended to
15 read:

16 18-260. Issuance of bonds

17 A. The board of supervisors shall issue the bonds of the district
18 in the number and amount provided in the proceedings, payable from the
19 road fund of the district, naming the district. The money for redemption
20 of the bonds and payment of interest thereon shall be raised by taxation
21 upon all ~~taxable~~ REAL property AND MOBILE HOMES in the district.

22 B. The board of supervisors shall prescribe the form of the bonds
23 and the interest coupons attached thereto, and fix the time, not to
24 exceed twenty years from the date thereof, when the whole or any part
25 of the principal of the bonds shall be payable. The bonds shall bear
26 interest, payable semiannually, at the rate or rates set by the accepted
27 bid which shall not exceed the ~~minimum~~ MAXIMUM rate of interest set forth
28 in the resolution calling the election, and shall be sold in the manner
29 prescribed by the board of supervisors, but for not less than par. The
30 proceeds of the sale shall be deposited in the county treasury to the
31 credit of the road district, to be withdrawn for the purposes provided
32 by this article as other road district money is drawn.

33 Sec. 6. Section 18-261, Arizona Revised Statutes, is amended to
34 read:

35 18-261. Payment of bonds; tax levy

36 A. The board of supervisors, at the time of making the levy of
37 taxes for county purposes, shall levy a tax for that year upon ~~the tax-~~
38 ~~able~~ ALL REAL property AND MOBILE HOMES in the district for the interest
39 and redemption of the bonds for an amount sufficient to pay the interest
40 on the bonds for that year, for the portion of the principal becoming
41 due during that year, and in all events sufficient to raise annually for
42 the first half of the term of the bonds, an amount sufficient to pay the
43 interest thereon, and, during the balance of the term, sufficient to pay
44 the annual interest and also to pay annually a portion of the principal
45 of the bonds equal to a sum produced by taking the whole amount of the
46 bonds outstanding and dividing it by the number of years the bonds have
47 to run.

48 B. All taxes so levied, when collected, shall be paid into the
49 county treasury to the credit of the bond fund of the district to be used
50 solely for payment of principal and interest on the bonds. The principal

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1 and interest on the bonds shall be paid by the county treasurer on the
2 warrant of the board of trustees from funds provided therefor, and the
3 board of trustees shall cancel and file with the board of supervisors
4 the bonds when paid.

5 Sec. 7. Section 18-263, Arizona Revised Statutes, is amended to
6 read:

7 18-263. Dissolution of district

8 A. When a petition signed by twenty-five electors ~~who are real~~
9 ~~property taxpayers~~ within a special road district is presented to the
10 board of supervisors of the county in which the special road district is
11 located, requesting the dissolution of the district, the board shall,
12 within twenty days, call an election of the electors ~~and real property~~
13 ~~taxpayers~~ within the special road district to vote for or against the
14 dissolution of the district.

15 B. Notice of the time, place and purpose of the election shall be
16 posted, the election officers appointed, the election conducted, returned
17 and canvassed, and the ballots shall be similar in form, as prescribed
18 by this article for organization of a district.

19 C. If a majority of the votes cast at the election favor the dis-
20 solution, the board shall enter in their records an order declaring the
21 dissolution of the district, and from that time the district shall cease
22 to exist.

23 D. No special road district shall be dissolved until all outstand-
24 ing bonds and interest thereon have been paid in full.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 84

SENATE BILL 1240

AN ACT

RELATING TO MINERALS, OIL AND GAS; PROVIDING FOR AGGREGATION OF CERTAIN EXPLORATION EXPENSES ON CERTAIN CONTIGUOUS LANDS; PROVIDING FOR A REPORT ON CERTAIN DRILL HOLES AND WELLS AT TERMINATION OF PERMIT AND CONFIDENTIALITY THEREOF; PROVIDING A CREDIT FOR SUCCESSIVE ANNUAL PERIODS WHEN EXPENSES EXCEED REQUIREMENT FOR ANY ONE YEAR; PROVIDING FOR MONEY PAYMENT TO DEPARTMENT IN LIEU OF EXPENDITURES FOR EXPLORATION; PROVIDING FOR RENEWAL OF PERMIT, AND AMENDING SECTIONS 27-252 AND 27-253, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 27-252, Arizona Revised Statutes, is amended
3 to read:
4 27-252. Terms of mineral exploration permit
5 A. Every mineral exploration permit shall be for a term of one
6 year from the date of issuance, subject to renewals as provided in this
7 article for an aggregate of not to exceed five years from such date, and
8 shall give to the permittee the rights, subject to the terms and condi-
9 tions, as follows:
10 1. During the period the permit is in force and effect, the per-
11 mittee shall have the exclusive right to explore for minerals within
12 the state land covered by the permit, and to apply for and obtain a mineral
13 lease or leases to the land.
14 2. The permittee shall have those surface rights necessary for the
15 prospecting and exploration for mineral on the state land covered by the
16 permit, but may remove from the land only that amount of mineral required
17 by the permittee for sampling, assay and metallurgical testing purposes.
18 3. The permittee shall have the right of ingress to and egress
19 from the land covered by the permit across other state lands but only
20 along routes first approved by the commissioner.
21 4. The permittee shall be liable to and shall compensate the owner
22 and lessee of the surface of the state land covered by the permit, or
23 across which the permittee exercises the right of ingress and egress, for
24 any loss to such owner and lessee from damage or destruction caused by

1 the permittee, his or its agents or employees, to grasses, forage, crops
2 or improvements upon such state land.

3 5. The permit shall terminate automatically as of the end of any
4 annual period from and after the date of issuance thereof unless during
5 such annual period the permittee shall have expended in exploration for
6 valuable mineral deposits on the state land covered by the permit not
7 less than the amount per acre provided in this article OR PAID TO THE
8 DEPARTMENT A SUM EQUAL THERETO, and prior to expiration of such annual
9 period shall have filed with the department an application for renewal
10 for the ensuing annual period, and an affidavit showing such expenditure,
11 together with such other proof in support thereof as the commissioner
12 by regulation may prescribe. The amount to be so expended OR PAID TO
13 THE DEPARTMENT during each of the first two annual periods in which
14 such permit may be in effect shall be not less than ten dollars for each
15 acre of state land covered by the permit at the commencement of such
16 annual period, and the amount to be so expended OR PAID TO THE DEPARTMENT
17 during each of the last three annual periods in which such permit may
18 be in effect shall be not less than twenty dollars for each acre of
19 state land covered by the permit at the commencement of such annual
20 period. Prior to termination of any such annual period, the permittee
21 may, by instrument in writing filed with the department, release from
22 the permit the acreage covered thereby and contained within one or
23 more rectangular subdivisions of twenty acres, more or less, or lots,
24 according to the lines of the public land surveys.

25 6. WHEN A PERMITTEE HAS AN INTEREST IN ONE OR MORE CONTIGUOUS
26 PROPERTIES FOR WHICH HE OR SHE HOLDS A MINERAL EXPLORATION PERMIT, SUCH
27 PERMITTEE MAY GROUP SUCH PERMITS AND EXPEND THE SUM REQUIRED BY THIS
28 ARTICLE UNDER A COMMON PLAN OF DEVELOPMENT ON ONE OR MORE OF THE PROPERTIES
29 FOR THE BENEFIT OF ALL IF THE TOTAL AREA OF SUCH CONTIGUOUS PROPERTY
30 SHALL NOT EXCEED THREE MILES ON A SIDE.

31 7. UPON TERMINATION OF THE MINERAL EXPLORATION PERMIT, OTHER THAN
32 BY ISSUANCE OF A MINERAL LEASE, THE PERMITTEE SHALL SUBMIT TO THE DEPART-
33 MENT THE FOLLOWING INFORMATION, WHICH SHALL NOT INCLUDE ANY CHEMICAL
34 ANALYSIS OR OTHER IDENTIFICATION OF MINERALS, CONCERNING ANY DRILL HOLES
35 OR WELLS DRILLED ON STATE LAND COVERED BY THE PERMIT:

- 36 (a) TOTAL DEPTH.
37 (b) LITHOLOGIES AND DEPTHS OF LITHOLOGIC BOUNDARIES ENCOUNTERED
38 IN THE HOLE.
39 (c) LOGS OF SURVEYS MADE OF THE HOLE INCLUDING GAMMA RAY, RESIS-
40 TIVITY, CALIPER AND DEVIATION SURVEYS.

41 8. DRILL HOLE INFORMATION SHALL BE CONFIDENTIAL FOR ONE YEAR
42 AFTER TERMINATION OF THE PERMIT AND SUCH PERIOD OF CONFIDENTIALITY SHALL
43 BE EXTENDED FOR AN ADDITIONAL YEAR UPON THE REQUEST OF THE PERMITTEE.

44 9. ANY EXPENDITURES IN EXPLORATION FOR VALUABLE MINERAL DEPOSITS
45 MADE IN EXCESS OF THE REQUIREMENTS OF THIS ARTICLE DURING ANY ANNUAL
46 PERIOD OF THE PERMIT MAY BE CREDITED AGAINST EXPENDITURE REQUIREMENTS
47 OF SUCCESSIVE ANNUAL PERIODS OF THE PERMIT.

48 10. IN LIEU OF MAKING EXPENDITURES IN EXPLORATION, THE PERMITTEE
49 MAY ELECT TO MAKE A MONEY PAYMENT OF THE AMOUNTS REQUIRED FOR EXPENDITURES
50 IN EXPLORATION FOR VALUABLE MINERAL DEPOSITS TO THE DEPARTMENT.

1 B. Upon any partial or total relinquishment, or the cancellation
 2 or expiration of the permit other than by issuance of mineral lease, the
 3 permittee shall fill any holes, ditches or other excavations, as may be
 4 required by the commissioner and so far as reasonably possible, restore
 5 the surface to its former condition.

6 C. As used in this article, the term "exploration" shall mean
 7 activity conducted upon the state land covered by an exploration permit
 8 to determine the existence or nonexistence of a valuable mineral deposit,
 9 including but not limited to geological, geochemical or geophysical
 10 surveys conducted by qualified experts, and drilling, sampling and excava-
 11 tion, together with the costs of assay and metallurgical testing of samples
 12 from such land.

13 Sec. 2. Section 27-253, Arizona Revised Statutes, is amended
 14 to read:

15 27-253. Renewal of permit

16 The holder of an exploration permit may, prior to expiration of the
 17 annual period for which such permit was issued, or prior to expiration of
 18 the annual period for which such permit was renewed, file with the depart-
 19 ment an application for renewal of such permit for the ensuing annual
 20 period. No such application for renewal shall be filed, nor shall the
 21 permit be renewed, for more than four successive annual periods following
 22 expiration of the annual period for which such permit was issued. No
 23 rental shall be payable for the first annual period for which a permit
 24 may be renewed. The rental for each of the three subsequent annual
 25 periods following the first annual period for which a permit may be re-
 26 newed shall be one dollar for each acre of state land for which the appli-
 27 cation for renewal is filed. Upon receipt by the department of the appli-
 28 cation for renewal, and the affidavit of expenditure of the required amount
 29 in exploration during the current annual period OR A SUM EQUAL THERETO,
 30 together with such other proof in support of such expenditure as the
 31 commissioner by regulation may prescribe, and payment to the department
 32 of the rental for the ensuing annual period, all prior to expiration of
 33 the current annual period, the commissioner shall issue a renewal of the
 34 permit for the ensuing annual period.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

HOUSE BILL 2313

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; REGULATING VEHICLE FLEET EMISSION INSPECTIONS AND INSPECTION STATIONS; PRESCRIBING VEHICLES EXEMPT FROM EMISSIONS INSPECTION, AND AMENDING SECTIONS 36-1771, 36-1772, 36-1773, 36-1774, 36-1776, 36-1777, 36-1778 AND 36-1779, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 36-1771, Arizona Revised Statutes, is amended
3 to read:
4 36-1771. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Certificate of inspection" means a serially numbered,
7 adhesive-sticker, device, or symbol, as may be prescribed by the
8 director, indicating THAT a vehicle has BEEN INSPECTED PURSUANT TO
9 THE PROVISIONS OF SECTION 36-1776, PRIOR TO JANUARY 1, 1977. AFTER
10 JANUARY 1, 1977 IT WILL INDICATE THAT THE VEHICLE INSPECTED, PURSUANT
11 TO THE PROVISIONS OF SECTION 36-1776, HAS passed inspection.
12 2. "Department" means the department of health services.
13 3. "Director" means the director of the department of health
14 services.
15 4. "Fleet emissions inspection station" means any inspection
16 facility operated under a permit issued to a qualified fleet owner or
17 lessee as determined by the director.
18 5. "Independent contractor" means any person, business firm,
19 partnership or corporation with whom the director may enter into an
20 agreement providing for the construction, equipment, maintenance, per-
21 sonnel, management and operation of official emissions inspection stations
22 pursuant to section 36-1717, subsection B.
23 6. "Official emissions inspection station" means an inspection
24 facility, other than a fleet emissions inspection station, whether
25 placed in a permanent structure or in a mobile unit for conveyance
26 among various locations within this state, for the purpose of conducting
27 emission inspections of all vehicles required to be inspected pursuant
28 to this article.

1 7. "Vehicle" means any automobile, truck, truck tractor, motor
2 bus or any self-propelled or motor-driven vehicle registered or to be
3 registered in this state and used upon the public highways of this state
4 for the purpose of transporting persons or property, except implements
5 of husbandry, roadrollers or road machinery temporarily operated upon
6 the highway.

7 8. "Emissions inspection station permit" means a certificate
8 issued by the director authorizing the holder to perform vehicular in-
9 spections pursuant to this article.

10 Sec. 2. Section 36-1772, Arizona Revised Statutes, is amended to
11 read:

12 36-1772. Annual emissions inspection program; powers and
13 duties of the director; administration; periodic
14 inspection; minimum standards, rules and regulations

15 A. The director shall administer a comprehensive annual emissions
16 inspection program which shall require the inspection of vehicles in this
17 state in accordance with the provisions of law ~~or~~ AND administrative
18 regulations pursuant to this article. Such inspection shall commence
19 in counties with a population in excess of three hundred fifty thousand
20 by January 1, 1976. Inspection in other counties of the state ~~will~~ SHALL
21 commence when required by the director to meet air pollution control
22 standards or upon application by a county board of supervisors for
23 participation in such inspection program, subject to approval by the
24 director.

25 B. The state's annual emissions inspection program shall provide
26 for vehicle inspections at official emissions inspection stations or at
27 fleet emissions inspection stations. An official or fleet emissions
28 inspection station permit shall not be sold, assigned, transferred,
29 conveyed or removed to another location except on such terms and condi-
30 tions as the director may prescribe.

31 C. Vehicles required to be inspected and registered in this state,
32 except those provided for in section 36-1776, shall be inspected in
33 accordance with the provisions of this article at only the following
34 times:

35 1. No more than thirty days prior to each reregistration, or

36 2. For vehicles under section 36-1776, at least once within each
37 twelve-month period following any original registration or reregistration.

38 D. PRIOR TO JANUARY 1, 1977 A- a vehicle shall not be REGISTERED
39 OR reregistered until such vehicle HAS BEEN INSPECTED. AFTER JANUARY 1,
40 1977 A VEHICLE SHALL NOT BE REGISTERED OR REREGISTERED UNTIL SUCH VE-
41 HICLE has passed inspection and if said SUCH vehicle to be REGISTERED
42 OR reregistered is being sold by a dealer licensed to sell used motor
43 vehicles pursuant to title 28, the cost of the inspection and any
44 repairs necessary to pass said SUCH inspection shall be borne by the
45 dealer.

46 E. The director shall adopt minimum emissions standards pursuant
47 to section 36-1717 with which the various classes of vehicles shall be
48 required to comply AFTER JANUARY 1, 1977. ~~as-a-condition-of-being~~
49 ~~properly-certificated.~~

1 F.--An official emissions inspection certificate shall be issued
2 by the director for each vehicle which meets and passes the annual
3 inspection requirements of this article.--The design of the certificate
4 shall be prescribed by the director and such certificate shall be main-
5 tained in the manner and location prescribed by the director.

6 G.--No official emissions inspection certificate shall be issued,
7 placed or displayed upon any vehicle until it has been inspected pursuant
8 to this article and found to comply with the minimum standards adopted
9 pursuant to section 36-1717, for controlling the release of contaminants
10 from vehicles into the atmosphere.

11 H. F. The director is empowered to adopt such rules and regula-
12 tions for purposes of implementation, administration, regulation and
13 enforcement of the provisions of this article including:

14 1. The submission of records relating to the emissions inspection
15 of vehicles inspected by another jurisdiction in accordance with another
16 inspection law and the acceptance of such inspection for compliance with
17 the provisions of this article.

18 2. The exemption from inspection of:

19 (a) Vehicles which are temporarily or permanently immobilized
20 and placed on privately-owned lands.

21 (b) A motor vehicle over fifteen years old.

22 (c) New vehicles originally registered at time of initial retail
23 sale and titling in this state pursuant to section 28-302.

24 (d) THE SALE OF VEHICLES BETWEEN PRIVATE INDIVIDUALS.

25 (e) THE SALE OF VEHICLES AT PRIVATE OR PUBLIC AUCTIONS.

26 (f) THE SALE OF DERELICT VEHICLES.

27 3. Governmental entity's vehicles for inspection in accordance
28 with the standards adopted by the director although such vehicles may
29 not be required to be registered in this state.

30 4. The reinspection and recertification of any vehicle registered
31 or operated in this state, following its involvement in an accident,
32 mishap or collision.

33 5. Compiling and maintaining records of emissions test results
34 after servicing.

35 6. Any other rule or regulation which may be required to accom-
36 plish the provisions of this article.

37 G. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, THE
38 DIRECTOR MAY PROMULGATE RULES AND REGULATIONS ALLOWING EXEMPTIONS FROM
39 THE REQUIREMENT THAT ALL VEHICLES MUST MEET THE MINIMUM STANDARDS FOR
40 REGISTRATION OR REREGISTRATION.

41 Sec. 3. Section 36-1773, Arizona Revised Statutes, is amended to
42 read:

43 36-1773. Emission inspection fees; composition and disposition

44 A. The director shall fix, regulate and alter in accordance with
45 this section, the fees, not to exceed five dollars per inspection, re-
46 quired to be paid for the inspection of every vehicle inspected pursu-
47 ant to this article.

48 B. The director shall fix the fees, not to exceed five dollars
49 per inspection. Such fees shall be originally fixed and thereafter
50 adjusted by the director to reflect the contractual charge payable to

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1 any independent contractor as well as increase or decrease in the costs
2 to the state of providing and administering emissions inspection services.

3 C. The fees charged for official emissions inspection shall be
4 uniform as applied to each class of vehicle which shall be defined by
5 the director. Except for fees collected by the director pursuant to
6 section 36-1776, the inspection fee shall be collected with the regis-
7 tration fee by the county assessor at the time and place of motor vehicle
8 registration pursuant to title 28, chapter 3, article 1, and:

9 1. The assessor of each county is constituted an agent of the
10 department of transportation for the collection of the emissions inspec-
11 tion fee.

12 2. All monies received from inspection fees by the county assessor
13 shall be immediately transferred by the collecting officer to the ~~director~~
14 ~~of the department of transportation~~ STATE TREASURER and by him to the
15 emissions inspection fund.

16 D. Any person whose vehicle has been inspected at an official
17 emissions inspection station shall, if such vehicle was not found to
18 comply with the minimum standards, have his vehicle repaired and have
19 the right within thirty consecutive calendar days but not thereafter to
20 return such vehicle for one reinspection without charge.

21 E. THE DEPARTMENT SHALL ISSUE CERTIFICATES OF INSPECTION TO OWNERS
22 OF FLEET EMISSION INSPECTION STATIONS. EACH CERTIFICATE SHALL BE VALI-
23 DATED BY THE FLEET EMISSION INSPECTION STATIONS IN A MANNER REQUIRED
24 BY THE DIRECTOR AT THE TIME THAT EACH OWNER'S FLEET VEHICLE HAS BEEN
25 INSPECTED OR HAS PASSED INSPECTION. THE VALIDATED CERTIFICATE OF
26 INSPECTION SHALL INDICATE AT THE TIME OF REGISTRATION THAT THE OWNER'S
27 FLEET VEHICLE HAS BEEN INSPECTED PRIOR TO JANUARY 1, 1977. AFTER JANUARY
28 1, 1977 IT WILL INDICATE THAT THE VEHICLE HAS PASSED INSPECTION.

29 F. The director shall fix an emissions inspection fee before
30 inspection certificates may be issued to the owner of any fleet emissions
31 inspection station. Such fee shall be uniform for each inspection certi-
32 ficate issued and shall be based upon the director's estimated costs
33 to the state of administering and enforcing the provisions of this
34 article as they apply to fleet emissions inspection stations and the
35 vehicles inspected therein. The director shall promptly transmit all
36 such monies collected by him pursuant to this article to the state
37 treasurer who shall deposit them in the emissions inspection fund.

38 Sec. 4. Section 36-1774, Arizona Revised Statutes, is amended to
39 read:

40 36-1774. Emissions inspection fund, composition;
41 authorized expenditures; exemptions;
42 investment

43 A. There is established an emissions inspection fund which shall
44 consist of:

45 1. Money appropriated thereto by the legislature.

46 2. All money remitted by owners of vehicles which is collected
47 for emissions inspection.

48 3. All money collected by the director for the issuance of in-
49 spection certificates to owners of fleet emissions inspection stations.

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1 4. Money received from private grants or donations when so
2 designated by the grantor or donor.

3 5. Money received from the United States by grant or otherwise
4 to assist the state in any emissions inspection program.

5 B. The director of THE DEPARTMENT OF administration shall approve
6 properly certified claims submitted by the department of ~~administration~~
7 HEALTH SERVICES for enforcement of the provisions of this article. When
8 such claims for reimbursement are approved by the director OF THE DEPART-
9 MENT OF ADMINISTRATION and transmitted to the state treasurer, he shall
10 transfer the amounts claimed to the director of the department of health
11 services.

12 C. No monies in the emissions inspection fund shall revert to
13 the general fund or the department of health services and such monies
14 shall be exempt from the provision of section 35-190, relating to lapsing
15 of appropriations until January 1, 1981.

16 D. The state treasurer may invest inactive monies in the emissions
17 inspection fund in United States government bonds or interest-bearing
18 notes and other interest-bearing obligations of the United States for
19 which the full faith and credit of the United States is pledged. All
20 interest earned on emissions inspection fund monies shall be credited by
21 the state treasurer to the emissions inspection fund.

22 Sec. 5. Section 36-1776, Arizona Revised Statutes, is amended
23 to read:

24 36-1776. Fleet emissions inspection stations; certificates
25 of inspection; dealer's inventory; investigations;
26 revocation of permit

27 A. Any registered owner or lessee of a fleet of at least twenty-
28 five vehicles may apply to the director for a permit to establish a
29 fleet emissions inspection station. The director shall not issue any
30 fleet emissions inspection station permit until he has found that the
31 applicant:

32 1. Maintains an established place of business for the repair
33 and maintenance of applicant's fleet of vehicles.

34 2. Has obtained approved machinery, tools and equipment to
35 adequately conduct the required emissions inspections, EXCEPT THAT
36 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, OR RULES OR REG-
37 ULATIONS PROMULGATED HEREUNDER, FLEET EMISSION INSPECTION STATIONS SHALL
38 BE PERMITTED TO INSPECT VEHICLES OWNED OR LEASED BY THE FLEET EMISSION
39 INSPECTION STATIONS, BY USING EITHER AN IDLE TEST CONDITION OR A LOADED
40 TEST CONDITION.

41 3. Employs properly trained and licensed personnel with which
42 to perform the necessary labor.

43 4. Agrees to provide data as may be prescribed by the director.

44 B. Any operator of a fleet emissions inspection station
45 under a valid permit shall, upon filing an application in the
46 manner and form prescribed by the director and paying the pre-
47 scribed fee, receive a sufficient number of certificates of inspec-
48 tion for each vehicle in applicant's fleet. No certificate of
49 inspection shall be ISSUED ~~placed on or~~ affixed to any fleet vehicle
50 until it has been inspected and found to comply with APPLICABLE
51 REGULATIONS. ~~all the minimum standards that such vehicle would be~~

1 ~~required to meet at any official emissions inspection station.~~

2 C. No holder of a fleet emissions inspection station permit shall
3 inspect or certificate any vehicle for which such permittee is not the
4 registered owner or lessee, unless authorized by the director.

5 D. Vehicles owned by a licensed vehicle dealer and which are held
6 for resale as a part of the dealer's business inventory shall be deemed
7 a part of such dealer's vehicle fleet for purposes of this section.

8 E. Every vehicle over eight thousand pounds subject to the provi-
9 sions of this section and registered in this state shall be inspected in
10 accordance with the provisions of this article at least once within each
11 twelve-month period following any original registration or reregistration.
12 A vehicle shall not be REGISTERED OR reregistered until such vehicle has
13 BEEN INSPECTED PRIOR TO JANUARY 1, 1977. AFTER JANUARY 1, 1977 NO
14 VEHICLE THAT IS SUBJECT TO THE PROVISIONS OF THIS SECTION MAY BE REGIS-
15 TERED OR REREGISTERED UNTIL SUCH VEHICLE HAS passed inspection.

16 F. The director shall investigate the operation of each fleet
17 emissions inspection station as the conditions and circumstances of
18 such operation may indicate. He may require the holder of any fleet
19 permit to submit such documentation required concerning the operation
20 of such inspection station. The director may revoke and require the
21 surrender and forfeiture of any fleet emissions inspection station
22 permit and certificates of inspection of such permittee if he finds
23 that such station is not operated in accordance with this article and
24 the lawful rules and regulations adopted by the director or the holder
25 of such permit has failed or refused to submit records or documentation
26 required.

27 Sec. 6. Section 36-1777, Arizona Revised Statutes, is amended to
28 read:

29 36-1777. Authority of director to acquire enforcement
30 equipment; random vehicle tests

31 A. The director may acquire in the name of the state by purchase,
32 donation, dedication or other lawful means any special equipment, tools,
33 materials or facilities needed to adequately administer, investigate or
34 enforce the provisions of this article.

35 B. Any highway patrolman, any police officer or any peace officer
36 may use any equipment, tools, materials or facilities, approved by the
37 director, available to him for the purpose of conducting random investi-
38 gative tests to check the compliance of any vehicle with the inspection
39 standards. To facilitate such random investigative tests, any highway
40 patrolman, any police officer or any peace officer may require the
41 driver of any vehicle to stop and submit such vehicle to a test to check
42 its compliance with any of the standards adopted pursuant to section
43 36-1717.

44 Sec. 7. Section 36-1778, Arizona Revised Statutes, is amended
45 to read:

46 36-1778. Improper representation

47 A. A person shall not in any manner represent any place to be an
48 official or fleet emissions inspection station unless such station has
49 been established and is operated under a valid permit issued by the
50 director.

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1 B. A certificate of inspection shall not be issued ~~or affixed~~ to
2 any vehicle except ~~at an official or~~ BY A fleet emissions inspection
3 station established and operating under a valid permit issued by the
4 director. All certificates of inspection shall be serially numbered
5 and shall be strictly accounted for.

6 Sec. 8. Section 36-1779, Arizona Revised Statutes, is amended
7 to read:

8 36-1779. False certificates

9 A. A person shall not make, issue or knowingly use any imitation
10 or counterfeit of an official certificate of inspection.

11 B. A person shall not ISSUE ~~display~~ or cause or permit to be ISSUED
12 ~~displayed upon~~ FOR any vehicle any certificate of inspection knowing it
13 to be fictitious or issued for another vehicle or issued without an
14 inspection having been made.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 86

HOUSE BILL 2146

AN ACT

RELATING TO PUBLIC UTILITIES AND CARRIERS; AUTHORIZING COUNTIES, CITIES AND TOWNS TO PROVIDE PUBLIC TRANSPORTATION SERVICES; PROVIDING FOR INTERGOVERNMENTAL AGREEMENTS AND CONTRACTS; AUTHORIZING THE LEVYING OF CHARGES FOR TRANSPORTATION SERVICES, AND AMENDING TITLE 40, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 40, chapter 6, Arizona Revised Statutes, is
3 amended by adding article 5, sections 40-1151 and 40-1152, to read:

4 ARTICLE 5. INTERGOVERNMENTAL CONTRACT
5 AND AGREEMENTS FOR PUBLIC TRANSPORTATION SERVICES
6 40-1151. Definitions

7 FOR THE PURPOSES OF THIS ARTICLE, PUBLIC TRANSPORTATION SERVICES
8 MEANS THE LOCAL TRANSPORTATION OF PASSENGERS AND THEIR INCIDENTAL BAG-
9 GAGE BY MEANS OF A PUBLIC CONVEYANCE, INCLUDING PERSONALIZED PUBLIC
10 TRANSIT, JITNEY BUSES OR CONVEYANCES, COMMUTER BUSES, OTHER SUCH
11 SYSTEMS AND EXCLUDING SIGHTSEEING BUSES AND TAXI SERVICES.

12 40-1152. Public transportation services; contracts and
13 agreements; fares and service charges; bud-
14 get expenditure and levy exception; educa-
15 tional institutions; financial grants

16 A. IN ADDITION TO OTHER AUTHORITY GRANTED PURSUANT TO TITLES 9,
17 11 AND 40, OR CITY CHARTER, ANY COUNTY OR INCORPORATED CITY OR TOWN
18 MAY PROVIDE PUBLIC TRANSPORTATION SERVICES DIRECTLY OR BY CONTRACT WITH
19 A PRIVATE PARTY, COMMON OR CONTRACT CARRIER OR PUBLIC SERVICE CORPORA-
20 TION, WITHIN OR WITHOUT THE CORPORATE LIMITS, WITHIN OR WITHOUT THE
21 COUNTY BOUNDARIES, OR TO ANY PORTION THEREOF AS DETERMINED BY THE
22 BOARD OF SUPERVISORS OR THE MAYOR AND COUNCIL AND MAY EXPEND PUBLIC
23 FUNDS FOR SUCH PURPOSES.

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1 B. ANY COUNTY, CITY OR TOWN MAY, BY RESOLUTION, PROVIDE FOR A
2 SYSTEM OF FARES OR SERVICE CHARGES TO DEFRAY ALL OR PART OF THE COSTS
3 OF PROVIDING PUBLIC TRANSPORTATION SERVICES. ANY LEVY OR EXPENDITURES
4 FOR SUCH SERVICES SHALL BE EXEMPT FROM THE PROVISIONS OF TITLE 42,
5 CHAPTER 2, ARTICLE 4.

6 C. ANY COUNTY, CITY OR TOWN MAY ENTER INTO CONTRACTS OR AGREEMENTS
7 PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3, TO PROVIDE PUBLIC TRANSPORTA-
8 TION SERVICES ON A COOPERATIVE OR CONTRACT BASIS WITH ONE ANOTHER, OR MAY
9 JOINTLY FORM A NONPROFIT CORPORATION TO CARRY OUT PUBLIC TRANSPORTATION
10 SERVICES IN THEIR BEHALF DIRECTLY OR BY CONTRACT WITH A PRIVATE PARTY,
11 CONTRACT OR COMMON CARRIER OR PUBLIC SERVICE CORPORATION.

12 D. IN ADDITION TO OTHER PROVISIONS OF LAW, SCHOOL DISTRICTS,
13 UNIVERSITIES OR COLLEGES MAY ENTER INTO CONTRACTS OR AGREEMENTS WITH
14 CITIES, TOWNS, COUNTIES, ANY COMBINATION THEREOF, OR A NONPROFIT CORPORA-
15 TION CREATED BY SUCH UNITS OF GOVERNMENT TO PROVIDE PUBLIC TRANSPORTATION
16 SERVICES DIRECTLY OR BY CONTRACT WITH A PRIVATE PARTY, CONTRACT OR COMMON
17 CARRIER OR PUBLIC SERVICE CORPORATION. SUCH AGREEMENTS MAY INCLUDE PRO-
18 VISIONS FOR THE SALE OF SCHOOL BUSES TO SUCH ENTITIES FOR THE PURPOSE OF
19 PROVIDING JOINT SCHOOL AND PUBLIC TRANSPORTATION AND FOR REASONABLE
20 CHARGES FOR TRANSPORTATION OF THE GENERAL PUBLIC BY SCHOOL DISTRICTS,
21 UNIVERSITIES OR COLLEGES PROVIDED ADEQUATE LIABILITY INSURANCE HAS BEEN
22 OBTAINED.

23 E. ANY COUNTY, CITY OR TOWN OR A NONPROFIT CORPORATION CREATED
24 BY SUCH UNITS OF GOVERNMENTS MAY ACCEPT GRANTS, CONTRIBUTIONS, OR LOANS
25 FROM THIS STATE OR THE UNITED STATES, OR ANY INSTRUMENTALITY THEREOF,
26 FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT,
27 OPERATION AND MAINTENANCE OF A PUBLIC TRANSPORTATION SERVICE SYSTEM
28 DIRECTLY OR BY CONTRACT WITH A PRIVATE PARTY, CONTRACT OR COMMON CARRIER
29 OR PUBLIC SERVICE CORPORATION.

30 F. NOTHING CONTAINED IN THIS ARTICLE SHALL PERMIT OR BE CONSTRUED
31 TO PERMIT A REGIONAL COUNCIL OF GOVERNMENTS OR A REGIONAL PLANNING AGENCY
32 CREATED PURSUANT TO A JOINT EXERCISE OF POWERS AGREEMENT OR PURSUANT TO
33 NONPROFIT CORPORATION STATUTES TO PROVIDE PUBLIC TRANSPORTATION SERVICES
34 NOR TO OPERATE SUCH SERVICES CONTRARY TO THE PROVISIONS OF SECTION 9-519.

35 Sec. 2. Emergency

36 To preserve the public peace, health and safety it is necessary
37 that this act become immediately operative. It is therefore declared
38 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 87

HOUSE BILL 2165

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; PRESCRIBING FEES TO BE CHARGED BY
STATE BOARD OF COSMETOLOGY, AND AMENDING SECTIONS 32-526, 32-527 AND
32-530, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-526, Arizona Revised Statutes, is amended
3 to read:
4 32-526. Licensing of cosmetology shop
5 A. A cosmetology shop is entitled to receive a license to operate
6 as such if it meets and maintains the following requirements:
7 1. Files with the board an application in writing on forms supplied
8 by the board and accompanied by a license fee ~~of twenty-five dollars~~ AS
9 PRESCRIBED BY SECTION 32-530.
10 2. Is located in a building or structure occupying either the whole
11 thereof, or separated from the remainder of the building if not occupying
12 the whole thereof.
13 3. It maintains hot and cold running water and a separate rest
14 room for the use of its patrons.
15 4. It complies with the rules and regulations issued by the board.
16 B. The applicant, if an individual, as well as the officers,
17 managers and directors thereof if a corporation or partnership, shall
18 be persons of good moral character and temperate habits.
19 Sec. 2. Section 32-527, Arizona Revised Statutes, is amended to
20 read:
21 32-527. Licensing of cosmetology school
22 A. A school of cosmetology is entitled to receive a license to
23 operate as such and to teach cosmetology, manicuring and finger waving,
24 if it fulfills and maintains the following requirements:

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1 1. It files with the board an application in writing on forms
2 supplied by the board and accompanied by a fee of ~~one-hundred-twenty-~~
3 ~~five-dollars~~ AS PRESCRIBED BY SECTION 32-530.

4 2. It requires that all students enrolling should be of good
5 moral character, have completed two years of high school education, or
6 its equivalent, and have submitted a medical certificate and two photo-
7 graphs.

8 3. It offers a course of instruction which shall include basic
9 fundamentals, theories and practical applications of the science and
10 practice of cosmetology, histology of the hair, skin, muscles and nerves,
11 structure of the head, face, neck, arms and hands, elementary chemistry
12 relating to sterilization and antiseptics, diseases and conditions of
13 the skin, hair, and glands and the four electrical currents used in the
14 science of cosmetology.

15 4. That before a student is entitled to a certificate of gradua-
16 tion, the student shall complete a full school course of eighteen hundred
17 hours of instruction in cosmetology to be completed within not less than
18 nine months nor more than fifteen months and with not more than eight
19 hours of instruction in any one training day, and successfully passes the
20 school examinations in all phases of cosmetology EXCEPT THAT THE BOARD
21 MAY FOR GOOD CAUSE SHOWN IN HARDSHIP CASES WAIVE THE FIFTEEN MONTH COM-
22 PLETION PERIOD.

23 5. It furnishes to the board and maintains in force a bond in the
24 penal sum of five thousand dollars running in favor of the state with
25 surety by a corporate bonding company authorized to do business in this
26 state and conditioned that the school licensed under this chapter shall
27 afford to its students the full course of instruction required under
28 this chapter, in default of which the full amount of the tuition paid
29 by the student shall be refunded.

30 6. It has and maintains sufficient beauty equipment and other
31 equipment so as to train properly all the students enrolled in its course
32 in the use, function and operation of the beauty equipment which is at
33 the time in use in the fields of cosmetology.

34 7. It provides:

35 (a) Separate lecture or classrooms.

36 (b) Locker spaces for students.

37 (c) An area appropriate in size for the placement of the training
38 equipment.

39 (d) Separate rest room facilities for male and female students.

40 B. No part of any area used for school purposes shall be used at
41 any time for residential, sleeping or cooking purposes, and there shall
42 be a separate entrance to a school if the school is located in any
43 building or structure used also for residential or eating purposes.

44 C. Schools having a registered student body enrollment up to twenty
45 students shall provide one licensed instructor and for each additional
46 twenty students enrolled, or any fraction thereof, the school shall pro-
47 vide one additional instructor.

48 Sec. 3. Section 32-530, Arizona Revised Statutes, is amended to
49 read:

50 32-530. Fees

51 The board shall charge the following fees:

52 1. Examining applicant to practice as cosmetologist, fifteen
53 dollars.

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- 1 2. Issuing license as cosmetologist under section 32-522, sub-
- 2 section A, ten dollars.
- 3 3. Issuing license as cosmetologist under section 32-522, sub-
- 4 section B, forty dollars.
- 5 4. Renewing license as cosmetologist, five SIX dollars.
- 6 5. Restoring expired license as cosmetologist, seven TEN dollars.
- 7 ~~fifty-cents.~~
- 8 6. Examining applicant to practice as manicurist, ten dollars.
- 9 7. Issuing license as manicurist, five SIX dollars.
- 10 8. Renewing license as manicurist, three FIVE dollars.
- 11 9. Restoring expired license as manicurist, five SIX dollars.
- 12 10. Examining applicant to practice as finger waver, fifteen
- 13 dollars.
- 14 11. Issuing license as finger waver, ten dollars.
- 15 12. Renewing license as finger waver, five dollars.
- 16 13. Restoring expired license as finger waver, seven dollars
- 17 ~~fifty cents.~~
- 18 14. Examining applicant to practice as instructor, twenty-five
- 19 dollars.
- 20 15. Issuing license as instructor, ten FIFTEEN dollars.
- 21 16. Renewing license as instructor, five EIGHT dollars.
- 22 17. Restoring expired license as instructor, seven TEN dollars.
- 23 ~~fifty-cents.~~
- 24 18. Issuing a license to a school of cosmetology, one hundred
- 25 ~~twenty-five SEVENTY-FIVE~~ dollars.
- 26 19. Renewing license issued to a school of cosmetology, one
- 27 hundred ~~twenty-five FIFTY~~ dollars.
- 28 20. Issuing an establishment license to a cosmetology shop,
- 29 ~~twenty-five THIRTY-FIVE~~ dollars.
- 30 21. Renewing license for cosmetology shop, five TEN dollars.
- 31 22. Restoring expired license for cosmetology shop, ~~fifteen~~
- 32 ~~TWENTY-FIVE~~ dollars.
- 33 23. Reissuing of any lost license, ~~two FIVE~~ dollars.
- 34 24. RESTORING EXPIRED LICENSE FOR COSMETOLOGY SCHOOL, TWO HUNDRED
- 35 DOLLARS.
- 36 25. CHANGING TRADE NAME ONLY OF A SALON OR SCHOOL LICENSE, FIVE
- 37 DOLLARS.
- 38 Sec. 4. Effective date
- 39 The provisions of this act shall become effective on July 1, 1976,
- 40 with issuance of 1976-1977 licenses.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 88

HOUSE BILL 2245

AN ACT

RELATING TO EDUCATION; PROVIDING FOR A TWO DOLLAR AND SIXTY CENTS PER ONE HUNDRED DOLLARS OF ASSESSED VALUATION TAX RATE FOR UNIFIED SCHOOL DISTRICTS; PROVIDING THAT CERTAIN AVAILABLE CASH BALANCE MAY REDUCE TAX RATE, AND AMENDING SECTION 15-1601, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-1601, Arizona Revised Statutes, is amended
3 to read:
4 15-1601. Definitions
5 In this title, for the purposes of common and high school districts
6 unless the context otherwise requires:
7 1. "Assessed valuation" means the percentage of full cash value
8 of all taxable property in each school district or county to which the
9 tax rate is to be applied.
10 2. "Average daily membership" or "ADM" means the average daily
11 membership or adjusted average daily membership, whichever is applicable,
12 as defined in section 15-1212.
13 3. "Budget year" means the fiscal year for which the common or
14 high school district is budgeting and which immediately follows the
15 current year.
16 4. "Budgeted capital outlay" means the items identified in the
17 department of education account code as numbers 8100, 8200, 8300, 8500,
18 8520, 8530 and 8600 for the fiscal year 1973-74. Expenses for salaries
19 and wages as identified in the department of education account code as
20 number 8010 shall be included in the maintenance and operation section
21 of the budget.
22 5. "Common school district" means a political subdivision of the
23 state offering instruction to students for grades kindergarten or one
24 through eight.
25 6. "Current year" means the fiscal year in which a common or high
26 school district is operating.

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- 1 7. "Estimated ADM" means the actual ADM or adjusted ADM, which-
2 ever is applicable, computed in accordance with section 15-1212 for the
3 current year plus or minus the estimated increase or decrease over the
4 current ADM or adjusted ADM, whichever is applicable, for the budget
5 year.
- 6 8. "Fiscal year" means the year beginning July 1 and ending June
7 30 next following.
- 8 9. "High school district" means a political subdivision of the
9 state offering instruction to students for grades nine through twelve or
10 that portion of a common school district, grades nine through twelve,
11 which teaches high school subjects with permission of the state board of
12 education.
- 13 10. "Maintenance and operation" means all monies budgeted or
14 expended by a common or high school district except for budgeted capital
15 outlay, transportation, special levies and bond service items.
- 16 11. "Non-state aid classrooms" means:
17 (a) For common school districts, the number of students over the
18 age of twenty-one in ADM divided by twenty-six which division shall be
19 carried to four decimal places thereby allowing for a fractional class-
20 room.
21 (b) For high school districts, the number of students over the
22 age of twenty-one in ADM divided by twenty-four which division shall be
23 carried to four decimal places thereby allowing for a fractional class-
24 room.
- 25 12. "Special district levy" means the levy imposed under section
26 15-1236.
- 27 13. "State supported classrooms" means:
28 (a) For common school districts, the number obtained by dividing
29 the district's ADM by twenty-six which division shall be carried to four
30 decimal places thereby allowing for a fractional classroom.
31 (b) For high school districts, the number obtained by dividing
32 the district's ADM by twenty-four which division shall be carried to
33 four decimal places thereby allowing for a fractional classroom.
- 34 14. "Qualifying tax rate" means a tax rate of one dollar and
35 thirty cents per one hundred dollars of assessed valuation in a common
36 school district, and a tax rate of one dollar and thirty cents per one
37 hundred dollars of assessed valuation in a high school district AND A
38 TAX RATE OF TWO DOLLARS AND SIXTY CENTS PER ONE HUNDRED DOLLARS OF
39 ASSESSED VALUATION FOR A UNIFIED SCHOOL DISTRICT ~~in order for such dis-~~
40 ~~trict to participate in the state aid program under this chapter~~ FOR
41 COMPUTING STATE AID UNDER THIS CHAPTER; PROVIDED, HOWEVER, THAT IF SUCH
42 DISTRICT HAS A CASH BALANCE AVAILABLE TO IT PURSUANT TO SECTION 15-1204,
43 SUCH BALANCE MAY BE USED TO REDUCE THE TAX RATE HEREIN SPECIFIED.
- 44 15. "Transportation" means the items identified in the department
45 of education account code as numbers 5030, 5300 and 8400 for the fiscal
46 year 1973-74.

Approved by the Governor - May 22, 1975

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 89

SENATE BILL 1370

AN ACT

RELATING TO TAXATION OF INCOME; PROVIDING THAT REIMBURSEMENT FOR MOVING EXPENSES BE INCLUDED IN GROSS INCOME; PROVIDING FOR A MOVING EXPENSE DEDUCTION AGAINST GROSS INCOME; PRESCRIBING CONDITIONS AND LIMITATIONS; AMENDING SECTION 43-112, ARIZONA REVISED STATUTES, AND AMENDING TITLE 43, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-123.40.

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

2 Section 1. Section 43-112, Arizona Revised Statutes, is amended
3 to read:

4 43-112. Gross income

5 (a) Definition--"Gross income". Gross income includes ANY AMOUNT
6 RECEIVED OR ACCRUED, DIRECTLY OR INDIRECTLY, BY AN INDIVIDUAL AS A PAYMENT
7 FOR OR REIMBURSEMENT OF EXPENSES OF MOVING FROM ONE RESIDENCE TO ANOTHER
8 RESIDENCE WHICH IS ATTRIBUTABLE TO EMPLOYMENT OR SELF-EMPLOYMENT, gains,
9 profits, and income derived from salaries, wages, or compensation for
10 personal service, including personal service as an officer or employee of
11 this state or the federal government, or any political division thereof or
12 any agency or instrumentality of any one or more of the foregoing, of what-
13 ever kind and in whatever form paid, or from professions, vocations,
14 trades, businesses, commerce, or sales, or dealings in property, whether
15 real or personal, growing out of the ownership or use of or interest in
16 such property; also from interest, rent, dividends, securities, or the
17 transaction of any business carried on for gain or profit, or gains or
18 profits and income derived from any source whatever, including interest
19 which now or hereafter constitutionally may be taxed.

20 (b) Exclusions from gross income. In computing the tax imposed
21 under this title, "gross income" does not include any of the items speci-
22 fied in this subsection.

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1 (1) Life insurance--death benefits. Gross income does not include
2 amounts received:

3 (A) Under a life insurance contract, paid by reason of the death
4 of the insured or,

5 (B) Under a contract of an employer providing for the payment of
6 such amounts to the beneficiaries of an employee, paid by reason of the
7 death of the employee; whether in a single sum or otherwise (but if such
8 amounts are held by the insurer, or the employer, under an agreement to
9 pay interest thereon, the interest payments shall be included in gross
10 income). The aggregate of the amounts excludible under (B) by all the
11 beneficiaries of the employee under all such contracts of any one employer
12 may not exceed five thousand dollars.

13 (2) Life insurance other than death benefits. Gross income also
14 does not include amounts received (other than amounts paid by reason of
15 the death of the insured and interest payments on such amounts and other
16 than amounts received as annuities) under a life insurance or endowment
17 contract, but if such amounts (when added to amounts received before the
18 taxable year under such contract) exceed the aggregate premiums or con-
19 sideration paid (whether or not paid during the taxable year) then the
20 excess shall be included in gross income.

21 (3) Annuity. Gross income also does not include amounts received
22 as an annuity under an annuity or endowment contract, but if such amounts
23 (when added to amounts received before the taxable year under such con-
24 tracts) exceed the aggregate premiums or consideration paid (whether or
25 not paid during the taxable year) then the excess shall be included in
26 gross income.

27 (4) Other insurance proceeds. Gross income does not include amounts
28 received (other than amounts paid by reason of the death of the insured
29 under life insurance, endowment or annuity contracts) either during the
30 term or at maturity or upon surrender of the contract, equal to the total
31 amount of premiums paid thereon. In the case of a transfer for a valuable
32 consideration by assignment or otherwise, of a life insurance, endowment
33 or annuity contract or any interest therein, only the actual value of such
34 consideration and the amount of the premiums and other sums subsequently
35 paid by the transferee shall be excluded from gross income under paragraph
36 (1). The preceding sentence shall not apply in the case of such a transfer
37 if such contract or interest therein has a basis for determining gain or
38 loss in the hands of a transferee determined in whole or in part by ref-
39 erence to such basis of such contract or interest therein in the hands of
40 the transferor.

41 (5) Alimony paid under life insurance, endowment, or annuity
42 contract. Paragraphs (1), (2), (3) and (4) shall not apply with respect
43 to so much of a payment under a life insurance, endowment, or annuity
44 contract, or any interest therein, as is includible in gross income under
45 subsection (e), (1), (2), (3) and (4).

46 (6) Annuities for employees. If an annuity contract is purchased
47 by an employer for an employee under a plan with respect to which the em-
48 ployer's contribution is deductible under section 43-123.1b or if an an-
49 nuity contract is purchased for an employee by an employer exempt under
50 section 43-147(a)(4) the employee shall include in his income the amounts

1 received under such contract for the year received. If the employee
2 paid any of the consideration for the annuity, the annuity shall be
3 included in his income as provided in paragraphs (2), (3) and (4). The
4 consideration for the annuity is the amount contributed by the employee.

5 (7) Employee annuities, nonforfeitable. Except as provided in
6 paragraph (6), if the employee's rights under the contract are nonfor-
7 feitable other than for failure to pay future premiums, the amount
8 contributed by the employer for such annuity contract on or after such
9 rights become nonforfeitable shall be included in the income of the
10 employee in the year in which the amount is contributed. This amount,
11 together with any amount contributed by the employee, shall constitute
12 the consideration paid for the annuity contract in determining the amount
13 of the annuity required to be included in the income of the employee
14 under paragraphs (2), (3), and (4).

15 (8) Joint and survivor's annuity. For purposes of paragraphs (2),
16 (3), (4), (6) and (7), where amounts are received by a surviving annu-
17 itant under a joint and survivor's annuity contract and the basis of
18 such survivor annuitant's interest is determined under section 43-153(a)
19 (5)(A) the consideration paid for such survivor's annuity shall be
20 considered to be an amount equal to such basis.

21 (9) Gifts. Gross income also does not include the value of property
22 acquired by gift, bequest, devise, or inheritance. There shall not be ex-
23 cluded from gross income under this paragraph the income from such property,
24 or, in case the gift, bequest, devise, or inheritance is of income from
25 property, the amount of income. For the purposes of this paragraph, if,
26 under the terms of the gift, bequest, devise, or inheritance, payment,
27 crediting, or distribution thereof is to be made at intervals, to the ex-
28 tent that it is paid or credited or to be distributed out of income from
29 property, it shall be considered a gift, bequest, devise, or inheritance
30 of income from property.

31 (10) Tax exempt interest. Gross income also does not include in-
32 terest upon the obligations of this state or any political subdivision
33 thereof, or the obligations of the United States or its possessions.

34 (11) Amounts received for injury or sickness. Except in the case
35 of amounts attributable to, and not in excess of, deductions allowed
36 under section 43-123.26, subsections A, B and C, gross income also does not
37 include amounts received through accident or health insurance or under
38 workmen's compensation acts as compensation for personal injuries or
39 sickness, plus the amount of any damages received whether by suit or
40 agreement on account of such injuries or sickness. Gross income does
41 not include amounts received as a pension, annuity, medical retirement
42 or similar allowance for personal injuries or sickness resulting from
43 active service in the armed forces of any country.

44 (12) Minister's compensation. Gross income also does not include
45 the rental value of a dwelling house and appurtenances thereof furnished
46 to a minister of a religion as part of his compensation.

47 (13) Compensation of employees of foreign government. Gross income
48 also does not include wages, fees, or salary of an employee of a foreign
49 country (including a consular or other officer, or non-diplomatic repre-
50 sentative) received as compensation for official services to that country:

- 1 (A) If the employee is not a citizen of the United States;
 2 (B) If the services are of a character similar to those performed
 3 by employees of the United States in foreign countries; and
 4 (C) If the foreign country and political subdivision thereof do
 5 not tax the wages, fees, or salaries of employees of the United States
 6 performing similar services in that country.
- 7 (14) Discharge of indebtedness evidenced by security. Gross in-
 8 come does not include the amount of any income of a corporation attrib-
 9 utable to the discharge, within the income year, of any indebtedness of
 10 the taxpayer, or for which the taxpayer is liable, evidenced by a security,
 11 as hereinafter defined, if the taxpayer makes and files at the time of
 12 filing the return, in such manner as the tax commission by regulation
 13 prescribes, its consent to the regulations prescribed under section 43-153(b).
 14 (3). In such case the amount of any income of the taxpayer attributable
 15 to any unamortized premium, computed as of the first day of the income
 16 year in which such discharge occurred, with respect to such indebtedness
 17 shall not be included in gross income and the amount of the deduction
 18 attributable to any unamortized discount, computed as of the first day
 19 of the income year in which such discharge occurred, with respect to
 20 such indebtedness shall not be allowed as a deduction. "Security" means
 21 any bond, debenture, note, or certificate, or other evidence of indebt-
 22 edness, issued by any corporation.
- 23 (15) Discharge of indebtedness--railroad corporation--Sec. 77m,
 24 Bankruptcy Act. Gross income does not include the amount of any income
 25 attributable to the discharge, within the income year, of any indebted-
 26 ness of a railroad corporation, as defined in section 77m of the national
 27 bankruptcy act, as amended, to the extent that such income is deemed to
 28 have been realized by reason of a modification in or cancellation in whole
 29 or in part of such indebtedness pursuant to an order of a court in a re-
 30 ceivership proceeding or in a proceeding under section 77 of the national
 31 bankruptcy act, as amended. In such case the amount of any income of the
 32 taxpayer attributable to any unamortized premium, computed as of the first
 33 day of the income year in which such discharge occurred, with respect to
 34 such indebtedness shall not be included in gross income and the amount of
 35 the deduction attributable to any unamortized discount, computed as of
 36 the first day of the income year in which such discharge occurred, with
 37 respect to such indebtedness shall not be allowed as a deduction. Para-
 38 graph (14) shall not apply with respect to any discharge of indebtedness
 39 to which this paragraph applies.
- 40 (16) Lessee improvements. Gross income also does not include
 41 income, other than rent, derived by a lessor of real property upon the
 42 termination of a lease, representing the value of such property attrib-
 43 utable to buildings erected or other improvements made by the lessee.
- 44 (17) Recovery of bad debt, prior tax, or delinquency amount. Gross
 45 income also does not include income attributable to the recovery during
 46 the taxable year of a bad debt, prior tax, or delinquency amount, to the
 47 extent of the amount of the recovery exclusion with respect to that debt,
 48 tax, or amount.
- 49 (18) Bad debt. As used in paragraph (17) "bad debt" means a debt
 50 on account of worthlessness or partial worthlessness of which a deduction
 51 was allowed for a prior taxable year.

1 (19) Prior tax. As used in paragraph (17) "prior tax" means a tax
2 on account of which a deduction or credit was allowed for a prior taxable
3 year.

4 (20) Delinquency amount. As used in paragraph (17) "delinquency
5 amount" means an amount paid or accrued on account of which a deduction
6 or credit was allowed for a prior taxable year and which is attributable
7 to failure to file a return with respect to a tax, or pay a tax, within
8 the time required by the law under which the tax is imposed, or to fail-
9 ure to file a return with respect to a tax or pay a tax.

10 (21) Recovery exclusion. As used in paragraph (17) "recovery ex-
11 clusion", with respect to a bad debt, prior tax, or delinquency amount,
12 means the amount, determined in accordance with regulations prescribed
13 by the tax commission, of the deductions or credits allowed, on account
14 of such bad debt, prior tax, or delinquency amount, which did not result
15 in a reduction of the taxpayer's tax under this title, reduced by the
16 amount excludible in previous taxable years with respect to such debt,
17 tax or amount under this paragraph.

18 (22) Compensation for military service.

19 (A) Gross income also does not include the salary, wages, bonuses,
20 allowances, and other compensation received by an individual for his
21 services as a member of the armed forces of the United States, including
22 any auxiliary branch thereof, up to and including one thousand dollars
23 per annum in the aggregate.

24 (B) Gross income also does not include amounts received during
25 the taxable year as mustering out payments and terminal leave and unused
26 leave pay and bonds, and educational benefits received under federal or
27 state legislation with respect to services in the military or naval forces
28 of the United States.

29 (23) Option price--employee stock options. Gross income also does
30 not include any amount, other than the option price, received by any bank
31 or corporation, or its parent or subsidiary bank or corporation, as
32 consideration for the issuance of stock to an employee of such bank or
33 corporation, as a result of the exercise by the employee of a "restricted
34 stock option" as defined in section 43-160(d)(1).

35 (24) Constitutionally exempt income. Gross income also does not
36 include income which this state is prohibited from taxing under the con-
37 stitution or laws of the United States of America or under the constitu-
38 tion of this state.

39 (25) Federal civil service benefits. The amount of two thousand
40 five hundred dollars or less received each year as annuities under the
41 United States civil service retirement system from the United States
42 government service retirement and disability fund.

43 (26) Dividends from controlled corporations. Gross income also does
44 not include, in the case of a corporation, dividends received from another
45 corporation owned or controlled directly or indirectly by the recipient-
46 corporation. "Control" for purposes of this subsection shall mean direct
47 or indirect ownership or control of fifty per cent or more of the voting
48 stock of the payor-corporation by the recipient-corporation. Dividends
49 shall have the meaning provided in section 43-155(a). This exclusion
50 shall apply without regard to the provisions of section 43-123.04, sec-
51 tion 43-135(g), and section 43-126(a)(5) with the exception of the de-
52 duction for federal income taxes.

- 1 (c) Inventories, as prescribed by the tax commission.
2 Whenever in the opinion of the tax commission the use of inventories
3 is necessary in order clearly to determine the income of any taxpayer,
4 inventories shall be taken by the taxpayer upon such basis as the tax
5 commission may prescribe as conforming as nearly as may be to the best
6 accounting practice in the trade or business and as most clearly
7 reflecting the income.
- 8 (d) Method used in inventorying goods.
9 (1) First in, last out method, permissible. A taxpayer may use the
10 following method (whether or not the method has been prescribed under sub-
11 section (c)) in inventorying goods specified in the application required
12 under paragraph (2):
13 (A) Inventory them at cost;
14 (B) Treat those remaining on hand at the close of the taxable
15 year as being: first, those included in the opening inventory of the
16 taxable year (in order of acquisition) to the extent thereof, and second,
17 those acquired in the taxable year; and
18 (C) Treat those included in the opening inventory of the taxable
19 year in which the method is first used as having been acquired at the
20 same time and determine their cost by the average cost method.
- 21 (2) First in, last out method, when applicable. The method de-
22 scribed in paragraph (1) may be used
23 (A) Only in inventorying goods (required under subsection (c) to
24 be inventoried) specified in an application to use such method filed at
25 such time and in such manner as the tax commission may prescribe; and
26 (B) Only if the taxpayer establishes to the satisfaction of the
27 tax commission that the taxpayer has used no procedure other than that
28 specified in subparagraphs (B) and (C) of paragraph (1) in inventorying
29 to ascertain the income, profit, or loss of the first taxable year for
30 which the method described in paragraph (1) is to be used, for the purpose
31 of a report or statement covering the taxable year to shareholders, part-
32 ners, or other proprietors, or to beneficiaries, or for credit purposes.
- 33 (3) First in, last out method, tax commission to prescribe
34 regulations. The change to, and the use of, the described method shall
35 be in accordance with such regulations as the tax commission may prescribe
36 as necessary in order that the use of the method may clearly reflect in-
37 come.
- 38 (4) First in, last out method, inventoried at cost. In determining
39 income for the taxable year preceding the taxable year for which the de-
40 scribed method is first used, the closing inventory of such preceding year
41 of the goods specified in the application shall be at cost.
- 42 (5) First in, last out method, inconsistent use. If a taxpayer,
43 having complied with paragraph (2), uses the method described in para-
44 graph (1) for any taxable year, that method shall be used in all subse-
45 quent taxable years unless
46 (A) With the approval of the tax commission a change to a different
47 method is authorized; or
48 (B) The tax commission determines that the taxpayer has used for
49 any such subsequent taxable year some procedure other than that specified
50 in subparagraph (B) of paragraph (1) in inventorying the goods specified

1 in the application to ascertain the income, profit or loss of such sub-
2 sequent taxable year for the purpose of a report or statement covering
3 such taxable year to shareholders, partners, or other proprietors, or
4 beneficiaries, or for credit purposes, and requires a change to a method
5 different from that prescribed in paragraph (1) beginning with such sub-
6 sequent taxable year or any taxable year thereafter.

7 In either of the above cases, the change to, and the use of the
8 different method shall be in accordance with such regulations as the tax
9 commission may prescribe as necessary in order that the use of such
10 method may clearly reflect income.

11 (6) Adjustment of net income, when applicable. The net income
12 of the taxpayer otherwise determined for the year of involuntary liqui-
13 dation shall be adjusted according to the provisions of paragraphs (7)
14 and (8):

15 (A) If, for any taxable year beginning after December 31, 1953,
16 and while a state of war exists and prior to the termination of such
17 war as proclaimed by the president of the United States, the closing
18 inventory of a taxpayer inventorying goods under the method provided in
19 this subsection reflects a decrease from the opening inventory of goods
20 for this year; and

21 (B) If, at the time of the filing of the taxpayer's income tax
22 return for such year, the taxpayer elects to have the provisions of para-
23 graphs (6) through (15) apply and so notifies the tax commission; and

24 (C) If, at the time of such election, it is established to the
25 satisfaction of the tax commission, in accordance with the rules and
26 regulations prescribed by the tax commission, that such decrease is at-
27 tributable to the involuntary liquidation of the inventory as defined
28 in paragraph (9); and

29 (D) If the closing inventory of a subsequent taxable year, ending
30 not more than four years after the termination of such war as proclaimed
31 by the president of the United States, reflects a replacement, in whole
32 or in part, of the goods so previously liquidated.

33 (7) Adjustment of net income, method. The taxpayer's net income
34 shall be adjusted as follows:

35 (A) Increased by an amount equal to the excess, if any, of the
36 aggregate cost of such goods reflected in the opening inventory of the
37 year of involuntary liquidation over the aggregate replacement cost; or

38 (B) Decreased by an amount equal to the excess, if any, of the
39 aggregate replacement cost of such goods over the aggregate cost thereof
40 reflected in the opening inventory of the year of the involuntary liqui-
41 dation.

42 (8) Adjustment of taxes. The taxes imposed by this title for the
43 year of such liquidation and for all taxable years intervening between
44 that year and the year of replacement shall be redetermined giving effect
45 to adjustments provided for in paragraph (6). Any increase in taxes re-
46 sulting from these adjustments shall be assessed and collected as a de-
47 ficiency but without interest, and any overpayment so resulting shall be
48 credited or refunded to the taxpayer without interest.

49 (9) Definition--"involuntary liquidation". As used in paragraphs
50 (6) through (15), "involuntary liquidation" means the sale or other dis-
51 position of goods inventoried under the method described in this subsec-
52 tion, either voluntary or involuntary, coupled with a failure on the part

1 of the taxpayer to purchase, manufacture, or otherwise produce and have
 2 on hand at the close of the taxable year in which a sale or other dis-
 3 position occurred such goods as would, if on hand at the close of such
 4 taxable year, be subject to the provisions of this subsection if such
 5 failure on the part of the taxpayer is due, directly and exclusively:

- 6 (A) To enemy capture or control of sources of limited foreign
- 7 supply;
- 8 (B) To shipping or other transportation shortages;
- 9 (C) To material shortages resulting from priorities or allocations;
- 10 (D) To labor shortages;
- 11 (E) To other prevailing war conditions, beyond the control of

12 the taxpayer.

13 (10) Replacements. If, in the case of any taxpayer subject to
 14 the provisions of paragraphs (6), (7) and (8), the closing inventory
 15 of the taxpayer for a taxable year, subsequent to the year of involuntary
 16 liquidation but prior to the complete replacement of the goods so liqui-
 17 dated, reflects an increase over the opening inventory of the goods for
 18 the taxable year, the goods reflecting such increase shall be considered,
 19 in the order of their acquisition, as having been acquired in replacement
 20 of the goods most recently liquidated (whether or not in a year of in-
 21 voluntary liquidation) and not previously replaced. If the liquidation
 22 was an involuntary liquidation, the goods reflecting the increase shall
 23 be taken into purchases and included in the closing inventory of the
 24 taxpayer for the year of replacement at the inventory cost basis of the
 25 goods replaced.

26 (11) Election, irrevocable. An election by the taxpayer to have
 27 the provisions of paragraphs (6) through (15) apply, once made, shall
 28 be irrevocable and shall be binding for the year of the involuntary
 29 liquidation and for all determinations for prior and subsequent taxable
 30 years insofar as they are related to the year of liquidation or replace-
 31 ment.

32 (12) Adjustment, within three years. If the adjustments specified
 33 in paragraphs (6), (7) and (8) are, with respect to any taxable year, pre-
 34 vented, on the date of the filing of the income tax return of the tax-
 35 payer for the year of the replacement, or within four years from such
 36 date, by any provision or rule of law (other than paragraphs (12) through
 37 (15)) such adjustments shall nevertheless be made if, in respect to the
 38 taxable year for which the adjustment is sought, a notice of proposed
 39 additional assessment is mailed or a claim for refund is filed, as the
 40 case may be, within four years after the date of the filing of the income
 41 tax return for the year of replacement.

42 (13) Adjustment, limited to effect of liquidation. If, at the time
 43 of the mailing of the notice of proposed additional assessment or the filing
 44 of the claim for refund, the adjustment is so prevented, then the amount
 45 of the adjustment authorized by paragraphs (6) through (15) shall be
 46 limited to the increase or decrease of the tax imposed by this title
 47 previously determined for the taxable year which results solely from
 48 the effect of paragraphs (6), (7) and (8). The tax previously determined
 49 shall be ascertained in accordance with rules and regulations prescribed
 50 by the tax commission.

1 (14) Adjustment, method of assessment or refund. The amount of the
2 adjustment shall be assessed and collected, or credited or refunded in
3 the same manner as if it were a deficiency or an overpayment, as the case
4 may be, for such taxable year and as if, on the date of the filing of the
5 income tax return for the year of the replacement, three years remain
6 before the expiration of the periods of limitation upon assessment or the
7 filing of claim for refund for the taxable year.

8 (15) Adjustment, based on paragraph (6). The amount of the adjust-
9 ment shall not be diminished by any credit or set-off based upon any item,
10 inclusion, deduction, credit, exemption, gain, or loss, other than one
11 resulting from the effect of paragraphs (6), (7), and (8). The amount, if
12 paid, shall not be recovered by a claim or suit for refund or suit for
13 erroneous refund based upon any item, inclusion, deduction, credit, ex-
14 emption, gain, or loss, other than one resulting from the effect of para-
15 graphs (6), (7) and (8).

16 (e) Alimony, etc.

17 (1) Alimony--periodic payments. In the case of a wife who is di-
18 vorced or legally separated from her husband under a decree of divorce
19 or of separate maintenance, periodic payments (whether or not made at
20 regular intervals) received subsequent to such decree in discharge of,
21 or attributable to property transferred (in trust or otherwise) in dis-
22 charge of, a legal obligation which, because of the marital or family
23 relationship, is imposed upon or incurred by such husband under such de-
24 cree or under a written instrument incident to such divorce or separation
25 shall be includible in the gross income of such wife. Such amounts re-
26 ceived as are attributable to property so transferred shall not be in-
27 cludible in the gross income of such husband.

28 (2) Minor's support. Paragraph (1) shall not apply to that part
29 of any periodic payment which the terms of the decree or written instru-
30 ment fix, in terms of an amount of money or a portion of the payment,
31 as a sum which is payable for the support of minor children of the hus-
32 band. In case any periodic payment is less than the amount specified
33 in the decree or written instrument, that payment, to the extent of the
34 sum payable for support, shall be considered a payment for such support.

35 (3) Alimony installment payments of less than ten years. Install-
36 ment payments discharging a part of an obligation the principal sum of
37 which is, in terms of money or property, specified in the decree or in-
38 strument shall not be considered period payments for the purposes of
39 paragraphs (1) and (2).

40 (4) Alimony installment payments of more than ten years. An in-
41 stallment payment shall be considered a periodic payment for the pur-
42 poses of paragraphs (1) and (2) if the principal sum, by the terms of
43 the decree or instrument may be or is to be paid within a period ending
44 more than ten years from the date of such decree or instrument. But
45 it shall be considered a periodic payment only to the extent that the
46 installment payment for the taxable year of the wife (or if more than
47 one installment payment for the taxable year is received during the
48 taxable year, the aggregate of these installment payments) does not ex-
49 ceed ten per cent of the principal sum. For the purposes of paragraph
50 (3) and this paragraph, the portion of a payment of the principal sum

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1 which is allocable to a period after the taxable year of the wife in
2 which it is received shall be considered an installment payment for the
3 taxable year in which it is received.

4 (f) Definition--"adjusted gross income". As used in this title,
5 the term "adjusted gross income" means the gross income minus--

6 (1) The deductions allowed by sections 43-123.03 through 43-123.35
7 which are attributable to a trade or business carried on by the taxpayer,
8 if such trade or business does not consist of the performance of services
9 by the taxpayer as an employee;

10 (2) The deductions allowed by sections 43-123.03 through 43-123.35
11 which consist of expenses of travel, meals, and lodging while away from home,
12 paid or incurred by the taxpayer in connection with the performance by him
13 of services as an employee;

14 (3) The deductions allowed by sections 43-123.03 through 43-123.35
15 (other than expenses of travel, meals, and lodging while away from home)
16 which consist of expenses paid or incurred by the taxpayer, in connection
17 with the performance by him of services as an employee, under a reimburse-
18 ment or other expense allowance arrangement with his employer;

19 (4) The deductions (other than those provided in paragraphs (1),
20 (5) or (6)) allowed by sections 43-123.03 through 43-123.35, which are
21 attributable to property held for the production of rents or royalties;

22 (5) The deductions (other than those provided in paragraph (1))
23 for depreciation and depletion, allowed by sections 43-123.14 and 43-123.15,
24 to a life tenant of property or to an income beneficiary of property held
25 in trust; and

26 (6) The deductions (other than those provided in paragraph (1))
27 allowed by sections 43-123.03 through 43-123.35 as losses from the sale or
28 exchange of property.

29 (g) Dealers in tax exempt securities.

30 (1) "Short-term municipal bonds", income from. In computing the
31 gross income of a taxpayer who holds during the taxable year a short-term
32 municipal bond (as defined in paragraph (2)(A)) primarily for sale to
33 customers in the ordinary course of his trade or business.

34 (A) If the gross income of the taxpayer from such trade or business
35 is computed by the use of inventories and his inventories are valued on
36 any basis other than cost, the cost of securities sold (as defined in
37 paragraph (2)(B)) during such year shall be reduced by an amount equal
38 to the amortizable bond premium that would be disallowed as a deduction
39 for such year pursuant to section 43-123.24, subsection B, paragraph 2 if
40 the definition in section 43-123.24, subsection F of the term "bond" did
41 not exclude such short-term municipal bond; or

42 (B) If the gross income of the taxpayer from such trade or business
43 is computed without the use of inventories, or by use of inventories valued
44 at cost, and the short-term municipal bond is sold or otherwise disposed
45 of during such year, the adjusted basis (computed without regard to this
46 subparagraph) of the short-term municipal bond shall be reduced by the
47 amount of the adjustment that would be required under section 43-153(b)
48 (1)(D) if the definition in section 43-123.24 of the term "bond" did
49 not include such short-term municipal bond.

1 (2) Definition--"Short-term municipal bonds". For the purposes
2 of paragraph (1)--

3 (A) The term "short-term municipal bond" means any obligation
4 issued by a government or political subdivision thereof if the interest
5 on such obligation is excludible from gross income; but such term does
6 not include such an obligation if (i) it is sold or otherwise disposed
7 of by the taxpayer within thirty days after the date of its acquisition
8 by him, or (ii) its earliest maturity or call date is a date more than
9 five years from the date on which it was acquired by the taxpayer.

10 (B) The term "cost of securities sold" means the amount ascertained
11 by subtracting the inventory value of the closing inventory of a taxable
12 year from the sum of (i) the inventory value of the opening inventory for
13 such year and (ii) the cost of securities and other property purchased
14 during such year which would properly be included in the inventory of the
15 taxpayer if on hand at the close of the taxable year.

16 Sec. 2. Title 43, chapter 1, article 1, Arizona Revised Statutes,
17 is amended by adding section 43-123.40, to read:

18 43-123.40. Moving expense deduction

19 (a) DEDUCTION ALLOWED. THERE SHALL BE ALLOWED AS A DEDUCTION MOVING
20 EXPENSES PAID OR INCURRED DURING THE TAXABLE YEAR IN CONNECTION WITH THE
21 COMMENCEMENT OF WORK BY THE TAXPAYER AS AN EMPLOYEE OR AS A SELF-EMPLOYED
22 INDIVIDUAL AT A NEW PRINCIPAL PLACE OF WORK.

23 (b) DEFINITION OF MOVING EXPENSES. -

24 (1) IN GENERAL. FOR PURPOSES OF THIS SECTION, THE TERM "MOVING
25 EXPENSES" MEANS ONLY THE REASONABLE EXPENSES: -

26 (A) OF MOVING HOUSEHOLD GOODS AND PERSONAL EFFECTS FROM THE FORMER
27 RESIDENCE TO THE NEW RESIDENCE.

28 (B) OF TRAVELING (INCLUDING MEALS AND LODGING) FROM THE FORMER
29 RESIDENCE TO THE NEW PLACE OF RESIDENCE.

30 (C) OF TRAVELING (INCLUDING MEALS AND LODGING), AFTER OBTAINING
31 EMPLOYMENT, FROM THE FORMER RESIDENCE TO THE GENERAL LOCATION OF THE NEW
32 PRINCIPAL PLACE OF WORK AND RETURN, FOR THE PRINCIPAL PURPOSE OF SEARCHING
33 FOR A NEW RESIDENCE.

34 (D) OF MEALS AND LODGING WHILE OCCUPYING TEMPORARY QUARTERS IN THE
35 GENERAL LOCATION OF THE NEW PRINCIPAL PLACE OF WORK DURING ANY PERIOD OF
36 THIRTY CONSECUTIVE DAYS AFTER OBTAINING EMPLOYMENT.

37 (E) CONSTITUTING QUALIFIED RESIDENCE SALE, PURCHASE, OR LEASE
38 EXPENSES.

39 (2) QUALIFIED RESIDENCE SALE, EXPENSES. FOR PURPOSES PARAGRAPH
40 (1)(E), THE TERM "QUALIFIED RESIDENCE SALE, PURCHASE, OR LEASE EXPENSES"
41 MEANS ONLY REASONABLE EXPENSES INCIDENT TO: -

42 (A) THE SALE OR EXCHANGE BY THE TAXPAYER OR HIS OR HER SPOUSE OF
43 THE TAXPAYER'S FORMER RESIDENCE (NOT INCLUDING EXPENSES FOR WORK PERFORMED
44 ON SUCH RESIDENCE IN ORDER TO ASSIST IN ITS SALE) WHICH (BUT FOR THIS
45 SUBSECTION AND SUBSECTION (f)) WOULD BE TAKEN INTO ACCOUNT IN DETERMINING
46 THE AMOUNT REALIZED ON THE SALE OR EXCHANGE.

47 (B) THE PURCHASE BY THE TAXPAYER OR HIS OR HER SPOUSE OF A NEW
48 RESIDENCE IN THE GENERAL LOCATION OF THE NEW PRINCIPAL PLACE OF WORK
49 WHICH (BUT FOR THIS SUBSECTION AND SUBSECTION (f)) WOULD BE TAKEN INTO
50 ACCOUNT IN DETERMINING EITHER:

1 (i) THE ADJUSTED BASIS OF THE NEW RESIDENCE; OR
 2 (ii) THE COST OF A LOAN (BUT NOT INCLUDING ANY AMOUNTS WHICH REPRESENT
 3 SENT PAYMENTS OR PREPAYMENTS OF INTEREST).

4 (C) THE SETTLEMENT OF AN UNEXPIRED LEASE HELD BY THE TAXPAYER OR
 5 HIS OR HER SPOUSE ON PROPERTY USED BY THE TAXPAYER AS HIS OR HER FORMER
 6 RESIDENCE.

7 (D) THE ACQUISITION OF A LEASE BY THE TAXPAYER OR HIS OR HER SPOUSE
 8 ON PROPERTY USED BY THE TAXPAYER AS HIS OR HER NEW RESIDENCE IN THE GENERAL
 9 LOCATION OF THE NEW PRINCIPAL PLACE OF WORK (NOT INCLUDING AMOUNTS WHICH
 10 ARE PAYMENTS OR PREPAYMENTS OF RENT).

11 (3) LIMITATIONS. -

12 (A) DOLLAR LIMITS. THE AGGREGATE AMOUNT ALLOWABLE AS A DEDUCTION
 13 UNDER SUBSECTION (a) IN CONNECTION WITH A COMMENCEMENT OF WORK WHICH IS
 14 ATTRIBUTABLE TO EXPENSES DESCRIBED IN SUBPARAGRAPH (C) OR (D) OF PARAGRAPH
 15 (1) SHALL NOT EXCEED ONE THOUSAND DOLLARS. THE AGGREGATE AMOUNT ALLOWABLE
 16 AS A DEDUCTION UNDER SUBSECTION (a) WHICH IS ATTRIBUTABLE TO QUALIFIED
 17 RESIDENCE SALE, PURCHASE, OR LEASE EXPENSES SHALL NOT EXCEED TWO THOUSAND
 18 FIVE HUNDRED DOLLARS, REDUCED BY THE AGGREGATE AMOUNT SO ALLOWABLE WHICH
 19 IS ATTRIBUTABLE TO EXPENSES DESCRIBED IN SUBPARAGRAPH (C) OR (D) OF
 20 PARAGRAPH (1).

21 (B) HUSBAND AND WIFE. IF A HUSBAND AND WIFE BOTH COMMENCE WORK AT
 22 A NEW PRINCIPAL PLACE OF WORK WITHIN THE SAME GENERAL LOCATION, SUBPARAGRAPH
 23 (A) SHALL BE APPLIED AS IF THERE WAS ONLY ONE COMMENCEMENT OF WORK. IN
 24 THE CASE OF A HUSBAND AND WIFE FILING SEPARATE RETURNS, SUBPARAGRAPH (A)
 25 SHALL BE APPLIED BY SUBSTITUTING FIVE HUNDRED DOLLARS FOR ONE THOUSAND
 26 DOLLARS, AND BY SUBSTITUTING ONE THOUSAND TWO HUNDRED FIFTY DOLLARS FOR
 27 TWO THOUSAND FIVE HUNDRED DOLLARS.

28 (C) INDIVIDUALS OTHER THAN TAXPAYER. IN THE CASE OF ANY INDIVIDUAL
 29 OTHER THAN THE TAXPAYER, EXPENSES REFERRED TO IN SUBPARAGRAPHS (A) THROUGH
 30 (D) OF PARAGRAPH (1) SHALL BE TAKEN INTO ACCOUNT ONLY IF SUCH INDIVIDUAL
 31 HAS BOTH THE FORMER RESIDENCE AND THE NEW RESIDENCE AS HIS OR HER PRINCIPAL
 32 PLACE OF ABODE AND IS A MEMBER OF THE TAXPAYER'S HOUSEHOLD.

33 (c) CONDITIONS FOR ALLOWANCE. NO DEDUCTION SHALL BE ALLOWED UNDER
 34 THIS SECTION UNLESS: -

35 (1) THE TAXPAYER'S NEW PRINCIPAL PLACE OF WORK: -

36 (A) IS AT LEAST FIFTY MILES FARTHER FROM HIS OR HER FORMER RESIDENCE
 37 THAN WAS HIS OR HER FORMER PRINCIPAL PLACE OF WORK; OR

38 (B) IF HE OR SHE HAD NO FORMER PRINCIPAL PLACE OF WORK, IS AT LEAST
 39 FIFTY MILES FROM HIS OR HER FORMER RESIDENCE, AND

40 (2) EITHER: -

41 (A) DURING THE TWELVE-MONTH PERIOD IMMEDIATELY FOLLOWING HIS OR HER
 42 ARRIVAL IN THE GENERAL LOCATION OF HIS OR HER NEW PRINCIPAL PLACE OF WORK,
 43 THE TAXPAYER IS A FULL-TIME EMPLOYEE, IN SUCH GENERAL LOCATION, DURING AT
 44 LEAST THIRTY-NINE WEEKS, OR

45 (B) DURING THE TWENTY-FOUR MONTH PERIOD IMMEDIATELY FOLLOWING HIS
 46 OR HER ARRIVAL IN THE GENERAL LOCATION OF HIS OR HER NEW PRINCIPAL PLACE OF
 47 WORK, THE TAXPAYER IS A FULL-TIME EMPLOYEE OR PERFORMS SERVICES AS A SELF-
 48 EMPLOYED INDIVIDUAL ON A FULL-TIME BASIS, IN SUCH GENERAL LOCATION, DURING
 49 AT LEAST SEVENTY-EIGHT WEEKS, OF WHICH NOT LESS THAN THIRTY-NINE WEEKS ARE
 50 DURING THE TWELVE-MONTH PERIOD REFERRED TO IN SUBPARAGRAPH (A).

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1 FOR PURPOSES OF PARAGRAPH (1), THE DISTANCE BETWEEN TWO POINTS SHALL BE
2 THE SHORTEST OF THE MORE COMMONLY TRAVELED ROUTES BETWEEN SUCH TWO POINTS.

3 (d) RULES FOR APPLICATION OF SUBSECTION (c)(2). -

4 (1) THE CONDITION OF SUBSECTION (c)(2) SHALL NOT APPLY IF THE
5 TAXPAYER IS UNABLE TO SATISFY SUCH CONDITION BY REASON OF EITHER:

6 (A) DEATH OR DISABILITY.

7 (B) INVOLUNTARY SEPARATION (OTHER THAN FOR WILFUL MISCONDUCT) FROM
8 THE SERVICE OF, OR TRANSFER FOR THE BENEFIT OF, AN EMPLOYER AFTER OBTAINING
9 FULL-TIME EMPLOYMENT IN WHICH THE TAXPAYER COULD REASONABLY HAVE BEEN EX-
10 PECTED TO SATISFY SUCH CONDITION.

11 (2) IF A TAXPAYER HAS NOT SATISFIED THE CONDITION OF SUBSECTION
12 (c)(2) BEFORE THE TIME PRESCRIBED BY LAW (INCLUDING EXTENSIONS THEREOF)
13 FOR FILING THE RETURN FOR THE TAXABLE YEAR DURING WHICH HE OR SHE PAID OR
14 INCURRED MOVING EXPENSES WHICH WOULD OTHERWISE BE DEDUCTIBLE UNDER THIS
15 SECTION, BUT MAY STILL SATISFY SUCH CONDITION, THEN SUCH EXPENSES MAY (AT
16 THE ELECTION OF THE TAXPAYER) BE DEDUCTED FOR SUCH TAXABLE YEAR NOTWITH-
17 STANDING SUBSECTION (c)(2).

18 (3) IF: FOR ANY TAXABLE YEAR MOVING EXPENSES HAVE BEEN DEDUCTED IN
19 ACCORDANCE WITH THE RULE PROVIDED IN PARAGRAPH (2), AND THE CONDITION OF
20 SUBSECTION (c)(2) CANNOT BE SATISFIED AT THE CLOSE OF A SUBSEQUENT TAXABLE
21 YEAR, THEN AN AMOUNT EQUAL TO THE EXPENSES WHICH WERE SO DEDUCTED SHALL BE
22 INCLUDED IN GROSS INCOME FOR THE FIRST SUCH SUBSEQUENT TAXABLE YEAR.

23 (e) REIMBURSEMENT. - IN THE CASE OF AN INDIVIDUAL WHOSE FORMER
24 RESIDENCE WAS OUTSIDE THIS STATE AND HIS OR HER NEW PLACE OF RESIDENCE IS
25 LOCATED WITHIN THIS STATE OR WHOSE FORMER RESIDENCE WAS LOCATED IN THIS
26 STATE AND HIS OR HER NEW PLACE OF RESIDENCE IS LOCATED OUTSIDE THIS STATE,
27 THE DEDUCTION ALLOWED BY THIS SECTION SHALL BE ALLOWED ONLY IF ANY AMOUNT
28 RECEIVED AS PAYMENT FOR OR REIMBURSEMENT OF EXPENSES OF MOVING FROM ONE
29 RESIDENCE TO ANOTHER RESIDENCE IS INCLUDIBLE IN GROSS INCOME AS PROVIDED
30 BY SECTION 43-112 AND THE AMOUNT OF DEDUCTION SHALL BE LIMITED ONLY TO THE
31 AMOUNT OF SUCH PAYMENT OR REIMBURSEMENT OR THE AMOUNTS SPECIFIED IN SUB-
32 DIVISION (b), WHICHEVER AMOUNT IS THE LESSER.

33 (f) DENIAL OF DOUBLE BENEFIT. - THE AMOUNT REALIZED ON THE SALE OF
34 THE RESIDENCE DESCRIBED IN SUBPARAGRAPH (A) OF SUBSECTION (b)(2) SHALL NOT
35 BE DECREASED BY THE AMOUNT OF ANY EXPENSES DESCRIBED IN SUCH SUBPARAGRAPH
36 WHICH ARE ALLOWED AS A DEDUCTION UNDER SUBSECTION (a), AND THE BASIS OF
37 A RESIDENCE DESCRIBED IN SUBPARAGRAPH (B) OF SUBSECTION (b)(2) SHALL NOT
38 BE INCREASED BY THE AMOUNT OF ANY EXPENSES DESCRIBED IN SUCH SUBPARAGRAPH
39 WHICH ARE ALLOWED AS A DEDUCTION UNDER SUBSECTION (a). THIS SUBSECTION
40 SHALL NOT APPLY TO ANY EXPENSES WITH RESPECT TO WHICH AN AMOUNT IS INCLUDED
41 IN GROSS INCOME UNDER SUBSECTION (d)(3).

42 (g) RULES FOR SELF-EMPLOYED INDIVIDUALS. -

43 (1) DEFINITION. - FOR PURPOSES OF THIS SECTION, THE TERM "SELF-
44 EMPLOYED INDIVIDUAL" MEANS AN INDIVIDUAL WHO PERFORMS PERSONAL SERVICES
45 EITHER:

46 (A) AS THE OWNER OF THE ENTIRE INTEREST IN AN UNINCORPORATED TRADE
47 OR BUSINESS.

48 (B) AS A PARTNER IN A PARTNERSHIP CARRYING ON A TRADE OR BUSINESS.

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1 (2) RULE FOR APPLICATION OF SUBSECTIONS (b)(1)(C) AND (D). - FOR
2 PURPOSES OF SUBPARAGRAPH (C) AND (D) OF SUBSECTION (b)(1), AN INDIVIDUAL
3 WHO COMMENCES WORK AT A NEW PRINCIPAL PLACE OF WORK AS A SELF-EMPLOYED
4 INDIVIDUAL SHALL BE TREATED AS HAVING OBTAINED EMPLOYMENT WHEN HE OR SHE
5 HAS MADE SUBSTANTIAL ARRANGEMENT TO COMMENCE SUCH WORK.

6 Sec. 2. Effective date

7 This act shall become effective retroactive from and after December
8 31, 1974.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 90

SENATE BILL 1353

AN ACT

RELATING TO TAXATION OF INCOME; PROVIDING FOR EXCLUSION OF CERTAIN TAX REBATES FROM GROSS INCOME, AND AMENDING SECTION 43-112, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 43-112, Arizona Revised Statutes, is amended
3 to read:
4 43-112. Gross income
5 (a) Definition--"Gross income". Gross income includes gains, prof-
6 its, and income derived from salaries, wages, or compensation for personal
7 service, including personal service as an officer or employee of this
8 state or the federal government, or any political division thereof or any
9 agency or instrumentality of any one or more of the foregoing, of what-
10 ever kind and in whatever form paid, or from professions, vocations,
11 trades, businesses, commerce, or sales, or dealings in property, whether
12 real or personal, growing out of the ownership or use of or interest in
13 such property; also from interest, rent, dividends, securities, or the
14 transaction of any business carried on for gain or profit, or gains or
15 profits and income derived from any source whatever, including interest
16 which now or hereafter constitutionally may be taxed.
17 (b) Exclusions from gross income. In computing the tax imposed
18 under this title, "gross income" does not include any of the items spec-
19 ified in this subsection.
20 (1) Life insurance--death benefits. Gross income does not include
21 amounts received:
22 (A) Under a life insurance contract, paid by reason of the death
23 of the insured or,
24 (B) Under a contract of an employer providing for the payment of
25 such amounts to the beneficiaries of an employee, paid by reason of the
26 death of the employee; whether in a single sum or otherwise (but if such

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1 amounts are held by the insurer, or the employer, under an agreement to
2 pay interest thereon, the interest payments shall be included in gross
3 income). The aggregate of the amounts excludible under (B) by all the
4 beneficiaries of the employee under all such contracts of any one employer
5 may not exceed five thousand dollars.

6 (2) Life insurance other than death benefits. Gross income also
7 does not include amounts received (other than amounts paid by reason of
8 the death of the insured and interest payments on such amounts and other
9 than amounts received as annuities) under a life insurance or endowment
10 contract, but if such amounts (when added to amounts received before the
11 taxable year under such contract) exceed the aggregate premiums or con-
12 sideration paid (whether or not paid during the taxable year) then the
13 excess shall be included in gross income.

14 (3) Annuity. Gross income also does not include amounts received
15 as an annuity under an annuity or endowment contract, but if such amounts
16 (when added to amounts received before the taxable year under such con-
17 tracts) exceed the aggregate premiums or consideration paid (whether or
18 not paid during the taxable year) then the excess shall be included in
19 gross income.

20 (4) Other insurance proceeds. Gross income does not include amounts
21 received (other than amounts paid by reason of the death of the insured
22 under life insurance, endowment or annuity contracts) either during the
23 term or at maturity or upon surrender of the contract, equal to the total
24 amount of premiums paid thereon. In the case of a transfer for a valuable
25 consideration by assignment or otherwise, of a life insurance, endowment
26 or annuity contract or any interest therein, only the actual value of such
27 consideration and the amount of the premiums and other sums subsequently
28 paid by the transferee shall be excluded from gross income under paragraph
29 (1). The preceding sentence shall not apply in the case of such a transfer
30 if such contract or interest therein has a basis for determining gain or
31 loss in the hands of a transferee determined in whole or in part by refer-
32 ence to such basis of such contract or interest therein in the hands of
33 the transferor.

34 (5) Alimony paid under life insurance, endowment, or annuity
35 contract. Paragraphs (1), (2), (3) and (4) shall not apply with respect
36 to so much of a payment under a life insurance, endowment, or annuity
37 contract, or any interest therein, as is includible in gross income under
38 subsection (e), (1), (2), (3) and (4).

39 (6) Annuities for employees. If an annuity contract is purchased
40 by an employer for an employee under a plan with respect to which the em-
41 ployer's contribution is deductible under section 43-123.18 or if an an-
42 nuity contract is purchased for an employee by an employer exempt under
43 section 43-147(a)(4) the employee shall include in his income the amounts
44 received under such contract for the year received. If the employee
45 paid any of the consideration for the annuity, the annuity shall be
46 included in his income as provided in paragraphs (2), (3) and (4). The
47 consideration for the annuity is the amount contributed by the employee.

48 (7) Employee annuities, nonforfeitable. Except as provided in
49 paragraph (6), if the employee's rights under the contract are nonfor-
50 feitable other than for failure to pay future premiums, the amount

1 contributed by the employer for such annuity contract on or after such
 2 rights become nonforfeitable shall be included in the income of the
 3 employee in the year in which the amount is contributed. This amount,
 4 together with any amount contributed by the employee, shall constitute
 5 the consideration paid for the annuity contract in determining the amount
 6 of the annuity required to be included in the income of the employee
 7 under paragraphs (2), (3), and (4).

8 (8) Joint and survivor's annuity. For purposes of paragraphs (2),
 9 (3), (4), (6) and (7), where amounts are received by a surviving annu-
 10 itant under a joint and survivor's annuity contract and the basis of
 11 such survivor annuitant's interest is determined under section 43-153(a)
 12 (5)(A) the consideration paid for such survivor's annuity shall be
 13 considered to be an amount equal to such basis.

14 (9) Gifts. Gross income also does not include the value of property
 15 acquired by gift, bequest, devise, or inheritance. There shall not be ex-
 16 cluded from gross income under this paragraph the income from such property,
 17 or, in case the gift, bequest, devise, or inheritance is of income from
 18 property, the amount of income. For the purposes of this paragraph, if,
 19 under the terms of the gift, bequest, devise, or inheritance, payment,
 20 crediting, or distribution thereof is to be made at intervals, to the ex-
 21 tent that it is paid or credited or to be distributed out of income from
 22 property, it shall be considered a gift, bequest, devise, or inheritance
 23 of income from property.

24 (10) Tax exempt interest. Gross income also does not include in-
 25 terest upon the obligations of this state or any political subdivision
 26 thereof, or the obligations of the United States or its possessions.

27 (11) Amounts received for injury or sickness. Except in the case
 28 of amounts attributable to, and not in excess of, deductions allowed
 29 under section 43-123.26, subsections A, B and C, gross income also does not
 30 include amounts received through accident or health insurance or under
 31 workmen's compensation acts as compensation for personal injuries or
 32 sickness, plus the amount of any damages received whether by suit or
 33 agreement on account of such injuries or sickness. Gross income does
 34 not include amounts received as a pension, annuity, medical retirement
 35 or similar allowance for personal injuries or sickness resulting from
 36 active service in the armed forces of any country.

37 (12) Minister's compensation. Gross income also does not include
 38 the rental value of a dwelling house and appurtenances thereof furnished
 39 to a minister of a religion as part of his compensation.

40 (13) Compensation of employees of foreign government. Gross income
 41 also does not include wages, fees, or salary of an employee of a foreign
 42 country (including a consular or other officer, or non-diplomatic repre-
 43 sentative) received as compensation for official services to that country:

44 (A) If the employee is not a citizen of the United States;

45 (B) If the services are of a character similar to those performed
 46 by employees of the United States in foreign countries; and

47 (C) If the foreign country and political subdivision thereof do
 48 not tax the wages, fees, or salaries of employees of the United States
 49 performing similar services in that country.

1 (14) Discharge of indebtedness evidenced by security. Gross in-
 2 come does not include the amount of any income of a corporation attrib-
 3 utable to the discharge, within the income year, of any indebtedness of
 4 the taxpayer, or for which the taxpayer is liable, evidenced by a security,
 5 as hereinafter defined, if the taxpayer makes and files at the time of
 6 filing the return, in such manner as the tax-commission DEPARTMENT by
 7 regulation prescribes, its consent to the regulations prescribed under
 8 section 43-153(b)(3). In such case the amount of any income of the
 9 taxpayer attributable to any unamortized premium, computed as of the
 10 first day of the income year in which such discharge occurred, with
 11 respect to such indebtedness shall not be included in gross income and
 12 the amount of the deduction attributable to any unamortized discount,
 13 computed as of the first day of the income year in which such discharge
 14 occurred, with respect to such indebtedness shall not be allowed as a
 15 deduction. "Security" means any bond, debenture, note, or certificate,
 16 or other evidence of indebtedness, issued by any corporation.

17 (15) Discharge of indebtedness--railroad corporation--Sec. 77m,
 18 Bankruptcy Act. Gross income does not include the amount of any income
 19 attributable to the discharge, within the income year, of any indebted-
 20 ness of a railroad corporation, as defined in section 77m of the national
 21 bankruptcy act, as amended, to the extent that such income is deemed to
 22 have been realized by reason of a modification in or cancellation in whole
 23 or in part of such indebtedness pursuant to an order of a court in a re-
 24 ceivership proceeding or in a proceeding under section 77 of the national
 25 bankruptcy act, as amended. In such case the amount of any income of the
 26 taxpayer attributable to any unamortized premium, computed as of the first
 27 day of the income year in which such discharge occurred, with respect to
 28 such indebtedness shall not be included in gross income and the amount of
 29 the deduction attributable to any unamortized discount, computed as of
 30 the first day of the income year in which such discharge occurred, with
 31 respect to such indebtedness shall not be allowed as a deduction. Para-
 32 graph (14) shall not apply with respect to any discharge of indebtedness
 33 to which this paragraph applies.

34 (16) Lessee improvements. Gross income also does not include
 35 income, other than rent, derived by a lessor of real property upon the
 36 termination of a lease, representing the value of such property attrib-
 37 utable to buildings erected or other improvements made by the lessee.

38 (17) Recovery of bad debt, prior tax, or delinquency amount. Gross
 39 income also does not include income attributable to the recovery during
 40 the taxable year of a bad debt, prior tax, or delinquency amount, to the
 41 extent of the amount of the recovery exclusion with respect to that debt,
 42 tax, or amount.

43 (18) Bad debt. As used in paragraph (17) "bad debt" means a debt
 44 on account of worthlessness or partial worthlessness of which a deduction
 45 was allowed for a prior taxable year.

46 (19) Prior tax. As used in paragraph (17) "prior tax" means a tax
 47 on account of which a deduction or credit was allowed for a prior taxable
 48 year.

49 (20) Delinquency amount. As used in paragraph (17) "delinquency
 50 amount" means an amount paid or accrued on account of which a deduction

1 or credit was allowed for a prior taxable year and which is attributable
 2 to failure to file a return with respect to a tax, or pay a tax, within
 3 the time required by the law under which the tax is imposed, or to fail-
 4 ure to file a return with respect to a tax or pay a tax.

5 (21) Recovery exclusion. As used in paragraph (17) "recovery ex-
 6 clusion", with respect to a bad debt, prior tax, or delinquency amount,
 7 means the amount, determined in accordance with regulations prescribed
 8 by the tax-commission DEPARTMENT, of the deductions or credits allowed,
 9 on account of such bad debt, prior tax, or delinquency amount, which
 10 did not result in a reduction of the taxpayer's tax under this title,
 11 reduced by the amount excludible in previous taxable years with respect
 12 to such debt, tax or amount under this paragraph.

13 (22) Compensation for military service.

14 (A) Gross income also does not include the salary, wages, bonuses,
 15 allowances, and other compensation received by an individual for his
 16 services as a member of the armed forces of the United States, including
 17 any auxiliary branch thereof, up to and including one thousand dollars
 18 per annum in the aggregate.

19 (B) Gross income also does not include amounts received during
 20 the taxable year as mustering out payments and terminal leave and unused
 21 leave pay and bonds, and educational benefits received under federal or
 22 state legislation with respect to services in the military or naval forces
 23 of the United States.

24 (23) Option price--employee stock options. Gross income also does
 25 not include any amount, other than the option price, received by any bank
 26 or corporation, or its parent or subsidiary bank or corporation, as
 27 consideration for the issuance of stock to an employee of such bank or
 28 corporation, as a result of the exercise by the employee of a "restricted
 29 stock option" as defined in section 43-160(d)(1).

30 (24) Constitutionally exempt income. Gross income also does not
 31 include income which this state is prohibited from taxing under the con-
 32 stitution or laws of the United States of America or under the constitu-
 33 tion of this state.

34 (25) Federal civil service benefits. The amount of two thousand
 35 five hundred dollars or less received each year as annuities under the
 36 United States civil service retirement system from the United States
 37 government service retirement and disability fund.

38 (26) Dividends from controlled corporations. Gross income also does
 39 not include, in the case of a corporation, dividends received from another
 40 corporation owned or controlled directly or indirectly by the recipient-
 41 corporation. "Control" for purposes of this subsection shall mean direct
 42 or indirect ownership or control of fifty per cent or more of the voting
 43 stock of the payor-corporation by the recipient-corporation. Dividends
 44 shall have the meaning provided in section 43-155(a). This exclusion
 45 shall apply without regard to the provisions of section 43-123.04, sec-
 46 tion 43-135(g), and section 43-126(a)(5) with the exception of the de-
 47 duction for federal income taxes.

48 (27) TAX REBATES. GROSS INCOME ALSO DOES NOT INCLUDE INCOME
 49 GAINED FROM SPECIAL INDIVIDUAL INCOME TAX REBATES GIVEN BY THE FEDERAL
 50 GOVERNMENT IN EXCESS OF ANY INDIVIDUAL INCOME TAX REFUNDS GIVEN

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1 PURSUANT TO SECTIONS 6401 AND 6402 OF THE UNITED STATES INTERNAL REVENUE
2 CODE. TAX REBATES DO NOT INCLUDE REFUNDS GIVEN AS THE RESULT OF THE
3 REFILE OF A FEDERAL INDIVIDUAL INCOME TAX RETURN OR AS THE RESULT OF
4 AN AUDIT PERFORMED BY THE INTERNAL REVENUE SERVICE.

5 (c) Inventories, as prescribed by the tax-commission DEPARTMENT.

6 Whenever in the opinion of the tax-commission DEPARTMENT the use of
7 inventories is necessary in order clearly to determine the income of
8 any taxpayer, inventories shall be taken by the taxpayer upon such basis
9 as the tax-commission DEPARTMENT may prescribe as conforming as nearly
10 as may be to the best accounting practice in the trade or business and
11 as most clearly reflecting the income.

12 (d) Method used in inventorying goods.

13 (1) First in, last out method, permissible. A taxpayer may use the
14 following method (whether or not the method has been prescribed under sub-
15 section (c)) in inventorying goods specified in the application required
16 under paragraph (2):

17 (A) Inventory them at cost;

18 (B) Treat those remaining on hand at the close of the taxable
19 year as being: first, those included in the opening inventory of the
20 taxable year (in order of acquisition) to the extent thereof, and second,
21 those acquired in the taxable year; and

22 (C) Treat those included in the opening inventory of the taxable
23 year in which the method is first used as having been acquired at the
24 same time and determine their cost by the average cost method.

25 (2) First in, last out method, when applicable. The method de-
26 scribed in paragraph (1) may be used

27 (A) Only in inventorying goods (required under subsection (c) to
28 be inventoried) specified in an application to use such method filed at
29 such time and in such manner as the tax-commission DEPARTMENT may pre-
30 scribe; and

31 (B) Only if the taxpayer establishes to the satisfaction of the
32 tax-commission DEPARTMENT that the taxpayer has used no procedure other
33 than that specified in subparagraphs (B) and (C) of paragraph (1) in
34 inventorying to ascertain the income, profit, or loss of the first tax-
35 able year for which the method described in paragraph (1) is to be used,
36 for the purpose of a report or statement covering the taxable year to
37 shareholders, partners, or other proprietors, or to beneficiaries, or
38 for credit purposes.

39 (3) First in, last out method, tax-commission DEPARTMENT to
40 prescribe regulations. The change to, and the use of, the described method
41 shall be in accordance with such regulations as the tax-commission DEPART-
42 MENT may prescribe as necessary in order that the use of the method may
43 clearly reflect income.

44 (4) First in, last out method, inventoried at cost. In determining
45 income for the taxable year preceding the taxable year for which the de-
46 scribed method is first used, the closing inventory of such preceding year
47 of the goods specified in the application shall be at cost.

48 (5) First in, last out method, inconsistent use. If a taxpayer,
49 having complied with paragraph (2), uses the method described in para-
50 graph (1) for any taxable year, that method shall be used in all subse-
51 quent taxable years unless

52 (A) With the approval of the tax-commission DEPARTMENT a change

1 to a different method is authorized; or

2 (B) The ~~tax-commission~~ DEPARTMENT determines that the taxpayer has
3 used for any such subsequent taxable year some procedure other than that
4 specified in subparagraph (B) of paragraph (1) in inventorying the goods
5 specified in the application to ascertain the income, profit or loss of
6 such subsequent taxable year for the purpose of a report or statement
7 covering such taxable year to shareholders, partners, or other proprietors,
8 or beneficiaries, or for credit purposes, and requires a change to a method
9 different from that prescribed in paragraph (1) beginning with such sub-
10 sequent taxable year or any taxable year thereafter.

11 In either of the above cases, the change to, and the use of the different
12 method shall be in accordance with such regulations as the ~~tax-commission~~
13 DEPARTMENT may prescribe as necessary in order that the use of such method
14 may clearly reflect income.

15 (6) Adjustment of net income, when applicable. The net income of
16 the taxpayer otherwise determined for the year of involuntary liquidation
17 shall be adjusted according to the provisions of paragraphs (7) and (8):

18 (A) If, for any taxable year beginning after December 31, 1953,
19 and while a state of war exists and prior to the termination of such war
20 as proclaimed by the president of the United States, the closing inventory
21 of a taxpayer inventorying goods under the method provided in this sub-
22 section reflects a decrease from the opening inventory of goods for
23 this year; and

24 (B) If, at the time of the filing of the taxpayer's income tax
25 return for such year, the taxpayer elects to have the provisions of para-
26 graphs (6) through (15) apply and so notifies the ~~tax-commission~~ DEPART-
27 MENT; and

28 (C) If, at the time of such election, it is established to the
29 satisfaction of the ~~tax-commission~~ DEPARTMENT, in accordance with the rules
30 and regulations prescribed by the ~~tax-commission~~ DEPARTMENT, that such de-
31 crease is attributable to the involuntary liquidation of the inventory as
32 defined in paragraph (9); and

33 (D) If the closing inventory of a subsequent taxable year, ending
34 not more than four years after the termination of such war as proclaimed
35 by the president of the United States, reflects a replacement, in whole
36 or in part, of the goods so previously liquidated.

37 (7) Adjustment of net income, method. The taxpayer's net income
38 shall be adjusted as follows:

39 (A) Increased by an amount equal to the excess, if any, of the
40 aggregate cost of such goods reflected in the opening inventory of the
41 year of involuntary liquidation over the aggregate replacement cost; or

42 (B) Decreased by an amount equal to the excess, if any, of the
43 aggregate replacement cost of such goods over the aggregate cost thereof
44 reflected in the opening inventory of the year of the involuntary liqui-
45 dation.

46 (8) Adjustment of taxes. The taxes imposed by this title for the
47 year of such liquidation and for all taxable years intervening between
48 that year and the year of replacement shall be redetermined giving effect
49 to adjustments provided for in paragraph (6). Any increase in taxes re-
50 sulting from these adjustments shall be assessed and collected as a de-
51 ficiency but without interest, and any overpayment so resulting shall be

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1 credited or refunded to the taxpayer without interest.

2 (9) Definition--"involuntary liquidation". As used in paragraphs
3 (6) through (15), "involuntary liquidation" means the sale or other dis-
4 position of goods inventoried under the method described in this subsec-
5 tion, either voluntary or involuntary, coupled with a failure on the part
6 of the taxpayer to purchase, manufacture, or otherwise produce and have
7 on hand at the close of the taxable year in which a sale or other dis-
8 position occurred such goods as would, if on hand at the close of such
9 taxable year, be subject to the provisions of this subsection if such
10 failure on the part of the taxpayer is due, directly and exclusively:

- 11 (A) To enemy capture or control of sources of limited foreign
12 supply;
13 (B) To shipping or other transportation shortages;
14 (C) To material shortages resulting from priorities or allocations;
15 (D) To labor shortages;
16 (E) To other prevailing war conditions, beyond the control of
17 the taxpayer.

18 (10) Replacements. If, in the case of any taxpayer subject to
19 the provisions of paragraphs (6), (7) and (8), the closing inventory
20 of the taxpayer for a taxable year, subsequent to the year of involuntary
21 liquidation but prior to the complete replacement of the goods so liqui-
22 dated, reflects an increase over the opening inventory of the goods for
23 the taxable year, the goods reflecting such increase shall be considered,
24 in the order of their acquisition, as having been acquired in replacement
25 of the goods most recently liquidated (whether or not in a year of in-
26 voluntary liquidation) and not previously replaced. If the liquidation
27 was an involuntary liquidation, the goods reflecting the increase shall
28 be taken into purchases and included in the closing inventory of the
29 taxpayer for the year of replacement at the inventory cost basis of the
30 goods replaced.

31 (11) Election, irrevocable. An election by the taxpayer to have
32 the provisions of paragraphs (6) through (15) apply, once made, shall
33 be irrevocable and shall be binding for the year of the involuntary
34 liquidation and for all determinations for prior and subsequent taxable
35 years insofar as they are related to the year of liquidation or replace-
36 ment

37 (12) Adjustment, within three years. If the adjustments specified
38 in paragraphs (6), (7) and (8) are, with respect to any taxable year, pre-
39 vented, on the date of the filing of the income tax return of the tax-
40 payer for the year of the replacement, or within four years from such
41 date, by any provision or rule of law (other than paragraphs (12) through
42 (15)) such adjustments shall nevertheless be made if, in respect to the
43 taxable year for which the adjustment is sought, a notice of proposed
44 additional assessment is mailed or a claim for refund is filed, as the
45 case may be, within four years after the date of the filing of the income
46 tax return for the year of replacement.

47 (13) Adjustment, limited to effect of liquidation. If, at the time
48 of the mailing of the notice of proposed additional assessment or the filing
49 of the claim for refund, the adjustment is so prevented, then the amount
50 of the adjustment authorized by paragraphs (6) through (15) shall be

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1 limited to the increase or decrease of the tax imposed by this title
2 previously determined for the taxable year which results solely from
3 the effect of paragraphs (6), (7) and (8). The tax previously determined
4 shall be ascertained in accordance with rules and regulations prescribed
5 by the ~~tax-commission~~ DEPARTMENT.

6 (14) Adjustment, method of assessment or refund. The amount of the
7 adjustment shall be assessed and collected, or credited or refunded in
8 the same manner as if it were a deficiency or an overpayment, as the case
9 may be, for such taxable year and as if, on the date of the filing of the
10 income tax return for the year of the replacement, three years remain
11 before the expiration of the periods of limitation upon assessment or the
12 filing of claim for refund for the taxable year.

13 (15) Adjustment, based on paragraph (6). The amount of the adjust-
14 ment shall not be diminished by any credit or set-off based upon any item,
15 inclusion, deduction, credit, exemption, gain, or loss, other than one
16 resulting from the effect of paragraphs (6), (7), and (8). The amount, if
17 paid, shall not be recovered by a claim or suit for refund or suit for
18 erroneous refund based upon any item, inclusion, deduction, credit, ex-
19 emption, gain, or loss, other than one resulting from the effect of para-
20 graphs (6), (7) and (8).

21 (e) Alimony, etc.

22 (1) Alimony--periodic payments. In the case of a wife who is
23 divorced or legally separated from her husband under a decree of divorce
24 or of separate maintenance, periodic payments (whether or not made at
25 regular intervals) received subsequent to such decree in discharge of,
26 or attributable to property transferred (in trust or otherwise) in dis-
27 charge of, a legal obligation which, because of the marital or family
28 relationship, is imposed upon or incurred by such husband under such
29 decree or under a written instrument incident to such divorce or separa-
30 tion shall be includible in the gross income of such wife. Such amounts
31 received as are attributable to property so transferred shall not be
32 includible in the gross income of such husband.

33 (2) Minor's support. Paragraph (1) shall not apply to that part
34 of any periodic payment which the terms of the decree or written instru-
35 ment fix, in terms of an amount of money or a portion of the payment,
36 as a sum which is payable for the support of minor children of the
37 husband. In case any periodic payment is less than the amount specified
38 in the decree or written instrument, that payment, to the extent of the
39 sum payable for support, shall be considered a payment for such support.

40 (3) Alimony installment payments of less than ten years. Install-
41 ment payments discharging a part of an obligation the principal sum of
42 which is, in terms of money or property, specified in the decree or in-
43 strument shall not be considered period payments for the purposes of
44 paragraphs (1) and (2).

45 (4) Alimony installment payments of more than ten years. An in-
46 stallment payment shall be considered a periodic payment for the purposes
47 of paragraphs (1) and (2) if the principal sum, by the terms of the
48 decree or instrument may be or is to be paid within a period ending
49 more than ten years from the date of such decree or instrument. But
50 it shall be considered a periodic payment only to the extent that the

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1 installment payment for the taxable year of the wife (or if more than
2 one installment payment for the taxable year is received during the tax-
3 able year, the aggregate of these installment payments) does not exceed
4 ten per cent of the principal sum. For the purposes of paragraph (3)
5 and this paragraph, the portion of a payment of the principal sum which
6 is allocable to a period after the taxable year of the wife in which it
7 is received shall be considered an installment payment for the taxable
8 year in which it is received.

9 (f) Definition--"adjusted gross income". As used in this title,
10 the term "adjusted gross income" means the gross income minus--

11 (1) The deductions allowed by sections 43-123.03 through 43-123.35
12 which are attributable to a trade or business carried on by the taxpayer,
13 if such trade or business does not consist of the performance of services
14 by the taxpayer as an employee;

15 (2) The deductions allowed by sections 43-123.03 through 43-123.35
16 which consist of expenses of travel, meals, and lodging while away from
17 home, paid or incurred by the taxpayer in connection with the performance
18 by him of services as an employee;

19 (3) The deductions allowed by sections 43-123.03 through 43-123.35
20 (other than expenses of travel, meals, and lodging while away from home)
21 which consist of expenses paid or incurred by the taxpayer, in connection
22 with the performance by him of services as an employee, under a reimburse-
23 ment or other expense allowance arrangement with his employer;

24 (4) The deductions (other than those provided in paragraphs (1),
25 (5) or (6)) allowed by sections 43-123.03 through 43-123.35, which are
26 attributable to property held for the production of rents or royalties;

27 (5) The deductions (other than those provided in paragraph (1))
28 for depreciation and depletion, allowed by sections 43-123.14 and
29 43-123.15, to a life tenant of property or to an income beneficiary of
30 property held in trust; and

31 (6) The deductions (other than those provided in paragraph (1))
32 allowed by sections 43-123.03 through 43-123.35 as losses from the
33 sale or exchange of property.

34 (g) Dealers in tax exempt securities.

35 (1) "Short-term municipal bonds", income from. In computing the
36 gross income of a taxpayer who holds during the taxable year a short-term
37 municipal bond (as defined in paragraph (2)(A)) primarily for sale to
38 customers in the ordinary course of his trade or business.

39 (A) If the gross income of the taxpayer from such trade or business
40 is computed by the use of inventories and his inventories are valued on
41 any basis other than cost, the cost of securities sold (as defined in
42 paragraph (2)(B)) during such year shall be reduced by an amount equal
43 to the amortizable bond premium that would be disallowed as a deduction
44 for such year pursuant to section 43-123.24, subsection B, paragraph 2
45 if the definition in section 43-123.24, subsection F of the term "bond"
46 did not exclude such short-term municipal bond; or

47 (B) If the gross income of the taxpayer from such trade or business
48 is computed without the use of inventories, or by use of inventories valued
49 at cost, and the short-term municipal bond is sold or otherwise disposed
50 of during such year, the adjusted basis (computed without regard to this

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1 subparagraph) of the short-term municipal bond shall be reduced by the
2 amount of the adjustment that would be required under section 43-153(b)
3 (1)(D) if the definition in section 43-123.24 of the term "bond" did
4 not include such short-term municipal bond.

5 (2) Definition--"Short-term municipal bonds". For the purposes
6 of paragraph (1)--

7 (A) The term "short-term municipal bond" means any obligation
8 issued by a government or political subdivision thereof if the interest
9 on such obligation is excludible from gross income; but such term does
10 not include such an obligation if (i) it is sold or otherwise disposed
11 of by the taxpayer within thirty days after the date of its acquisition
12 by him, or (ii) its earliest maturity or call date is a date more than
13 five years from the date on which it was acquired by the taxpayer.

14 (B) The term "cost of securities sold" means the amount ascertained
15 by subtracting the inventory value of the closing inventory of a taxable
16 year from the sum of (i) the inventory value of the opening inventory for
17 such year and (ii) the cost of securities and other property purchased
18 during such year which would properly be included in the inventory of the
19 taxpayer if on hand at the close of the taxable year.

20 Sec. 2. Effective date

21 This act shall become effective retroactive from and after December 31,
22 1974.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 91

SENATE BILL 1063

AN ACT

RELATING TO TRADE AND COMMERCE; PROHIBITING CERTAIN CHAIN OR PYRAMID DISTRIBUTOR SCHEMES; PRESCRIBING PENALTIES; AND AMENDING TITLE 44, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 10.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 44, chapter 10, Arizona Revised Statutes, is
3 amended by adding article 10, to read:
4 ARTICLE 10. FRAUDULENT CHAIN OR PYRAMID SALES
5 44-1571. Chain or pyramid distributor schemes prohibited
6 A. IT IS ILLEGAL AND PROHIBITED FOR ANY PERSON OR HIS OR ITS
7 AGENT OR EMPLOYEE TO PROMOTE, OFFER OR GRANT PARTICIPATION IN A CHAIN
8 OR PYRAMID DISTRIBUTOR SCHEME.
9 B. IN THIS ARTICLE, A "CHAIN DISTRIBUTOR SCHEME" OR A "PYRAMID
10 DISTRIBUTOR SCHEME" IS A SALES DEVICE WHEREBY A PERSON, UPON CONDITION
11 THAT HE MAKE AN INVESTMENT, IS GRANTED A LICENSE OR RIGHT TO SOLICIT OR
12 RECRUIT FOR PROFIT OR ECONOMIC GAIN ONE OR MORE ADDITIONAL PERSONS WHO
13 ARE ALSO GRANTED SUCH LICENSE OR RIGHT UPON CONDITION OF MAKING AN IN-
14 VESTMENT AND MAY FURTHER PERPETUATE THE CHAIN OF PERSONS WHO ARE GRANTED
15 SUCH LICENSE OR RIGHT UPON SUCH CONDITION.
16 C. IN THIS ARTICLE, "INVESTMENT" MEANS ANY ACQUISITION, FOR A
17 CONSIDERATION OTHER THAN PERSONAL SERVICES, OF PROPERTY, TANGIBLE OR
18 INTANGIBLE, AND INCLUDES WITHOUT LIMITATION FRANCHISES, BUSINESS OP-
19 PORTUNITIES AND SERVICES. IT DOES NOT INCLUDE SALES DEMONSTRATION
20 EQUIPMENT AND MATERIALS FURNISHED AT COST FOR USE IN MAKING SALES AND
21 NOT FOR RESALE.

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1 D. A LIMITATION AS TO THE NUMBER OF PERSONS WHO MAY PARTICI-
2 PATE, OR THE PRESENCE OF ADDITIONAL CONDITIONS AFFECTING ELIGIBILITY
3 FOR SUCH LICENSE OR RIGHT TO RECRUIT OR SOLICIT OR THE RECEIPT OF
4 PROFITS THEREFROM, DOES NOT CHANGE THE IDENTITY OF THE SCHEME AS A
5 CHAIN OR PYRAMID DISTRIBUTOR SCHEME.

6 44-1572. Penalty

7 A. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS
8 ARTICLE SHALL BE PUNISHED BY IMPRISONMENT IN THE STATE PRISON FOR
9 NOT LESS THAN ONE NOR MORE THAN FIVE YEARS, BY IMPRISONMENT IN A
10 COUNTY JAIL FOR NOT TO EXCEED ONE YEAR, BY A FINE NOT EXCEEDING TEN
11 THOUSAND DOLLARS OR BY BOTH SUCH FINE AND IMPRISONMENT.

12 B. THE ATTORNEY GENERAL, COUNTY ATTORNEY, OR BOTH, SHALL
13 INSTITUTE THE CRIMINAL ACTIONS TO ENFORCE THE PROVISIONS OF THIS
14 ARTICLE.

15 44-1573. Sale or contract for sale of interest in
16 chain or pyramid distributor scheme voidable

17 ANY PURCHASER IN A CHAIN OR PYRAMID DISTRIBUTOR SCHEME SHALL
18 HAVE THE ELECTION, NOTWITHSTANDING ANY AGREEMENT TO THE CONTRARY, TO
19 DECLARE THE RELATED SALE OR CONTRACT FOR SALE VOID, AND HE MAY BRING
20 AN ACTION IN A COURT OF COMPETENT JURISDICTION TO RECOVER THE CONSIDERA-
21 TION HE PAID TO PARTICIPATE IN THE SCHEME. IN SUCH ACTION THE COURT
22 SHALL, IN ADDITION TO ANY JUDGMENT AWARDED TO THE PLAINTIFF, REQUIRE
23 DEFENDANT TO PAY INTEREST, REASONABLE ATTORNEYS' FEES AND THE COSTS OF
24 THE ACTION, LESS ANY MONEY PAID TO PLAINTIFF AS PROFIT IN THE TRANS-
25 ACTION.

26 44-1574. Scope of remedy

27 THE RIGHTS AND REMEDIES THAT THIS ARTICLE GRANTS TO PURCHASERS
28 IN CHAIN OR PYRAMID DISTRIBUTOR SCHEMES ARE INDEPENDENT OF AND SUP-
29 PLEMENTAL TO ANY OTHER RIGHT OR REMEDY AVAILABLE TO THEM IN LAW OR
30 EQUITY, AND NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO DIMINISH OR
31 TO ABROGATE ANY SUCH RIGHT OR REMEDY.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 92

SENATE BILL 1169

AN ACT

RELATING TO TAXATION; REMOVING THE OFFICE OF HEARING OFFICER FROM THE
STATE BOARD OF TAX APPEALS, AND REPEALING SECTIONS 42-142.01
THROUGH 42-142.03, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
- 2 Section 1. Repeal
- 3 Sections 42-142.01, 42-142.02 and 42-142.03, Arizona Revised
- 4 Statutes, are repealed.

Approved by the Governor - May 22, 1975

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 93

SENATE BILL 1011

AN ACT

RELATING TO TAXATION OF INCOME; PROVIDING FOR TAX DEDUCTION FOR INSTALLATION OF SOLAR ENERGY DEVICES, AND AMENDING SECTION 43-123.37, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 43-123.37, Arizona Revised Statutes, is
3 amended to read:

4 43-123.37. Election to amortize expenditures incurred in
5 the acquisition of any solar energy device
6 designed to produce heat or electricity

7 (a) General Rule. Any taxpayer may elect to amortize the ad-
8 justed basis of any solar energy device, WHETHER FOR RESIDENTIAL,
9 COMMERCIAL, INDUSTRIAL OR GOVERNMENTAL INSTALLATIONS OR EXPERIMENTAL
10 OR DEMONSTRATION PROJECTS, designed to produce heat or electricity
11 based upon a period of sixty months. In computing net income, such
12 amortization shall be allowed as a deduction ratably over the period
13 allowed under this subsection beginning with the month in which such
14 device is completed or acquired and is placed in service by the tax-
15 payer. This election shall be indicated by the taxpayer in an appro-
16 priate statement in the taxpayer's income tax return for the taxable
17 year of the acquisition or completion and placement in service of
18 such device. An election to discontinue amortization with respect
19 to the remainder of the amortization period is permitted and shall
20 be indicated by an appropriate statement in the taxpayer's income
21 tax return for the taxable year of discontinuance.

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1 (b) Deduction in lieu of depreciation. The deduction provided
2 under subsection (a) shall be in lieu of any allowance for the exhaus-
3 tion, wear and tear of property used in a trade or business, or of
4 property held for the production of income, including a reasonable
5 allowance for obsolescence as provided under section 43-123.14.

6 (c) Determining the adjusted basis. In determining the adjusted
7 basis for the purposes of subsection (a), such device, shall include
8 only an amount that is properly attributable to the construction, re-
9 construction, remodeling, installation or acquisition of such device.

10 (d) Definition. In this section and section 42-123.01, "Solar
11 energy device" means a system or a series of mechanisms designed pri-
12 marily to provide heating, to provide cooling, to produce electrical
13 power, to produce mechanical power, or any combination thereof, by
14 means of collecting and transferring solar-generated energy into such
15 uses and which also may have the capability of storing such energy
16 for future utilization.

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 94

SENATE BILL 1230

AN ACT

RELATING TO EDUCATION; PROVIDING THAT A UNIFIED SCHOOL DISTRICT MAY LEVY SIXTY CENTS ON EACH ONE HUNDRED DOLLARS OF ASSESSED VALUATION, AND AMENDING SECTION 15-445, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-445, Arizona Revised Statutes, is amended
3 to read:
4 15-445. Levy; items for which levy may be expended;
5 limitations
6 A. At the request of the board of trustees of a district, the
7 county superintendent shall include in his estimate to the board of
8 supervisors the items prescribed by this section and the board of
9 supervisors may make a levy on the property of the district sufficient
10 to produce the amount asked for, but a levy for such purpose shall not
11 exceed thirty cents on each one hundred dollars of property valuation
12 FOR A COMMON OR HIGH SCHOOL DISTRICT AND SIXTY CENTS FOR EACH ONE
13 HUNDRED DOLLARS OF PROPERTY VALUATION FOR EACH UNIFIED SCHOOL DISTRICT
14 ORGANIZED PURSUANT TO TITLE 15, CHAPTER 4.1. Funds collected pursuant
15 to the levy may be accumulated from year to year, and if not needed to
16 be used for a period of three months or more, may be invested in the
17 same manner as sinking fund monies, as prescribed by section 15-1323.
18 B. The board may include in its annual budget the following items
19 which may be paid from the levy prescribed by the terms of subsection A:
20 1. The purchase or lease of sites, improvement of school grounds,
21 erecting, purchasing, leasing, improving and furnishing of school build-
22 ings and appurtenances.
23 2. The improving and furnishing of buildings used for school
24 purposes when such buildings are leased from the national park service.
25 3. A lease-purchase agreement for transportation equipment or for
26 portable classrooms.
27 C. Notwithstanding the provisions of section 15-1302, funds
28 collected pursuant to the levy may be expended for purposes set forth
29 in this section without an election. Prior to expenditure of funds, the
30 governing board shall publish notice of the proposed expenditure of such
31 funds one time in a newspaper of general circulation within the school
32 district. Within ten days of giving such notice, the board shall hold
33 a public hearing on the proposed expenditure.

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 95

HOUSE BILL 2369

AN ACT

RELATING TO STATE GOVERNMENT; PROVIDING THAT CITY OF NOGALES, ARIZONA MAY TRANSFER WATER FROM LAKE PATAGONIA FOR USE BY NOGALES WHEN SUCH CITY HAS AN EMERGENCY NEED OF MORE WATER; PROVIDING FOR ASSESSMENT OF A FEE, AND AMENDING TITLE 41, CHAPTER 3, ARTICLE 1.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-511.20.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 41, chapter 3, article 1.1, Arizona Revised
3 Statutes, is amended by adding section 41-511.20, to read:
4 41-511.20. Authorized emergency use of water from
5 Lake Patagonia by city of Nogales

6 A. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY WHEN-
7 EVER AN EMERGENCY EXISTS, AS DETERMINED BY THE MAYOR OF THE CITY OF
8 NOGALES, ARIZONA, AND CONCURRED IN BY THE STATE WATER ENGINEER, THAT
9 THERE IS NOT SUFFICIENT WATER FOR USE BY SUCH CITY AND THAT THERE IS
10 NO OTHER WATER AVAILABLE FROM ANY OTHER PRACTICAL SOURCE, THEN THE
11 STATE PARKS BOARD SHALL, UPON REQUEST BY SUCH MAYOR, AUTHORIZE SUCH
12 CITY TO REMOVE FROM LAKE PATAGONIA SUCH AMOUNT OF WATER AS NEEDED TO
13 SUPPLY THE CITY WITH SUFFICIENT WATER. THE CITY OF NOGALES SHALL
14 PROVIDE THE MEANS FOR TRANSFERRING SUCH WATER.

15 B. THE STATE WATER ENGINEER SHALL ASSESS A FEE TO THE CITY OF
16 NOGALES FOR THE USE OF SUCH WATER BASED UPON THE VALUE OF THE WATER.
17 SUCH FEE SHALL BE PAID BY THE CITY TO THE STATE PARKS BOARD LAKE
18 PATAGONIA ACCOUNT.

19 Sec. 2. Emergency

20 To preserve the public peace, health and safety it is necessary
21 that this act become immediately operative. It is therefore declared
22 to be an emergency measure, to take effect as provided by law.

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 96

HOUSE BILL 2290

AN ACT

RELATING TO CITIES AND TOWNS; DEFINING THE TERM "LAND SPLITS"; PROVIDING THAT CITIES AND TOWNS MAY REGULATE LAND SPLITS, AND AMENDING SECTIONS 9-463 AND 9-463.01, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 9-463, Arizona Revised Statutes, is amended
3 to read:
4 9-463. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Design" means street alignment, grades and widths, alignment
7 and widths of easements and rights-of-way for drainage and sanitary
8 sewers and the arrangement and orientation of lots.
9 2. "Improvement" means required installations, pursuant to this
10 article and subdivision regulations, including grading, sewer and water
11 utilities, streets, easements, traffic control devices as a condition
12 to the approval and acceptance of the final plat thereof.
13 3. "LAND SPLITS" AS USED IN THIS ARTICLE MEAN THE DIVISION OF
14 IMPROVED OR UNIMPROVED LAND WHOSE AREA IS TWO AND ONE-HALF ACRES OR
15 LESS INTO TWO OR THREE TRACTS OR PARCELS OF LAND FOR THE PURPOSE OF
16 SALE OR LEASE.
17 ~~3.~~ 4. "Municipal" or "municipality" means an incorporated
18 city or town.
19 ~~4.~~ 5. "Planning agency" means the official body designated by
20 local ordinance to carry out the purposes of this article and may be
21 a planning department, a planning commission, the legislative body
22 itself, or any combination thereof.
23 ~~5.~~ 6. "Plat" means a map of a subdivision:
24 (a) "Preliminary plat" means a preliminary map, including support-
25 ing data, indicating a proposed subdivision design prepared in accordance
26 with the provisions of this article and those of any local applicable
27 ordinance.
28 (b) "Final plat" means a map of all or part of a subdivision
29 essentially conforming to an approved preliminary plat, prepared in
30 accordance with the provision of this article, those of any local appli-
31 cable ordinance and other state statute.

1 (c) "Recorded plat" means a final plat bearing all of the certifi-
2 cates of approval required by this article, any local applicable ordi-
3 nance and other state statute.

4 ~~6-~~ 7. "Right-of-way" means any public or private right-of-way and
5 includes any area required for public use pursuant to any general or
6 specific plan as provided for in article 6 of this chapter.

7 ~~7-~~ 8. "Street" means any existing or proposed street, avenue,
8 boulevard, road, lane, parkway, place, bridge, viaduct or easement for
9 public vehicular access or a street shown in a plat heretofore approved
10 pursuant to law or a street in a plat duly filed and recorded in the
11 county recorder's office. A street includes all land within the street
12 right-of-way whether improved or unimproved, and includes such improve-
13 ments as pavement, shoulders, curbs, gutters, sidewalks, parking space,
14 bridges and viaducts.

15 ~~8-~~ 9. "Subdivider" means a person, firm, corporation, partnership,
16 association, syndicate, trust or other legal entity that files applica-
17 tion and initiates proceedings for the subdivision of land in accordance
18 with the provisions of this article, any local applicable ordinance
19 and other state statute, except that an individual serving as agent for
20 such legal entity is not a subdivider.

21 ~~9-~~ 10. "Subdivision" means any land or portion thereof subject
22 to the provisions of this article as provided in section 9-463.02.

23 ~~10-~~ 11. "Subdivision regulations" means a municipal ordinance
24 regulating the design and improvement of subdivisions enacted under the
25 provisions of this article or any prior statute regulating the design
26 and improvement of subdivisions.

27 Sec. 2. Section 9-463.01, Arizona Revised Statutes, is amended
28 to read:

29 9-463.01. Authority

30 A. Pursuant to the provisions of this article, the legislative
31 body of every municipality may regulate the subdivision of all lands
32 within its corporate limits.

33 B. If the legislative body of a municipality exercises the
34 authority granted in subsection A, regulation shall be by ordinance
35 prescribing:

36 1. Procedures to be followed in the preparation, submission,
37 review and approval or rejection of all final plats.

38 2. Standards governing the design of subdivision plats.

39 3. Minimum requirements and standards for the installation of
40 subdivision streets, sewer and water utilities and improvements as a
41 condition of final plat approval.

42 C. By ordinance, the legislative body of any municipality may:
43 1. Require the preparation, submission and approval of a pre-
44 liminary plat as a condition precedent to submission of a final plat.

45 2. Establish the procedures to be followed in the preparation,
46 submission, review and approval of preliminary plats.

47 3. Make requirements as to the form and content of preliminary
48 plats.

49 4. Determine that certain lands may either not be subdivided,
50 by reason of adverse topography, periodic inundation, adverse soils,

1 subsidence of the earth's surface, high water table, lack of water or
2 other natural or man-made hazard to life or property, or control the
3 lot size, establish special grading and drainage requirements, and
4 impose other regulations deemed reasonable and necessary for the public
5 health, safety or general welfare on any lands to be subdivided affected
6 by such characteristics.

7 5. Require payment of a proper and reasonable fee by the sub-
8 divider based upon the number of lots or parcels on the surface of the
9 land to defray municipal costs of plat review and site inspection.

10 6. Require the dedication of public streets, sewer and water
11 utility easements or rights-of-way, within the proposed subdivision.

12 7. Require the preparation and submission of acceptable engi-
13 neering plans and specifications for the installation of required
14 street, sewer and water utility and improvements as a condition pre-
15 cedent to recordation of an approved final plat.

16 8. Require the posting of performance bonds, assurances or
17 such other security as may be appropriate and necessary to assure the
18 installation of required street, sewer and water utility and improve-
19 ments meeting established minimum standards of design and construction.

20 D. The legislative body of any municipality may require by
21 ordinance that land areas within a subdivision be reserved for parks,
22 recreational facilities, school sites and fire stations subject to
23 the following conditions:

24 1. The requirement may only be made upon preliminary plats filed
25 at least thirty days after the adoption of a general or specific plan
26 affecting the land area to be reserved.

27 2. The required reservations are in accordance with definite
28 principles and standards adopted by the legislative body.

29 3. The land area reserved shall be of such a size and shape as
30 to permit the remainder of the land area of the subdivision within
31 which the reservation is located to develop in an orderly and efficient
32 manner.

33 4. The land area reserved shall be in such multiples of streets
34 and parcels as to permit an efficient division of the reserved area
35 in the event that it is not acquired within the prescribed period.

36 E. The public agency for whose benefit an area has been re-
37 served shall have a period of one year after recording the final
38 subdivision plat to enter into an agreement to acquire such reserved
39 land area. The purchase price shall be the fair market value thereof at
40 the time of the filing of the preliminary subdivision plat plus the taxes
41 against such reserved area from the date of the reservation and any other
42 costs incurred by the subdivider in the maintenance of such reserved
43 area, including interest cost incurred on any loan covering such re-
44 served area.

45 F. If the public agency for whose benefit an area has been re-
46 served does not exercise the reservation agreement set forth in sub-
47 section E of this section within such one year period or such extended
48 period as may be mutually agreed upon by such public agency and the
49 subdivider, the reservation of such area shall terminate.

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1 G. The legislative body of every municipality shall comply with
2 all provisions of this article and applicable state statutes pertaining
3 to the hearing, approval or rejection, and recordation of:

4 1. Final subdivision plats.
5 2. Plats filed for the purpose of reverting to acreage of land
6 previously subdivided.

7 3. Plats filed for the purpose of vacating streets or easements
8 previously dedicated to the public.

9 4. Plats filed for the purpose of vacating or redescribing lot
10 or parcel boundaries previously recorded.

11 H. Approval of every preliminary and final plat by a legislative
12 body is conditioned upon compliance by the subdivider with:

13 1. Rules as may be established by the Arizona highway department
14 relating to provisions for the safety of entrance upon and departure
15 from abutting state primary highways.

16 2. Rules as may be established by a county flood control district
17 relating to the construction or prevention of construction of streets
18 in land established as being subject to periodic inundation.

19 3. Rules as may be established by the state department of health
20 or a county health department relating to the provision of domestic
21 water supply and sanitary sewage disposal.

22 I. Every municipality is responsible for the recordation of
23 all final plats approved by the legislative body and shall receive from
24 the subdivider and transmit to the county recorder the recordation fee
25 established by the county recorder.

26 J. Pursuant to provisions of applicable state statutes, the
27 legislative body of any municipality may itself prepare or have pre-
28 pared a plat for the subdivision of land under municipal ownership.

29 K. THE LEGISLATIVE BODIES OF CITIES AND TOWNS MAY BY ORDINANCE
30 REGULATE LAND SPLITS WITHIN THEIR CORPORATE LIMITS. AUTHORITY GRANTED
31 UNDER THIS SECTION REFERS TO THE DETERMINATION OF DIVISION LINES, AREA
32 AND SHAPE OF THE TRACTS OR PARCELS AND DOES NOT INCLUDE AUTHORITY TO
33 REGULATE THE TERMS OR CONDITION OF THE SALE OR LEASE NOR DOES IT INCLUDE
34 THE AUTHORITY TO REGULATE THE SALE OR LEASE OF TRACTS OR PARCELS NOT
35 THE RESULT OF LAND SPLITS AS DEFINED IN SECTION 9-463.

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 97

SENATE BILL 1184

AN ACT

RELATING TO LOCAL GOVERNMENT; PROVIDING THAT COUNTIES OR INCORPORATED CITIES AND TOWNS MAY PRESCRIBE FEES FOR USE OF PUBLIC DUMPING GROUNDS, AND AMENDING SECTION 9-441, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 9-441, Arizona Revised Statutes, is amended to
3 read:

4 9-441. Special areas for dumping grounds;
5 location; fees

6 A. Special areas to be used by the public for dumping and deposit-
7 ing rubbish, refuse, debris and trash shall be provided by the governing
8 body of each incorporated city or town, or the board of supervisors for
9 each unincorporated city or town. Such areas shall be known as public
10 dumping grounds and shall be located at such intervals and as conveniently
11 as the governing body or board deems necessary, but in no case within one
12 mile of an incorporated city, town or residential area, nor within one
13 quarter of a mile of a federal or state highway, park, recreational area
14 or monument.

15 B. If a county or incorporated city or town does not own land suit-
16 able for the purpose of this section, the board of supervisors of the
17 county, or the governing body of the city or town, shall purchase, lease
18 or otherwise acquire control of sufficient property for the dumping grounds.

19 C. IF IT IS DEEMED NECESSARY OR DESIRABLE, THE BOARD OF SUPERVISORS
20 OR THE GOVERNING BODY OF AN INCORPORATED CITY OR TOWN, AS APPROPRIATE, MAY
21 IMPOSE A FEE ON COMMERCIAL GARBAGE COLLECTORS OR REFUSE REMOVERS WHO RE-
22 CEIVE A FEE OR COMPENSATION FOR THEIR SERVICES FOR USE OF SUCH PUBLIC
23 DUMPING GROUNDS. THE FEE MAY BE BASED ON A MONTHLY, YEARLY OR PER USE
24 BASIS AND SHALL BE USED TO DEFRAY THE COSTS OF OPERATION OF SUCH DUMPING
25 GROUNDS.

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 98

SENATE BILL 1250

AN ACT

RELATING TO TRANSPORTATION; PROVIDING FOR THE USE OF UNARMED POLICE AIDES BY LOCAL AUTHORITIES TO ASSIST IN THE REGULATION OF STANDING OR PARKING OF MOTOR VEHICLES; PRESCRIBING LIMITS TO POWERS; PROVIDING FOR CERTAIN VETERAN EXEMPTION ON VEHICLE LICENSE TAX; AMENDING SECTION 28-627, ARIZONA REVISED STATUTES, AND AMENDING TITLE 28, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1591.01.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-627, Arizona Revised Statutes, is amended
3 to read:
4 28-627. Powers of local authorities
5 A. The provisions of this chapter shall not be deemed to prevent
6 local authorities, with respect to streets and highways under their
7 jurisdiction and within the reasonable exercise of the police power,
8 from:
9 1. Regulating the standing or parking of vehicles.
10 2. Regulating traffic by means of police officers or traffic-
11 control signals.
12 3. Regulating or prohibiting processions or assemblages on the
13 highways.
14 4. Designating particular highways as one-way highways and
15 requiring that all vehicles thereon be moved in one specific direction.
16 5. Regulating the speed of vehicles in public parks.
17 6. Designating any highway as a through highway and requiring
18 that all vehicles stop before entering or crossing the same or
19 designating any intersection as a stop intersection and requiring all
20 vehicles to stop at one or more entrances to the intersection.
21 7. Restricting the use of highways as authorized in section
22 28-1012.
23 8. Regulating the operation of bicycles and requiring the reg-
24 istration and licensing of same, including the requirement of a registra-
25 tion fee.

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1 9. Regulating or prohibiting the turning of vehicles or specified
2 types of vehicles at intersections.

3 10. Altering the prima facie speed limits as authorized by this
4 chapter.

5 11. Adopting such other traffic regulations as are specifically
6 authorized by this chapter.

7 B. No local authority shall erect or maintain any stop sign or
8 traffic-control signal at any location so as to require the traffic on
9 any state highway to stop before entering or crossing any intersecting
10 highway unless approval in writing has first been obtained from the
11 director.

12 C. No ordinance or regulation enacted under paragraphs 4, 5, 6, 7,
13 9 or 10 of subsection A of this section shall be effective until signs
14 giving notice of the local traffic regulations are posted upon or at
15 the entrances to the highway or part thereof affected as may be most
16 appropriate.

17 D. IN ADDITION TO THE APPOINTMENT OF PEACE OFFICERS, LOCAL AUTHORI-
18 TIES MAY BY ORDINANCE PROVIDE FOR THE APPOINTMENT OF UNARMED POLICE AIDES
19 WHO SHALL BE EMPLOYED BY THE POLICE DEPARTMENT AND SHALL BE EMPOWERED TO
20 COMMENCE AN ACTION OR PROCEEDING BEFORE A COURT OR JUDGE FOR ANY VIOLA-
21 TION OF THEIR ORDINANCES REGULATING THE STANDING OR PARKING OF VEHICLES.
22 THE AUTHORITY OF THE UNARMED POLICE AIDE AS AUTHORIZED IN THIS SECTION
23 SHALL BE STRICTLY LIMITED TO THE ENFORCEMENT OF THE ORDINANCES OF LOCAL
24 AUTHORITIES REGULATING THE STANDING OR PARKING OF VEHICLES AND IN NO WAY
25 SHALL THIS SECTION BE CONSTRUED TO GRANT OTHER POWERS OR BENEFITS TO WHICH
26 PEACE OFFICERS OF THIS STATE ARE ENTITLED.

27 Sec. 2. Title 28, chapter 9, article 3, Arizona Revised Statutes,
28 is amended by adding section 28-1591.01, to read:

29 28-1591.01. Veteran exemption

30 NOTWITHSTANDING THE PROVISIONS OF SECTION 28-1591, UPON PRESENTA-
31 TION OF SATISFACTORY PROOF, A VETERAN RESIDING IN THIS STATE SHALL PAY
32 NO LICENSE TAX ON A VEHICLE ACQUIRED BY SUCH VETERAN THROUGH FINANCIAL
33 AID FROM THE VETERANS' ADMINISTRATION FOR SUCH VEHICLE.

Approved by the Governor - May 22, 1975

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 99

SENATE BILL 1259

AN ACT

RELATING TO LOCAL GOVERNMENT; REDEFINING THE MEANING OF PROJECT; LIMITING CORPORATE POWERS OF INDUSTRIAL DEVELOPMENT AUTHORITY, AND AMENDING SECTIONS 9-1151 AND 9-1156, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 9-1151, Arizona Revised Statutes, is amended to
3 read:
4 9-1151. Definitions
5 In this chapter, unless the context otherwise requires:
6 1. "Corporation" means any corporation organized as an authority
7 pursuant to the provisions of this chapter.
8 2. "Governing body" means the board or body in which the general
9 legislative powers of the municipality or the county are vested.
10 3. "Municipality" or "county" means any incorporated city or town,
11 including charter cities, or any county in this state in which a corporation
12 may be organized and in which it is contemplated the corporation will
13 function.
14 4. "Project" means any land, any building or other improvement, and
15 all real and personal properties, including but not limited to machinery
16 and equipment whether or not now in existence or under construction, WHETHER
17 LOCATED WITHIN OR WITHOUT THE MUNICIPALITY OR COUNTY, which shall be suitable
18 for any ~~or all~~ of the following:
19 (a) Any enterprise for the manufacturing, processing or assembling
20 of any agricultural or manufactured products.

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1 (b) Any commercial enterprise for the storing, warehousing, dis-
2 tributing or selling of products of agriculture, mining or industry, OR OF
3 PROCESSES RELATED THERETO, AND INCLUDING RESEARCH AND DEVELOPMENT THEREFOR.
4 ~~,-but-not-including-enterprises-designed-for-the-sale-or-distribution-to~~
5 ~~the-public-of-electricity,-gas,-water-or-telephone-or-other-services-com-~~
6 ~~monly-classified-as-public-utilities,-nor-public-service-corporations.~~

7 (c) A health care institution as that term is currently defined in
8 section 36-401.

9 (d) RESIDENTIAL REAL PROPERTY FOR FAMILY UNITS.

10 (e) CONVENTION OR TRADE SHOW FACILITIES.

11 (f) AIRPORTS, DOCKS, WHARVES, MASS COMMUTING FACILITIES, OR STORAGE
12 OR TRAINING FACILITIES, PARKING FACILITIES, OR STORAGE OR TRAINING FACIL-
13 ITIES DIRECTLY RELATED TO ANY AS SET FORTH IN THIS SUBDIVISION.

14 (g) SEWAGE OR SOLID WASTE DISPOSAL FACILITIES OR FACILITIES FOR
15 THE FURNISHING OF ELECTRIC ENERGY, GAS OR WATER.

16 (h) INDUSTRIAL PARK FACILITIES.

17 (i) AIR OR WATER POLLUTION CONTROL FACILITIES.

18 5. "Property" means any land, improvements thereon, buildings and
19 any improvements thereto, machinery and equipment of any and all kinds
20 necessary to a project, and any other personal properties deemed necessary
21 in connection with a project.

1 Sec. 2. Section 9-1156, Arizona Revised Statutes, is amended to
2 read:

3 9-1156. Corporate powers

4 A. In addition to the powers granted to such authorities by
5 law, the authority shall have the following powers, together with all
6 powers incidental thereto or necessary for the performance of the
7 following:

8 1. To acquire, whether by purchase, exchange, gift, lease or
9 otherwise establish, construct, improve, maintain, equip and furnish
10 one or more projects.

11 2. To lease to others any or all of its projects and to charge
12 and collect rent therefor, and to terminate any such lease upon the
13 failure of the lessee to comply with any of the obligations thereof.

14 3. To sell, exchange, donate and convey to others any or all
15 of its projects or properties upon such terms and conditions as its
16 board of directors may deem advisable, including the power to receive
17 for any such sale the note or notes of the purchaser of the project
18 or property, whenever its board of directors finds any such action to
19 be in furtherance of the purposes for which the corporation was
20 organized.

21 4. To issue its bonds for the purpose of carrying out any of
22 its powers.

23 5. To mortgage and pledge any or all of its projects and prop-
24 erties or any part or parts thereof, whether then owned or thereafter
25 acquired, and to pledge the revenues, proceeds and receipts or any
26 portion thereof from a project, as security for the payment of the
27 principal of and interest on any bonds so issued and any agreements
28 made in connection therewith.

29 6. To pay compensation for professional services and other
30 services as the board of directors shall deem necessary for the busi-
31 ness of the corporation.

32 7. To refund outstanding obligations incurred by an enterprise
33 to finance the cost of a project when the board of directors finds
34 that such refinancing is in the public interest.

35 8. To invest and reinvest funds under the control of the cor-
36 poration and bond proceeds pending application thereof to the purposes
37 for which such bonds were issued, subject only to the provisions of any
38 bond resolution, lease or other agreement entered into by the board of
39 directors.

40 9. To make secured or unsecured loans for the purpose of
41 financing or refinancing the acquisition, construction, improvement
42 or equipping of a project, and to charge and collect interest on such
43 loans and pledge the proceeds of loan agreements as security for the
44 payment of the principal and interest of any bonds, or designated
45 issues of bonds, issued by the corporation, and any agreements made
46 in connection therewith, whenever the board of directors finds such
47 loans to be in furtherance of the purposes of the corporation or in
48 the public interest.

49 10. To acquire and hold obligations of any kind to carry out any
50 of its purposes.

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1 11. To enter into contracts and execute any agreements or instru-
2 ment and do any other act necessary or appropriate to carry out its
3 purposes.

4 B. The corporation shall not have the power to operate any
5 project as a business other than as lessor or seller. The corporation
6 shall not permit any funds derived from the sale of its bonds to be
7 used by the lessee or purchaser of a project as working capital, NOR
8 USED, LOANED OR PROVIDED FOR THE ACQUISITION OF ANY FACILITIES OF A PUBLIC
9 UTILITY OR PUBLIC SERVICE CORPORATION. Any meeting held by the board of
10 directors for any purpose whatsoever shall be open to the public. Regular
11 meetings of the board of directors shall be held AT ~~monthly~~, the place,
12 date and time to be fixed by the board of directors. Special meetings may
13 be called by the president of the corporation or by any two members of the
14 board of directors upon twenty-four hours' notice to THE PUBLIC AND
15 every member of the board. These special meetings shall be held at the
16 same place provided for regular meetings of the board. ~~provided that~~
17 ~~the requirements of a notice shall not be binding in any special meeting~~
18 ~~at which all members of the board of directors are present.~~

19 Sec. 3. Emergency

20 To preserve the public peace, health and safety it is necessary that
21 this act become immediately operative. It is therefore declared to be an
22 emergency measure, to take effect as provided by law.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 100

HOUSE BILL 2114

AN ACT

RELATING TO CRIMES; PRESCRIBING A PROCEDURE FOR SEIZURE OF HORSES IN POOR PHYSICAL CONDITION BECAUSE OF WILFUL NEGLIGENCE OR CRUEL TREATMENT; PROVIDING FOR NOTICE OF SEIZURE; PROVIDING A LIEN FOR EXPENSES OF FEEDING AND CARING OF SEIZED HORSES; PROVIDING FOR PUBLIC SALE OR DISPOSITION OF SEIZED HORSES; CREATING THE HORSE MAINTENANCE FUND; AMENDING SECTION 24-104, ARIZONA REVISED STATUTES, AND AMENDING TITLE 24, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 24-104, Arizona Revised Statutes, is amended
3 to read:
4 24-104. General powers and duties
5 A. The livestock sanitary board shall:
6 1. Exercise general supervision over the livestock interest of
7 the state, protect the livestock industry from theft and the livestock
8 and poultry industries from contagious and infectious diseases, and
9 protect the public from diseased and unwholesome meat products.
10 2. Recommend legislation fostering the livestock and poultry
11 industries and advise the legislature with respect thereto.
12 3. Keep a permanent record of its proceedings and reports of
13 inspectors and deputies.
14 4. Assist in the prosecution of persons charged with violation
15 of the livestock laws.
16 B. The board may, by and with the advice of the state veterinarian,
17 make rules and regulations to control and govern:
18 1. Importation of animals and poultry into the state, establish-
19 ment of quarantine, its boundaries and notice thereof, and accomplish-
20 ment of all things necessary to effect the object of the quarantine and
21 to protect the livestock and poultry industries from contagious or in-
22 fectious diseases and prevent the spread thereof.
23 2. Slaughter of animals and poultry affected with contagious or
24 infectious diseases, and disposition of carcasses of animals and poultry
25 so slaughtered, when such action appears necessary to prevent the spread
26 of contagion or infection among livestock and poultry.

1 3. Importation, manufacture, sale, distribution or use within the
2 state of serums, vaccines and other biologics intended for diagnostic or
3 therapeutic treatment of animals and poultry, and the importation, manu-
4 facture or use of virulent blood or living virus of diseases affecting
5 animals and poultry.

6 4. Sale of livestock straying from its accustomed range.

7 C. The board may:

8 1. Prescribe and enforce rules and regulations in conformity with
9 this title.

10 2. Waive inspections or inspection fees in cases it deems ad-
11 visable.

12 3. Direct inspectors or peace officers to execute its orders.

13 4. Issue or revoke permits for shipments of horses, mules and
14 asses moved from time to time upon construction work within the state
15 without brand inspection.

16 5. Waive inspection of livestock before slaughter, or grant
17 permission to transfer or sell hides of neat animals, horses, mules or
18 asses without being tagged or marked, but such hides shall be inspected
19 and the regular inspection fee paid thereon prior to shipment or sale.

20 6. ACCEPT MONEY DONATIONS FROM ANY PUBLIC OR PRIVATE GROUP,
21 SOCIETY, ASSOCIATION OR INDIVIDUAL FOR DEPOSIT IN THE HORSE MAINTENANCE
22 FUND CREATED BY SECTION 24-552.

23 D. The livestock sanitary board shall promulgate reasonable rules
24 and regulations fixing and establishing the contents of processed meats
25 and meat food products including the percentage of meats and nonmeat
26 ingredients which may be contained in such processed meats, but the
27 percentage of meats prescribed by the board to be contained in processed
28 meats and meat food products shall not exceed the maximum percentages
29 prescribed by the United States department of agriculture. Such rules
30 and regulations shall prescribe that a processed meat product fabricated
31 from two or more ingredients shall bear a list of the ingredients giving
32 the common or usual names of the ingredients arranged in the order of
33 their predominance. Enforcement of these rules and regulations on the
34 retail level shall be by the department of health services. The health
35 services department shall cooperate with the Arizona livestock sanitary
36 board in the provision of laboratory services required to aid in the
37 enforcement of these rules and regulations. A person who violates any
38 rule or regulation promulgated under this subsection is guilty of a
39 misdemeanor, punishable by a fine of not less than ten nor more than one
40 hundred dollars, imprisonment for not less than five nor more than thirty
41 days, or both.

42 E. The board may by regulations prescribe conditions under which
43 carcasses, parts of carcasses, meat, and meat food products of cattle,
44 sheep, swine, goats, horses, mules, or other equines, capable of use as
45 human food, shall be stored or otherwise handled by any person, firm, or
46 corporation engaged in the business of buying, selling, freezing, storing
47 or transporting such articles, whenever the board deems such action
48 necessary to assure that such articles will not be adulterated or mis-
49 branded when delivered to the consumer.

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1 Sec. 2. Title 24, chapter 3, Arizona Revised Statutes, is amended
2 by adding article 4, to read:

3 ARTICLE 4. SEIZURE OF HORSES IN POOR
4 PHYSICAL CONDITION

5 24-551. Petition of seizure; notice of seizure; lien for
6 expenses; forced sale; disposition of proceeds;
7 nonliability of state

8 A. ANY PERSON OR PEACE OFFICER WHO BELIEVES THAT A HORSE IS IN
9 POOR PHYSICAL CONDITION BECAUSE OF WILFUL NEGLECT OR CRUEL TREATMENT MAY
10 PETITION UPON AFFIDAVIT A JUSTICE OF THE PEACE OF THE PRECINCT OR A CITY
11 MAGISTRATE OF THE CITY IN WHICH THE HORSE IS FOUND FOR AN ORDER AUTHORIZING
12 THE LIVESTOCK SANITARY BOARD TO TAKE POSSESSION OF AND PROVIDE CARE FOR
13 SUCH HORSE FOR A FIFTEEN-DAY PERIOD. SUCH ORDER SHALL NOT BE ISSUED
14 UNLESS THE AFFIDAVIT PROVIDES THAT THE HORSE MAINTENANCE FUND HAS A
15 BALANCE WHICH PERMITS THE LIVESTOCK SANITARY BOARD TO PROVIDE SUCH CARE
16 OR THAT THE LIVESTOCK SANITARY BOARD CAN DEMONSTRATE THAT SUCH EXPENSES
17 HAVE BEEN CONTRACTED FOR PURSUANT TO SUBSECTION E.

18 B. UPON TAKING POSSESSION OF A HORSE PURSUANT TO SUBSECTION A,
19 THE LIVESTOCK SANITARY BOARD SHALL GIVE NOTICE OF THE TAKING TO THE
20 OWNER OF SUCH HORSE, IF KNOWN. IF THE OWNER IS NOT KNOWN, THE LIVESTOCK
21 SANITARY BOARD SHALL GIVE NOTICE BY POSTING WRITTEN NOTICE IN AT LEAST
22 THREE PUBLIC PLACES IN THE COUNTY WHERE THE HORSE WAS SEIZED.

23 C. THE OWNER OF ANY HORSE SEIZED PURSUANT TO THIS SECTION MAY,
24 PRIOR TO THE EXPIRATION OF THE FIFTEEN-DAY PERIOD, PETITION THE JUSTICE
25 OF THE PEACE OF THE PRECINCT OR THE CITY MAGISTRATE OF THE CITY IN WHICH
26 THE HORSE WAS SEIZED FOR A HEARING, WHICH SHALL BE GRANTED AS A MATTER
27 OF RIGHT, TO DETERMINE WHETHER, AT THE TIME OF TAKING POSSESSION, SUCH
28 HORSE WAS IN FACT IN POOR PHYSICAL CONDITION BECAUSE OF WILFUL NEGLECT
29 OR CRUEL TREATMENT. THE HEARING SHALL STAY THE FIFTEEN-DAY PERIOD AND
30 SHALL BE HELD WITHIN FIVE DAYS AFTER THE REQUEST THEREFOR BY THE OWNER.
31 IF THE OWNER PROVES THAT THE HORSE AT THE TIME OF TAKING POSSESSION WAS
32 NOT IN POOR PHYSICAL CONDITION BECAUSE OF WILFUL NEGLECT OR CRUEL TREAT-
33 MENT, THE OWNER MAY IMMEDIATELY RECLAIM THE HORSE AND SHALL NOT BE LIABLE
34 FOR PAYMENT OF ANY EXPENSE INCURRED IN THE HANDLING, FEEDING AND CARING
35 FOR SUCH HORSE; PROVIDED FURTHER, THAT UNLESS MALICE IS PROVED, NO
36 ACTION TAKEN PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO CIVIL OR
37 CRIMINAL LIABILITY.

38 D. THE OWNER OF ANY HORSE SEIZED PURSUANT TO THIS SECTION MAY,
39 WITHIN THE FIFTEEN-DAY PERIOD IF NO HEARING HAS BEEN HELD PURSUANT TO
40 SUBSECTION C, OR WITHIN FIVE DAYS OF THE HEARING HELD PURSUANT TO SUB-
41 SECTION C, IF THE OWNER WAS NOT AWARDED IMMEDIATE EXPENSE-FREE CUSTODY
42 OF THE HORSE, RECLAIM THE HORSE UPON PAYMENT TO THE LIVESTOCK SANITARY
43 BOARD OF ALL EXPENSES INCURRED IN THE HANDLING, FEEDING AND CARING FOR
44 SUCH HORSE. SUCH PAYMENT SHALL BE REMITTED BY THE LIVESTOCK SANITARY
45 BOARD TO THE STATE TREASURER TO BE DEPOSITED IN THE HORSE MAINTENANCE
46 FUND.

47 E. UPON FAILURE OF THE OWNER TO BE AWARDED IMMEDIATE, EXPENSE-
48 FREE POSSESSION OF THE HORSE PURSUANT TO SUBSECTION C, OR UPON FAILURE
49 OF THE OWNER TO RECLAIM THE HORSE PURSUANT TO SECTION D, THE LIVESTOCK
50 SANITARY BOARD SHALL EITHER SELL SUCH HORSE AT PUBLIC AUCTION OR, IF

1 THE HORSE'S CONDITION MAKES ITS SALE IMPRACTICAL, DISPOSE OF THE HORSE
2 IN THE MOST HUMANE MANNER POSSIBLE. THE PROCEEDS OF SUCH SALE SHALL
3 BE REMITTED BY THE LIVESTOCK SANITARY BOARD TO THE STATE TREASURER
4 FOR DEPOSIT IN THE HORSE MAINTENANCE FUND AND SHALL BE DISTRIBUTED IN
5 THE FOLLOWING PRIORITY:

6 1. THE BOARD SHALL BE REIMBURSED FOR AUCTION, HANDLING, FEEDING
7 AND CARING EXPENSES.

8 2. ANY MONIES DERIVED FROM SUCH SALE IN EXCESS OF THE EXPENSES
9 TO BE PAID PURSUANT TO PARAGRAH 1 SHALL BE PAID TO THE OWNER OF THE
10 HORSE. AFTER THIRTY DAYS IF THE OWNER HAS NOT CLAIMED THE MONEY, THIS
11 MONEY SHALL REVERT TO THE HORSE MAINTENANCE FUND.

12 F. THE LIVESTOCK SANITARY BOARD MAY CONTRACT WITH ANY PERSON
13 OR GROUP TO HANDLE, FEED AND CARE FOR ANY HORSE TAKEN INTO CUSTODY
14 PURSUANT TO THIS SECTION. THE STATE SHALL NOT BE LIABLE FOR INJURY
15 OR DEATH OF ANY PERSON OR HORSE OR DAMAGE TO PROPERTY CAUSED BY THE
16 PERFORMANCE OF SUCH CONTRACT.

17 G. NOTWITHSTANDING ANY PROVISION HEREIN TO THE CONTRARY, THE
18 COUNTY ATTORNEY OF THE COUNTY IN WHICH THE HORSE WAS SEIZED, MAY, AT
19 ANY TIME PRIOR TO THE EXPIRATION OF FIFTEEN DAYS AFTER THE SEIZURE
20 OF THE HORSE, TAKE CHARGE OF AND KEEP THE HORSE AT THE EXPENSE OF
21 THE STATE WHEN HE DEEMS IT TO BE OF EVIDENTIARY VALUE IN ANY CRIMINAL
22 PROSECUTION RELATING TO THE CONDITION OF THE HORSE.

23 24-552. Horse maintenance fund

24 A. THE STATE TREASURER SHALL MAINTAIN A FUND KNOWN AS THE
25 HORSE MAINTENANCE FUND WHICH SHALL BE ADMINISTERED BY THE LIVESTOCK
26 SANITARY BOARD.

27 B. ALL MONIES COLLECTED PURSUANT TO SECTION 24-551 OR RECEIVED
28 AS A MONEY DONATION FOR DEPOSIT IN THE HORSE MAINTENANCE FUND SHALL
29 BE TRANSMITTED TO THE STATE TREASURER AT LEAST ONCE EACH MONTH BY
30 THE LIVESTOCK SANITARY BOARD.

31 C. THE MONIES IN THE FUND SHALL BE USED TO REIMBURSE THE LIVE-
32 STOCK SANITARY BOARD FOR EXPENSES INCURRED IN THE HANDLING, FEEDING
33 AND CARING OF HORSES SEIZED PURSUANT TO SECTION 24-551 AND THE PUBLIC
34 AUCTION OF SUCH HORSES.

35 Sec. 3. Emergency

36 To preserve the public peace, health and safety it is necessary
37 that this act become immediately operative. It is therefore declared
38 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 101

SENATE BILL 1280

AN ACT

RELATING TO TRADE AND COMMERCE; PROVIDING THAT A RETAIL INSTALLMENT CONTRACT BE CALCULATED FROM THE DATE OF THE TRANSACTION TO THE DATE THE LAST INSTALLMENT BECOMES DUE AND TO BE ADDED TO THE PRINCIPAL BALANCE OF THE CONTRACT, AND AMENDING SECTION 44-6002, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 44-6002, Arizona Revised Statutes, is
3 amended to read:

4 44-6002. Retail installment contracts

5 A. Notwithstanding any provision of law to the contrary, a
6 retail installment contract may provide for and the seller or holder
7 may charge, collect and receive a time price differential. The time
8 price differential amount is as specified in the retail installment
9 contract or the amount determined by applying rates specified in the
10 retail installment contract, except that the time price differential
11 shall not exceed ten dollars upon one hundred dollars for a year,
12 CALCULATED FROM THE DATE OF THE TRANSACTION TO THE DATE THE LAST
13 INSTALLMENT BECOMES DUE, TO BE ADDED TO THE PRINCIPAL BALANCE OF THE
14 RETAIL INSTALLMENT CONTRACT AND PAYABLE IN SUCCESSIVE PERIODIC PAYMENTS.
15 For the purposes of this section:

16 1. The time price differential is to be computed on the
17 principal balance of each transaction on contracts payable in succes-
18 sive periodic payments substantially equal in amount from the date of
19 the contract to the maturity of the final payment, notwithstanding that
20 the total time balance is required to be paid in one or more deferred
21 payments. If a retail installment contract provides for payment other
22 than in substantially equal successive periodic payments, the time price
23 differential shall not exceed the amount which would provide the same
24 return as on substantially equal successive periodic payment contracts.
25 The time price differential may be computed on the basis of a full month
26 for any fractional portion of a month in excess of ten days.

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1 2. A minimum time price differential of five dollars on principal
2 balances of seventy-five dollars or less and seven and one-half dollars
3 on principal balances of more than seventy-five dollars may be charged,
4 received and collected on each such contract.

5 B. Notwithstanding the provisions of any retail installment con-
6 tract to the contrary, and subject to the right of retention by the
7 seller or holder of the minimum time price differential prescribed by
8 subsection A, if prepayment in full is made at any time during the
9 term of the contract by cash, a new contract, renewal, consolidation or
10 refinancing, the buyer shall be refunded or credited that portion of
11 the total time price differential which the sum of the periodic time
12 balances scheduled to follow the installment date nearest the date of
13 prepayment in full bears to the sum of all scheduled periodic time
14 balances as computed in accordance with the rule of seventy-eighths from
15 rules, regulations, charts and tables of direct ratio refund methods
16 based upon the refinancing rebate schedule of the federal housing autho-
17 rity and the chart of decimal equivalents computed for the 1954 Internal
18 Revenue Code of the United States; provided, however, the provisions of
19 this subsection shall not impair the obligation of the buyer to pay col-
20 lection costs and fees incurred by the seller or holder in the event of
21 delinquency. No refund or credit is required if the amount is less than
22 one dollar.

23 C. A retail installment contract may provide for, and the seller
24 or holder may charge, collect and receive, a delinquency charge on each
25 installment in default more than ten days, in an amount not to exceed
26 five per cent of each installment or five dollars, whichever is less.
27 In addition, such contract may provide for the payment of court costs
28 and for reasonable attorneys' fees if it is referred for collection to
29 an attorney other than a salaried employee of the seller or holder.

30 D. A retail installment contract which otherwise conforms to the
31 requirements of this chapter may contain provisions which relate to
32 additional goods and services authorizing any of the following:

- 33 1. The seller may at his option add subsequent purchases made by
34 the buyer to the contract.
- 35 2. The total price of the goods or services covered by the con-
36 tract may be increased by the price of such additional goods or services.
- 37 3. All time price differentials and installment payments may
38 at the seller's option be increased proportionately.
- 39 4. All terms and conditions of the contract may apply equally
40 to such additional goods or services.
- 41 5. The contract may provide for a consolidation of subsequent
42 purchases with one or more of the previous contract or contracts or
43 may provide for a series of sales transactions made pursuant to an
44 agreement providing for the addition of the principal balance plus the
45 time price differential for the current sale to an existing balance.
- 46 6. The goods purchased under the previous contract or contracts
47 may be security for the goods purchased under the subsequent contract,
48 but only until such time as the total of payments under the previous
49 contract or contracts is fully paid.

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 102

HOUSE BILL 2272

AN ACT

RELATING TO INSURANCE; PROVIDING FOR FEES SCHEDULE; PROVIDING FOR INSURANCE LICENSING PERIODS AND QUALIFICATIONS; REGULATING PAYMENT OF COMMISSIONS ON SALE OF INSURANCE TO THE STATE; AMENDING SECTIONS 20-167, 20-285, 20-288, 20-290, 20-291, 20-294 THROUGH 20-297, 20-306, 20-306.01, 20-312, 20-314, 20-316, 20-411 AND 41-621, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 3.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-624, AND REPEALING SECTIONS 20-289 AND 20-460, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 20-167, Arizona Revised Statutes, is amended
3 to read:
4 20-167. Fees
5 A. The director shall collect in advance the following fees,
6 which, subsequent to issuance of receipt evidencing any payment, shall
7 not be refunded by the director:
8 1. For filing charter documents:
9 (a) Original charter documents, articles of incorporation, bylaws,
10 or record of organization of insurers, or certified copies thereof, re-
11 quired to be filed with the director and not also subject to filing in
12 the office of the corporation commission \$ 25.00
13 (b) Amended charter documents 10.00
14 (c) No charge or fee shall be required for filing with the director
15 any of such documents also required by law to be filed in the office of
16 the corporation commission.
17 2. Certificate of authority:
18 (a) Issuance:
19 Fraternal benefit societies 10.00
20 Medical or hospital service corporations, or
21 domestic benefit insurers 25.00
22 All other insurers 65.00
23 (b) Renewal:
24 Fraternal benefit societies, or domestic
25 benefit insurers 10.00

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1	Medical or hospital service corporations	\$ 25.00
2	Domestic stock life and disability insurers	
3	only or either	500.00
4	All other insurers	45.00
5	3. Filing annual statements	100.00
6	Fraternal-benefit-societies,-domestic-benefit-insurers,	
7	and-medical-or-hospital-service-corporations-,-,-,-,-	10.00
8	All-other-insurers-,-,-,-,-	25.00
9	4.--Rating-organizations,-issuance-of-license-or-triennial	
10	renewal-thereof-,-,-,-,-	25.00
11	5.--Filing-rate-manuals,-rating-schedules-and-rating-plans,	
12	including,-without-additional-charge,-papers-pertaining-thereeto	
13	and-corrections-and-amendments-thereof,-per-year-for-each-such	
14	rate-manual,-rating-schedule-or-rating-plan-,-,-,-,-	5.00
15	6. 4. Licenses, examinations and appointments:	
16	(a)--Life-and-disability-insurers-only-or-either:	
17	Agent's-license,-including-temporary,-for-one	
18	insurer-,-,-,-,-	15.00
19	Agent's-license-per-insurer-in-addition-to-one-,-,-,-,-	7.00
20	Renewal-of-agent's-license-per-insurer-,-,-,-,-	7.00
21	Solicitor's-license-,-,-,-,-	15.00
22	Renewal-of-solicitor's-license-,-,-,-,-	7.00
23	Limited-broker's-license-per-insurer-,-,-,-,-	2.00
24	Managing-general-agent's-license,-each-year-,-,-,-,-	5.00
25	(b)--Other-than-life-and-disability-insurers-only-or-either:	
26	(i)--Licenses:	
27	Agent's-license,-each-year-,-,-,-,-	5.00
28	Broker's-license,-each-year-,-,-,-,-	10.00
29	Solicitor's-license,-each-year-,-,-,-,-	5.00
30	Temporary-license-as-agent-,-,-,-,-	2.00
31	Temporary-license-as-broker-,-,-,-,-	5.00
32	Surplus-line-broker's-license,-each-year-,-,-,-,-	25.00
33	Adjuster's-license,-each-year-,-,-,-,-	10.00
34	Managing-general-agent's-license,-each-year-,-,-,-,-	5.00
35	Service-representative's-license,-each-year-,-,-,-,-	5.00
36	(a) LICENSES:	
37	SURPLUS LINE BROKER'S LICENSE, BIENNIALY	200.00
38	ALL OTHER LICENSES, BIENNIALY	20.00
39	(iii) (b) Examinations for license, agents, brokers	
40	and solicitors:	
41	Examination on laws and one kind of insurance	5.00
42	Examination on laws and two or more kinds of	
43	insurance	10.00
44	(iii) (c) Filing notice of appointment of FOR EACH	
45	agent, each year	2.00 7.00
46	(e)--Vending-machine-fee-per-machine,-each-year-,-,-,-,-	20.00
47	(d)--Limited-license-as-agent-for-travel-accident-ticket	
48	policies-and-baggage-insurance,-each-year-,-,-,-,-	4.00
49	7. 5. Miscellaneous:	
50	Fee accompanying service of process upon director	3.00
51	Filing-other-documents-required-to-be-filed,-each-,-,-,-,-	1.00

1 Certificate of director, under seal \$ 1.00
2 Copy of document filed in director's office,
3 per folio 0-20 0.50

4 B. The director shall remit to the state treasurer, to be placed in
5 the general fund, all fees and licenses so collected. NO REFUND SHALL BE
6 ALLOWED FOR ANY UNUSED PORTION OF A FEE NOR SHALL FEES BE PRORATED EXCEPT
7 THAT THE FEE FOR AN INITIAL LICENSE IF APPLIED FOR IN THE SECOND HALF OF
8 THE BIENNIAL TERM SHALL NOT EXCEED ONE-HALF OF THE LICENSE FEE.

9 C. The license fees prescribed by this section ~~for managing general~~
10 ~~agents, agents, brokers, solicitors, surplus line brokers, service repre-~~
11 ~~sentatives and adjusters~~ shall be payment in full with respect thereto of
12 all demands for any and all state, county, district and municipal license
13 fees, license taxes, business privilege taxes and business privilege fees
14 and charges of every kind.

15 D. Each domestic stock life and disability insurer only or either,
16 which pays the renewal fee required under the provisions of subsection A
17 of this section, shall be entitled to a credit in the amount of four hun-
18 dred fifty-five dollars to apply to the premium tax then owed by such
19 company pursuant to the provisions of section 20-224, but such credit
20 shall not be cumulative.

21 Sec. 2. Section 20-285, Arizona Revised Statutes, is amended to
22 read:

23 20-285. "Service representative" defined; license

24 A. Service representatives are:

25 1. Officers and other individuals regularly employed on salary by
26 an insurer or managing general agent and who work in the field with and
27 assist agents and solicitors in soliciting, negotiating and effectuating
28 insurance for such insurer or for the insurers represented by such managing
29 general agent.

30 2. Salaried nonresident traveling representatives of a reciprocal
31 or mutual insurer not generally using resident agents for the sollicita-
32 tion of business, to whom no commissions are payable, and who inspect
33 risks or solicit insurance in this state.

34 B. No service representative shall act as such unless licensed
35 therefor by the director. The director shall issue such a license upon
36 application of the insurer or managing general agent by whom the service
37 representative is employed and payment of the fee therefor specified in
38 section 20-167. ~~The service representative shall be separately so~~
39 ~~licensed as to each insurer or general agent by whom so employed.~~ The
40 license shall expire annually BIENNIALY at midnight on June 30, OCTOBER
41 1 OF EVEN-NUMBERED YEARS and shall be subject to renewal upon request of
42 the employer. The director may suspend or revoke any such license upon any
43 applicable ground provided for suspension or revocation of an agent's license,
44 and pursuant to like procedures.

45 C. This section shall not apply as to life and disability
46 insurances.

47 Sec. 3. Section 20-288, Arizona Revised Statutes, is amended to
48 read:

49 20-288. Licensing of managing general agents

50 A. No person shall in this state act as a managing general agent
51 of an insurer or underwriter's department unless licensed therefor by

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1 the director. Application for the license shall be made by the insurer
2 upon forms as designated and furnished by the director. The director
3 shall issue the license upon completion and filing of such application
4 and payment of the license fee specified in section 20-167. ~~The managing
5 general agent shall be separately so licensed as to each insurer and
6 underwriter's department so represented.~~

7 B. The license shall expire ~~annually~~ BIENNIALY at midnight on
8 ~~June 30~~ OCTOBER 1 OF ODD-NUMBERED YEARS FOR ALL LIFE AND DISABILITY
9 MANAGING GENERAL AGENTS AND OCTOBER 1 OF EVEN-NUMBERED YEARS FOR ALL OTHER
10 MANAGING GENERAL AGENTS, and shall be subject to renewal. The director
11 may suspend or revoke the license or licenses of a managing general agent
12 for any of the same causes and pursuant to like procedures as apply to
13 agents' licenses under this article. ~~The license as to a particular
14 insurer or underwriter's department shall be terminated upon request of
15 either the insurer or the managing general agent.~~

16 Sec. 4. Repeal

17 Section 20-289, Arizona Revised Statutes, is repealed.

18 Sec. 5. Section 20-290, Arizona Revised Statutes, is amended to
19 read:

20 20-290. Licensing of agent, broker or solicitor

21 A. For the protection of the public of this state, the director
22 shall not issue, renew or permit to exist any agent, broker or solicitor
23 license ~~with respect to insurance other than life and disability~~, except
24 in compliance with this article, or with respect to any individual not
25 qualified therefor as follows:

26 1. Shall be eighteen years of age or more.

27 2. Shall be a resident of the state. ~~and, if agent or broker,
28 shall have been such resident continuously for not less than the six
29 months immediately preceding application for the license.~~

30 3. Shall have filed application and passed written examination
31 for the license as required under this article.

32 4. If for an agent's license, shall have been appointed as agent
33 by an authorized insurer, subject to issuance of the license.

34 5. If for a solicitor's license, shall have been appointed as
35 solicitor by a licensed resident agent or broker.

36 6. Shall not use or intend to use the license principally for the
37 purpose of procuring insurance COVERING HIMSELF OR THE MEMBERS OF HIS
38 FAMILY OR HIS RELATIVES TO THE SECOND DEGREE, OR on his property or his
39 insurable interests, or on property or insurable interests of his relatives
40 to the second degree, his employer, employees or firm, or corporation in
41 which he owns a substantial interest, or of the employees of such firm or
42 corporation, or on property or insurable interests for which the applicant
43 or any such relative, employer, firm, or corporation is the bailee, trustee,
44 or receiver. A vendor's or lender's interest in property sold or being
45 sold under contract or which is the security for any loan, shall not, for
46 the purposes of this provision, be deemed to constitute property or an
47 insurable interest of such vendor or lender.

48 B. The director may refuse to accept any application or to issue
49 any license if he should find one or more of the following causes to exist:

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- 1 1. Material misrepresentation or fraud in the application for, or
2 attempt to obtain, any insurance license.
- 3 2. A record of dishonesty on the part of the applicant in business
4 or financial matters.
- 5 3. A record of misappropriation, conversion or irregular withholding
6 by the applicant of monies belonging to policyholders, insurers, benefi-
7 ciaries or others and received in the conduct of business in Arizona or
8 elsewhere.
- 9 4. A record of conduct under an insurance license issued in Arizona
10 or elsewhere showing the applicant to be incompetent or a source of injury
11 and loss to, or repeated complaints by, the public or any insurer.
- 12 5. A record of suspension or revocation of an insurance license in
13 any jurisdiction.
- 14 6. A record of conviction by final judgment of a felony involving
15 moral turpitude.
- 16 Sec. 6. Section 20-291, Arizona Revised Statutes, is amended to
17 read:
- 18 20-291. Application for license
- 19 A. Application for an agent, broker or solicitor license shall
20 be made to the director by the applicant. As part of or in connection
21 with the application the applicant shall furnish information concerning
22 his identity, personal history, business record, experience in insurance,
23 purposes for which license is to be used and other pertinent facts the
24 director requires.
- 25 B. ~~If for a license as a life agent,~~ The application shall also
26 show whether:
- 27 1. The applicant was ever previously licensed to transact any
28 kind of insurance in this state or elsewhere.
- 29 2. Any license was ever refused, suspended or revoked.
- 30 3. Any insurer or general agent claims applicant is indebted to
31 it, and if so the details thereof.
- 32 4. The applicant ever had an agency contract cancelled, and the
33 facts thereof.
- 34 C. If a firm or corporation applies for an agent or broker license,
35 the application shall set forth the information required by subsections A
36 and B of this section with respect to the firm or corporation, and in
37 addition shall set forth the names of all members, officers and directors
38 of the firm or corporation and the name of each person who is to exercise
39 the agent or broker powers conferred upon the firm or corporation by the
40 license. Each person so named in the application shall furnish the infor-
41 mation required for a license as an individual.
- 42 D. The director may require any application to be in the appli-
43 cant's handwriting and under the applicant's oath.
- 44 E. If for an agent's license, the application shall show the kinds
45 of insurance to be transacted, and be accompanied by a written appoint-
46 ment of the applicant as agent by an authorized insurer to be represented
47 subject to issuance of the license.
- 48 F. If for a solicitor's license, the application shall be accom-
49 panied by written appointment of the applicant as solicitor by a licensed
50 agent or broker.
- 51 G. Wilful misrepresentation of any fact required to be disclosed

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1 in any such application or accompanying statement is a violation of this
2 title.

3 Sec. 7. Section 20-294, Arizona Revised Statutes, is amended to
4 read:

5 20-294. Issuance of license; expiration date

6 A. The director shall promptly issue licenses applied for to
7 persons qualified therefor in accordance with this article.

8 B. The license shall state the name and address of the licensee,
9 date of issue and expiration, kind or kinds of insurance or subdivisions
10 thereof covered, if applicable, and the conditions of the license.

11 ~~G. If the license is only as agent for life and disability~~
12 ~~insurance or either, the license shall state the name of the insurer~~
13 ~~to be so represented, but if the license is as agent for any other~~
14 ~~kind or kinds of insurance it shall not state the name of any insurer~~
15 ~~to be so represented.~~

16 D. C. If the licensee agent or broker is a firm or corporation
17 the license shall also state the name of each individual authorized there-
18 under to exercise the license powers.

19 E. D. If the licensee is a solicitor the license shall state the
20 name of the agent or broker to be represented.

21 E. THE LICENSE SHALL EXPIRE BIENNIALY AT MIDNIGHT ON OCTOBER 1
22 OF ODD-NUMBERED YEARS FOR ALL LIFE AND DISABILITY AGENTS, SOLICITORS OR
23 BROKERS AND OCTOBER 1 OF EVEN-NUMBERED YEARS FOR ALL OTHER AGENTS, SOLIC-
24 ITORS OR BROKERS AND SHALL BE SUBJECT TO RENEWAL.

25 Sec. 8. Section 20-295, Arizona Revised Statutes, is amended to
26 read:

27 20-295. Licensing of firms and corporations

28 A. A firm or corporation shall be licensed only as an agent or
29 broker and must be so licensed if one of its principal functions is the
30 transaction of insurance or if it receives any commission or other compen-
31 sation dependent upon the placement of insurance. ~~Each individual trans-~~
32 ~~acting insurance for the firm or corporation under any such license, and~~
33 ~~in any event~~ Not less than one individual in each office or place where
34 insurance is transacted, shall be appointed by the same insurer or insurers
35 having appointed the firm or corporation and shall be individually licensed.
36 ~~The director shall charge no license fee for license to the firm or corpora-~~
37 ~~tion but for each individual named in such license he shall charge the~~
38 ~~amount stated in section 20-167. A nonresident shall not be so named in~~
39 ~~such a license and shall not have the right to exercise the license powers.~~
40 SUCH INDIVIDUAL SHALL PAY THE FEE PRESCRIBED BY SECTION 20-167.

41 B. A license shall not be issued to a firm or corporation unless
42 organized under the laws of this state and maintaining its principal place
43 of business in this state. A nonresident license shall not be issued to
44 a firm or corporation.

45 C. A license shall not be issued in a trade name except to a firm
46 or corporation and upon proof satisfactory to the director that the trade
47 name has been lawfully registered.

48 D. No firm or corporation shall be so licensed unless the business
49 to be transacted thereunder is within the scope of the partnership agree-
50 ment or articles of incorporation.

1 E. The licensee shall promptly notify the director of all changes
2 among its members, directors and officers, and all other individuals
3 designated in the license.

4 Sec. 9. Section 20-296, Arizona Revised Statutes, is amended to
5 read:

6 20-296. Licenses required of agents

7 A. An agent ~~licensed only as to kinds of insurance other than life~~
8 ~~and disability insurance or either~~, is required to have but one license
9 covering the kinds of insurance to be transacted by him regardless of the
10 number of insurers by whom he is appointed as agent.

11 B. ~~With respect to insurers transacting only life and disability~~
12 ~~insurance or either, the agent shall have one license for each such insurer~~
13 ~~to be represented as agent. A life insurance agent may concurrently be~~
14 ~~licensed as to an additional life insurer or insurers upon due application,~~
15 ~~appointment and qualification. Upon request therefor filed with the~~
16 ~~director by the insurer, the director shall notify a life insurer thereof~~
17 ~~when any of its agents licensed as such in this state has been likewise~~
18 ~~licensed as to another life insurer.~~

19 Sec. 10. Section 20-297, Arizona Revised Statutes, is amended to
20 read:

21 20-297. Appointment of agents and renewal thereof

22 A. Each insurer appointing an agent in this state shall file with
23 the director notice of appointment, specifying the kind or kinds of insur-
24 ance to be transacted by the agent for the insurer. ~~With respect to life~~
25 ~~and disability insurers only or either, each appointment shall be accom-~~
26 ~~panied by agent's license application and by the fee therefor stated in~~
27 ~~subdivision (a) of paragraph 6 of subsection A of section 20-167. With~~
28 ~~respect to insurers other than life and disability only or either, each~~
29 ~~appointment shall be accompanied by agent's license application and by~~
30 ~~the fees therefor stated in subdivision (b) of paragraph 6 of subsection~~
31 ~~A of section 20-167.~~

32 B. Subject to annual renewal by the insurer prior to April 1 JANUARY
33 30, each such appointment shall remain in effect until the agent's license
34 is suspended, revoked or not renewed, unless written notice of earlier
35 termination of the appointment is filed with the director by the insurer
36 or agent. ~~As to agent's licenses covering only life and disability insur-~~
37 ~~ance or either, termination of the appointment of the agent shall likewise~~
38 ~~terminate the license as to the insurer.~~

39 C. Any information as to the cause of termination of any such
40 appointment furnished the director as part of such notice of termination
41 shall be deemed a privileged communication and shall not be evidence in
42 any action or proceeding.

43 D. ~~With respect to insurers other than life and disability only~~
44 ~~or either, Annually, and prior to April 1 JANUARY 30 of each year, each~~
45 ~~insurer shall file with the director an alphabetical list in duplicate of~~
46 ~~all its agents whose appointments in this state are to remain in effect,~~
47 ~~accompanied by payment of the annual appointment fee therefor stated in~~
48 ~~section 20-167. License fees shall be paid as provided in section 20-314.~~
49 ~~At the same time the insurer shall also file with the director an alpha-~~
50 ~~betical list in duplicate of all its agents whose appointments in this~~
51 ~~state are not to remain in effect.~~

1 E. ~~With respect to life and disability insurers only or either,~~
 2 ~~on and after January 1, 1962, annually and prior to April 1 of each year,~~
 3 ~~each insurer shall file with the director an alphabetical list in duplicate~~
 4 ~~of all its agents and their current addresses whose appointments in this~~
 5 ~~state are to remain in effect, accompanied by the agent's renewal applica-~~
 6 ~~tion for license and by renewal fee therefor stated in section 20-167.~~
 7 Such filing with the director after March 31 and prior to the following
 8 October 1 JANUARY 29 may be accepted by the director if accompanied by the
 9 annual renewal fee in double the amount otherwise required. Any license as
 10 to which such request for renewal and payment of fee is not so received by
 11 the director shall be deemed to have expired as of midnight of March 31.
 12 Any such filing NOT received by the director subsequent to October 1 PRIOR
 13 TO MARCH 31 shall be treated as a new appointment of the person or persons
 14 named, DEEMED TO HAVE EXPIRED. Also annually and prior to April 1 of each
 15 year, the insurer shall file with the director an alphabetical list in
 16 duplicate of all its agents whose appointments in this state are not to
 17 remain in effect.

18 Sec. 11. Section 20-306, Arizona Revised Statutes, is amended to
 19 read:

20 20-306. Insurance vending machines

21 A. Only a licensed resident agent so authorized by the director
 22 may solicit applications for and issue policies by means of mechanical
 23 vending machines. Each such machine shall be supervised by the agent
 24 so licensed and shall issue policies only of insurers authorized to
 25 transact business in Arizona. A policy shall not be so solicited and
 26 issued should the director find that the kind of insurance and form
 27 of policy to be so sold is not reasonably suited for sale and issuance
 28 through vending machines, that use of such machines therefor would not
 29 be of convenience to the public, or that the type of vending machine to
 30 be used is not reasonably suitable and practical for the purpose.

31 B. The agent shall display on or about each vending machine
 32 evidence of his authority to so solicit applications and issue policies.
 33 This shall be in such manner and on such form as the director may rea-
 34 sonably require. Such evidence of authority shall specify the name
 35 and address of the insurer and agent, the kind of insurance and type
 36 of policy to be so sold, the place where the machine is to be in opera-
 37 tion and its identification number. The authority shall be renewable
 38 ~~annually~~ BIENNIALLY ON OCTOBER 1 OF ODD-NUMBERED YEARS UPON PAYMENT OF A
 39 TWENTY DOLLAR AUTHORITY RENEWAL FEE FOR EACH VENDING MACHINE, and shall be
 40 suspended, revoked or otherwise terminated, coincidentally with that of the
 41 agent. ~~An annual license fee per machine shall be payable as stated in~~
 42 ~~section 20-167, though no fee shall be payable simply upon the replacement~~
 43 ~~of one machine by another.~~

44 C. Policies so sold need not be countersigned.

45 Sec. 12. Section 20-306.01, Arizona Revised Statutes, is amended
 46 to read:

47 20-306.01. Travel accident ticket and baggage insurance agents

48 A. A limited travel agent's license may be issued without examina-
 49 tion to a resident of Arizona who is a ticket selling agent or other

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1 representative of a common carrier upon there being filed with the direc-
2 tor an application for license, a notice of appointment by an authorized
3 insurer and the fee prescribed by ~~subdivision (d) of~~ paragraph 6- 4 of sub-
4 section A of section 20-167. A license so issued shall enable the licensee
5 to solicit and sell only over-the-counter, short-term, nonrenewable travel
6 accident ticket policies and baggage insurance of such insurer.

7 B. Any such limited license shall continue in force until sus-
8 pended, revoked or terminated but subject to filing by the insurer with
9 the director annually and prior to ~~April 1~~ JANUARY 30 of each year of an
10 alphabetical list in duplicate of all such licensees and their current
11 addresses whose appointments in this state are to remain in effect,
12 accompanied by renewal application and by the fee prescribed by ~~subdivision~~
13 ~~(d) of~~ paragraph 6- 4 of subsection A of section 20-167. Such filing shall
14 also contain an alphabetical list in duplicate of all such licensees whose
15 appointments in this state are not to remain in effect. SUCH FILING WITH
16 THE DIRECTOR AFTER JANUARY 29 MAY BE ACCEPTED BY THE DIRECTOR IF ACCOM-
17 PANIED BY THE ANNUAL RENEWAL FEE IN DOUBLE THE AMOUNT OTHERWISE REQUIRED.
18 ANY LICENSE AS TO WHICH SUCH REQUEST FOR RENEWAL AND PAYMENT OF FEE IS NOT
19 SO RECEIVED BY THE DIRECTOR SHALL BE DEEMED TO HAVE EXPIRED AS OF MIDNIGHT
20 OF MARCH 31.

21 Sec. 13. Section 20-312, Arizona Revised Statutes, is amended to
22 read:

23 20-312. Licensing of adjuster; qualifications; exemption

24 A. No person shall in this state act as or hold himself out to
25 be an adjuster unless then licensed as such under this section.

26 B. Application for license shall be made to the director according
27 to forms as prescribed and furnished by the director, and the director
28 shall issue the license with respect to individuals qualified therefor upon
29 payment of the license fee stated in section 20-167.

30 C. To be licensed as an adjuster the applicant shall be qualified
31 therefor as follows:

32 1. Be a person eighteen or more years of age.

33 2. Be a resident of this state, or a resident of another state
34 which will permit residents of this state to act as adjusters in such
35 other state.

36 3. Be a full-time salaried employee of a licensed adjuster or a
37 graduate of a recognized law school, or have had experience or special
38 education or training with reference to the handling of loss claims under
39 insurance contracts of sufficient duration and extent reasonably to make
40 him competent to fulfill the responsibilities of an adjuster.

41 4. Have and maintain in this state an office accessible to the
42 public and keep therein the usual and customary records pertaining to
43 transactions under the license. This provision shall not be deemed to
44 prohibit maintenance of such office in the home of the licensee.

45 D. A firm or corporation, whether or not organized under the laws
46 of this state, may be licensed as an adjuster if each individual who is
47 to exercise the license powers ~~is named in the license and~~ is qualified
48 as for an individual license as adjuster. ~~An additional full license fee~~
49 ~~shall be paid with respect to each individual in excess of one so named~~
50 ~~in the license to exercise its powers.~~

1 E. No such adjuster's license or qualifications shall be required
 2 with respect to any adjuster who is licensed or permitted to act as such
 3 in the state of his domicile, and who is sent into this state on behalf
 4 of an insurer for the purpose of investigating or making adjustment of a
 5 particular loss under an insurance policy, or a series of losses resulting
 6 from a catastrophe common to all such losses.

7 Sec. 14. Section 20-314, Arizona Revised Statutes, is amended to
 8 read:

9 20-314. Expiration and renewal of licenses

10 ~~A.--With respect to insurers other than life and disability only or~~
 11 ~~either, All agent, broker, solicitor and adjuster licenses issued under~~
 12 ~~this article, other than temporary licenses, shall continue in force until~~
 13 ~~expired, suspended, revoked or terminated, but subject in the case of~~
 14 ~~agents to renewal appointment as stated in section 20-297 by at least one~~
 15 ~~insurer and subject to payment to the director before midnight on June 30~~
 16 ~~of each year of the annual OCTOBER 1 OF THE RENEWAL YEAR THE license fee~~
 17 ~~for each such license in the amount specified in section 20-167, accompanied~~
 18 ~~by written application for renewal of such license. Any license as to~~
 19 ~~which such request for renewal and payment of fee is not so received by~~
 20 ~~the director shall be deemed to have expired as of midnight of June 30~~
 21 ~~OCTOBER 1. A renewal application which is filed with the director after~~
 22 ~~June 30 OCTOBER 1 and prior to the following January 1 may be accepted by~~
 23 ~~the director if accompanied by the annual BIENNIAL license renewal fee in~~
 24 ~~double the amount otherwise required. Any application for renewal of~~
 25 ~~license thereafter received shall be deemed a new application.~~

26 ~~B.--With respect to life and disability insurers only or either,~~
 27 ~~each agent's license issued under this article shall continue in force~~
 28 ~~until expired, suspended, revoked or terminated but subject to filing~~
 29 ~~annually prior to April 1 of renewal appointment, renewal application and~~
 30 ~~the fee as provided in section 20-297.~~

31 ~~C.--With respect to life and disability insurers only or either,~~
 32 ~~on and after January 1, 1962, a solicitor's license shall continue in~~
 33 ~~force until expired, suspended, revoked or terminated but subject to~~
 34 ~~filing annually prior to April 1 of renewal application and the fee~~
 35 ~~stated in section 20-167.--A renewal application which is filed after~~
 36 ~~March 31 and prior to the following October 1 may be accepted if accom-~~
 37 ~~panied by a fee double the amount otherwise required.--Any renewal appli-~~
 38 ~~cation received on or after October 1 shall be deemed a new application.~~

39 Sec. 15. Section 20-316, Arizona Revised Statutes, is amended
 40 to read:

41 20-316. Suspension, revocation or refusal to renew
 42 license and other penalty

43 A. The director may suspend for not to exceed twelve months, or
 44 may revoke, or refuse to renew any license issued under this article,
 45 or any surplus line broker license if, upon notice to the licensee and
 46 to the insurer represented, as to an agent, or to the appointing agent
 47 or broker, as to a solicitor, and if demanded upon hearing, he finds as
 48 to the licensee any one or more of the following:

49 1. The existence of any cause for which original issuance or any
 50 renewal of the license could have been refused.

1 2. Wilful violation of, or wilful noncompliance with any provision
2 of this title, or any lawful rule, regulation or order of the director.

3 3. The existence of misrepresentation or fraud in obtaining or
4 attempting to obtain any insurance license.

5 4. Misappropriation or conversion to his own use or illegal
6 withholding of monies belonging to policyholders, insurers, beneficiaries
7 or others and received in or during the conduct of business under the
8 license or through its use.

9 5. A record of suspension or revocation of an insurance license
10 in any jurisdiction.

11 6. Conviction by final judgment of a felony involving moral
12 turpitude.

13 7. Conduct of affairs under the license showing the licensee to
14 be incompetent or a source of injury and loss to, or repeated complaint
15 by, the public or any insurer.

16 8. VIOLATION OF SECTION 41-624, SUBSECTION B OR C.

17 B. The license of a firm or corporation may be suspended, revoked
18 or refused also for any of such causes as relate to any individual desig-
19 nated in the license to exercise its powers.

20 C. If the director upon hearing finds that a licensee has failed
21 to perform any duty or to discharge any obligation required by this
22 title or that the licensee is in violation of any law relating to insur-
23 ance or of any rule, regulation or order promulgated by the director, he
24 may issue to such licensee an order which shall specify in what manner
25 and to what extent such failure or violation is found and which also
26 shall direct the licensee to forfeit and pay to the director for remission
27 to the state treasurer, to be placed in the general fund, a sum determined
28 by the director which shall be not in excess of one hundred dollars for
29 each failure or violation. Such sum shall be in addition to any other
30 applicable penalty or restraint either in this article or in other law
31 and may be recovered in a civil action brought by the director.

32 Sec. 16. Section 20-411, Arizona Revised Statutes, is amended to
33 read:

34 20-411. Licensing of surplus line broker

35 A. Any licensed insurance agent or broker deemed by the director
36 to be competent and trustworthy for the purpose, and while maintaining
37 an office at a designated location in this state, may be licensed as
38 a surplus line broker.

39 B. The license shall be valid for one year from its date, EXPIRE
40 BIENNIALY ON OCTOBER 1 OF EVEN-NUMBERED YEARS and shall be subject to
41 renewal. The license fee shall be as stated in section 20-167.

42 C. Prior to issuance of the license, the applicant therefor shall
43 file with the director and thereafter maintain in force for so long as
44 the license or any renewal thereof remains in effect, a bond in favor
45 of the state in the penal sum of two thousand five hundred dollars, with
46 authorized corporate sureties approved by the director, conditioned that
47 he will conduct business under the license in accordance with this article,
48 that he will promptly remit the taxes provided by section 20-416, and
49 that he will properly account to the person entitled thereto for funds
50 received by him through transactions under the license. No such bond

1 shall be terminated unless at least thirty days prior written notice
2 thereof is filed with the director.

3 Sec. 17. Section 41-621, Arizona Revised Statutes, is amended to
4 read:

5 41-621. Purchase of insurance; coverage

6 A. The department of administration shall obtain insurance against
7 loss, to the extent it is determined necessary and in the best interests
8 of the state as provided in subsection B of this section, the following:

9 1. All state owned buildings, including those of the universities
10 and community colleges and whether financed in whole or in part by state
11 monies.

12 2. Contents in any buildings owned, leased or rented, in whole or
13 in part, by or to the state.

14 3. The state and its departments, agencies, boards and commissions
15 and all officers, agents and employees thereof, against liability for
16 acts or omissions of any nature while employed in governmental or proprie-
17 tary capacities.

18 4. All personal property, including vehicles owned or operated by
19 the state and its departments, agencies, boards and commissions.

20 5. The state and its departments, agencies, boards and commissions
21 against loss due to the infidelity of officers, agents and employees.

22 6. The state and its departments, agencies, boards and commissions
23 against casualty and liability losses of every nature.

24 B. In carrying out the provisions of this section, the department
25 of administration shall establish a risk management section to provide the
26 state with some or all of the necessary risk management services, or shall
27 contract for risk management services and shall purchase such insurance
28 coverage, pursuant to the provisions of section 41-730, as the director
29 of the department of administration deems necessary in the best interest
30 of the state after consultation with the risk manager, and may, in addition
31 to other specifications of such coverage as deemed necessary, determine
32 deductibles to be established except that no deductible applicable to any
33 one loss may exceed the sum of five hundred thousand dollars unless approved
34 by the joint legislative budget committee.

35 C. No successful bidder for risk management services pursuant to
36 this section shall be entitled to receive directly or indirectly any
37 sales commission, contingent commission, excess profit commission, or
38 other commissions, or anything of value, as payment for the risk man-
39 agement services except those amounts received directly from the state
40 of Arizona as payment for the risk management services.

41 ~~B. All contingent commissions, excess profits commissions or
42 other commissions that may be based upon losses or experience that a
43 successful bidder for the sale of insurance to the state may be eligible
44 to receive from insurance carriers or underwriters shall be paid by such
45 successful bidder to the state of Arizona.~~

46 E. D. The department of administration shall pay risk management
47 fees and premiums for insurance on state property and state liability
48 pursuant to provisions of this chapter and subject to legislative ap-
49 propriations therefor.
50

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1 Sec. 18. Title 41, chapter 3.1, article 1, Arizona Revised Statutes,
2 is amended by adding section 41-624, to read:

3 41-624. Commissions on sales of insurance to the state

4 A. IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

5 1. "BID" MEANS A BID FOR THE SALE OF INSURANCE TO THE STATE.

6 2. "BIDDER" MEANS ONE WHO BIDS FOR THE SALE OF INSURANCE TO THE
7 STATE UNDER SECTION 41-730.

8 3. "COMMISSIONS" MEANS ANY CONTINGENT COMMISSION, EXCESS PROFITS
9 COMMISSION, OTHER COMMISSION THAT MAY BE BASED UPON LOSSES OR EXPERIENCE
10 OR OTHER COMPENSATION WHICH A SUCCESSFUL BIDDER FOR THE SALE OF INSURANCE
11 TO THE STATE MAY BE ELIGIBLE TO RECEIVE FROM INSURANCE CARRIERS OR UNDER-
12 WRITERS.

13 B. ONLY A SUCCESSFUL BIDDER OR PERSONS WHO HAVE PERFORMED ACTUAL
14 SERVICES FOR A SUCCESSFUL BIDDER IN CONNECTION WITH A BID SHALL BE ELIGIBLE
15 TO RECEIVE DIRECTLY OR INDIRECTLY ANY COMMISSIONS.

16 C. A SUCCESSFUL BIDDER MAY PAY COMMISSIONS DIRECTLY OR INDIRECTLY
17 ONLY TO PERSONS WHO HAVE PERFORMED ACTUAL SERVICES FOR THE SUCCESSFUL BIDDER
18 IN CONNECTION WITH THE BID.

19 D. ANY SUCCESSFUL BIDDER WHO PAYS COMMISSIONS IN VIOLATION OF SUB-
20 SECTION C OF THIS SECTION OR ANY PERSON WHO RECEIVES COMMISSIONS IN VIOLA-
21 TION OF SUBSECTION B OF THIS SECTION SHALL BE SUBJECT TO THE FOLLOWING
22 PENALTIES:

23 1. THE SUCCESSFUL BIDDER OR THE PERSON WHO RECEIVES COMMISSIONS
24 OR BOTH SHALL BE GUILTY OF A MISDEMEANOR.

25 2. THE SUCCESSFUL BIDDER OR THE PERSON WHO RECEIVES THE COMMISSIONS
26 OR BOTH SHALL BE LIABLE UNDER SECTION 20-316 FOR SUSPENSION, REVOCATION OR
27 DENIAL OF RENEWAL OF ANY LICENSES ISSUED UNDER TITLE 20, CHAPTER 2, ARTICLE
28 3.

29 3. THE SUCCESSFUL BIDDER AND THE PERSON WHO RECEIVES COMMISSIONS
30 SHALL BE JOINTLY AND SEVERALLY LIABLE TO THE STATE FOR THE AMOUNT OF THE
31 COMMISSIONS PAID IN VIOLATION OF SUBSECTION B OR C OF THIS SECTION.

32 4. THE SUCCESSFUL BIDDER AND THE PERSON WHO RECEIVES THE COMMISSIONS
33 SHALL BE JOINTLY AND SEVERALLY LIABLE TO COMPETING BIDDERS UNDER THE SAME
34 INVITATION FOR BIDS FOR THE AMOUNT OF THE COMMISSIONS PAID IN VIOLATION
35 OF SUBSECTION B OR C OF THIS SECTION AS WELL AS FOR REASONABLE ATTORNEY'S
36 FEES OF THE COMPETING BIDDERS IN RECOVERING THE PENALTY. WHERE THERE IS
37 MORE THAN ONE COMPETING BIDDER, THE SUCCESSFUL BIDDER AND THE PERSON WHO
38 RECEIVES COMMISSIONS SHALL BE SUBJECT ONLY TO ONE LIABILITY UNDER THIS
39 SUBSECTION AND THE COMPETITORS WHO HAVE JOINED IN OR INTERVENED BEFORE
40 JUDGMENT IN THE FIRST ACTION UNDER THIS SUBSECTION TO PROCEED TO FINAL
41 JUDGMENT SHALL BE ENTITLED TO EQUAL SHARES IN THE PENALTY RECOVERED.

42 Sec. 19. Repeal

43 Section 20-460, Arizona Revised Statutes, is repealed.

44 Sec. 20. Director's powers during transitional period

45 Notwithstanding any other provision of law to the contrary, the
46 director may issue such rules and regulations as he or she deems necessary
47 to accomplish the transition from the system of licensing and fees which
48 existed prior to the effective date of this act to the system established
49 by this act. Such rules and regulations shall provide that all rights
50 and privileges existing and contingent upon the fee payment prescribed
51 by section 20-167, as amended by Laws 1969, chapter 72, section 1, shall
52 continue for the time period for which such fee was paid.

Approved by the Governor - May 27, 1975

Filed in the Office of the Secretary of State - May 27, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 103

HOUSE BILL 2049

AN ACT

RELATING TO EDUCATION; PROVIDING FOR CHANGE OF SCHOOL DISTRICT BOUNDARIES BY PETITION AND APPROVAL OF COUNTY SUPERINTENDENT OF SCHOOLS AND BOARD OF SUPERVISORS; PROVIDING FOR BUDGET COST LEVELS FOR NEW DISTRICTS AND ASSUMPTION OF INDEBTEDNESS; PRESCRIBING METHOD OF ELECTION AND APPOINTMENTS OF TRUSTEES; PRESCRIBING THE POWERS AND DUTIES OF THE COUNTY SCHOOL SUPERINTENDENT, AND AMENDING SECTIONS 11-512, 15-403, 15-403.02, 15-403.03, 15-410 AND 15-411, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-512, Arizona Revised Statutes, is amended
3 to read:
4 11-512. Powers and duties
5 The county school superintendent shall:
6 1. Preside over teachers' institutes held in the county, and
7 secure the attendance at such institute of lecturers competent to
8 instruct in the art of teaching.
9 2. Enforce the course of study and the use of the adopted text-
10 books as provided by law.
11 3. Conduct examinations of applicants for teachers' certificates
12 in accordance with such rules and regulations as may be prescribed.
13 4. Distribute all laws, reports, circulars, instructions and
14 blanks which he may receive for the use of school officers.
15 5. Keep in his office the reports of the superintendent of
16 public instruction, school trustees and teachers received by him.
17 6. Record all official acts in a book provided for the purpose
18 through the office of the superintendent of public instruction, and
19 keep his office at the county seat.
20 7. Appoint trustees AND BOARD OF EDUCATION MEMBERS of school
21 districts to fill all vacancies, but THE TERMS OF SUCH APPOINTMENT
22 SHALL BE UNTIL THE NEXT REGULAR ELECTION FOR SCHOOL TRUSTEE OR BOARD
23 MEMBERS, AT WHICH TIME A SUCCESSOR SHALL BE ELECTED TO SERVE THE UN-
24 EXPIRED PORTION OF THE TERM. THE SUPERINTENDENT may, when he deems

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1 it in the best interest of the community, call a special election
2 to fill the vacancies. IF SUCH AN ELECTION IS CALLED, THE NEWLY
3 ELECTED MEMBER SHALL SERVE FOR THE REMAINDER OF THE UNEXPIRED PORTION
4 OF THE TERM.

5 8. Make reports, when directed by the superintendent of public
6 instruction, showing such matters relating to public schools in his
7 county as may be required of him, on the blanks furnished by the
8 superintendent.

9 9. Notify immediately the board of school trustees of the
10 several districts in his county, upon the receipt of notice from the
11 state board of education, of any meeting to be held by them for the
12 purpose of examining or inquiring into the expediency of a change of
13 textbooks.

14 10. Visit and examine each school in his county at least twice
15 in each year, except schools employing a principal or a city superin-
16 tendent of schools, unless he deems it necessary, or he may deputize
17 some competent person, residing in the vicinity of a school located
18 fifty miles or more from the county seat, to visit such school.

19 11. Attend annual meetings of the county school superintendents
20 called by the superintendent of public instruction.

21 12. Have such powers and perform such duties as otherwise pre-
22 scribed by law.

23 13. On or before August 15 each year make a report to the state
24 superintendent of public instruction showing the amount of money re-
25 ceived from state school funds, special school district taxes and
26 from other sources, and the total expenditures for school purposes and
27 the balance on hand to the credit of each school district at the close
28 of the school year.

29 14. Contract with the board of supervisors for the board to
30 conduct all regular school district elections.

31 15. Be responsible, in cooperation with the boards of trustees,
32 boards of education and the board of supervisors, for all special school
33 district elections.

34 Sec. 2. Section 15-403, Arizona Revised Statutes, is amended
35 to read:

36 15-403. Change of district boundaries

37 A. When ten PER CENT or more OF THE qualified school electors
38 residing in a district desire that the boundaries of the district be
39 changed in such a manner as to include therein any unorganized territory,
40 ~~or that the boundaries be diminished,~~ they may present a petition to the
41 county school superintendent setting SETTING forth the change of boundaries
42 desired and the reasons therefor. ~~The superintendent shall approve or~~
43 ~~disapprove the petition and transmit it to the board of supervisors whose~~
44 ~~action on the petition shall be final.~~ THE SUPERINTENDENT SHALL SUBMIT
45 THE QUESTION OF INCLUDING THE UNORGANIZED TERRITORY WITHIN THE EXISTING
46 DISTRICT TO THE QUALIFIED ELECTORS OF THE NEW PROPOSED DISTRICT. THE
47 ELECTION SHALL BE HELD IN ACCORDANCE WITH THE PROVISIONS OF SECTION
48 15-410, EXCEPT THAT A MAJORITY OF THE QUALIFIED ELECTORS VOTING ON THE
49 QUESTION IN THE UNORGANIZED TERRITORY AND A MAJORITY OF THE QUALIFIED
50 ELECTORS VOTING ON THE QUESTION IN THE EXISTING DISTRICT MUST APPROVE,

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1 AND IF SO APPROVED, THE CHANGE SHALL BECOME EFFECTIVE AS PROVIDED
2 IN SUBSECTION J OF THIS SECTION.

3 B. WHEN TEN PER CENT OR MORE OF THE QUALIFIED ELECTORS RESIDING
4 IN A DISTRICT DESIRE THAT THE BOUNDARIES OF THE DISTRICT BE DIMINISHED,
5 THEY MAY PRESENT A PETITION TO THE COUNTY SCHOOL SUPERINTENDENT SETTING
6 FORTH THE CHANGE OF BOUNDARIES DESIRED AND THE REASONS THEREFOR. THE
7 SUPERINTENDENT SHALL SUBMIT THE QUESTION OF DIMINISHING THE DISTRICT
8 BOUNDARIES TO THE QUALIFIED ELECTORS OF THE DISTRICT. THE ELECTION
9 SHALL BE HELD IN ACCORDANCE WITH THE PROVISIONS OF SECTION 15-410,
10 EXCEPT THAT A MAJORITY OF THE QUALIFIED ELECTORS VOTING ON THE QUESTION
11 IN THE TERRITORY TO REMAIN IN THE EXISTING DISTRICT AND A MAJORITY OF
12 THE QUALIFIED ELECTORS VOTING ON THE QUESTION IN THE TERRITORY TO BE
13 EXCLUDED MUST APPROVE, AND IF SO APPROVED, THE CHANGE SHALL BECOME
14 EFFECTIVE AS PROVIDED IN SUBSECTION J OF THIS SECTION.

15 B. C. When the governing board of a school district desires to change
16 the boundaries of the district in such a manner as to include any adjacent
17 unorganized territory, such board may request the county school superin-
18 tendent to submit the question of the merger of the unorganized territory
19 into the district to the qualified electors of the unorganized territory.
20 ~~at the~~ THE election SHALL BE held in accordance with the provisions of
21 section 15-410, EXCEPT THAT A MAJORITY OF THE QUALIFIED ELECTORS VOTING
22 ON THE QUESTION IN THE UNORGANIZED TERRITORY AND A MAJORITY OF THE
23 QUALIFIED ELECTORS VOTING ON THE QUESTION IN THE EXISTING DISTRICT MUST
24 APPROVE, AND IF SO APPROVED, THE CHANGE SHALL BECOME EFFECTIVE AS
25 PROVIDED IN SUBSECTION J OF THIS SECTION. ~~If such voters approve such~~
26 ~~merger by a majority of the voters voting on the question the merger~~
27 ~~shall be effective as provided in subsection I of this section.~~

28 G. D. When ten per cent of ~~all the owners of real property~~ THE
29 QUALIFIED ELECTORS within a school district ~~who are qualified~~
30 ~~school electors of that school district~~ desire that the boundaries of
31 the district be changed in such a manner as to include any part of an
32 organized district, they may present a petition to the county school
33 superintendent setting forth the change of boundaries desired and the
34 reasons therefor. The superintendent shall approve or disapprove the
35 petition within thirty days after receipt thereof and transmit it to
36 the board of supervisors. The board shall approve or disapprove the
37 petition within thirty days after receipt thereof and if disapproved
38 its action shall be final. Notice of its action shall be given by the
39 board to the county school superintendent and the clerks of the board of
40 trustees of the affected districts.

41 D. E. When a common or high school district provides only trans-
42 portation and financing for pupils who are instructed in another district
43 or districts, such district or parts thereof may be merged into the
44 district to which all or a majority of the pupils are transported if
45 each of the following events occur:

- 46 1. The governing board of the transporting district approves the
47 merger.
- 48 2. The governing board of the district providing instruction
49 approves the merger.

1 3. The county school superintendent submits the question of
2 whether the transporting and financing district or parts thereof shall
3 be merged into the district to which all or a majority of the pupils
4 are transported for approval or disapproval by the qualified electors
5 of the transporting district at the election held in accordance with
6 the provisions of section 15-410 and the question is approved by a
7 majority of such voters voting on the question.

8 E. F. When individual common school districts are within the
9 boundaries of an existing union high school district and all governing
10 boards of the common school districts approve merging into a coterminous
11 common and high school district, the county school superintendent
12 shall cause the question of the merger to be submitted for approval of
13 the qualified electors of each common school district at the election
14 held in accordance with the provisions of section 15-410. Approval of
15 a majority of those voting on the question in each existing district is
16 required for the merger to be effective.

17 F. G. When two or more adjacent, existing school districts of
18 like character, either common or high school, by approval of each re-
19 spective governing board, desire to merge into a single school district,
20 either common or high school, the county superintendent shall cause the
21 question of such merger to be submitted to the qualified electors of
22 each such district for approval or disapproval at the election held in
23 accordance with the provisions of section 15-410. Approval of the
24 merger by a majority of those voting on the question in each of two or
25 more of such adjacent districts shall merge into a single district those
26 districts voting approval.

27 G. H. When in any area of a school district more than sixty per
28 cent of the pupils are transported and their tuition paid for instruction
29 provided by another district, the governing boards of the school districts
30 affected may approve a merger of the area into the instructing district
31 and the county school superintendent shall cause the question of whether
32 such area shall be merged into the instructing district to be submitted
33 for approval or disapproval by a majority of the qualified electors of
34 each of the affected districts and the area at the election held in
35 accordance with the provisions of section 15-410.

36 H. I. If the board approves the petition provided for in sub-
37 section 6- D, the county school superintendent shall cause the question
38 of the approval or disapproval of the petition to be submitted for vote
39 to the qualified school electors of the affected districts at the
40 election held in accordance with the provisions of section 15-410.

41 I. J. If a majority of the persons voting within each district
42 or part of a district, in accordance with this section, vote in favor of
43 the change of boundaries, the change shall become effective from and
44 after the first day of July next following the election.

45 J. K. Mergers of common school districts, parts of common school
46 districts or unorganized territory pursuant to provisions of this section
47 shall not be permitted if the proposed resulting common school district
48 would have an average daily membership for the current year of more than
49 ten per cent of the total average daily membership for common school
50 districts of the state.

1 K- L. Mergers of high school districts, parts of high school
2 districts or unorganized territory pursuant to provisions of this
3 section shall not be permitted if the proposed resulting high school
4 district would have an average daily membership for the current year of
5 more than ten per cent of the total average daily membership for high
6 school districts of the state.

7 L- M. Except as hereinbefore provided IN THIS SECTION, the provisions
8 of article 3, chapter 4 of this title relating to the conduct of election
9 of trustees shall apply to the election provided for in this section.

10 Sec. 3. Section 15-403.02, Arizona Revised Statutes, is amended
11 to read:

12 15-403.02. Budget cost levels for new districts

13 A. Except as provided in subsection C, a resulting common or
14 high school district after merger of school districts as authorized in
15 subsections D, E, ~~F~~ OR G of section 15-403, may, in the first budget
16 year increase its allowable budget cost level by ten per cent determined
17 as follows:

18 1. Determine the allowable budget cost level for the budget year
19 for each of the districts to be merged as it would have been in the
20 absence of the merger.

21 2. Sum the budget cost levels determined in paragraph 1.

22 3. Increase the sum in paragraph two by ten per cent to determine
23 the allowable budget cost level of the resulting school district.

24 B. A resulting common or high school district after merger of a
25 school district and unorganized territory or areas within another school
26 district as authorized in subsections B- C and G- H of section 15-403
27 shall compute its allowable budget cost level for the first budget
28 year as follows:

29 1. Divide the allowable budget cost level for the budget year
30 of the district prior to merger by the number of state supported class-
31 rooms including fractional classrooms thereof for the budget year.

32 2. Multiply the quotient obtained in paragraph 1 by the number
33 of state supported classrooms including fractional classrooms of the
34 resulting district for the budget year.

35 3. Increase the sum in paragraph 2 by ten per cent to determine
36 the allowable budget cost level of the resulting school district.

37 C. In no event may the allowable budget cost level per state
38 supported classroom for the resulting school district be greater than
39 the allowable budget cost level per state supported classroom would
40 have been for the highest of the districts to be merged in the absence
41 of the merger.

42 Sec. 4. Section 15-403.03, Arizona Revised Statutes, is amended
43 to read:

44 15-403.03. Assumption of indebtedness

45 If any established common or high school district merged under the
46 provisions of subsections B~~1~~-D~~3~~ C, E, F, ~~G~~ OR H of section 15-403 has
47 a bonded indebtedness liability, the liability or so much of it as is

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1 attributable to facilities located within the boundaries of any resulting
2 district shall become an assumed indebtedness liability of the resulting
3 district. The resulting district board shall levy a tax against the
4 property of the district for the payment of the principal and interest,
5 but nothing in this section shall be construed to relieve the taxable
6 property in the theretofore existing district from liability to taxation
7 for the payment thereof if necessary to prevent a default in such payment.
8 Voter approval of the merger constitutes approval of the resulting district's
9 assumption of indebtedness. Any assumed indebtedness shall be regarded
10 as indebtedness of the resulting district for the purpose of determining
11 the debt incurring capacity of the resulting district.

12 Sec. 5. Section 15-410, Arizona Revised Statutes, is amended
13 to read:

14 15-410. Election to determine consolidation; notice;
15 ballot; election officers; canvass of votes; effect

16 A. Notices of the election to determine consolidation of school
17 districts shall be posted in not less than three public places in each
18 of the districts proposed to be consolidated at least ten days before
19 the election.

20 B. Except as provided in subsection E, ballots shall be prepared
21 by the county school superintendent and shall contain the words:
22 "Consolidation, yes," and "Consolidation, no." They shall be delivered
23 to the clerk of the board at each district involved at least ten days
24 before the election.

25 C. The election shall be held during the same school year in which
26 the consolidation or merger is proposed and not earlier than September 1
27 nor later than May 15 of the fiscal year. The election shall be held in
28 the manner and electors shall possess qualifications as prescribed for
29 the election of school trustees. The results of the election shall be
30 reported to the county school superintendent.

31 D. The superintendent and the chairman of the board of supervisors
32 shall, on the seventh day after the election, canvass the vote. If a
33 majority of the votes cast in each district favor consolidation, the
34 districts are consolidated and become one district.

35 E. Ballots for elections held in accordance with the provisions
36 of subsection B, C, E, F, and G AND H of section 15-403 shall be pre-
37 pared by the county school superintendent and shall contain the following:
38 Merger includes the assumption of indebtedness liability of all existing
39 districts to be merged by the resulting district and election of the
40 governing board of each of the existing districts to govern the resulting
41 district until expiration of their terms in the existing districts.

42 Merger Yes No

43 Sec. 6. Section 15-411, Arizona Revised Statutes, is amended
44 to read:

45 15-411. Appointment of trustees of newly consolidated
46 district; election of trustees of consolidated
47 districts; terms

48 A. Except as provided in subsection C and D of this section, on
49 the effective date of the consolidation of school districts, the county

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1 superintendent shall appoint a three-member board of trustees for the
2 consolidated district from among the members of the boards of trustees
3 as they would have been constituted on that date if the consolidation
4 had not been approved.

5 B. The trustees so appointed shall serve until January 1 following
6 the next general election. At the general election held next following
7 the consolidation, and thereafter, the trustees shall be elected as
8 prescribed for three-member boards in section 15-471.

9 C. The term or unexpired portion thereof of any school district
10 board of trustees or board of education member who resides in an area
11 which is included in a merged district under provisions of subsections
12 B₃-B C, E, F, and G, AND H of section 15-403 shall be reaffirmed and
13 ratified in the election approving merger and shall be deemed transferred
14 to the merged district board of education. Such member shall be eligible
15 to complete an unexpired term of office equal to that which the board
16 member was serving on the preceding district board. Any vacancy in a school
17 board position provided for under this subsection shall not be filled
18 except that if the resulting board membership is less than three, the
19 vacant position shall be filled in the manner prescribed by law.

20 D. At the first general election after the formation of a merged
21 district, members shall be elected in the following manner:

22 1. The three candidates, or in a three-member board the two
23 candidates, receiving the highest number of votes shall be elected to
24 four-year terms.

25 2. The two candidates, or in a three-member board the one
26 candidate, receiving the next highest number of votes after those elected
27 under paragraph one shall be elected to two-year terms.

28 Thereafter all such offices shall have four-year terms.

Approved by the Governor - May 27, 1975

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 104

SENATE BILL 1061

AN ACT

RELATING TO ARIZONA REVISED STATUTES; AMENDING SECTION 3-343, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 172, SECTION 4; REPEALING SECTION 3-343, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 158, SECTION 246; AMENDING SECTION 3-605, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1970, CHAPTER 48, SECTION 2; REPEALING SECTION 3-605, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 158, SECTION 248; AMENDING SECTION 4-112, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1968, CHAPTER 209, SECTION 2; REPEALING SECTION 4-112, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1968, CHAPTER 200, SECTION 2; AMENDING SECTION 18-216, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1957, CHAPTER 17, SECTION 1; REPEALING SECTION 18-216, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1957, CHAPTER 90, SECTION 1; AMENDING SECTION 20-224, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 15, SECTION 2; REPEALING SECTION 20-224, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 187, SECTION 4; REPEALING SECTION 23-355, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 172, SECTION 59; REPEALING SECTION 23-907, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 133, SECTION 17; REPEALING SECTION 28-108, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 108, SECTION 1; REPEALING SECTION 28-208, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 136, SECTION 6; REPEALING SECTION 28-221, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 136, SECTION 11; AMENDING SECTION 28-693, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1959, CHAPTER 103, SECTION 3; REPEALING SECTION 28-693, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1972, CHAPTER 160, SECTION 3; REPEALING SECTION 28-1502, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 108, SECTION 4; REPEALING SECTION 28-1865, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 108, SECTION 3; AMENDING SECTION 28-1891, ARIZONA REVISED

STATUTES, AS ADDED BY LAWS 1973, CHAPTER 146, SECTION 69; REPEALING SECTION 18-191, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 139, SECTION 6, AND TRANSFERRED FOR PLACEMENT AS SECTION 28-1891, ARIZONA REVISED STATUTES; AMENDING SECTION 30-653, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 35, SECTION 1; REPEALING SECTION 30-653, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 158, SECTION 283; AMENDING SECTION 32-353, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 163, SECTION 11; REPEALING SECTION 32-353, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 158, SECTION 284; REPEALING SECTION 32-2181, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 94, SECTION 2; AMENDING SECTION 36-305, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 158, SECTION 54; REPEALING SECTION 36-305, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 157, SECTION 44; AMENDING SECTION 36-326, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 51, SECTION 1; REPEALING SECTION 36-326, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 158, SECTION 58; REPEALING SECTION 36-1752, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 157, SECTION 46; REPEALING SECTION 38-845, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1971, CHAPTER 74, SECTION 3; REPEALING SECTION 38-853, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1971, CHAPTER 74, SECTION 6; AMENDING SECTION 38-871, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 91, SECTION 3; REPEALING SECTION 38-871, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 157, SECTION 48; AMENDING SECTION 41-771, ARIZONA REVISED STATUTES; REPEALING SECTION 38-921, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 172, SECTION 100; AMENDING SECTION 41-781, ARIZONA REVISED STATUTES; REPEALING SECTION 38-902, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1972, CHAPTER 163, SECTION 42; AMENDING SECTION 42-642, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 33, SECTION 2; REPEALING SECTION 42-642, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 182, SECTION 6; AMENDING SECTION 43-123.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 72, SECTION 2; REPEALING SECTION 43-123.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1974, CHAPTER 187, SECTION 19; REPEALING SECTION 46-261, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 157, SECTION 75 AND LAWS 1973, CHAPTER 158, SECTION 307; REPEALING SECTION 46-261.05, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1973, CHAPTER 158, SECTION 309, AND REPEALING SECTIONS 46-261.09, 46-261.11 AND 46-261.12, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
 2 Section 1. Section 3-343, Arizona Revised Statutes, as amended
 3 by Laws 1973, chapter 172, section 4, is amended to read:
 4 3-343. Enforcement and administrative powers of state chemist
 5 A. This article shall be administered and its provisions and all
 6 rules and regulations adopted and promulgated under this article shall
 7 be enforced by the state chemist.

- 1 B. The state chemist may, after opportunity for a hearing:
 2 1. Declare as a pest any form of plant or animal life or virus
 3 which is injurious to plants, humans, domestic animals, articles or
 4 substances.
 5 2. Determine whether or not pesticides are highly toxic to
 6 humans.
 7 3. Determine standards of coloring or discoloring for pesti-
 8 cides, and subject pesticides to the requirements of section 3-352.
- 9 C. The state chemist may, after opportunity for a hearing, make
 10 rules and regulations concerning safety in the distribution and sale
 11 of those pesticides or devices designated by and consistent with the
 12 recommendations of the state department of health SERVICES.
- 13 D. All rules and regulations made, adopted and promulgated under
 14 authority of this article shall be divided into two classes to be known
 15 as "Technical Rules and Regulations" and "Administrative Rules and
 16 Regulations", such rules and regulations to be filed in the office of
 17 the secretary of state and subject to judicial review.
- 18 E. The state chemist may adopt and promulgate administrative and
 19 technical rules and regulations deemed necessary to effectuate the pur-
 20 poses of this article, but only after opportunity for a hearing thereon.
- 21 Sec. 2. Repeal
 22 Section 3-343, Arizona Revised Statutes, as amended by Laws 1973,
 23 chapter 158, section 246, is repealed.
- 24 Sec. 3. Section 3-605, Arizona Revised Statutes, as amended by
 25 Laws 1970, chapter 48, section 2, is amended to read:
 26 3-605. Federal milk ordinance; health and sanitation provisions
 27 A. Except where inconsistent with the provisions of this chapter,
 28 the production, transportation, handling and sale of milk and milk
 29 products, and the inspection of dairy herds, dairies and milk plants
 30 shall be regulated in accordance with the terms of the federal milk
 31 ordinance, a certified copy of which shall be on file in the office of
 32 the secretary of state, except that all milk, reconstituted or recombined
 33 milk and flavored milk prepared for sale to or use by the ultimate con-
 34 sumer shall contain not less than three and five tenths per cent
 35 butterfat.
- 36 B. The words "health authority" when used in the federal milk
 37 ordinance means the state dairy commissioner or his authorized repre-
 38 sentative.
- 39 C. Powers and duties in the federal milk ordinance relating to
 40 health and sanitation, - are vested in the state ~~department of public~~
 41 ~~health,~~ DAIRY COMMISSIONER. IN ADDITION, THE COMMISSIONER SHALL PROVIDE
 42 REASONABLE REGULATIONS NECESSARY TO ASSURE THAT ALL MILK AND MILK PROD-
 43 UCTS SOLD OR DISTRIBUTED FOR HUMAN CONSUMPTION ARE FREE FROM UNWHOLESOME,
 44 POISONOUS OR OTHER FOREIGN SUBSTANCES AND FILTH, INSECTS OR DISEASE-
 45 CAUSING ORGANISMS. THE REGULATION SHALL PRESCRIBE REASONABLY NECESSARY
 46 MEASUREMENTS GOVERNING THE PRODUCTION, PROCESSING, LABELING, STORING,
 47 HANDLING AND TRANSPORTATION OF MILK AND MILK PRODUCTS. THE REGULATIONS
 48 SHALL PRESCRIBE MINIMUM STANDARDS FOR THE SANITARY FACILITIES AND CON-
 49 DITIONS WHICH SHALL BE MAINTAINED IN ANY DAIRY OR OTHER FACILITY AND IN
 50 ANY TRUCK OR OTHER VEHICLE IN WHICH MILK OR MILK PRODUCTS ARE PRODUCED,

1 PROCESSED, HANDLED OR TRANSPORTED. THE REGULATIONS SHALL PROVIDE FOR
2 THE INSPECTION AND LICENSING OF PREMISES AND VEHICLES SO USED, AND FOR
3 ABATEMENT AS PUBLIC NUISANCES OF ANY PREMISES OR VEHICLES WHICH DO NOT
4 COMPLY WITH REGULATIONS AND MINIMUM STANDARDS.

5 D. The provisions of the federal milk ordinance apply to this
6 state.

7 Sec. 4. Repeal

8 Section 3-605, Arizona Revised Statutes, as amended by Laws 1973,
9 chapter 158, section 248, is repealed.

10 Sec. 5. Section 4-112, Arizona Revised Statutes, as amended by
11 Laws 1968, chapter 209, section 2, is amended to read:

12 4-112. Duties of the board and superintendent of department
13 of liquor

14 A. The board shall:

15 1. Grant and deny applications in accordance with the provisions
16 of this title.

17 2. Have sole power to revoke a license.

18 3. Adopt rules and regulations in order to carry out the provi-
19 sions of this section.

20 4. Hear appeals and hold hearings as provided in this section.

21 B. Except as provided in subsection A, the superintendent shall
22 administer the provisions of this title, including:

23 1. Adopting regulations:

24 (a) For carrying out the provisions of this title.

25 (b) For the proper conduct of the business to be carried on
26 under each specific type of spirituous liquor license.

27 (c) To enable and assist state officials to collect taxes levied
28 or imposed in connection with spirituous liquors.

29 2. Examine books, records, and papers of a licensee.

30 3. Employ necessary personnel and fix their compensation.

31 4. Keep an index record which shall be a public record open to
32 public inspection and shall contain the name and address of each licensee
33 and the name and address of any person having an interest, either legal
34 or equitable, in such license as shown by any written document, which
35 document shall be placed on file in the office of the board.

36 5. Provide the board with such supplies and personnel, including
37 a hearing officer, as may be reasonably required by the board.

38 C. ALL EMPLOYEES OF THE DEPARTMENT OF LIQUOR LICENSES AND CON-
39 TROL, EXCEPT MEMBERS OF THE STATE LIQUOR BOARD AND THE SUPERINTENDENT OF
40 THE DEPARTMENT SHALL BE EMPLOYED BY THE DEPARTMENT IN THE MANNER PRE-
41 SCRIBED BY THE PERSONNEL COMMISSION.

42 Sec. 6. Repeal

43 Section 4-112, Arizona Revised Statutes, as amended by Laws 1968,
44 chapter 200, section 2, is repealed.

45 Sec. 7. Section 18-216, Arizona Revised Statutes, as amended by
46 Laws 1957, chapter 17, section 1, is amended to read:

1 18-216. Tax levy for county highway improvement; transfer
 2 of funds; additional tax for highway purposes;
 3 exemption from ten per cent limitation

4 A. The board of supervisors may levy a real and personal property
 5 tax, not exceeding twenty-five cents per one hundred dollars of property
 6 in the county as valued for tax purposes, for road purposes, to be levied
 7 and collected at the same time and manner as other property taxes are
 8 collected.

9 B. The money when collected shall be paid into the county trea-
 10 sury for the benefit of the highways within the county, and together
 11 with other money received for those purposes, expended by the board for
 12 improvement of roads of the county.

13 C. In the event a county has no annual levy for road purposes as
 14 provided for in subsection A above, it may transfer any unexpended bal-
 15 ances in the county portion of motor vehicle fuel tax receipts or forest
 16 receipts which have been designated for road purposes, to the public
 17 works reserve fund provided for in section 42-306. Funds so transferred
 18 shall be expended only for highways, roads or streets, subject to the
 19 provisions of subsections C, E and F of section 42-306.

20 D. IN COUNTIES HAVING AN ASSESSED VALUATION OF TWO HUNDRED MIL-
 21 LION DOLLARS OR OVER, AN AMOUNT NOT TO EXCEED TWENTY-FIVE CENTS PER ONE
 22 HUNDRED DOLLARS ASSESSED VALUATION MAY BE BUDGETED, LEVIED, COLLECTED,
 23 AND EXPENDED FOR ROAD PURPOSES, INDEPENDENTLY OF, AND IN ADDITION TO
 24 ANY OTHER AMOUNTS LAWFULLY AVAILABLE FOR ROAD PURPOSES, ALL OTHER LAWS
 25 TO THE CONTRARY NOTWITHSTANDING, AND THE BUDGET, LEVY, COLLECTION, AND
 26 EXPENDITURE OF SUCH FUNDS SHALL BE EXEMPT FROM ALL ANNUAL TEN PER CENT
 27 INCREASE LIMITATIONS PROVIDED IN TITLE 42, CHAPTER 2, ARTICLE 4. SUCH
 28 LEVY SHALL BE IN LIEU OF THE LEVY PERMITTED UNDER SUBSECTION A OF THIS
 29 SECTION.

30 Sec. 8. Repeal

31 Section 18-216, Arizona Revised Statutes, as amended by Laws 1957,
 32 chapter 90, section 1, is repealed.

33 Sec. 9. Section 20-224, Arizona Revised Statutes, as amended by
 34 Laws 1974, chapter 15, section 2, is amended to read:

35 20-224. Premium tax

36 A. On or before March 31 each year each authorized domestic
 37 insurer, and on or before March 1 each year each other insurer and each
 38 formerly authorized insurer referred to in subsection B of section 20-206,
 39 shall file with the director, a report in form as prescribed by the direc-
 40 tor showing total direct premium income including policy membership and
 41 other fees and all other considerations for insurance from all classes
 42 of business whether designated as a premium or otherwise received by it
 43 during the preceding calendar year on account of policies and contracts
 44 covering property, subjects or risks located, resident or to be per-
 45 formed in this state, after deducting from such total direct premium
 46 income applicable cancellations, returned premiums, the amount of reduc-
 47 tion in or refund of premiums allowed to industrial life policyholders
 48 for payment of premiums direct to an office of the insurer, all policy
 49 dividends, refunds, savings coupons and other similar returns paid or
 50 credited to policyholders within this state and not reapplied as premiums

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1 for new, additional or extended insurance. No deduction shall be made
2 of the cash surrender values of policies or contracts. Considerations
3 received on annuity contracts, as well as the unabsorbed portion of any
4 premium deposit, shall not be included in total direct premium income,
5 and neither shall be subject to tax.

6 B. Coincident with the filing of such tax report each foreign
7 or alien insurer and each domestic insurer who fails to maintain in
8 this state a home office as defined by rules and regulations adopted
9 by the director shall pay to the state treasurer, through the director,
10 a tax of two per cent of such net premiums. Each domestic insurer
11 maintaining in this state a home office as defined by rules and regula-
12 tions adopted by the director AND EACH HEALTH INSURANCE ASSOCIATION
13 ESTABLISHED UNDER SECTION 20-1003 shall so pay a tax of one per cent
14 of such net premiums. Beginning March 31, 1975, a domestic insurer
15 doing business in a state or foreign country in which such insurer is
16 not licensed and to which the insurer does not pay a premium tax shall
17 report and pay the tax on such business for the preceding calendar year
18 to the state of Arizona as though such business were transacted in this
19 state.

20 C. That portion of the tax paid hereunder by an insurer on
21 account of premiums received for fire insurance shall be separately
22 specified in the report and shall be apportioned in the manner provided
23 by sections 9-951, 9-952, and 9-972, except that all of the tax allocated
24 to a fund of a municipality which has no volunteer firemen or pension
25 obligations to volunteer firemen shall be appropriated to the account of
26 the municipality in the public safety personnel retirement system and
27 all of the tax allocated to a fund of a municipality which has both full
28 time paid firemen and volunteer firemen or pension obligations to full
29 time paid firemen or volunteer firemen shall be appropriated to the
30 account of the municipality in the public safety personnel retirement
31 system where it shall be reallocated by actuarial procedures propor-
32 tionately to the municipality for the account of the full time paid
33 firemen and to the municipality for the account of the volunteer fire-
34 men. A full accounting of such reallocation shall be forwarded to the
35 municipality and both local boards.

36 D. This section shall not apply to title insurance, and such
37 insurers shall be taxed as provided in section 20-1566.

38 E. Notwithstanding the provisions of subsection B of this section,
39 a domestic insurer formed under the laws of this state prior to January
40 1, 1973, which does not maintain in this state a home office as defined
41 by rules and regulations adopted by the director shall, until January
42 1, 1975, pay the tax provided for a domestic insurer which maintains a
43 home office in this state. Thereafter such domestic insurer shall have
44 either established a home office or shall pay the tax prescribed for a
45 foreign or alien insurer and for each domestic insurer not maintaining
46 a home office in this state.

47 Sec. 10. Repeal

48 Section 20-224, Arizona Revised Statutes, as amended by Laws 1974,
49 chapter 187, section 4, is repealed.

1 Sec. 11. Repeal
2 Section 23-355, Arizona Revised Statutes, as amended by Laws 1973,
3 chapter 172, section 59, is repealed.
4 Sec. 12. Repeal
5 Section 23-907, Arizona Revised Statutes, as amended by Laws 1973,
6 chapter 133, section 17, is repealed.
7 Sec. 13. Repeal
8 Section 28-108, Arizona Revised Statutes, as amended by Laws 1974,
9 chapter 108, section 1, is repealed.
10 Sec. 14. Repeal
11 Section 28-208, Arizona Revised Statutes, as amended by Laws 1974,
12 chapter 136, section 6, is repealed.
13 Sec. 15. Repeal
14 Section 28-221, Arizona Revised Statutes, as amended by Laws 1974,
15 chapter 136, section 11, is repealed.
16 Sec. 16. Section 28-693, Arizona Revised Statutes, as amended by
17 Laws 1959, chapter 103, section 3, is amended to read:
18 28-693. Reckless driving
19 A. Any person who drives any vehicle in wilful or wanton disregard
20 for the safety of persons or property is guilty of reckless driving.
21 B. A person convicted of reckless driving shall be punished upon
22 a first conviction by imprisonment for not less than five TEN nor more
23 than ninety days, AND, IN THE DISCRETION OF THE COURT, by a fine of not
24 less than one hundred nor more than three hundred dollars. ~~or both~~
25 IN ADDITION, THE JUDGE MAY REQUIRE THE SURRENDER TO HIM OF ANY OPERATOR'S
26 OR CHAUFFEUR'S LICENSE OF SUCH CONVICTED PERSON AND, IN SUCH EVENT, SHALL
27 FORWARD THE LICENSE TO THE DEPARTMENT WITH THE ABSTRACT OF CONVICTION,
28 TOGETHER WITH AN ORDER OF THE COURT SUSPENDING THE DRIVING PRIVILEGES
29 OF SUCH PERSON FOR A PERIOD NOT TO EXCEED NINETY DAYS. THE DEPARTMENT
30 UPON RECEIPT OF THE LICENSE, ABSTRACT OF CONVICTION AND ORDER SHALL SUS-
31 PEND THE DRIVING PRIVILEGE OF SUCH PERSON FOR THE PERIOD OF TIME ORDERED
32 BY THE JUDGE.
33 C. When a ~~second or subsequent offense is committed~~ PERSON CON-
34 VICTED OF A VIOLATION OF THIS SECTION HAS BEEN PREVIOUSLY CONVICTED OF
35 A VIOLATION OF THIS SECTION, SECTION 13-456, SUBSECTION A, PARAGRAPH 3,
36 28-692 OR 28-708 within a period of twenty-four months, ~~and conviction~~
37 ~~occurs~~, such person shall be punished by imprisonment for not less than
38 ~~ten~~ TWENTY days nor more than six months, and in the discretion of the
39 court, by a fine of not less than one hundred fifty nor more than three
40 hundred dollars. ~~or both~~ IN ADDITION, THE JUDGE SHALL REQUIRE THE
41 SURRENDER TO HIM OF ANY OPERATOR'S OR CHAUFFEUR'S LICENSE OF SUCH CON-
42 VICTED PERSON AND SHALL IMMEDIATELY FORWARD TO THE DEPARTMENT THE LICENSE
43 WITH THE ABSTRACT OF CONVICTION. THE DEPARTMENT UPON RECEIPT THEREOF
44 SHALL REVOKE THE DRIVING PRIVILEGE OF SUCH PERSON. THE DATES OF THE
45 COMMISSION OF THE OFFENSE SHALL BE THE DETERMINING FACTOR IN APPLYING
46 THIS RULE. A SECOND OR SUBSEQUENT VIOLATION FOR WHICH A CONVICTION
47 OCCURS AS PROVIDED IN THIS SECTION SHALL NOT INCLUDE A CONVICTION FOR
48 AN OFFENSE ARISING OUT OF THE SAME SERIES OF ACTS. No judge may grant
49 probation to or suspend the imposition of a jail sentence OR FAIL TO
50 SECURE THE SURRENDER TO HIM OF ANY LICENSE of any person for such a
51 second or subsequent conviction.

1 D. The court may, upon pronouncement of any jail sentence under
 2 this section, ~~in cases of extreme hardship~~ provide in the sentence that
 3 the defendant may be permitted, if he is employed and can continue his
 4 employment, to continue said SUCH employment for not more than twelve
 5 hours per day nor more than six days per week, and the remaining day,
 6 days or parts of days shall be spent in jail until the sentence is
 7 served. He shall be allowed out of jail only long enough to complete
 8 his actual hours of employment and no longer.

9 ~~Er--Whenever any person is convicted of a violation of the provi-~~
 10 ~~sions of this section, the judge may, upon a first conviction, and shall~~
 11 ~~upon a second or subsequent conviction for an offense committed within~~
 12 ~~a period of twenty-four months require the surrender to him of any~~
 13 ~~operator's or chauffeur's license of such person and immediately forward~~
 14 ~~same to the department with the abstract of conviction-- Upon a first~~
 15 ~~conviction the judge may order the suspension of the driving privileges~~
 16 ~~of such person for a period not to exceed ninety days-- The department~~
 17 ~~upon receipt of the license, abstract of conviction, and order of the~~
 18 ~~court, in the case of a first conviction, shall suspend the driving~~
 19 ~~privileges of such person for the period of time ordered by the judge.~~
 20 ~~In the case of a second or subsequent conviction for an offense committed~~
 21 ~~within a period of twenty-four months, the department upon receipt of~~
 22 ~~the license and the abstract of conviction shall revoke the driving~~
 23 ~~privileges of such person.~~

24 Sec. 17. Repeal

25 Section 28-693, Arizona Revised Statutes, as amended by Laws 1972,
 26 chapter 160, section 3, is repealed.

27 Sec. 18. Repeal

28 Section 28-1502, Arizona Revised Statutes, as amended by Laws 1974,
 29 chapter 108, section 4, is repealed.

30 Sec. 19. Repeal

31 Section 28-1865, Arizona Revised Statutes, as amended by Laws 1974,
 32 chapter 108, section 3, is repealed.

33 Sec. 20. Section 28-1891, Arizona Revised Statutes, as added by
 34 Laws 1973, chapter 146, section 69, is amended to read:

35 28-1891. Arizona highway patrol fund; composition of fund;
 36 administration; exemptions; purpose

- 37 A. There is established an Arizona highway patrol fund.
 38 B. The Arizona highway patrol fund shall consist of:
 39 1. Monies appropriated DISTRIBUTED to the fund from the state
 40 ARIZONA highway USER REVENUE fund by the legislature.
 41 2. Miscellaneous service fees.
 42 3. Rewards.
 43 4. Awards.
 44 5. Insurance recoveries.
 45 6. Receipts from the sale or disposal of any or all property
 46 held by the Arizona highway patrol or purchased with Arizona highway
 47 patrol funds.

48 C. All monies in the Arizona highway patrol fund shall be admin-
 49 istered and expended by the patrol superintendent in conformity with
 50 the laws governing state financial operations.

1 D. No monies in the Arizona highway patrol fund shall revert to
 2 the general or state ARIZONA highway USER REVENUE fund and such monies
 3 shall be exempt from the provisions of section 35-190, relating to
 4 lapsing of appropriations.

5 E. The Arizona highway patrol fund shall be used for the purpose
 6 of administering the provisions of law relating to the highway patrol and
 7 the Arizona highway patrol reserve and all matters pertaining thereto.

8 ~~F.--The appropriation made by the legislature from the state high-~~
 9 ~~way fund shall be deposited in the Arizona highway patrol fund by the~~
 10 ~~department at a rate of twelve and one-half per cent of the total appre-~~
 11 ~~riation on the first day of each calendar month beginning on July 1 of~~
 12 ~~each year and the final payment shall be made on February 1 of each year.~~

13 Sec. 21. Repeal

14 Section 18-191, Arizona Revised Statutes, as amended by Laws 1974,
 15 chapter 139, section 6, and transferred for placement as section 28-1891,
 16 Arizona Revised Statutes, is repealed.

17 Sec. 22. Section 30-653, Arizona Revised Statutes, as amended by
 18 Laws 1973, chapter 35, section 1, is amended to read:

19 30-653. Arizona atomic energy commission; qualifications; terms

20 A. There shall be an Arizona atomic energy commission which shall
 21 consist of the executive director of the department OFFICE of economic
 22 planning and development, the commissioner DIRECTOR of the state depart-
 23 ment of health SERVICES and ten additional members who shall be appointed
 24 by the governor. The ten additional members shall be appointed from
 25 among persons possessing not less than four years of education or exper-
 26 ience in the use or control of atomic energy or radiation. Such members
 27 shall also be associated with one or more of the following fields:
 28 Medicine including radiology, radiation protection, higher education,
 29 nuclear services, manufacturing, electric power generation, agriculture,
 30 mining or other commerce. No more than two members shall be appointed
 31 as representatives of any one of the fields named in this subsection.

32 B. The term of office of each appointed member shall be five
 33 years. Of the members first appointed two shall serve for terms ending
 34 January 1, 1965, and two each for terms ending one, two, three and four
 35 years thereafter. A vacancy caused other than by expiration of the
 36 terms shall be filled in the same manner as the original appointments,
 37 but shall be only for the balance of the unexpired term.

38 C. Members of the commission shall receive compensation as deter-
 39 mined pursuant to section 38-611 in lieu of subsistence while attending
 40 meetings or performing their powers or duties under the provisions of
 41 this chapter. The executive director of the department OFFICE of economic
 42 planning and development and the commissioner DIRECTOR of the state
 43 department of health SERVICES shall receive no compensation for their
 44 service under this chapter, but shall be reimbursed for travel and other
 45 necessary expenses incurred in the performance of official duties as
 46 provided by law for other state officers.

47 D. A majority of the membership of the commission shall con-
 48 stitute a quorum for the transaction of business. The commission shall
 49 elect from among its membership a chairman and such other officers it
 50 deems necessary, to serve for such terms as the commission determines.

1 Sec. 23. Repeal

2 Section 30-653, Arizona Revised Statutes, as amended by Laws 1973,
3 chapter 158, section 283, is repealed.

4 Sec. 24. Section 32-353, Arizona Revised Statutes, as amended by
5 Laws 1973, chapter 163, section 11, is amended to read:

6 32-353. Grounds for refusal to issue or renew or for
7 revocation of certificate

8 The board shall refuse to issue or renew, or shall suspend or
9 revoke a certificate for any of the following causes:

10 1. Conviction of a felony unless the board finds that issuance
11 or renewal of the license would be in the public interest.

12 2. Malpractice or incompetency.

13 3. Infectious, contagious or communicable disease contracted by
14 the applicant or registrant.

15 4. Advertising by means of known false or deceptive statements.

16 5. Advertising, practicing or attempting to practice under a
17 trade name or name other than such person's own.

18 6. Habitual drunkenness or addiction to the use of a habit-
19 forming drug.

20 7. Commission of any offense enumerated in paragraphs 2, 3, 4
21 and 5, of section 32-356.

22 8. Violation of a sanitary regulation promulgated by the board
23 or the ~~state-board~~ DEPARTMENT of health SERVICES.

24 9. Continuing to be employed or to practice in a barber shop or
25 beauty culture shop in which a sanitary regulation promulgated by the
26 board or the ~~state-board~~ DIRECTOR OF THE DEPARTMENT of health SERVICES
27 is known by the registrant to be violated.

28 10. Violation of a lawful order, rule or regulation of the board.

29 Sec. 25. Repeal

30 Section 32-353, Arizona Revised Statutes, as amended by Laws 1973,
31 chapter 158, section 284, is repealed.

32 Sec. 26. Repeal

33 Section 32-2181, Arizona Revised Statutes, as amended by Laws 1973,
34 chapter 94, section 2, is repealed.

35 Sec. 27. Section 36-305, Arizona Revised Statutes, as amended by
36 Laws 1973, chapter 158, section 54, is amended to read:

37 36-305. Duties of the state registrar of vital statistics

38 A. The state registrar of vital statistics shall:

39 1. Administer and enforce this chapter and the rules and regula-
40 tions issued hereunder and issue instructions for the efficient adminis-
41 tration of a state-wide system of vital statistics.

42 2. Direct and supervise a state-wide system of vital records and
43 public health statistics and be custodian of such records.

44 3. Direct and supervise the activities and programs of the local
45 registrars and the activities of those local officials who have specific
46 legal responsibilities related to the operation of a state-wide vital
47 statistics system.

48 4. Prescribe and distribute such forms as are required by this
49 chapter and the rules and regulations issued hereunder.

1 5. Prepare and publish reports of vital statistics of this state,
2 and such other reports as may be required.

3 6. Transmit each month to the county recorder a record of the
4 death of every resident of his county eighteen SIXTEEN years of age and
5 older as required under the provisions of subsection C of section 16-150.

6 7. Arrange, classify, and preserve all official vital records in
7 a systematic manner employing modern devices and techniques where effi-
8 ciency and good management are promoted thereby.

9 8. Investigate and report violations of this chapter by a written
10 statement of the facts and circumstances to the county attorney in the
11 county where the violation occurred and, when appropriate, request the
12 attorney general to assist in the enforcement of the provisions of this
13 chapter.

14 B. The state registrar may delegate, in writing, any or all powers
15 and duties vested in him as state registrar to the assistant state regis-
16 trar as is deemed necessary and expedient by the requirements of this
17 chapter and the regulations promulgated hereunder, and as provided by
18 section 38-461.

19 Sec. 28. Repeal

20 Section 36-305, Arizona Revised Statutes, as amended by Laws 1973,
21 chapter 157, section 44, is repealed.

22 Sec. 29. Section 36-326, Arizona Revised Statutes, as amended by
23 Laws 1973, chapter 51, section 1, is amended to read:

24 36-326. New certificates of birth following adoption,
25 legitimation, paternity determination and
26 surgical alterations

27 A. The state registrar shall establish a new certificate of birth
28 for a person born in this state when he receives any of the following:

29 1. An adoption report as provided in section 36-325, or a certi-
30 fied copy of the decree of adoption together with the information nec-
31 essary to identify the original certificate of birth and to establish a
32 new certificate of birth, except that a new certificate of birth shall not
33 be established in those cases where the court decreeing the adoption,
34 the adoptive parents, or the adopted person so requests.

35 2. A certificate of adoption or a certified copy of the decree of
36 adoption duly executed in a court of competent jurisdiction in any state,
37 commonwealth or possession of the United States or Canada decreeing the
38 adoption of a child born in Arizona together with the information nec-
39 essary to establish a new certificate except that a new certificate of
40 birth shall not be established in those cases where the court decreeing
41 the adoption, the adoptive parents, or the adopted person so requests.

42 3. A request that a new certificate be established and such
43 evidence as required by regulation proving that such a person has been
44 legitimated, or that a court of competent jurisdiction has determined
45 the paternity of such a person.

46 4. A sworn statement from a licensed physician in good standing
47 that he has performed a surgical operation or a chromosomal count on a
48 person and that by reason of this operation or count the sex of the
49 person has been established as different from that in the original
50 document. The state registrar may reserve the right to require further

1 proof if deemed necessary, or to seek independent professional evaluation
2 of the evidence offered before creating a new certificate.

3 B. When a new certificate is established, the actual place and
4 date of birth shall be shown, except that if adoptive parents so request,
5 the name of the facility or street address of a home birth may be
6 omitted and the space left blank. It shall be substituted in the active
7 files for the original certificate of birth. Thereafter, the original
8 certificate together with the evidence of adoption, legitimation,
9 paternity, surgical alteration or chromosomal count shall be placed in
10 a special file and not opened to further inspection or right of access
11 except as provided by regulations of the state-board DIRECTOR of THE
12 DEPARTMENT OF HEALTH SERVICES or upon order of a court of competent
13 jurisdiction. Upon receipt of notice that an adoption has been annulled,
14 the original certificate of birth shall be restored to its proper place
15 in the active files and the new certificate and the evidence on which
16 it was based shall be retired to the special file and not opened to
17 further inspection or right of access except as provided by regulation.

18 C. If no original certificate of birth exists for the person for
19 whom a new certificate is to be established under this section, a delayed
20 certificate shall be filed with the state registrar as provided in section
21 36-324 before a new certificate of birth is established, except that
22 when the date and place of birth and parentage have been established in
23 the adoption proceedings, a delayed certificate of birth shall not be
24 required.

25 D. When a new certificate of birth is established by the state
26 registrar, all copies of the original certificate in the custody of any
27 local official shall be closed to inspection and forwarded to the state
28 registrar or otherwise disposed of as he may direct. The state registrar
29 shall furnish a copy of the new certificate to a local registrar upon
30 request.

31 Sec. 30. Repeal

32 Section 36-326, Arizona Revised Statutes, as amended by Laws 1973,
33 chapter 158, section 58, is repealed.

34 Sec. 31. Repeal

35 Section 36-1752, Arizona Revised Statutes, as amended by Laws 1973,
36 chapter 157, section 46, is repealed.

37 Sec. 32. Repeal

38 Section 38-845, Arizona Revised Statutes, as amended by Laws 1971,
39 chapter 74, section 3, is repealed.

40 Sec. 33. Repeal

41 Section 38-853, Arizona Revised Statutes, as amended by Laws 1971,
42 chapter 74, section 6, is repealed.

43 Sec. 34. Section 38-871, Arizona Revised Statutes, as amended by
44 Laws 1973, chapter 91, section 3, is amended to read:

45 38-871. Annuity and deferred compensation governing committee;
46 members; duties

47 A. There is established a governing committee for tax deferred
48 annuity and deferred compensation plans which shall consist of the
49 following seven members:

- 50 1. Three employees of the state appointed by the governor.

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- 1 2. The DEPARTMENT OF ADMINISTRATION ASSISTANT director ~~of the~~
2 state FOR personnel ~~commission~~ ADMINISTRATION.
3 3. The superintendent of the state banking department.
4 4. The ~~commissioner-of~~ DEPARTMENT OF ADMINISTRATION ASSISTANT
5 DIRECTOR FOR finance.
6 5. The attorney general.
7 B. The governing committee may:
8 1. Investigate and approve tax deferred compensation and annuity
9 programs which give employees of the state income tax benefits authorized
10 by title 26, United States Code Annotated.
11 2. In carrying out the purposes of this article, enter into agree-
12 ments with life insurance companies authorized to do business in this
13 state and with bank trustees or custodians and investment counseling
14 firms registered with the securities exchange commission.
15 C. The governing committee shall:
16 1. Arrange for consolidated billing and efficient administrative
17 services in order that any such plans approved shall operate without
18 cost or contribution from the state except for the incidental expense
19 of administering the payroll salary deduction or reduction and remit-
20 tance thereof to the trustee or custodian of the plan or plans.
21 2. Promulgate rules and regulations governing the solicitation
22 of employees by persons offering tax deferred compensation or annuity
23 plans to such employees.
24 Sec. 35. Repeal
25 Section 38-871, Arizona Revised Statutes, as amended by Laws 1973,
26 chapter 157, section 48, is repealed.
27 Sec. 36. Section 41-771, Arizona Revised Statutes, is amended to
28 read:
29 41-771. Exemptions
30 The provisions of this article and article 6 do not apply to:
31 1. Elected state officers.
32 2. State officers and members of boards and commissions appointed
33 by the legislature or the governor, the employees of the governor's
34 office, the employees of the Arizona legislative council, and the
35 employees of the supreme court and the court of appeals.
36 3. State officers and employees appointed or employed by the
37 legislature or either house thereof.
38 4. Officers or employees of state universities and colleges,
39 personnel of the Arizona state school for the deaf and blind, or the
40 public school system.
41 5. Patients or inmates employed in state institutions.
42 6. Officers and enlisted men PERSONNEL of the national guard of
43 Arizona.
44 7. The single administrative or executive head of each state
45 department or agency AND SUCH OTHER ADMINISTRATIVE OR EXECUTIVE POSI-
46 TIONS AS MAY BE DESIGNATED BY THE PERSONNEL ADMINISTRATION DIVISION.
47 8. Positions which the personnel administration division deter-
48 mines are essentially for rehabilitation purposes.
49 9. Temporary or part-time personnel as determined by the personnel
50 administration division.

1 10. Not more than two assistants who serve in the office of an
2 elected state officer, where that elected state officer is the sole
3 elected head of the department.

4 11. One administrative assistant who serves a board or commission
5 elected to head a state agency, department or division, and one assistant
6 for each elected member of such board or commission.

7 12. Any other position exempted by law.

8 Sec. 37. Repeal

9 Section 38-921, Arizona Revised Statutes, as amended by Laws 1973,
10 chapter 172, section 100, is repealed.

11 Sec. 38. Section 41-781, Arizona Revised Statutes, is amended to
12 read:

13 41-781. Personnel board; members; appointment; term; meetings;
14 compensation

15 A. The state personnel board shall consist of five members ap-
16 pointed by the governor ~~with the advice and consent of the senate~~
17 PURSUANT TO SECTION 38-211. No more than three members shall belong
18 to the same political party. Of the members appointed two shall be
19 persons interested in personnel administration, one shall be a profes-
20 sional personnel administrator, one a state employee and one a person
21 active in business management. Members may be removed by the governor
22 for cause. The chairman of the personnel board shall serve as ex officio
23 member of the law enforcement merit system council without voting
24 privileges.

25 B. The term of office for each member is five years, one term to
26 expire ~~June 30~~ ON THE THIRD MONDAY IN JANUARY each year. ~~except that~~
27 ~~a member shall continue to serve until his successor is duly appointed~~
28 ~~and qualified.~~ Upon the expiration of the term of a member a successor
29 shall be appointed for a full term of five years.

30 ~~G. Appointment to fill a vacancy resulting other than from expira-~~
31 ~~tion of term shall be for the unexpired portion of the term only. An~~
32 ~~appointee to an unexpired term shall be a member in good standing until~~
33 ~~the senate convenes and grants or denies confirmation of the appointment.~~
34 ~~If the appointment is confirmed, the appointee shall serve the remainder~~
35 ~~of the unexpired term. If confirmation is denied, a new member shall be~~
36 ~~appointed by the governor, with the advice and consent of the senate.~~

37 B- C. The personnel board shall hold regular quarterly meetings
38 and, in addition, may hold special meetings the board deems necessary.
39 A chairman and vice chairman shall be elected by the members at the first
40 meeting of each even-numbered year and the chairman shall not be permitted
41 to succeed himself. Meetings of the personnel board shall be open to the
42 public and executive sessions may be held as provided by law.

43 E- D. Any one of the following shall constitute the resignation
44 of a board member and authorize the governor to appoint a new member to
45 fill the unexpired term so vacated:

46 ~~1. Absence from three consecutive quarterly meetings.~~

47 ~~2. Becoming a candidate for any elective public office.~~

48 ~~3. 2. Accepting any appointive office or employment in the state~~
49 ~~service, except the state employee who is designated to serve on the~~
50 ~~board.~~

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1 F- E. Members of the personnel board, except the person desig-
2 nated as the state employee, are eligible to receive compensation as
3 determined pursuant to section 38-611 for each day actually spent for
4 meetings of the personnel board. The member of the personnel board
5 designated as the state employee shall be paid his regular compensation
6 for meetings of the board.

7 Sec. 39. Repeal

8 Section 38-902, Arizona Revised Statutes, as amended by Laws 1972,
9 chapter 163, section 42, is repealed.

10 Sec. 40. Section 42-642, Arizona Revised Statutes, as amended by
11 Laws 1973, chapter 33, section 2, is amended to read:

12 42-642. Taxation of mobile homes; exemption

13 A. Each mobile home shall be subject to ad valorem property tax
14 to be assessed and collected in the same manner and at the same time as
15 other personal property included in paragraph 3, or 4 OR 5 of subsection
16 B of section 42-227 and paragraph 3 or, 4 OR 5 of section 42-136, subject
17 to the provisions of subsection B of this section.

18 B. If application for title is made after the last day of March
19 for any mobile home not previously required to have a title in this state,
20 the ad valorem tax for such year on such mobile home shall be reduced by
21 one-fourth for each full calendar quarter of such year already expired.

22 C. The department shall establish the method of determining the
23 valuation of each mobile home to be set by the county assessor.

24 D. The provisions of this article shall not apply to mobile homes
25 properly licensed in another state which are owned by a bona fide tourist
26 in this state. The provisions of this article shall apply to the owner
27 of a mobile home or trailer located in this state who is a resident of
28 this state. For the purpose of determining whether or not a mobile home
29 in this state is subject to the tax provisions and the requirements re-
30 garding titling under the provisions of this article, "resident" includes,
31 but is not limited to, the following:

32 1. Any person, except a tourist or out-of-state student, who owns,
33 leases or rents a dwelling within the state and occupies it as a place of
34 residence, or any person who, regardless of domicile, remains in the
35 state for a consecutive period of six months or more.

36 2. Any person who engages in a trade, profession or occupation in
37 this state or who accepts employment in other than seasonal agricultural
38 work.

39 3. Any person placing children in a public school without payment
40 of nonresident tuition.

41 4. Any person who declares himself to be a resident of this state
42 for the purpose of obtaining at resident rates a state license or tuition
43 fees at an educational institution maintained by public funds.

44 5. Any individual, partnership, company, firm, corporation or
45 association which maintains a main office, branch office or warehouse
46 facilities in the state, and which bases and operates motor vehicles in
47 the state.

48 E. The provisions of this article shall not apply to any trailer
49 which is eight feet or less in width and forty feet or less in length and
50 which is not used as a place of residence or for a commercial purpose. A

1 license tax in lieu of all ad valorem property taxes shall be assessed on
 2 all such trailers in the same manner as such taxes are assessed on other
 3 vehicles.

4 Sec. 41. Repeal

5 Section 42-642, Arizona Revised Statutes, as amended by Laws 1973,
 6 chapter 182, section 6, is repealed.

7 Sec. 42. Section 43-123.03, Arizona Revised Statutes, as amended
 8 by Laws 1974, chapter 72, section 2, is amended to read:

9 43-123.03. Deductions for expenses

10 A. In computing net income there shall be allowed as a deduction
 11 all the ordinary and necessary expenses paid or incurred during the
 12 taxable year in carrying on any trade or business, including a reason-
 13 able allowance for salaries or other compensation for personal services
 14 actually rendered; traveling expenses (including the entire amount ex-
 15 pended for meals and lodging) while away from home in the pursuit of a
 16 trade or business; and rentals or other payments required to be made
 17 as a condition to the continued use or possession, for purposes of the
 18 trade or business, of property to which the taxpayer has not taken or
 19 is not taking title or in which he has no equity:

20 1. In the case of a taxpayer engaged in the business of farming,
 21 expenditures made for the purpose of soil and water conservation and the
 22 prevention of erosion of land used in farming shall be allowed as deduc-
 23 tions under this section. For the purposes of this paragraph, the term
 24 "expenditures made for the purpose of soil and water conservation and
 25 the prevention of erosion" means expenditures for the treatment, moving,
 26 or cultivation of earth, including (but not limited to) leveling, grad-
 27 ing and terracing, contour furrowing, the construction of diversion
 28 channels and drainage ditches, the control and protection of water
 29 courses, outlets and ponds, the planting and cultivation of cover and
 30 protective crops or windbreaks, the control of weeds and brush and other
 31 special or emergency cultivation and tillage; but such term does not
 32 include the purchase, construction, installation or improvement of
 33 structures, appliances, and facilities made of masonry, concrete, tile,
 34 metal, or wood, such as tanks, reservoirs, pipes, conduits, canals, dams,
 35 wells, and pumps, which are subject to the allowance for depreciation
 36 provided in section 43-123.14. For the purposes of this paragraph the
 37 term "land used in farming" means land used (prior to the expenditure
 38 for conservation made by the taxpayer) by the taxpayer or his tenant or
 39 the predecessor owner or his tenant for the production of crops, fruits,
 40 and similar agricultural products or for the sustenance of livestock.

41 2. No deduction shall be allowable under this subsection, to a
 42 corporation for any contribution or gift which would be allowable as a
 43 deduction under section 43-123.19, subsection A, were it not for the
 44 five per cent limitation therein contained and for the requirements
 45 therein that payment must be made within the income year.

46 3. NO DEDUCTION SHALL BE ALLOWABLE UNDER THIS SECTION TO AN
 47 EMPLOYER FOR THE COSTS OR EXPENSES OF PROVIDING MEDICAL CARE, AS DE-
 48 FINED IN SECTION 43-123.26, TO EMPLOYEES UNLESS SUCH CARE IS PURSUANT
 49 TO A PLAN WHICH INCLUDES COVERAGE FOR CATASTROPHIC MEDICAL COSTS AS
 50 DESCRIBED IN SECTION 20-1002.

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1 B. In computing net income there shall be allowed as a deduction
2 all the ordinary and necessary expenses paid or incurred during the
3 taxable year for the production or collection of income, or for the
4 management, conservation, or maintenance of property held for the pro-
5 duction of income.

6 C. The deductions permitted by subsection A of this section shall
7 not be allowed to the extent that they are connected with the production
8 of income not taxable under this title. Proper apportionment and alloca-
9 tion of such deductions with respect to taxable and nontaxable income
10 shall be determined pursuant to section 43-126, subsection (a), paragraph
11 (5).

12 D. In computing net income there shall be allowed as a deduction
13 a reasonable amount for ordinary and necessary expenses paid or incurred
14 during the taxable year for additional education or training required
15 for the satisfaction of upgraded professional or occupational require-
16 ments. To be eligible to claim the deduction provided by this paragraph,
17 the taxpayer shall be actively engaged in the taxpayer's trade, pro-
18 fession or occupation in the state of Arizona and the purpose of such
19 education must be to maintain or improve a taxpayer's skills or meet
20 the express requirements of the taxpayer's employer. Nothing in this
21 section shall be construed as to allow any educational expenses paid
22 or incurred in regard to sabbatical leave abroad or within the United
23 States, or to meet the minimum educational requirements to qualify for
24 the trade, profession or occupation or to qualify for a new trade, pro-
25 fession or occupation.

26 Sec. 43. Repeal

27 Section 43-123.03, Arizona Revised Statutes, as amended by Laws
28 1974, chapter 187, section 19, is repealed.

29 Sec. 44. Repeal

30 Section 46-261, Arizona Revised Statutes, as amended by Laws 1973,
31 chapter 157, section 75 and Laws 1973, chapter 158, section 307, is
32 repealed.

33 Sec. 45. Repeals

34 A. Section 46-261.05, Arizona Revised Statutes, as amended by
35 Laws 1973, chapter 158, section 309, is repealed.

36 B. Sections 46-261.09, 46-261.11 and 46-261.12, Arizona Revised
37 Statutes, are repealed.

38 Sec. 46. Emergency

39 To preserve the public peace, health and safety it is necessary
40 that this act become immediately operative. It is therefore declared
41 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 27, 1975

Filed in the Office of the Secretary of State - May 28, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 105

HOUSE BILL 2031

AN ACT

RELATING TO EDUCATION; PROVIDING FOR TRAINING IN THE USE OF FIREARMS AND HUNTING PRACTICES AND PRESCRIBING ELIGIBILITY FOR SUCH TRAINING; PROVIDING FOR INSTRUCTION MATERIALS AND CERTIFICATION OF INSTRUCTORS; TRANSFERRING CERTAIN FUNCTIONS FROM THE ARIZONA GAME AND FISH COMMISSION TO THE ARIZONA GAME AND FISH DEPARTMENT; AND AMENDING SECTIONS 15-1071, 15-1072, 15-1073 AND 15-1074, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-1071, Arizona Revised Statutes, is amended
3 to read:

4 15-1071. Training in use of firearms
5 The state board of education, in cooperation with the Arizona game
6 and fish ~~commission~~ DEPARTMENT, may provide training in the safe handling
7 and use of firearms and safe hunting practices, in conjunction with the
8 elementary and high schools of the state when such schools request the
9 training. ~~course.~~

10 Sec. 2. Section 15-1072, Arizona Revised Statutes, is amended
11 to read:

12 15-1072. Cooperating agencies
13 To carry out the purposes of the training program authorized by
14 this article, the Arizona game and fish ~~commission~~ DEPARTMENT and the
15 state board of education may cooperate with other ~~state or federal~~
16 ~~agencies, the national rifle association, the director of civilian~~
17 ~~marksmanship and the Arizona game protective association or other~~
18 private organizations.

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1 Sec. 3. Section 15-1073, Arizona Revised Statutes, is amended
2 to read:

3 15-1073. Eligibility for training; limitations

4 A. Training courses may be offered on a voluntary basis to all
5 ~~purchasers of hunting licenses, and to students in elementary and high~~
6 ~~schools~~ PERSONS who have reached the age of ten years, but the GAME
7 AND FISH commission may require any hunter whose HUNTING license has
8 been revoked or suspended ~~by the commission under authority of law~~ to
9 show a certificate of completion of such training course as a condi-
10 tion to issuance or renewal of a license.

11 B. The courses held for students in the elementary and high
12 schools shall be elective only, ~~shall be completed in not more than~~
13 ~~six hours in any one school year~~, and attendance in such classes
14 shall not be considered in computing average daily membership.

15 Sec. 4. Section 15-1074, Arizona Revised Statutes, is amended
16 to read:

17 15-1074. Instruction materials; certification of instructors

18 The state board of education may ~~prescribe courses of study,~~
19 ~~approve instruction materials and certify instructors in any~~ training
20 programs adopted pursuant to this article as part of the school
21 ~~curriculum~~ CURRICULA, and the Arizona game and fish ~~commission~~ DEPART-
22 MENT may prescribe courses of study, approve instruction materials,
23 certify instructors for training programs conducted by private ORGANIZA-
24 TIONS or public agencies ~~under its supervision~~ and issue certificates
25 of completion of the required course of study.

Approved by the Governor - May 28, 1975

Filed in the Office of the Secretary of State - May 29, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 106
HOUSE BILL 2231

AN ACT

RELATING TO EDUCATION; AUTHORIZING SCHOOL DISTRICT BOARDS OF TRUSTEES TO TRANSFER AND REALLOCATE MONIES FROM ANY OPERATING FUNDS TO PAY COSTS OF HEATING AND TRANSPORTATION FUELS AND OTHER UTILITIES; PROVIDING THAT SCHOOL DISTRICT MAY BUDGET FOR EXCESS UTILITY COSTS WHICH SHALL BE EXEMPT FROM BUDGET COST LEVEL LIMIT; PROVIDING FOR CERTAIN EXPIRATION DATE, AND AMENDING SECTION 15-1201.01, ARIZONA REVISED STATUTES.

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

2 Section 1. Authorization to transfer certain funds of
3 school district for heating and transpor-
4 tation fuels and other utilities

5 Notwithstanding any provisions of law to the contrary, the board
6 of trustees of any school district may transfer and reallocate monies
7 from any operating funds, including the proceeds collected based on
8 the first ten cents of the levy imposed pursuant to section 15-445,
9 Arizona Revised Statutes, for use to pay costs of heating and trans-
10 portation fuels and other utilities.

11 Sec. 2. Expiration of act

12 The provisions of section 1 of this act shall expire on July
13 1, 1975.

14 Sec. 3. Section 15-1201.01, Arizona Revised Statutes, is amended
15 to read:

16 15-1201.01. Budget control; exceptions

17 A. The funds budgeted under the capital outlay section of the
18 budget prescribed by section 15-1201 shall be used only for the purpose
19 of capital outlay.

20 B. For the purposes of the budget cost level, the actual average
21 daily membership for the previous year may be used when such actual
22 average daily membership is greater than the estimated actual average
23 daily membership for the budget year.

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1 C. A SCHOOL DISTRICT MAY BUDGET FOR EXCESS UTILITY COSTS WHICH
2 SHALL BE EXEMPT FROM THE BUDGET COST LEVEL LIMIT. EXPENDITURE ITEMS
3 ALLOWED AS EXCESS UTILITY COSTS SHALL BE SPECIFIED BY THE DEPARTMENT
4 OF EDUCATION AND SHALL BE LIMITED TO DIRECT OPERATIONAL COSTS OF
5 HEATING, COOLING, WATER, ELECTRICITY, TELEPHONE COMMUNICATIONS AND
6 SANITATIONAL FEES. THE DEPARTMENT OF EDUCATION SHALL INCLUDE IN THE
7 MAINTENANCE AND OPERATION SECTION OF THE BUDGET FORMAT AS DEFINED IN
8 SECTION 15-1201, A SEPARATE LINE FOR UTILITY EXPENDITURES. A SPECIAL
9 EXCESS UTILITY COST CATEGORY SHALL ALSO BE PROVIDED IN THE MAINTENANCE
10 AND OPERATION SECTION, WHICH SHALL CONTAIN BUDGETED EXPENDITURES FOR
11 UTILITIES DETERMINED IN THE FOLLOWING MANNER:

12 1. DETERMINE THE TOTAL BUDGETED UTILITY EXPENDITURES FOR THE
13 CURRENT YEAR.

14 2. INCREASE THE AMOUNT IN PARAGRAPH 1 BY THE PERCENTAGE INCREASE
15 IN THE ALLOWABLE BUDGET COST LEVEL FOR THE BUDGET YEAR OVER THE ALLOWABLE
16 BUDGET COST LEVEL FOR THE CURRENT YEAR.

17 3. THE SUM OF THE AMOUNTS IN PARAGRAPH 1 AND PARAGRAPH 2 SHALL BE
18 BUDGETED IN THE UTILITY EXPENDITURE LINE.

19 4. ADDITIONAL EXPENDITURES FOR UTILITIES SHALL BE BUDGETED IN THE
20 EXCESS UTILITY COST CATEGORY.

21 D. WHATEVER THE PERCENTAGE INCREASE OR DECREASE ALLOWED IN THE
22 MAINTENANCE AND OPERATION BUDGET PURSUANT TO SECTION 15-1245 OR 15-1212,
23 SUBSECTION J, THE SAME PERCENTAGE INCREASE OR DECREASE SHALL BE APPLIED
24 TO THE UTILITY LINE ITEM OF THE BUDGET.

25 E. A SCHOOL DISTRICT MAY EXPEND FROM THE EXCESS UTILITY COST
26 CATEGORY ONLY AFTER THE DISTRICT HAS EXPENDED FOR UTILITY PURPOSES THE
27 FULL AMOUNT BUDGETED IN THE UTILITY COST LINE OF THE BUDGET.

28 F. AMOUNTS BUDGETED FOR EXCESS UTILITY COSTS MAY BE EXPENDED ONLY
29 FOR UTILITY EXPENDITURE ITEMS PERMITTED IN THIS CATEGORY.

30 G. For any school district which establishes a kindergarten,
31 for the first year only all expenses incident to the operation of the
32 kindergarten shall be excluded from the computation of the budget cost
33 level. Thereafter, the expenses incident to the operation of the kin-
34 dergarten shall be included in the proposed school district budget cost
35 level. The superintendent of public instruction in conjunction with
36 the auditor general shall prescribe any new or optional school district
37 budget forms which may be required for the purpose of this subsection.

38 Sec. 4. Emergency

39 To preserve the public peace, health and safety it is necessary
40 that this act become immediately operative. It is therefore declared
41 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 29, 1975

Filed in the Office of the Secretary of State - May 30, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 107

SENATE BILL 1136

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; PROVIDING FOR ESTABLISHMENT OF SANITARIANS COUNCIL; PRESCRIBING MEMBERS AND POWERS; PROVIDING FOR A SANITARIANS FUND; PROVIDING FOR SAFETY GLAZING INSPECTION BY CERTAIN COUNTIES, CITIES AND TOWNS; AMENDING TITLE 36, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-136.01 AND 36-136.02, AND AMENDING SECTION 36-1635, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 36, chapter 1, article 2, Arizona Revised Statutes,
3 is amended by adding sections 36-136.01 and 36-136.02, to read:
4 36-136.01. Sanitarians council; members; powers, definition
5 of sanitarian; fees; annual renewal
6 A. IN ADDITION TO THE DIRECTOR'S OTHER POWERS AND DUTIES, THE
7 DIRECTOR SHALL ESTABLISH, AT NO COST TO THE STATE, EXCEPT COMPENSATION
8 OTHERWISE PAID TO THE DIRECTOR OR HIS REPRESENTATIVE BY VIRTUE OF STATE
9 EMPLOYMENT, A SANITARIANS COUNCIL COMPOSED OF FIVE MEMBERS. THE MEMBERS
10 SHALL BE THE DIRECTOR OF HEALTH SERVICES OR THE DIRECTOR'S REPRESENTATIVE,
11 TWO GOVERNMENTAL SANITARIANS, ONE OF WHOM SHALL REPRESENT THE TWO LARGEST
12 COUNTIES AND ONE OF WHOM SHALL REPRESENT THE TWELVE SMALLER COUNTIES, ONE
13 INDUSTRIAL SANITARIAN AND ONE LAY PERSON REPRESENTING THE PUBLIC. THE DI-
14 RECTOR SHALL BE THE COUNCIL CHAIRMAN.
15 B. THE COUNCIL SHALL PROVIDE FOR THE CLASSIFICATION OF SANITARIANS,
16 ESTABLISH STANDARDS FOR PERSONS EMPLOYED AS SANITARIANS AND PROVIDE FOR
17 THE EXAMINATION OF APPLICANTS FOR REGISTRATION AS SANITARIANS. NO PERSON
18 SHALL BE EMPLOYED AS A SANITARIAN BY THE STATE OR ANY POLITICAL SUBDIVISION
19 OF THE STATE UNLESS SUCH PERSON HAS BEEN REGISTERED BY THE DEPARTMENT AS A
20 SANITARIAN OF THE CLASS DETERMINED BY THE COUNCIL TO BE APPROPRIATE FOR
21 THE PERFORMANCE OF THE FUNCTIONS OF SUCH PERSON'S EMPLOYMENT.
22 C. FOR THE PURPOSES OF THIS SECTION "SANITARIAN" MEANS A PERSON
23 WHO BY EDUCATION OR EXPERIENCE IN THE PHYSICAL, BIOLOGICAL, SOCIAL AND
24 SANITARY SCIENCES IS QUALIFIED TO CARRY OUT EDUCATIONAL, INVESTIGATIONAL
25 AND TECHNICAL DUTIES IN THE FIELD OF ENVIRONMENTAL HEALTH.

1 D. A FEE OF FORTY DOLLARS SHALL BE CHARGED AND COLLECTED FOR EACH
2 INITIAL REGISTRATION AND EXAMINATION. A FEE OF TEN DOLLARS SHALL BE CHARGED
3 AND COLLECTED FOR THE ANNUAL RENEWAL OF SUCH REGISTRATION CERTIFICATES.

4 E. ALL MONIES COLLECTED BY THE SANITARIANS COUNCIL SHALL BE TRANS-
5 MITTED TO THE STATE TREASURER WHO SHALL PLACE SUCH MONIES IN THE SANI-
6 TARIANS FUND.

7 F. ONLY PERSONS WITH A VALID REGISTRATION CERTIFICATE ISSUED PURSUANT
8 TO THIS SECTION SHALL HAVE THE PRIVILEGE OF USING THE TITLE "REGISTERED SANI-
9 TARIAN" OR THE ABBREVIATION "R.S." AFTER HIS NAME.

10 G. AN APPLICANT SHALL BECOME ELIGIBLE FOR REGISTRATION AS A SANITARIAN
11 PROVIDED THAT THE APPLICANT MEETS AT LEAST ONE OF THE FOLLOWING QUALIFICATIONS:

12 1. HAS COMPLETED FIVE YEARS OF EMPLOYMENT AS A SANITARIAN AIDE IN EITHER
13 A RECOGNIZED PUBLIC HEALTH AGENCY OR PRIVATE INDUSTRY IN A POSITION DIRECTLY
14 RELATED TO ENVIRONMENTAL HEALTH;

15 2. HAS SATISFACTORILY COMPLETED AT LEAST FIVE YEARS OF FULL-TIME
16 MILITARY DUTY IN THE FIELD OF ENVIRONMENTAL HEALTH;

17 3. HAS SUCCESSFULLY COMPLETED THIRTY SEMESTER HOURS OF CREDIT AT
18 AN ACCREDITED COLLEGE OR UNIVERSITY IN THE NATURAL SCIENCES.

19 36-136.02. Sanitarians fund; uses; exemption

20 A. THE STATE TREASURER SHALL MAINTAIN A SANITARIANS FUND WHICH SHALL
21 BE ADMINISTERED BY THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES TO
22 DEFRAY THE COSTS OF ADMINISTRATION OF THE REGISTRATION PROGRAM PURSUANT TO
23 SECTION 36-136.01.

24 B. ALL MONIES COLLECTED UNDER SECTION 36-136.01 SHALL BE TRANSMITTED
25 TO THE STATE TREASURER AT LEAST ONCE EACH MONTH.

26 C. UNEXPENDED OR UNENCUMBERED MONIES IN THE SANITARIANS FUND AT THE
27 CLOSE OF A FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND.

28 Sec. 2. Practicing sanitarians

29 Any person who on the effective date of this act is employed as a
30 practicing sanitarian in this state shall be registered under the provisions
31 of this act without examination, provided such person applies for registra-
32 tion and pays the registration fee, as prescribed by the council with the
33 approval of the director, within six months after the effective date of
34 this act.

35 Sec. 3. Section 36-1635, Arizona Revised Statutes, is amended
36 to read:

37 36-1635. Local ordinances

38 This article does not supersede any city, town or county ordinance
39 which is greater than the standards provided in this article, nor does
40 this article prohibit such city, town or county from inspecting pursuant
41 to the provisions of this article or its ordinances, PROVIDED ANY CITY,
42 TOWN OR COUNTY WHICH HAS ADOPTED A LOCAL BUILDING CODE SHALL PROVIDE FOR
43 AN INSPECTION PROGRAM TO ENFORCE THE PROVISIONS OF THIS ARTICLE OR LOCAL
44 ORDINANCE IF SUCH ORDINANCE PROVISIONS ARE AT LEAST EQUAL TO THE PRO-
45 VISIONS OF THIS ARTICLE COVERING SAFETY GLAZING. ~~and otherwise enforcing~~
46 ~~its ordinances-~~

~~Approved by the Governor - May 30, 1975~~

~~Filed in the Office of the Secretary of State - May 30, 1975~~

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 108

SENATE BILL 1235

AN ACT

RELATING TO EDUCATION; REPEALING THE PROVISIONS RELATING TO REORGANIZATION OF SCHOOL DISTRICTS; PROVIDING FOR REVERSION OF FUNDS, AND REPEALING LAWS 1974, FIRST SPECIAL SESSION, CHAPTER 3, SECTIONS 43 THROUGH 59.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Repeal
3 Laws 1974, first special session, chapter 3, sections 43 through
4 59, are repealed.
5 Sec. 2. Reversion of funds
6 All funds appropriated by Laws 1974, first special session,
7 chapter 3, section 60, remaining unexpended and unencumbered on the
8 effective date of this act shall revert to the general fund.
9 Sec. 3. Emergency
10 To preserve the public peace, health and safety it is necessary
11 that this act become immediately operative. It is therefore declared
12 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - May 30, 1975

Filed in the Office of the Secretary of State - May 30, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 109

SENATE BILL 1223

AN ACT

RELATING TO CRIMES; PROVIDING PENALTIES FOR DEFRAUDING PERSONS OF CHARGES FOR TELECOMMUNICATION SERVICES, AND AMENDING SECTION 13-312.01, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-312.01, Arizona Revised Statutes, is amended
3 to read:

4 13-312.01. Obtaining telecommunication services fraudulently;
5 publishing telephone numbers, credit card
6 numbers or codes with intent to defraud;
7 punishment; making or selling an instrument
8 or publishing plans or instructions for such
9 with intent to defraud; punishment

10 A. Any person who:-

11 1. With the intent to defraud another of the lawful charge
12 therefor, obtains or attempts to obtain any telecommunication service
13 by charging such service to an existing telephone number or credit
14 card number without the authority of the person to whom issued or the
15 subscriber thereto or the lawful holder thereof, or to a nonexistent,
16 counterfeit, revoked or canceled credit card number, or by any method
17 of code calling, or by installing, rearranging, or tampering with any
18 facility or equipment, or by the use of any other fraudulent means,
19 method, trick or device, OR

20 2. SELLS, RENTS, LENDS, GIVES OR OTHERWISE TRANSFERS OR DISCLOSES
21 TO ANOTHER, OR OFFERS OR ADVERTISES FOR SALE OR RENTAL, THE NUMBER OR
22 CODE OF AN EXISTING, CANCELED, REVOKED OR NONEXISTENT TELEPHONE NUMBER
23 OR CREDIT CARD NUMBER OR METHOD OF NUMBERING OR CODING WHICH IS EMPLOYED
24 IN THE ISSUANCE OF TELEPHONE NUMBERS OR CREDIT CARD NUMBERS WITH INTENT
25 THAT THE SAME BE USED OR EMPLOYED TO EVADE A LAWFUL CHARGE FOR ANY TELE-
26 COMMUNICATION SERVICE,

27 ~~is-guilty-of-a-misdemeanor-and~~ shall be punished by a fine of not more
28 than three hundred dollars or by imprisonment in the county jail for
29 not more than six months or by both such fine and imprisonment.

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1 B. Any person who:

2 1. Makes, constructs, manufactures, fabricates, erects, assembles
3 or possesses any instrument, apparatus, equipment, device, or any part
4 thereof, designed, adapted or which can be used:

5 (a) To obtain, or aid in obtaining, telecommunication service by
6 fraud in violation of subsection A of this section, or

7 (b) To conceal or aid in concealing, or to assist another to
8 conceal from any supplier of telecommunication service or from any
9 lawful authority the existence or place of origin or of destination
10 of any telecommunication, or

11 2. Sells, rents, lends, gives, or otherwise transfers OR DISCLOSES
12 to another, or offers or advertises for sale or rental, any instrument,
13 apparatus, equipment, or device described in paragraph 1 of this subsection,
14 or plans, specifications or instructions for making or assembling the
15 same,

16 ~~under circumstances evincing an~~ WITH intent to use or employ such instru-
17 ment, apparatus, equipment, device, or any part thereof, or to allow the
18 same to be used or employed, for a purpose described in paragraph 1 of
19 this subsection, or ~~knowing or having reason to believe that the same~~
20 ~~is intended to be so used, or~~ that the plans, specifications or instructions
21 are intended to be used for making or assembling such instrument, appara-
22 tus, equipment, device, or any part thereof, shall be punished by a fine
23 of not more than one thousand dollars, or by imprisonment for not more
24 than two years.

25 C. As used in this section, the term TERMS:

26 1. "Telecommunication services" ~~shall include~~ INCLUDES telephone
27 and telegraph services and all other services involving the transmission
28 of information by wire, radio or similar means. THIS SECTION APPLIES
29 WHEN THE TELECOMMUNICATION SERVICE ORIGINATES OR TERMINATES OR BOTH
30 ORIGINATES AND TERMINATES IN THIS STATE.

31 2. "CREDIT CARD NUMBER" MEANS THE CARD NUMBER APPEARING IN A
32 CREDIT CARD WHICH IS AN IDENTIFICATION CARD OR PLATE ISSUED TO A PERSON
33 BY ANY SUPPLIER OF TELECOMMUNICATION SERVICE WHICH PERMITS THE PERSON
34 TO WHOM THE CARD HAS BEEN ISSUED TO OBTAIN TELECOMMUNICATION SERVICE
35 ON CREDIT.

Approved by the Governor - June 3, 1975

Filed in the Office of the Secretary of State - June 4, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 110
SENATE BILL 1355

AN ACT

RELATING TO TRANSPORTATION; PROVIDING THAT MOTORCYCLE MANUFACTURERS, DISTRIBUTORS AND FRANCHISORS ARE SUBJECT TO LICENSING AND REGULATION, AND AMENDING SECTION 28-1302, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-1302, Arizona Revised Statutes, is amended
3 to read:
4 28-1302. Persons subject to article
5 A. No manufacturer, distributor, factory branch, distributor
6 branch, motor vehicle dealer, motor dealer or wrecker shall engage in
7 business except in accordance with the requirements of law. The pro-
8 visions of this article shall not apply to a public officer engaged in
9 the discharge of his official duties or to a trustee, receiver or other
10 officer acting under the jurisdiction of any court, to financial insti-
11 tutions disposing of repossessed vehicles or to persons disposing of
12 their personal vehicles. The provisions of this article regulating
13 and licensing manufacturers, distributors, factory branches, distributor
14 branches and franchisors shall only be applicable to those manufacturers,
15 distributors, factory branches, distributor branches and franchisors of
16 passenger cars, trucks, and buses AND MOTORCYCLES.
17 B. No new motor vehicle shall be sold in this state unless either
18 the manufacturer on direct dealerships of domestic vehicles, the importer
19 of foreign manufactured vehicles on direct dealerships or the distributor
20 on indirect dealerships of either domestic or foreign vehicles is licensed
21 as provided in this article. The obtaining of such license conclusively
22 establishes that such manufacturer, distributor or importer is subject
23 to the laws of this state regulating manufacturers, importers and dis-
24 tributors.

Approved by the Governor - June 3, 1975

Filed in the Office of the Secretary of State - June 4, 1975

Chapter 111
SENATE BILL 1201

AN ACT

RELATING TO PUBLIC HEALTH; PROVIDING CERTAIN PROCEDURES FOR VOLUNTARY AND INVOLUNTARY HOSPITALIZATION OF CERTAIN MENTALLY DISORDERED PRISONERS; PROVIDING FOR TRANSFER, COMPUTATION OF TIME AND DISCHARGE; PRESCRIBING CERTAIN DUTIES OF SUPERINTENDENT; PRESCRIBING PROCEDURES FOR PHOTOGRAPHING AND DESTROYING SEIZED MARIJUANA PRIOR TO TRIAL; AMENDING SECTION 31-201.01, ARIZONA REVISED STATUTES; REPEALING SECTION 31-224, ARIZONA REVISED STATUTES; AMENDING TITLE 31, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING NEW SECTION 31-224, AND AMENDING TITLE 36, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-1002.11.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 31-201.01, Arizona Revised Statutes, is amended
3 to read:
4 31-201.01. Duties of the superintendent; tort actions
5 A. The superintendent shall hold in custody all persons sentenced
6 to the state prison under the law and shall hold such persons for the
7 term directed by the court or for such other period of time as may be
8 ordered by the board of pardons and paroles, subject to law.
9 B. IN ADDITION TO THE MEDICAL AND HEALTH SERVICES TO BE PROVIDED
10 PURSUANT TO SUBSECTION D AND IN ADDITION TO THE PROCEDURES TO BE FOLLOWED
11 PURSUANT TO SECTION 31-224, THE SUPERINTENDENT SHALL IN COOPERATION WITH
12 THE DEPARTMENT OF HEALTH SERVICES PROVIDE TO PRISONERS PSYCHIATRIC CARE
13 AND TREATMENT AT THE STATE HOSPITAL.
14 B. C. The superintendent may institute and pursue programs which
15 promote the rehabilitation of the prisoners in his charge.
16 G. D. The superintendent shall provide medical and health services
17 for the prisoners. The superintendent may use prisoner trustees in such
18 program and may contract for professional services to assist him in
19 carrying out this responsibility on behalf of the state, provided that
20 all records made and retained in connection with the services provided by
21 this subsection shall be made and retained only by duly authorized or
22 qualified medical and professional personnel and not by any prisoner.
23 Such records when not in use shall be retained in a safe and secure place.

1 D. E. Any and all causes of action which may arise out of tort
 2 caused by the superintendent of the state prison, prison officers or
 3 employees of the state prison, within the scope of their legal duty, shall
 4 run only against the state.

5 Sec. 2. Repeal

6 Section 31-224, Arizona Revised Statutes, is repealed.

7 Sec. 3. Title 31, chapter 2, article 2, Arizona Revised Statutes,
 8 is amended by adding new section 31-224, to read:

9 31-224. Mentally disordered prisoner; procedure for

10 involuntary hospitalization; costs; transfer;
 11 reports; computation of time; discharge; voluntary
 12 admission

13 A. WHEN A PRISONER CONFINED IN ANY FACILITY OPERATED BY THE DEPART-
 14 MENT OF CORRECTIONS DISCLOSES SYMPTOMS OF PSYCHIATRIC DISORDER TO SUCH A
 15 DEGREE THAT HE MAY BE DANGEROUS TO THE HEALTH OR SAFETY OF HIMSELF OR
 16 OTHERS OR HE SUFFERS FROM A SUBSTANTIAL IMPAIRMENT OF HIS MENTAL HEALTH
 17 SUCH THAT TREATMENT IN THE STATE HOSPITAL WOULD BE MORE BENEFICIAL TO HIM
 18 THAN TREATMENT AVAILABLE AT OR CONFINEMENT WITHIN A FACILITY OPERATED BY
 19 THE DEPARTMENT OF CORRECTIONS, THE PSYCHIATRIST OF THE FACILITY IN WHICH
 20 THE PRISONER IS INCARCERATED, OR IF NO PSYCHIATRIST IS AVAILABLE, THE
 21 PHYSICIAN AT SUCH FACILITY SHALL EXAMINE THE PRISONER, AND REPORT IN
 22 WRITING TO THE SUPERINTENDENT DESCRIBING THE PRISONER'S CONDITION TOGETHER
 23 WITH ANY RECOMMENDATIONS HE HAS. UPON RECEIPT OF SUCH REPORT, FINDING THE
 24 SYMPTOMS DESCRIBED IN THIS SECTION TO EXIST, THE SUPERINTENDENT SHALL FILE
 25 A PETITION FOR TRANSFER OF THE PRISONER TO THE STATE HOSPITAL FOR TREATMENT
 26 WITH THE SUPERIOR COURT IN THE COUNTY IN WHICH THE FACILITY IN WHICH THE
 27 PRISONER IS INCARCERATED IS LOCATED.

28 B. A PRISONER WHO DESIRES TO BE VOLUNTARILY COMMITTED TO THE STATE
 29 HOSPITAL MAY APPLY FOR TRANSFER BY FILING AN APPLICATION IN WRITING WITH
 30 THE PSYCHIATRIST OR PHYSICIAN AT THE FACILITY IN WHICH THE PRISONER IS
 31 INCARCERATED. THE PRISONER'S APPLICATION, WHEN SUBMITTED TO THE PSYCHIATRIST
 32 OR PHYSICIAN, SHALL BE FORWARDED TO THE SUPERINTENDENT OF THE STATE HOS-
 33 PITAL BY THE PRISON PSYCHIATRIST OR PHYSICIAN TOGETHER WITH ANY RECOMMEN-
 34 DATIONS HE HAS AND ANY MATERIAL PROVIDED BY THE PRISONER IN SUPPORT OR IN
 35 EXPLANATION OF HIS APPLICATION. UPON RECEIPT OF SUCH APPLICATION AND
 36 REPORTS, THE SUPERINTENDENT SHALL PROCEED AS SET FORTH IN SUBSECTION A.
 37 IN THE EVENT THE SUPERINTENDENT REFUSES TO PROCEED WITHIN TEN DAYS AFTER
 38 THE PRISONER'S APPLICATION HAS BEEN FILED WITH THE PRISON PSYCHIATRIST OR
 39 PHYSICIAN, THE PRISONER MAY FILE A TRANSFER PETITION DIRECTLY IN THE SUPERIOR
 40 COURT OF THE COUNTY IN WHICH THE PRISONER IS INCARCERATED.

41 C. THE COUNTY IN WHICH THE COURT IS LOCATED SHALL BE REIMBURSED FOR
 42 COSTS OF THE PROCEEDINGS INCURRED BY THE COUNTY FROM FUNDS APPROPRIATED TO
 43 THE DEPARTMENT OF CORRECTIONS, UPON CERTIFICATION BY THE CLERK AND THE
 44 JUDGE OF THE COURT OF THE COSTS AND APPROVAL OF THE CLAIM BY THE DEPART-
 45 MENT OF CORRECTIONS.

46 D. WHEN A TRANSFER PETITION IS FILED EITHER BY THE SUPERINTENDENT
 47 OR BY THE PRISONER, THE COURT SHALL MAKE ANY NECESSARY DETERMINATIONS AS
 48 TO THE PRISONER'S COMPETENCE TO ASSIST COUNSEL AND PARTICIPATE INTELLIGENTLY
 49 IN THE PROCEEDINGS AND, IF NECESSARY, APPOINT A GUARDIAN AD LITEM OR COUNSEL,

1 OR BOTH, TO REPRESENT HIS INTERESTS. UPON APPLICATION BY THE PRISONER THE
2 COURT SHALL ALSO DETERMINE THE NECESSITY FOR ANY EXPERT TESTIMONY BY MEDICAL
3 WITNESSES AND AUTHORIZE ANY NECESSARY APPOINTMENT AND COMPENSATION FOR SUCH
4 WITNESSES AT THE STATE'S EXPENSE. NO LAY WITNESSES AND NO PARTICULAR NUMBER
5 OF EXPERT WITNESSES SHALL BE REQUIRED AT THE HEARING. THE STATE HOSPITAL
6 SHALL BE GIVEN NOTICE AND BE PROVIDED AN OPPORTUNITY TO PARTICIPATE IN
7 THE HEARING AS AN INTERESTED PARTY, IF IT SO DESIRES.

8 E. IF A PRISONER IS DETERMINED TO BE SUFFERING FROM A PSYCHIATRIC
9 DISORDER TO SUCH A DEGREE THAT HE MAY BE DANGEROUS TO THE HEALTH OR SAFETY
10 OF HIMSELF OR OTHERS OR SUFFERS FROM A SUBSTANTIAL IMPAIRMENT OF HIS
11 MENTAL HEALTH, SUCH THAT TREATMENT IN THE STATE HOSPITAL WOULD BE MORE
12 BENEFICIAL TO HIM THAN WILL BE TREATMENT AVAILABLE OR CONFINEMENT IN A
13 FACILITY OPERATED BY THE DEPARTMENT OF CORRECTIONS, THE COURT SHALL ORDER
14 AND DIRECT THAT THE PRISONER BE TRANSFERRED TO THE ARIZONA STATE HOSPITAL
15 IN THE LEGAL CUSTODY OF THE DEPARTMENT OF CORRECTIONS. THE TRANSFER OF
16 THE PRISONER TO THE STATE HOSPITAL SHALL BE MADE BY THE DEPARTMENT OF
17 CORRECTIONS. THE PRISONER SHALL THEREUPON BE TREATED IN THE MAXIMUM
18 SECURITY MEDICO-LEGAL FACILITY PORTION OF THE STATE HOSPITAL, UNLESS THE
19 DEPARTMENT OF CORRECTIONS REQUESTS OTHERWISE.

20 F. THE SUPERINTENDENT OF THE STATE HOSPITAL SHALL RENDER TO THE
21 DEPARTMENT OF CORRECTIONS A QUARTERLY REPORT OF THE CONDITION OF THE
22 PRISONER. THE SUPERINTENDENT OF THE STATE HOSPITAL SHALL ALSO RENDER TO
23 THE SUPERIOR COURT HAVING JURISDICTION OVER THE TRANSFER PROCEEDING AN
24 ANNUAL REPORT OF THE CONDITION OF THE PRISONER. WHEN, IN THE OPINION OF
25 THE SUPERINTENDENT OF THE STATE HOSPITAL, THE PRISONER NO LONGER SUFFERS
26 FROM A PSYCHIATRIC DISORDER TO SUCH A DEGREE THAT HE MAY BE DANGEROUS TO
27 THE HEALTH OR SAFETY OF HIMSELF OR OTHERS OR NO LONGER SUFFERS FROM A
28 SUBSTANTIAL IMPAIRMENT OF HIS MENTAL HEALTH SUCH THAT TREATMENT IN THE
29 STATE HOSPITAL IS MORE BENEFICIAL TO HIM THAN WOULD BE TREATMENT AVAILABLE
30 OR CONFINEMENT AT A FACILITY OPERATED BY THE DEPARTMENT OF CORRECTIONS,
31 THE SUPERINTENDENT OF THE STATE HOSPITAL SHALL FILE WITH THE COURT HAVING
32 JURISDICTION OVER THE TRANSFER PROCEEDINGS A PETITION FOR RETURN TO THE
33 PRISON. THE PRISONER MAY ALSO FILE SUCH A PETITION DIRECTLY IN THE EVENT
34 THE SUPERINTENDENT OF THE STATE HOSPITAL REFUSES TO DO SO WITHIN TEN DAYS
35 AFTER WRITTEN APPLICATION IS MADE BY THE PRISONER TO THE SUPERINTENDENT
36 OF THE HOSPITAL. IF, AFTER AN EVIDENTIARY HEARING IN WHICH THE HOSPITAL,
37 THE PRISONER, THE DEPARTMENT OF CORRECTIONS AND ANY OTHER INTERESTED PERSONS
38 SHALL BE AFFORDED AN OPPORTUNITY TO BE HEARD, IT APPEARS TO THE COURT THAT
39 THE PRISONER NO LONGER SUFFERS FROM A PSYCHIATRIC DISORDER TO SUCH A DEGREE
40 THAT HE MAY BE DANGEROUS TO THE HEALTH OR SAFETY OF HIMSELF OR OTHERS OR
41 NO LONGER SUFFERS FROM A SUBSTANTIAL IMPAIRMENT OF HIS MENTAL HEALTH SUCH
42 THAT TREATMENT IN THE STATE HOSPITAL IS MORE BENEFICIAL TO THE PRISONER
43 THAN WOULD BE TREATMENT AVAILABLE OR CONFINEMENT AT A FACILITY OPERATED
44 BY THE DEPARTMENT OF CORRECTIONS, THE COURT SHALL ORDER THE PRISONER
45 RETURNED TO THE FACILITY IN WHICH HE WAS INCARCERATED TO SERVE HIS UNEX-
46 PIRED TERM, AND THE PERIOD HE WAS CONFINED IN THE STATE HOSPITAL SHALL
47 BE CONSIDERED AS THOUGH INCARCERATED IN A DEPARTMENT OF CORRECTIONS
48 FACILITY. IF IT DOES NOT APPEAR TO THE COURT THAT THE REQUIRED SHOWING
49 FOR RETURN OF THE PRISONER HAS BEEN MADE, THE PRISONER SHALL CONTINUE TO
50 BE TREATED AT THE STATE HOSPITAL. IF THE TERM OF IMPRISONMENT HAS EXPIRED

1 DURING THE TIME THE PRISONER IS CONFINED IN THE STATE HOSPITAL, THE
2 DIRECTOR OF THE DEPARTMENT OF CORRECTIONS SHALL ISSUE TO THE PRISONER AN
3 ABSOLUTE DISCHARGE AT THAT TIME AND THE PRISONER'S RIGHTS TO RELEASE FROM
4 THE HOSPITAL SHALL BE AS PROVIDED IN TITLE 36, CHAPTER 5, ARTICLE 4.

5 G. ALL PRISONERS TRANSFERRED TO THE ARIZONA STATE HOSPITAL PURSUANT
6 TO THIS SECTION SHALL REMAIN ELIGIBLE TO ACCRUE LABOR CREDITS PURSUANT TO
7 SECTION 31-251. DOUBLE-TIME DEDUCTIONS PURSUANT TO SECTION 31-252 SHALL
8 BE ALLOWED ANY PRISONER WHO WAS EARNING THE DEDUCTIONS IMMEDIATELY PRIOR
9 TO TRANSFER TO THE STATE HOSPITAL, AND TO ANY PRISONER PERFORMING ANY
10 ASSIGNMENT OF CONFIDENCE OR TRUST AT THE STATE HOSPITAL.

11 Sec. 4. Title 36, chapter 9, article 1, Arizona Revised
12 Statutes, is amended by adding section 36-1002.11, to read:

13 36-1002.11. Retention and destruction of marijuana
14 evidence prior to trial

15 A. WHERE SEIZURES OF MARIJUANA ARE MADE IN EXCESS OF FIVE KILOS
16 OR TEN POUNDS IN CONNECTION WITH ANY VIOLATION OF SECTIONS 36-1002.05
17 THROUGH 36-1002.08, IT IS PERMISSIBLE FOR THE RESPONSIBLE LAW ENFORCEMENT
18 AGENCY TO RETAIN FIVE KILOS OR TEN POUNDS OF THE MARIJUANA RANDOMLY
19 SELECTED FROM THE SEIZED MARIJUANA FOR REPRESENTATION PURPOSES AS EVI-
20 DENCE AND SHALL DESTROY THE REMAINDER OF THE SEIZED MARIJUANA NO SOONER
21 THAN SEVEN DAYS AND NO LONGER THAN THIRTY DAYS AFTER THE SEIZURE OF
22 THE MARIJUANA.

23 B. BEFORE ANY DESTRUCTION IS CARRIED OUT UNDER THIS SECTION, THE
24 RESPONSIBLE LAW ENFORCEMENT AGENCY SHALL CAUSE THE MATERIAL SEIZED TO
25 BE PHOTOGRAPHED WITH IDENTIFYING CASE NUMBERS OR OTHER MEANS OF IDENTI-
26 FICATION AND SHALL PREPARE A REPORT, IDENTIFYING THE SEIZED MATERIAL.
27 THE RESPONSIBLE LAW ENFORCEMENT AGENCY SHALL NOTIFY AT LEAST FORTY-EIGHT
28 HOURS IN ADVANCE IN WRITING ANY SUCH PERSONS ACCUSED OF A VIOLATION OF
29 SECTIONS 36-1002.05 THROUGH 36-1002.08 OR THE ATTORNEY FOR THE ACCUSED
30 THAT SUCH PHOTOGRAPHY WILL TAKE PLACE AND THAT SUCH ACCUSED PERSON OR
31 THE ACCUSED PERSON'S ATTORNEY MAY BE PRESENT AT SUCH PHOTOGRAPHING OF
32 THE SEIZED MATERIAL.

33 C. IN ADDITION TO THE AMOUNT OF MARIJUANA RETAINED FOR REPRESENTATION
34 PURPOSES AS EVIDENCE, ALL PHOTOGRAPHS AND RECORDS MADE UNDER THIS
35 SECTION AND PROPERLY IDENTIFIED SHALL BE ADMISSIBLE IN ANY COURT
36 PROCEEDING FOR ANY PURPOSE FOR WHICH THE SEIZED MARIJUANA ITSELF WOULD
37 BE ADMISSIBLE.

38 D. EVIDENCE RETAINED AFTER TRIAL SHALL BE DISPOSED OF PURSUANT
39 TO THE RULES OF CRIMINAL PROCEDURE, RULE 28.

40 E. THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL SEIZED
41 MARIJUANA IN THE POSSESSION OF LAW ENFORCEMENT AGENCIES ON OR AFTER
42 JANUARY 1, 1972.

43 F. THE PROVISIONS OF THIS SECTION SHALL BE RETROACTIVE TO DECEMBER
44 31, 1971.

45 Sec. 5. Emergency

46 To preserve the public peace, health and safety it is necessary
47 that this act become immediately operative. It is therefore declared to
48 be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 5, 1975

Filed in the Office of the Secretary of State - June 6, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 112

HOUSE BILL 2132

AN ACT

RELATING TO TRANSPORTATION; INCREASING PROPERTY DAMAGE MINIMUM FOR FILING MOTOR VEHICLE ACCIDENT REPORT TO THREE HUNDRED DOLLARS; REQUIRING LAW ENFORCEMENT AGENCY PREPARING ACCIDENT REPORT RETAIN ORIGINAL AND FORWARD COPY TO THE DEPARTMENT OF TRANSPORTATION; PROVIDING FOR SURRENDER OF LICENSE PLATES; PROVIDING FOR NOTICE TO PARENTS OR GUARDIAN OF MINOR INJURED IN MOTOR VEHICLE ACCIDENT; AMENDING SECTIONS 28-667 AND 28-1142, ARIZONA REVISED STATUTES; AND AMENDING TITLE 28, CHAPTER 6, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-667.01.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-667, Arizona Revised Statutes, is amended
3 to read:
4 28-667. Written reports of accidents
5 A. The driver of a vehicle involved in an accident resulting in
6 bodily injury to or death of any person or total property damage to
7 an apparent extent of ~~one~~ THREE hundred dollars or more shall, within
8 five days after the accident, forward a written report of the accident
9 to the department.
10 B. The department may require any driver of a vehicle involved
11 in an accident of which report must be made as provided in this section
12 to file supplemental reports when the original report is insufficient
13 in the opinion of the department, and may require witnesses of accidents
14 to render reports to the department.
15 C. Every law enforcement officer who, in the regular course of
16 duty, investigates a motor vehicle accident of which report must be made
17 as required in this section, either at the time of and at the scene of
18 the accident or thereafter by interviewing participants or witnesses
19 shall, within twenty-four hours after completing such investigation,
20 forward COMPLETE a written report of the accident. ~~to the department~~
21 THE ORIGINAL OF THE REPORT SHALL BE RETAINED BY THE LAW ENFORCEMENT
22 AGENCY EMPLOYING SUCH OFFICER. A COPY OF SUCH REPORT SHALL BE FORTHWITH

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1 FORWARDED TO THE DEPARTMENT FOR ITS USE. THE DEPARTMENT MAY PLACE SUCH
2 NOTES, DATE STAMPS, IDENTIFYING NUMBERS, MARKS OR OTHER INFORMATION ON
3 SUCH COPIES AS ITS NEEDS REQUIRE, PROVIDED THAT SUCH SHALL NOT ALTER
4 THE ORIGINAL INFORMATION REPORTED BY THE INVESTIGATING OFFICER.

5 Sec. 2. Title 28, chapter 6, article 4, Arizona Revised Statutes,
6 is amended by adding section 28-667.01, to read:

7 28-667.01. Notice to parents or legal guardian of minor
8 Injured in motor vehicle accident

9 EVERY LAW ENFORCEMENT OFFICER WHO, IN THE REGULAR COURSE OF DUTY,
10 MAKES THE INITIAL INVESTIGATION OF A MOTOR VEHICLE ACCIDENT IN WHICH A
11 MINOR HAS BEEN INJURED SHALL INQUIRE AND ATTEMPT TO DETERMINE OR LOCATE
12 THE TELEPHONE NUMBER AND ADDRESS OF THE PARENTS OR LEGAL GUARDIAN OF THE
13 MINOR AND SHALL MAKE EVERY REASONABLE EFFORT TO NOTIFY THE PARENTS OR
14 LEGAL GUARDIAN OF THE ACCIDENT WITHIN A REASONABLE TIME FOLLOWING THE
15 INITIAL INVESTIGATION.

16 Sec. 3. Section 28-1142, Arizona Revised Statutes, is amended
17 to read:

18 28-1142. Security required following accident; proof of
19 financial responsibility for the future;
20 exceptions

21 A. The superintendent shall, within sixty days after the receipt
22 of a report of a motor vehicle accident within this state which has
23 resulted in bodily injury or death or damage to the property of any
24 one person in excess of one THREE hundred dollars, suspend the license
25 of each operator, and all registrations AND LICENSE NUMBER PLATES of
26 each owner of a motor vehicle in any manner involved in such accident,
27 or, if the operator is a nonresident, the privilege of operating a
28 motor vehicle within this state, or, if the owner is a nonresident,
29 the privilege of the use within this state of any motor vehicle owned
30 by him, unless such operator or owner or both shall deposit security
31 in a sum which is sufficient in the judgment of the superintendent to
32 satisfy any judgment or judgments for damages resulting from the accident
33 as may be recovered against the operator or owner and furnish proof of
34 financial responsibility as provided in section 28-1167. Notice of the
35 suspension shall be sent by the superintendent to the operator and owner
36 not less than ten days prior to the effective date of the suspension
37 and shall state the amount required as security and that proof of
38 financial responsibility for the future shall be provided. WHEN USE
39 OF LICENSE NUMBER PLATES IS SUSPENDED PURSUANT TO THIS SUBSECTION SUCH
40 PLATES SHALL BE IMMEDIATELY SURRENDERED TO THE DEPARTMENT AND SHALL
41 NOT BE RETURNED TO THE OWNER UNTIL SUCH OWNER COMPLIES WITH THE PRO-
42 VISIONS OF THIS SECTION.

43 B. This section shall not apply under the conditions stated in
44 section 28-1143 or to any of the following:

45 1. To the operator or owner if the owner had in effect at the
46 time of the accident an automobile liability policy with respect to the
47 motor vehicle involved in the accident.

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1 2. To the operator, if not the owner of the motor vehicle, if
2 there was in effect at the time of the accident an automobile liability
3 policy or bond with respect to his operation of motor vehicles not
4 owned by him.

5 3. To the operator or owner if the liability of the operator or
6 owner for damages resulting from the accident is, in the judgment of the
7 superintendent, covered by any other form of liability insurance policy
8 or bond.

9 4. To any person qualifying as a self-insurer under section
10 28-1222.

11 C. No such policy or bond shall be effective under this section
12 unless issued by an insurance company or surety company authorized to do
13 business in this state, except that if the motor vehicle was not
14 registered in this state, or was a motor vehicle which was registered
15 elsewhere than in this state at the effective date of the policy or bond,
16 or the most recent renewal thereof, the policy or bond shall not be
17 effective under this section unless the insurance company or surety
18 company if not authorized to do business in this state shall execute a
19 power of attorney authorizing the superintendent to accept service on
20 its behalf of notice or process in any action upon the policy or bond
21 arising out of the accident. Every such policy or bond is subject, if
22 the accident has resulted in bodily injury or death, to a limit, exclusive
23 of interest and costs of not less than fifteen thousand dollars because
24 of bodily injury to or death of one person in any one accident and,
25 subject to the limit for one person, to a limit of not less than thirty
26 thousand dollars because of bodily injury to or death of two or more
27 persons in any one accident, and, if the accident has resulted in injury
28 to or destruction of property, to a limit of not less than ten thousand
29 dollars because of injury to or destruction of property of others in
30 any one accident.

31 D. Upon receipt of notice of the accident, the insurance company
32 or surety company which issued the policy or bond shall furnish for
33 filing with the superintendent a written notice that the policy or bond
34 was not in effect at the time of the accident, if such was the case. If
35 no such notice is received the policy or bond shall be deemed to be
36 in effect for the purposes of this chapter.

Approved by the Governor - June 6, 1975

Filed in the Office of the Secretary of State - Jun 6, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 113
SENATE BILL 1345

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; AMENDING STATUTES RELATING TO CONTRACTORS; AMENDING SECTIONS 32-1101, 32-1102, 32-1104, 32-1106 AND 32-1121, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1122, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-1122; AMENDING SECTIONS 32-1124, 32-1125 AND 32-1126, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1127; AMENDING SECTIONS 32-1152, 32-1154, 32-1155, 32-1156, 32-1158, 32-1160 AND 32-1161, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1162, ARIZONA REVISED STATUTES, AND AMENDING TITLE 32, CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-1167 AND 32-1168.

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

2 Section 1. Section 32-1101, Arizona Revised Statutes, is amended
3 to read:

4 32-1101. Definitions

5 In this chapter, unless the context otherwise requires, THE TERM
6 "contractor" IS SYNONYMOUS WITH THE TERM BUILDER AND means a person,
7 firm, partnership, corporation, association or other organization, or a
8 combination of any of them, who, ~~for either a fixed sum, price, fee,~~
9 ~~percentage, bonus or other compensation other than actual wages,~~ under-
10 takes to or offers to undertake to, or purports to have the capacity to
11 undertake to, or submits a bid to, or does himself or by or through
12 others, construct, alter, repair, add to, subtract from, improve, move,
13 wreck or demolish any building, highway, road, railroad, excavation
14 or other structure, object, development or improvement, or to do any
15 part thereof, including the erection of scaffolding or other structure or
16 works in connection therewith. The term contractor includes subcontractors
17 and specialty contractors, FLOOR COVERING CONTRACTORS AND LANDSCAPE CON-
18 TRACTORS OTHER THAN GARDENERS.

1 Sec. 2. Section 32-1102, Arizona Revised Statutes, is amended to
2 read:

3 32-1102. Classification of contractors; definitions

4 For the purpose of classification, the contracting business
5 shall include:

6 1. General building contracting. A general building contractor is
7 a contractor whose principal contracting business is in connection with
8 any structure built, being built, or to be built for the support, shelter
9 and enclosure of persons, animals, chattels or movable property of any
10 kind requiring in its construction the use of more than two unrelated
11 ~~building~~ CONSTRUCTION trades or crafts, or to do or superintend the whole
12 or any part thereof, but does not include a person who merely furnishes
13 materials or supplies as provided in section 32-1121 without fabricating
14 them into or consuming them in performing the work of the general building
15 contractor.

16 2. General engineering contracting. A general engineering con-
17 tractor is a contractor whose principal contracting business is in con-
18 nection with fixed works requiring specialized engineering knowledge and
19 skills and includes but is not limited to any or all of the following
20 divisions or subjects: irrigation, drainage, water power, water supply,
21 flood control, inland waterways, harbors, railroads, highways, tunnels,
22 ~~airports and runways~~ AIRPORT RUNWAYS, sewerage, bridges, earthmoving
23 projects, paving and transmission lines.

24 3. Specialty contracting. A specialty contractor is a contractor
25 whose operations as such are the performance of construction work requiring
26 special skill and whose principal contracting business involves the use
27 of specialized ~~building~~ CONSTRUCTION trades or crafts.

28 Sec. 3. Section 32-1104, Arizona Revised Statutes, is amended to
29 read:

30 32-1104. Powers and duties

31 A. The registrar, in addition to other duties and rights provided
32 for in this chapter, shall:

33 1. Maintain an office in Phoenix and in such other cities and
34 towns in the state as the registrar deems advisable and necessary.

35 2. Maintain a complete indexed record of all applications and
36 licenses issued, renewed, terminated, cancelled, REVOKED or suspended
37 under this chapter.

38 3. Furnish a certified copy of any license issued or an affidavit
39 that no license exists, or the cancellation or suspension thereof, upon
40 receipt of a fee of ~~fifty cents~~ THREE DOLLARS, and such certified copy
41 shall be received in all courts and elsewhere as prima facie evidence of
42 the facts stated therein. He shall also furnish copies of license bonds
43 or cash deposit certificates upon receipt of a fee of ~~one-dollar-fifty~~
44 ~~cents~~ THREE DOLLARS each.

45 4. When funds are available for such purpose, furnish a list of
46 names and addresses of contractors registered under this chapter, and of
47 licenses issued, suspended or revoked, to such public works and building
48 departments and public officials or public boards as he deems advisable.
49 Copies of the lists may be furnished by the registrar upon request ~~to~~
50 FROM any firm or individual upon payment of a reasonable fee as determined

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1 by the registrar. All such fees shall be deposited to the contractors'
2 license fund.

3 5. Employ such deputies, ~~safety-engineers~~ HEARING OFFICERS, INVES-
4 TIGATORS and assistants, and procure such equipment and records as are
5 necessary to enforce the provisions of this chapter.

6 6. Make rules and regulations he deems necessary to effectually
7 carry out the provisions and intent of this chapter. SUCH RULES AND
8 REGULATIONS SHALL INCLUDE THE ADOPTION OF MINIMUM STANDARDS FOR GOOD
9 AND WORKMANLIKE CONSTRUCTION. IN THE ADOPTION OF SUCH RULES AND REGULA-
10 TIONS OF MINIMUM STANDARDS, THE REGISTRAR SHALL BE GUIDED BY ESTABLISHED
11 USAGE AND PROCEDURE AS FOUND IN THE CONSTRUCTION BUSINESS IN ARIZONA.
12 IF THE RULES AND REGULATIONS OF MINIMUM STANDARDS ADOPTED BY THE REGISTRAR
13 ARE IN ANY MANNER INCONSISTENT WITH A BUILDING OR OTHER CODE OF THE
14 STATE, A COUNTY, CITY OR OTHER POLITICAL SUBDIVISION OR LOCAL AUTHORITY
15 OF THE STATE, COMPLIANCE WITH SUCH CODE SHALL CONSTITUTE GOOD AND
16 WORKMANLIKE CONSTRUCTION FOR THE PURPOSES OF THIS CHAPTER.

17 (a) The registrar of contractors shall, at the time he files notice
18 of proposed rule change with the secretary of state in compliance with
19 title 41, chapter 6, relating to administrative procedure, mail to each
20 trade association which qualifies in accordance with subdivision (b)
21 hereof, and any other individual holding a bona fide contractor's license
22 who qualifies in accordance with subdivision (b) hereof, a copy of the
23 notice of proposed rule change.

24 (b) Every Arizona trade association allied with the contracting
25 business which files a written request that a notice be mailed to it
26 and shows that the association has an interest in the rules and regula-
27 tions of the registrar of contractors shall receive a copy thereof, as
28 set forth in subdivision (a) of this section. Such filing of a request
29 shall be made each two years during the month of January, and it shall
30 contain information as to the ~~eharacter~~ NATURE of the association and
31 its mailing address. Any duly licensed contractor who files a written
32 request shall receive a copy of the proposed rule changes in accordance
33 with this paragraph. Each such request shall be made every two years
34 during the month of January.

35 7. Prepare and furnish decals and business management books when
36 deemed advisable by the registrar. A reasonable fee may be charged for
37 such decals and business management books.

38 B. The registrar may promulgate rules for the posting of names of
39 applicants and personnel of applicants for contractors' licenses and
40 furnish copies of such posting lists upon written request. THE NAME AND
41 ADDRESS OF THE APPLICANT, TOGETHER WITH THE NAMES AND ADDRESSES AND
42 OFFICIAL CAPACITY OF ALL PERSONS ASSOCIATED WITH THE APPLICANT WHO HAVE
43 SIGNED THE APPLICATION, SHALL BE PUBLICLY POSTED IN THE PLACE AND MANNER
44 TO BE PRESCRIBED BY THE REGISTRAR FOR A PERIOD OF NOT LESS THAN TWENTY
45 DAYS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, COMMENCING ON THE
46 DAY DESIGNATED BY THE REGISTRAR OF CONTRACTORS. THE REGISTRAR MAY WAIVE
47 A PART OF THE POSTING PERIOD WHEN THE RECORDS REFLECT THAT THE APPLICANT
48 OR QUALIFYING PARTY HAS PREVIOUSLY UNDERGONE THE TWENTY DAY POSTING FOR
49 A PREVIOUS LICENSE. A reasonable charge not to exceed one dollar per
50 month may be made for compilation, printing and postage for such posting
51 lists.

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1 Sec. 4. Section 32-1106, Arizona Revised Statutes, is amended to
2 read:

3 32-1106. Enforcement powers

4 In any investigation, proceeding or hearing he is empowered to
5 institute, conduct or hold under this chapter, the registrar, A deputy
6 registrar, AN ASSISTANT, HEARING OFFICER and ~~investigators~~ OR AN INVE-
7 TIGATOR may administer oaths, certify to official acts, issue subpoenas
8 for attendance of witnesses and production of books, papers and records,
9 and exercise the same powers in this regard as conferred upon the corpora-
10 tion commissioners and public officers by the provisions of section
11 40-244 and section 12-2212. All the provisions of such sections are
12 incorporated into this section with the same force and effect as if herein
13 set forth at length, and wherever in such sections the term "commission"
14 or "commissioners" or similar designation occurs, it shall, for the
15 purpose of this reference mean the "registrar of contractors."

16 Sec. 5. Section 32-1121, Arizona Revised Statutes, is amended to
17 read:

18 32-1121. Persons not required to be licensed

19 This chapter shall not be construed to apply to:

20 1. An authorized representative of the United States government,
21 the state, or any county, incorporated city or town, reclamation dis-
22 trict, irrigation district or other municipality or political subdivi-
23 sion of the state.

24 2. Trustees of an express trust or officers of a court, if they
25 are acting within the terms of their trust or office.

26 3. Public utilities operating under regulations of the corpora-
27 tion commission on construction, repair or operation incidental to dis-
28 covering or producing petroleum or gas, or the drilling, testing, aban-
29 doning or other operation of a petroleum or gas well, when performed by
30 an owner or lessee.

31 4. ~~Owners of property who build structures thereon for such owners
32 and which structures are not offered for sale--in all actions brought
33 under this chapter, proof of the sale, or offer for sale by the owner-
34 builder of three such structures, not constructed by a licensed contractor,
35 within a period of one year after completion of such structures is prima
36 facie evidence that the structures were undertaken and constructed for
37 purposes of sale--in this paragraph the term "sale" includes any arrange-
38 ment between two or more persons as a result of which there is an agree-
39 ment to transfer property for a consideration.~~

40 5. ~~The sale or installation of finished products, materials or
41 articles of merchandise which are not fabricated into and do not become
42 a permanent fixed part of the structure.~~

43 6. 4. Any materialman or manufacturer furnishing finished products,
44 materials or articles of merchandise who do not install OR ATTACH such
45 items.

46 5. OWNERS OF PROPERTY WHO IMPROVE SUCH PROPERTY OR WHO BUILD OR
47 IMPROVE STRUCTURES THEREON, WHO DO SUCH WORK THEMSELVES OR JOINTLY WITH
48 DULY LICENSED CONTRACTORS, PROVIDED THAT SUCH STRUCTURE, OR GROUP OF
49 STRUCTURES, INCLUDING THE IMPROVEMENTS THERETO, IS NOT INTENDED FOR SALE
50 OR FOR RENT, AND THAT IF SUCH STRUCTURE OR GROUP OF STRUCTURES IS IN-
51 TENDED FOR USE FOR COMMERCIAL OR INDUSTRIAL PURPOSES, THE TOTAL LABOR
52 AND MATERIAL COST DOES NOT EXCEED TEN THOUSAND DOLLARS. IN ALL ACTIONS

1 BROUGHT UNDER THIS CHAPTER, PROOF OF THE SALE OR OFFERING FOR SALE OF
 2 ANY SUCH STRUCTURE, OR PROOF OF THE RENT OR OFFERING FOR RENT OF ANY
 3 SUCH STRUCTURE, OR PROOF OF THE USE OR OFFERING FOR USE OF ANY SUCH
 4 STRUCTURE FOR COMMERCIAL OR INDUSTRIAL PURPOSES BY THE OWNER-BUILDER
 5 WITHIN ONE YEAR AFTER COMPLETION OF SAME IS PRIMA FACIE EVIDENCE THAT
 6 SUCH STRUCTURE WAS UNDERTAKEN FOR THE PURPOSE OF SALE, RENT OR USE FOR
 7 COMMERCIAL OR INDUSTRIAL PURPOSES. AS USED IN THIS PARAGRAPH THE TERM
 8 "SALE" INCLUDES ANY ARRANGEMENT BETWEEN TWO OR MORE PERSONS AS A RE-
 9 SULT OF WHICH THERE IS AN AGREEMENT TO TRANSFER PROPERTY FOR A CONSID-
 10 ERATION. AS USED IN THIS PARAGRAPH THE TERM "RENT" INCLUDES ANY
 11 ARRANGEMENT WHEREBY THE OWNER RECEIVES COMPENSATION IN MONEY, PROVI-
 12 SIONS, CHATTELS OR LABOR FROM THE OCCUPANCY OF HIS LAND OR THE STRUCTURES
 13 THEREON.

14 6. OWNERS OF PROPERTY WHO BUILD OR IMPROVE STRUCTURES THEREON OR
 15 APPURTENANCES THERETO, WHO CONTRACT FOR SUCH A PROJECT WITH A CONTRAC-
 16 TOR OR CONTRACTORS LICENSED PURSUANT TO THIS CHAPTER.

17 7. Architects ~~preparing plans and specifications and supervising~~
 18 ~~construction of a building or structure~~ OR ENGINEERS ENGAGING IN THEIR
 19 PROFESSIONAL PRACTICE AS DEFINED IN TITLE 32, CHAPTER 1, ARIZONA REVISED
 20 STATUTES, PROVIDED THEY DO NOT ENGAGE IN THE ACTIVITY OF A CONTRACTOR
 21 AS DEFINED IN SECTIONS 32-1101 AND 32-1102.

22 8. INSTALLERS OF FINISHED PRODUCTS, MATERIALS OR ARTICLES OF
 23 MERCHANDISE WHICH ARE NOT ATTACHED OR DO NOT BECOME A FIXED PART OF THE
 24 STRUCTURE.

25 9. OWNERS OR THEIR SALARIED EMPLOYEES REPAIRING OR MAINTAINING
 26 STRUCTURES OWNED BY THEM.

27 ~~8.--Engineers surveying or designing structures.~~

28 ~~9.--Landscape architects preparing plans and specifications and~~
 29 ~~supervising the landscaping of a building or structure.~~

30 10. Construction or operation incidental to construction and
 31 repair of irrigation and drainage ditches of regularly constituted dis-
 32 tricts or reclamation districts, or to farming, dairying, agriculture,
 33 viticulture, horticulture or stock or poultry raising, or clearing or other
 34 work upon land in rural districts for fire prevention purposes, except
 35 when performed by a licensee under this chapter.

36 11. Any person who engages in the activities regulated by this
 37 chapter, as an employee with wages as his sole compensation.

38 12. A nongovernmental educational institution exempt from
 39 federal income taxation and officers and employees thereof, which builds
 40 or repairs structures on land or property owned, rented or leased by the
 41 institution for its educational purposes.

42 ~~13.--Owners or their salaried employees repairing or maintaining~~
 43 ~~structures owned by them.~~

44 13. SURETY COMPANY OR COMPANIES AUTHORIZED TO TRANSACT BUSINESS IN
 45 THIS STATE WHO UNDERTAKE TO COMPLETE A CONTRACT ON WHICH THEY ISSUED A
 46 PERFORMANCE OR COMPLETION BOND, PROVIDED ALL CONSTRUCTION WORK IS PER-
 47 FORMED BY DULY LICENSED CONTRACTORS.

48 Sec. 6. Repeal

49 Section 32-1122, Arizona Revised Statutes, is repealed.

50 Sec. 7. Title 32, chapter 10, article 2, Arizona Revised Statutes,
 51 is amended by adding a new section 32-1122, to read:

1 32-1122. Qualifications for license

2 A. A CONTRACTOR'S LICENSE SHALL BE ISSUED ONLY BY ACT OF THE
3 REGISTRAR OF CONTRACTORS. THE REGISTRAR SHALL:

- 4 1. CLASSIFY AND QUALIFY APPLICANTS FOR A LICENSE.
5 2. CONDUCT SUCH INVESTIGATIONS AS HE DEEMS NECESSARY.
6 3. ESTABLISH WRITTEN EXAMINATIONS APPLICABLE TO EACH CLASS OF
7 CONTRACTING.

8 B. TO OBTAIN A LICENSE UNDER THIS CHAPTER, THE APPLICANT SHALL:

9 1. SUBMIT TO THE REGISTRAR OF CONTRACTORS A VERIFIED APPLICATION
10 ON FORMS PRESCRIBED BY THE REGISTRAR OF CONTRACTORS AND CONTAINING THE
11 FOLLOWING INFORMATION:

12 (a) A DESIGNATION OF THE CLASSIFICATION OF LICENSE SOUGHT BY THE
13 APPLICANT.

14 (b) IF THE APPLICANT IS AN INDIVIDUAL, HIS NAME AND ADDRESS.

15 (c) IF THE APPLICANT IS A PARTNERSHIP, THE NAMES AND ADDRESSES OF
16 ALL PARTNERS WITH A DESIGNATION OF ANY LIMITED PARTNERS.

17 (d) IF THE APPLICANT IS A CORPORATION, ASSOCIATION, OR OTHER
18 ORGANIZATION, THE NAMES AND ADDRESSES OF THE PRESIDENT, VICE PRESIDENT,
19 IF ANY, SECRETARY AND TREASURER.

20 (e) THE NAME AND ADDRESS OF THE QUALIFYING PARTY.

21 (f) IF THE APPLICANT IS A CORPORATION, EVIDENCE THAT THE CORPORA-
22 TION IS IN GOOD STANDING WITH THE ARIZONA CORPORATION COMMISSION.

23 2. FURNISH TO THE REGISTRAR SATISFACTORY EVIDENCE THAT THE APPLI-
24 CANT IS ABLE TO AND WILL CARRY, UPON ISSUANCE OF A LICENSE BY THE REGIS-
25 TRAR OF CONTRACTORS, WORKMEN'S COMPENSATION INSURANCE AS PRESCRIBED BY
26 LAW.

27 3. FURNISH A CURRENT FINANCIAL STATEMENT CONTAINING INFORMATION
28 REQUIRED BY THE REGISTRAR OF CONTRACTORS ON A FORM FURNISHED BY THE
29 REGISTRAR OF CONTRACTORS, OR ACCEPTABLE TO HIM.

30 4. SUBMIT THE APPROPRIATE BOND AND FEE REQUIRED UNDER THIS CHAPTER.

31 C. THE APPLICANT OR QUALIFYING PARTY SHALL NOT HAVE BEEN ADJUDI-
32 CATED BANKRUPT WITHIN THREE YEARS PRECEDING THE FILING OF THE APPLICATION.

33 D. PRIOR TO THE ISSUANCE OF ANY LICENSE UNDER THIS CHAPTER, THE
34 OWNER, WHERE THE APPLICANT IS A SOLE PROPRIETORSHIP, ALL PARTNERS, WHERE
35 THE APPLICANT IS A PARTNERSHIP, THE PRESIDENT, WHERE THE APPLICANT IS A
36 CORPORATION OR OTHER TYPE OF ASSOCIATION, AND THE QUALIFYING PARTY, SHALL
37 FULFILL THE FOLLOWING REQUIREMENTS:

38 1. EACH SHALL BE OF GOOD CHARACTER AND REPUTATION. LACK OF GOOD
39 CHARACTER AND REPUTATION MAY BE ESTABLISHED BY SHOWING THAT SUCH PERSON
40 HAS COMMITTED ANY ACT WHICH, IF COMMITTED OR DONE BY ANY LICENSED CON-
41 TRACTOR, WOULD BE GROUNDS FOR SUSPENSION OR REVOCATION OF A CONTRACTOR'S
42 LICENSE.

43 2. EACH SHALL SUBMIT LETTERS FROM TWO REPUTABLE CITIZENS OF THE
44 COUNTY IN WHICH HE RESIDES, WHO ARE NOT MEMBERS OF HIS IMMEDIATE FAMILY,
45 THAT HE IS OF GOOD CHARACTER AND REPUTATION AND WITH A RECOMMENDATION
46 THAT THE LICENSE BE GRANTED.

47 E. TO OBTAIN A LICENSE UNDER THE PROVISIONS OF THIS CHAPTER, A
48 PERSON SHALL NOT HAVE HAD A LICENSE REFUSED OR REVOKED, WITHIN ONE YEAR

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1 PRIOR TO A PERSON MAKING APPLICATION, OR SHALL NOT HAVE ENGAGED IN THE
2 CONTRACTING BUSINESS NOR SHALL HE HAVE SUBMITTED A BID WITHOUT FIRST
3 HAVING BEEN LICENSED WITHIN ONE YEAR PRIOR TO MAKING THE APPLICATION,
4 NOR SHALL A PERSON ACT AS A CONTRACTOR BETWEEN THE FILING OF THE APPLI-
5 CATION AND ACTUAL ISSUANCE OF THE LICENSE. THE WORD "PERSON" AS USED
6 IN THIS SUBSECTION MEANS AN APPLICANT, AN INDIVIDUAL, A QUALIFYING PARTY,
7 ANY PARTNER OF A PARTNERSHIP, OR ANY OFFICER, DIRECTOR, QUALIFYING PARTY
8 OR OWNER OF FORTY PER CENT OF THE STOCK OR BENEFICIAL INTEREST OF A
9 CORPORATION.

10 F. PRIOR TO ISSUANCE OF A LICENSE, THE QUALIFYING PARTY, IN
11 ADDITION TO MEETING THE REQUIREMENTS PROVIDED IN SUBSECTION C OF THIS
12 SECTION, SHALL:

13 1. HAVE HAD FOUR YEARS PRACTICAL OR MANAGEMENT TRADE EXPERIENCE
14 WITHIN THE LAST TEN YEARS, DEALING SPECIFICALLY WITH THE TYPE OF CON-
15 STRUCTION, OR ITS EQUIVALENT, FOR WHICH THE APPLICANT IS APPLYING FOR
16 A LICENSE. TECHNICAL TRAINING IN AN ACCREDITED COLLEGE, UNIVERSITY, OR
17 A MANUFACTURER'S ACCREDITED TRAINING PROGRAM MAY BE SUBSTITUTED FOR A
18 PORTION OF SUCH EXPERIENCE, BUT IN NO CASE SHALL EXPERIENCE CREDIT
19 EXCEED TWO YEARS OF THE REQUIRED FOUR YEARS EXPERIENCE. THE REGISTRAR
20 OF CONTRACTORS MAY REDUCE THE FOUR YEARS PRACTICAL OR MANAGEMENT EXPER-
21 IENCE REQUIREMENT WHEN IN HIS OPINION IT HAS BEEN CONCLUSIVELY SHOWN BY
22 CUSTOM AND USAGE IN THE PARTICULAR INDUSTRY OR CRAFT INVOLVED THAT THE
23 FOUR YEAR REQUIREMENT IS EXCESSIVE.

24 2. SUCCESSFULLY SHOW, BY WRITTEN EXAMINATION, QUALIFICATION IN
25 THE KIND OF WORK FOR WHICH THE APPLICANT PROPOSES TO CONTRACT, HIS GEN-
26 ERAL KNOWLEDGE OF THE BUILDING, SAFETY, HEALTH AND LIEN LAWS OF THE
27 STATE, ADMINISTRATIVE PRINCIPLES OF THE CONTRACTING BUSINESS AND OF THE
28 RULES AND REGULATIONS PROMULGATED BY THE REGISTRAR OF CONTRACTORS PUR-
29 SUANT TO THIS CHAPTER, IN ADDITION TO SUCH OTHER MATTERS AS MAY BE DEEMED
30 APPROPRIATE BY THE REGISTRAR TO DETERMINE THAT THE QUALIFYING PARTY MEETS
31 THE REQUIREMENTS OF THIS CHAPTER.

32 G. NO LICENSE SHALL BE ISSUED EITHER TO A MINOR OR TO ANY PARTNER-
33 SHIP IN WHICH ONE OF THE PARTNERS IS A MINOR.

34 Sec. 8. Section 32-1124, Arizona Revised Statutes, is amended to
35 read:

36 32-1124. Issuance of license

37 A. Upon receipt by the registrar of the fee required by this
38 chapter and an application furnishing complete information as required by
39 the registrar, and upon applicant's taking the examination required by
40 section 32-1122, the registrar shall notify the applicant, within sixty
41 days from the date of passing the examination, of the action taken on
42 his application, and if the registrar determines that the applicant is
43 qualified to hold a license in accordance with the provisions of this
44 chapter, he shall issue a license to the applicant permitting him to
45 engage in business as a contractor under the terms of this chapter for
46 the balance of the fiscal year following the application.

47 B. Licenses issued under this chapter and any annual renewals
48 thereof shall be signed by the registrar or his designated representa-
49 tive and by the licensee. The license shall be nontransferable, and
50 satisfactory evidence of the possession thereof shall be exhibited by

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1 the licensee upon demand. The license number appearing on any licenses
2 held by the licensee shall be posted in a conspicuous place on premises
3 where any work is being performed and shall be placed on all written
4 bids submitted by the ~~contractor~~ LICENSEE.

5 C. If an application for a license is denied for any reason pro-
6 vided in this chapter, or if an applicant, after having been notified to
7 do so, fails to appear for the examination therefor within six months
8 from the date of filing his application, the fee paid by the applicant
9 upon filing the application shall be forfeited and credited to the
10 contractors' license fund as an earned fee. A reapplication for a li-
11 cense shall be accompanied by the fee fixed by this chapter.

12 Sec. 9. Section 32-1125, Arizona Revised Statutes, is amended
13 to read:

14 32-1125. Renewal of licenses

15 A. Licenses issued under this chapter shall expire on June 30 each
16 year by operation of law. Applications for renewal of any current con-
17 tracting license, WITH EVIDENCE OF A VALID BOND OR CASH DEPOSIT when
18 accompanied by the required fee and received by the registrar before
19 June 30, shall authorize the licensee to operate as a contractor until
20 actual issuance of the renewal license for the ensuing fiscal year.

21 B. A license which expires may be reactivated and renewed within
22 one year of its expiration by filing the required application and pay-
23 ment of a fee in double the amount provided for renewal in this chapter.
24 When a license has been expired for one or more fiscal years for failure
25 to renew, a new application for license must be made and a new license
26 issued in accordance with this chapter.

27 Sec. 10. Section 32-1126, Arizona Revised Statutes, is amended
28 to read:

29 32-1126. Fees

30 A. The license fees prescribed by this chapter shall be as
31 follows:

32 1. Application fee for an original license for general engi-
33 neering contracting and for general building heavy construction con-
34 tracting, one hundred fifty dollars, and for any divisions thereof,
35 one hundred twenty-five dollars.

36 2. Application fee for an original license for the branch or
37 any division thereof of specialty contracting, seventy-five dollars.

38 3. Annual renewal fee for general engineering contracting,
39 general building heavy construction contracting and the branches or
40 any divisions thereof of general engineering contracting and general
41 building contracting, not more than seventy-five dollars.

42 4. Annual renewal fee for the branch or any division thereof
43 of specialty contracting, not more than fifty dollars.

44 B. THE REGISTRAR MAY ESTABLISH REASONABLE FEES FOR SERVICES
45 PERFORMED BY THE REGISTRAR RELATING TO REXAMINATIONS, PROCESSING OF
46 APPLICATIONS FOR CHANGE OF QUALIFYING PARTY AND APPROVAL OF NAME CHANGES
47 ON LICENSES.

48 B- C. The penalty for failure to apply for renewal of a license
49 within the time prescribed by this chapter shall be double the annual
50 renewal fee prescribed in this section.

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1 Sec. 11. Title 32, chapter 10, article 2, Arizona Revised Statutes,
2 is amended by adding section 32-1127, to read:

3 32-1127. Joint venture licenses and responsible
4 managing employee

5 A. IT IS UNLAWFUL FOR ANY TWO OR MORE LICENSEES, EACH OF WHOM HAS
6 BEEN ISSUED A LICENSE TO ENGAGE SEPARATELY IN THE BUSINESS OR TO ACT
7 SEPARATELY IN THE CAPACITY OF A CONTRACTOR WITHIN THIS STATE, TO JOINTLY
8 SUBMIT A BID OR OTHERWISE ACT IN THE CAPACITY OF A CONTRACTOR WITHIN THIS
9 STATE WITHOUT FIRST HAVING SECURED AN ADDITIONAL LICENSE FOR ACTING IN
10 THE CAPACITY OF SUCH A JOINT VENTURE OR COMBINATION IN ACCORDANCE WITH
11 THE PROVISIONS OF THIS CHAPTER.

12 B. THE TERMS "RESPONSIBLE MANAGING EMPLOYEE" AND "QUALIFYING
13 PARTY" SHALL, FOR THE PURPOSE OF ADMINISTERING THIS CHAPTER, BE SYNON-
14 YMOUS, AND SHALL MEAN AN EMPLOYEE WHO IS REGULARLY EMPLOYED BY THE LICEN-
15 SEE AND IS ACTIVELY ENGAGED IN THE CLASSIFICATION OF WORK FOR WHICH SUCH
16 RESPONSIBLE MANAGING EMPLOYEE QUALIFIES IN BEHALF OF THE LICENSEE. SUCH
17 PERSON SHALL NOT ACT IN THE CAPACITY OF THE QUALIFYING PARTY FOR AN
18 ADDITIONAL LICENSEE UNLESS ONE OF THE FOLLOWING CONDITIONS EXISTS:

19 1. THERE IS A COMMON OWNERSHIP OF AT LEAST TWENTY-FIVE PER CENT OF
20 EACH LICENSED ENTITY FOR WHICH THE PERSON ACTS IN A QUALIFYING CAPACITY.

21 2. THE ADDITIONAL LICENSEE IS A JOINT VENTURE INVOLVING THE
22 LICENSEE FOR WHICH THE QUALIFYING PARTY ORIGINALLY QUALIFIED.

23 3. ONE LICENSEE IS A SUBSIDIARY OF ANOTHER LICENSEE FOR WHICH THE
24 SAME PERSON ACTS IN A QUALIFYING CAPACITY. "SUBSIDIARY" AS USED IN
25 THIS SECTION MEANS A CORPORATION OF WHICH AT LEAST TWENTY-FIVE PER CENT
26 IS OWNED BY THE OTHER LICENSEE.

27 Sec. 12. Section 32-1152, Arizona Revised Statutes, is amended to
28 read:

29 32-1152. Bonds

30 A. Before granting an original contractor's license the regis-
31 trar shall require of the applicant a surety bond in a form acceptable
32 to the registrar or a cash deposit as provided in this section. No
33 contractor's license may be renewed unless the applicant's surety bond
34 or cash deposit is in full force and effect.

35 B. The bonds or cash deposit as prescribed by this chapter shall
36 be in amounts fixed by the registrar with the following schedules
37 after giving due consideration to the volume of work contemplated by
38 the applicant:

39 1. ~~General engineering contractors and such subclassifications~~
40 ~~of general engineering contractors~~ as determined by the registrar are
41 required to furnish a surety bond or cash deposit in an amount of not
42 more than fifteen thousand dollars and not less than five thousand
43 dollars.

44 2. ~~SUBCLASSIFICATIONS OF GENERAL ENGINEERING CONTRACTORS AS DETER-~~
45 ~~MINED BY THE REGISTRAR ARE REQUIRED TO FURNISH A SURETY BOND OR CASH~~
46 ~~DEPOSIT IN AN AMOUNT OF NOT LESS THAN ONE THOUSAND DOLLARS AND NOT MORE~~
47 ~~THAN TEN THOUSAND DOLLARS.~~

48 2- 3. General building contractors and subclassifications of
49 general building contractors are required to furnish a surety bond or
50 cash deposit in an amount of not more than fifteen thousand dollars and
51 not less than three thousand dollars.

1 3. 4. Specialty contractors are required to furnish a surety bond
2 or cash deposit in an amount of not more than seven thousand five
3 hundred dollars and not less than one thousand dollars for each
4 specialty license granted by the registrar.

5 C. The surety bonds shall be executed by the contractor as
6 principal with a corporation duly authorized to transact surety busi-
7 ness in this state. EVIDENCE OF A SURETY BOND SHALL BE SUBMITTED TO THE
8 REGISTRAR IN A FORM ACCEPTABLE TO THE REGISTRAR. The contractor may in
9 the alternative establish a cash deposit in the amount of the bond with
10 the state treasurer in accordance with regulations to be issued by the
11 registrar. The treasurer shall deposit such cash bond funds in a special
12 account to be known as the contractors' cash bond fund. Ninety per cent
13 of such funds shall be invested by the treasurer pursuant to laws governing
14 such deposits. The accrued interest from such investments shall be
15 paid quarterly to the contractors' license fund established pursuant
16 to section 32-1107. The remaining ten per cent of such cash bond
17 funds shall be held by the treasurer for the payment of current claims.
18 Such cash deposits may be withdrawn, if there are no outstanding claims
19 against them, one year after the termination of the license in connec-
20 tion with which the cash is deposited. The cash deposit may be with-
21 drawn one year after the filing of a commercial surety bond as a
22 replacement to the cash deposit.

23 D. The bonds or deposit required by this chapter shall be in
24 favor of the state for the benefit of any person covered by this
25 subsection. The bond or deposit shall be subject to claims by the
26 registrar of contractors for failure to pay any sum required pursuant
27 to this chapter or by any person who, after entering into a construc-
28 tion contract with the principal is damaged by the failure of the
29 principal to perform the contract or by any person furnishing labor,
30 materials or construction equipment on a rental basis used in the
31 direct performance of a construction contract. The person claiming
32 against the bond or cash deposit may maintain an action at law against
33 the contractor and the surety or depository and the surety bond or
34 deposit may be sued upon in successive actions until the full amount
35 thereof is exhausted. No suit may be commenced on the bond or deposit
36 after the expiration of one year following the commission of the act
37 or delivery of goods or rendering of services on which the suit is
38 based except that time for purposes of claims for fraud shall be
39 measured as provided in section 12-543. The surety bond or deposit
40 shall be continuous in form and shall be conditioned that the total
41 aggregate liability of the surety or depository for all claims shall
42 be limited to the face amount of the bond irrespective of the number
43 of years the bond is in force. If the corporate surety desires to
44 make payment without awaiting court action, the amount of any bond
45 filed in compliance with this chapter shall be reduced to the extent
46 of any payment or payments made by the corporate surety in good faith
47 thereunder. Any such payments shall be based on priority of written
48 claims received by the corporate surety prior to court action.

49 E. Upon receipt by the registrar of notice to cancel a bond
50 by any corporate surety, the registrar shall immediately notify the

1 contractor who is the principal on the bond of the effective date of
 2 cancellation of the bond and that the contractor must furnish a like
 3 bond or make a cash deposit ~~within thirty days after mailing of the~~
 4 ~~notice by the registrar or his license shall be suspended.~~ ON OR
 5 BEFORE THE EFFECTIVE DATE OF CANCELLATION OR HIS LICENSE SHALL BE SUS-
 6 PENDED BY OPERATION OF LAW. Notice to the contractor shall be by cer-
 7 tified mail in a sealed envelope with postage fully prepaid thereon,
 8 addressed to his latest address of record in the registrar's office.
 9 The contractor's license shall be suspended by operation of law on the
 10 date the bond is canceled unless a replacement bond or cash deposit in
 11 lieu of bond is on file with the registrar.

12 F. The registrar of contractors shall have no personal liability
 13 for the performance of duties relating to the bond and cash deposit
 14 requirements of this chapter so long as such duties are performed in
 15 good faith.

16 G. IN THE FOLLOWING INSTANCES THE REGISTRAR, AFTER A HEARING, MAY
 17 REQUIRE, AS A CONDITION PRECEDENT TO ISSUANCE, RENEWAL OR REMOVAL OF
 18 SUSPENSION OF A LICENSE, A SURETY BOND OR CASH DEPOSIT IN AN AMOUNT AND
 19 DURATION TO BE FIXED BY THE REGISTRAR BASED UPON THE SERIOUSNESS OF THE
 20 VIOLATIONS, WHICH SHALL BE NOT MORE THAN TEN TIMES THE AMOUNT REQUIRED
 21 BY SUBSECTION B OF THIS SECTION:

22 1. WHEN A LICENSE OF EITHER THE APPLICANT OR THE QUALIFYING PARTY
 23 HAS BEEN SUSPENDED OR REVOKED PREVIOUSLY AS THE RESULT OF DISCIPLINARY
 24 ACTION FOR A VIOLATION OF THIS CHAPTER.

25 2. WHEN EITHER THE APPLICANT OR QUALIFYING PARTY WAS AN OFFICER,
 26 MEMBER, PARTNER OR QUALIFYING PARTY FOR A LICENSEE AT ANY TIME DURING
 27 WHICH CAUSE FOR DISCIPLINARY ACTION OCCURRED RESULTING IN SUSPENSION OR
 28 REVOCATION OF SUCH LICENSEE'S LICENSE AND SUCH APPLICANT OR QUALIFYING
 29 PARTY HAD KNOWLEDGE OF OR PARTICIPATED IN THE ACT OR OMISSION WHICH WAS
 30 THE CAUSE OF SUCH DISCIPLINARY ACTION FOR VIOLATION OF THIS CHAPTER.

31 3. THE BONDS REQUIRED BY SUBSECTION G OF THIS SECTION SHALL BE
 32 IN ADDITION TO ANY OTHER BOND OR CASH DEPOSIT REQUIRED BY THIS CHAPTER OR
 33 ANY OTHER BOND REQUIRED OF A CONTRACTOR BY AN OWNER OR OTHER CONTRACTING
 34 PARTY ON ANY CONTRACT UNDERTAKEN BY HIM PURSUANT TO THE AUTHORITY OF
 35 SUCH LICENSE.

36 Sec. 13. Section 32-1154, Arizona Revised Statutes, is amended to
 37 read:

38 32-1154. Grounds for suspension or revocation of license

39 The registrar may upon his own motion, and shall upon the verified
 40 complaint in writing of any person, investigate the acts of any contractor
 41 within the state, and may temporarily suspend, with or without the imposi-
 42 tion of specific conditions IN ADDITION TO INCREASED SURETY BOND OR CASH
 43 DEPOSIT REQUIREMENTS, or permanently revoke any or all licenses issued
 44 under this chapter if the holder thereof, while a licensee hereunder, is
 45 guilty of or commits any of the following acts or omissions:

46 1. Abandonment of a contract or refusal to perform after submitting
 47 a bid on work without legal excuse therefor.

48 2. Diversion of funds or property received for prosecution or com-
 49 pletion of a specific contract, or for a specified purpose in the
 50 prosecution or completion of a contract, and their application or use for

1 any other contract, obligation or purpose, where the contractor does not
2 have immediately available other funds to complete the original contract.

3 ~~3. Willful~~ Departure from or disregard of plans or specifications
4 or any building code, CODES OF THE STATE OR SUBDIVISION THEREOF in any
5 material respect, and prejudicial to another without consent of the
6 owner or his duly authorized representative, and without the consent of
7 the person entitled to have the particular construction project or oper-
8 ation completed in accordance with such plans and specifications and code.

9 ~~4. Willful-or-deliberate-disregard-and~~ Violation of any rule or
10 regulation lawfully promulgated by the registrar pertaining to construc-
11 tion of buildings, or of any rule or regulation lawfully promulgated by
12 the registrar which is necessary to effectually carry out the provisions
13 and intent of this chapter, or of safety laws or labor laws of the
14 federal government or the state, or failure to carry unemployment and
15 social security insurance, workmen's compensation insurance, or failure
16 to pay premiums or charges before they become delinquent.

17 5. Failure to keep records showing all receipts and disbursements
18 of the licensee in all his transactions as a contractor, as that term is
19 defined in this chapter.

20 6. Misrepresentation of a material fact by the applicant in obtain-
21 ing a license.

22 7. The doing of a wrongful or fraudulent act by the licensee as a
23 contractor resulting in another person being substantially injured.

24 8. The filing of a voluntary petition in bankruptcy or a licensee
25 being adjudicated a bankrupt, IF SUCH BANKRUPTCY WAS A DIRECT RESULT OF
26 LICENSEE'S CONTRACTING BUSINESS.

27 9. Conviction of a felony.

28 10. Failure in a material respect by the licensee to complete a
29 construction project or operation for the price stated in the contract there-
30 for, or in any modification of the contract.

31 11. Aiding or abetting an unlicensed person to evade the provisions
32 of this chapter or knowingly combining or conspiring with an unlicensed
33 person, or allowing one's license to be used by an unlicensed person or
34 acting as agent, partner, associate or otherwise, of an unlicensed person
35 with intent to evade provisions of this chapter.

36 ~~12. Willful-or-deliberate~~ Failure by a licensee or agent or official
37 thereof to pay monies when due for materials or services rendered in con-
38 nection with his operations as a contractor when he has the capacity to
39 pay or when he has received sufficient funds therefor as payment for the
40 particular construction work project or operation for which the services
41 or materials were rendered or purchased.

42 13. Failure of a contractor to comply with any safety laws or code
43 CODES OF THE STATE OR SUBDIVISIONS THEREOF.

44 14. Failure in any material respect to comply with the provisions
45 of this chapter.

46 15. Knowingly enter into a contract with a contractor for work to
47 be performed for which a license is required with a person not duly
48 licensed in the required classification.

49 16. Acting in the capacity of a contractor under any license issued
50 under this chapter in a name other than as set forth upon the license.

1 17. False, misleading or deceptive advertising whereby any member
2 of the public may be misled and injured.

3 18. Knowingly contracting beyond the scope of the license or li-
4 censes of licensee.

5 19. Contracting or offering to contract or submitting a bid while
6 the license is under suspension.

7 20. Failure to notify the registrar in writing within a period of
8 ~~thirty~~ FIFTEEN days of any disassociation of the person who qualified
9 for the license. Such licensee shall have sixty days from the date of
10 such disassociation to qualify through another person.

11 21. SUBSEQUENT DISCOVERY OF FACTS WHICH IF KNOWN AT THE TIME OF
12 ISSUANCE OF A LICENSE OR THE RENEWAL OF A LICENSE WOULD HAVE BEEN GROUNDS
13 TO DENY THE ISSUANCE OR RENEWAL OF A LICENSE.

14 Sec. 14. Section 32-1155, Arizona Revised Statutes, is amended to
15 read:

16 32-1155. Filing of complaint; service of notice;
17 failure to answer

18 A. Upon the filing of a verified complaint with the registrar
19 charging a licensee with the commission, within two years prior to the
20 date of filing the complaint, of an act which is cause for suspension or
21 revocation of a license, the registrar shall AFTER INVESTIGATION MAY
22 issue a citation OR UPON WRITTEN REQUEST OF THE COMPLAINANT SHALL ISSUE
23 A CITATION directing the licensee, within ten days after service of the
24 citation upon him, to appear by filing with the registrar his verified
25 answer to the complaint showing cause, if any, why his license should
26 not be suspended or revoked. Service of citation upon the licensee shall
27 be fully effected by mailing a true copy thereof, together with a true
28 copy of the complaint, by registered mail in a sealed envelope with post-
29 age prepaid and addressed to the licensee at his latest address of record
30 in the registrar's office. Service of the citation shall be complete at
31 the time of the deposit in the mail.

32 B. Failure of the licensee to answer shall be deemed an admission
33 by him of his commission of the act or acts charged in the complaint and
34 thereupon the registrar may forthwith suspend or revoke his license.

35 Sec. 15. Section 32-1156, Arizona Revised Statutes, is amended to
36 read:

37 32-1156. Notice of hearing

38 A. Upon the filing of an answer by a licensee served with a com-
39 plaint under section 32-1155, the registrar shall fix a time and place
40 for a hearing and shall give the licensee and the complainant not less
41 than five days notice thereof.

42 B. The notice may be served by depositing in the mail a true
43 copy of the notice enclosed in a sealed envelope with postage prepaid
44 and addressed to the licensee and to the complainant, respectively, at
45 their last known address. With the notice to complainant there shall
46 be attached or enclosed a copy of the answer. If either party has appeared
47 by counsel, notice shall be given, in like manner, to counsel instead of
48 the party. AN ORDER SUSPENDING OR REVOKING A LICENSE BY DEFAULT MAY BE
49 SET ASIDE UPON APPLICATION THEREFOR, IF SUCH APPLICATION CONTAINS AN ADE-
50 QUATE STATEMENT OF GOOD CAUSE FOR THE LICENSEE'S FAILURE TO ANSWER. SUCH

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1 APPLICATION SHALL BE MADE WITHIN ONE HUNDRED TWENTY DAYS AFTER SERVICE
2 OF THE ORDER SUSPENDING OR REVOKING SUCH LICENSE.

3 Sec. 16. Section 32-1158, Arizona Revised Statutes, is amended to
4 read:

5 32-1158. Rehearing

6 A. Within twenty days after service of notice of the decision of
7 the registrar suspending or revoking a license or the dismissal of a
8 citation and complaint, the licensee or complainant may apply for a
9 rehearing by filing with the registrar his petition in writing therefor.
10 Within five days after filing such petition, the registrar shall have
11 notice thereof served upon the complainant by mailing a copy of the
12 petition to him in the manner prescribed in section 32-1156 for notice
13 of hearing. The filing of a petition for rehearing shall be a condition
14 precedent to any right of appeal as prescribed pursuant to section 32-1159.

15 B. The filing of a petition for rehearing shall suspend the
16 operation of the registrar's action in suspending or revoking the license
17 and permits the licensee to continue to do business as a contractor pending
18 denial or granting of the petition, and if the petition is granted, shall
19 suspend operation of such action pending the decision of the registrar
20 upon the rehearing.

21 C. In his order granting or denying a rehearing, the registrar
22 shall include a statement of the particular grounds and reasons for
23 his action on the petition and shall forthwith mail a copy of the
24 order to the parties who have appeared in support of or in opposition
25 to the petition for rehearing. If a rehearing is granted, the registrar
26 shall set the matter for further hearing on due notice to the parties,
27 given in the manner prescribed in section 32-1156 for notice of an
28 original hearing. Within ten days after submission of the matter upon
29 rehearing, the registrar shall render his decision in writing and
30 give notice thereof in the same manner as if a decision rendered upon
31 an original hearing.

32 D. IF AN ORDER DENYING A REHEARING OR A DECISION GIVEN UPON A
33 REHEARING RESULTS IN IMMEDIATE SUSPENSION OR REVOCATION OF A LICENSE,
34 THEN OPERATION OF SUCH ORDER OR DECISION SHALL BE SUSPENDED UNTIL TEN
35 DAYS AFTER SERVICE OF NOTICE THEREOF.

36 Sec. 17. Section 32-1160, Arizona Revised Statutes, is amended to
37 read:

38 32-1160. Appeal from judgment

39 A. A judgment of suspension or ~~annulment~~ REVOCATION of a license
40 by the superior court is subject to appeal or review in accordance with
41 provisions of law as to appeal from or review of judgments of superior
42 courts, but there shall be no stay of execution or enforcement of such
43 judgment pending the proceedings on appeal or review required by section
44 32-1159.

45 B. The clerk of the court in which the judgment has become
46 final shall, within fifteen days after entry thereof, mail to the
47 registrar a notice as to the affirmance, modification or reversal
48 of the judgment of the superior court.

49 Sec. 18. Section 32-1161, Arizona Revised Statutes, is amended to
50 read:

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1 32-1161. Rights of contractor after suspension of license

2 A. After suspension of the license upon any of the grounds set
3 forth in section 32-1154, the registrar shall renew it upon proof of
4 compliance by the contractor with provisions of the judgment relating
5 to renewal of the license, or in the absence of a judgment or provisions
6 therein as to renewal, upon proper showing that all loss caused by the
7 act or omission for which the license was ~~annulled~~ SUSPENDED has been
8 fully satisfied.

9 B. After ~~annulment~~ REVOCATION of a license upon any of the
10 grounds set forth in section 32-1154, the license shall not be renewed
11 or reissued for one year after final determination of ~~annulment~~
12 REVOCATION and then only on proper showing that all loss caused by the
13 act or omission for which the license was ~~annulled~~ REVOKED has been
14 fully satisfied.

15 Sec. 19. Repeal

16 Section 32-1162, Arizona Revised Statutes, is repealed.

17 Sec. 20. Title 32, chapter 10, article 3, Arizona Revised Statutes,
18 is amended by adding sections 32-1167 and 32-1168, to read:

19 32-1167. Qualifying party's disassociation with licensee;
20 licensee's requalification; penalty

21 A. IF A PERSON WHO QUALIFIED FOR A LICENSE CEASES FOR ANY REASON
22 WHATSOEVER TO BE CONNECTED WITH THE LICENSEE, BOTH THE LICENSEE AND THE
23 QUALIFYING PARTY SHALL NOTIFY THE REGISTRAR IN WRITING WITHIN FIFTEEN
24 DAYS AFTER SUCH DISASSOCIATION.

25 B. A LICENSEE SHALL HAVE SIXTY DAYS FROM THE DATE OF ANY SUCH
26 DISASSOCIATION TO QUALIFY THROUGH ANOTHER PERSON. IF THE LICENSEE FAILS
27 TO QUALIFY THROUGH ANOTHER PERSON WITHIN SIXTY DAYS, THE LICENSE IS AUTO-
28 MATICALLY SUSPENDED BY OPERATION OF LAW AT THE END OF THE PERIOD UNTIL
29 THE LICENSEE DOES QUALIFY THROUGH ANOTHER PERSON.

30 32-1168. Proof of valid license

31 EACH COUNTY, CITY OR OTHER POLITICAL SUBDIVISION OR AUTHORITY OF
32 THE STATE OR ANY AGENCY, DEPARTMENT, BOARD OR COMMISSION OF THE STATE
33 WHICH REQUIRES THE ISSUANCE OF A PERMIT OR LICENSE AS A CONDITION
34 PRECEDENT TO THE CONSTRUCTION, ALTERATION, IMPROVEMENT, DEMOLITION OR
35 REPAIR FOR WHICH A LICENSE IS REQUIRED UNDER THIS CHAPTER SHALL, AS
36 PART OF THE APPLICATION PROCEDURES WHICH IT UTILIZES, REQUIRE THAT
37 EACH APPLICANT FOR SUCH A PERMIT OR LICENSE FILE A SIGNED STATEMENT
38 THAT THE APPLICANT IS CURRENTLY LICENSED, UNDER THE PROVISIONS OF
39 THIS CHAPTER, WITH HIS LICENSE NUMBER. IF THE APPLICANT IS EXEMPT
40 FROM THE PROVISIONS OF THIS CHAPTER, THE STATEMENT SHALL CONTAIN
41 THE BASIS OF THE ASSERTED EXEMPTION AND THE NAME AND LICENSE NUMBER
42 OF ANY GENERAL, MECHANICAL, ELECTRICAL OR PLUMBING CONTRACTOR WHO
43 WILL BE EMPLOYED ON THE WORK.

Approved by the Governor - June 6, 1975

Filed in the Office of the Secretary of State - June 6, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 114

SENATE BILL 1329

AN ACT

RELATING TO COUNTIES; PROVIDING FOR A COUNTY MEDICAL EXAMINER; PRESCRIBING POWERS, DUTIES AND PROCEDURES; REMOVING CORONER'S COURT AND CORONER'S INQUEST; PRESCRIBING UNLAWFUL ACTS OF FUNERAL EMBALMER; MAKING CONFORMING CHANGES; AMENDING TITLE 11, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 12; AMENDING SECTIONS 21-221, 21-335, 32-1368, 36-327, 36-329 AND 36-832, ARIZONA REVISED STATUTES; REPEALING TITLE 22, CHAPTER 5, ARIZONA REVISED STATUTES, AND REPEALING SECTIONS 21-104, 21-333, 31-226, 36-334 AND 36-335, ARIZONA REVISED STATUTES.

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

2 Section 1. Title 11, chapter 3, Arizona Revised Statutes, is
3 amended by adding article 12, sections 11-591 through 11-600, to read:

4 ARTICLE 12. COUNTY MEDICAL EXAMINER

5 11-591. County medical examiner; appointment;
6 qualifications; compensation

7 A. THE BOARD OF SUPERVISORS OF EACH COUNTY MAY APPOINT A QUALIFIED
8 PERSON TO THE POSITION OF COUNTY MEDICAL EXAMINER.

9 B. THE COUNTY MEDICAL EXAMINER SHALL BE A LICENSED PHYSICIAN IN
10 GOOD STANDING CERTIFIED IN PATHOLOGY AND SKILLED IN FORENSIC PATHOLOGY.
11 THE MEDICAL EXAMINER SHALL RECEIVE COMPENSATION AS DETERMINED BY THE
12 BOARD OF SUPERVISORS.

13 11-592. List of physicians in lieu of
14 medical examiner; fund; notification;
15 special examinations

16 A. IF THE BOARD OF SUPERVISORS DETERMINES THAT THE APPOINTMENT OF
17 A MEDICAL EXAMINER IS NOT PRACTICAL, THE BOARD OF SUPERVISORS SHALL
18 ESTABLISH A LIST OF LICENSED PHYSICIANS WHO WILL BE AVAILABLE TO PERFORM
19 THE DUTIES REQUIRED OF A COUNTY MEDICAL EXAMINER. A LICENSED PHYSICIAN
20 ON THE LIST NEED NOT BE A RESIDENT OF THE COUNTY, NEED NOT BE CERTIFIED
21 IN PATHOLOGY NOR SKILLED IN FORENSIC PATHOLOGY BUT SHALL HAVE AGREED TO
22 PERFORM MEDICAL EXAMINATIONS OR AUTOPSIES TO DETERMINE THE CAUSE AND
23 MANNER OF DEATH ON BEHALF OF THE COUNTY ON A CONTRACT BASIS.

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1 B. IF THE BOARD OF SUPERVISORS ESTABLISHES A LIST OF LICENSED
2 PHYSICIANS IN LIEU OF APPOINTING A COUNTY MEDICAL EXAMINER, THE BOARD
3 MAY ESTABLISH A FUND KNOWN AS THE COUNTY MEDICAL EXAMINATION FUND AND
4 SHALL PAY EXPENSES INCURRED BY THE LICENSED PHYSICIANS IN THE PER-
5 FORMANCE OF THE DUTIES OF THE COUNTY MEDICAL EXAMINER FROM SUCH FUND.

6 C. THE SHERIFF OF THE COUNTY SHALL BE RESPONSIBLE FOR NOTIFYING
7 AND SECURING A LICENSED PHYSICIAN ON THE LIST TO PERFORM A MEDICAL
8 EXAMINATION OR AUTOPSY REQUIRED BY LAW.

9 D. UPON REQUEST OF THE COUNTY ATTORNEY OR THE ATTORNEY GENERAL,
10 THE LICENSED PHYSICIAN EMPLOYED BY THE BOARD OF SUPERVISORS AND SECURED
11 BY THE SHERIFF SHALL BE A LICENSED PHYSICIAN CERTIFIED IN PATHOLOGY AND
12 SKILLED IN FORENSIC PATHOLOGY.

13 11-593. Reporting of certain deaths; failure to
14 report; penalty

15 A. ANY PERSON HAVING KNOWLEDGE OF THE DEATH OF A HUMAN BEING
16 INCLUDING A FETAL DEATH UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

- 17 1. DEATH WHEN NOT UNDER THE CURRENT CARE OF A PHYSICIAN FOR A
18 POTENTIALLY FATAL ILLNESS OR WHEN AN ATTENDING PHYSICIAN IS UNAVAILABLE
19 TO SIGN THE DEATH CERTIFICATE; OR
20 2. DEATH RESULTING FROM VIOLENCE; OR
21 3. DEATH OCCURRING SUDDENLY WHEN IN APPARENT GOOD HEALTH; OR
22 4. DEATH OCCURRING IN A PRISON; OR
23 5. DEATH OF A PRISONER; OR
24 6. DEATH OCCURRING IN A SUSPICIOUS, UNUSUAL OR UNNATURAL MANNER;

25 OR

26 7. DEATH FROM DISEASE OR ACCIDENT BELIEVED TO BE RELATED TO THE
27 DECEASED'S OCCUPATION OR EMPLOYMENT; OR

28 8. DEATH BELIEVED TO PRESENT A PUBLIC HEALTH HAZARD; OR

29 9. DEATH OCCURRING DURING ANESTHETIC OR SURGICAL PROCEDURES,
30 SHALL FORTHWITH NOTIFY THE NEAREST PEACE OFFICER OF ALL INFORMATION IN
31 HIS OR HER POSSESSION REGARDING SUCH A DEATH AND THE CIRCUMSTANCES
32 SURROUNDING IT. THE PEACE OFFICER SHALL IN TURN FORTHWITH NOTIFY THE
33 COUNTY MEDICAL EXAMINER OR THE COUNTY SHERIFF IF THERE IS NO COUNTY
34 MEDICAL EXAMINER APPOINTED AND SERVING WITHIN THE COUNTY, IN WHICH CASE
35 THE SHERIFF SHALL NOTIFY AND SECURE A LICENSED PHYSICIAN TO PERFORM
36 THE MEDICAL EXAMINATION OR AUTOPSY.

37 B. EVERY PERSON WHO KNOWS OF THE EXISTENCE OF A BODY WHERE DEATH
38 OCCURRED IN THE MANNER SPECIFIED IN SUBSECTION A OF THIS SECTION AND WHO
39 FAILS TO NOTIFY THE NEAREST PEACE OFFICER AS SOON AS POSSIBLE UNLESS
40 SUCH PERSON SHALL HAVE GOOD REASON TO BELIEVE THAT SUCH NOTICE HAS
41 ALREADY BEEN GIVEN SHALL BE GUILTY OF A MISDEMEANOR AND UPON CONVICTION
42 THEREOF SHALL BE PUNISHED BY A FINE OF NOT MORE THAN THREE HUNDRED
43 DOLLARS OR IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN SIX MONTHS
44 OR BY BOTH SUCH FINE AND IMPRISONMENT.

45 C. IN CASES WHERE THE DECEASED WAS UNDER TREATMENT FOR ACCIDENT
46 OR ILLNESS BY PRAYER OR SPIRITUAL MEANS ALONE, IN ACCORDANCE WITH THE
47 TENETS AND PRACTICES OF A WELL RECOGNIZED CHURCH OR RELIGIOUS DENOMINA-
48 TION, AND DEATH OCCURRED WITHOUT A PHYSICIAN IN ATTENDANCE, THE PERSON
49 WHO HAS KNOWLEDGE OF SUCH DEATH SHALL REPORT ALL INFORMATION IN HIS
50 POSSESSION REGARDING THE DEATH AND CIRCUMSTANCES SURROUNDING IT DIRECTLY

1 TO THE COUNTY MEDICAL EXAMINER OR THE PERSON PERFORMING THE DUTIES OF A
2 COUNTY MEDICAL EXAMINER WHO MAY WAIVE AN AUTOPSY IF HE IS SATISFIED THAT
3 THE DEATH OF SUCH PERSON RESULTED FROM NATURAL CAUSES.

4 D. EACH COUNTY SHALL PROVIDE TO THE CRIMINAL IDENTIFICATION
5 SECTION OF THE DEPARTMENT OF PUBLIC SAFETY FINGERPRINTS OF ALL DECEASED
6 PERSONS WHOSE DEATHS ARE REQUIRED TO BE INVESTIGATED PURSUANT TO THIS
7 SECTION. THESE FINGERPRINTS SHALL BE ON A FORM PROVIDED BY THE CRIMINAL
8 IDENTIFICATION SECTION, AND SHALL BE ACCOMPANIED BY SUCH OTHER INFORMA-
9 TION REGARDING THE PHYSICAL DESCRIPTION, AND THE DATE AND PLACE OF DEATH
10 AS THE CRIMINAL IDENTIFICATION SECTION MAY REQUIRE. FINGERPRINTS TAKEN
11 PURSUANT TO THIS SECTION SHALL BE USED ONLY FOR THE PURPOSE OF PURGING
12 CRIMINAL HISTORY FILES. ALL INFORMATION AND DATA IN THE CRIMINAL IDENT-
13 IFICATION SECTION OF THE DEPARTMENT OF PUBLIC SAFETY FURNISHED IN COM-
14 PLIANCE WITH THIS PROVISION SHALL REMAIN CONFIDENTIAL AND SHALL BE DIS-
15 CLOSED ONLY UPON WRITTEN APPROVAL OF THE DIRECTOR OF PUBLIC SAFETY TO
16 THE JUVENILE COURT, SOCIAL AGENCIES, PUBLIC HEALTH AND LAW ENFORCEMENT
17 AGENCIES, LICENSED OR REGULATED BY THIS STATE.

18 11-594. Powers and duties of county medical examiner

19 A. THE COUNTY MEDICAL EXAMINER OR A LICENSED PHYSICIAN EMPLOYED TO
20 PERFORM SUCH FUNCTIONS SHALL:

21 1. BE RESPONSIBLE FOR MEDICAL EXAMINATION OR AUTOPSY OF A HUMAN
22 BODY WHEN DEATH OCCURRED UNDER ANY OF THE CIRCUMSTANCES SET FORTH IN
23 SUBSECTION A OF SECTION 11-593.

24 2. TAKE CHARGE OF THE DEAD BODY OF WHICH HE OR SHE IS NOTIFIED
25 AND AFTER MAKING INQUIRIES REGARDING THE CAUSE AND MANNER OF DEATH,
26 EXAMINE THE BODY.

27 3. CERTIFY TO THE CAUSE AND MANNER OF DEATH FOLLOWING A MEDICAL
28 EXAMINATION OR AN AUTOPSY OR BOTH.

29 4. MAKE INQUIRIES REGARDING THE CAUSE AND MANNER OF DEATH, REDUCE
30 HIS OR HER FINDINGS TO WRITING AND PROMPTLY MAKE A FULL REPORT THEREOF
31 ON FORMS PRESCRIBED FOR SUCH PURPOSE.

32 5. EXECUTE A DEATH CERTIFICATE PROVIDED BY THE BUREAU OF VITAL
33 STATISTICS INDICATING THE CAUSE AS WELL AS THE MANNER OF DEATH FOR THOSE
34 BODIES ON WHICH A MEDICAL EXAMINATION OR AUTOPSY IS PERFORMED.

35 6. NOTIFY THE COUNTY ATTORNEY WHEN DEATH IS FOUND TO BE FROM
36 OTHER THAN NATURAL CAUSES.

37 7. NOTIFY THE APPROPRIATE CITY, TOWN, COUNTY OR STATE LAW ENFORCE-
38 MENT AGENCY IF FURTHER INVESTIGATION BY SUCH AGENCY APPEARS NECESSARY.

39 B. THE COUNTY MEDICAL EXAMINER MAY:

40 1. APPOINT SUCH QUALIFIED PROFESSIONAL, TECHNICAL AND CLERICAL
41 PERSONNEL AS NECESSARY FOR THE ADMINISTRATION OF THE OFFICE, SUBJECT
42 TO APPROVAL OF THE BOARD OF SUPERVISORS.

43 2. AUTHORIZE QUALIFIED PRACTICING PHYSICIANS IN LOCAL AREAS TO
44 PERFORM MEDICAL EXAMINATIONS REQUIRED OF THE COUNTY MEDICAL EXAMINER.
45 SUCH AUTHORIZATION AND THE AMOUNT TO BE PAID BY THE COUNTY FOR SUCH
46 SERVICES ARE SUBJECT TO APPROVAL OF THE BOARD OF SUPERVISORS.

47 11-595. Right to enter premises; right to seize articles

48 A. THE COUNTY MEDICAL EXAMINER OR ANY PERSON PERFORMING THE
49 DUTIES OF A COUNTY MEDICAL EXAMINER MAY ENTER ANY ROOM, DWELLING, BUILD-
50 ING OR OTHER PLACE IN WHICH THE BODY OR EVIDENCE OF THE CIRCUMSTANCES OF

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1 THE DEATH REQUIRING INVESTIGATION MAY BE FOUND, PROVIDED THAT A LAW
2 ENFORCEMENT AGENT INVESTIGATING THE DEATH OBTAINS A SEARCH WARRANT FOR
3 PRIVATE PROPERTY OTHER THAN IN THE IMMEDIATE LOCATION WHERE THE BODY
4 WAS FOUND.

5 B. THE COUNTY MEDICAL EXAMINER OR ANY PERSON PERFORMING THE DUTIES
6 OF A COUNTY MEDICAL EXAMINER, WITH THE PERMISSION OF THE LAW ENFORCE-
7 MENT AGENT INVESTIGATING THE DEATH MAY TAKE INTO HIS OR HER POSSESSION
8 ANY OBJECT OR ARTICLE FOUND ON THE DECEASED OR IN THE DECEASED'S
9 IMMEDIATE VICINITY WHICH IN HIS OR HER OPINION MAY AID IN THE DETER-
10 MINATION OF THE DECEASED'S IDENTITY OR DETERMINATION OF THE CAUSE OR
11 MANNER OF DEATH. UPON COMPLETION OF HIS OR HER FINDINGS, THE MEDICAL
12 EXAMINER OR THE PERSON PERFORMING THE DUTIES OF A COUNTY MEDICAL
13 EXAMINER SHALL WITHIN THIRTY DAYS, DELIVER SUCH OBJECT OR ARTICLE TO
14 THE LAW ENFORCEMENT AGENCY CONCERNED, THE LEGAL REPRESENTATIVE OF THE
15 DECEASED OR TO THE COUNTY TREASURER.

16 11-596. Removal or disturbance of body or effects or
17 weapons without consent prohibited

18 NO HUMAN BODY OR BODY SUSPECTED OF BEING HUMAN SHALL BE REMOVED
19 FROM THE PLACE WHERE THE DEATH, IF THE DEATH IS OF A NATURE REQUIRING
20 INVESTIGATION OCCURRED WITHOUT FIRST OBTAINING PERMISSION OF THE COUNTY
21 MEDICAL EXAMINER OR THE PERSON PERFORMING THE DUTIES OF A COUNTY
22 MEDICAL EXAMINER. NO EMBALMING, CLEANSING OF THE SURFACES OF THE BODY
23 OR OTHER ALTERATION OF THE APPEARANCE OR STATE OF THE BODY, CLOTHING OR
24 PERSONAL EFFECTS SHALL BE PERFORMED UNTIL THE PERMISSION OF SUCH
25 OFFICIAL HAS BEEN OBTAINED. NO PERSON, EXCEPT A LAW ENFORCEMENT AGENT
26 IN THE PERFORMANCE OF HIS OR HER DUTIES, SHALL REMOVE FROM THE PLACE OF
27 DEATH OR FROM THE BODY OF THE DECEASED ANY OF THE EFFECTS OF THE
28 DECEASED, OR INSTRUMENTS OR WEAPONS THAT MAY HAVE BEEN USED IN THE
29 DEATH REQUIRING INVESTIGATION, UNLESS PRIOR PERMISSION OF THE COUNTY
30 MEDICAL EXAMINER, THE PERSON PERFORMING THE DUTIES OF A COUNTY MEDICAL
31 EXAMINER OR THE INVESTIGATING LAW ENFORCEMENT AGENT HAS BEEN OBTAINED.

32 11-597. Autopsies; reports; exemption from liability

33 A. THE COUNTY MEDICAL EXAMINER OR PERSON PERFORMING THE DUTIES OF
34 A COUNTY MEDICAL EXAMINER SHALL CONDUCT SUCH INVESTIGATION AS MAY BE
35 REQUIRED AND SHALL DETERMINE WHETHER OR NOT THE PUBLIC INTEREST REQUIRES
36 AN AUTOPSY OR OTHER SPECIAL INVESTIGATION. IN HIS OR HER DETERMINATION
37 OF THE NEED FOR AN AUTOPSY, THE COUNTY MEDICAL EXAMINER OR PERSON
38 PERFORMING THE DUTIES OF A COUNTY MEDICAL EXAMINER MAY CONSIDER THE
39 REQUEST FOR AN AUTOPSY MADE BY PRIVATE PERSONS OR PUBLIC OFFICIALS
40 PROVIDED, HOWEVER, THAT IF THE COUNTY ATTORNEY OR A SUPERIOR COURT
41 JUDGE OF THE COUNTY WHERE THE DEATH OCCURRED REQUESTS, THE COUNTY
42 MEDICAL EXAMINER OR THE LICENSED PHYSICIAN PERFORMING THE DUTIES OF
43 A COUNTY MEDICAL EXAMINER SHALL PERFORM AN AUTOPSY.

44 B. IF AN AUTOPSY IS PERFORMED, A FULL RECORD OR REPORT OF THE
45 FACTS DEVELOPED BY THE AUTOPSY IN THE FINDINGS OF THE PERSON MAKING SUCH
46 AUTOPSY SHALL BE PROPERLY MADE AND FILED IN THE OFFICE OF THE COUNTY

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1 MEDICAL EXAMINER OR THE BOARD OF SUPERVISORS. IF THE PERSON PERFORMING
2 THE AUTOPSY DETERMINES THAT THE REPORT SHOULD BE FORWARDED TO THE COUNTY
3 WHERE THE DEATH OCCURRED OR THE COUNTY WHEREIN ANY INJURY CONTRIBUTING
4 TO OR CAUSING THE DEATH WAS SUSTAINED, HE SHALL FORWARD A COPY OF THE
5 REPORT TO THE COUNTY ATTORNEY.

6 C. A COUNTY ATTORNEY MAY REQUEST AND UPON REQUEST SHALL RECEIVE
7 FROM THE COUNTY MEDICAL EXAMINER OR A PERSON PERFORMING THE DUTIES OF A
8 COUNTY MEDICAL EXAMINER, A COPY OF THE REPORT ON ANY AUTOPSY PERFORMED.

9 D. THE COUNTY MEDICAL EXAMINER OR PERSON PERFORMING THE DUTIES OF
10 A COUNTY MEDICAL EXAMINER MAY PERFORM SUCH OTHER TESTS DEEMED NECESSARY
11 TO DETERMINE IDENTITY, CAUSE AND MANNER OF DEATH AND MAY RETAIN TISSUES,
12 SPECIMENS AND OTHER BIOLOGICAL MATERIALS FOR SUBSEQUENT EXAMINATION.

13 E. WHEN AN AUTOPSY OR SUCH OTHER TESTS ARE PERFORMED BY THE
14 COUNTY MEDICAL EXAMINER OR PERSON PERFORMING THE DUTIES OF A COUNTY
15 MEDICAL EXAMINER, NO CAUSE OF ACTION SHALL LIE AGAINST THE PHYSICIAN
16 OR ANY OTHER PERSON FOR REQUESTING THE AUTOPSY OR FOR PARTICIPATING IN
17 THE AUTOPSY.

18 11-598. Exhumation; court order

19 IF IN ANY CASE OF SUDDEN, VIOLENT OR SUSPICIOUS DEATH A BODY IS
20 BURIED WITHOUT ANY INQUIRIES BY THE COUNTY MEDICAL EXAMINER OR PERSON
21 PERFORMING THE DUTIES OF A COUNTY MEDICAL EXAMINER, THE COUNTY ATTORNEY
22 OF THE COUNTY WHEREIN THE BODY IS BURIED MAY PETITION THE SUPERIOR
23 COURT FOR AN ORDER DIRECTING THAT THE BODY BE EXHUMED AND AN AUTOPSY
24 PERFORMED THEREON. THE COURT AFTER HEARING MAY ORDER THAT THE BODY BE
25 EXHUMED AND THAT AN AUTOPSY OR SUCH OTHER INVESTIGATION AS THE COURT
26 DEEMS APPROPRIATE BE PERFORMED.

27 11-599. Cremation

28 WHEN A FUNERAL DIRECTOR OR EMBALMER IS REQUESTED TO CREMATE OR
29 PREPARE FOR CREMATION THE BODY OF A DEAD PERSON, HE OR SHE OR ANY
30 OTHER PERSON HAVING KNOWLEDGE OF AN INTENTION TO SO CREMATE SHALL NOTIFY
31 THE COUNTY MEDICAL EXAMINER OR IF THERE IS NO COUNTY MEDICAL EXAMINER
32 WITHIN THE COUNTY, THE COUNTY SHERIFF AND REQUEST THAT AN EXAMINATION
33 OF THE DEATH CERTIFICATE BE MADE PRIOR TO THE CREMATION. IF THERE IS
34 NO MEDICAL EXAMINER WITHIN THE COUNTY, THE COUNTY SHERIFF SHALL NOTIFY
35 AND SECURE A LICENSED PHYSICIAN TO EXAMINE THE DEATH CERTIFICATE. IF
36 AFTER EXAMINATION THE COUNTY MEDICAL EXAMINER OR PERSON PERFORMING THE
37 DUTIES OF A COUNTY MEDICAL EXAMINER IS SATISFIED THAT THERE IS NO
38 EVIDENCE OF FOUL PLAY OR VIOLENCE, HE OR SHE SHALL SO CERTIFY AND A
39 COPY OF SUCH CERTIFICATION SHALL BE ATTACHED TO THE DEATH CERTIFICATE.

40 11-600. Burial of indigent deceased; disposal of property

41 A. WHEN AN EXAMINATION HAS BEEN COMPLETED BY THE COUNTY MEDICAL
42 EXAMINER OR THE PERSON PERFORMING THE DUTIES OF A COUNTY MEDICAL EXAMINER
43 AND NO OTHER PERSON TAKES CHARGE OF THE BODY OF THE DECEASED, THE MEDICAL
44 EXAMINER SHALL CAUSE IT TO BE DELIVERED TO A LICENSED FUNERAL DIRECTOR
45 FOR PRESERVATION, DISINFECTION AND FINAL DISPOSITION. IF THERE IS NOT
46 SUFFICIENT PROPERTY IN THE ESTATE OF THE DECEASED TO PAY THE NECESSARY
47 EXPENSES OF THE BURIAL, THE EXPENSES SHALL BE A LEGAL CHARGE AGAINST
48 THE COUNTY.

49 B. WITHIN THIRTY DAYS AFTER THE EXAMINATION, THE MEDICAL EXAM-
50 INER OR PERSON PERFORMING THE DUTIES OF THE COUNTY MEDICAL EXAMINER

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1 SHALL DELIVER TO THE COUNTY TREASURER OR THE LEGAL REPRESENTATIVE OF
2 THE DECEASED ANY MONEY OR PROPERTY FOUND UPON THE BODY.

3 Sec. 2. Section 21-221, Arizona Revised Statutes, is amended to
4 read:

5 21-221. Fees and mileage

6 A. Each juror shall be paid by the county:

7 1. For each day's attendance upon the superior court, twelve
8 dollars.

9 2. For each mile necessarily traveled from his residence to the
10 court, an amount determined by the judge, not to exceed twenty cents per
11 mile and to be computed for one trip and one way only. When a juror
12 necessarily returns to his residence one or more times during the
13 period of service because of a recess ordered by the court, he shall be
14 paid for such travel an additional amount determined by the judge, not
15 to exceed twenty cents per mile one way for each recess.

16 B. Attendance on the court shall include the first day a juror
17 is required to attend and shall continue each day of actual attendance
18 on the court thereafter, until the juror is either temporarily or perm-
19 anently excused from jury service. Any juror who is excused from
20 further attendance upon the first day of this appearance in obedience to
21 summons shall receive a mileage allowance only.

22 C. Each juror shall be paid by the county for each day's attend-
23 ance upon a justice court ~~or upon an request~~, four dollars.

24 Sec. 3. Section 21-335, Arizona Revised Statutes, is amended to
25 read:

26 21-335. Forming jury in other courts

27 At the time appointed for a jury trial in police OR justice or
28 ~~justice~~'s court, the list of jurors summoned shall be called, and if
29 they all attend they shall constitute the jury unless excused or suc-
30 cessfully challenged, in which case others sufficient to complete the
31 jury shall be forthwith summoned in the manner prescribed by ~~sections~~
32 SECTION 21-332 and ~~21-333~~.

33 Sec. 4. Section 32-1368, Arizona Revised Statutes, is amended to
34 read:

35 32-1368. Violations; penalties

36 A. It is unlawful:

37 1. For an embalmer, having knowledge of a fact sufficient to
38 raise a suspicion of a crime related to the cause of death, to embalm
39 a dead human body WHICH REQUIRES BY LAW AN EXAMINATION BY THE COUNTY
40 MEDICAL EXAMINER OR PERSON PERFORMING THE DUTIES OF A COUNTY MEDICAL
41 EXAMINER without permission of the ~~county~~ COUNTY MEDICAL EXAMINER or
42 other proper official in whose jurisdiction the embalming is to be
43 performed.

44 2. To disinter a dead human body for removal to another cemetery
45 or city or town except under direct supervision of a qualified funeral
46 director. The remains of a deceased person may be removed from a plot
47 in a cemetery with consent of the cemetery authority and the written
48 consent, in the order named, of:

- 49 (a) The surviving spouse.
50 (b) The surviving children.

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- 1 (c) The surviving parents.
2 (d) The surviving brothers or sisters.
3 (e) Upon order of a court or ~~either~~ COUNTY MEDICAL EXAMINER OR
4 THE PERSON PERFORMING THE DUTIES OF A COUNTY MEDICAL EXAMINER.
- 5 3. To use, for burial purposes, a casket previously used as a re-
6 ceptacle for or in connection with the burial or other disposition of a
7 dead human body.
- 8 4. For a funeral director or embalmer, or agent thereof, after a
9 death or while a death is impending, to pay, offer to pay or cause to
10 be paid, directly or indirectly, a sum of money or other valuable con-
11 sideration for securing business relating to such death.
- 12 5. To pay, cause to be paid or offer to pay a funeral director or
13 embalmer, or an agent or employee of either, a commission, bonus, rebate
14 or other consideration as an inducement to recommend or cause a dead
15 human body to be unlawfully disposed of in a crematory, mausoleum or
16 cemetery.
- 17 6. For any person to engage in, or hold himself out as engaging
18 in the business of embalming or funeral directing, unless so certified by
19 the board of funeral directors and embalmers.
- 20 7. For any funeral establishment or funeral director to advertise
21 under any name which tends to mislead the public or which sufficiently
22 resembles the professional or business name of another qualified
23 director as to occasion confusion or misunderstanding.
- 24 B. A person violating any provision of this chapter is guilty of
25 a misdemeanor punishable by a fine of not less than twenty-five nor more
26 than five hundred dollars, by imprisonment in the county jail for not to
27 exceed six months, or both.
- 28 Sec. 5. Section 36-327, Arizona Revised Statutes, is amended to
29 read:
- 30 36-327. Death registration
- 31 A. A death certificate for each person dying in this state shall
32 be filed with the local registrar within three days following such death
33 and prior to cremation or removal of the dead body from that registration
34 district. If the place of death is unknown, the death shall be consid-
35 ered to have occurred in the place where the dead human remains were
36 found. If the person died in a moving conveyance, the death shall be
37 considered to have occurred in the place where the body was initially
38 removed from the conveyance.
- 39 B. The funeral director or person acting in such capacity who
40 first assumes custody of a dead body or dead human remains is responsible
41 for executing and filing the death certificate and he shall:
- 42 1. Obtain the personal data from the next of kin or the best
43 qualified person or source available.
- 44 2. Obtain the medical certification of cause of death from the
45 person hereinafter designated, and he shall enter the date, place, and
46 method of final disposition and affix his signature and address before
47 filing the certificate with the registrar.
- 48 C. The medical certification shall be completed and signed within
49 seventy-two hours by the physician in charge of the patient's care for
50 the illness or condition resulting in death, except as may be provided

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1 by regulation for special situations or when death is subject to coroner
2 jurisdiction.

3 D. When death occurred without medical attendance or under such
4 circumstances as to require ~~coroner~~ COUNTY MEDICAL EXAMINER investigation
5 under ~~sections-36-334-and-36-335~~, SECTION 11-593, the medical examiner
6 shall complete and sign the medical certification in sufficient time
7 to enable the certificate to be filed within the prescribed time period,
8 except as may be provided by regulation for special situations.

9 Sec. 6. Section 36-329, Arizona Revised Statutes, is amended to
10 read:

11 36-329. Fetal death registration.

12 A. A fetal death certificate for each fetal death occurring in
13 this state after a gestation period of twenty completed weeks or more
14 shall be filed with the designated registrar within three days following
15 delivery and prior to cremation or removal of the fetus from the
16 registration district. If the place of occurrence of the fetal death is
17 unknown, the fetal death shall be considered to have occurred in the
18 place where the fetal remains were found. If the fetal death occurred
19 in a moving conveyance, the fetal death shall be considered to have
20 occurred in the place where the fetal remains were initially removed
21 from the conveyance.

22 B. The funeral director or person acting in such capacity, or
23 the person in charge of an institution or his designated representative
24 who first assumes custody of a dead fetus for disposal purposes shall be
25 responsible for executing and filing the fetal death certificate. The
26 requirements for gathering the necessary information, preparing the
27 fetal death certificate, obtaining the required signatures, and filing
28 the certificate with the registrar shall be the same as provided in
29 section 36-327, subsection B, for death certificates.

30 C. If no funeral director is employed, or if delivery occurred
31 outside an institution, the fetal death certificate shall be prepared
32 and filed by one of the following in the indicated order of priority:

33 1. The physician in attendance at or after delivery, or in the
34 absence of a physician.

35 2. Any other person in medical attendance at or after delivery,
36 or in the absence of such person, the mother, the father, or any other
37 relative or family member who can supply the required information or the
38 person in charge of the premises where delivery occurred, or in the
39 absence or inability of such person to act.

40 3. Any other person who witnessed the delivery and can supply the
41 information.

42 D. The medical certification shall be completed and signed within
43 seventy-two hours by the physician in attendance at or immediately after
44 delivery, except as may be provided by regulation in special situations
45 or where a ~~coroner's~~ COUNTY MEDICAL EXAMINER'S investigation is required.

46 E. If delivery occurred without medical attendance or under such
47 circumstances as to require a ~~coroner's~~ COUNTY MEDICAL EXAMINER'S
48 investigation under ~~sections-36-334-and-36-335~~, SECTION 11-593, the
49 medical examiner or ~~coroner~~ A PERSON PERFORMING THE DUTIES OF COUNTY
50 MEDICAL EXAMINER shall complete and sign the medical certification in

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1 sufficient time to enable the certificate to be filed within the
2 prescribed time period, except as may be provided by regulation for
3 special situations.

4 Sec. 7. Section 36-832, Arizona Revised Statutes, is amended to
5 read:

6 36-832. Authorization for post-mortem examination

7 A. In addition to the provisions set forth in sections 22-515
8 11-597 and 36-337, whichever of the following assumes custody of the
9 body for purposes of burial may give permission to a licensed physician
10 to conduct a post-mortem examination:

- 11 1. Father.
- 12 2. Mother.
- 13 3. Husband.
- 14 4. Wife.
- 15 5. Adult child.
- 16 6. Guardian.
- 17 7. Next of kin.

18 B. In the absence of any of the persons named in subsection A of
19 this section, a friend or one charged with the responsibility of burial
20 may give permission to a licensed physician to conduct a post-mortem
21 examination.

22 Sec. 8. Repeals

23 Title 22, chapter 5, Arizona Revised Statutes, and sections
24 21-104, 21-333, 31-226, 36-334 and 36-335, Arizona Revised Statutes,
25 are repealed.

26 Sec. 9. Continuation of pending proceedings

27 Any pending investigation commenced by a coroner prior to the
28 date on which a county medical examiner is appointed shall continue as
29 provided by the applicable law under which it is commenced.

Approved by the Governor - June 6, 1975

Filed in the Office of the Secretary of State - June 6, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 115
SENATE BILL 1124

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; PROVIDING FOR THE CONTROL OF LEAD-BASED PAINT AND THE DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING; PROVIDING AUTHORITY FOR ADOPTION OF RULES AND REGULATIONS; PRESCRIBING A PENALTY; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR REPORT OF FINDINGS TO LEGISLATURE, AND AMENDING TITLE 36, CHAPTER 13, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6.

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

2 Section 1. Title 36, chapter 13, Arizona Revised Statutes, is
3 amended by adding article 6, to read:

4 ARTICLE 6: LEAD-BASED PAINT

5 36-1671. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "DEPARTMENT" MEANS THE STATE DEPARTMENT OF HEALTH SERVICES.

8 2. "DIRECTOR" MEANS THE DIRECTOR OF THE STATE DEPARTMENT OF
9 HEALTH SERVICES.

10 3. "LEAD-BASED PAINT" MEANS ANY PAINT CONTAINING MORE THAN FIVE-
11 TENTHS OF ONE PERCENTUM LEAD BY WEIGHT (CALCULATED AS LEAD METAL) IN
12 THE TOTAL NONVOLATILE CONTENT OF LIQUID PAINTS OR IN THE DRIED FILM
13 OF PAINT ALREADY APPLIED.

14 4. "LOCAL AGENCY" MEANS A LOCAL BOARD OF HEALTH OR A LOCAL HEALTH
15 DEPARTMENT ESTABLISHED PURSUANT TO TITLE 36, CHAPTER 1, ARTICLES 3 AND
16 4.

17 36-1672. Local programs

18 A. THE DEPARTMENT IS AUTHORIZED TO DEVELOP AND CONDUCT LOCAL
19 PROGRAMS FOR THE PREVENTION, DETECTION AND TREATMENT OF LEAD-BASED
20 PAINT POISONING, SUBJECT TO LEGISLATIVE APPROPRIATION. SUCH AUTHORIZA-
21 TION SHALL INCLUDE:

22 1. EDUCATIONAL PROGRAMS INTENDED TO COMMUNICATE THE HEALTH
23 DANGER AND PREVALENCE OF LEAD-BASED PAINT POISONING AMONG CHILDREN
24 TO PARENTS, EDUCATORS AND LOCAL HEALTH OFFICIALS.

25 2. DEVELOPMENT AND CARRYING OUT OF COMMUNITY TESTING PROGRAMS
26 DESIGNED TO DETECT INCIDENCE OF LEAD POISONING DUE TO LEAD-BASED PAINT
27 AND OTHER SOURCES AMONG COMMUNITY RESIDENTS AND TO INSURE PROMPT MEDICAL
28 TREATMENT FOR SUCH AFFLICTED INDIVIDUALS.

1 B. THE DIRECTOR MAY DELEGATE TO ANY LOCAL AGENCY THE AUTHORITY
2 TO CONDUCT THE LOCAL PROGRAM WITHIN SUCH LOCAL AGENCY'S JURISDICTION
3 AS PROVIDED IN SECTION 36-136, SUBSECTION D.

4 36-1673. Reporting of lead levels

5 THE DIRECTOR SHALL ADOPT RULES AND REGULATIONS ESTABLISHING AN
6 EFFECTIVE PROCEDURE UNDER WHICH ALL PHYSICIANS LICENSED PURSUANT TO
7 THE PROVISIONS OF TITLE 32, CHAPTER 13 OR 17 SHALL REPORT TO THE
8 DEPARTMENT ALL ANALYSES OF BLOOD SAMPLES WHICH INDICATE SIGNIFICANT
9 LEVELS OF LEAD. THE REGULATIONS SHALL INCLUDE SUCH NECESSARY CRITERIA
10 TO DETERMINE THOSE LEVELS OF SIGNIFICANCE WHICH SHALL BE REPORTED.

11 36-1674. Prohibited acts

12 A. IT SHALL BE UNLAWFUL FOR ANY PERSON TO:

13 1. APPLY LEAD-BASED PAINT TO ANY INTERIOR SURFACE OF RESIDENTIAL
14 HOUSING OR A PUBLIC BUILDING AND TO THE EXTERIORS AND PORCHES OF SUCH
15 HOUSING AND BUILDINGS IN ANY AREA WHICH IS READILY ACCESSIBLE TO
16 CHILDREN UNDER SEVEN YEARS OF AGE.

17 2. APPLY LEAD-BASED PAINT TO ANY TOY, FURNITURE, COOKING UTENSIL,
18 DRINKING UTENSIL, OR EATING UTENSIL IN VIOLATION OF THE REQUIREMENTS
19 ESTABLISHED BY THE DIRECTOR.

20 3. SELL OR DISTRIBUTE ANY TOY, FURNITURE, COOKING UTENSIL,
21 DRINKING UTENSIL, OR EATING UTENSIL CONTAINING ANY LEAD-BASED PAINT
22 WHICH DOES NOT CONFORM WITH THE REQUIREMENTS ESTABLISHED BY THE DIRECTOR.

23 B. LEAD-BASED PAINT THAT MAY BE PURCHASED BY THE GENERAL PUBLIC
24 SHALL NOT BE SOLD OR DISTRIBUTED IN ANY FORM UNLESS THE CONTAINER IS
25 CLEARLY LABELED AS FOLLOWS:

26 "(FRONT PANEL)

27 WARNING!

28 CONTAINS LEAD

29 DRIED FILM OF THIS PAINT MAY BE

30 HARMFUL IF EATEN OR CHEWED

31 SEE OTHER CAUTIONS ON (SIDE OR BACK) PANEL.*
32 (BACK OR SIDE PANEL)

33 CAUTIONS

34 DO NOT APPLY ON TOYS AND OTHER CHILDREN'S
35 ARTICLES, FURNITURE, OR INTERIOR SURFACES
36 OF ANY DWELLING OR FACILITY WHICH MAY BE
37 OCCUPIED OR USED BY CHILDREN.

38 DO NOT APPLY ON THOSE EXTERIOR SURFACES OF
39 DWELLING UNITS, SUCH AS WINDOWSILLS, PORCHES,
40 STAIRS, OR RAILING, TO WHICH CHILDREN MAY BE
41 COMMONLY EXPOSED.

42 KEEP OUT OF REACH OF CHILDREN."

43 THE SIGNAL WORD, THE STATEMENT OF THE PRINCIPAL HAZARD OR HAZARDS,
44 AND INSTRUCTIONS TO READ CAREFULLY ANY CAUTIONARY INFORMATION THAT
45 MAY BE PLACED ELSEWHERE ON THE LABEL SHALL APPEAR TOGETHER ON THE
46 MAIN PANEL OF THE LABEL. SUCH INFORMATION SHALL BE PLACED TOGETHER
47 AND DISTINCTIVELY APART FROM OTHER WORDING OR DESIGNS. THE NECESSARY
48 PROMINENCE SHALL BE ACHIEVED BY PLACEMENT WITHIN THE BORDERS OF A
49 SQUARE OR RECTANGLE WITH OR WITHOUT A BORDERLINE, AND BY USE OF
50 SUITABLE CONTRASTS WITH THE BACKGROUND ACHIEVED BY DISTINCTIVE

1 TYPOGRAPHY OR COLOR, AND BY BOTH COLOR AND TYPOGRAPHY WHEN NEEDED.
2 THE SIGNAL WORD AND STATEMENT OF HAZARD SHALL BE IN CAPITAL LETTERS.
3 THE SIGNAL WORD SHALL BE OF A SIZE BEARING A REASONABLE RELATIONSHIP
4 TO THE OTHER TYPE ON THE MAIN PANEL, BUT SHALL NOT BE LESS THAN
5 EIGHTEEN POINT TYPE, AND THE SIZE OF THE STATEMENT OF HAZARD SHALL
6 NOT BE LESS THAN TWELVE POINT TYPE UNLESS THE LABEL SPACE ON THE
7 CONTAINER IS TOO SMALL TO ACCOMMODATE SUCH TYPE SIZE. WHEN THE SIZE
8 OF THE LABEL SPACE REQUIRES A REDUCTION IN TYPE SIZE, THE REDUCTION
9 SHALL BE MADE TO A SIZE NO SMALLER THAN NECESSARY AND IN NO EVENT TO
10 A SIZE SMALLER THAN SIX POINT TYPE. THE LABEL REQUIREMENT REQUIRED
11 BY THIS SUBSECTION SHALL NOT APPLY TO ARTISTS' SUPPLIES.

12 C. ANY PERSON WHO VIOLATES A PROVISION OF THIS SECTION IS
13 GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN FIVE
14 THOUSAND DOLLARS FOR EACH SUCH VIOLATION.

15 36-1675. Administration

16 A. THE DIRECTOR MAY ADOPT SUCH RULES AND REGULATIONS AS MAY
17 BE NECESSARY AND FEASIBLE TO IMPLEMENT THE PURPOSES OF THIS ARTICLE.

18 B. NO PERSON SHALL INTERFERE, OBSTRUCT OR HINDER AN AUTHORIZED
19 REPRESENTATIVE OF THE DEPARTMENT IN THE PERFORMANCE OF HIS DUTY TO
20 ADMINISTER THE PROVISIONS OF THIS ARTICLE OR THE RULES AND REGULATIONS
21 ADOPTED THEREUNDER.

22 C. THE DEPARTMENT, THROUGH ITS AUTHORIZED REPRESENTATIVE, MAY
23 TAKE SAMPLES OF MATERIALS FOR INSPECTION AND ANALYSIS, AND HOLD FOR
24 ANY ITEM REGULATED BY THIS ARTICLE.

25 D. THE DEPARTMENT, THROUGH ITS AUTHORIZED REPRESENTATIVE, MAY
26 REMOVE FROM AVAILABILITY FOR SALE ANY REGULATED ITEM WHEN THERE IS
27 REASONABLE CAUSE TO BELIEVE A VIOLATION OF THIS ARTICLE OR THE RULES
28 AND REGULATIONS ADOPTED THEREUNDER EXISTS. WHEN SUCH REGULATED ITEMS
29 ARE REMOVED FROM AVAILABILITY FOR SALE, THEY SHALL BE SO TAGGED, AND
30 SUCH TAGS SHALL NOT BE REMOVED EXCEPT BY AN AUTHORIZED REPRESENTATIVE
31 OF THE DEPARTMENT, OR AS THE DEPARTMENT MAY DIRECT, AFTER SATISFACTORY
32 PROOF OF COMPLIANCE WITH ALL REQUIREMENTS OF THIS ARTICLE AND SUCH
33 RULES AND REGULATIONS AND A RELEASE FOR SALE HAS BEEN ISSUED BY THE
34 DEPARTMENT THROUGH ITS AUTHORIZED REPRESENTATIVE.

35 36-1676. Injunction

36 IN ADDITION TO THE REMEDIES PROVIDED IN THIS ARTICLE, THE
37 DIRECTOR, WITH THE ASSISTANCE OF THE ATTORNEY GENERAL, MAY APPLY
38 TO THE SUPERIOR COURT FOR INJUNCTIVE RELIEF.

39 Sec. 2. Report of findings

40 The department shall report its findings pursuant to this
41 article to the legislature by January 1, 1977.

Approved by the Governor - June 6, 1975

Filed in the office of the Secretary of State - June 6, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 116
SENATE BILL 1286

AN ACT

RELATING TO TRANSPORTATION; PRESCRIBING PROCEDURES FOR REMOVAL AND DISPOSITION OF ABANDONED AND SEIZED VEHICLES; PROVIDING FOR CERTAIN CODE CORRECTIONS; PROVIDING FOR REPORT OF VEHICLES ABANDONED IN REPAIR FACILITY AND FOR SALE THEREOF; PRESCRIBING REQUIREMENTS OF NOTICE TO SELL, JUNK, DISMANTLE OR DESTROY VEHICLE; PROVIDING THAT INCORPORATED CITIES AND TOWNS MAY PROVIDE BY ORDINANCE FOR REMOVAL, CUSTODY AND APPRAISAL OF ABANDONED VEHICLES ON PUBLIC OR PRIVATE PROPERTY WITHIN THEIR JURISDICTION; AMENDING SECTIONS 28-1401, 28-1401.01, 28-1401.02, 28-1402, 28-1403, 28-1404, 28-1405 AND 28-1408, ARIZONA REVISED STATUTES, AND AMENDING TITLE 28, CHAPTER 8, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-1403.01 AND 28-1409.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-1401, Arizona Revised Statutes, is amended
3 to read:
4 28-1401. Definitions
5 In this article, unless the context otherwise requires:
6 1. ~~"Lost, stolen, abandoned or otherwise unclaimed vehicles"~~
7 "ABANDONED VEHICLE" means any vehicle, trailer or semi-trailer of a type
8 subject to registration under this title, WHETHER LOST, STOLEN, ABANDONED
9 OR OTHERWISE UNCLAIMED, which has been abandoned on a public highway,
10 public property or elsewhere within the state, including private property.
11 Evidence that a vehicle was left unattended for a period of ~~thirty-six~~
12 FORTY-EIGHT hours within the right of way of a highway, road, street or
13 other public thoroughfare, shall be prima facie evidence of abandonment.
14 2. "Officer" means a police officer or other law enforcement
15 officer.
16 3. "State vehicle registration agency" means the agency or depart-
17 ment of any state which has charge of the records of motor vehicle reg-
18 istration in that state.
19 4. ~~"Superintendent"~~ "ASSISTANT DIRECTOR" means the ~~superintendent~~
20 ASSISTANT DIRECTOR of the ~~motor-vehicle-division~~ DEPARTMENT OF TRANSPOR-
21 TATION.
22 Sec. 2. Section 28-1401.01, Arizona Revised Statutes, is amended
23 to read:
24 28-1401.01. Abandonment prohibited; presumption;
25 removal; appraisal
26 A. No person shall abandon a vehicle upon any street, highway or
27 public property.
28 B. Any officer who has reasonable grounds to believe that a vehicle
29 has been lost, stolen, abandoned or otherwise unclaimed may remove or

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1 cause the removal of such vehicle from any street, highway or public
2 property.

3 C. The abandonment of any vehicle in a manner provided in this
4 article shall constitute a presumption that the last registered owner
5 of record is responsible for such abandonment, ~~provided that a person who~~
6 ~~has filed~~ AND SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE, UNLESS
7 an affidavit HAS BEEN FILED that the vehicle ~~has been~~ WAS stolen pursuant
8 to section 28-1421, or a stolen report has been accepted by a local law
9 enforcement agency, or a report has been filed pursuant to section 28-314.
10 ~~It shall not be subject to the provisions of this subsection.~~

11 D. THE PUBLIC AGENCY EMPLOYING AN OFFICER WHO HAS REMOVED AN
12 ABANDONED VEHICLE SHALL MAKE AN APPRAISAL OF ANY SUCH VEHICLE WITHIN FIVE
13 DAYS OF REMOVAL TO A LOCATION PREDETERMINED BY THE POLITICAL SUBDIVISION
14 IN WHICH THE VEHICLE WAS ABANDONED.

15 E. THE FOLLOWING PERSONS SHALL HAVE THE AUTHORITY TO MAKE AP-
16 PRAISALS OF THE VALUE OF ABANDONED VEHICLES FOR PURPOSES OF THIS ARTICLE,
17 SUBJECT TO THE CONDITIONS STATED IN THIS ARTICLE:

18 1. ANY MEMBER OF THE ARIZONA HIGHWAY PATROL DESIGNATED BY THE
19 DEPARTMENT OF PUBLIC SAFETY.

20 2. ANY DEPUTY SHERIFF DESIGNATED BY THE SHERIFF OF ANY COUNTY.

21 3. ANY POLICE OFFICER DESIGNATED BY THE CHIEF OF POLICE OR TOWN
22 MARSHAL OF ANY CITY OR TOWN.

23 4. ANY OFFICER OR EMPLOYEE DESIGNATED BY THE DIRECTOR OR ASSISTANT
24 DIRECTOR.

25 F. ANY PUBLIC AGENCY WHICH DESIGNATES A PERSON AUTHORIZED TO MAKE
26 APPRAISAL SHALL CERTIFY THE NAME OF EVERY SUCH PERSON TO THE DIRECTOR OR
27 ASSISTANT DIRECTOR.

28 G. AN ABANDONED VEHICLE WHICH IS APPRAISED AT A VALUE EXCEEDING
29 ONE HUNDRED DOLLARS SHALL BE REMOVED AND DISPOSED OF PURSUANT TO THIS
30 ARTICLE, EXCEPT THAT THE PROVISIONS OF SECTION 28-1409 SHALL NOT APPLY
31 TO SUCH VEHICLE.

32 H. AN ABANDONED VEHICLE WHICH IS APPRAISED AT A VALUE OF ONE HUNDRED
33 DOLLARS OR LESS SHALL BE REMOVED AND DISPOSED OF PURSUANT TO THE PROVISIONS
34 OF SECTION 28-1409.

35 Sec. 3. Section 28-1401.02, Arizona Revised Statutes, is amended to
36 read:

37 28-1401.02. Required report of towed vehicles; violation

38 Any vehicle moved, towed, or ordered by an officer into a public
39 garage, parking lot, storage yard or wrecking yard, without the consent
40 of the owner, shall be reported within seventy-two hours by the person
41 having custody thereof to the ~~superintendent~~ ASSISTANT DIRECTOR, on
42 forms prescribed by the ~~superintendent~~ ASSISTANT DIRECTOR, and such
43 person shall send a copy of such report to the superintendent of the
44 Arizona highway patrol. Any person who fails to make such a report is
45 guilty of a misdemeanor.

46 Sec. 4. Section 28-1402, Arizona Revised Statutes, is amended to
47 read:

48 28-1402. Required report of abandoned, junked and
49 seized motor vehicles; violation

50 Any person having knowledge and custody of a vehicle which is

1 either lost, stolen, abandoned, or otherwise unclaimed, or of a vehicle
 2 which has been seized pursuant to law or removed from the right of way
 3 of a highway, road, street or other public thoroughfare, or other public
 4 property, by order of a highway patrolman, sheriff's officer or city or
 5 town policeman, and which has been held for a period of fifteen days,
 6 where no claim has been made for the return or possession thereof by any
 7 person legally entitled thereto, shall make a report thereof to the
 8 ~~superintendent~~ ASSISTANT DIRECTOR within five days after the expiration
 9 of the fifteen-day retention period for disposal of the vehicle by public
 10 auction and sale in accordance with this article. The report shall be
 11 made on a form prescribed by the ~~superintendent~~ ASSISTANT DIRECTOR and
 12 shall contain a complete description of the vehicle, the vehicle license
 13 or registration number, if any, the circumstances of the officer's removal
 14 or custody and other information the ~~superintendent~~ ASSISTANT DIRECTOR
 15 requires. Any person who fails to make such report is guilty of a mis-
 16 demeanor.

17 Sec. 5. Section 28-1403, Arizona Revised Statutes, is amended to
 18 read:

19 28-1403. Required report of vehicles abandoned
 20 in storage; sale; violation

21 A. Any vehicle left in a public garage or parking lot for storage
 22 or parking more than fifteen days, when it has not been left under a
 23 written contract of storage and has not, during that period, been
 24 removed by the person leaving it, is an abandoned vehicle and shall be
 25 reported on forms prescribed by the ~~superintendent~~ ASSISTANT DIRECTOR
 26 by the party in possession thereof to the ~~superintendent~~ ASSISTANT
 27 DIRECTOR and a copy of such report shall be sent by such party to the
 28 superintendent of the Arizona highway patrol. Any person who fails to
 29 make such report to the ~~superintendent~~ ASSISTANT DIRECTOR and tender
 30 delivery of the vehicle to him at the end of five days following the
 31 fifteen-day period, shall forfeit all claims for storage of the vehicle
 32 and is guilty of a misdemeanor.

33 B. Vehicles abandoned by being left in a public garage or parking
 34 lot as provided by this article shall be disposed of in accordance with
 35 sections 28-1404 and 28-1405.

36 Sec. 6. Title 28, chapter 8, article 5, Arizona Revised Statutes,
 37 is amended by adding section 28-1403.01, to read:

38 28-1403.01. Report of vehicles abandoned
 39 in repair facility; sale

40 A. ANY VEHICLE LEFT IN A REPAIR FACILITY OPERATED FOR COMMERCIAL
 41 PURPOSES FOR MORE THAN TEN DAYS AFTER NOTICE TO PICK UP THE VEHICLE HAS
 42 BEEN MAILED TO THE OWNER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AT
 43 THE ADDRESS LISTED ON THE VEHICLE REGISTRATION, SHALL BE DEEMED AN ABAN-
 44 DONED VEHICLE AND SHALL BE REPORTED BY THE PARTY IN POSSESSION THEREOF TO
 45 THE ASSISTANT DIRECTOR, PROVIDED, HOWEVER, THAT THIS SECTION DOES NOT
 46 APPLY TO VEHICLES LEFT UNDER A CONTRACT FOR REPAIR. ANY OPERATOR OF A
 47 REPAIR FACILITY FAILING TO MAKE SUCH A REPORT TO THE ASSISTANT DIRECTOR
 48 AND TO TENDER DELIVERY OF THE VEHICLE TO HIM AT THE END OF THE SUCCEEDING
 49 THIRTY DAYS, SHALL FORFEIT ALL CLAIMS FOR TOWING, REPAIR ESTIMATES OR
 50 STORAGE OF THE VEHICLE.

1 B. VEHICLES ABANDONED BY BEING LEFT IN A REPAIR FACILITY AS
2 PROVIDED BY THIS ARTICLE SHALL BE DISPOSED OF IN ACCORDANCE WITH SECTIONS
3 28-1404 AND 28-1405.

4 C. EXCEPT FOR THE TERMINATION OF CLAIM FOR STORAGE FOR FAILURE
5 TO REPORT AN ABANDONED VEHICLE, NOTHING IN THIS SECTION SHALL BE CONSTRUED
6 TO IMPAIR ANY LIEN OF A PROPRIETOR OF A GARAGE, REPAIR OR SERVICE STATION
7 UNDER THE LAWS OF THIS STATE OR THE RIGHT OF A LIENHOLDER TO FORECLOSE.

8 Sec. 7. Section 28-1404, Arizona Revised Statutes, is amended to
9 read:

10 28-1404. Notice to sell, junk, dismantle or destroy

11 A. The ASSISTANT director shall, upon receipt of a report as
12 required by this article, cause a search of the records of the department
13 to be made, or if a vehicle appears to be registered in another state,
14 make inquiry of the vehicle registration agency of such state, to
15 ascertain the name and address of the owner ~~or-lien-holder~~ AND LIENHOLDER,
16 if any, of the vehicle.

17 B. Upon receipt of information disclosing the name and address
18 of the owner ~~or-lien-holder~~ AND LIENHOLDER, if any, the ASSISTANT director
19 shall, not less than fifteen days prior to the date of taking such
20 action, give to the owner ~~or-lien-holder~~ AND LIENHOLDER, if any, notice
21 of his intention to sell the vehicle. Notice shall be given by registered
22 ~~or~~ certified mail TO BE DELIVERED TO ADDRESSEE ONLY, and request made for
23 a return receipt.

24 C. If the records of the department fail to disclose the name
25 and address of the owner ~~or-lien-holder~~ AND LIENHOLDER, if any, and
26 there appears to be no registered holder in another state, or if the
27 notice is returned marked unclaimed or addressee unknown, then notice
28 of the ASSISTANT director's intention to sell shall be published once
29 in a newspaper of general circulation in the county in which the vehicle
30 was found or seized. The notice shall include a complete description
31 of the vehicle, and the place and date the vehicle was found, seized or
32 taken into possession, AND THE LOCATION OF THE VEHICLE.

33 D. Any person who has filed a report of an abandoned vehicle in
34 accordance with sections 28-1402 and 28-1403 shall within twenty-four
35 hours notify the ASSISTANT director if the vehicle is claimed by the
36 lawful owner. Such notification shall be in the manner prescribed by
37 the ASSISTANT director.

38 Sec. 8. Section 28-1405, Arizona Revised Statutes, is amended to
39 read:

40 28-1405. Sale of vehicle

41 A. If at the expiration of fifteen days from mailing the registered
42 ~~or~~ certified notice, or upon the expiration of fifteen days from the pub-
43 lication as provided in section 28-1404, the vehicle is unclaimed, the
44 ~~superintendent~~ ASSISTANT DIRECTOR or his agent may sell the vehicle at
45 public auction to the highest bidder upon notice of sale published in
46 one issue of a newspaper of general circulation in the county in which
47 the vehicle will be sold. The notice shall include a complete description
48 of the vehicle to be sold and the time, place and date of sale, which
49 shall not be less than five nor more than ten days following the date
50 of publication of the notice.

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1 B. The purchaser at the sale shall be entitled to, and the
2 ~~superintendent~~ ASSISTANT DIRECTOR shall issue to him, a certificate of
3 title free and clear of all liens or encumbrances upon compliance with
4 the provisions of this article.

5 Sec. 9. Section 28-1408, Arizona Revised Statutes, is amended to
6 read:

7 28-1408. Local ordinances

8 Incorporated cities or towns may provide by ordinance for the removal,
9 ~~or~~ custody AND APPRAISAL of abandoned vehicles on PUBLIC OR private property
10 within their jurisdiction. Such vehicles shall be disposed of according to
11 the provisions of this article.

12 Sec. 10. Title 28, chapter 8, article 5, Arizona Revised Statutes,
13 is amended by adding section 28-1409, to read:

14 28-1409. Disposition of low-valued vehicle

15 A. IF AN ABANDONED VEHICLE IS APPRAISED PURSUANT TO SECTION
16 28-1401.01 AT A VALUE NOT EXCEEDING ONE HUNDRED DOLLARS, THE PUBLIC
17 AGENCY WHICH REMOVED SUCH VEHICLE SHALL:

18 1. WITHIN FORTY-EIGHT HOURS AFTER APPRAISAL NOTIFY THE DIRECTOR OR
19 ASSISTANT DIRECTOR OF THE REMOVAL OF SUCH VEHICLE.

20 2. FILE WITH THE DIRECTOR A CERTIFICATE WHICH SHALL DESCRIBE THE
21 ABANDONED VEHICLE INCLUDING THE LOCATION OF ANY LICENSE PLATES, THE
22 VEHICLE IDENTIFICATION NUMBERS, THE YEAR, MAKE AND MODEL, THE APPRAISED
23 VALUE AND STATE THAT SUCH VEHICLE WILL BE RECYCLED. THE CERTIFICATE
24 SHALL INDICATE THAT:

25 (a) NOTICE OF INTENT TO RECYCLE SUCH VEHICLE HAS BEEN MAILED TO
26 THE LAST REGISTERED LEGAL OWNER AND LIENHOLDER, IF ANY, BY CERTIFIED
27 MAIL, RETURN RECEIPT REQUESTED, AT THE ADDRESS OF RECORD WITH THE
28 DEPARTMENT OF TRANSPORTATION AND THAT A COMPILATION OF SUCH VEHICLES
29 TO BE RECYCLED HAS BEEN POSTED IN A PUBLIC PLACE, SPECIFIED BY THE
30 PUBLIC AGENCY, ON FRIDAY OF EACH WEEK, OR

31 (b) THE LAST REGISTERED LEGAL OWNER OR LIENHOLDER, IF ANY, HAS
32 SIGNED A RELEASE UNDER PENALTY OF PERJURY DISCLAIMING ANY FUTURE INTEREST
33 WHICH RELEASE SHALL BE INCLUDED WITH THE CERTIFICATE.

34 IN THE EVENT THE LAST REGISTERED AND LEGAL OWNER HAS NOT SIGNED A RELEASE
35 AND HAS NOT, WITHIN FIFTEEN DAYS AFTER OFFICIAL NOTIFICATION, RECLAIMED
36 THE ABANDONED VEHICLE SUCH ACTION SHALL CONSTITUTE A WAIVER OF INTEREST.

37 3. UPON COMPLETION AND FORWARDING OF THE CERTIFICATE, EXECUTE
38 AND DELIVER A BILL OF SALE AS PRESCRIBED BY THE DIRECTOR FREE OF ANY LIEN
39 FOR FEES AND PENALTIES DUE AND PAYABLE TO THE DEPARTMENT TOGETHER WITH
40 A COPY OF THE CERTIFICATE TO EITHER THE LIENHOLDER WHO SHALL ENDORSE THE
41 BILL OF SALE TO A PURCHASER OR TO THE PUBLIC AGENCY FOR DISPOSAL. A COPY
42 OF THE BILL OF SALE SHALL BE FORWARDED TO THE MOTOR VEHICLE DIVISION FOR
43 PURPOSES OF PURGING FILES OF RECYCLED VEHICLES. IN THE EVENT THE ASSISTANT
44 DIRECTOR HAS RECEIVED, IN WRITING, A NOTICE OF INTEREST TO PURCHASE A
45 VEHICLE BEFORE THE EXECUTION OF A BILL OF SALE, THE ASSISTANT DIRECTOR
46 MAY ORDER THAT SUCH VEHICLE BE DISPOSED OF IN ACCORDANCE WITH SECTIONS
47 28-1404 AND 28-1405.

48 B. AN ABANDONED VEHICLE APPRAISED PURSUANT TO SUBSECTION A SHALL
49 NOT BE SOLD TO A LICENSED AUTOMOBILE DEALER IN THIS STATE FOR PURPOSES
50 OF RESALE.

Approved by the Governor - June 6, 1975

Filed in the office of the Secretary of State - June 6, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 117
SENATE BILL 1390

AN ACT

RELATING TO CHILDREN; PROVIDING THAT PERSON OPERATING LICENSED FOSTER HOME SHALL NOT BE PROHIBITED FROM RECEIVING COMPENSATION ON BASIS OF HIS EMPLOYMENT WITH STATE OF ARIZONA; PRESCRIBING LEGITIMACY OF CHILDREN BORN OUT OF WEDLOCK; PRESCRIBING RETROACTIVITY; AMENDING SECTION 8-509, ARIZONA REVISED STATUTES, AND AMENDING TITLE 8, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7.

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

2 Section 1. Section 8-509, Arizona Revised Statutes, is amended
3 to read:

4 8-509. Licensing of foster homes

5 A. The division shall license and certify foster homes.

6 B. Child welfare agencies that wish to submit foster homes for
7 licensing shall conduct an investigation of the foster home according
8 to the standards of the division. The division shall conduct such in-
9 vestigations of all other foster homes. If the foster home meets all
10 requirements set by the division, the agency shall submit an application
11 stating the foster home's qualifications to the division. The agency
12 may also recommend the types of licensing and certification to be
13 granted to the foster home.

14 C. The provisions of this section shall not apply when the child
15 is placed in a home by a means other than by court order and when the
16 home receives no compensation from the state or any political subdivi-
17 sion of the state.

18 D. NO PERSON OPERATING A LICENSED FOSTER HOME SHALL BE PROHIBITED
19 FROM APPLYING FOR OR RECEIVING COMPENSATION AS A FOSTER HOME PARENT
20 SOLELY ON THE BASIS OF HIS EMPLOYMENT WITH THE STATE OF ARIZONA.

21 Sec. 2. Title 8, Arizona Revised Statutes, is amended by
22 adding chapter 7, to read:

CHAPTER 117

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CHAPTER 7

LEGITIMACY OF CHILDREN

ARTICLE 1. GENERAL PROVISIONS

8-601. Legitimacy of children born out of wedlock

EVERY CHILD IS THE LEGITIMATE CHILD OF ITS NATURAL PARENTS AND IS ENTITLED TO SUPPORT AND EDUCATION AS IF BORN IN LAWFUL WEDLOCK.

Sec. 3. Retroactivity

The provisions of this act shall be retroactive to, from and after December 31, 1973.

Approved by the Governor - June 6, 1975

Filed in the office of the Secretary of State - June 6, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 118

SENATE BILL 1359

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; PROVIDING FOR INCORPORATION OF HOSPITAL, MEDICAL, DENTAL AND OPTOMETRIC SERVICE CORPORATIONS; PRESCRIBING REQUIREMENTS FOR ISSUANCE OF CERTIFICATE OF AUTHORITY; PRESCRIBING SUBSCRIPTION CONTRACTS; PRESCRIBING DIRECTORS OF CORPORATION; PROVIDING FOR EXPENSES AND INVESTMENTS; PRESCRIBING PHYSICIAN-PATIENT RELATIONSHIP AND LIABILITIES; PRESCRIBING EXEMPTION OF CERTAIN HOSPITAL PLANS; CHANGING THE DESIGNATION OF TITLE 20, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES; AMENDING SECTIONS 20-821 AND 20-822; AMENDING SECTION HEADING 20-823, AND AMENDING SECTIONS 20-824 THROUGH 20-827, 20-829, 20-830, 20-833, 20-836, 20-839 AND 20-840, ARIZONA REVISED STATUTES.

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

2 Section 1. The article heading of Article 3, Chapter 4, Title
3 20, Arizona Revised Statutes, is changed from HOSPITAL AND MEDICAL
4 SERVICE CORPORATIONS to HOSPITAL, MEDICAL, DENTAL AND OPTOMETRIC
5 SERVICE CORPORATIONS.

6 Sec. 2. Section 20-821, Arizona Revised Statutes, is amended to
7 read:

8 20-821. Scope of article

9 Hospital service corporations, medical service corporations, DENTAL
10 SERVICE CORPORATIONS, OPTOMETRIC SERVICE CORPORATIONS and hospital, and
11 medical, DENTAL AND OPTOMETRIC service corporations incorporated in this
12 state shall be governed by this article, shall be exempt from all other
13 provisions of this title, except as expressly provided by this article,
14 and no insurance law enacted after January 1, 1955 shall be deemed to
15 apply to such corporations unless they are specifically referred to
16 therein.

17 Sec. 3. Section 20-822, Arizona Revised Statutes, is amended to
18 read:

19 20-822. Definitions

20 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 21 1. "DEPARTMENT" MEANS THE DEPARTMENT OF INSURANCE.
-

1 2. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF INSURANCE.

2 3. "Hospital service corporations", "medical service corpora-
 3 tions", "DENTAL SERVICE CORPORATIONS", "OPTOMETRIC SERVICE CORPORATIONS"
 4 and "hospital, and medical, DENTAL AND OPTOMETRIC service corporations"
 5 are MEAN corporations organized under the laws of this state for the
 6 purpose of establishing, maintaining, and operating nonprofit hospital
 7 service or medical OR DENTAL OR OPTOMETRIC service plans, or a combina-
 8 tion of such plans, whereby hospital, or medical OR DENTAL OR OPTOMETRIC
 9 service may be provided by hospitals, which within the meaning of this
 10 article may include extended care facilities and home health agencies,
 11 or by physicians, which within the meaning of this article may include
 12 professional and technical personnel under the direction of a physician,
 13 or by podiatrists, OR BY DENTISTS WHICH MAY INCLUDE THOSE ENGAGED IN
 14 THE GENERAL PRACTICE OF DENTISTRY AS WELL AS THE SPECIALIZED OR RESTRICTED
 15 PRACTICE OF DENTISTRY, OR BY OPTOMETRISTS WHICH MAY INCLUDE THOSE ENGAGED
 16 IN THE GENERAL PRACTICE OF OPTOMETRY AS WELL AS THE SPECIALIZED OR RE-
 17 STRICTED PRACTICE OF OPTOMETRY, with which the corporations have con-
 18 tracted for such purpose, to such of the public as become subscribers
 19 to the corporations under contracts which entitle each subscriber to
 20 certain hospital, or medical, DENTAL OR OPTOMETRIC service, or both
 21 IN THE CASE OF HOSPITAL SERVICE CORPORATIONS OR MEDICAL SERVICE CORPORA-
 22 TIONS, ALL SUCH SERVICES, or whereby as operating expense or refunds,
 23 payments may be made to subscribers with respect to any such service
 24 that is rendered by a hospital, physician, or podiatrist, DENTIST OR
 25 OPTOMETRIST with which the corporations have not so contracted.

26 Sec. 4. Section heading for section 20-823, Arizona Revised
 27 Statutes, is changed from "Incorporation of hospital and medical service
 28 corporations" to "Incorporation of hospital, medical, dental and optometric
 29 service corporations".

30 Sec. 5. Section 20-824, Arizona Revised Statutes, is amended
 31 to read:

32 20-824. Application for certificate; fee

33 Such a corporation may issue contracts to its subscribers only
 34 when the director of insurance has, by certificate of authority, autho-
 35 rized it so to do. Application for a certificate of authority shall
 36 be made on forms supplied or approved by the director containing such
 37 information as he deems necessary. Each application for a certificate
 38 of authority shall be accompanied by the fee prescribed by article 2
 39 of chapter 1 of this title FOR MEDICAL, HOSPITAL, DENTAL AND OPTOMETRIC
 40 SERVICE CORPORATIONS and copies of the following documents:

41 1. Articles of incorporation.

42 2. Bylaws.

43 3. Proposed contracts between the applicant and participating
 44 hospitals, and physicians, DENTISTS OR OPTOMETRISTS showing the terms
 45 under which service is to be furnished to subscribers.

46 4. Proposed contracts to be issued to subscribers.

47 5. A table of rates to be charged to subscribers.

48 6. Financial statement of the corporation, including the amounts
 49 of contributions paid or agreed to be paid to the corporation for working
 50 capital, and the name or names of each contributor and the terms of each
 51 contribution.

1 7. A statement of the area in which the corporation proposes
2 to operate.

3 Sec. 6. Section 20-825, Arizona Revised Statutes, is amended
4 to read:

5 20-825. Certificate of authority; requirements

6 The director shall issue a certificate of authority authorizing
7 the applicant to issue contracts to its subscribers when it is shown
8 to the satisfaction of the director that:

9 1. The applicant is established as a bona fide, nonprofit
10 hospital service corporation, ~~or~~ medical service corporation, DENTAL
11 SERVICE CORPORATION OR OPTOMETRIC SERVICE CORPORATION or combination
12 thereof.

13 2. The contracts between the applicant and the participating
14 hospitals, ~~or~~ physicians, DENTISTS OR OPTOMETRISTS obligate each
15 hospital, ~~or~~ physician, DENTIST OR OPTOMETRIST executing them to render
16 service to which each subscriber may be entitled under the terms of the
17 contract to be issued to the subscribers.

18 3. The amounts provided as working capital of the corporation
19 are repayable, without interest, out of operating expenses.

20 4. The amount of money actually available for working capital
21 is sufficient to carry on the plan for a period of six months from the
22 date of issuance of the certificate of authority.

23 5. The applicant has secured contracts of participation from
24 sufficient hospitals, ~~or~~ physicians, DENTISTS OR OPTOMETRISTS or ~~both~~
25 ANY COMBINATION THEREOF to provide ample protection for its subscribers
26 within the area proposed to be served by the applicant.

27 Sec. 7. Section 20-826, Arizona Revised Statutes, is amended
28 to read:

29 20-826. Subscription contracts

30 A. No contract between such a corporation and its subscribers
31 shall be issued unless the form thereof is approved in writing by the
32 director.

33 B. Each contract shall plainly state the services to which the
34 subscriber is entitled and those to which the subscriber is not entitled
35 under the plan, and shall constitute a direct obligation of the providers
36 of services with which the corporation has contracted for hospital, ~~or~~
37 medical, DENTAL OR OPTOMETRIC services.

38 C. Each contract, EXCEPT FOR DENTAL SERVICES OR OPTOMETRIC
39 SERVICES, shall be so written that the corporation shall pay benefits:

40 1. For performance of any surgical service which is covered
41 by the terms of such contract, regardless of the place of service;

42 2. For any home health service performed by a licensed home
43 health agency which a physician has prescribed in lieu of hospital
44 service, providing the hospital service would have been covered;

45 3. For any diagnostic service which a physician has performed
46 outside a hospital in lieu of inpatient service, providing the inpatient
47 service would have been covered; and

48 4. For any service performed in a hospital's outpatient depart-
49 ment or in a free-standing surgical facility, providing such service
50 would have been covered if performed as an inpatient service.

1 D. EACH CONTRACT FOR DENTAL OR OPTOMETRIC SERVICES SHALL BE
2 SO WRITTEN THAT THE CORPORATION SHALL PAY BENEFITS FOR CONTRACTED
3 DENTAL OR OPTOMETRIC SERVICES PROVIDED BY DENTISTS OR OPTOMETRISTS.

4 E. Any contract except accidental death and dismemberment
5 applied for that provides family coverage shall, as to such coverage
6 of family members, also provide that the benefits applicable for
7 children shall be payable with respect to a newly born child of the
8 insured from the instant of such child's birth to the same extent that
9 such coverage applies to other members of the family. The coverage for
10 newly born children shall include coverage of injury or sickness in-
11 cluding necessary care and treatment of medically diagnosed congenital
12 defects and birth abnormalities. If payment of a specific premium
13 is required to provide coverage for a child, the contract may require
14 that notification of birth of a newly born child and payment of the
15 required premium must be furnished to the insurer within thirty-one
16 days after the date of birth in order to have the coverage continue
17 beyond the thirty-one day period.

18 Sec. 8. Section 20-827, Arizona Revised Statutes, is amended
19 to read:

20 20-827. Participating hospitals, physicians, dentists
21 and optometrists

22 A corporation holding a certificate of authority under this arti-
23 cle may enter into contracts only with licensed hospitals approved for
24 participation by the board of directors of the corporation, and with
25 physicians, and surgeons, DENTISTS AND OPTOMETRISTS duly licensed to
26 practice in this state, and may enter into contracts of participation
27 with any hospital maintained and operated by the state or any political
28 subdivision thereof.

29 Sec. 9. Section 20-829, Arizona Revised Statutes, is amended to
30 read:

31 20-829. Directors

32 The directors of such a corporation shall at all times include
33 representatives of:

34 1. Administrators or trustees of hospitals which have contracted
35 with the corporation to render hospital service to subscribers, if the
36 corporation is a hospital service corporation or a hospital and medical
37 service corporation.

38 2. Physicians and surgeons licensed to practice in this state
39 who have contracted with the corporation to render medical service to
40 subscribers, if the corporation is a medical service corporation or a
41 hospital and medical service corporation.

42 3. DENTISTS LICENSED TO PRACTICE IN THIS STATE WHO HAVE CONTRACTED
43 WITH THE CORPORATION TO RENDER DENTAL SERVICE TO SUBSCRIBERS, IF THE
44 CORPORATION IS A DENTAL SERVICE CORPORATION.

45 4. OPTOMETRISTS LICENSED TO PRACTICE IN THIS STATE WHO HAVE CON-
46 TRACTED WITH THE CORPORATION TO RENDER OPTOMETRIC SERVICE TO SUBSCRIBERS,
47 IF THE CORPORATION IS AN OPTOMETRIC SERVICE CORPORATION.

48 5. The general public, exclusive of hospital representatives
49 and physicians, DENTISTS AND OPTOMETRISTS.

1 Sec. 10. Section 20-830, Arizona Revised Statutes, is amended
2 to read:

3 20-830. Expenses and investments

4 A. The operating and administrative expenses of any such corpora-
5 tion, including all costs in connection with solicitation of subscribers
6 to the corporation and capital expenditures, shall not exceed thirty per
7 cent of paid subscriptions during the first year of operation, twenty-five
8 per cent of paid subscriptions during the second year of operation, and
9 twenty per cent of paid subscriptions in any year thereafter.

10 B. All funds not set aside for operating expenses shall be placed
11 in a reserve that may be expended only for payment to participating
12 hospitals, and physicians, DENTISTS AND OPTOMETRISTS for services to sub-
13 scribers, for payment to subscribers for coverage on prescription drugs
14 when provision is so made in subscription contracts, or as a refund to
15 the subscribers. The funds of the corporation shall be invested as pre-
16 scribed by article 2, chapter 3 of this title for domestic insurers.

17 Sec. 11. Section 20-833, Arizona Revised Statutes, is amended
18 to read:

19 20-833. Relationship of physician and patient or
20 dentist and patient or optometrist and
21 patient

22 A. Nothing in this article shall be deemed to alter the relation-
23 ship of physician and patient, DENTIST AND PATIENT OR OPTOMETRIST AND
24 PATIENT.

25 B. No such corporation shall in any way influence the subscriber
26 in his free choice of hospital, ~~or~~ physician, DENTIST OR OPTOMETRIST
27 other than to limit its benefits to participating hospitals, and
28 physicians, DENTISTS AND OPTOMETRISTS.

29 C. Nothing in this article shall be deemed to abridge the right
30 of any physician, ~~or~~ hospital, DENTIST OR OPTOMETRIST to decline patients
31 in accordance with the standards and practices of such physician, ~~or~~
32 hospital, DENTIST OR OPTOMETRIST, and no such corporation shall be deemed
33 to be engaged in the corporate practice of medicine.

34 Sec. 12. Section 20-836, Arizona Revised Statutes, is amended to
35 read:

36 20-836. Limitation on liability

37 No liability shall attach to any corporation holding a certificate
38 of authority under this article by reason of the failure on the part of
39 any of its participating hospitals, ~~or~~ physicians, DENTISTS OR OPTOME-
40 TRISTS to render service, except as provided by this article, to any
41 of its subscribers, nor for the negligence, malpractice or other acts
42 of its participating hospitals, ~~or~~ physicians, DENTISTS OR OPTOMETRISTS.

43 Sec. 13. Section 20-839, Arizona Revised Statutes, is amended to
44 read:

45 20-839. Exemption of certain hospital plans

46 A. This article shall not apply to any corporation operating or
47 maintaining a hospital service plan, ~~or~~ medical service plan, DENTAL
48 SERVICE PLAN OR OPTOMETRIC SERVICE PLAN, participation in which is
49 limited to its employees and the employees of other persons or corpora-
50 tions with which such corporation may have contracted to provide such
51 services.

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1 B. As used in this section, the term "employees" shall include
2 members of the families of employees.

3 Sec. 14. Section 20-840, Arizona Revised Statutes, is amended
4 to read:

5 20-840. Continuation of existing certificates,
6 licenses and rights

7 This article shall not be construed in any manner to abrogate,
8 amend or annul any certificate, license or right acquired prior to
9 January 1, 1955 by any corporation, insurer, hospital, physician,
10 DENTIST, OPTOMETRIST, individual or subscriber under or pursuant to
11 Laws 1945, 1st Special Session, chapter 13, and all of such certificates,
12 licenses and rights shall be and they are continued in full force and
13 effect.

Approved by the Governor - June 6, 1975

Filed in the office of the Secretary of State - June 6, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 119
SENATE BILL 1347

AN ACT

RELATING TO COUNTY IMPROVEMENT DISTRICTS; PROVIDING FOR THE ISSUANCE OF BOND ANTICIPATION NOTES; PROVIDING FOR A REVOLVING FUND; VALIDATING CERTAIN ACTS AND PROCEEDINGS TAKEN PURSUANT TO TITLE 11, CHAPTER 5, ARTICLES 1 AND 1.1; PROVIDING EXCEPTIONS; PRESCRIBING A NEW METHOD BY WHICH A COUNTY IMPROVEMENT DISTRICT MAY ORDER CONSTRUCTION OF IMPROVEMENTS AND AN ALTERNATE METHOD OF LEVYING ASSESSMENTS AND THE ISSUANCE OF BONDS FOR THE CONSTRUCTION OF IMPROVEMENTS; AMENDING TITLE 11, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 11-760 AND 11-760.01; REPEALING TITLE 11, CHAPTER 5, ARTICLE 1.1, ARIZONA REVISED STATUTES, AND AMENDING TITLE 11, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 1.1.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 11, chapter 5, article 1, Arizona Revised
3 Statutes, is amended by adding sections 11-760 and 11-760.01, to read:
4 11-760. Bond anticipation notes; form; procedures
5 applicable
6 A. IF THE BOARD OF DIRECTORS HAS DETERMINED THAT IMPROVEMENT BONDS
7 SHALL BE ISSUED, BOND ANTICIPATION NOTES MAY BE SOLD AT ANY TIME AFTER
8 THE ORDERING OF THE WORK.
9 B. PRINCIPAL AND INTEREST ON THE BOND ANTICIPATION NOTES SHALL BE
10 PAID SOLELY FROM THE PROCEEDS OF THE SALE OF IMPROVEMENT BONDS AND MONIES
11 COLLECTED FROM PROPERTY OWNERS PAYING ALL OR PART OF THEIR ASSESSMENTS
12 IN CASH PRIOR TO THE FILING OF THE CERTIFIED LIST OF UNPAID ASSESSMENTS
13 AS PROVIDED IN SECTION 11-736. THE NOTES MAY BE IN SUCH FORM AND DENOM-
14 INATION AS THE BOARD OF DIRECTORS SHALL PROVIDE. THE NOTES SHALL BE
15 EXECUTED BY THE SUPERINTENDENT OF STREETS OR THE TREASURER AND ATTESTED
16 BY THE CLERK. THE NOTES MAY BEAR INTEREST FROM THEIR DATE AT A RATE NOT
17 IN EXCESS OF THE RATE TO BE BORNE ON THE BONDS AS SHOWN IN THE RESOLUTION
18 OF INTENTION. THE TERM OF THE NOTES SHALL NOT EXTEND MORE THAN SIX
19 MONTHS BEYOND THE DATE SET FOR COMPLETION OF THE CONSTRUCTION BUT THE
20 BOARD OF DIRECTORS SHALL ALWAYS RETAIN THE OPTION OF REPAYING SUCH NOTES
21 IN ADVANCE OF MATURITY AND WITHOUT PENALTY AND THE FURTHER OPTION TO
22 EXTEND THE LIFE OF THE NOTES IF THE TERM OF THE CONSTRUCTION CONTRACT
23 IS EXTENDED OR IF ANY DEFAULT IS MADE BY THE CONTRACTOR. THE NOTES SHALL
24 BE AUTHORIZED BY RESOLUTION OF THE BOARD OF DIRECTORS.

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1 C. THE TOTAL AMOUNT OF NOTES TO BE ISSUED FOR ANY WORK OR
2 IMPROVEMENT SHALL NOT BE GREATER THAN THE AGGREGATE OF NINETY PER
3 CENT OF THE CONTRACT PRICE AND THE TOTAL ESTIMATED AMOUNT OF IN-
4 CIDENTAL EXPENSES. THE NOTES SHALL BE SOLD AT NOT LESS THAN PAR
5 AT EITHER PUBLIC OR PRIVATE SALE. THE SUPERINTENDENT OF STREETS
6 MAY ENTER INTO LOAN AGREEMENTS WITH THE PURCHASER OF THE NOTES
7 RELATIVE TO:
8 1. THE TIME AND PLACE OF DELIVERY.
9 2. THE SALE OF IMPROVEMENT BONDS TO THE PURCHASER OF THE
10 NOTES IF THE MUNICIPALITY IS UNABLE TO PROCURE A PURCHASER WILLING
11 TO PURCHASE THE BONDS WHEN ISSUED.
12 3. NAMING THE PURCHASER OF THE NOTES OR HIS OR HER NOMINEE AS
13 THE DISTRICT'S ASSIGNEE FOR PURPOSES OF MAKING THE DEMAND UPON THE
14 OWNERS OF PROPERTY FOR PAYMENT IN CASH.
15 4. COLLECTION OF CASH PAYMENTS FROM PERSONS WISHING TO PAY
16 THEIR ASSESSMENTS IN CASH AND APPLICATION OF SUCH CASH PAYMENTS TO
17 THE REPAYMENT OF THE NOTES.
18 5. PAYMENT OF AN ADDITIONAL FEE TO THE PURCHASER OF THE NOTES
19 TO COVER THE ADMINISTRATIVE EXPENSES OF THE CASH COLLECTIONS IF THE
20 PURCHASER IS TO BE THE PERSON TO WHOM CASH COLLECTIONS ARE TO BE MADE.
21 6. REQUIRING THE PURCHASER OR HIS OR HER NOMINEE TO PROCURE OR
22 SHOW PROOF OF A FIDELITY BOND.
23 7. SUCH OTHER PROVISIONS AS THE PARTIES MAY DETERMINE TO BE
24 NECESSARY TO SECURE THE REPAYMENT OF THE NOTES.
25 D. TO SECURE THE PAYMENT OF THE NOTES THE LOAN AGREEMENTS MAY
26 ALSO PROVIDE FOR A COLLATERAL ASSIGNMENT TO THE PURCHASER OF THE NOTES
27 OF ALL CASH COLLECTIONS, THE WARRANT AND THE DISTRICT'S INTEREST IN
28 THE PERFORMANCE BOND.
29 E. THE PROCEEDS FROM THE SALE OF THE NOTES SHALL BE PLACED IN A
30 SPECIAL FUND TO BE HELD BY THE TREASURER AND TO BE USED FOR PAYMENT OF
31 INCIDENTAL EXPENSES AND PAYMENTS TO THE CONSTRUCTION CONTRACTOR.
32 F. PAYMENTS FROM THE SPECIAL FUND TO THE CONTRACTOR SHALL BE MADE
33 SEMI-MONTHLY OR MONTHLY TO BE DUE AND PAID THE CONTRACTOR UPON A BASIS
34 OF NINETY PER CENT OF THE VALUE OF THE WORK ACTUALLY PERFORMED AS ES-
35 TIMATED BY THE SUPERINTENDENT OF STREETS OR ENGINEER EMPLOYED FOR SUCH
36 PURPOSE TO AND INCLUDING THE FIFTEENTH OR LAST DAY OF EACH CALENDAR
37 MONTH. THE BALANCE SHALL BE PAID TO THE CONTRACTOR AFTER THE SALE OF
38 THE BONDS SOLELY FROM THE PROCEEDS. IF BONDS EQUAL TO THE BALANCE
39 REMAINING CANNOT BE SOLD THEN THE BALANCE SHALL BE PAID BY DELIVERY
40 OF A LIKE PRINCIPAL AMOUNT OF BONDS TO THE CONTRACTOR.
41 G. THE ISSUANCE OF BOND ANTICIPATION NOTES SHALL CONSTITUTE AN
42 ASSIGNMENT TO THE DISTRICT OF THE MONIES DUE THE CONTRACTOR UNDER THE
43 CONSTRUCTION CONTRACT. THE DISTRICT MAY AGREE WITH THE CONSTRUCTION
44 CONTRACTOR THAT THE DISTRICT WILL MAKE THE DEMANDS FOR CASH PAYMENTS
45 AS PROVIDED IN SECTION 11-727 OR MAY AUTHORIZE THE PURCHASER OF THE BOND
46 ANTICIPATION NOTES OR HIS OR HER NOMINEE TO MAKE THE CASH COLLECTIONS.
47 H. WHEN BONDS ARE ISSUED TO REPRESENT ANY ASSESSMENTS REMAINING
48 UNPAID AT THE DATE OF THE CERTIFIED LIST, THE DISTRICT SHALL SELL THE
49 BONDS AT PUBLIC OR PRIVATE SALE AT THE BEST PRICE AVAILABLE BUT IN NO
50 EVENT BELOW PAR AND ACCRUED INTEREST TO THE DATE OF DELIVERY TO THE

1 BOND PURCHASER AND USE THE PROCEEDS TO REDEEM THE NOTES AND PAY THE
2 BALANCE DUE THE CONTRACTOR.

3 I. IN ADDITION TO THE INCIDENTAL EXPENSES WHICH MAY BE IN-
4 CLUDED IN THE ASSESSMENT, IF BOND ANTICIPATION NOTES ARE ISSUED, THE
5 SUPERINTENDENT OF STREETS MAY ALSO INCLUDE IN THE INCIDENTAL EXPENSES
6 ALL INTEREST TO ACCRUE ON THE BOND ANTICIPATION NOTES, THE ADDED
7 COSTS OF CASH COLLECTIONS, THE COST OF ANY FIDELITY BOND AND ALL LEGAL
8 OR FINANCIAL FEES INCURRED IN THE ISSUANCE AND SALE OF THE BOND
9 ANTICIPATION NOTES.

10 J. WHENEVER BOND ANTICIPATION NOTES HAVE BEEN ISSUED AND THE
11 CONTRACTOR HAS BEEN PAID IN ACCORDANCE WITH SUBSECTION E OF THIS SEC-
12 TION, THE DISTRICT SHALL APPLY THE PROCEEDS COLLECTED FROM DEMANDS
13 UPON THE PROPERTY OWNERS TO REDUCTION OF THE OUTSTANDING PORTION OF THE
14 BOND ANTICIPATION NOTES AND WHEN THE NOTES HAVE BEEN PAID TO THE CON-
15 TRACTOR TO REDUCE ANY BALANCE DUE.

16 11-760.01. Revolving fund; lapsing provisions;
17 separate fund

18 A. THE BOARD OF SUPERVISORS MAY CREATE A REVOLVING FUND IN THE
19 COUNTY TREASURY TO AID IN THE CONSTRUCTION OF PUBLIC IMPROVEMENTS
20 UNDER THIS ARTICLE. THE BOARD OF SUPERVISORS MAY PROVIDE FOR PAYMENTS
21 INTO SUCH FUND FROM ANY LAWFUL SOURCE INCLUDING BUT NOT LIMITED TO
22 PAYMENTS FROM THE PROCEEDS OF THE SALE OF BONDS OF THE COUNTY ISSUED
23 FOR STREET IMPROVEMENT PURPOSES, MONIES IN THE PUBLIC WORKS RESERVE
24 FUND OR FROM THE GENERAL FUND OR MONIES RETURNED TO THE COUNTY FROM
25 MOTOR VEHICLE FUEL AND USER TAXES COLLECTED BY THE STATE.

26 B. ALL UNEXPENDED BALANCES OF APPROPRIATIONS FROM THE FUND
27 REMAINING AFTER THE APPROPRIATIONS LAPSE ACCORDING TO LAW SHALL REVERT
28 TO THE FUND.

29 C. THE FUND ESTABLISHED PURSUANT TO THIS SECTION SHALL BE KEPT
30 SEPARATE AND APART FROM ALL OTHER FUNDS.

31 D. THE MONIES IN THE REVOLVING FUND MAY BE USED TO PURCHASE BOND
32 ANTICIPATION NOTES, TO AID IN THE PAYMENTS MADE TO THE CONSTRUCTION
33 CONTRACTOR, TO PROVIDE FOR THE PAYMENT OF THE COUNTY'S SHARE OF ANY
34 IMPROVEMENT AUTHORIZED UNDER THIS ARTICLE OR TO PROVIDE MONIES TO PAY
35 THE ASSESSMENTS LEVIED AGAINST PUBLIC PROPERTY.

36 Sec. 2. Validation of acts taken pursuant
37 to title 11, chapter 5, articles 1 and 1.1;
38 exceptions; definitions

39 A. All acts and proceedings heretofore taken by county boards of
40 supervisors on behalf of and as the board of directors of county improve-
41 ment districts formed pursuant to article 1, chapter 5, title 11, Arizona
42 Revised Statutes, for the authorization, issuance, sale or exchange of
43 bonds of any such county improvement district for any public purpose under
44 such article 1 or article 1.1 of such chapter 5, with the waiver or consent
45 of the owners of all of the property within any such county improvement
46 district, are hereby confirmed, validated and declared legally effective,
47 including all acts and proceedings of any person, public officer, board or
48 agency heretofore done or taken upon the question of the authorization,
49 issuance, sale or exchange of such bonds authorized to be issued under such
50 articles 1 and 1.1 of such chapter 5 whenever delivered in substantially

1 the form contemplated in such authorization, shall be in the form and manner
2 in which delivered valid, legal and binding obligations of such county im-
3 provement district, payable in accordance with the resolution pertaining
4 to their issuance and secured by the revenues therein pledged and allocated
5 to their payment, and by the covenants and agreements set forth in the
6 resolution authorizing their issuance.

7 B. The provisions of subsection A of this section shall operate to
8 supply such legislative authorization as may be necessary to validate any
9 such acts and proceedings heretofore taken which the legislature could
10 have supplied or provided for in the law under which such acts or pro-
11 ceedings were taken, and in particular, without limiting the generality of
12 the foregoing, but subject to the provisions of subsection C of this
13 section, to supply any claimed deficiency in the title to such article
14 1.1 and all actions or proceedings heretofore taken under article 1.1
15 with the waiver or consent of the owners of all of the property within
16 any such county improvement district may be completed under the authority
17 of section 4 hereof.

18 C. The provisions of this section shall not operate to confirm,
19 validate or legalize any action or proceedings, the legality of which is
20 being contested or inquired into in any legal proceeding now pending and
21 undetermined and shall not operate to confirm, validate or legalize any
22 action or proceeding which has heretofore been determined in any legal
23 proceeding to be illegal, void or ineffective.

24 D. Any action or proceeding contesting the validity of any action
25 or proceeding referred to in subsection A of this section shall be brought
26 within thirty days from the effective date of this act.

27 E. As used in this section, "now" means the date this section takes
28 effect, "heretofore" means any time prior to such effective date and "here-
29 after" means any time subsequent to such effective date.

30 Sec. 3. Repeal

31 Title 11, chapter 5, article 1.1, Arizona Revised Statutes, is
32 repealed.

33 Sec. 4. Title 11, chapter 5, Arizona Revised Statutes, is amended
34 by adding new article 1.1, sections 11-761 and 11-761.01 through 11-761.07,
35 to read:

36 ARTICLE 1.1. COUNTY IMPROVEMENT DISTRICTS -
37 ALTERNATE PROCEDURE FOR ASSESSING
38 AND FINANCING PROPOSED IMPROVEMENTS
39 AND PROVIDING FOR THE ISSUANCE OF
40 BONDS PRIOR TO CONSTRUCTION OF
41 IMPROVEMENTS

42 11-761. In general

43 A. THE PROVISIONS OF THIS ARTICLE ARE ALTERNATIVE AND SUPPLEMENTAL
44 TO ARTICLE 1 OF THIS CHAPTER, AND ARE INTENDED TO PROVIDE ECONOMIES IN THE
45 COSTS OF LOCAL IMPROVEMENTS TO PROPERTY OWNERS BY PROVIDING FOR CONTRACTORS
46 TO BE PAID IN CASH RATHER THAN BY BEING PAID WITH WARRANTS AND BONDS ISSUED
47 PURSUANT TO ARTICLE 1.

48 B. A COUNTY IMPROVEMENT DISTRICT ESTABLISHED PURSUANT TO ARTICLE 1
49 OF THIS CHAPTER MAY ACQUIRE OR CONSTRUCT ANY SUCH IMPROVEMENTS IN THE MAN-
50 NER PROVIDED IN THIS ARTICLE.

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1 C. BEFORE PASSING THE RESOLUTION OF INTENTION PLANS AND SPECIFICATIONS
2 AND ESTIMATES OF THE COST AND EXPENSES THEREOF SHALL BE PREPARED BY THE
3 ENGINEER AND FILED WITH THE CLERK. THE ESTIMATE OF COSTS SHALL INCLUDE AN
4 ESTIMATE OF:
5 1. THE COSTS FOR ENGINEERING, LEGAL AND OTHER SERVICES.
6 2. THE DIRECT OR INCIDENTAL COSTS TO BE INCURRED IN THE ISSUANCE AND
7 SALE OF THE BONDS.
8 3. THE DIRECT AND INCIDENTAL COSTS TO BE INCURRED IN THE COLLECTION
9 OF ASSESSMENT INSTALLMENTS AND PAYMENT OF THE BONDS:
10 4. THE INTEREST ON THE BONDS FOR ONE YEAR.
11 D. THE ASSESSMENT FOR ANY LOT SHALL NOT EXCEED ITS PROPORTION OF THE
12 FINAL ESTIMATE.
13 E. THE PLANS AND SPECIFICATIONS SHALL BE ACCOMPANIED BY A DIAGRAM OF
14 THE ASSESSMENT DISTRICT AND AN ASSESSMENT APPORTIONING THE TOTAL ESTIMATED
15 COSTS AMONG THE SEVERAL PARCELS OF LAND SHOWN ON THE DIAGRAM, IN THE PRO-
16 PORTION OF THE BENEFITS RESPECTIVELY TO BE RECEIVED BY THEM.
17 F. IN ADDITION TO THE MATTERS REQUIRED IN SECTIONS 11-711, 11-715
18 AND 11-733, THE RESOLUTION OF INTENTION AND THE NOTICE OF PROPOSED IMPROVE-
19 MENT SHALL STATE THAT THE PROCEEDINGS ARE HAD PURSUANT TO THIS ARTICLE,
20 THAT THE DIAGRAM AND ASSESSMENT HAVE BEEN PREPARED AND SHALL REFER TO THEM
21 AS BEING ON FILE WITH THE DISTRICT CLERK.
22 G. NOTICE OF THE MATTERS PROVIDED IN SUBSECTION F OF THIS SECTION
23 SHALL BE MAILED BY THE CLERK TO EACH OF THE OWNERS OF REAL PROPERTY WITHIN
24 THE PROPOSED ASSESSMENT DISTRICT, AS THEIR NAMES AND ADDRESSES APPEAR ON
25 THE LAST EQUALIZED COUNTY TAX ROLL OR AS KNOWN TO THE CLERK, ON OR BEFORE
26 THE DAY OF THE FIRST PUBLICATION OF THE RESOLUTION OF INTENTION.
27 11-761.01. Protests; hearing; determinations
28 A. WRITTEN PROTESTS MAY BE FILED AS TO THE MATTERS PROVIDED IN
29 SECTIONS 11-716, 11-717 AND 11-727, EXCEPT AS TO THE PERFORMANCE OF
30 IMPROVEMENT WORK, WITHIN THE TIME PROVIDED IN SECTION 11-716, AND
31 THEREAFTER THE CURATIVE PROVISIONS OF SECTION 11-727, EXCEPT AS TO THE
32 PERFORMANCE OF IMPROVEMENT WORK, SHALL BE APPLICABLE.
33 B. AT THE TIME OF ORDERING THE IMPROVEMENTS AS PROVIDED IN
34 SECTION 11-718, THE BOARD SHALL, BY RESOLUTION, APPROVE AND CONFIRM
35 THE DIAGRAM AND ASSESSMENT.
36 C. PRIOR TO CONTRACTING TO PAY FOR IMPROVEMENTS DESCRIBED IN
37 THE RESOLUTION OF INTENTION, A NOTICE OF INTENTION TO CONTRACT SHALL
38 BE PUBLISHED, AND SHALL HAVE THE SAME EFFECT, AS PROVIDED IN SECTION
39 11-722.
40 D. WHEN IMPROVEMENTS HAVE BEEN COMPLETED, THE SUPERINTENDENT
41 SHALL SO CERTIFY TO THE BOARD OF DIRECTORS, THE CLERK SHALL CAUSE
42 NOTICE OF THE FILING OF SUCH NOTICE WITH THE BOARD TO BE GIVEN BY
43 PUBLICATION AND POSTING AS PROVIDED BY SECTION 11-715, AND WRITTEN
44 PROTESTS CLAIMING THAT THE IMPROVEMENTS HAVE NOT BEEN COMPLETED MAY
45 BE FILED WITHIN THE TIME PROVIDED IN SECTION 11-716. THEREAFTER THE
46 CURATIVE PROVISIONS OF SECTION 11-727 AS TO THE PERFORMANCE OF IM-
47 PROVEMENT WORK SHALL BE APPLICABLE.
48 E. THE VALIDITY OF AN ASSESSMENT LEVIED UNDER ARTICLE 1 OF THIS
49 CHAPTER OR UNDER THIS ARTICLE SHALL NOT BE CONTESTED IN ANY ACTION OR
50 PROCEEDING UNLESS COMMENCED WITHIN THIRTY DAYS AFTER ITS CONFIRMATION.

11-761.02. Payment of assessments; issuance and sale of bonds

A. FOLLOWING THE RECORDING OF THE DIAGRAM AND ASSESSMENT AS PROVIDED IN SECTION 11-726, THE CLERK SHALL GIVE NOTICE OF THE DAY THE ASSESSMENT WAS RECORDED, THAT THE ASSESSMENTS MAY BE PAID TO THE TREASURER IN CASH WITHIN THIRTY DAYS THEREAFTER, AND, IF BONDS ARE TO BE ISSUED, THAT BONDS WILL BE ISSUED TO REPRESENT THE UNPAID ASSESSMENTS.

B. THE NOTICE SHALL BE PUBLISHED AS PROVIDED IN SECTION 11-715 FOR THE RESOLUTION OF INTENTION AND MAILED AS PROVIDED IN SECTION 11-761 FOR THE NOTICE TO PROPERTY OWNERS.

C. AFTER THE PERIOD OF COLLECTION HAS EXPIRED, THE TREASURER SHALL FILE A RETURN AS PROVIDED IN SECTION 11-727.

D. THE BOARD SHALL, BY RESOLUTION, DETERMINE THE AMOUNT OF ASSESSMENTS REMAINING UNPAID AND PROVIDE FOR THE ISSUANCE OF BONDS FOR THE AMOUNT OF SUCH UNPAID ASSESSMENTS, PRESCRIBE THEIR FORM AND DENOMINATION, THE AMOUNT THEREOF TO MATURE EACH YEAR, THEIR PAYMENT ON JULY 1 AT THE OFFICE OF THE COUNTY TREASURER OR AT THE OFFICE OF A PAYING AGENT WITHIN OR WITHOUT THE STATE AS DESIGNATED BY THE BOARD, FOR A TERM NOT TO EXCEED TWENTY YEARS AND THREE MONTHS, AND THAT THEY SHALL BEAR INTEREST AT NOT TO EXCEED THE MAXIMUM RATE SPECIFIED IN THE RESOLUTION OF INTENTION, REPRESENTED BY SEMI-ANNUAL INTEREST COUPONS ATTACHED, EXCEPT THE FIRST WHICH SHALL BE FOR INTEREST TO THE JANUARY 1 OR JULY 1, AS THE CASE MAY BE, ON WHICH FUNDS COLLECTED ON THE COUNTY TAX ROLL MAY BE MADE AVAILABLE THEREFOR.

E. IF, UPON PRESENTATION AT MATURITY, PAYMENT OF ANY BOND OR COUPON IS NOT PAID FOR WANT OF FUNDS, THE BOND OR COUPON SHALL CONTINUE TO BEAR INTEREST AT THE RATE STATED IN THE BOND UNTIL PAID IN FULL.

F. THE BONDS MAY BE SOLD AS THE BOARD DIRECTS. THE PROCEEDS THEREOF SHALL BE DEPOSITED WITH THE TREASURER IN A FUND CREATED BY HIM THEREFOR, AND SHALL BE USED FOR THE OBJECTS AND PURPOSES OF THE PROJECT.

G. IF ANY SURPLUS IS REALIZED WHEN THE PROJECT IS COMPLETED, IT SHALL BE CREDITED PROPORTIONATELY UPON THE ASSESSMENTS AND RETURNED TO THOSE WHO HAVE PAID IN CASH OR CREDITED ON ASSESSMENTS WHICH HAVE OR WILL GO TO BOND.

11-761.03. Annual assessment installments

A. ANNUAL INSTALLMENTS OF PRINCIPAL AND INTEREST OF THE ASSESSMENTS SHALL BE COLLECTED ON THE COUNTY TAX ROLL IN THE MANNER PROVIDED IN SECTION 11-745, AND NOT OTHERWISE, AND THE PROVISIONS OF SECTIONS 11-746 AND 11-751 SHALL APPLY.

B. THE ANNUAL INSTALLMENTS OF THE ASSESSMENTS SHALL CONSTITUTE A FIRST LIEN ON THE RESPECTIVE LOTS OR PARCELS ASSESSED, COEQUAL WITH THE LIEN OF GENERAL TAXES, NOT SUBJECT TO EXTINGUISHMENT BY A SALE FOR NONPAYMENT OF GENERAL TAXES PRIOR AND SUPERIOR TO ALL DEMANDS, EXECUTIONS, INCUMBRANCES, TITLES OR LIENS WHENSOEVER CREATED, INCLUDING THE LIEN OF ALL SPECIAL ASSESSMENTS THEREAFTER LEVIED, AND SHALL CONTINUE UNTIL SUCH ASSESSMENT INSTALLMENTS, WITH PENALTIES, INTEREST AND CHARGES THAT MAY ACCRUE THEREON, SHALL HAVE BEEN PAID.

C. IF SUCH ANNUAL INSTALLMENTS OF PRINCIPAL AND INTEREST DO

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1 NOT PROVIDE FUNDS SUFFICIENT FOR THE PAYMENT OF THE BONDS AND THE
2 INTEREST THEREON AS THEY SHALL ACCRUE, THE BOARD OF DIRECTORS SHALL
3 CAUSE ADDITIONAL SUCCESSIVE LEVIES TO BE MADE ON THE PROPERTIES WITHIN
4 THE DISTRICT UNTIL THE BONDS AND INTEREST ARE PAID, WHICH SHALL BE
5 APPORTIONED IN THE SAME MANNER AS THE ORIGINAL ASSESSMENT.

6 D. ANY SURPLUS REMAINING IN A BOND REDEMPTION FUND AFTER THE
7 BONDS AND INTEREST HAVE BEEN PAID SHALL BE USED AS PROVIDED IN SUB-
8 SECTION G OF SECTION 11-761.02.

9 11-761.04. Prepayment of assessment

10 A. AN OWNER MAY ELECT TO PAY THE TOTAL AMOUNT OF THE ASSESSMENT
11 LEVIED ON A LOT OR TRACT OF LAND OWNED BY HIM, OR THE UNPAID BALANCE
12 THEREOF IF A PART HAS BEEN PAID.

13 B. WHEN AN OWNER HAS PREPAID AN ASSESSMENT ON ANY LOT OR TRACT
14 OF LAND, SUCH LOT OR TRACT SHALL NOT THEREAFTER BE SUBJECT TO ANNUAL
15 ASSESSMENT AND INTEREST INSTALLMENT LEVIES THEREFOR.

16 C. THE PREPAYMENT OF AN ASSESSMENT SHALL NOT FREE SUCH PROPERTY
17 FROM ITS PRO RATA OBLIGATION TO PAY SUPPLEMENTAL LEVIES FOR TAX IN-
18 SUFFICIENCIES.

19 D. WHEN ANY OWNER SHALL ELECT TO PAY OFF HIS ASSESSMENT, THE
20 TREASURER SHALL ASCERTAIN WHAT BONDS MAY BE CALLED BY REASON THEREOF
21 AND THE AMOUNT WHICH THE OWNER SHALL PAY THEREFOR, WHICH SHALL BE THE
22 TOTAL OF THE FOLLOWING SUMS:

23 1. THE AMOUNT OF ANY DELINQUENT INSTALLMENTS OF PRINCIPAL AND
24 INTEREST, TOGETHER WITH PENALTIES, INTEREST AND COSTS DUE THEREON.

25 2. ANY INSTALLMENT OF PRINCIPAL AND INTEREST WHICH HAS BEEN POSTED
26 TO THE TAX ROLL FOR THE CURRENT FISCAL YEAR.

27 3. THE UNPAID BALANCE OF PRINCIPAL THEREOF, PLUS A PREMIUM COMPUTED
28 AS PROVIDED IN SUBSECTION B OF SECTION 11-761.05.

29 4. AN AMOUNT TO BE FIXED BY THE TREASURER FOR PUBLISHING A NOTICE
30 CALLING THE BONDS, IF NOTICE IS TO BE PUBLISHED.

31 5. INTEREST TO THE DATE OF CALL ON THE AMOUNT OF PRINCIPAL TO BE
32 USED FOR CALL, LESS THE AMOUNT OF INTEREST PROVIDED IN PARAGRAPH 2 OF
33 THIS SUBSECTION. IF THE AMOUNT OF PRINCIPAL PAID IS IN EXCESS OF THE
34 AMOUNT FOR WHICH BONDS MAY BE CALLED, ADDITIONAL INTEREST SHALL BE COL-
35 LECTED ON THE EXCESS AMOUNT FOR AN ADDITIONAL ONE YEAR.

36 11-761.05. Advancing maturity of bonds

37 A. WHEN THE TREASURER DETERMINES THAT, BY REASON OF THE PREPAYMENT
38 OF AN ASSESSMENT OR ASSESSMENTS AS PROVIDED IN SECTION 11-761.04, A BOND
39 OR BONDS MAY BE CALLED, PROCEEDINGS SHALL BE HAD AS PROVIDED IN THIS
40 SECTION.

41 B. THE TREASURER SHALL ADVANCE THE MATURITY OF BONDS IN THE AMOUNT
42 DETERMINED AT THE TIME OF THE PREPAYMENT OF THE ASSESSMENTS, TO ANY
43 INTEREST PAYMENT DATE. THE BONDS SHALL BE CALLED FOR PAR AND A PREMIUM
44 EQUAL TO FIVE PER CENT OF THE PRINCIPAL AMOUNT OF THE BONDS CALLED,
45 TOGETHER WITH INTEREST TO THE REDEMPTION DATE.

46 C. IN SELECTING A BOND FOR RETIREMENT, THE LOWEST NUMBERED BOND
47 OF THE ANNUAL SERIES MIDWAY TO THE END OF THE BOND TERM SHALL BE CHOSEN.
48 SUCCESSIVE BONDS SHALL BE CHOSEN FROM THE LOWEST NUMBER OF EACH ANNUAL
49 SERIES ON EITHER SIDE THEREOF, SO THAT BONDS CALLED SHALL BE A PRO RATA
50 PART OF EACH ANNUAL SERIES AFTER THE ONE FOR WHICH A LEVY HAS BEEN

1 POSTED TO THE COUNTY ROLL. THE RELATIONSHIP OF UNPAID ASSESSMENTS TO
2 BONDS OUTSTANDING SHALL BE DISTURBED AS LITTLE AS POSSIBLE BY THE CALL
3 OF BONDS. THE DECISION OF THE TREASURER SHALL BE FINAL AND CONCLUSIVE.

4 D. THE DISTRICT TREASURER SHALL GIVE WRITTEN NOTICE OF ADVANCED
5 MATURITY, ENTITLED "TO WHOM IT MAY CONCERN," TO THE HOLDER OR OWNER OF
6 EACH BOND THAT IS CALLED, AT LEAST FOURTEEN DAYS PRIOR TO THE DAY OF
7 CALL. THE NOTICE MAY BE GIVEN BY PERSONAL SERVICE, BY REGISTERED MAIL
8 ADDRESSED TO THE LAST KNOWN ADDRESS OF THE HOLDER OR OWNER, OR BY ONE
9 PUBLICATION IN A NEWSPAPER HAVING CIRCULATION IN THE DISTRICT OR IN A
10 FINANCIAL PAPER IN THE UNITED STATES. WHEN GIVEN BY PUBLICATION, IT
11 SHALL ALSO BE MAILED TO THE LAST KNOWN ADDRESS OF THE HOLDER OR OWNER
12 AND IF NOT KNOWN THEN TO THE ORIGINAL PURCHASER OF THE BONDS.

13 E. IF NOTICE OF ADVANCED MATURITY IS GIVEN, THE BOND SHALL
14 MATURE AND BECOME PAYABLE ON THE DATE FIXED FOR MATURITY IN THE NOTICE.
15 THE HOLDER OR OWNER OF THE BOND MAY SURRENDER IT PRIOR TO THE DATE OF
16 ADVANCED MATURITY AND RECEIVE THE PRINCIPAL AND INTEREST THEREON TO
17 THE DATE OF PAYMENT.

18 F. IF THE BOND HAS NOT BEEN SOONER SURRENDERED, ON THE DATE
19 FIXED FOR ADVANCED MATURITY THE DISTRICT TREASURER SHALL SET ASIDE TO
20 THE CREDIT OF THE OWNER OF THE BOND THE AMOUNT OF PRINCIPAL AND
21 ACCRUED INTEREST THEN DUE ON THE BOND, AND THE BOND SHALL THEN BE
22 DEEMED TO HAVE MATURED AND INTEREST SHALL CEASE TO ACCRUE ON THE BOND.
23 THE AMOUNT SO SET ASIDE SHALL, UPON DEMAND AND UPON THE SURRENDER AND
24 CANCELLATION OF THE BOND AND ALL UNPAID COUPONS THEREOF, BE PAID TO THE
25 HOLDER OR OWNER THEREOF.

26 G. THE COST OF SERVING OR PUBLISHING THE NOTICE OF ADVANCED
27 MATURITY SHALL BE PAID FROM THE REDEMPTION FUND.

28 H. MORE THAN ONE BOND MAY BE INCLUDED IN A SINGLE NOTICE OF
29 ADVANCED MATURITY. ALL BONDS CALLED AND REDEEMED SHALL BE CANCELED
30 AND DESTROYED.

31 I. PRIOR TO THE SURRENDER OF ANY BOND OR THE SETTING ASIDE OF
32 ANY FUNDS, THE TREASURER MAY WAIVE AND VACATE ANY NOTICE OF ADVANCED
33 MATURITY UPON BEING TENDERED FOR CANCELLATION SOME OTHER BOND OR BONDS
34 OF AN EQUIVALENT AMOUNT AND OF A MATURITY NOT EARLIER THAN THAT NOTICE,
35 IF TEN DAYS' NOTICE OF HIS INTENTION SO TO DO IS FIRST GIVEN BY MAIL OR
36 OTHERWISE TO THE HOLDER OR OWNER OF THE BOND NOTICED FOR ADVANCED
37 MATURITY AND SUCH HOLDER OR OWNER HAS NOT OBJECTED TO SUCH ACTION.

38 11-761.06. Modifications

39 A. DURING THE PENDENCY OF A PROCEEDING, CHANGES AND MODIFICA-
40 TIONS MAY BE MADE BY THE BOARD IN THE ACQUISITIONS OR IMPROVEMENTS, THE
41 COST ESTIMATE, THE DIAGRAM, THE BOUNDARIES OF THE ASSESSMENT DISTRICT,
42 THE EXTENT OR APPORTIONMENT OF THE ASSESSMENTS, OR IN THE PROCEEDINGS.

43 B. UNLESS REQUESTED BY SUCH OWNER IN WRITING, NO CHANGE OR MOD-
44 IFICATION SHALL BE MADE EXCEPT AFTER HEARING ON NOTICE BY MAIL, AT
45 LEAST TEN DAYS PRIOR TO THE HEARING, AS PROVIDED IN SUBSECTION G OF
46 SECTION 11-761, TO:

47 1. AN OWNER OF REAL PROPERTY IN AN AREA PROPOSED TO BE ADDED TO
48 THE DISTRICT.

49 2. AN OWNER WHOSE ASSESSMENT WOULD BE INCREASED.

50 3. AN OWNER WHOSE ASSESSMENT WOULD BE CHANGED BY MORE THAN TEN PER

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1 CENT BY REASON OF CHANGES IN THE ACQUISITIONS AND IMPROVEMENTS.
2 11-761.07. Application of article
3 EXCEPT AS PROVIDED IN THIS ARTICLE, THE PROVISIONS OF ARTICLE 1
4 OF THIS CHAPTER SHALL APPLY.
5 Sec. 5. Emergency
6 To preserve the public peace, health and safety it is necessary
7 that this act become immediately operative. It is therefore declared
8 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 6, 1975

Filed in the office of the Secretary of State - June 6, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 120
SENATE BILL 1209

AN ACT

RELATING TO PUBLIC UTILITIES; DEFINING ELECTRIC OR COMMUNICATION FACILITIES;
PRESCRIBING PROCEDURE FOR ESTABLISHING UNDERGROUND CONVERSION SERVICE
AREA; PRESCRIBING PROCEDURES FOR PETITION BY OWNERS, HEARING ON PETI-
TION, METHOD OF PAYMENT AND LIEN FOR COST, AND AMENDING SECTIONS 40-
341, 40-343 THROUGH 40-348, 40-350 AND 40-354, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 40-341, Arizona Revised Statutes, is amended
3 to read:
4 40-341. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Clerk" means the clerk of the board of supervisors or any
7 person or officer who acts as clerk of the board of supervisors.
8 2. "Convert" or "conversion" means the removal of existing
9 overhead electric or communication facilities and the replacement
10 thereof with underground electric or communication facilities con-
11 structed at the same or different locations.
12 3. "Electric or communication facilities" means any works or
13 improvements used or useful in providing electric, ~~or~~ communication
14 OR CABLE TELEVISION service, including but not limited to poles,
15 supports, tunnels, manholes, vaults, conduits, pipes, wires, con-
16 ductors, guys, stubs, platforms, crossarms, braces, transformers,
17 insulators, cutouts, switches, capacitors, meters, communication
18 circuits, appliances, attachments and appurtenances. "Electric
19 facilities" shall not include any facilities used or intended to
20 be used for the transmission of electric energy at nominal voltages
21 in excess of twenty-five thousand volts or having a circuit capacity
22 in excess of twelve thousand kva. "Communication facilities" shall
23 not include facilities used or intended to be used for the trans-
24 mission of intelligence by microwave or radio, apparatus cabinets
25 or outdoor public telephones.

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1 4. "Local government" means the city or town council if all or
2 any part of the underground conversion service area is located within
3 the limits of an incorporated city or town or the county board of
4 supervisors if the underground conversion service area is located
5 in an unincorporated area.

6 5. "Lot" includes any portion, piece, parcel or subdivision
7 of land, but not property owned or controlled by any person as a
8 right of way.

9 6. "Owner" means the person in whom legal title appears by
10 recorded deed, or the person in possession under claim of title, or
11 the person exercising acts of ownership for himself or as the personal
12 representative of the owner, including the boards of trustees of
13 school districts and the boards of education of high school districts
14 owning property within the underground conversion service area.

15 7. "Overhead electric or communication facilities" means elec-
16 tric or communication facilities located above the surface of the
17 ground, except as provided for in paragraphs 3 and 12 of this section.

18 8. "Public agency" means any irrigation, power, electrical or
19 agricultural improvement district now or hereafter organized that
20 provides electric or communication service to the public by means of
21 electric or communication facilities.

22 9. "Public place" includes streets, alleys, roadways, sidewalks,
23 rights of way, easements and similar properties as to which a city,
24 town, county, the state, the public service corporation or the public
25 agency may have a right.

26 10. "Public service corporation" means any person or corporation
27 that provides electric or communication service to the public by means
28 of electric or communication facilities.

29 11. "Real property" means the real estate owned in fee, but not
30 inclusive of buildings or structures located thereon, or any property
31 owned or controlled as a railroad or street right of way.

32 12. "Underground conversion service area" means an area in which
33 existing electric and communication facilities are to be placed under-
34 ground, exclusive of any lines or facilities used or intended to be
35 used for the transmission of electric energy at nominal voltages in
36 excess of twenty-five thousand volts or having a circuit capacity in
37 excess of twelve thousand kva and facilities used or intended to be
38 used for the transmission of intelligence by microwave or radio and
39 facilities such as transformers, pull boxes, service terminals, pedestal
40 terminals, splice closures, apparatus cabinets and similar facilities
41 which normally are above the surface in areas where service lines are
42 underground in accordance with standard underground practices, and
43 on-the-ground facilities attached to overhead facilities which are
44 used to connect an underground system to overhead facilities.

45 13. "Underground conversion cost" means the costs to be paid by
46 each owner to each public service corporation or public agency by the
47 property owners within an underground conversion service area, as pro-
48 vided in this article.

1 Sec. 2. Section 40-343, Arizona Revised Statutes, is amended
2 to read:

3 40-343. Petition of owners and petition of public service
4 corporation or public agency for establishment of
5 underground conversion service area; notice of
6 proposed lien

7 A. Within ninety days after the joint report referred to in section
8 40-342 is made available to the petitioners, not less than sixty per cent
9 of the owners of real property within the area who own not less than sixty
10 per cent of the real property within the area excluding public places may
11 petition each public service corporation or public agency rendering elec-
12 tric or communication service in the area for establishment of an under-
13 ground conversion service area in the same area as described in the original
14 petition or petitions.

15 B. The public service corporation or corporations shall within sixty
16 days thereafter petition the corporation commission OR IF NOT UNDER THE
17 JURISDICTION OF THE CORPORATION COMMISSION, THE BOARD OF SUPERVISORS OR
18 THE CITY OR TOWN COUNCIL for establishment of such an underground con-
19 version service area.

20 C. The public agency or agencies shall within sixty days thereafter
21 petition the board of supervisors for establishment of an underground
22 conversion service area.

23 D. UPON FILING THE PETITION FOR THE ESTABLISHMENT OF AN UNDER-
24 GROUND SERVICE AREA, THE PUBLIC SERVICE CORPORATION OR CORPORATIONS OR
25 PUBLIC AGENCY OR AGENCIES SHALL RECORD IN THE OFFICE OF THE COUNTY
26 RECORDER OF THE COUNTY WHERE THE PROPOSED CONVERSION SERVICE AREA IS
27 LOCATED A NOTICE OF PROPOSED LIEN WHICH SHALL CONTAIN THE FOLLOWING:

28 1. THE LEGAL DESCRIPTION OF EACH LOT OR PARCEL UPON WHICH THE
29 PROPOSED LIEN SHALL BE CLAIMED.

30 2. A STATEMENT THAT A PETITION FOR THE ESTABLISHMENT OF AN UNDER-
31 GROUND CONVERSION SERVICE AREA HAS BEEN FILED WITH THE CORPORATION COM-
32 MISSION, BOARD OF SUPERVISORS OR CITY OR TOWN COUNCIL, AS THE CASE MAY
33 BE.

34 3. THE PUBLIC SERVICE CORPORATION OR PUBLIC AGENCY WHICH WILL
35 CLAIM THE LIEN.

36 4. A STATEMENT OF THE ESTIMATED COSTS TO BE ASSESSED AGAINST EACH
37 LOT OR PARCEL LOCATED WITHIN THE PROPOSED UNDERGROUND CONVERSION SERVICE
38 AREA FOR PLACING UNDERGROUND THE FACILITIES OF THE PUBLIC SERVICE CORPO-
39 RATION OR PUBLIC AGENCY SHOULD THE CORPORATION COMMISSION, BOARD OF
40 SUPERVISORS OR CITY OR TOWN COUNCIL ORDER THE ESTABLISHMENT OF THE
41 UNDERGROUND CONVERSION SERVICE AREA.

42 Sec. 3. Section 40-344, Arizona Revised Statutes, is amended
43 to read:

44 40-344. Hearing on petition; notice

45 A. Upon receipt of a petition to establish an underground conver-
46 sion service area, the corporation commission, or board of supervisors
47 OR CITY OR TOWN COUNCIL shall set a date for a hearing on the petition,
48 which date shall be not later than sixty days NOR SOONER THAN THIRTY
49 DAYS after receipt of such petition. At the hearing all interested

1 property owners owning property within the proposed underground con-
2 version service area may appear and be heard on the matter. Any
3 person owning property within the proposed underground conversion
4 service area and wishing to WITHDRAW SUCH PERSON'S SIGNATURE FROM
5 THE PETITION OF OWNERS REFERRED TO IN SECTION 40-343, SUBSECTION A,
6 OR object to the establishment of the underground conversion service
7 area or to the underground conversion costs as contained in the
8 joint report pertaining to his lot or parcel included within the proposed
9 underground conversion service area shall, NOT LATER THAN TEN DAYS before
10 the date set for the hearing, file his SUCH PERSON'S objections with the
11 clerk of THE CITY OR TOWN COUNCIL OR the board of supervisors or with
12 the corporation commission, as the case may be.

13 B. Notice announcing the hearing and describing the boundaries of
14 the proposed underground conversion service area and stating that the
15 estimated underground conversion costs for each lot or parcel included
16 within the proposed underground conversion service area are available
17 at the office of each public service corporation or public agency shall
18 be posted in not less than three public places within the proposed
19 underground conversion service area for not less than thirty days prior
20 to the date of the hearing and shall be published once in a newspaper
21 published in the county and of general circulation within the proposed
22 underground conversion service area. The publication in the newspaper
23 shall be not less than ten TWENTY days prior to the date of the hearing.

24 C. In the case of public service corporation, the corporation
25 commission shall mail NOT LESS THAN THIRTY DAYS BEFORE THE DATE SET
26 FOR THE HEARING a notice announcing the hearing and stating the
27 boundaries of the proposed underground conversion service area to each
28 owner of a lot or parcel of land within the boundaries of the proposed
29 underground conversion service area, as reflected on the records of the
30 county assessor and to those governmental agencies having rights in public
31 places within said SUCH area. The public service corporation or cor-
32 porations involved and all property owners within the underground con-
33 version service area shall be deemed parties to the proceedings for
34 the purposes of applications for rehearings or appeals as provided in
35 sections 40-253 and 40-254.

36 D. If the corporation commission issues an order establishing an
37 underground conversion service area, the public service corporation shall
38 not be required to commence conversion until the time for requesting re-
39 hearing has expired and no application has been filed, or if an application
40 for rehearing has been filed, until the commission has declined to modify
41 or reverse the order, and until either the time for commencing an action
42 in the superior court to set aside the order has expired and no applica-
43 tion has been filed, or if application has been filed, until a final order,
44 not subject to appeal, approving or refusing to set aside the commission's
45 order has been issued.

46 E. IN THE CASE OF PUBLIC SERVICE CORPORATIONS WHICH ARE LOCALLY
47 REGULATED AND LICENSED BY A MUNICIPALITY, THE CITY OR TOWN COUNCIL
48 SHALL MAIL NOT LESS THAN THIRTY DAYS BEFORE THE DATE SET FOR THE HEAR-
49 ING A NOTICE ANNOUNCING THE HEARING AND STATING THE BOUNDARIES OF THE
50 PROPOSED UNDERGROUND CONVERSION SERVICE AREA TO EACH OWNER OF A LOT OR

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1 PARCEL OF LAND WITHIN THE BOUNDARIES OF THE PROPOSED UNDERGROUND CON-
2 VERSION SERVICE AREA, AS REFLECTED ON THE RECORDS OF THE COUNTY
3 ASSESSOR AND TO THOSE GOVERNMENTAL AGENCIES HAVING RIGHTS IN PUBLIC
4 PLACES WITHIN SUCH AREA. IF THE CITY OR TOWN COUNCIL ISSUES AN ORDER
5 ESTABLISHING AN UNDERGROUND CONVERSION SERVICE AREA, THE PUBLIC SER-
6 VICE CORPORATION SHALL NOT BE REQUIRED TO COMMENCE CONVERSION UNTIL
7 THE TIME FOR COMMENCING ANY ACTION TO SET ASIDE THE ORDER AS PROVIDED
8 BY SUBSECTION F OF THIS SECTION HAS EXPIRED AND NO SUCH ACTION HAS
9 BEEN COMMENCED, OR IF COMMENCED, SUCH ACTION HAS BEEN FINALLY DIS-
10 POSED OF.

11 F. ANY PARTY AGGRIEVED BY ANY ACT OF THE CITY OR TOWN COUNCIL
12 IN THE ESTABLISHMENT OF AN UNDERGROUND CONVERSION SERVICE AREA MAY
13 BRING AN ACTION IN THE SUPERIOR COURT OF THE COUNTY IN WHICH THE
14 UNDERGROUND CONVERSION SERVICE AREA IS LOCATED TO SET ASIDE THE ACTION
15 OF THE CITY OR TOWN COUNCIL NOT LATER THAN TWENTY DAYS AFTER THE ORDER
16 OF THE CITY OR TOWN COUNCIL ESTABLISHING THE UNDERGROUND CONVERSION
17 SERVICE AREA.

18 G. In case of public agencies OR PUBLIC SERVICE CORPORATIONS
19 NOT UNDER THE JURISDICTION OF THE CORPORATION COMMISSION AND REGULATED
20 BY THE BOARD OF SUPERVISORS, the board of supervisors shall mail NOT
21 LESS THAN THIRTY DAYS BEFORE THE DATE SET FOR THE HEARING a notice
22 announcing the hearing and stating the boundaries of the proposed
23 service area to each owner of a lot or parcel of land within the bounda-
24 ries of the proposed service area, as reflected on the records of the
25 county assessor and those governmental agencies having rights in public
26 places within the area. ~~as provided by section 40-244.~~ If the board of
27 supervisors issues an order establishing an underground conversion service
28 area, the public agency shall not be required to commence conversion
29 until the time for commencing any action to set aside the order as pro-
30 vided by subsection F OF THIS SECTION has expired and no such action
31 has been commenced, or if commenced, such action has been finally disposed
32 of.

33 H. Any party aggrieved by any act of the board of supervisors in
34 the establishment of an underground conversion service area may bring an
35 action in the superior court of the county in which the underground con-
36 version service area is located to set aside the action of the board of
37 supervisors not later than twenty days after the order of the board of
38 supervisors establishing the underground conversion service area.

39 I. The costs of posting, publication and mailing provided for in
40 this section shall be assessed by THE CITY OR TOWN COUNCIL, the board of
41 supervisors or the corporation commission on a pro rata basis to each
42 public service corporation or public agency whose overhead electric or
43 communication facilities are to be included in the proposed underground
44 conversion service area.

45 J. The corporation commission or the board of supervisors shall
46 not establish any underground conversion service area without prior ap-
47 proval of such establishment by resolution of the local government.

48 K. If the underground conversion service area contains overhead
49 electric or communication facilities of a public service corporation and
50 public agency, then neither the public service corporation nor the public

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1 agency shall be required to commence conversion until the corporation com-
2 mission's order, and the board of ~~supervisor's~~ SUPERVISORS' order OR THE
3 CITY OR TOWN COUNCIL'S ORDER have HAS become final.

4 Sec. 4. Section 40-345, Arizona Revised Statutes, is amended
5 to read:

6 40-345. Procedure for making and hearing protests and
7 objections and withdrawing signatures

8 In determining protests, WITHDRAWALS OF SIGNATURES and objections,
9 the corporation commission, ~~or~~ the board of supervisors OR THE CITY OR
10 TOWN COUNCIL shall be guided by the following rules:

11 1. Each paper containing signatures shall have attached thereto
12 an affidavit of an owner of real estate within the proposed underground
13 conversion service area, stating that each signature was affixed in his
14 presence and is the signer's genuine signature.

15 2. The protest or objection shall be counted only for the property
16 described as belonging to the signer, and a signature without the descrip-
17 tion shall not be counted.

18 3. The signature of one co-tenant or, if community property, the
19 signature of either spouse, shall be sufficient for a protest-- OR A
20 WITHDRAWAL OF SIGNATURE FROM A PETITION OF OWNERS.

21 4. A protest, WITHDRAWAL OF SIGNATURE FROM PETITION OF OWNERS or
22 objection signed by a guardian, executor, administrator or trustee
23 shall be valid without an order of court therefor.

24 5. A protest, WITHDRAWAL OF SIGNATURE FROM PETITION OF OWNERS or
25 objection by a person in possession under contract of purchase shall be
26 valid.

27 6. When several persons have a claim to or an interest in property,
28 the signature of any of them shall be sufficient unless questioned by
29 another having such claim or interest, whereupon the wishes of the per-
30 son legally entitled to possession of the property at the date of the
31 protest shall control.

32 7. A protest, WITHDRAWAL OF SIGNATURE FROM PETITION OF OWNERS or
33 objection signed by an agent or attorney-in-fact shall be disregarded
34 unless the authority of the agent has been recorded with the county
35 recorder, or written or telegraphic authority is attached to the protest,
36 WITHDRAWAL OF SIGNATURE FROM PETITION OF OWNERS or objection before
37 expiration of the time for filing the protest, WITHDRAWAL or objection.

38 8. A signature may be withdrawn from a protest or objection by
39 filing the withdrawal with THE CLERK OF THE CITY OR TOWN COUNCIL OR
40 the clerk of the board of supervisors or the corporation commission,
41 as the case may be, at or before five o'clock p.m. of the last day
42 set for the filing of protests.

43 9. An objection to the signature of a co-tenant, spouse, claimant
44 or person interested may be filed, and the authority of an agent or
45 attorney-in-fact questioned, at any time before THE CITY OR TOWN COUN-
46 CIL, the board of supervisors or the corporation commission finally
47 passes upon the sufficiency of the protest, but the authority of an
48 agent or attorney-in-fact may not be revoked as to the signature
49 after the expiration of the protest period.

1 Sec. 5. Section 40-346, Arizona Revised Statutes, is amended
2 to read:

3 40-346. Hearing on petition by corporation commission, board
4 of supervisors or city or town council; determina-
5 tion of economic and technical feasibility; addi-
6 tion or elimination of certain areas

7 A. The corporation commission, ~~or~~ board of supervisors OR CITY
8 OR TOWN COUNCIL, as the case may be, shall hold a hearing, upon notice
9 as provided in this article, to establish the fact that the requirements
10 for the establishment of an underground conversion service area have
11 been satisfied, and that owners of no more than forty per cent of the
12 real property within the underground conversion service area, or no
13 more than forty per cent of the owners of real property, have not
14 objected to the formation of the underground conversion service area,
15 and if the commission, ~~or~~ board of supervisors OR CITY OR TOWN COUNCIL
16 so determines, and if the commission, ~~or~~ board of supervisors OR CITY
17 OR TOWN COUNCIL further determines after considering all objections,
18 that the cost of conversion as reflected in the joint report prepared
19 pursuant to section 40-342 is economically and technically feasible
20 for the public service corporations or public agencies involved and
21 the property owners affected and that the underground conversion ser-
22 vice area is a reasonably compact area of reasonable size, the commis-
23 sion, ~~or~~ board of supervisors OR CITY OR TOWN COUNCIL shall then
24 issue an order establishing the area as an underground conversion
25 service area. IN THOSE CASES WHERE THE COMMISSION, THE BOARD OF
26 SUPERVISORS AND THE CITY OR TOWN COUNCIL HAVE JURISDICTION, ALL MUST
27 ISSUE ORDERS ESTABLISHING THE AREA AS AN UNDERGROUND CONVERSION SER-
28 VICE AREA BEFORE THE PUBLIC SERVICE CORPORATIONS AND PUBLIC AGENCIES
29 OWNING OVERHEAD ELECTRICAL OR COMMUNICATION FACILITIES THEREIN SHALL
30 BE REQUIRED TO CONVERT SUCH FACILITIES TO UNDERGROUND.

31 B. If the corporation commission, ~~or~~ board of supervisors OR
32 CITY OR TOWN COUNCIL, as the case may be, should conclude at the hear-
33 ing that territory not included in the petition should be included
34 within the underground conversion service area, the real property
35 owners in the additional territory shall be notified in like manner
36 as provided in connection with the original hearing, and a subsequent
37 hearing shall be held on the question of including the additional
38 territory. In establishing the underground conversion service area,
39 the corporation commission, ~~or~~ the board of supervisors OR THE CITY
40 OR TOWN COUNCIL shall eliminate any territory described in the
41 petition which it finds will not be benefited by the establishment
42 of the underground conversion service area or in which it finds that
43 conversion is not economically or technically feasible.

44 C. Additions to and alterations of an underground conversion
45 service area shall be made in the manner provided for the establishment
46 of the underground conversion service area.

47 D. Upon the order of the commission, ~~or~~ board of supervisors
48 OR CITY OR TOWN COUNCIL establishing the area as an underground con-
49 version service area, the commission, ~~or~~ board of supervisors OR CITY
50 OR TOWN COUNCIL shall then direct the public service corporations or

1 public agencies owning overhead electric or communication facilities,
 2 as defined in section 40-341, within the underground conversion ser-
 3 vice area to convert such facilities to underground in accordance
 4 with standard underground practices.

5 E. If the petition for the establishment of an underground con-
 6 version service area requests the conversion of facilities used or
 7 maintained to be used for the transmission of electric energy at nominal
 8 voltages in excess of twenty-five thousand, or having a current capacity
 9 in excess of twelve thousand kva, protests and objections may be filed
 10 separately for the conversion of electric facilities and such other
 11 facilities. The commission, or board of supervisors OR CITY OR TOWN
 12 COUNCIL may order the conversion of electric facilities if the owners
 13 of no more than forty per cent of the real property within the under-
 14 ground conversion service area and no more than forty per cent of the
 15 owners of real property have not objected to the conversion of the
 16 electric facilities but have objected to the conversion of such other
 17 facilities, in which event the commission, or board of supervisors OR
 18 CITY OR TOWN COUNCIL shall order the establishment of the underground
 19 service area for the conversion of electric facilities only. If the
 20 owners of not more than forty per cent of the real property within
 21 the underground conversion service area and no more than forty per cent
 22 of the owners of real property have not objected to the conversion of
 23 electric facilities and such other facilities and the commission or board
 24 makes such further determinations as are required by subsection A of
 25 this section, then THE CITY OR TOWN COUNCIL, the board of supervisors
 26 or the commission may order the establishment of an underground conver-
 27 sion service area for the purpose of converting the electric facilities
 28 and such other facilities and the cost of converting such other facili-
 29 ties shall be included in the underground conversion costs and shall
 30 be assessed to each lot or parcel of real property in the same manner
 31 as provided for in section 40-347.

32 F. The order of the commission, or the board of supervisors OR
 33 THE CITY OR TOWN COUNCIL establishing the underground conversion ser-
 34 vice area shall set forth the underground conversion costs to be
 35 charged to each lot or parcel.

36 Sec. 6. Section 40-347, Arizona Revised Statutes, is amended
 37 to read:

38 40-347. Establishment of conversion costs; apportionment
 39 of costs; method of payment

40 A. The order authorizing the establishment of the underground
 41 conversion service area shall authorize each public service corpora-
 42 tion or public agency whose overhead electric or communication fa-
 43 cilities are to be converted to charge the underground conversion
 44 costs to each lot or parcel of real property within the underground
 45 conversion service area. The underground conversion costs shall be
 46 in an amount sufficient to repay the public service corporation or
 47 public agency for the following:

48 1. The remaining undepreciated original costs of the existing
 49 overhead electric and communication facilities to be removed as

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1 determined in accordance with the uniform system of accounts appli-
2 cable to the public service corporation or public agency.

3 2. The actual costs of removing such overhead electric and
4 communication facilities, less the salvage value of the facilities
5 removed.

6 3. The contribution in aid of construction which the public
7 service corporation or public agency would require under its rules
8 and regulations applicable to underground conversion service areas.

9 4. If not paid in full as provided in section 40-348, the
10 actual cost of converting to underground the facilities from the
11 public place to the point of delivery on the lot or parcel owned
12 by each owner receiving service, in the case of an electric public
13 service corporation or public agency, or to the connection point
14 within the house or structures, in the case of a communication cor-
15 poration, less any credit which may be given such owner under the
16 line extension policy of the public service corporation or public
17 agency then in existence.

18 5. If property belonging to the United States, ~~the state of~~
19 ~~Arizona~~ THIS STATE, county, city, school district or any other political
20 subdivision or institution of the state or county is included in the
21 underground conversion service area, and they do not voluntarily
22 assume such costs, the underground conversion cost applicable to such
23 property shall be charged pro rata against the remaining property
24 included within the underground conversion service area.

25 B. The cost incurred in placing underground the facilities in
26 public places shall be apportioned among the owners of property with-
27 in the area on the basis of relative size of each parcel by the cor-
28 poration commission, ~~or~~ the board of supervisors OR THE CITY OR TOWN
29 COUNCIL. The underground conversion cost, as determined by the
30 method prescribed in subsection A shall not exceed the estimated
31 costs indicated in the joint report prepared by the public service
32 corporation or public agency pursuant to subsection D of section
33 40-342 and, may be paid in cash by the property owners within sixty
34 days from the date the overhead facilities are removed from public
35 places, or may be paid by a uniform plan applicable to all property
36 owners not paying within the sixty-day period in equal periodic
37 installments over a reasonable period of time, not exceeding fif-
38 teen years, as established by the corporation commission, ~~or~~ the
39 board of supervisors OR THE CITY OR TOWN COUNCIL, together with
40 interest at the ~~A legal~~ rate TO BE DETERMINED BY THE CORPORATION
41 COMMISSION, THE BOARD OF SUPERVISORS OR THE CITY OR TOWN COUNCIL
42 BUT NOT TO EXCEED EIGHT PER CENT PER ANNUM.

43 C. If funds become available from other public or private
44 sources to pay all or any part of the underground conversion costs,
45 any such funds shall be applied on a pro rata basis to reduce the
46 underground conversion cost charged against each parcel or lot.

47 D. Notwithstanding the provisions of subsection B OF THIS
48 SECTION, the public service corporation or public agency serving
49 such area may by agreement with all the owners of the property in
50 an underground conversion service area provide for reimbursement

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1 to it of the cost of such conversion on a different basis as to
2 payment or security than that set out by the terms of this article.

3 Sec. 7. Section 40-348, Arizona Revised Statutes, is amended
4 to read:

5 40-348. Conversion of service lines on owner's property;
6 payment; notice of disconnection to owner

7 A. The service facilities within the boundaries of each lot or
8 parcel within an underground conversion service area shall be placed
9 underground at the same time as or after the underground system in
10 private easements and public places is placed underground. The public
11 service corporation or public agency involved, directly or through a
12 contractor, shall, at the expense of the owner, convert to underground
13 its facilities on any such lot or parcel up to the point of delivery,
14 in the case of an electric public service corporation or public agency,
15 or to the connection point within the house or structure, in the case
16 of a communication corporation, upon being requested by the owner.
17 Overhead electric service facilities beyond the point of delivery to
18 the service entrance shall be placed underground by the owner, acting
19 directly or through a contractor.

20 B. If the property owner does not reimburse the public service
21 corporation or public agency in cash for all such costs or expenses
22 so incurred by it within thirty days after completion of such conver-
23 sion, or reach other agreement with the public service corporation or
24 public agency involved for payment in some other manner, such costs
25 shall be included in the costs on which the underground conversion
26 cost for such property is calculated, as provided by this article.

27 C. Upon completion of the underground system in public places
28 the corporation commission, or board of supervisors OR CITY OR TOWN
29 COUNCIL, as the case may be, shall mail a notice to each owner of a
30 lot or parcel located therein advising him of the provisions of sub-
31 section A and stating that unless such owner complies with the
32 requirements of such subsection within thirty days thereafter, all
33 buildings, structures and improvements located upon the lot or par-
34 cel will be subject to disconnection from the electric or communica-
35 tion facilities providing service thereto. Thereafter if the owner
36 of any lot or parcel shall fail to comply within the time specified,
37 the public service corporation or public agency providing electric
38 or communication service shall disconnect and remove all overhead
39 electric or communication facilities providing service to any build-
40 ing, structure or improvement located upon such lot or parcel.
41 Written notice of the proposed disconnection shall be given at
42 least thirty days prior to disconnection by leaving a copy of such
43 notice at the principal building, structure or improvement located
44 upon such lot or parcel.

45 Sec. 8. Section 40-350, Arizona Revised Statutes, is amended
46 to read:

47 40-350. Lien for cost of conversion; procedure to perfect
48 lien; recording notice of lien; default; limita-
49 tion of action to foreclose lien; disconnection
50 of service upon default

1 A. Upon completion of the conversion of the overhead electric
2 and communication facilities, the public service corporation or public
3 agency shall determine the total conversion costs as provided in sec-
4 tion 40-347 and shall prepare and file a verified statement of such
5 costs with the corporation commission, or the board of supervisors
6 OR THE CITY OR TOWN COUNCIL, as the case may be. In the event the
7 verified statement of the underground conversion costs for the re-
8 moval of the overhead electric and communication facilities from
9 public places is less than the estimate of such costs, the underground
10 conversion costs to be paid by each owner shall be reduced proportion-
11 ately, or in the event the actual cost of converting to underground
12 the facilities from the public place to the point of delivery is less
13 than the estimated cost for such conversion, then the underground
14 conversion costs to be paid by the owner of such lot for such con-
15 version shall be reduced. Upon completion of the conversion and the
16 filing of the verified statement of costs, the corporation commission,
17 or the board of supervisors OR THE CITY OR TOWN COUNCIL, as the case
18 may be, shall mail to each owner a statement of the underground con-
19 version costs setting forth the revisions, if any, which such state-
20 ment shall specify the date payments are to commence. In the event
21 the statements or the verified statement of costs contain any revi-
22 sions, any owner desiring to object to such revisions shall file a
23 written objection with the corporation commission, or the board of
24 supervisors OR THE CITY OR TOWN COUNCIL, as the case may be, within
25 twenty days following receipt of such notice. In the event any
26 objections are filed, the corporation commission, or the board of
27 supervisors OR THE CITY OR TOWN COUNCIL, as the case may be, shall
28 fix a time for a hearing thereon not later than twenty days from the
29 date of the filing of such objections. Notice of the time and place
30 of such hearing shall be given by the corporation commission, or
31 the board of supervisors OR CITY OR TOWN COUNCIL to the owner filing
32 the written objections and to the public service corporation or
33 public agency whose overhead facilities were converted. It shall be
34 a condition of maintaining any objection or appeal from an order of
35 the corporation commission, or board of supervisors OR CITY OR TOWN
36 COUNCIL that the person objecting continue to make payments in the
37 manner prescribed by the order of the corporation commission, or
38 board of supervisors OR CITY OR TOWN COUNCIL, which such payments
39 may be made under protest and subject to refund if the verified
40 statement, computation or allocation is determined to be improper.

41 B. The underground conversion cost to be paid by each owner to
42 each public service corporation or public agency concerned shall be a
43 lien separately on each privately owned parcel of real property within
44 the underground conversion service area in favor of such public service
45 corporation or public agency upon recording in the office of the county
46 recorder of the county in which the underground conversion service area
47 is located, of a notice or notices of lien within ninety days after com-
48 pletion of the removal of the overhead system in public places, whether
49 or not the connections to serve the individual lots have been completed,

1 ~~as provided in section 40-349~~ AND SHALL BE EFFECTIVE AS OF THE DATE OF
2 FILING OF THE NOTICE OF PROPOSED LIEN AS PROVIDED IN SECTION 40-343 UPON
3 ITS PERFECTION AS PROVIDED IN SUBSECTION C OF THIS SECTION. Such lien
4 shall only apply to each parcel of property to the extent determined by
5 the apportionment provided for in section 40-347 plus any amount included
6 pursuant to section 40-348. Upon payment of such entire sum, any lien
7 herein created shall be released.

8 C. The lien shall be perfected ~~upon~~ BY recording a notice of lien
9 in the office of the county recorder of the county in which the under-
10 ground conversion service area is located ~~as provided in subsection A~~
11 ~~of this section~~ WITHIN NINETY DAYS AFTER COMPLETION OF THE REMOVAL OF THE
12 OVERHEAD SYSTEM IN PUBLIC PLACES, WHETHER OR NOT THE CONNECTIONS TO SERVE
13 THE INDIVIDUAL LOTS HAVE BEEN COMPLETED, AS PROVIDED IN SECTION 40-349.
14 The notice of lien shall contain the following:

15 1. The legal description of each lot or parcel upon which a lien
16 is claimed.

17 2. The public service corporation or public agency claiming the
18 lien.

19 3. That portion of the underground conversion costs allocated to
20 each lot or parcel.

21 4. A certified copy of the order of the corporation commission,
22 ~~or~~ the board of supervisors OR THE CITY OR TOWN COUNCIL authorizing the
23 establishment of the underground conversion service area.

24 5. The periodic installments to be made on account of the repay-
25 ment of the underground conversion costs allocated to each lot or parcel.

26 6. The date of completion of removal of the overhead facilities
27 in private easements and public places.

28 7. THE DATE OF FILING THE NOTICE OF PROPOSED LIEN.

29 D. In the event of a default in the payment of a periodic install-
30 ment of the underground conversion cost, the unpaid balance of such
31 underground conversion cost may, at the election of the public service
32 corporation or public agency involved, immediately become due and pay-
33 able, and the public service corporation or public agency involved may,
34 not later than one year after the final installment would have become
35 due and payable, institute an action in superior court to foreclose its
36 lien against such parcel or lot. A lien granted under the provisions
37 of this section shall continue until the entire underground conversion
38 cost apportioned to each such parcel or lot has been paid, notwithstand-
39 ing the provisions of section 33-998, except that action to enforce the
40 lien shall be commenced not later than one year after the final install-
41 ment would have become due and payable. The election to accelerate the
42 periodic payment of installments shall become effective thirty days after
43 mailing written notice thereof to the owner of such parcel or lot as
44 reflected on the records of the county assessor and by recording a copy
45 thereof in the office of the county recorder of the county where such
46 parcel or lot is located.

47 E. Any lien created under this article shall be inferior to any
48 lien of any GOVERNMENTAL ENTITY INCLUDING, BUT NOT LIMITED TO, ANY
49 municipal corporation which has arisen or may arise by reason of any

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1 ad valorem tax assessment or any improvement or assessment district
2 assessment, or bond assessment as provided by law BUT SHALL BE SUPERIOR
3 TO ALL OTHER DEMANDS, ENCUMBRANCES, TITLE OR LIENS WHENSOEVER CREATED.

4 F. In the event of a default in the payment of the equal periodic
5 installment, the public service corporation or public agency involved
6 may, after thirty days' written notice of such default, discontinue
7 service to such meter or account until such time as the delinquent amount
8 has been paid.

9 Sec. 9. Section 40-354, Arizona Revised Statutes, is amended
10 to read:

11 40-354. No extension of corporation commission jurisdiction
12 to public agencies or cable television systems

13 Nothing contained in this article shall vest any jurisdiction
14 over public agencies OR CABLE TELEVISION SYSTEMS in the Arizona
15 corporation commission.

Approved by the Governor - June 6, 1975

Filed in the office of the Secretary of State - June 6, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 121

SENATE BILL 1285

AN ACT

RELATING TO TAXATION OF INCOME; PROVIDING FOR PAYMENT OF TAXES IN TWO INSTALLMENTS, AND AMENDING SECTION 43-146, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 43-146, Arizona Revised Statutes, is amended
3 to read:
4 43-146. Payment of tax
5 (a) Tax, when payable. The tax imposed under this title shall be
6 paid on the fifteenth day of April following the close of the calendar
7 year, or, if the return is made on the basis of a fiscal year, on the
8 fifteenth day of the fourth month following the close of the fiscal
9 year, but corporations subject to the tax imposed by this title may
10 elect to pay the tax in two installments and, in such event, one-half
11 of the amount of tax disclosed by the return shall be due and payable
12 as a first installment of the tax on or before the fifteenth day of
13 the fourth month following the close of the income year, and the bal-
14 ance of the tax shall be due and payable as a second installment on
15 or before the fifteenth day of the sixth month following the close of
16 the taxable year.
17 (b) Installment payments, election. In the case of a taxpayer,
18 other than a corporation, on or before the date prescribed for the
19 payment of the tax the taxpayer may elect to pay the tax in three TWO
20 installments, ~~the first of which may not be less than one-third and~~
21 ~~the second not less than one-half of the remaining balance. The first~~
22 ~~installment shall be paid on the date prescribed for the payment of the~~
23 ~~tax, the second installment shall be paid on the fifteenth day of the~~
24 ~~fourth month, and the third installment on the fifteen day of the~~
25 ~~eight month, after that date.~~ AND, IN SUCH EVENT, ONE-HALF OF THE
26 TAX DISCLOSED BY THE RETURN SHALL BE DUE AND PAYABLE AS A FIRST IN-
27 STALLMENT OF THE TAX ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH

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1 MONTH FOLLOWING THE CLOSE OF THE INCOME YEAR, AND THE BALANCE OF THE
2 TAX SHALL BE DUE AND PAYABLE AS A SECOND INSTALLMENT ON OR BEFORE
3 THE FIFTEENTH DAY OF THE TENTH MONTH FOLLOWING THE CLOSE OF THE TAXABLE
4 YEAR. Notwithstanding the provisions of this section, if the amount
5 paid on or before the due date of the first installment is less than
6 the tax as corrected in accordance with the provisions of section
7 43-177(i), the taxpayer shall be deemed to have elected to pay the
8 tax in ~~three~~ TWO installments in the manner provided herein. If any
9 AN installment is not paid on or before the date fixed for its payment,
10 the whole amount of tax unpaid shall be paid upon notice and demand
11 from the ~~tax-commission~~ DEPARTMENT.

12 (c) Payments, may be paid in advance. Any taxpayer may elect
13 to pay the tax or any installment prior to the date prescribed for its
14 payment.

15 (d) Remittances, payable to tax-commission DEPARTMENT. The tax,
16 and any interest and penalties, shall be paid to the ~~tax-commission~~
17 DEPARTMENT. Remittances may be in the form of a check, payable to the
18 ~~tax-commission~~ DEPARTMENT, during such time and under such regulations
19 as the ~~tax-commission~~ DIRECTOR may prescribe. If a check is not paid
20 by the bank on which it is drawn, the taxpayer tendering the check
21 remains liable for the payment of the tax, and all interest and penalties,
22 as if he had not tendered the check.

23 (e) Husband and wife, liability for tax. The spouse who con-
24 trols the disposition of or who receives or spends community income
25 as well as the spouse who is taxable on such income is liable for the
26 payment of the taxes imposed by this title on such income. Where a
27 joint return is filed by a husband and wife, the liability for the
28 tax on the aggregate income is joint and several.

29 (f) Extension of time. Where an extension of time for filing
30 returns has been granted by the ~~tax-commission~~ DEPARTMENT, the first
31 installment of the tax provided for in subsection (a) shall be paid
32 prior to the expiration of such extension.

33 (g) Small tax balances. The ~~commission~~ DIRECTOR, with the
34 approval of the attorney general, is authorized to abate all or any
35 portion of the unpaid portion of any income tax, if the ~~commission~~
36 DIRECTOR determines that the administration and collection costs
37 involved would exceed the amount of the tax due.

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 122
SENATE BILL 1142

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; PROVIDING AN ALTERNATIVE METHOD FOR CERTAIN PERSONS WHO ARE GRADUATES OF FOREIGN MEDICAL SCHOOLS TO PROCURE A REGULAR LICENSE TO PRACTICE MEDICINE OTHER THAN BY ENDORSEMENT, AND AMENDING TITLE 32, CHAPTER 13, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1424.01.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 32, chapter 13, article 2, Arizona Revised
3 Statutes, is amended by adding section 32-1424.01, to read:
4 32-1424.01. Additional method for certain graduates of
5 foreign schools of medicine to qualify for
6 a regular license to practice medicine other
7 than by endorsement
- 8 A. AN APPLICANT WHO IS A GRADUATE OF A SCHOOL OF MEDICINE LOCATED
9 ELSEWHERE THAN IN THE UNITED STATES OR ITS TERRITORIES, THE DISTRICT OF
10 COLUMBIA OR THE DOMINION OF CANADA, IN LIEU OF FULFILLING THE REQUIRE-
11 MENTS OF SECTION 32-1424 IN ORDER TO PROCURE A REGULAR LICENSE TO PRACTICE
12 MEDICINE OTHER THAN BY ENDORSEMENT, MAY SUBMIT EVIDENCE SATISFACTORY TO
13 THE BOARD THAT ON EACH OF THE FOLLOWING THE APPLICANT:
14 1. MEETS ALL OF THE REQUIREMENTS OF SECTION 32-1423 BUT FOR THE
15 PARAGRAPH NUMBERED 2 THEREOF.
16 2. HAS RECEIVED A FOREIGN MEDICAL EDUCATION WHICH THE BOARD DEEMS
17 EQUIVALENT TO THAT REQUIRED IN THE PARAGRAPH NUMBERED 2 OF SECTION 32-1423
18 AND WHICH IS RECOGNIZED BY THE WORLD HEALTH ORGANIZATION.
19 3. HAS COMPLETED ALL OF THE FORMAL REQUIREMENTS OF THE FOREIGN
20 MEDICAL SCHOOL EXCEPT INTERNSHIP OR SOCIAL SERVICE.
21 4. HAS ATTAINED A SATISFACTORY SCORE ON A QUALIFYING EXAMINATION
22 WHICH HAS BEEN APPROVED BY THE BOARD. SUCH EXAMINATION SHALL NOT BE
23 REQUIRED UNTIL COMPLETION OF THE CLINICAL TRAINING PRESCRIBED BY SUB-
24 PARAGRAPH 5 OF THIS SECTION AND SHALL BE CONDUCTED BY A MEDICAL SCHOOL
25 IN A STATE WHICH HAS BEEN APPROVED BY THE LIAISON COMMITTEE ON MEDICAL
26 EDUCATION.

1 5. HAS SATISFACTORILY COMPLETED ONE ACADEMIC YEAR OF SUPERVISED
2 CLINICAL TRAINING UNDER THE DIRECTION OF SUCH APPROVED MEDICAL SCHOOL.

3 6. HAS THE WORKING ABILITY TO READ, WRITE, SPEAK, UNDERSTAND AND
4 BE UNDERSTOOD IN THE ENGLISH LANGUAGE RELATING TO THE ARTS AND SCIENCE
5 OF MEDICINE.

6 7. WAS A RESIDENT OF THE STATE OF ARIZONA AT THE TIME THE
7 APPLICANT ENTERED MEDICAL SCHOOL.

8 B. SATISFACTION OF THE REQUIREMENTS OF SUBSECTION A OF THIS
9 SECTION SHALL BE IN LIEU OF THE COMPLETION OF EITHER A FOREIGN INTERNSHIP
10 OR ANY SOCIAL SERVICE REQUIREMENTS, OR BOTH, AND NO SUCH REQUIREMENTS
11 SHALL BE A CONDITION OF LICENSURE AS A PHYSICIAN IN THIS STATE.

12 C. SATISFACTION OF THE REQUIREMENTS OF SUBSECTION A OF THIS
13 SECTION SHALL BE IN LIEU OF CERTIFICATION BY THE EDUCATIONAL COUNCIL
14 FOR FOREIGN MEDICAL GRADUATES AND SUCH CERTIFICATION SHALL NOT BE A
15 CONDITION OF LICENSURE AS A PHYSICIAN IN THIS STATE FOR CANDIDATES WHO
16 HAVE COMPLETED THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION.

17 D. A HEALTH CARE INSTITUTION LICENSED BY THIS STATE, OPERATED
18 BY THIS STATE OR A POLITICAL SUBDIVISION THEREOF OR WHICH RECEIVES
19 STATE FINANCIAL ASSISTANCE, DIRECTLY OR INDIRECTLY, SHALL NOT REQUIRE
20 AN INDIVIDUAL, WHO AT THE TIME OF HIS OR HER ENROLLMENT IN A MEDICAL
21 SCHOOL OUTSIDE THE UNITED STATES IS A PERSON WHO HAS COMPLETED HIS OR
22 HER PREMEDICAL TRAINING IN A COLLEGE OR UNIVERSITY LOCATED IN THE UNITED
23 STATES OR ITS TERRITORIES, THE DISTRICT OF COLUMBIA OR THE DOMINION OF
24 CANADA TO SATISFY ANY REQUIREMENTS OTHER THAN THOSE CONTAINED IN THIS
25 SECTION AND PARAGRAPHS NUMBERED 1 AND 4 THROUGH 8 OF SECTION 32-1423
26 PRIOR TO SUCH INDIVIDUAL'S COMMENCING FIRST YEAR OF POST-GRADUATE MEDI-
27 CAL TRAINING OR RESIDENCY.

28 E. A DOCUMENT GRANTED BY A MEDICAL SCHOOL LOCATED OUTSIDE THE
29 UNITED STATES WHICH IS RECOGNIZED BY THE WORLD HEALTH ORGANIZATION
30 SIGNIFYING COMPLETION OF ALL THE FORMAL REQUIREMENTS OF SUCH FOREIGN
31 MEDICAL SCHOOL EXCEPT EITHER INTERNSHIP, SOCIAL SERVICE, OR BOTH, ALONG
32 WITH CERTIFICATION BY THE MEDICAL SCHOOL IN WHICH TRAINING AS REQUIRED
33 BY PARAGRAPH 5, SUBSECTION A, OF THIS SECTION WAS RECEIVED, SHALL BE
34 DEEMED THE EQUIVALENT OF A DEGREE OF DOCTOR OF MEDICINE FOR PURPOSES OF
35 LICENSURE AND PRACTICE AS A PHYSICIAN IN THIS STATE AND SHALL POSSESS
36 ALL THE RIGHTS AND PRIVILEGES THEREOF.

37 Sec. 2. Source of funds

38 Funds to provide the clinical training required by this act will
39 be included in the general appropriations bill.

40 Sec. 3. Emergency

41 To preserve the public peace, health and safety it is necessary
42 that this act become immediately operative. It is therefore declared
43 to be an emergency measure, to take effect as provided by law.

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 123
SENATE BILL 1256

AN ACT

RELATING TO PUBLIC FINANCES; PROVIDING DEFINITIONS; PRESCRIBING WHO MAY BE A PUBLIC DEPOSITORY FOR ACTIVE AND INACTIVE PUBLIC DEPOSITS; PRESCRIBING LIMITATION; PRESCRIBING CERTAIN PROCEDURES; PRESCRIBING METHOD OF ESTABLISHING THE INTEREST RATE AND TO WHOM THE DEPOSITS SHALL BE AWARDED; PROVIDING FOR INVESTMENT IN SECURITIES; REQUIRING CERTAIN SECURITY FOR CERTAIN DEPOSITS OF CHARTER CITIES; AMENDING SECTIONS 35-321, 35-325.02, 35-325.05, 35-325.09, 35-325.12, 35-325.15, 35-325.17 AND 35-325.18, ARIZONA REVISED STATUTES; REPEALING SECTIONS 35-325.03, 35-325.04, 35-325.06, 35-325.07, 35-325.08, 35-325.11, 35-325.13 AND 35-325.19, ARIZONA REVISED STATUTES; AMENDING TITLE 35, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 35-325.03 AND 35-325.06 THROUGH 35-325.08, AND AMENDING TITLE 35, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 35-342.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 35-321, Arizona Revised Statutes, is amended
3 to read:
4 35-321. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Subdivision" means any county INCLUDING THOSE GOVERNED BY
7 CHARTER, city EXCLUDING THOSE GOVERNED BY CHARTER or town.
8 2. "State monies" means all monies in the treasury of the state
9 or coming lawfully into the possession or custody of the state treasurer.
10 3. "Subdivision monies" means all monies in the treasury of a
11 subdivision or coming lawfully into the possession or custody of the
12 treasurer.
13 4. "Public monies" includes state monies or subdivision monies,
14 or both.
15 5. "Public deposit" means public monies deposited in a designated
16 depository pursuant to the provisions of this article.
17 6. "Active deposit" means a public deposit payable or withdraw-
18 able, in whole or in part, on demand.
19 7. "Inactive deposit" means a public deposit which is not payable
20 on demand.

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1 8. "Treasurer" includes the state ~~treasure~~ TREASURER and the
2 treasurer or officer exercising the functions of treasurer of any
3 subdivision.

4 9. "Board of deposit" means, in the case of the state, the state
5 board of deposit; in the case of a county, the board of supervisors;
6 and, in the case of a city or town, the board of trustees or common
7 council.

8 10. "Permissible rate of interest" means a rate of interest which
9 ~~no class of AN eligible financial institutions INSTITUTION~~ mentioned in
10 section 35-325.01 is ~~prohibited from paying~~ PERMITTED TO PAY by state
11 or federal law or valid regulations thereunder. ~~Conversely, a rate of~~
12 ~~interest which any class of eligible financial institutions mentioned~~
13 ~~in this section is prohibited from paying shall not be "permissible"~~
14 ~~as to any other such class or member thereof whether or not such law or~~
15 ~~regulation directly applies to or governs such other class or member~~
16 ~~thereof.~~

17 11. "Capital structure" means ~~the sum of the following liabilities~~
18 ~~of a financial institution: -- the par value of outstanding capital stock,~~
19 ~~outstanding capital notes and debentures, the surplus and undivided pro-~~
20 ~~fits as rendered on the published statement of condition of financial~~
21 ~~institutions rendered in response to call by the supervisory banking~~
22 ~~authority next preceding the award of deposits made by the boards of~~
23 ~~deposit under the provisions of this article.~~ THE AMOUNT OF THE CAPITAL
24 OF THE FINANCIAL INSTITUTION AS OF THE END OF THE NEXT PRECEDING CALENDAR
25 YEAR AS DEFINED BY RULE OF THE SUPERINTENDENT OF BANKS FOR THE PURPOSE OF
26 ADMINISTRATION OF THIS ARTICLE.

27 12. "Supervisory banking authority" means state superintendent of
28 banks in respect to the affairs of state financial institutions and the
29 comptroller of currency or the home loan bank in respect to national
30 financial associations.

31 13. "Qualifying office" means any ~~central~~ HOME or branch office
32 of a financial institution REFERRED TO IN SECTION 35-325.01 which, ~~by~~
33 ~~reason of its location, qualifies the financial institution as a public~~
34 ~~depository of subdivision monies under the provisions of this article,~~
35 IS LOCATED WITHIN THE SUBDIVISION.

36 14. "Qualifying deposits of a qualifying office" ~~includes such~~
37 ~~MEANS~~ gross deposits ~~of~~ INCLUDING CERTIFICATES OF DEPOSIT AND ACCOUNTS
38 OF BANKS AND SAVINGS AND LOAN ASSOCIATIONS ~~a qualifying office~~ as would
39 be eligible for reporting on a call statement of condition to the super-
40 visory banking authority excluding, however, public deposits.

41 15. "Certificate of deposit" means the certification of a public
42 depository that it will promptly pay upon lawful demand, public monies
43 in its custody to the treasurer making the deposit.

44 Sec. 2. Section 35-325.02, Arizona Revised Statutes, is amended
45 to read:

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1 35-325.02. Depository of public monies

2 Any financial institution mentioned in section 35-325.01 is
3 eligible to become a state PUBLIC depository of the inactive deposits of
4 state monies AND SUBDIVISION MONIES. Only ~~commercial-banks-authorized~~
5 ~~to-do-business-in-this-state-are~~ CORPORATIONS AUTHORIZED TO ENGAGE IN
6 THE BANKING BUSINESS UNDER SECTION 6-201 ARE eligible to become state
7 PUBLIC depositories of the active deposits of state OR SUBDIVISION
8 monies.

9 Sec. 3. Repeal

10 Sections 35-325.03 and 35-325.04, Arizona Revised Statutes, are
11 repealed.

12 Sec. 4. Title 35, chapter 2, article 2, Arizona Revised Statutes,
13 is amended by adding new section 35-325.03, to read:

14 35-325.03. Limitation on amount of inactive public
15 deposits to be received by each
16 depository

17 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, NO PUBLIC
18 DEPOSITORY SHALL BE ELIGIBLE TO RECEIVE INACTIVE DEPOSITS OF PUBLIC
19 MONIES IN AN AMOUNT EXCEEDING TWICE ITS CAPITAL STRUCTURE.

20 Sec. 5. Section 35-325.05, Arizona Revised Statutes, is amended
21 to read:

22 35-325.05. Application for award of active state or
23 county deposits

24 A. Each eligible financial institution desiring to be a public
25 depository for the ~~monies~~ ACTIVE DEPOSITS of the state or a subdivision
26 COUNTY shall, ~~not less than ten days prior to the date fixed for the~~
27 ~~designation of such public depositories,~~ make application in writing to
28 the appropriate board of deposit. Such application shall specify the
29 maximum amount of monies of the state or the subdivision COUNTY which the
30 applicant desires to receive and have on ~~inactive~~ ACTIVE deposit at any
31 one time. ~~during the period covered by the designation and shall also~~
32 ~~specify the maximum amount of such monies the applicant desires to~~
33 ~~receive and have on active deposit at any one time during such period.~~

34 B. The application for ACTIVE deposits of subdivision COUNTY
35 monies shall be accompanied by a statement of the applicant certifying
36 the amount of qualifying deposits of each THE qualifying ~~office~~ OFFICES
37 of the financial institution. ~~as of the date three weeks prior to the~~
38 ~~date set for the designation and award.~~

39 Sec. 6. Repeal

40 Sections 35-325.06 through 35-325.08, Arizona Revised Statutes,
41 are repealed.

42 Sec. 7. Title 35, chapter 2, article 2, Arizona Revised Statutes,
43 is amended by adding new sections 35-325.06 through 35-325.08, to read:

44 35-325.06. Award of inactive state deposits

45 THE STATE BOARD OF DEPOSIT SHALL AWARD THE INACTIVE DEPOSITS TO
46 THE ELIGIBLE DEPOSITORIES AS FOLLOWS:

47 1. IF THE AMOUNT OF STATE MONIES AVAILABLE FOR INACTIVE DEPOSIT
48 AT ANY TIME SHALL BE LESS THAN ONE HUNDRED THOUSAND DOLLARS, THE STATE
49 BOARD OF DEPOSIT SHALL AWARD THE DEPOSIT OF SUCH FUNDS TO THE ELIGIBLE
50 DEPOSITORIES IN ACCORDANCE WITH RULES OF THE BOARD OF DEPOSIT, BUT IN

1 NO EVENT SHALL ANY DEPOSIT BE AWARDED AT AN INTEREST RATE LESS THAN
2 THE EQUIVALENT BOND YIELD OF UNITED STATES TREASURY BILLS OF LIKE TERM.

3 2. IF THE AMOUNT OF STATE MONIES AVAILABLE FOR INACTIVE DEPOSIT
4 AT ANY TIME SHALL BE ONE HUNDRED THOUSAND DOLLARS OR MORE, THE STATE
5 BOARD OF DEPOSIT SHALL AWARD THE DEPOSIT OF SUCH MONIES TO THE ELIGIBLE
6 DEPOSITORIES AS FOLLOWS:

7 (a) THE TREASURER SHALL GIVE NOTICE TO EACH ELIGIBLE DEPOSITORY
8 OF THE AMOUNT OF STATE MONIES AVAILABLE FOR INACTIVE DEPOSIT, THE PERIOD
9 OF TIME FOR WHICH SUCH MONIES WILL BE DEPOSITED, AND THE TIME AT WHICH
10 BIDS FOR THE DEPOSIT OF SUCH MONIES WILL BE OPENED. SUCH NOTICE SHALL
11 BE GIVEN IN WRITING UNLESS THE TREASURER SHALL DETERMINE, IN ACCORDANCE
12 WITH RULES PROMULGATED BY THE STATE BOARD OF DEPOSIT, THAT AS TO THE
13 MAKING OF ANY DEPOSIT IT IS IMPRACTICAL TO GIVE WRITTEN NOTICE, AND IN
14 THAT EVENT NOTICE SHALL BE GIVEN BY TELEPHONE OR BY SUCH OTHER MEANS AS
15 THE TREASURER SHALL DETERMINE IN ACCORDANCE WITH RULES PROMULGATED BY
16 THE STATE BOARD OF DEPOSIT. THE NOTICE SHALL BE GIVEN A REASONABLE TIME
17 BEFORE THE TIME SPECIFIED FOR THE OPENING OF BIDS.

18 (b) EACH ELIGIBLE DEPOSITORY DESIRING TO BID FOR THE AWARD OF THE
19 DEPOSIT OF SUCH MONIES SHALL SUBMIT ITS BID IN WRITING IN A SEALED
20 ENVELOPE BEFORE THE TIME SPECIFIED IN THE TREASURER'S NOTICE. THE BID
21 SHALL SPECIFY THE RATE OF INTEREST THAT THE ELIGIBLE DEPOSITORY OFFERS
22 TO PAY ON THE AMOUNT OF MONIES TO BE DEPOSITED AS SPECIFIED IN THE
23 TREASURER'S NOTICE, OR A PORTION THEREOF, FOR THE PERIOD SPECIFIED IN
24 THE TREASURER'S NOTICE. THE BID MAY BE SUBMITTED ON BEHALF OF ANY
25 ELIGIBLE DEPOSITORY BY ANY PERSON AUTHORIZED BY SUCH ELIGIBLE DEPOSITORY
26 AND THE BID MAY BE WITHDRAWN ANY TIME BEFORE THE TIME SPECIFIED.

27 (c) AT THE TIME SPECIFIED IN THE TREASURER'S NOTICE, THE TREASURER
28 OR HIS DELEGATE SHALL, IN PUBLIC, ANNOUNCE THE BIDS, AND SHALL FURNISH
29 TO THE STATE BOARD OF DEPOSIT AT ITS NEXT REGULAR SCHEDULED MEETING
30 A CORRECT LIST OF THE BIDDERS SHOWING THE BIDS RECEIVED AND THE DEPOSIT
31 OR DEPOSITS AWARDED. THE TREASURER SHALL KEEP IN HIS POSSESSION FOR A
32 PERIOD OF TIME NOT LESS THAN TWO YEARS ALL BIDS CONSIDERED.

33 (d) THE AWARD OF THE DEPOSIT SHALL BE MADE TO THE ELIGIBLE
34 DEPOSITORY BIDDING THE HIGHEST RATE OF INTEREST ON THE MONIES, OR A
35 PORTION THEREOF, TO BE DEPOSITED, BUT IN NO EVENT SHALL ANY DEPOSIT BE
36 AWARDED AT AN INTEREST RATE LESS THAN THE EQUIVALENT BOND YIELD OF
37 UNITED STATES TREASURY BILLS OF LIKE TERM. IF THE ELIGIBLE DEPOSITORY
38 OFFERING TO PAY THE HIGHEST RATE OF INTEREST HAS BID ONLY FOR A PORTION
39 OF THE MONIES TO BE DEPOSITED OR IS ELIGIBLE TO RECEIVE ONLY A PORTION
40 OF THE MONIES TO BE DEPOSITED THEN THE DEPOSIT OF THE REMAINDER OF SUCH
41 MONIES SHALL BE AWARDED TO ELIGIBLE DEPOSITORIES BIDDING THE NEXT HIGHEST
42 RATES OF INTEREST. THE AWARD OF A DEPOSIT IN ACCORDANCE HERewith SHALL
43 CONSTITUTE A CONTRACT BETWEEN THE STATE AND THE DEPOSITORY FOR THE PAY-
44 MENT OF THE RATE OF INTEREST SPECIFIED IN THE BID PURSUANT TO WHICH
45 THE DEPOSIT IS AWARDED.

46 (e) IF TWO OR MORE ELIGIBLE DEPOSITORIES SUBMIT BIDS OF AN
47 IDENTICAL RATE OF INTEREST FOR ALL OR ANY PORTION OF THE MONIES TO BE
48 DEPOSITED, THE AWARD OF THE DEPOSIT OF SUCH MONIES SHALL BE MADE TO
49 THE ELIGIBLE DEPOSITORY AMONG THOSE SUBMITTING SUCH IDENTICAL BIDS
50 HAVING, AT THE TIME OF THE BID OPENING THE LOWEST RATIO OF INACTIVE
51 PUBLIC DEPOSITS IN RELATION TO ITS CAPITAL STRUCTURE.

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1 (f) EACH BID SUBMITTED, AND NOT WITHDRAWN PRIOR TO THE TIME
2 SPECIFIED, SHALL CONSTITUTE AN IRREVOCABLE OFFER TO PAY INTEREST AS
3 SPECIFIED IN THE BID ON THE DEPOSIT, OR PORTION THEREOF BID FOR, AND
4 THE AWARD OF A DEPOSIT IN ACCORDANCE HEREWITH SHALL OBLIGATE THE
5 DEPOSITORY TO ACCEPT THE DEPOSIT AND PAY INTEREST AS SPECIFIED IN THE
6 BID PURSUANT TO WHICH THE DEPOSIT IS AWARDED.

7 35-325.07. Award of inactive subdivision deposits

8 THE SUBDIVISION BOARD OF DEPOSIT SHALL AWARD THE INACTIVE
9 DEPOSITS TO ELIGIBLE DEPOSITORIES AS FOLLOWS:

10 1. IF THE TOTAL AMOUNT OF SUBDIVISION MONIES ON INACTIVE
11 DEPOSIT AND AVAILABLE FOR INACTIVE DEPOSIT AT ANY TIME SHALL BE LESS
12 THAN ONE HUNDRED THOUSAND DOLLARS, THE SUBDIVISION BOARD OF DEPOSIT
13 SHALL AWARD THE DEPOSIT OF SUCH FUNDS TO AN ELIGIBLE DEPOSITORY OR
14 DEPOSITORIES IN ACCORDANCE WITH AN ORDINANCE OR RESOLUTION OF THE
15 GOVERNING BODY ACTING AS THE SUBDIVISION BOARD OF DEPOSIT.

16 2. IF THE TOTAL AMOUNT OF SUBDIVISION MONIES ON INACTIVE
17 DEPOSIT AND AVAILABLE FOR INACTIVE DEPOSIT AT ANY TIME SHALL BE ONE
18 HUNDRED THOUSAND DOLLARS OR MORE, THE SUBDIVISION BOARD OF DEPOSIT
19 SHALL AWARD THE DEPOSIT OF SUCH MONIES TO THE ELIGIBLE DEPOSITORIES
20 AS FOLLOWS:

21 (a) THE TREASURER SHALL GIVE NOTICE TO EACH ELIGIBLE DEPOSITORY
22 WITH A QUALIFYING OFFICE AND TO SUCH OTHER ELIGIBLE DEPOSITORIES AS
23 THE TREASURER DEEMS APPROPRIATE OF THE AMOUNT OF SUBDIVISION MONIES
24 AVAILABLE FOR INACTIVE DEPOSIT, THE PERIOD OF TIME FOR WHICH SUCH
25 MONIES WILL BE DEPOSITED, AND THE TIME AT WHICH BIDS FOR THE DEPOSIT
26 OF SUCH MONIES WILL BE OPENED. SUCH NOTICE SHALL BE GIVEN IN WRITING
27 UNLESS THE TREASURER SHALL DETERMINE, IN ACCORDANCE WITH AN ORDINANCE
28 OR RESOLUTION ADOPTED BY THE GOVERNING BODY ACTING AS THE SUBDIVISION
29 BOARD OF DEPOSIT, THAT AS TO THE MAKING OF ANY DEPOSIT IT IS IMPRAC-
30 TICAL TO GIVE WRITTEN NOTICE, AND IN THAT EVENT NOTICE SHALL BE GIVEN
31 BY TELEPHONE OR BY SUCH OTHER MEANS AS THE TREASURER SHALL DETERMINE
32 IN ACCORDANCE WITH AN ORDINANCE OR RESOLUTION ADOPTED BY THE GOVERN-
33 ING BODY ACTING AS A SUBDIVISION BOARD OF DEPOSIT. THE NOTICE SHALL
34 BE GIVEN A REASONABLE TIME BEFORE THE TIME SPECIFIED FOR THE OPENING
35 OF BIDS.

36 (b) EACH ELIGIBLE DEPOSITORY DESIRING TO BID FOR THE AWARD OF
37 THE DEPOSIT OF SUCH MONIES SHALL SUBMIT ITS BID IN WRITING IN A
38 SEALED ENVELOPE BEFORE THE TIME SPECIFIED IN THE TREASURER'S NOTICE.
39 THE BID SHALL SPECIFY THE RATE OF INTEREST THAT THE ELIGIBLE DEPOSITORY
40 OFFERS TO PAY ON THE AMOUNT OF MONIES TO BE DEPOSITED AS SPECIFIED IN
41 THE TREASURER'S NOTICE, OR A PORTION THEREOF, FOR THE PERIOD SPECIFIED
42 IN THE TREASURER'S NOTICE. THE BID MAY BE SUBMITTED ON BEHALF OF ANY
43 ELIGIBLE DEPOSITORY BY ANY PERSON AUTHORIZED BY SUCH ELIGIBLE DEPOSITORY
44 AND THE BID MAY BE WITHDRAWN ANY TIME BEFORE THE TIME SPECIFIED.

45 (c) AT THE TIME SPECIFIED IN THE TREASURER'S NOTICE, THE
46 TREASURER OR HIS DELEGATE SHALL, IN PUBLIC, ANNOUNCE THE BIDS, AND
47 SHALL FURNISH TO THE SUBDIVISION BOARD OF DEPOSIT AT ITS NEXT REGULAR
48 SCHEDULED MEETING A CORRECT LIST OF BIDDERS SHOWING THE BIDS RECEIVED
49 AND THE DEPOSIT OR DEPOSITS AWARDED. THE TREASURER SHALL KEEP IN HIS
50 POSSESSION FOR A PERIOD OF TIME NOT LESS THAN TWO YEARS ALL BIDS
51 CONSIDERED.

1 (d) THE AWARD OF THE DEPOSIT SHALL BE MADE TO THE ELIGIBLE
2 DEPOSITORY BIDDING THE HIGHEST RATE OF INTEREST ON THE MONIES, OR A
3 PORTION THEREOF, TO BE DEPOSITED, BUT IN NO EVENT SHALL ANY DEPOSIT
4 BE AWARDED AT AN INTEREST RATE LESS THAN THE EQUIVALENT BOND YIELD OF
5 UNITED STATES TREASURY BILLS OF LIKE TERM. IF THE ELIGIBLE DEPOSITORY
6 OFFERING TO PAY THE HIGHEST RATE OF INTEREST HAS BID ONLY FOR A PORTION
7 OF THE MONIES TO BE DEPOSITED OR IS ELIGIBLE TO RECEIVE ONLY A PORTION
8 OF THE MONIES TO BE DEPOSITED THEN THE DEPOSIT OF THE REMAINDER OF
9 SUCH MONIES SHALL BE AWARDED TO ELIGIBLE DEPOSITORIES BIDDING THE NEXT
10 HIGHEST RATE OF INTEREST. THE AWARD OF A DEPOSIT IN ACCORDANCE HERE-
11 WITH SHALL CONSTITUTE A CONTRACT BETWEEN THE SUBDIVISION AND THE
12 DEPOSITORY FOR THE PAYMENT OF THE RATE OF INTEREST SPECIFIED IN THE
13 BID PURSUANT TO WHICH THE DEPOSIT IS AWARDED.

14 (e) IF TWO OR MORE ELIGIBLE DEPOSITORIES SUBMIT BIDS OF AN
15 IDENTICAL RATE OF INTEREST FOR ALL OR ANY PORTION OF THE MONIES TO
16 BE DEPOSITED, THE AWARD OF THE DEPOSIT OF SUCH MONIES SHALL BE MADE
17 TO THE ELIGIBLE DEPOSITORY AMONG THOSE SUBMITTING SUCH IDENTICAL BIDS
18 HAVING, AT THE TIME OF THE BID OPENING THE LOWEST RATIO OF INACTIVE
19 PUBLIC DEPOSITS IN RELATION TO ITS CAPITAL STRUCTURE.

20 (f) EACH BID SUBMITTED, AND NOT WITHDRAWN PRIOR TO THE TIME
21 SPECIFIED, SHALL CONSTITUTE AN IRREVOCABLE OFFER TO PAY INTEREST AS
22 SPECIFIED IN THE BID ON THE DEPOSIT, OR PORTION THEREOF BID FOR, AND
23 THE AWARD OF A DEPOSIT IN ACCORDANCE HERewith SHALL OBLIGATE THE
24 DEPOSITORY TO ACCEPT THE DEPOSIT AND PAY INTEREST AS SPECIFIED IN THE
25 BID PURSUANT TO WHICH THE DEPOSIT IS AWARDED.

26 (g) THE GOVERNING BODY OF EACH SUBDIVISION ACTING AS SUB-
27 DIVISION BOARD OF DEPOSIT SHALL PRESCRIBE BY ORDINANCE OR RESOLUTION
28 PROCEDURES FOR THE ADMINISTRATION OF THIS CHAPTER RELATING TO SUB-
29 DIVISION MONIES.

30 35-325.08. Award of active public deposits

31 A. THE STATE BOARD OF DEPOSIT AND EACH COUNTY BOARD OF DEPOSIT
32 SHALL AWARD THE ACTIVE DEPOSITS OF PUBLIC MONIES SUBJECT TO ITS
33 CONTROL TO THE DEPOSITORIES ELIGIBLE TO BECOME PUBLIC DEPOSITORIES OF
34 ACTIVE PUBLIC DEPOSITS. THE ACTIVE DEPOSIT SHALL FIRST BE AWARDED IN
35 THE CASE OF COUNTY MONIES TO THE ELIGIBLE DEPOSITORIES HAVING A
36 QUALIFYING OFFICE IN PROPORTION AS THE AGGREGATE OF QUALIFYING DEPOSITS
37 OF THE QUALIFYING OFFICES OF EACH ELIGIBLE DEPOSITORY BEARS TO THE
38 AGGREGATE QUALIFYING DEPOSITS OF ALL SUCH QUALIFYING OFFICES OF THE
39 ELIGIBLE DEPOSITORIES APPLYING THEREFOR; AND IN THE CASE OF STATE
40 MONIES IN PROPORTION AS THE CAPITAL STRUCTURE OF EACH BEARS TO THE
41 AGGREGATE CAPITAL STRUCTURE OF ALL.

42 B. IF THE AGGREGATE AMOUNT OF ACTIVE DEPOSITS AS SPECIFIED IN
43 THE APPLICATIONS MADE THEREFOR IS LESS THAN THE AMOUNT OF STATE OR
44 COUNTY MONIES SUBJECT TO BE SO DEPOSITED AS ACTIVE DEPOSITS DURING
45 THE PERIOD, THE APPROPRIATE BOARD MAY INVITE APPLICATIONS FOR THE
46 EXCESS AMOUNT FROM THE ELIGIBLE DEPOSITORIES. THE SAID EXCESS AMOUNT
47 SHALL FIRST BE AWARDED AMONG THE ELIGIBLE DEPOSITORIES APPLYING THERE-
48 FOR AND QUALIFIED TO RECEIVE ACTIVE DEPOSITS IN PROPORTION TO THE
49 DEPOSITS MADE UNDER SUBSECTION A OF THIS SECTION.

50 C. THE GOVERNING BODY OF EACH INCORPORATED CITY OR TOWN SHALL

1 PRESCRIBE BY ORDINANCE OR RESOLUTION PROCEDURES FOR THE AWARD OF
2 ACTIVE DEPOSITS OF PUBLIC MONIES SUBJECT TO ITS CONTROL.

3 Sec. 8. Section 35-325.09, Arizona Revised Statutes, is
4 amended to read:

5 35-325.09. Meeting of the boards of deposit and
6 designation of public depositories
7 for active deposits

8 Each THE STATE board of deposit AND EACH COUNTY BOARD OF DEPOSIT
9 shall meet on the first Monday of June each year for the purpose of
10 designating the public depositories FOR THE ACTIVE DEPOSITS of the state
11 or ~~subdivision~~ COUNTY monies, and at such meeting or any adjourned session
12 thereof shall designate such depositories and award the ACTIVE DEPOSITS
13 OF THE state or ~~subdivision~~ COUNTY monies to and among the depositories
14 so designated for the period of one year commencing on the first DAY of
15 July next following. Such designation and award shall be made in
16 duplicate, one copy to be retained by the board of deposit and one copy
17 shall be certified to the treasurer. The board shall further meet as
18 required by this article.

19 Sec. 9. Repeal

20 Section 35-325.11, Arizona Revised Statutes, is repealed.

21 Sec. 10. Section 35-325.12, Arizona Revised Statutes, is amended
22 to read:

23 35-325.12. Investment in securities

24 ~~A. If after compliance with the provisions of this article~~
25 ~~requiring the deposit of public monies in public depositories the amount~~
26 ~~of monies of the state or a subdivision is in excess of the aggregate~~
27 ~~amount of such deposits, and a board of deposit finds that such excess~~
28 ~~cannot be deposited in public depositories because of the limitations of~~
29 ~~this article, such board~~ IF THERE SHALL BE NO BID FOR AN INACTIVE STATE
30 OR SUBDIVISION DEPOSIT OF A RATE OF INTEREST EQUAL TO OR MORE THAN THE
31 EQUIVALENT BOND YIELD OF UNITED STATES TREASURY BILLS OF LIKE TERM
32 COMPUTED FROM THE ASKING PRICE ON THE BUSINESS DAY PREVIOUS TO THE DAY
33 ON WHICH THE BIDS ARE OPENED, THE BOARD OF DEPOSIT may order the
34 treasurer to invest any part of such excess in United States treasury
35 securities having a maturity of twelve months or less. Any order of
36 the board directing the treasurer to invest monies of the state or a
37 subdivision shall specifically state the amount of monies to be invested
38 and shall specifically describe the securities to be acquired.

39 B. When the treasurer or board of deposit is of the opinion that
40 the actual amount of active deposits of public monies is in excess of
41 the amount necessary to meet the anticipated demands of such active
42 deposits, but such excess active deposits are available for investment
43 for only a limited period of thirty days or less, the treasurer may
44 invest such excess active deposits in United States treasury bills,
45 bonds or notes, or through a repurchase agreement with public deposi-
46 tories, to be executed in thirty days or less, may acquire securities
47 issued as direct obligations of and guaranteed by the United States or
48 any agency of the United States.

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1 C. The board of deposit may order the treasurer to sell any of
2 such securities and any such order shall specifically describe the
3 securities and fix the date upon which they are to be sold. Securities
4 so ordered to be sold shall be sold for cash by the treasurer on the
5 date fixed in such order, at the then current market price. Neither the
6 treasurer nor the members of the board shall be held accountable for any
7 loss occasioned by sales of securities at prices lower than their cost.
8 Any loss or expense incurred in making such sale shall be payable as
9 other expenses of the treasurer's office.

10 D. Interest and appreciation realized on any investment autho-
11 rized by this section shall be collected by the treasurer and credited
12 by him in accordance with the provisions of section 35-325.20.

13 E. Whenever securities acquired under this section mature and
14 become due and payable, the treasurer shall present them for payment
15 according to their tenor and shall collect the monies payable thereon.
16 The monies so collected shall be treated as state or subdivision monies
17 subject to deposit as inactive deposits until the board of deposit finds
18 that such monies, or a part thereof, are in excess of the aggregate
19 amount of monies of the state or subdivision which can be deposited in
20 depositories in accordance with the provisions of this article, and
21 orders the treasurer to reinvest all or any part of such monies, as
22 provided in this section for the investment of such excess public monies.

23 F. A treasurer shall be responsible for the safekeeping of all
24 securities acquired by him under this section. Any of such securities
25 may be deposited for safekeeping with any trust company which has its
26 principal place of business in and is qualified to do a trust business
27 in this state.

28 G. The investment of public monies as provided in this section
29 shall be exempt from the provisions of section 41-732, section 35-142,
30 subsection B, section 35-154, sections 35-181.01 to 35-195, inclusive,
31 and sections 35-351 and 35-353.

32 H. In addition to the provisions of subsections A and B of this
33 section, the treasurer may invest such excess active funds IN:

34 1. Interest bearing savings accounts or certificates of deposit
35 in banks doing business in this state whose accounts are insured by the
36 federal deposit insurance corporation, but only if such deposits in
37 excess of the insured amount are secured by the depository to the same
38 extent and in the same manner as required by the general depository law
39 of the state.

40 2. Interest bearing savings accounts or certificates of deposit
41 in savings and loan associations doing business in this state whose
42 accounts are insured by the federal savings and loan insurance corpora-
43 tion, but only if such deposits in excess of the insured amount are
44 secured by the depository to the same extent and in the same manner as
45 required by the general depository law of the state.

1 Sec. 11. Repeal

2 Section 35-325.13, Arizona Revised Statutes, is repealed.

3 Sec. 12. Section 35-325.15, Arizona Revised Statutes, is amended
4 to read:

5 35-325.15. State servicing bank; bids; payment

6 A. Any bank eligible to become a depository of the inactive
7 deposits of public STATE monies, having a total capital structure of
8 ten million dollars or more, having resources of one hundred million
9 dollars or more, and being otherwise in a sound condition, shall be
10 eligible to be the servicing bank for the active deposits of public
11 STATE monies.

12 B. The superintendent of banks shall regularly furnish to the
13 state board of deposit, ~~and, upon request, to other boards of deposit,~~
14 and keep current, a list of the banks qualified to be the servicing bank
15 for active deposits of public STATE monies. On the first Monday in April
16 of each year the state board of deposit shall in writing notify each of
17 the banks qualified to be a servicing bank of the time and place at which
18 servicing bids will be received. The servicing bid solicited shall be
19 the sum of dollars for which the qualified bank will agree to perform
20 the duties of a servicing bank for the ensuing period of designation.

21 C. On the fourth Monday in April of each year the STATE boards
22 BOARD of deposit shall meet and receive the servicing bids in writing
23 and shall designate as the servicing bank the qualified bank presenting
24 the lowest bid. If there are identical low bids the boards BOARD of
25 deposit shall determine by lot which of the identical low bidders shall
26 be the designee. The state ~~or subdivision~~ shall have no obligation
27 for the payment of the servicing bid or any part thereof but each
28 depository of active public STATE deposits, including the servicing
29 bank itself, shall bear its respective share of the servicing bid in
30 proportion as its award of active public STATE deposits. Each partic-
31 ipating bank shall pay its share of the servicing bid to the
32 servicing bank in equal monthly installments during the period of
33 designation. The undertaking of a participating active depository
34 to bear its proportion of the servicing bid shall become a condition
35 for the award of active public STATE deposits during the period of
36 designation.

37 Sec. 13. Section 35-325.17, Arizona Revised Statutes, is amended
38 to read:

39 35-325.17. Deposits and withdrawals of active deposits
40 of state monies

41 Active deposits of public STATE monies and ~~withdrawal~~ WITHDRAWALS
42 of active deposits of public STATE monies shall be made by the
43 treasurer with the depositories of the active deposits of public STATE
44 monies through direct deposit with and withdrawal on the servicing
45 bank. On each business day the treasurer shall prepare a memorandum of
46 his total daily deposits to the servicing bank and the total daily
47 checks drawn by the treasurer on the servicing bank and arrive at the

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1 net charge or credit to the aggregate active deposits of public STATE
2 monies which will result from such daily activity. The treasurer shall
3 apportion such net charge or credit among the depositories of active
4 public STATE monies in proportion to their respective awards. Such
5 memorandum, over the signature of the treasurer, shall be delivered to
6 the servicing bank, together with the daily deposits. An executed
7 copy of the memorandum shall also be delivered by the treasurer
8 to the clearing house on the day of deposit. The receipt of the memo-
9 randum by the servicing bank shall constitute, in the case of a net
10 credit, the authority of the servicing bank to disburse to each partici-
11 pating depository for deposit, in the name of the treasurer, the respec-
12 tive share of each depository in the net daily credit reflected thereon.
13 In the case of a net charge, such memorandum shall constitute the
14 authority of the servicing bank to execute and present for payment to
15 each participating depository a draft against the account of the trea-
16 surer therein in the amount of the share of the participating bank in
17 the net daily charge. Each participating bank is authorized to charge
18 the account of the treasurer with the amount of each draft drawn on it
19 by the servicing bank made payable to the servicing bank for the credit
20 of the treasurer, and the servicing bank shall receive and hold the
21 proceeds for such credit.

22 Sec. 14. Section 35-325.18, Arizona Revised Statutes, is amended
23 to read:

24 35-325.18. Evidence and terms of inactive public deposits

25 Inactive public deposits shall be evidenced by ACCOUNTS OR
26 certificates of deposit or United States treasury bills having a
27 maturity of twelve months or less.

28 Sec. 15. Repeal

29 Section 35-325.19, Arizona Revised Statutes, is repealed.

30 Sec. 16. Title 35, chapter 2, article 3, Arizona Revised Statutes,
31 is amended by adding section 35-342, to read:

32 35-342. Funds of charter cities

33 THE PROVISIONS OF SECTION 35-322 REQUIRING SECURITY FOR DEPOSITS
34 OF PUBLIC MONIES IN FINANCIAL INSTITUTIONS SHALL APPLY TO DEPOSITS IN
35 FINANCIAL INSTITUTIONS OF THE FUNDS OF CITIES GOVERNED BY CHARTER.

36 Sec. 17. Emergency

37 To preserve the public peace, health and safety it is necessary
38 that this act become immediately operative. It is therefore declared
39 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 6, 1975

Filed in the office of the Secretary of State - June 9, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 124
HOUSE BILL 2377

AN ACT

RELATING TO JURIES; PROVIDING FOR STATE GRAND JURY; PROVIDING FOR DESIGNATION OF SUPERIOR COURT JUDGE AS STATE GRAND JURY ASSIGNMENT JUDGE; PROVIDING FOR DESIGNATION OF ADDITIONAL SUPERIOR COURT JUDGE AS AN ADDITIONAL STATE GRAND JURY ASSIGNMENT JUDGE; PROVIDING FOR ADDITIONAL STATE GRAND JURY UPON SHOWING OF GOOD CAUSE BY THE ATTORNEY GENERAL; PROVIDING FOR TERM AND EXTENSIONS TO TERM OF STATE GRAND JURY; PROVIDING FOR POWERS AND DUTIES OF STATE GRAND JURY; PRESCRIBING RESIDENCE AND QUALIFICATIONS OF MEMBERS OF THE STATE GRAND JURY; PROVIDING FOR IMPANELING, PRESENTATION OF EVIDENCE TO, DESIGNATION OF VENUE AND CONSOLIDATION OF STATE GRAND JURIES; PRESCRIBING DUTY OF ATTORNEY GENERAL TO ADVISE COUNTY ATTORNEY OF CERTAIN INVESTIGATIONS AND INDICTMENTS; PROVIDING FOR ATTENDANCE OF PROSECUTING ATTORNEY, PROSECUTION OF CERTAIN INDICTMENTS AND ISSUANCE OF SUBPOENAS; PRESCRIBING COSTS AND EXPENSES; PRESCRIBING CERTAIN PROCEDURES, AND AMENDING TITLE 21, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.

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

2 Section 1. Title 21, chapter 4, Arizona Revised Statutes, is
3 amended by adding article 2, to read:

4 ARTICLE 2. STATE GRAND JURY

5 21-421. State grand juries; impaneling; term

6 A. UPON WRITTEN APPLICATION BY THE ATTORNEY GENERAL THERE SHALL
7 BE A STATE GRAND JURY WITH JURISDICTION EXTENDING THROUGHOUT THE STATE
8 IMPANELED EACH YEAR BY ANY SUPERIOR COURT JUDGE DESIGNATED FROM TIME TO
9 TIME AS A STATE GRAND JURY ASSIGNMENT JUDGE BY THE CHIEF JUSTICE OF THE
10 ARIZONA SUPREME COURT. SUCH ASSIGNMENT JUDGE SHALL SERVE AT THE PLEASURE
11 OF THE CHIEF JUSTICE. A STATE GRAND JURY SHALL BE IMPANELED WITHIN THE
12 COUNTY IN WHICH THE ASSIGNMENT JUDGE IS SERVING.

13 B. WHENEVER THE ATTORNEY GENERAL DETERMINES IT TO BE IN THE BEST
14 INTEREST TO CONVENE ADDITIONAL STATE GRAND JURIES, HE MAY APPLY IN WRITING
15 TO THE CHIEF JUSTICE OF THE ARIZONA SUPREME COURT FOR THE DESIGNATION OF
16 AN ADDITIONAL ASSIGNMENT JUDGE AND THE CHIEF JUSTICE SHALL DESIGNATE AN
17 ADDITIONAL ASSIGNMENT JUDGE IN ACCORDANCE WITH THE PROVISIONS OF THIS
18 ARTICLE. SUCH ASSIGNMENT JUDGE SHALL SERVE AT THE PLEASURE OF THE CHIEF

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1 JUSTICE. SUCH ASSIGNMENT JUDGE MAY, FOR GOOD CAUSE SHOWN, IMPANEL AN
2 ADDITIONAL STATE GRAND JURY IN ACCORDANCE WITH THE APPLICATION, IN WHICH
3 EVENT SUCH STATE GRAND JURY SHALL HAVE STATEWIDE JURISDICTION. IN MAKING
4 HIS DETERMINATION AS TO THE NEED FOR IMPANELING AN ADDITIONAL STATE GRAND
5 JURY, THE ASSIGNMENT JUDGE MAY REQUIRE A SHOWING THAT THE MATTER CANNOT
6 BE EFFECTIVELY HANDLED BY A COUNTY GRAND JURY OR AN EXISTING STATE GRAND
7 JURY. AT NO ONE TIME SHALL MORE THAN THREE STATE GRAND JURIES BE IMPANELED.

8 C. THE REGULAR TERM OF THE STATE GRAND JURY SHALL BE ONE HUNDRED
9 TWENTY DAYS. THE TERM MAY BE SHORTENED BY THE ASSIGNMENT JUDGE AT THE
10 REQUEST OF THE ATTORNEY GENERAL. THE TERM MAY BE EXTENDED BY THE ASSIGN-
11 MENT JUDGE FOR A SPECIFIED TIME PERIOD UPON A VERIFIED, WRITTEN PETITION
12 BY THE ATTORNEY GENERAL STATING THAT AN EXTENSION IS NEEDED TO CONCLUDE
13 A GRAND JURY INQUIRY BEGUN PRIOR TO THE EXPIRATION OF ITS TERM.

14 21-422. Powers and duties

15 A. THE LAW APPLICABLE TO COUNTY GRAND JURIES, INCLUDING THEIR
16 POWERS, DUTIES AND FUNCTIONS, SHALL APPLY TO THE STATE GRAND JURIES
17 EXCEPT INSOFAR AS IT IS IN CONFLICT WITH THIS ARTICLE. THE ARIZONA
18 SUPREME COURT SHALL PROMULGATE RULES AND REGULATIONS TO GOVERN THE PRO-
19 CEDURES OF STATE GRAND JURIES.

20 B. THE STATE GRAND JURY SHALL INVESTIGATE AND RETURN INDICTMENTS
21 FOR ONLY THOSE OFFENSES OR VIOLATIONS OF LAW:

22 1. ARISING OUT OF OR IN CONNECTION WITH THE DETERMINATION OR
23 COLLECTION OF STATE TAXES, THE REGISTRATION OR FAILURE TO REGISTER
24 SECURITIES, THE OFFER OR SALE OF SECURITIES, THE OFFER OR SALE OF
25 INTERESTS IN LAND, THE FORMATION OR OPERATION OF BANKS, INSURANCE COM-
26 PANIES, PENSION FUNDS, LABOR UNIONS, PROFESSIONAL SPORTS ENTERPRISES,
27 CORPORATE ENTERPRISES, OR BUSINESS ENTERPRISES, THE MAKING OR COLLECTING
28 OF LOANS, EVENTS LEADING TO RECEIVERSHIP OR DECLARATION OF BANKRUPTCY
29 BY A BUSINESS ENTERPRISE, THE SALE OR PURCHASE OF GOODS OR SERVICES BY OR
30 FOR THE STATE OR POLITICAL SUBDIVISIONS, BRIBERY, OBSTRUCTION OF JUSTICE
31 OR ANY FORM OF WILFUL OR CORRUPT MISCONDUCT INVOLVING ANY PERSON COMPEN-
32 SATED BY PUBLIC FUNDS; OR

33 2. ARISING OUT OF OR IN CONNECTION WITH ANY FRAUD, THEFT, POSSES-
34 SION, RECEIPT, SALE OR TRANSPORTATION OF STOLEN PROPERTY OR OTHER CONTRA-
35 BAND, OR GAMBLING OR PROSTITUTION OR NARCOTICS, WHICH OCCURS IN MORE THAN
36 ONE COUNTY OR WHICH OCCURS IN ONE COUNTY AND AFFECTS THE RESIDENTS OF
37 ANOTHER COUNTY OR WHICH MAY BE PROSECUTED BY MORE THAN ONE COUNTY ATTORNEY;
38 OR

39 3. ARISING OUT OF OR IN CONNECTION WITH PERJURY COMMITTED BY ANY
40 PERSON TESTIFYING BEFORE IT; OR

41 4. ARISING OUT OF OR IN CONNECTION WITH ANY PERJURY BY SUBORNATION
42 OR ATTEMPTED PERJURY BY SUBORNATION RELATING TO TESTIMONY BEFORE IT.

43 C. IF A STATE GRAND JURY, PURSUANT TO AN INVESTIGATION UNDER
44 SUBSECTION B OF THIS SECTION, LEARNS OF AN OFFENSE FOR WHICH IT LACKS
45 JURISDICTION TO INDICT, THE GRAND JURY SHALL DIRECT THE ATTORNEY GENERAL
46 TO INFORM THE APPROPRIATE PROSECUTORIAL AUTHORITY.

47 D. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT THE JURIS-
48 DICTION OF THE COUNTY GRAND JURIES OR COUNTY ATTORNEYS, NOR SHALL AN
49 INVESTIGATION BY A STATE GRAND JURY BE DEEMED PREEMPTIVE OF A PREVIOUSLY
50 INSTITUTED INVESTIGATION BY ANOTHER GRAND JURY OR AGENCY HAVING JURISDIC-
51 TION UNDER THE SAME SUBJECT MATTER UNLESS GOOD CAUSE IS SHOWN THEREFOR.

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1 21-428. Costs and expenses

2 A. IN ADDITION TO THE FEES AND AMOUNTS SET FORTH IN SECTION 21-221,
3 PERSONS SERVING ON A STATE GRAND JURY SHALL BE PROVIDED BY THE COUNTY IN
4 WHICH THE ASSIGNMENT JUDGE IS SERVING REASONABLE PER DIEM EXPENSES AS
5 ESTABLISHED BY THE ARIZONA SUPREME COURT.

6 B. THE COSTS AND EXPENSES OF IMPANELING A STATE GRAND JURY AND FOR
7 THE PERFORMING OF ITS FUNCTIONS AND DUTIES SHALL BE PAID FOR BY THE STATE
8 OUT OF FUNDS APPROPRIATED FOR THIS PURPOSE UPON APPLICATION BY THE COUNTY
9 TREASURER OF THE COUNTY IN WHICH THE ASSIGNMENT JUDGE IS SERVING TO THE
10 ARIZONA SUPREME COURT WHICH SHALL CERTIFY AND FIX SUCH AMOUNT.

11 C. ALL COSTS AND EXPENSES INCURRED BY A COUNTY ARISING OUT OF THE
12 PROSECUTION AND TRIAL OF STATE GRAND JURY INDICTMENTS SHALL BE PAID FOR
13 BY THE STATE OUT OF FUNDS APPROPRIATED FOR THIS PURPOSE UPON APPLICATION
14 BY THE COUNTY TREASURER TO THE ARIZONA SUPREME COURT WHICH SHALL CERTIFY
15 AND FIX SUCH AMOUNT.

Approved by the Governor June 7, 1975

Filed in the office of the Secretary of State - June 9, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 125
HOUSE BILL 2048

AN ACT

RELATING TO EDUCATION; PROVIDING THAT A UNIFIED SCHOOL DISTRICT MAY LEVY SIXTY CENTS ON EACH ONE HUNDRED DOLLARS OF ASSESSED VALUATION, AND AMENDING SECTION 15-445, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-445, Arizona Revised Statutes, is amended
3 to read:

4 15-445. Levy; items for which levy may be expended;
5 Limitations

6 A. At the request of the board of trustees of a district, the
7 county superintendent shall include in his estimate to the board of
8 supervisors the items prescribed by this section and the board of
9 supervisors may make a levy on the property of the district sufficient
10 to produce the amount asked for, but a levy for such purpose shall not
11 exceed thirty cents on each one hundred dollars of property valuation
12 FOR A COMMON OR HIGH SCHOOL DISTRICT AND SIXTY CENTS FOR EACH ONE
13 HUNDRED DOLLARS OF PROPERTY VALUATION FOR EACH UNIFIED SCHOOL DISTRICT
14 ORGANIZED PURSUANT TO TITLE 15, CHAPTER 4.1. Funds collected pursuant
15 to the levy may be accumulated from year to year, and if not needed to
16 be used for a period of three months or more, may be invested in the
17 same manner as sinking fund monies, as prescribed by section 15-1323.

18 B. The board may include in its annual budget the following items
19 which may be paid from the levy prescribed by the terms of subsection A:

20 1. The purchase or lease of sites, improvement of school grounds,
21 erecting, purchasing, leasing, improving and furnishing of school build-
22 ings and appurtenances.

23 2. The improving and furnishing of buildings used for school
24 purposes when such buildings are leased from the national park service.

25 3. A lease-purchase agreement for transportation equipment or for
26 portable classrooms.

27 C. Notwithstanding the provisions of section 15-1302, funds
28 collected pursuant to the levy may be expended for purposes set forth in

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1 this section without an election. Prior to expenditure of funds, the
2 governing board shall publish notice of the proposed expenditure of such
3 funds one time in a newspaper of general circulation within the school
4 district. Within ten days of giving such notice, the board shall hold
5 a public hearing on the proposed expenditure.

6 Sec. 2. Emergency

7 To preserve the public peace, health and safety it is necessary
8 that this act become immediately operative. It is therefore declared
9 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 11, 1975

Filed in the Office of the Secretary of State - June 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 126
HOUSE BILL 2071

AN ACT

RELATING TO EDUCATION; PROVIDING FOR DEPOSIT OF UNIVERSITY FUNDS; PROVIDING FOR SECURITY, AND AMENDING SECTION 15-748, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 15-748, Arizona Revised Statutes, is amended
3 to read:

4 15-748. Deposits of universities of Arizona
5 monies to be secured

6 A. Monies deposited by the universities ~~and state college~~ of
7 Arizona shall be secured by regularly issued and interest-bearing bonds
8 of the United States government, or state, county, municipal or school
9 district improvement bonds of this state, of a market value equal at all
10 times to the amount of the deposits, and all ~~banks~~ PUBLIC DEPOSITORIES
11 are directed to give such security.

12 B. The PUBLIC depository ~~bank~~ may, in lieu of depositing bonds
13 described in this section, deposit the safekeeping receipt of a federal
14 reserve bank or any bank located in a central reserve city whose combined
15 capital and surplus on the date of the safekeeping receipt is ten million
16 dollars or more, evidencing the deposit therein of such securities. The
17 safekeeping receipt shall be endorsed or assigned to the comptroller of
18 the respective institution making the deposit.

19 C. The condition of the deposit of securities, or a safekeeping
20 receipt in lieu thereof, shall be that the ~~bank~~ PUBLIC DEPOSITORY will
21 upon lawful demand therefor promptly pay the monies in its custody to
22 the institution making the deposit.

23 D. NOTWITHSTANDING THE REQUIREMENTS OF THIS SECTION, ANY PUBLIC
24 DEPOSITORY UNDER THE PROVISIONS OF TITLE 35, CHAPTER 2 MAY ACCEPT DEPOSITS
25 OF PUBLIC MONIES TO THE TOTAL AUTHORIZED INSURANCE ON ACCOUNTS INSURED
26 BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR THE FEDERAL SAVINGS AND
27 LOAN INSURANCE CORPORATION, WITHOUT DEPOSITING A SURETY BOND OR SECURITIES
28 IN LIEU OF SUCH SECURITY BOND.

Approved by the Governor - June 11, 1975

Filed in the Office of the Secretary of State - June 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 127
HOUSE BILL 2155

AN ACT

RELATING TO WATERS; PRESCRIBING INVESTIGATION OF FLOOD CONTROL PROJECTS UPON REQUEST; PRESCRIBING EXPENDITURES OF FUNDS FOR PROPERTY AND INTEREST ACQUISITION, AND AMENDING SECTIONS 45-2702 AND 45-2703, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 45-2702, Arizona Revised Statutes, is amended
3 to read:

4 45-2702. Investigation and certification by commission

5 ~~At such times as the federal government budgets funds for the~~
6 ~~construction of any flood control project in this state,~~ Any public
7 agency affected may request the commission to investigate such ANY
8 FLOOD CONTROL project IN THIS STATE and report to the legislature the
9 results of its investigation, and the commission shall certify to the
10 legislature the date state funds should be appropriated to pay the
11 cost of state participation in such project and the estimated amount.

12 Sec. 2. Section 45-2703, Arizona Revised Statutes, is amended to
13 read:

14 45-2703. Limitation on expenditure of funds

15 A. The commission shall not disburse any funds for a flood control
16 project until the legislature has appropriated funds to contribute toward
17 the local cost of land, easements and rights of way for that project. The
18 commission shall not undertake the construction of flood control projects.

19 B. PRIOR TO THE FEDERAL GOVERNMENT BUDGETING FUNDS FOR THE CON-
20 STRUCTION OF A FLOOD CONTROL PROJECT, THE COMMISSION MAY ONLY DISBURSE
21 THE STATE'S PORTION OF THE COSTS INCURRED BY A PUBLIC AGENCY IN ACQUIRING
22 FEE TITLE TO REAL PROPERTY NECESSARY FOR SUCH PROJECT. AT SUCH TIMES AS
23 THE FEDERAL GOVERNMENT DOES BUDGET FUNDS FOR THE CONSTRUCTION OF ANY
24 FLOOD CONTROL PROJECT IN THIS STATE, THE COMMISSION MAY THEN DISBURSE THE
25 STATE'S PORTION OF THE COSTS FOR EASEMENTS AND RIGHTS OF WAY.

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1 OF ANY FLOOD CONTROL PROJECT IN THIS STATE, THE COMMISSION MAY THEN
2 DISBURSE THE STATE'S PORTION OF THE COSTS FOR EASEMENTS AND RIGHTS OF
3 WAY.

4 C. IF A PUBLIC AGENCY RECEIVES THE STATE'S PORTION OF COSTS FOR
5 ACQUIRING FEE TITLE TO LANDS, EASEMENTS AND RIGHTS OF WAY, WHICH ARE
6 SUBSEQUENTLY FOUND TO BE UNNECESSARY FOR A FLOOD CONTROL PROJECT, THE
7 PUBLIC AGENCY SHALL WITHIN A REASONABLE TIME, SELL SUCH LANDS, EASEMENTS
8 AND RIGHTS OF WAY AT FAIR MARKET VALUE AND RETURN TO THE STATE ONE-HALF
9 THE NET AMOUNT OF MONEY REALIZED FROM SUCH SALE AFTER DEDUCTING DIRECT
10 EXPENSES OF THE SALE, OR MAY RETAIN SUCH LANDS, EASEMENTS OR RIGHTS OF
11 WAY, AND RETURN TO THE STATE ONE-HALF OF THE FAIR MARKET VALUE OF SUCH
12 LANDS, EASEMENTS AND RIGHTS OF WAY.

Approved by the Governor - June 11, 1975

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 128
HOUSE BILL 2179

AN ACT

MAKING AN APPROPRIATION TO THE STATE RETIREMENT SYSTEM BOARD.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Appropriation; purpose
3 A. The sum of six hundred thirty-five thousand dollars is
4 appropriated to the state retirement system board for the purpose
5 provided in this section.
6 B. The sum appropriated in subsection A of this section shall
7 be used only for the fiscal year that begins July 1, 1975 for pay-
8 ment of an increase of five per cent in the rate of retirement
9 payments payable to persons who were receiving retirement benefits
10 on or before June 30, 1974 as members or participants of the state
11 retirement system, the retirement plan or the Arizona teachers'
12 retirement system, pursuant to title 38, chapter 5, article 2 or
13 2.1, Arizona Revised Statutes, or title 15, chapter 14, article 1,
14 Arizona Revised Statutes.

Approved by the Governor - June 11, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 129

HOUSE BILL 2055

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; PRESCRIBING THE FREQUENCY OF FILING REPORTS BY HEALTH CARE INSTITUTIONS; PROVIDING CERTIFICATION OF NEED REQUIREMENTS FOR CONSTRUCTION OR MODIFICATION OF HEALTH CARE INSTITUTIONS; PROVIDING THAT DIRECTOR MAY CONTRACT FOR PURCHASE OF COMMUNICATION AND BIOTELEMETRY EQUIPMENT, VEHICLE AND NECESSARY SUPPLIES; PROVIDING FOR CERTAIN AUTHORITY TO TRANSPORT VICTIMS; PROVIDING THAT EMERGENCY CENTERS UTILIZE EMERGENCY PARAMEDICS; PROVIDING THAT ONLY AN EMERGENCY CENTER MAY CONDUCT CERTAIN PROGRAMS UTILIZING EMERGENCY PARAMEDICS; AMENDING SECTIONS 36-421, 36-1233, 36-2201, 36-2202 AND 36-2203, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-408; AMENDING TITLE 36, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-433, 36-433.01 AND 36-433.02, AND AMENDING TITLE 36, CHAPTER 21.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2209.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 36, chapter 4, article 1, Arizona Revised
3 Statutes, is amended by adding section 36-408, to read:
4 36-408. Required reports from health care institutions
5 THE DEPARTMENT OF HEALTH SERVICES SHALL NOT REQUIRE ANY REPORTS
6 FROM HEALTH CARE INSTITUTIONS TO BE FILED MORE FREQUENTLY THAN ANNUALLY
7 UNLESS SUCH FILINGS ARE OTHERWISE REQUIRED BY STATE OR FEDERAL LAW OR
8 RESULT FROM NECESSARY PROCESSING OF APPLICATIONS OR REQUESTS FILED BY
9 SUCH INSTITUTIONS.
10 Sec. 2. Section 36-421, Arizona Revised Statutes, is amended to
11 read:
12 36-421. Application for construction, modification
13 A. The construction or modification, as defined in section 36-401,
14 of any health care institution or its facilities, ~~except residential-care~~
15 ~~institutions,~~ requires a written permit from the director.
16 B. An application for the permit required by subsection A, of this
17 section shall:
18 1. Include architectural plans and specifications, except the
19 director may waive this requirement for improvements of a minor nature.

1 B. AN APPLICATION FOR A CERTIFICATE OF NEED SHALL BE FILED WITH
2 THE AUTHORIZED LOCAL AGENCY IN THE AREA WHERE THE INSTITUTION IS LOCATED
3 AND WITH THE DEPARTMENT OF HEALTH SERVICES PRIOR TO UNDERTAKING ANY
4 SUBSTANTIAL EXPENDITURES IN PREPARATION FOR SUCH OFFERING OR DEVELOPMENT.
5 IN THE CASE OF CONSTRUCTION PROJECTS, THE DEPARTMENT OF HEALTH SERVICES
6 MAY BY REGULATIONS DEFINE REQUIREMENTS FOR FILING A LETTER OF INTENT
7 PRIOR TO THE APPLICATION IN SUCH DETAIL AS MAY BE TO PROVIDE INFORMATION
8 ABOUT THE SCOPE AND NATURE OF THE PROJECT AT THE EARLIEST POSSIBLE OPPOR-
9 TUNITY IN THE COURSE OF PLANNING THE PROJECT.

10 C. THE DEPARTMENT OF HEALTH SERVICES SHALL ISSUE REGULATIONS
11 DEFINING THE FORM AND CONTENT OF THE APPLICATION AND ANY SUPPORTING
12 INFORMATION TO BE REQUIRED. SUCH REGULATIONS SHALL COVER AT LEAST THE
13 FOLLOWING INFORMATION TO BE INCLUDED IN THE APPLICATION PERTAINING TO
14 THE PROPOSED SERVICES OR FACILITIES:

15 1. THE DESCRIPTION, NATURE AND PURPOSE, INCLUDING METHOD OF PRO-
16 POSED CONSTRUCTION IN THE CASE OF FACILITIES.

17 2. WHAT HEALTH PROBLEMS OR NEEDS WILL BE SATISFIED BY THE PROPOSED
18 SERVICES OR FACILITIES OR ON WHAT OTHER BASIS THE PROPOSED SERVICES OR
19 FACILITIES WILL BE NEEDED.

20 3. WHAT GEOGRAPHICAL AREAS AND POPULATION GROUPS WILL BE SERVED
21 BY THE PROPOSED SERVICES OR FACILITIES.

22 4. THE ESTIMATED COST AND METHOD OF FINANCING.

23 5. WHAT EFFECT THE COST AND FINANCING WILL HAVE ON THE COSTS,
24 RATES AND CHARGES OF THE APPLICANT, ON OTHER COSTS TO BE BORNE BY THE
25 PUBLIC.

26 6. THE ABILITY OF THE APPLICANT TO COMPLY WITH ALL APPLICABLE
27 FEDERAL, STATE AND LOCAL LAWS, ORDINANCES AND REGULATIONS.

28 7. THE ABILITY OF THE APPLICANT TO COMPLY WITH ALL APPLICABLE
29 PROFESSIONAL AND INSTITUTIONAL STANDARDS.

30 8. THE QUALIFICATIONS AND ABILITY OF THE APPLICANT TO PROVIDE
31 AND OBTAIN PROPER FINANCING, STAFFING, EQUIPPING, MANAGEMENT AND OPERA-
32 TION OF THE PROPOSED SERVICES OR FACILITIES.

33 36-433.01. Review of certificate of need application;
34 public hearing; written findings and
35 recommendations; conflict of interests

36 A. THE AUTHORIZED LOCAL AGENCY SHALL NOTIFY THE APPLICANT IN
37 WRITING OF THE BEGINNING OF THE REVIEW. THE DIRECTOR SHALL ISSUE REGU-
38 LATIONS DEFINING THE PROCEDURES FOR THE REVIEW OF THE APPLICATION WHICH
39 SHALL INCLUDE THE FOLLOWING PROVISIONS:

40 1. THAT NO REVIEW SHALL, TO THE EXTENT PRACTICABLE, TAKE LONGER
41 THAN NINETY DAYS FROM THE DATE OF FILING THE APPLICATION WITH THE AUTHO-
42 RIZED LOCAL AGENCY, UNLESS THE AGENCY AND THE APPLICANT AGREE IN WRITING
43 TO AN EXTENSION OF TIME.

44 2. THAT A PUBLIC HEARING SHALL BE CONDUCTED WITHIN THIRTY DAYS
45 AFTER THE FILING OF THE APPLICATION.

46 3. THAT WRITTEN NOTICE OF THE HEARING SHALL BE DELIVERED TO THE
47 APPLICANT AT LEAST TEN DAYS PRIOR TO THE HEARING DATE.

48 4. THAT THE APPLICANT SHALL BE AFFORDED OPPORTUNITY AT THE HEARING
49 TO PRESENT ORAL AND WRITTEN INFORMATION ON THE APPLICATION AND TO CONFRONT
50 AND QUESTION ANY PERSONS APPEARING IN OPPOSITION TO THE APPLICATION.

1 5. THAT A WRITTEN RECORD SHALL BE MAINTAINED OF ALL PUBLIC HEARINGS
2 UNDER THIS SUBSECTION.

3 B. NOT LATER THAN FIFTEEN DAYS AFTER THE COMPLETION OF THE PUBLIC
4 HEARING REQUIRED PURSUANT TO SUBSECTION A, THE AUTHORIZED LOCAL AGENCY
5 SHALL ADOPT WRITTEN FINDINGS ON THE APPLICATION, FILE THEM WITH THE
6 DIRECTOR, AND MAIL A COPY TO THE APPLICANT. SUCH FINDINGS SHALL SPECIF-
7 ICALLY COVER THE FACTORS MENTIONED IN SUBSECTION C OF SECTION 36-433 AND
8 THE FOLLOWING ADDITIONAL FACTORS:

9 1. THE RELATIONSHIP OF THE SERVICES OR FACILITIES REVIEWED TO THE
10 LONG-RANGE DEVELOPMENT PLAN, IF ANY, OF THE APPLICANT.

11 2. THE NEED THAT THE POPULATION SERVED OR TO BE SERVED BY THE
12 SERVICES OR FACILITIES PROPOSED HAS FOR THEM.

13 3. THE AVAILABILITY OF ALTERNATIVE, LESS COSTLY, OR MORE EFFECTIVE
14 METHODS OF PROVIDING THE SERVICES OR FACILITIES.

15 4. THE RELATIONSHIP OF THE SERVICES OR FACILITIES REVIEWED TO THE
16 EXISTING HEALTH CARE SYSTEM OF THE AREA IN WHICH THEY ARE TO BE PROVIDED.

17 5. THE AVAILABILITY OF RESOURCES, INCLUDING HEALTH MANPOWER, MAN-
18 AGEMENT PERSONNEL AND FUNDS FOR CAPITAL AND OPERATING NEEDS, FOR THE
19 PROVISION OF THE SERVICES OR FACILITIES AND THE AVAILABILITY OF ALTERNA-
20 TIVE USES OF SUCH RESOURCES FOR PROVISION OF OTHER SERVICES OR FACILITIES.

21 6. THE SPECIAL NEEDS AND CIRCUMSTANCES OF THOSE ENTITIES WHICH
22 PROVIDE A SUBSTANTIAL PORTION OF THEIR SERVICES OR RESOURCES, OR BOTH,
23 TO INDIVIDUALS NOT RESIDING IN THE AREAS IN WHICH THE ENTITIES ARE
24 LOCATED OR IN ADJACENT AREAS. SUCH ENTITIES MAY INCLUDE MEDICAL AND
25 OTHER HEALTH PROFESSIONS SCHOOLS, MULTIDISCIPLINARY CLINICS, SPECIALTY
26 CENTERS, AND SIMILAR ENTITIES.

27 7. THE SPECIAL NEEDS AND CIRCUMSTANCES OF HEALTH CARE SERVICES
28 ORGANIZATIONS.

29 8. THE IMPACT THE PROPOSED SERVICES OR FACILITIES WILL HAVE ON
30 THE QUALITY OF HEALTH CARE AVAILABLE TO THE PUBLIC.

31 C. THE PROVISIONS OF TITLE 38, CHAPTER 3, ARTICLE 8 SHALL APPLY
32 TO ALL BOARD MEMBERS, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES
33 OF A HEALTH SYSTEMS AGENCY WHEN THEY ARE CARRYING OUT THE PROVISIONS OF
34 THIS SECTION.

35 36-433.02. Review of authorized local agency recommendations
36 and approval by director; periodic reports;
37 publication of reports; public access to
38 applications

39 A. THE DIRECTOR SHALL ADOPT THE FINDINGS OF THE AUTHORIZED LOCAL
40 AGENCY ON THE APPLICATION FOR CERTIFICATE OF NEED UNLESS THE APPLICANT
41 FILES, WITHIN THIRTY DAYS AFTER RECEIPT OF THE AUTHORIZED LOCAL AGENCY'S
42 FINDINGS, WITH THE DIRECTOR A WRITTEN REQUEST FOR REVIEW OF SUCH FINDINGS,
43 OR THE DIRECTOR FINDS THAT SUCH FINDINGS ARE ARBITRARY, CAPRICIOUS OR NOT
44 SUPPORTED BY ANY SUBSTANTIAL EVIDENCE IN WHICH EVENT THE DIRECTOR MAY
45 MODIFY OR SUBSTITUTE SUCH FINDINGS. THE FINDINGS ISSUED BY THE DIRECTOR
46 SHALL STATE THE BASIS FOR HIS DECISION. A COPY OF THE DIRECTOR'S FINDINGS
47 AND DECISION SHALL BE MAILED TO THE APPLICANT. ANY APPLICATION RETURNED
48 TO THE AUTHORIZED LOCAL AGENCY FOR FURTHER REVIEW SHALL BE PROCESSED IN
49 THE SAME MANNER AS A NEW APPLICATION.

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1 B. APPLICANTS SHALL SUBMIT PERIODIC REPORTS ANNUALLY OR AT THE
2 COMPLETION OF A CONSTRUCTION OR MODIFICATION PROJECT TO THE DIRECTOR, IN
3 THE MANNER AND FORM DEFINED IN REGULATIONS TO BE ISSUED BY THE DIRECTOR,
4 RESPECTING THE DEVELOPMENT OF SERVICES OR FACILITIES SUBJECT TO REVIEW.

5 C. THE DIRECTOR SHALL PUBLISH REGULAR REPORTS OF THE REVIEWS BEING
6 CONDUCTED, INCLUDING A STATEMENT OF THE STATUS OF EACH SUCH REVIEW, AND
7 OF REVIEWS COMPLETED, INCLUDING A GENERAL STATEMENT OF THE FINDINGS AND
8 DECISIONS MADE IN THE COURSE OF SUCH REVIEWS, SINCE THE PUBLICATION OF
9 THE LAST SUCH REPORT.

10 D. MEMBERS OF THE GENERAL PUBLIC SHALL HAVE ACCESS TO ALL APPLI-
11 CATIONS REVIEWED UNDER THIS SECTION AND TO ALL OTHER WRITTEN MATERIALS
12 PERTINENT TO ANY REVIEWS BY THE AUTHORIZED LOCAL AGENCY OR THE DIRECTOR.

13 Sec. 4. Section 36-1233, Arizona Revised Statutes, is amended to
14 read:

15 36-1233. Petition proposing hospital district;
16 proceedings upon petition

17 A. In order to propose the formation of a hospital district, a
18 petition shall be presented to the board of supervisors of the county
19 within which the proposed district or the greater part thereof lies,
20 signed by ten per cent of the electors residing within the area of the
21 proposed district. The petition shall set forth and particularly describe
22 the proposed boundaries of the district, and shall pray that the area
23 be organized as a hospital district under the provisions of this article.
24 The petition shall be presented at a regular or special meeting of the
25 board of supervisors, and the board shall thereupon enter an order
26 setting a time, not less than three nor more than five weeks from the
27 date of the order, at which a hearing on the petition shall be had by
28 the board, and directing that notice of the hearing be published not
29 less than two consecutive weeks prior to the date of the hearing in a
30 newspaper published within the proposed district, if any is published,
31 and if not, in a newspaper published within the county. If any portion
32 of the proposed district lies within another county or counties, such
33 order shall further direct that notice likewise be published in a news-
34 paper designated in the order, printed and published in each county.
35 Hearings on the petition shall be at the office of the board of super-
36 visors to whom the petition is directed, in either a regular or a special
37 meeting, unless the board determines for the convenience of the parties
38 to hold the hearing elsewhere. The petitioners shall give such security
39 as the board of supervisors of the organizing county requires, conditioned
40 upon the payment of all costs if for any reason the district is not
41 organized. If the district is organized such costs shall be a proper
42 charge against the district.

43 B. No petition for the formation of a district shall be acted
44 upon unless the area encompassed within the proposed district is first
45 approved by the department of health services as an area needing addi-
46 tional hospital facilities. ~~nor unless there is in existence a corpora-~~
47 ~~tion not for pecuniary profit duly organized under the laws of the state~~
48 ~~for the purpose of conducting a hospital, which has offered to lease the~~
49 ~~proposed hospital for a period of not less than five years in accordance~~
50 ~~with the terms of sections 36-1241 and 36-1246.~~

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1 Sec. 5. Section 36-2201, Arizona Revised Statutes, is amended
2 to read:

3 36-2201. Definitions

4 In this article, unless the context otherwise requires:

- 5 1. "Department" means the department of health services.
6 2. "Director" means the director of the department of health
7 services.
8 3. "Emergency center" means a health care institution offering
9 general medical and surgical services which is certified by the depart-
10 ment as an emergency center affiliated by contract with a licensed
11 ambulance service or municipal rescue service and ~~staffed with~~ UTILIZING
12 emergency paramedics.
13 4. "Emergency paramedics" means personnel who have been specially
14 trained in definitive emergency care in a certified training program
15 offered by a health care institution offering general medical and
16 surgical services or an educational institution, and who are certified
17 by the director as qualified to render the services enumerated in this
18 article.

19 Sec. 6. Section 36-2203, Arizona Revised Statutes, is amended to
20 read:

21 36-2203. Minimum standards; rules and regulations;
22 certification of training program; purchases

23 A. The director shall promulgate rules and regulations to insure
24 minimum standards for training, performance and coordination of emergency
25 paramedic programs statewide.

26 B. The training program specified in this article shall consist
27 of a minimum of five hundred hours of training or equivalent experience
28 including, but not limited to, didactic and clinical experience in a
29 cardiac care unit and in an emergency vehicle unit. The training pro-
30 gram shall be certified by the director and he is authorized to contract
31 for such training AND CONTRACT FOR THE PURCHASE OF COMMUNICATION AND
32 BIOTELEMETRY EQUIPMENT, VEHICLE AND NECESSARY SUPPLIES. ~~subject to~~
33 ~~legislative appropriations therefor.~~

34 Sec. 7. Title 36, chapter 21.1, article 1, Arizona Revised
35 Statutes, is amended by adding section 36-2209, to read:

36 36-2209. Authority to transport victims

37 ANY UNIT OPERATING UNDER THE SUPERVISION AND CONTROL OF ONE OR
38 MORE CERTIFIED PARAMEDICS MAY TRANSPORT A VICTIM TO A QUALIFIED HEALTH
39 CARE INSTITUTION AS A CONTINUATION OF THE CARE AND RESPONSIBILITY FOR
40 THE WELL-BEING OF SUCH VICTIM IN AN EMERGENCY SITUATION OR WHEN A
41 PRIVATE AMBULANCE IS NOT AVAILABLE.

42 Sec. 8. Emergency

43 To preserve the public peace, health and safety it is necessary
44 that this act become immediately operative. It is therefore declared
45 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 11, 1975

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 130
SENATE BILL 1045

AN ACT

RELATING TO STATE GOVERNMENT; PROVIDING FOR APPOINTMENT OF PARK RANGER LAW ENFORCEMENT OFFICER; PROVIDING THAT PARK RANGER LAW ENFORCEMENT OFFICERS SHALL HAVE CERTAIN LAW ENFORCEMENT TRAINING; PROVIDING FOR LEGISLATIVE REVIEW OF RULES AND REGULATIONS ADOPTED BY THE ARIZONA STATE PARKS BOARD; PRESCRIBING VIOLATIONS AND PENALTIES, AND AMENDING SECTIONS 41-511.05, 41-511.09 AND 41-511.13, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-511.09, Arizona Revised Statutes, is
3 amended to read:
4 41-511.09. Maintenance and protection of parks;

5 law enforcement training
6 The board may ~~confer upon~~ APPOINT ONE OR MORE OF its officers
7 or employees ~~the full~~ AS A PARK RANGER LAW ENFORCEMENT OFFICER. ANY
8 PERSON SO APPOINTED SHALL HAVE THE MINIMUM QUALIFICATIONS ESTABLISHED
9 FOR PEACE OFFICERS AND POLICE OFFICERS PURSUANT TO SECTION 41-1822.
10 WHEN SO APPOINTED, THE OFFICER OR EMPLOYEE SHALL HAVE THE authority
11 and power of a peace officer WITH THE PRIMARY DUTIES OF ENFORCEMENT
12 OF THE PROVISIONS OF THIS ARTICLE AND ENFORCEMENT OF RULES AND REGULA-
13 TIONS ADOPTED PURSUANT TO THIS ARTICLE, for the protection of the
14 parks and monuments against damage and for the preservation of peace
15 therein.

16 OFFICERS AND EMPLOYEES APPOINTED AS PEACE OFFICERS PURSUANT TO
17 THIS SECTION SHALL NOT BE ELIGIBLE FOR MEMBERSHIP OR FOR PARTICIPATION
18 IN THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

19 Sec. 2. Section 41-511.05, Arizona Revised Statutes, is amended
20 to read:

21 41-511.05. Powers; compensation

22 The board may, subject to legislative budgetary control within
23 the limitations of this article:

24 1. Employ, determine conditions of employment and specify the
25 duties of such administrative, secretarial and clerical workers and
26 technical employees such as naturalists, archaeologists, landscape
27 architects, rangers, park supervisors, caretakers, guides, skilled
28 tradesmen, laborers, historians, and engineers, and to contract to

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1 have the services of such advisors or consultants as are reasonably
2 necessary or desirable to enable it to perform adequately its duties.
3 The compensation of the director and of all workers and employees
4 shall be as determined pursuant to section 38-611.

5 2. Make such contracts, leases and agreements and incur such
6 obligations as are reasonably necessary or desirable within the gen-
7 eral scope of its activities and operations to enable it to perform
8 adequately its duties.

9 3. Acquire through purchase, lease, agreement, donation, grant,
10 bequest, or otherwise real and personal property and acquire real
11 property through eminent domain for state park or monument purposes.
12 No property may be acquired in the manner hereinbefore provided, which
13 will require an expenditure in excess of funds theretofore budgeted or
14 received for such purposes. No state park or monument, or additions
15 thereto, shall be created containing in excess of one hundred sixty
16 acres of land unless the same is created by act of the legislature.
17 This acreage limitation shall not apply, however, in the case of lands
18 given or donated for state park or monument purposes nor to state owned
19 lands selected by the board which are not subject to outstanding leases,
20 permits or other rights for the use thereof including preferential
21 rights to renew such leases and permits.

22 4. Construct at state parks and monuments necessary sanitary
23 and other facilities including picnic tables, fireplaces, campsites,
24 service buildings and maintenance shops, and contract with private
25 persons for the construction and operation of cabins, hotels and
26 restaurants, and like establishments.

27 5. Erect suitable signs and markers at parks and monuments
28 and write, prepare and publish written material describing the his-
29 torical significance of monuments and other places of historical or
30 other significance.

31 6. Solicit and work in cooperation with the state department of
32 transportation and the highway departments of various counties and
33 United States public roads, administration for necessary roads and
34 trails within the state parks and monuments and access roads thereto.

35 7. Levy and collect reasonable fees or other charges for the
36 use of such privileges and conveniences as may be provided under the
37 jurisdiction of the board.

38 8. Make reasonable rules and regulations for the protection of,
39 and maintain and keep the peace in, state parks, and monuments. SUCH
40 RULES AND REGULATIONS ADOPTED BY THE PARKS BOARD ARE SUBJECT TO REVIEW
41 AND APPROVAL BY THE STATE LEGISLATURE. AFTER A BOARD RULE OR REGULATION
42 HAS BEEN FINALLY ADOPTED PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 1,
43 THE BOARD SHALL IMMEDIATELY FORWARD A CERTIFIED COPY OF THE RULE OR
44 REGULATION TO THE ARIZONA LEGISLATURE. THE LEGISLATURE MAY REVIEW
45 AND, BY CONCURRENT RESOLUTION, APPROVE, DISAPPROVE OR MODIFY SUCH RULE
46 OR REGULATION; PROVIDED, HOWEVER, THAT SUCH RULE OR REGULATION SHALL
47 BE GIVEN FULL FORCE AND EFFECT PENDING LEGISLATIVE REVIEW. IF NO
48 CONCURRENT RESOLUTION IS PASSED BY THE LEGISLATURE WITH RESPECT TO THE
49 RULE OR REGULATION WITHIN ONE YEAR FOLLOWING RECEIPT OF A CERTIFIED
50 COPY THEREOF, THE RULE OR REGULATION SHALL BE DEEMED TO HAVE BEEN

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1 APPROVED BY THE LEGISLATURE. IF THE LEGISLATURE DISAPPROVES A RULE
2 OR REGULATION OR A SECTION THEREOF, THE BOARD SHALL IMMEDIATELY DIS-
3 CONTINUE THE USE OF ANY PROCEDURE, ACTION OR PROCEEDING AUTHORIZED OR
4 REQUIRED BY SUCH RULE OR REGULATION OR SECTION THEREOF. IF THE LEGIS-
5 LATURE MODIFIES A RULE OR REGULATION OR SECTION THEREOF, THE BOARD
6 SHALL IMMEDIATELY SUSPEND THE USE OF ANY PROCEDURE, ACTION OR PRO-
7 CEEDING AUTHORIZED OR REQUIRED BY THE RULE OR REGULATION OR SECTION
8 THEREOF UNTIL THE MODIFIED RULE OR REGULATION HAS BEEN ADOPTED IN
9 ACCORDANCE WITH TITLE 41, CHAPTER 6, ARTICLE 1, AFTER WHICH ALL
10 PROCEEDINGS PURSUANT TO THE RULE OR REGULATION SHALL BE CONDUCTED IN
11 ACCORDANCE WITH THE MODIFIED VERSION THEREOF.

12 9. Furnish advisory services to city and county park or
13 recreation boards and organizations.

14 Sec. 3. Section 41-511.13, Arizona Revised Statutes, is amended
15 to read:

16 41-511.13. Violations; penalties

17 A. Any person who wilfully damages, defaces or destroys any
18 public park or monument property which is within the state or any
19 political subdivision thereof is guilty of a misdemeanor and upon
20 conviction shall be punished by a fine of not more than five hundred
21 dollars, by imprisonment of not more than six months, or both.

22 B. IT IS UNLAWFUL FOR A PERSON TO VIOLATE ANY PROVISION OF
23 THIS ARTICLE OR RULE OR REGULATION PRESCRIBED UNDER THE PROVISIONS OF
24 THIS ARTICLE.

25 C. UNLESS A DIFFERENT OR OTHER PENALTY OR PUNISHMENT IS SPECIF-
26 ICALLY PRESCRIBED, THE PERSON WHO VIOLATES ANY PROVISIONS OF THIS
27 ARTICLE OR WHO VIOLATES OR FAILS TO COMPLY WITH A LAWFUL ORDER, RULE
28 OR REGULATION OF THE ARIZONA STATE PARKS BOARD IS GUILTY OF A MIS-
29 DEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN THREE HUNDRED DOLLARS,
30 BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN SIX MONTHS, OR
31 BY BOTH SUCH FINE AND IMPRISONMENT.

32 D. A PARK RANGER LAW ENFORCEMENT OFFICER MAY UTILIZE THE PRO-
33 CEDURE PRESCRIBED BY SECTION 13-1422 FOR VIOLATIONS OF THIS ARTICLE OR
34 ANY ORDER, RULE OR REGULATION ADOPTED PURSUANT TO THIS ARTICLE.

Approved by the Governor - June 11, 1975

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 131
SENATE BILL 1003

AN ACT

RELATING TO EDUCATION; PRESCRIBING CERTAIN REQUIREMENT FOR NOMINATING PETITONS OF SCHOOL TRUSTEES; PROVIDING THAT A QUALIFIED ELECTOR RESIDING ANYWHERE IN A UNION HIGH SCHOOL DISTRICT WHICH HAS A SINGLE HIGH SCHOOL MAY VOTE FOR CANDIDATES SEEKING ELECTION TO THE BOARD OF EDUCATION, AND AMENDING SECTIONS 15-474 AND 15-542, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 15-474, Arizona Revised Statutes, is amended
3 to read:

4 15-474. Nominating petitions; ballots

5 A. Nominating petitions may be filed not later than sixty days
6 prior to the election. Nominating petitions shall be signed by a number
7 of qualified electors of the district equal to not less than ~~three~~ ONE
8 per cent of the total votes cast at the last election of school trustees,
9 and shall be filed with the county school superintendent.

10 B. The superintendent may cause separate ballots to be prepared,
11 or such school district candidates' names may be included as a part of
12 the regular ballot. In any event the names of all persons whose peti-
13 tions have been filed shall appear on a ballot, without partisan or
14 other designation except the title of the office.

15 Sec. 2. Section 15-542, Arizona Revised Statutes, is amended to
16 read:

17 15-542. Board of education of union high school district; quali-
18 fications; terms

19 A. The members of the board of education of a union high school
20 district shall be qualified school electors of the district. A trustee
21 of a component common school district is ineligible to become a member of
22 the board of education of the union high school district.

23 B. In a union high school district which has a single high school,
24 three members shall be residents of the common school district in which
25 the high school is situated and two members shall be residents of the
26 remaining territory. A QUALIFIED ELECTOR RESIDING ANYWHERE IN SUCH UNION

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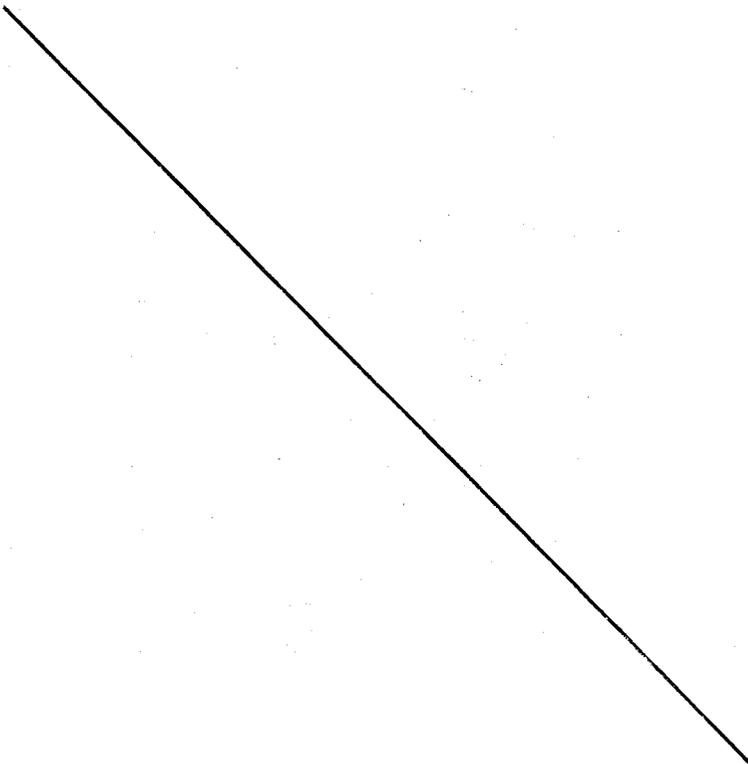
1 HIGH SCHOOL DISTRICT MAY VOTE FOR ANY CANDIDATE SEEKING ELECTION TO THE
2 BOARD OF EDUCATION OF SUCH DISTRICT; PROVIDED, HOWEVER, THAT IN NO EVENT
3 SHALL AN ELECTOR CAST MORE THAN ONE VOTE FOR ANY ONE CANDIDATE AND THAT
4 THE TOTAL NUMBER OF VOTES CAST BY AN ELECTOR SHALL NOT EXCEED THE NUMBER
5 OF POSITIONS ON THE BOARD TO BE FILLED AT SUCH ELECTION.

6 C. In a union high school district which has two or more high
7 schools, trustees shall be elected from the union district at large.

8 D. The term of office of the members of the union high school
9 board of education shall be four years, except:

10 1. Upon formation of a union high school district, the board of
11 education shall be appointed by the county school superintendent and
12 shall hold office until January 1 following the next general election.

13 2. At the first general election after formation of the district,
14 members shall be elected in the following manner:



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1 (a) The three candidates receiving the highest and the second and
2 third highest number of votes shall be elected to four-year terms.

3 (b) The two candidates receiving the fourth and fifth highest num-
4 ber of votes shall be elected for two-year terms. Thereafter all such
5 offices shall have four-year terms.

6 E. Any board of education member holding office on the effective
7 date of this section shall retain his office until expiration of the term
8 for which he is serving and thereafter such office shall have a four-year
9 term, except that:

10 1. A board member whose term expires on December 31, 1973 may con-
11 tinue to serve until December 31, 1974.

12 2. A board member whose term expires on December 31, 1975 may con-
13 tinue to serve until December 31, 1976.

14 3. If a board member whose term expires on either December 31,
15 1973 or December 31, 1975 does not choose to serve the extended portion
16 of the term authorized by this subsection, the vacancy shall be filled by
17 appointment by the county school superintendent, for the extended portion
18 of the term only.

Approved by the Governor - June 11, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 132
SENATE BILL 1276

AN ACT

RELATING TO GENERAL PROVISIONS; PRESCRIBING THAT CERTAIN DOCUMENTS AND PAYMENTS MAILED TO THE STATE AND POLITICAL SUBDIVISIONS ARE DEEMED RECEIVED AT TIME OF POSTAGE CANCELLATION BY POST OFFICE; PRESCRIBING DATE OF MAILING AND RECEIPT ON NONBUSINESS DAYS; PRESCRIBING COMPUTATION OF TIME FOR CERTAIN NOTICES; AMENDING TITLE 1, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 1-218, AND AMENDING SECTION 1-243, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 1, chapter 2, article 2, Arizona Revised
3 Statutes, is amended by adding section 1-218, to read:
4 1-218. Filing by mail; date of filing
5 A. ANY REPORT, CLAIM, TAX RETURN, STATEMENT, PAYMENT, DEPOSIT,
6 OR OTHER MATERIAL DEALING IN ANY WAY OR MANNER WHATSOEVER WITH TAXA-
7 TION, OTHER THAN PETITIONS OR NOTICES OF APPEAL, WHICH IS REQUIRED
8 OR AUTHORIZED TO BE FILED WITH OR MADE TO THE STATE OR ANY AGENCY OR
9 POLITICAL SUBDIVISION THEREOF WHICH IS DEPOSITED, PROPERLY ADDRESSED
10 AND POSTAGE PREPAID, IN AN OFFICIAL DEPOSITORY OF THE UNITED STATES
11 MAIL SHALL BE DEEMED FILED AND RECEIVED BY THE ADDRESSEE ON THE DATE
12 SHOWN BY THE POSTMARK OR OTHER OFFICIAL MARK OF THE UNITED STATES
13 MAIL STAMPED THEREON, OR, IF THE SENDER DISPUTES THE DATES CONTAINED
14 ON SUCH MARK OR NO SUCH MARK APPEARS OR IS LEGIBLE, ON THE MAILING
15 DATE AS ESTABLISHED BY COMPETENT EVIDENCE INTRODUCED BY THE SENDER.
16 B. ANY FILING DESCRIBED IN SUBSECTION A WHICH IS NOT RECEIVED
17 BY THE ADDRESSEE SHALL BE DEEMED FILED AND RECEIVED ON THE DATE OF
18 MAILING IF THE SENDER ESTABLISHES THE DATE OF MAILING AS PROVIDED IN
19 SUBSECTION A AND FILES WITH THE ADDRESSEE A DUPLICATE FILING WITHIN
20 TEN DAYS AFTER WRITTEN NOTIFICATION OF NONRECEIPT OF SUCH FILING IS
21 GIVEN TO THE SENDER BY THE ADDRESSEE.

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1 C. IF ANY FILING DESCRIBED IN SUBSECTION A IS SENT BY UNITED
2 STATES CERTIFIED OR REGISTERED MAIL OR CERTIFICATE OF MAILING, THE
3 DATE OF SUCH REGISTRATION, CERTIFICATION OR CERTIFICATE, AS ESTAB-
4 LISHED BY A RECORD AUTHENTICATED BY PROPER OFFICIALS OF THE UNITED
5 STATES MAIL, SHALL BE DEEMED THE DATE OF FILING.

6 D. IF THE DUE DATE OF ANY FILING DESCRIBED IN SUBSECTION A
7 FALLS UPON A SATURDAY, SUNDAY OR LEGAL HOLIDAY, THE FILING SHALL BE
8 CONSIDERED TIMELY IF PERFORMED ON THE NEXT BUSINESS DAY.

9 Sec. 2. Section 1-243, Arizona Revised Statutes, is amended
10 to read:

11 1-243. Computation of time

12 A. EXCEPT AS PROVIDED IN SUBSECTION B, the time in which an
13 act is required to be done shall be computed by excluding the first
14 day and including the last day, unless the last day is a holiday,
15 and then it is also excluded.

16 B. IN CASES IN WHICH NOTICE OF A DECISION BY THE STATE, ANY
17 AGENCY THEREOF OR ANY POLITICAL SUBDIVISION MUST BE GIVEN TO A
18 PETITIONER AND IN WHICH THE PETITIONER MUST FILE A NOTICE OF APPEAL
19 OF SUCH DECISION WITHIN A TIME CERTAIN OF LESS THAN TEN DAYS, SUCH
20 TIME SHALL BE COMPUTED STARTING WITH THE DAY AFTER THE DAY DURING
21 WHICH THE NOTICE OF DECISION IS RECEIVED BY THE PETITIONER BY PERSONAL
22 SERVICE OR REGISTERED OR CERTIFIED MAIL.

Approved by the Governor - June 11, 1975

Filed in the Office of the Secretary of State - June 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 133
HOUSE BILL 2281

AN ACT

RELATING TO INSURANCE; PROVIDING FOR THE REMOVAL OF CERTAIN EXEMPTIONS RELATING TO CERTAIN AIRCRAFT AND AIRCRAFT CARGO INSURANCE AND SURPLUS LINE COVERAGE ON SUCH INSURANCE; PRESCRIBING WHO MAY SOLICIT OR ACCEPT APPLICATIONS FOR VEHICLE INSURANCE EFFECTIVE IN MEXICO, AND AMENDING SECTIONS 20-404, 20-420 AND 20-422, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 20-404, Arizona Revised Statutes, is amended
3 to read:

4 20-404. Exemptions

5 Sections 20-403, 20-405 and 20-406 shall not apply to such trans-
6 actions as are prescribed in paragraphs 1, 2, 3, 4, 5, 7 and 8 of section
7 20-401.01, nor to any action or proceeding against an unauthorized insurer
8 arising out of the following types of insurance where the policy or con-
9 tract contains a provision designating the director as its attorney for
10 the acceptance of service of lawful process in any action or proceeding
11 instituted by or on behalf of an insured or beneficiary arising out of
12 any such policy, or where the insurer enters a general appearance in any
13 such action:

14 1. Ocean marine and foreign trade insurance.

15 2. Insurance on subjects located, resident or to be performed,
16 wholly outside this state, or on vehicles or aircraft owned and prin-
17 cipally garaged outside this state.

18 3. Insurance on property or operations of railroads engaged in
19 interstate commerce.

20 4. ~~Insurance on aircraft or cargo of such aircraft or against~~
21 ~~liability, other than employee's liability, arising out of the ownership,~~
22 ~~maintenance or use of such aircraft.~~

1 Sec. 2. Section 20-420, Arizona Revised Statutes, is amended to
2 read:

3 20-420. Exemptions from surplus line provisions

4 A. The sections of this article relating to surplus line coverages
5 shall not apply to reinsurance, nor to the following classes of insurance
6 when placed by licensed agents or brokers of this state:

7 1. Ocean marine and foreign trade insurance.

8 2. Insurance on subjects located, resident or to be performed
9 wholly outside this state, or on vehicles or aircraft owned and prin-
10 cipally garaged outside this state.

11 3. Insurance on property or operations of railroads engaged in
12 interstate commerce.

13 4. ~~INSURANCE ON AIRCRAFT OR CARGO OF SUCH AIRCRAFT, OR AGAINST~~
14 ~~LIABILITY, OTHER THAN EMPLOYER'S LIABILITY, ARISING OUT OF THE OWNERSHIP,~~
15 ~~MAINTENANCE OR USE OF SUCH AIRCRAFT.~~

16 B. Agents and brokers so placing any such insurance with an unau-
17 thorized insurer shall keep a record of each coverage in detail as re-
18 quired of surplus line insurance by section 20-414. The record shall be
19 preserved for not less than three years from the effective date of the
20 insurance, and shall be so kept available in this state and open to the
21 examination of the director.

22 Sec. 3. Section 20-422, Arizona Revised Statutes, is amended to
23 read:

24 20-422. Alien insurance for coverage in Mexico

25 A. No person shall in this state solicit or accept applications
26 for vehicle insurance which is to be effective in Mexico and only out-
27 side the geographical limits of this state and is to be issued by an
28 alien insurer or insurers not authorized to transact insurance in this
29 state, unless such person is a duly licensed surplus line broker, HIS
30 OR HER AGENTS OR EMPLOYEES OR ANY OTHER AUTHORIZED INSURANCE AGENT IN
31 THIS STATE PROVIDED THAT THE AGENT OBTAINS THE SURPLUS LINE COVERAGE
32 THROUGH A DULY LICENSED SURPLUS LINE BROKER.

33 B. Such insurance shall be deemed to be surplus line insurance
34 for the purposes hereof, and shall be subject to the applicable pro-
35 visions of this article relative to surplus line insurance, including
36 but not limited to provisions for licensing of surplus line brokers,
37 broker's records, and annual statement, taxation of the premiums on the
38 surplus line insurance and payment of the tax, and legal process against
39 the surplus line insurer. The director may, pursuant to section 20-409,
40 treat such insurance as a recognized surplus line. Section 20-420,
41 relating to exemptions from surplus line provisions, shall not apply
42 with respect to this section.

Approved by the Governor - June 11, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 134
HOUSE BILL 2230

AN ACT

RELATING TO CITIES AND TOWNS; PROVIDING FOR ORGANIZATION OF VOLUNTEER FIRE DISTRICT TO BE ADMINISTERED BY A CHIEF OR BY A DISTRICT BOARD; PROVIDING FOR ELECTION OF BOARD MEMBERS; PRESCRIBING TERMS, COMPENSATION AND DUTIES OF MEMBERS; PROVIDING FOR NOMINATING PETITIONS; PRESCRIBING QUALIFICATIONS OF FIRE DISTRICT ELECTORS; PROVIDING FOR MEETINGS OF FIRE DISTRICTS; PROVIDING FOR COUNTY CONTRIBUTION TO VOLUNTEER FIRE DISTRICT FUND; PRESCRIBING PROCEDURES FOR ANNEXATION OF TERRITORY, WITHDRAWAL OF PROPERTY FROM FIRE DISTRICT, DISSOLUTION OF FIRE DISTRICT AND REORGANIZATION; PROVIDING FOR APPOINTMENT OF DISTRICT BOARD IN CERTAIN DISTRICTS; AMENDING SECTIONS 9-1001 AND 9-1002, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 9-1002.01 THROUGH 9-1002.03; AMENDING SECTIONS 9-1004, 9-1005, 9-1006, 9-1007 AND 9-1008, ARIZONA REVISED STATUTES, AND AMENDING TITLE 9, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 9-1009 AND 9-1010.

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

2 Section 1. Section 9-1001, Arizona Revised Statutes, is amended
3 to read:

4 9-1001. Petition for organization of fire district; election
5 A. When a petition defining boundaries of an unincorporated town,
6 or two or more adjoining or adjacent unincorporated towns or settlements
7 is filed with the clerk of the board of supervisors of the county, signed
8 and certified under oath by three or more ~~taxpayers~~ QUALIFIED ELECTORS
9 residing therein stating that on their information and belief the petition
10 contains the signatures of ten per cent of the qualified electors residing
11 within the boundaries of the proposed district and praying that they be
12 permitted to organize EITHER a volunteer fire ~~company~~ DISTRICT ADMINISTERED
13 BY A CHIEF OR A VOLUNTEER FIRE DISTRICT ADMINISTERED BY A DISTRICT BOARD,
14 AS SUCH PETITION SHALL SPECIFY, therein, the board shall make an order

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1 calling an election within such boundaries to decide whether or not a-
2 SUCH volunteer fire ~~company~~ DISTRICT shall be organized and maintained
3 therein. The order shall not be entered by the board until the peti-
4 tioners have deposited with the board sufficient money, not exceeding
5 four hundred dollars, to defray the expenses of the election, which
6 shall be paid out on the order of the board. If a volunteer fire
7 ~~company~~ DISTRICT is organized as hereinafter specified, the depositors
8 of the money shall be reimbursed from the volunteer fire fund provided
9 for hereinafter.

10 B. The election shall be held not less than sixty nor more than
11 ninety days after the date of the order. The order of the board calling
12 the election shall be posted in three public places within the boundaries
13 for not less than twenty days prior to the date of the election, and if
14 a newspaper is published within the county having a general circulation
15 within the boundaries, the order shall be published in the newspaper not
16 less than once a week for a period of three weeks prior to the election.
17 The order shall contain the purpose and place of holding the election,
18 the names of three suitable persons as judges to conduct it, and the
19 hours during the day, not less than six, when the polls will be open.
20 The words appearing upon the ballots shall be "Volunteer Fire ~~Company~~
21 DISTRICT ADMINISTERED BY (INSERT CHIEF OR DISTRICT BOARD AND CHIEF, AS
22 SPECIFIED)--Yes," "Volunteer Fire ~~Company~~ DISTRICT ADMINISTERED BY
23 (INSERT CHIEF OR DISTRICT BOARD AND CHIEF, AS SPECIFIED)--No." IF THE
24 ELECTION IS FOR A VOLUNTEER FIRE DISTRICT ADMINISTERED BY A DISTRICT
25 BOARD AND CHIEF, THE BALLOTS SHALL ALSO PROVIDE A METHOD FOR EACH
26 ELECTOR TO INDICATE SUCH ELECTOR'S CHOICE FOR MEMBERS OF THE DISTRICT
27 BOARD.

28 C. The manner of conducting and voting at the election, contesting
29 the election, keeping the poll-lists, and canvassing the votes and cer-
30 tifying the returns, shall be the same, as nearly as possible, as in
31 elections of county officers.

32 D. No persons shall be entitled to vote at the election other than
33 qualified electors within the boundaries specified in the petition who
34 have resided therein for sixty days prior to the election and who have
35 signed an affidavit certifying such residence. The board of supervisors,
36 when ordering the election, shall by resolution provide and require a
37 registration of all persons entitled to vote at the election. The
38 registration shall begin at least thirty days before and close ten days
39 prior to the date of the election, and shall be made by, or under direc-
40 tion of, the clerk of the board. The clerk shall, not less than five
41 days prior to the date of the election, file with the board of super-
42 visors and deliver to each of the judges named in the order for the elec-
43 tion a certified list of the persons qualified to vote.

44 E. On the seventh day after the election, the board shall meet
45 and canvass the returns, and if it appears that a majority of the votes
46 cast at the election were in favor of organizing a volunteer fire ~~company~~
47 DISTRICT ADMINISTERED BY A CHIEF, then the board shall cause an entry of
48 that fact to be made upon its minutes, and shall make an order authorizing
49 the inhabitants of the territory to organize a- SUCH volunteer fire
50 ~~company~~ DISTRICT. IF IT APPEARS A MAJORITY OF THE VOTES CAST WERE IN

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1 FAVOR OF ORGANIZING A VOLUNTEER FIRE DISTRICT ADMINISTERED BY A DISTRICT
2 BOARD AND CHIEF, THEN THE BOARD SHALL DECLARE SUCH DISTRICT DULY OR-
3 GANIZED AND ANNOUNCE THE NAMES OF THOSE ELECTED TO THE DISTRICT BOARD.

4 Sec. 2. Section 9-1002, Arizona Revised Statutes, is amended
5 to read:

6 9-1002. Organization of district administered by chief

7 Within twenty days after the date of making the order AUTHORIZING
8 THE ORGANIZATION OF A DISTRICT ADMINISTERED BY A CHIEF, and every
9 two years thereafter, the residents QUALIFIED ELECTORS of the territory
10 shall call a meeting and elect a chief and a secretary-treasurer. The
11 chairman of the meeting shall execute a certificate, attested by the
12 secretary-treasurer of the ~~company~~ DISTRICT, setting forth the results
13 of the meeting, and file it with the board of supervisors. The board of
14 supervisors shall make an order declaring the volunteer fire ~~company~~
15 DISTRICT duly organized, reciting the description of the territory in the
16 petition, the name of the chief and the secretary-treasurer. The
17 original of the order, signed by the chairman and clerk of the board
18 of supervisors, shall be recorded in the office of the county recorder
19 in the book of miscellaneous records.

20 Sec. 3. Title 9, chapter 9, article 1, Arizona Revised Statutes,
21 is amended by adding sections 9-1002.01 through 9-1002.03, to read:

22 9-1002.01. District board; election; qualification of
23 candidates; terms; compensation; duties

24 A. IN VOLUNTEER FIRE DISTRICTS WITH A POPULATION OF LESS THAN
25 FIFTEEN HUNDRED, THE DISTRICT BOARD SHALL CONSIST OF THREE MEMBERS.
26 IN VOLUNTEER FIRE DISTRICTS WITH A POPULATION OF FIFTEEN HUNDRED OR
27 MORE, THE DISTRICT BOARD SHALL CONSIST OF FIVE MEMBERS.

28 B. AN ELECTION TO ELECT BOARD MEMBERS SHALL BE HELD EVERY TWO
29 YEARS ON THE FIRST TUESDAY OF THE MONTH IN WHICH THE DISTRICT WAS ORGA-
30 NIZED.

31 C. CANDIDATES FOR ELECTION TO THE DISTRICT BOARD SHALL BE
32 QUALIFIED ELECTORS OF THE FIRE DISTRICT.

33 D. THE MANNER OF CONDUCTING AND VOTING AT THE ELECTION, CON-
34 TESTING THE ELECTION, CANVASSING THE VOTES AND CERTIFYING THE RETURNS,
35 SHALL BE THE SAME, AS NEARLY AS POSSIBLE, AS IN ELECTIONS OF COUNTY
36 OFFICERS.

37 E. THE PERSON RECEIVING THE HIGHEST NUMBER OF VOTES SHALL BE
38 DECLARED ELECTED.

39 F. THE TERM OF OFFICE OF EACH BOARD MEMBER SHALL BE TWO YEARS
40 FROM THE FIRST DAY OF THE MONTH NEXT FOLLOWING SUCH MEMBER'S ELECTION.

41 G. WHEN A VACANCY OCCURS ON THE DISTRICT BOARD OTHER THAN FROM
42 EXPIRATION OF A TERM, THE REMAINING DISTRICT BOARD MEMBERS SHALL FILL
43 SUCH VACANCY BY APPOINTMENT FOR THE UNEXPIRED PORTION OF THE TERM.

44 H. MEMBERS OF THE FIRE DISTRICT BOARD SHALL SERVE WITHOUT COMPEN-
45 SATION, BUT THEY MAY BE REIMBURSED FOR EXPENSES INCURRED IN PERFORMING
46 DUTIES REQUIRED BY LAW.

47 I. THE BOARD SHALL:

- 48 1. APPOINT OR HIPE A FIRE CHIEF.
49 2. ELECT FROM ITS MEMBERS A CHAIRMAN AND A CLERK.

1 3. PREPARE AND SUBMIT TO THE COUNTY BOARD OF SUPERVISORS AN
2 ANNUAL BUDGET CONTAINING DETAILED ESTIMATED EXPENDITURES FOR EACH
3 FISCAL YEAR PURSUANT TO THE PROVISIONS OF SECTION 9-1005.

4 J. THE BOARD MAY RETAIN A CERTIFIED PUBLIC ACCOUNTANT TO PERFORM
5 AN ANNUAL AUDIT OF THE BOARD'S BOOKS.

6 9-1002.02. Nominating petitions; ballots

7 A. NOMINATING PETITIONS SHALL BE FILED NOT LATER THAN SIXTY DAYS
8 PRIOR TO THE ELECTION EXCEPT THAT AT THE ELECTION TO ORGANIZE THE
9 DISTRICT, SUCH PETITIONS SHALL BE FILED NOT LATER THAN THIRTY DAYS PRIOR
10 TO THE ELECTION. NOMINATING PETITIONS SHALL BE SIGNED BY A NUMBER OF
11 QUALIFIED ELECTORS OF THE DISTRICT EQUAL TO NOT LESS THAN THREE PER
12 CENT OF THE TOTAL VOTES CAST AT THE LAST ELECTION OF FIRE DISTRICT
13 BOARD MEMBERS, AND SHALL BE FILED WITH THE BOARD OF SUPERVISORS, EXCEPT
14 THAT AT THE ELECTION TO ORGANIZE THE DISTRICT, THE PETITIONS SHALL BE
15 SIGNED BY A NUMBER OF QUALIFIED ELECTORS OF THE DISTRICT EQUAL TO NOT
16 LESS THAN THREE PER CENT OF THE TOTAL NUMBER OF QUALIFIED ELECTORS
17 RESIDING WITHIN THE BOUNDARIES OF THE PROPOSED DISTRICT.

18 B. THE NAMES OF ALL PERSONS WHOSE PETITIONS HAVE BEEN FILED
19 SHALL APPEAR ON THE BALLOT WITHOUT PARTISAN DESIGNATION.

20 9-1002.03. Qualifications of fire district electors;
21 affidavits of voters; challenge;
22 tally lists

23 A. A PERSON WHO IS A QUALIFIED ELECTOR OF THE STATE, AND WHO HAS
24 BEEN A RESIDENT OF THE FIRE DISTRICT THIRTY DAYS IMMEDIATELY PRECEDING
25 THE ELECTION, IS QUALIFIED TO VOTE AT THE ELECTION OF THE FIRE DISTRICT
26 BOARD IN THE DISTRICT IN WHICH SUCH ELECTOR RESIDES. FOR THE PURPOSES
27 OF THIS TITLE, THE TERMS "QUALIFIED FIRE DISTRICT ELECTOR", "QUALIFIED
28 ELECTOR", "FIRE DISTRICT ELECTOR" OR "ELECTOR" SHALL HAVE THE QUALIFI-
29 CATIONS PRESCRIBED IN THIS SUBSECTION.

30 B. A PERSON OFFERING TO VOTE AT A FIRE DISTRICT ELECTION SHALL
31 SIGN AN AFFIDAVIT STATING HIS OR HER ADDRESS AND SWEARING HE OR SHE IS
32 QUALIFIED TO VOTE AND HAS NOT VOTED AT THE ELECTION BEING HELD. A PERSON
33 OFFERING TO VOTE MAY BE CHALLENGED, AND THE ELECTION OFFICERS SHALL
34 THEREUPON HAVE THE POWERS AND DUTIES OF GENERAL ELECTION OFFICERS.

35 C. THE FORMS FOR THE AFFIDAVITS AND TALLY LISTS SHALL BE FURNISHED
36 BY THE BOARD OF SUPERVISORS, AND THE AFFIDAVITS AND TALLY LISTS MUST BE
37 COMPLETED AND RETURNED TO THE CLERK OF THE BOARD AND SHALL BE KEPT BY
38 SUCH CLERK FOR NOT LESS THAN FIVE YEARS.

39 Sec. 4. Section 9-1004, Arizona Revised Statutes, is amended
40 to read:

41 9-1004. Meetings of fire districts; expenditures;
42 representation by county attorney

43 A. The ~~company~~ OFFICERS OF THE DISTRICT shall hold regular monthly
44 meetings, and may:

45 1. With the approval of the board of supervisors:

46 (a) Purchase apparatus and water for fire protection.
47 (b) Purchase rescue equipment consisting of, among other things,
48 a resuscitator and a vehicle to be used as an ambulance in case of
49 emergency for protection of lives.

50 (c) Employ help necessary for fire protection.

1 (d) Lease or purchase land, erect or purchase buildings and equip-
2 ment and furnish such buildings so as to house equipment and personnel
3 necessary for fire protection.

4 (e) Assist the state fire marshal in the enforcement within the
5 territory of the district of fire prevention standards of the state.

6 2. By a majority vote of its members, authorize its chief OR IF
7 THERE IS A DISTRICT BOARD, THE CHAIRMAN OF SUCH BOARD to enter into an
8 agreement for procuring the services of an organized PRIVATE fire
9 department OR A FIRE DEPARTMENT of a neighboring city, town or settlement
10 without impairing its powers hereinbefore granted.

11 B. The fire chief and the secretary-treasurer of the ~~company~~
12 DISTRICT OR IF THERE IS A DISTRICT BOARD, THE CHAIRMAN OF SUCH BOARD shall
13 draw warrants on the county treasurer for money required by the ~~company~~
14 DISTRICT for the aforesaid purposes, and when countersigned by the chair-
15 man of the board of supervisors shall be a sufficient warrant to authorize
16 the county treasurer to pay it from such volunteer fire ~~company~~ DISTRICT
17 fund.

18 C. The ~~company~~ DISTRICT shall not incur any debt or liability in
19 excess of the money actually available and unencumbered at the time in
20 the fund, except as provided in section 9-1005.

21 D. The county attorney is authorized to advise and represent the
22 ~~company~~ DISTRICT when in his judgment such advice and representation is
23 appropriate and not in conflict with his duties under section 11-532.

24 Sec. 5. Section 9-1005, Arizona Revised Statutes, is amended to
25 read:

26 9-1005. County contribution to volunteer fire district fund;
27 authority to obtain services; computation and
28 levy of tax

29 A. The board of supervisors may SHALL ascertain the value of all
30 vehicles registered between January 1 and July 1 of each year from within
31 the boundaries of the territory described in the order of the board
32 authorizing the organization of a volunteer fire ~~company~~ DISTRICT, and
33 on or before July 10 of each year may SHALL pay into the volunteer fire
34 ~~company~~ DISTRICT fund of such territory an amount equal to one and two-
35 tenths per cent of such value.

36 B. Not more than ten days after the perfection of the organization
37 of a volunteer fire ~~company~~ DISTRICT, and thereafter not later than July
38 10 of each year, the chief and the secretary-treasurer of the ~~company~~
39 DISTRICT OR IF THERE IS A DISTRICT BOARD, THE CHAIRMAN OF SUCH BOARD may
40 SHALL submit to the board of supervisors an estimate, certified by items,
41 of the amount of money required for the equipment and maintenance of the
42 ~~company~~ DISTRICT for the ensuing year, less the amount derived from the
43 county as provided by subsection A of this section. The estimate may also
44 include amounts necessary to pay the reasonable value of organizational
45 and legal services and expenses rendered or paid by others in the fiscal
46 year immediately prior to the fiscal year for which the estimate is sub-
47 mitted, if the ~~company~~ DISTRICT has in advance expressly authorized or
48 has after the fact expressly ratified such services or expenses, except
49 the ~~company~~ DISTRICT may not pay more than a total of one thousand five
50 hundred dollars for such services or expenses in any one fiscal year.

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1 C. The board shall approve or modify the estimate, and shall levy
2 a tax, not to exceed twelve mills on each dollar of taxable valuation,
3 against all property situated within the boundaries of the territory
4 described in the order of the board authorizing the organization of the
5 ~~company~~ DISTRICT and appearing upon the last assessment roll. The levy
6 shall be made and the taxes collected in the manner, at the time, and by
7 the officers provided by law for the collection of state and county taxes.

8 D. The county treasurer shall keep the money received from such
9 taxes in a separate fund known as the "Volunteer Fire ~~Company~~ DISTRICT
10 Fund" of the town or settlement for which collected. Any surplus remaining
11 in the fund at the end of the fiscal year shall be credited to the "Volunteer
12 Fire ~~Company~~ DISTRICT Fund" of the town or settlement for which collected
13 for the succeeding fiscal year.

14 Sec. 6. Section 9-1006, Arizona Revised Statutes, is amended to
15 read:

16 9-1006. Procedure for annexation of territory

17 A. When the ~~residents~~ QUALIFIED ELECTORS of territory contiguous
18 to an unincorporated town having a volunteer fire ~~company~~ DISTRICT desire
19 their territory to be annexed by such ~~company~~ DISTRICT, they shall pre-
20 sent to the chief of the ~~company~~ DISTRICT OR IF THERE IS A DISTRICT
21 BOARD, TO THE CHAIRMAN OF SUCH BOARD a written petition, signed by at least
22 fifty-one per cent of the qualified electors in the territory proposed to
23 be annexed, which shall be submitted to the board of supervisors, with
24 the recommendation of the chief OR THE CHAIRMAN.

25 B. Upon receipt of a petition for the annexation of territory to
26 that of an unincorporated town having a volunteer fire ~~company~~ DISTRICT,
27 the board shall set a day, not less than ten nor more than thirty days
28 from such receipt, for a hearing, and the clerk of the board shall cause
29 to be published in a paper of general circulation in the county a notice
30 setting forth the purpose of the petition and the day, hour and place of
31 hearing.

32 C. Upon hearing the petition, the board shall hear those who
33 appear for and against the petition and shall determine whether it is
34 to the best interest of the property owners of the area to be annexed
35 and of the annexing district to permit the annexation. The board shall
36 enter its order setting forth its determination in the minutes of the
37 meeting of the board not later than ten days from the date of the hear-
38 ing, and a copy of the order shall be filed in the county recorder's
39 office. The order of the board shall be final, but if the petition is
40 denied then a petition for annexation may be filed at intervals of six
41 months. The cost of publication of the notice of hearing shall be a
42 charge against the fund of the volunteer fire ~~company~~ DISTRICT to which
43 annexation is desired.

44 D. Upon approval by the board of a petition for annexation, the
45 annexed district shall become a part of the annexing district and subject
46 to all of the provisions of this article to the same extent as though
47 originally included therein.

48 Sec. 7. Section 9-1007, Arizona Revised Statutes, is amended to
49 read:

1 9-1007. Procedure for withdrawal of property
2 from fire district territory

3 A. When the owner of land within the territory of a volunteer
4 fire ~~company~~ DISTRICT organized and established under the provisions of
5 this article believes that changes in conditions occurring since the date
6 of its organization and establishment have rendered the continued inclu-
7 sion of his lands within the territory of the volunteer fire ~~company~~
8 DISTRICT unnecessary or improper, that his land offers no fire hazard
9 whatsoever to any other property within the limits of the territory, and
10 that the continued inclusion of such land within the limits of the ter-
11 ritory will be as to him arbitrary, unreasonable, discriminatory and
12 confiscatory to a substantial degree, the owner, if he desires relief
13 therefrom, shall present to the chief of the volunteer ~~company~~ DISTRICT
14 OR IF THERE IS A DISTRICT BOARD, TO THE CHAIRMAN OF SUCH BOARD a petition
15 for exclusion of such land from the territory of the volunteer fire ~~company~~
16 DISTRICT.

17 B. At the time of presenting the petition to the chief of the
18 volunteer fire ~~company~~ DISTRICT OR THE CHAIRMAN OF THE DISTRICT BOARD, the
19 petitioner shall tender cash in the sum of one hundred dollars to the chief
20 OR THE CHAIRMAN to cover expenses incidental to the petition, and the
21 chief OR THE CHAIRMAN shall immediately transmit the cash to the clerk of
22 the board of supervisors and obtain a receipt therefor. The costs of
23 publication of notice of hearing, and all expenses incidental to investi-
24 gation of the petition by the board shall be made a primary charge upon
25 the deposit by the petitioners, and, at the time the final order is re-
26 corded in the office of the county recorder, the clerk of the board of
27 supervisors shall file in the minutes of the board a verified account of
28 the expenditures from such deposit. If any balance remains on the date
29 the account is filed, it shall be transferred by the clerk of the board
30 to the treasurer of the county, and deposited by him in the general fund.

31 C. The petition shall set forth in detail the application of the
32 conditions to the petitioning party, and all other reasons for the ex-
33 clusion of such land, and shall describe by metes and bounds, or by
34 legal subdivisions, the exact property sought to be excluded.

35 D. The chief of the volunteer fire ~~company~~ DISTRICT OR IF THERE IS
36 A DISTRICT BOARD, THE CHAIRMAN OF SUCH BOARD shall promptly investigate
37 all facts relevant to the petition, whether mentioned in the petition
38 or not, and shall forthwith transmit it to the board of supervisors,
39 together with a written report of all factual material revealed by his
40 investigation and the written recommendation of the volunteer fire
41 ~~company~~ DISTRICT affected.

42 E. Upon receipt of the petition, written report and written re-
43 commendation, the board shall set a day, not less than ten nor more
44 than thirty days from that date, for hearing upon the petition, and
45 the clerk of the board shall cause to be published twice in a daily
46 newspaper of general circulation in the county at least ten days prior
47 to the hearing, or at least twice prior to the date of hearing if a
48 weekly newspaper, a notice setting forth the purpose of the petition,
49 the description of the land sought to be excluded, the name or names
50 of the petitioners and the day, hour and place of hearing.

1 F. Upon hearing the petition, the board shall hear those who
2 appear for and against the petition, and shall specifically inquire
3 of those appearing, or on its own initiative, into all matters set
4 forth in the petition, and whether the public interest will in any
5 reasonable manner be adversely affected if the petition is granted.
6 No enumeration of matters to be considered by the board shall be
7 deemed conclusive, in any given case, of the matters that shall be
8 investigated by it, and the board shall investigate any fact or facts
9 which may, or might, have a bearing upon the question of whether or
10 not the public interest would be adversely affected by the action
11 sought.

12 G. If the board determines that the volunteer fire ~~company~~ DISTRICT
13 will, in any reasonable manner, be adversely affected by granting the peti-
14 tion, the petition shall be denied.

15 H. If the petition is granted the board shall then enter its order
16 in the minutes of the meeting of the board setting forth its determination.
17 The order shall describe the land to be excluded from the territory of
18 the volunteer fire ~~company~~ DISTRICT, and shall direct that the territory
19 of the volunteer fire ~~company~~ DISTRICT be changed accordingly. Not later
20 than ten days from the date of entry of the order, a copy of the order,
21 certified by the clerk of the board of supervisors, shall be recorded in
22 the office of the county recorder in the book of miscellaneous records.

23 I. Any person aggrieved by the final order of the board, whether
24 it denies or grants the relief prayed for in the petition, may appeal
25 to the superior court of the county by serving a written notice of appeal
26 upon the board within five days after rendition and entry of its order
27 in the minutes, and, within ten days from such date, by filing with the
28 board a bond in double the amount of the probable costs, to be approved
29 by the board, conditioned that the appellant will prosecute his appeal
30 to effect and will pay all costs that accrue in the court. The board
31 shall then make a copy of all orders made in the proceeding and certify
32 thereto and transmit them, together with all the original papers and
33 evidence in the proceeding, to the clerk of the superior court within
34 ten days after the filing of the bond on appeal. The cause shall there-
35 upon stand for trial in the superior court in the county on the record
36 and such further evidence as may be received by the court in its
37 discretion.

38 J. If no such appeal is taken in the manner provided and within
39 the time allotted, the final order of the board shall be final and con-
40 clusive upon all parties.

41 K. From and after June 30 next following the recording of such
42 order, or from and after June 30 next following a complete and final
43 adjudication on appeal from which there is no further right of appeal,
44 the land described therein shall no longer be considered a portion of
45 the territory of the volunteer fire ~~company~~ DISTRICT and shall, for all
46 purposes, be treated exactly as though it had never been included within
47 the limits of such territory. The land so excluded shall remain liable
48 for any taxes levied thereon for the volunteer fire ~~company~~ DISTRICT prior
49 to the effective date of such exclusion.

CHAPTER 134

1 9-1010. Districts over twenty-five thousand population

2 A. WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION,
3 THE BOARD OF SUPERVISORS SHALL CALL AN ELECTION TO ELECT FIVE PERSONS TO
4 SERVE AS MEMBERS OF THE DISTRICT BOARD IN ANY DISTRICT WITH A POPULATION
5 OF TWENTY-FIVE THOUSAND OR MORE. SUCH MEMBERS SHALL SERVE FOR A TERM OF
6 TWO YEARS. THEREAFTER, MEMBERS SHALL BE ELECTED PURSUANT TO THIS ARTICLE.

7 B. NOTWITHSTANDING THE PROVISIONS OF SECTION 9-1002.02, NOMINATING
8 PETITIONS SHALL BE FILED NOT LATER THAN THIRTY DAYS PRIOR TO THE ELECTION.
9 SUCH PETITIONS SHALL BE SIGNED BY A NUMBER OF QUALIFIED ELECTORS OF THE
10 DISTRICT EQUAL TO NOT LESS THAN THREE PER CENT OF THE TOTAL VOTES CAST
11 AT THE LAST FIRE DISTRICT ELECTION.

12 C. SUCH DISTRICTS SHALL NOT BE ELIGIBLE TO REORGANIZE AS A
13 DISTRICT ADMINISTERED BY A CHIEF PURSUANT TO SECTION 9-1009.

14 Sec. 10. Savings clause

15 The provisions of this act changing the name of a "volunteer fire
16 company" to a "volunteer fire district" are not intended to make any
17 change in any rights, privileges or duties of any volunteer fire company
18 existing on the effective date of this act.

Approved by the Governor - June 11, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 135
HOUSE BILL 2417

AN ACT

RELATING TO TRANSPORTATION; PROVIDING THAT CERTAIN NUMBER PLATES SHALL REMAIN WITH THE MOTOR VEHICLE; PRESCRIBING LICENSE TAXES FOR MOTOR VEHICLES; PROVIDING FOR IDENTIFICATION AND CALCULATION OF CERTAIN LICENSE TAX OVERPAYMENTS; PROVIDING FOR CERTAIN REFUNDS, AND AMENDING SECTIONS 28-308, 28-314, 28-326 AND 28-1591, ARIZONA REVISED STATUTES.

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

2 Section 1. Legislative intent

3 The legislature intends by any emergency clause that may be
4 included and adopted as a part of this act to effect an earlier
5 operation of the provisions of this act, but fully understands that
6 the implementation thereof cannot take place immediately and may take
7 at least until July 1, 1975.

8 Sec. 2. Section 28-308, Arizona Revised Statutes, is amended to
9 read:

10 28-308. Number plates

11 A. The department shall furnish at no charge to every owner
12 one number plate for each motorcycle, trailer or semitrailer registered,
13 and two number plates for every other motor vehicle registered. The
14 number plate shall have displayed upon it the number assigned to the
15 vehicle and to the owner thereof, the name of this state, which may be
16 abbreviated, and the year for which it is issued. Number plates shall
17 be coated with a reflective material, as determined by the director.
18 The plate and the letters and numerals thereon, except the number designating the year for which issued, shall be of sufficient size to be
19 plainly readable during daylight from a distance of one hundred feet.

20 B. The director may require return to the department of all
21 number or personalized plates upon termination of the lawful use thereof.
22 If the number plates of a motor vehicle become mutilated or illegible,
23 the plates shall be surrendered to the division and new plates issued
24 in lieu thereof upon payment of the prescribed fee.

25 C. A passenger motor vehicle rented without a driver shall receive
26 the same type of number plates as issued for a private passenger motor
27 vehicle.
28

1 D. ~~When a motor vehicle is sold or the ownership otherwise~~
 2 ~~transferred, the number plates attached thereto shall not pass with the~~
 3 ~~motor vehicle or the title thereto. The person who acquires title to~~
 4 ~~the motor vehicle shall not use the number plates of the previous owner~~
 5 ~~or transferor, but may use number plates assigned to him for use in the~~
 6 ~~current registration year on a vehicle no longer in his possession. If~~
 7 ~~he does not have such number plates he shall immediately obtain new~~
 8 ~~number plates from the department. The original holder may continue~~
 9 ~~to use the number plates on any vehicle or succession of vehicles he~~
 10 ~~may subsequently own during the year for which the number plates were~~
 11 ~~issued provided he gives proper notification to the department as~~
 12 ~~required by law and pays the appropriate transfer and registration fees.~~
 13 Sec. 3. Section 28-314, Arizona Revised Statutes, is amended to

14 read:

15 28-314. Transfer of title; reregistration

16 A. When the owner of a registered vehicle transfers or assigns
 17 his title or interest thereto, the registration of the vehicle shall
 18 expire BUT THE NUMBER PLATES, EXCEPT FOR PERSONALIZED NUMBER PLATES,
 19 ASSIGNED TO THE VEHICLE SHALL REMAIN THEREON. Upon the transfer or
 20 assignment, the owner shall remove ~~the number plates and~~ the registration
 21 card issued for the vehicle and endorse upon the reverse side thereof the
 22 name and address of the transferee and the date of transfer, and shall
 23 immediately forward the card to the vehicle division. The owner shall
 24 also endorse on the back of the certificate of title to the vehicle, if
 25 issued, any assignment thereof, with the warranty of title in the form
 26 printed thereon, and shall deliver the certificate to the purchaser or
 27 transferee at the time of delivery to him of the motor vehicle, except
 28 as provided in section 28-323. The purchaser or transferee, except
 29 as provided in section 28-315, within ten days after the transfer shall
 30 apply for and obtain the registration of the vehicle by presenting the
 31 certificate of title thereto to the vehicle division, accompanied by the
 32 required fee, whereupon a new certificate of title, and if necessary new
 33 number plates, shall be issued to the purchaser or transferee.

34 B. A person owning a motor vehicle, upon furnishing satisfactory
 35 proof of ownership to the vehicle superintendent, may procure a cer-
 36 tificate of title to the motor vehicle whether or not a certificate of
 37 title has ever been issued. If the vehicle superintendent determines
 38 that an applicant for a certificate of title to a motor vehicle, trailer
 39 or semitrailer is not entitled thereto, he may refuse to issue a cer-
 40 tificate or to register the vehicle, and for like reason and after
 41 notice and hearing, may revoke a registration already acquired, or an
 42 outstanding certificate of title. The notice shall be served in person
 43 or by registered mail.

44 C. The vehicle superintendent shall refuse to register a motor
 45 vehicle, trailer or semitrailer owned by or under the control of a
 46 person who has failed, refused or neglected to pay a motor vehicle
 47 fee, tax or other assessment, or a penalty thereon, due the vehicle
 48 division or for its account, and shall revoke the registration of any
 49 motor vehicle, trailer or semitrailer owned by or under the control of

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1 any person who has been delinquent for a period of forty-five days in
2 the payment of a motor vehicle fee, tax or other assessment due the
3 vehicle division or for its account. The registration of a motor vehicle,
4 trailer or semitrailer so revoked shall be renewed only upon payment of
5 the fees described for registration and the full amount of the delinquent
6 fees, taxes or other assessments and penalties.

7 Sec. 4. Section 28-326, Arizona Revised Statutes, is amended to
8 read:

9 28-326. Violations; penalty

10 A. A person is guilty of a felony who:

11 1. Wilfully removes, defaces, obliterates, changes, or causes
12 to be removed, defaced, obliterated or changed, a factory, motor, serial
13 or other identification number or mark from a motor vehicle.

14 2. Issues a number plate without payment of the full amount of
15 the registration and weight fee payable upon the date of issuance
16 thereof.

17 B. A person is guilty of a misdemeanor who:

18 1. Being the owner thereof, operates or knowingly permits to be
19 operated upon a highway, a motor vehicle, trailer or semitrailer required
20 by law to be registered which does not display thereon the number plates
21 assigned thereto by the vehicle division for the current registration
22 year.

23 2. Displays or has in his possession a registration card or
24 registration number plate knowing it to be fictitious or to have been
25 stolen, canceled, revoked, suspended or altered.

26 3. Lends to, or knowingly permits the use of, his registration
27 card or registration number plate by a person not entitled thereto.

28 4. Fails or refuses to surrender to the vehicle division upon
29 demand, a registration number plate which has been suspended, canceled
30 or revoked.

31 5. Uses a false or fictitious name or address in an application
32 for registration of a vehicle or for a renewal or duplicate thereof,
33 or who knowingly makes a false statement or conceals a material fact
34 or otherwise commits a fraud in the application.

35 6. Issues a registration card unless the card carries all in-
36 formation required to be shown thereon.

37 7. Places any information on a registration card which does not
38 appear on the certificate of title of the vehicle.

39 8. Operates on a street or highway a motor vehicle without an
40 emissions control device as required by section 28-955 or with a device
41 which has been dismantled or disconnected or is otherwise inoperative.

42 ~~9. Fails to remove from his vehicle the number plates assigned~~
43 ~~to him upon sale of the vehicle on which the plates are displayed.~~

44 Sec. 5. Section 28-1591, Arizona Revised Statutes, is amended to
45 read:

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28-1591. Distribution of vehicle license tax

A. The license tax upon vehicles operated upon the highways imposed by section 11, article 9 of the constitution shall be collected by the county assessor and promptly deposited with the county treasurer of the county in which the vehicle is registered. The license tax shall be assessed on the basis of the manufacturer's base retail price at the point of manufacture or port of entry and the age of the vehicle as determined by the date upon which it is first registered, in accordance with the following schedule:

MANUFACTURER'S	1st, 2nd	4th, 5th	7th, 8th	10th AND
BASE RETAIL	AND 3rd	AND 6th	AND 9th	SUBSEQUENT
PRICE	YEARS	YEARS	YEARS	YEARS
\$ 0	500	\$ 4.00	\$ 1.00	\$ 1.00
\$ 501	1,000	7.00	4.00	1.00
\$ 1,001	1,500	23.00	9.00	4.00
\$ 1,501	2,000	32.00	13.00	5.00
\$ 2,001	2,500	41.00	17.00	7.00
\$ 2,501	3,000	50.00	21.00	9.00
\$ 3,001	4,000	64.00	27.00	11.00
\$ 4,001	5,000	83.00	35.00	14.00
\$ 5,001	6,000	101.00	42.00	18.00
\$ 6,001	8,000	129.00	54.00	23.00
\$ 8,001	10,000	166.00	70.00	29.00
\$ 10,001	12,000	203.00	85.00	36.00
\$ 12,001	15,000	249.00	105.00	44.00
\$ 15,001	18,000	305.00	128.00	54.00
\$ 18,001	and over	360.00	152.00	64.00

A. THE LICENSE TAX IMPOSED BY ARTICLE 9, SECTION 11 OF THE CONSTITUTION OF ARIZONA SHALL BE COLLECTED BY THE REGISTERING OFFICER AT THE TIME OF APPLICATION FOR AND BEFORE REGISTRATION OF THE VEHICLE EACH YEAR AND BE PROMPTLY DEPOSITED WITH THE COUNTY TREASURER OF THE COUNTY IN WHICH THE VEHICLE IS REGISTERED. SUCH LICENSE TAX SHALL BE AT A RATE EQUAL TO THE AVERAGE AD VALOREM RATE FOR ALL PURPOSES IN THE SEVERAL TAXING DISTRICTS OF THE STATE FOR THE PRECEDING YEAR, BUT IN NO EVENT TO EXCEED A RATE OF FOUR DOLLARS ON EACH ONE HUNDRED DOLLARS IN VALUE, AND DURING THE FIRST CALENDAR YEAR, FROM JANUARY 1 OF THE YEAR OF INITIAL REGISTRATION OF THE LIFE OF THE VEHICLE UPON A VALUE EQUAL TO SIXTY PER CENT OF THE MANUFACTURER'S BASE RETAIL PRICE OF SUCH VEHICLE, AND DURING EACH SUCCEEDING CALENDAR YEAR UPON A VALUE TWENTY-FIVE PER CENT LESS THAN THE VALUE FOR THE PRECEDING CALENDAR YEAR.

B. The superintendent, in order to initiate a system of registering or reregistering motor vehicles during any month of the calendar year pursuant to section 28-313.01, may register or reregister a vehicle for more or less than a twelve-month period, but not to exceed eighteen months, prorating the annual license tax, when in his opinion such proration tends to fulfill the purpose of the monthly registration system.

C. Except as provided in section 28-1592, the county treasurer, not later than the fifteenth day of each month, shall distribute the monies deposited with him pursuant to subsection A of this section during the preceding calendar month as follows:

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1 vehicle was first registered and who have paid, between January 1, 1975
2 and June 30, 1975, vehicle license taxes for a registration period
3 extending into 1976. Upon making such identification, the department
4 shall recalculate the license taxes for that portion of the registra-
5 tion period extending beyond December 31, 1975 at the rate in effect
6 at the time the license tax was paid for four, seven and ten year old
7 vehicles, respectively and as appropriate.

8 B. The department shall send to those owners identified pursuant
9 to the provisions of subsection A a credit memo equal to the difference
10 between the vehicle license tax paid and the recalculated vehicle license
11 tax. Such credit memo shall be sent to the owner's address of record
12 and may be utilized by the owner as a credit, in the county where such
13 overpayment was made, against future vehicle license taxes to which he
14 becomes subject.

15 C. The county assessor shall make a cash refund from current
16 receipts of vehicle license taxes to any person who has a credit memo
17 for overpayment of license taxes to such county if:

18 1. Such credit memo exceeds the amount of license taxes to
19 which such owner becomes subject. The cash refund shall be the amount
20 of such excess.

21 2. Such owner is not subject to future license taxes in such
22 county because of a change in county of residence.

23 D. All credit memos issued pursuant to this section shall bear
24 an expiration date of ninety days after the last day of the registration
25 period for which such overpayment was made.

26 E. Any vehicle owner who sells, trades or otherwise disposes of
27 a currently registered vehicle during the period between January 1 and
28 June 30, 1975, resulting in a vehicle license tax credit transferable
29 with the license plate in excess of the tax due on a replacement vehicle
30 shall be eligible for a refund of the excess tax. The county assessor
31 of the county in which the tax was originally paid shall make the refund
32 from current receipts from vehicle license taxes when he is satisfied
33 that such excess credit is due. The owner shall make his claim for refund
34 on or before August 31, 1975.

35 F. Any vehicle owner who sells or otherwise disposes of a
36 currently registered vehicle during the period between January 1 and
37 June 30, 1975 and has no replacement vehicle to which to transfer the
38 license plate using the vehicle license tax credit shall be entitled to
39 a refund upon surrender of the current number plates. The county assessor
40 of the county in which the vehicle was registered shall make the refund of
41 the prorated tax from current receipt of vehicle license taxes. The amount
42 of the refund shall be determined from the end of the month in which the
43 sale occurred to the end of the period for which the tax was paid. The
44 owner shall make his claim for refund on or before August 31, 1975.

45 Sec. 7. Emergency

46 To preserve the public peace, health and safety it is necessary
47 that this act become immediately operative. It is therefore declared
48 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 11, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 136
SENATE BILL 1110

AN ACT

RELATING TO TRANSPORTATION; PROVIDING FOR AN AIR SERVICE DEVELOPMENT REVOLVING FUND; AUTHORIZING CERTAIN EXPENDITURES BY THE DIRECTOR, AND AMENDING TITLE 28, CHAPTER 12, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1707.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 28, chapter 12, article 1, Arizona Revised Stat-
3 utes, is amended by adding section 28-1707, to read:
4 28-1707. Air service development revolving fund; authorized
5 expenditures; exemption
6 A. THERE SHALL BE AN AIR SERVICE DEVELOPMENT REVOLVING FUND WHICH
7 SHALL CONSIST OF:
8 1. MONEY RECEIVED DIRECTLY OR INDIRECTLY FROM THE FEDERAL GOVERN-
9 MENT OR ANY AGENCY THEREOF FOR ANY PURPOSE AUTHORIZED BY THIS SECTION.
10 2. MONEY RECEIVED FROM DONATIONS TO THE FUND.
11 3. MONEY REPAID TO THE DEPARTMENT ON LOANS MADE PURSUANT TO THIS
12 SECTION.
13 4. MONEY RECEIVED FROM INSURANCE RECOVERIES FOR CAPITAL EQUIPMENT
14 LOSSES FOR CAPITAL EQUIPMENT PURCHASED PURSUANT TO THIS SECTION.
15 5. EARNINGS ON ANY MONEY FROM THE AIR SERVICE DEVELOPMENT REVOLVING
16 FUND WHICH IS INVESTED PURSUANT TO STATE LAW.
17 B. FUNDS FROM THE AIR SERVICE DEVELOPMENT REVOLVING FUND SHALL BE
18 EXPENDED ONLY FOR THE FOLLOWING PURPOSES:
19 1. AS SHORT TERM, LOW INTEREST, UNSECURED LOANS TO SCHEDULED,
20 CERTIFICATED COMMUTER AIR CARRIERS TO TEMPORARILY DEFRAY SUCH CARRIER'S
21 OPERATING EXPENSES IN EXTENDING AIR SERVICE INTO AREAS OF THE STATE
22 DEEMED APPROPRIATE BY THE DIRECTOR.
23 2. AS SHORT TERM, LOW INTEREST, SECURED LOANS TO SCHEDULED,
24 CERTIFICATED COMMUTER AIR CARRIERS TO PURCHASE CAPITAL EQUIPMENT FOR THE
25 USE OF SUCH CARRIER IN EXTENDING AIR SERVICE INTO AREAS OF THE STATE
26 DEEMED APPROPRIATE BY THE DIRECTOR.

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1 C. THE AIR SERVICE DEVELOPMENT REVOLVING FUND SHALL BE EXPENDED
2 IN CONFORMITY WITH THE LAWS GOVERNING STATE FINANCIAL OPERATIONS, EXCEPT
3 THAT BALANCES REMAINING AT THE END OF THE FISCAL YEAR SHALL NOT REVERT
4 TO THE STATE GENERAL FUND, THE STATE HIGHWAY FUND OR THE STATE AVIATION
5 FUND.

6 Sec. 2. Emergency
7 To preserve the public peace, health and safety it is necessary that
8 this act become immediately operative. It is therefore declared to be an
9 emergency measure, to take effect as provided by law.

Approved by the Governor - June 12, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 137
SENATE BILL 1237

AN ACT

RELATING TO CITIES AND TOWNS; PROVIDING FOR ISSUANCE OF BOND ANTICIPATION NOTES FOR CERTAIN PUBLIC IMPROVEMENTS; PROVIDING AUTHORITY FOR A PUBLIC IMPROVEMENTS REVOLVING FUND; PRESCRIBING STANDARDS FOR CURB RAMPS; PRESCRIBING AN EXCEPTION; AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-499.02, AND AMENDING TITLE 9, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 9-715 AND 9-716.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-499.02, to read:

4 9-499.02. Standards for curb ramps
5 A. THE STANDARD FOR CONSTRUCTION OF CURBS ON EACH SIDE OF ANY
6 CITY OR TOWN STREET, OR ANY CONNECTING STREET OR ROAD FOR WHICH CURBS
7 HAVE BEEN PRESCRIBED BY THE GOVERNING BODY OF THE CITY OR TOWN HAVING
8 JURISDICTION THEREOVER, SHALL BE NOT LESS THAN TWO RAMPS PER LINEAL
9 BLOCK AT THE CROSSWALKS AT INTERSECTIONS. SUCH RAMPS SHALL BE AT LEAST
10 FORTY INCHES WIDE AND SO CONSTRUCTED AS TO ALLOW REASONABLE ACCESS TO
11 THE CROSSWALK FOR PHYSICALLY HANDICAPPED PERSONS.

12 B. STANDARDS SET FOR CURB RAMPING UNDER SUBSECTION A SHALL NOT
13 APPLY TO ANY CURB EXISTING UPON THE EFFECTIVE DATE OF THIS SECTION BUT
14 SHALL APPLY TO ALL NEW CURB CONSTRUCTION AND TO ALL REPLACEMENT CURBS
15 CONSTRUCTED AT ANY POINT IN A BLOCK WHICH GIVES REASONABLE ACCESS TO A
16 CROSSWALK.

17 Sec. 2. Title 9, chapter 6, article 2, Arizona Revised Statutes,
18 is amended by adding sections 9-715 and 9-716, to read:

19 9-715. Bond anticipation notes; form; procedures
20 applicable

21 A. WHENEVER THE GOVERNING BODY HAS DETERMINED IN THE RESOLUTION
22 OF INTENTION THAT IMPROVEMENT BONDS SHALL BE ISSUED, BOND ANTICIPATION
23 NOTES MAY BE SOLD AT ANY TIME AFTER THE AWARD OF A CONSTRUCTION CONTRACT.

24 B. BOND ANTICIPATION NOTES SHALL BE PAID SOLELY FROM THE PROCEEDS
25 OF THE SALE OF IMPROVEMENT BONDS AND MONIES COLLECTED FROM PROPERTY
26 OWNERS WISHING TO PAY ALL OR PART OF THEIR ASSESSMENTS IN CASH PRIOR

CHAPTER 137

1 TO THE FILING OF THE CERTIFIED LIST OF UNPAID ASSESSMENTS AS PROVIDED
2 IN SECTION 9-694. THE NOTES MAY BE IN SUCH FORM AND DENOMINATION AS
3 THE GOVERNING BODY SHALL PROVIDE. THE NOTES SHALL BE EXECUTED BY EITHER
4 THE STREET SUPERINTENDENT OR THE CITY TREASURER AND ATTESTED BY THE
5 CLERK. THE NOTES MAY BEAR INTEREST FROM THEIR DATE AT A RATE NOT IN
6 EXCESS OF THE MAXIMUM RATE TO BE BORNE ON THE BONDS AS SHOWN IN THE
7 RESOLUTION OF INTENTION. THE TERM OF THE NOTES SHALL BE NOT MORE THAN
8 SIX MONTHS BEYOND THE DATE SET FOR COMPLETION OF THE CONSTRUCTION BUT
9 THE GOVERNING BODY SHALL ALWAYS RETAIN THE OPTION OF REPAYING SUCH NOTES
10 IN ADVANCE OF MATURITY AND WITHOUT PENALTY AND THE FURTHER OPTION TO
11 EXTEND THE LIFE OF THE NOTES IF THE TERM OF THE CONSTRUCTION CONTRACT
12 IS EXTENDED OR IF ANY DEFAULT IS MADE BY THE CONTRACTOR. THE NOTES
13 SHALL BE AUTHORIZED BY RESOLUTION OF THE GOVERNING BODY.

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1 C. THE TOTAL AMOUNT OF NOTES TO BE ISSUED FOR ANY WORK OR IMPROVE-
2 MENT SHALL NOT BE GREATER THAN THE AGGREGATE OF NINETY PER CENT OF THE
3 CONTRACT PRICE AND THE TOTAL ESTIMATED AMOUNT OF INCIDENTAL EXPENSES.
4 THE NOTES SHALL BE SOLD AT NOT LESS THAN PAR AT EITHER PUBLIC OR PRIVATE
5 SALE. WHEN AUTHORIZED BY THE GOVERNING BODY, THE SUPERINTENDENT OF
6 STREETS MAY ENTER INTO LOAN AGREEMENTS WITH THE PURCHASER OF THE NOTES
7 RELATIVE TO:
8 1. THE TIME AND PLACE OF DELIVERY.
9 2. THE SALE OF IMPROVEMENT BONDS TO THE PURCHASER OF THE NOTES
10 IF THE MUNICIPALITY IS UNABLE TO PROCURE A PURCHASER WILLING TO PURCHASE
11 THE BONDS WHEN ISSUED.
12 3. MAKING OF THE DEMAND UPON THE OWNERS OF PROPERTY FOR PAYMENT
13 IN CASH.
14 4. COLLECTION OF CASH PAYMENTS FROM PERSONS WISHING TO PAY THEIR
15 ASSESSMENTS IN CASH AND APPLICATION OF SUCH CASH PAYMENTS TO THE REPAY-
16 MENT OF THE NOTES.
17 5. PAYMENT OF AN ADDITIONAL FEE TO THE PURCHASER OF THE NOTES TO
18 COVER THE ADMINISTRATIVE EXPENSES OF THE CASH COLLECTIONS IF THE PUR-
19 CHASER IS TO BE THE PERSON TO WHOM CASH COLLECTIONS ARE TO BE MADE.
20 D. TO SECURE THE PAYMENT OF THE NOTES THE LOAN AGREEMENTS MAY
21 ALSO PROVIDE FOR A COLLATERAL ASSIGNMENT TO THE PURCHASER OF THE NOTES
22 OF ALL CASH COLLECTIONS, THE WARRANT AND THE MUNICIPALITY'S INTEREST
23 IN THE PERFORMANCE BOND.
24 E. THE PROCEEDS FROM THE SALE OF THE NOTES SHALL BE PLACED IN A
25 SPECIAL FUND TO BE HELD BY THE TREASURER AND TO BE USED FOR PAYMENT OF
26 INCIDENTAL EXPENSES AND PAYMENTS TO THE CONSTRUCTION CONTRACTOR.
27 F. PROCEEDS FROM THE SALE OF THE NOTES SHALL BE USED TO MAKE
28 SEMI-MONTHLY OR MONTHLY PAYMENTS TO BE DUE AND PAID THE CONTRACTOR UPON
29 A BASIS OF NINETY PER CENT OF THE VALUE OF THE WORK ACTUALLY PERFORMED
30 AS ESTIMATED BY THE SUPERINTENDENT OR ENGINEER EMPLOYED FOR SUCH PURPOSE
31 TO AND INCLUDING THE FIFTEENTH OR LAST DAY OF EACH CALENDAR MONTH. THE
32 BALANCE SHALL BE PAID TO THE CONTRACTOR AFTER THE SALE OF THE BONDS
33 SOLELY FROM THE PROCEEDS THEREFROM OR IF BONDS EQUAL TO THE BALANCE
34 REMAINING CANNOT BE SOLD THEN THE BALANCE SHALL BE PAID BY DELIVERY OF
35 A LIKE PRINCIPAL AMOUNT OF BONDS TO THE CONTRACTOR.
36 G. THE ISSUANCE OF BOND ANTICIPATION NOTES SHALL CONSTITUTE AN
37 ASSIGNMENT TO THE MUNICIPALITY OF THE MONIES DUE THE CONTRACTOR UNDER
38 THE CONSTRUCTION CONTRACT. THE MUNICIPALITY MAY AGREE WITH THE CON-
39 STRUCTURE CONTRACTOR THAT THE MUNICIPALITY WILL MAKE THE DEMANDS FOR
40 CASH PAYMENTS AS PROVIDED IN SECTION 9-687 OR MAY AUTHORIZE THE PUR-
41 CHASER OF THE BOND ANTICIPATION NOTES TO MAKE THE CASH COLLECTIONS.
42 H. WHEN BONDS ARE ISSUED TO REPRESENT ANY ASSESSMENTS REMAINING
43 UNPAID AT THE DATE OF THE CERTIFIED LIST, THE CITY SHALL SELL THE BONDS
44 AND USE THE PROCEEDS TO REDEEM THE NOTES AND PAY THE BALANCE DUE THE
45 CONTRACTORS.
46 I. IN ADDITION TO THE INCIDENTAL EXPENSES WHICH MAY BE INCLUDED
47 IN THE ASSESSMENT, IF BOND ANTICIPATION NOTES ARE ISSUED THE SUPERIN-
48 TENDENT OF STREETS MAY ALSO INCLUDE IN THE INCIDENTAL EXPENSES ALL
49 INTEREST TO ACCRUE ON THE BOND ANTICIPATION NOTES THE ADDED COSTS OF
50 CASH COLLECTIONS, IF ANY, AND ALL LEGAL OR FINANCIAL FEES INCURRED IN
51 THE ISSUANCE AND SALE OF THE BOND ANTICIPATION NOTES.

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1 J. WHENEVER BOND ANTICIPATION NOTES HAVE BEEN ISSUED AND THE
2 CONTRACTOR HAS BEEN PAID IN ACCORDANCE WITH SUBSECTION F OF THIS SECTION
3 THE CITY SHALL APPLY THE PROCEEDS COLLECTED FROM DEMANDS UPON THE PROP-
4 ERTY OWNERS TO REDUCTION OF THE OUTSTANDING PORTION OF THE BOND ANTICIPA-
5 TION NOTES AND WHEN THE NOTES HAVE BEEN PAID, TO THE CONTRACTOR TO REDUCE
6 ANY BALANCE DUE HIM.

7 9-716. Revolving fund; lapsing provisions; separate fund

8 A. THE GOVERNING BODY MAY CREATE A REVOLVING FUND TO AID IN THE
9 CONSTRUCTION OF PUBLIC IMPROVEMENTS UNDER THIS ARTICLE AND ARTICLE 1
10 OF THIS CHAPTER. THE GOVERNING BODY MAY PROVIDE FOR TRANSFERS INTO
11 SUCH FUND FROM ANY LAWFUL SOURCE.

12 B. ALL UNEXPENDED BALANCES OF APPROPRIATIONS FROM THE FUND
13 REMAINING AFTER THE APPROPRIATIONS LAPSE ACCORDING TO LAW SHALL REVERT
14 TO THE FUND.

15 C. THE FUND ESTABLISHED PURSUANT TO THIS SECTION SHALL BE KEPT
16 SEPARATE AND APART FROM ALL OTHER FUNDS.

17 D. THE MONIES IN THE REVOLVING FUND MAY BE USED TO PURCHASE BOND
18 ANTICIPATION NOTES, TO AID IN THE PAYMENTS MADE TO THE CONSTRUCTION
19 CONTRACTOR, TO PROVIDE FOR THE PAYMENT OF THE CITY'S SHARE OF ANY
20 IMPROVEMENT AUTHORIZED UNDER THIS ARTICLE OR TO PROVIDE MONIES TO PAY
21 THE ASSESSMENTS LEVIED AGAINST PUBLIC PROPERTY.

22 Sec. 3. Emergency

23 To preserve the public peace, health and safety it is necessary
24 that this act become immediately operative. It is therefore declared
25 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 12, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 138
SENATE BILL 1284

AN ACT

RELATING TO HIGHWAYS AND BRIDGES; PROVIDING FOR THE ACQUISITION OF IMPROVEMENTS WITHIN A SPECIAL ROAD DISTRICT; PROVIDING FOR SPECIAL ELECTIONS; PROVIDING FOR THE ISSUANCE OF BONDS; PROVIDING FOR EXPIRATION DATE, AND AMENDING TITLE 18, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 18-264.

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

2 Section 1. Legislative intent

3 The legislature intends by this act to provide the boards of trustees
4 of existing special road districts with temporary authority to propose,
5 subject to approval of two-thirds of the district's qualified electors
6 voting thereon, the issuance of bonds for the acquisition of certain
7 recreational, social, park and open space improvements within the district
8 boundaries. The legislature further intends that each such improvement and
9 the bonds to be issued for its acquisition shall be voted on separately and
10 that this limited expansion of the authority and purposes of special road
11 districts shall expire on July 1, 1976.

12 Sec. 2. Title 18, chapter 2, article 3, Arizona Revised Stat-
13 utes, is amended by adding section 18-264, to read:

14 18-264. Acquisition of other improvements; special
15 elections; bonds

16 A. A SPECIAL ROAD DISTRICT MAY ACQUIRE IMPROVEMENTS WITHIN ITS
17 BOUNDARIES FOR PUBLIC RECREATIONAL, SOCIAL, PARK AND OPEN SPACE PUR-
18 POSSES, PURSUANT TO THIS SECTION.

19 B. A SPECIAL ROAD DISTRICT SHALL BE AUTHORIZED TO ACQUIRE AN
20 IMPROVEMENT IF TWO-THIRDS OF THE VOTES CAST BY QUALIFIED ELECTORS OF
21 THE DISTRICT VOTING AT A SPECIAL ELECTION CALLED, CONDUCTED AND CAN-
22 VASSED AS PURSUANT TO SECTIONS 18-257, 18-258 AND 18-259, TO THE EXTENT
23 APPLICABLE, ARE IN FAVOR THEREOF. BONDS MAY BE AUTHORIZED FOR THE
24 PURPOSE OF ACQUIRING SUCH IMPROVEMENT BY THE SAME NUMERICAL VOTE AT
25 A SPECIAL ELECTION CALLED, CONDUCTED AND CANVASSED IN THE SAME MAN-
26 NER, AND ISSUED AND SOLD PURSUANT TO SECTION 18-260. THE PROPOSITION

CHAPTER 138

1 TO ACQUIRE AN IMPROVEMENT AND THE PROPOSITION TO AUTHORIZE BONDS MAY
2 BE COMBINED INTO A SINGLE PROPOSITION AND SUBMITTED AT THE SAME ELEC-
3 TION. PROPOSITIONS WITH RESPECT TO SEPARATE IMPROVEMENTS SHALL NOT
4 BE COMBINED BUT MAY BE SUBMITTED AT THE SAME ELECTION.

5 C. THE TRUSTEES OF A SPECIAL ROAD DISTRICT WHICH IS AUTHORIZED
6 TO ACQUIRE AN IMPROVEMENT SHALL HAVE THE SAME POWERS WITH RESPECT TO
7 ALL IMPROVEMENTS WHICH SHALL BE AUTHORIZED PURSUANT TO THIS SECTION
8 AS THEY HAVE WITH RESPECT TO ROAD, DRIVEWAY, HIGHWAY AND BRIDGE
9 IMPROVEMENTS PURSUANT TO SECTIONS 18-255 AND 18-256, AND IN ADDITION
10 MAY CLASSIFY USERS, ESTABLISH CHARGES FOR THE USE OR AVAILABILITY FOR
11 USE OF ANY SUCH IMPROVEMENT AND PROVIDE FOR THE COLLECTION OF SUCH
12 CHARGES, EITHER WITH AND AS A PART OF TAXES OR OTHERWISE, PAYING
13 REASONABLE COLLECTION COSTS.

14 D. THE NAME OF A SPECIAL ROAD DISTRICT WHICH IS AUTHORIZED TO
15 ACQUIRE AN IMPROVEMENT PURSUANT TO THIS SECTION MAY, UPON REQUEST OF
16 THE BOARD OF TRUSTEES, BE CHANGED TO "SPECIAL ROAD AND IMPROVEMENT
17 DISTRICT NO. _____", RETAINING THE SAME NUMBER, BY
18 RESOLUTION OF THE BOARD OF SUPERVISORS.

19 Sec. 3. Expiration date

20 The provisions of this act shall expire on July 1, 1976.

21 Sec. 4. Emergency

22 To preserve the public peace, health and safety it is necessary
23 that this act become immediately operative. It is therefore declared
24 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 12, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 139
SENATE BILL 1334

AN ACT

RELATING TO NATIVE ARIZONA PLANTS; PROTECTING CERTAIN PLANTS; PROVIDING EXEMPTIONS FROM THE PERMIT, TAG AND SEAL REQUIREMENTS OF THE COMMISSION OF AGRICULTURE AND HORTICULTURE; PERMITTING CERTAIN CUTTING AND REMOVAL OF LIVE OR DEAD WOOD; PRESCRIBING CERTAIN EXCEPTIONS; PROVIDING FOR PENALTIES, AND AMENDING SECTIONS 3-901, 3-902, 3-904, 3-905, 3-906 AND 3-907, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 3-901, Arizona Revised Statutes, is amended to
3 read:

4 3-901. Protected group of plants; botanical names govern;
5 power to add or remove plants

6 A. The botanical names of the plants referred to in this article
7 shall in all cases govern in the interpretation of this article. Pro-
8 tected native plants shall be any plant or part thereof, except its
9 fruit, named in the protected group which is growing wild on state land
10 or public land or on privately owned land without being propagated or
11 cultivated by human beings AND THE DEAD PLANTS OR PARTS THEREOF OF THOSE
12 PLANTS WHICH ARE NAMED IN SUBSECTION C, PARAGRAPH 4, OF THIS SECTION.

13 B. The following shall constitute certain protected native plants
14 that are prohibited from collection except for scientific or educational
15 purposes under permit from the commission of agriculture and horticulture:
16 *Washingtonia filifera* (fan palm), *lysiloma thornberi* (ornamental tree),
17 *bursera fagaroides* (elephant tree), *cereus schottii* (senita or "old one"),
18 *cereus thurberi* (organ pipe cactus), *toumeyia papyracantha*, *toumeyia*
19 *peeblesiana*, *neoevansia diguetii* (dahlia cactus), *pediocactus paradinei*.

20 C. The following shall constitute the protected group of plants:
21 1. All species of the following families: liliaceae (lily family),
22 amaryllidaceae (amaryllis family), orchidaceae (orchid family), crassulaceae
23 (orpine family), cactaceae (cactus family).

24 2. All species of the following genera: *aquilegia* (columbine),
25 *lobelia* (*lobelia*), *dodecatheon* (shooting star), *primula* (primrose),
26 *fouquieria* (*ocotillo*).

1 3. The following species: *atriplex hymenelytra* (desert holly),
 2 *cercis occidentalis* (western redbud), *dalea spinosa* (smoke tree),
 3 *holacantha emoryi* (crucifixion thorn), *fremontia californica* (flannel bush),
 4 *pinus aristata* (bristlecone pine), RHUS KEARNEYI (KEARNEY SUMAC), SAPIUM
 5 BILOCULARE (MEXICAN JUMPING BEAN) AND SEBASTIANA PAVONIANA (MEXICAN
 6 JUMPING BEAN).

7 4. THE FOLLOWING SPECIES OF LIVE OR DEAD PLANTS OR PARTS THEREOF
 8 SHALL INCLUDE: PROSOPIS JULIFLORA (COMMON OR HONEY MESQUITE), PROSOPIS
 9 PUBESCENS (SCREWBEAN MESQUITE), CERCIDIUM MICROPHYLLUM (LITTLE LEAF PALO
 10 VERDE), CERCIDIUM FLORIDUM (BLUE PALO VERDE), PARKINSONIA ACULEATAL
 11 (JERUSALEM THORN, LONG LEAF PALO VERDE), OLNEYA TESOTA (IRONWOOD TREE).

12 D. The Arizona commission of agriculture and horticulture may,
 13 after public hearing, add or remove any native plant to or from the
 14 protected group. A public hearing on native plants shall be held at
 15 least every twelve months.

16 Sec. 2. Section 3-902, Arizona Revised Statutes, is amended to
 17 read:

18 3-902. Native plant permits and tags; fees; regulatory
 19 powers of commission

20 A. The commission of agriculture and horticulture shall issue
 21 permits, tags and seals for a fee as prescribed by the commission, which
 22 fee shall not be less than one dollar per plant for all native plants
 23 except *cereus giganteus* (saguaro) and not less than two dollars per plant
 24 for each *cereus giganteus* (saguaro), EXCEPT FOR TREES, LIVE OR DEAD, CUT
 25 OR REMOVED FOR WOOD, WHICH FEE SHALL NOT BE LESS THAN ONE DOLLAR PER CORD,
 26 to persons who take protected native plants from their original growing
 27 sites. No person, except as provided in this article, shall take or
 28 transport or have in his possession any protected native plant from its
 29 original growing site in the state of Arizona unless at the time of
 30 taking he has a valid permit therefor on his person, attaches the tags
 31 or seals to the native plants at the time of taking, EXCEPT WHERE TREES
 32 ALIVE OR DEAD ARE TAKEN FOR WOOD, A PERMIT NOT REQUIRING TAGS OR SEALS
 33 WILL BE ISSUED, and exhibits the permit and tags or seals upon request
 34 for inspection by any duly authorized agent of the Arizona commission of
 35 agriculture and horticulture or by any peace officer as provided for
 36 in this chapter. No tag is valid unless it is issued with a valid permit
 37 and such permit bears the tag or seal number on its face.

38 B. With each permit authorizing the taking, transporting or pos-
 39 sessed of protective native plants, the commission shall provide such
 40 tags and seals as the commission may prescribe, which the permittee or
 41 his agent shall attach to the protective native plants at the time of
 42 taking and before transporting and in such manner as prescribed by the
 43 commission. After any protected native plant has been legally taken and
 44 tagged as provided by this article, it shall be unlawful to remove such
 45 tag or seal until the plant has been transplanted into its ultimate site
 46 for landscaping or beautification purposes. Removal of the tag or seal
 47 from the plant shall be only by an agent of the commission or by the
 48 ultimate owner of the plant, who shall retain such tag or seal as proof
 49 of ownership. No permit or tag or seal as such is transferable by the
 50 permittee or his agent, nor shall it be used by anyone except that per-
 51 son to whom such permit or tag or seal was issued, nor shall it be used
 52 for more native plants than indicated thereon and no refunds shall be
 53 made for the purchase thereof. Any permittee shall be responsible for

1 the acts of any other person or persons acting under any authority
2 expressed or implied of the permittee.

3 C. The commission of agriculture and horticulture may make neces-
4 sary rules and regulations not in conflict with this chapter for the
5 enforcement of its provisions.

6 D. The commission of agriculture and horticulture is empowered
7 and directed to enter in or upon any premises or other place, train,
8 vehicle or other means of transportation within or entering the state,
9 suspected of containing or having present therein or thereon protected
10 native plants in violation of this article.

11 E. When any power or authority is given by any provision of this
12 article to any person, it may be exercised by any deputy, inspector or
13 agent duly authorized by such person. Any person in whom the enforce-
14 ment of any provision of this article is vested has the power of a
15 peace officer as to such enforcement, WHICH SHALL INCLUDE STATE, FEDERAL
16 OR INDIAN AGENCIES WITH WHICH COOPERATIVE AGREEMENTS HAVE BEEN MADE BY
17 THE COMMISSION TO ENFORCE ANY PROVISIONS OF THIS ARTICLE.

18 Sec. 3. Section 3-904, Arizona Revised Statutes, is amended to
19 read:

20 3-904. Taking of plants; permit; tag fees; importation;
21 exceptions

22 A. Except as provided in this article, it is unlawful for any
23 person to destroy, dig up, mutilate or take any living plant, OR THE
24 LIVING OR DEAD PARTS OF ANY TREES, except seeds, of the protected
25 group from state land or public land without obtaining a permit and tags
26 or seals from the Arizona commission of agriculture and horticulture,
27 or from private land without obtaining written permission from the
28 landowner, and a permit and tags or seals from the commission of agri-
29 culture and horticulture. It shall be unlawful for any person to
30 falsify any paper or document issued to give permission for any person
31 to take native plants of the protected group or to take more native
32 plants than authorized by the permit.

33 B. The commission of agriculture and horticulture may give
34 written permission for a person or a scientific or educational insti-
35 tution to take a definite number of specified plants in the protected
36 group from areas specified by the commission for scientific or educa-
37 tional purposes. In addition the commission may give written permission
38 for a person to take specific plants or parts of plants in the protected
39 group from areas specified by the commission for manufacturing or pro-
40 cessing purposes OR FOR THE CUTTING OR REMOVAL OF WOOD and assess
41 reasonable and proper fees for such taking of the plants or parts
42 thereof. It is unlawful, for any person or scientific or educational
43 institution to misuse a permit in any manner.

44 C. PERMITS ISSUED FOR THE CUTTING OR REMOVAL OF WOOD, LIVE OR DEAD,
45 WILL BE FOR A STATED PERIOD OF TIME TO ALLOW THE PERMITTEE TO CUT OR
46 REMOVE THE SPECIFIC AMOUNT OF WOOD STATED ON THE PERMIT. SUCH PERMIT
47 WILL EXPIRE ON THE TERMINATION DATE SHOWN ON SUCH PERMIT.

48 G. D. Any permit provided by subsections A and B shall expire
49 when the tags or seals issued therewith have been attached to the plants
50 covered by such permit and such plants are no longer in the possession

1 of the permittee. Any permit shall be valid until expiration or for
 2 one year from date of issuance, whichever occurs first, except that any
 3 permit and the tags or seals issued therewith shall be null and void
 4 when the land on which the plants are growing, as described in the
 5 permit, changes ownership, unless the new owner certifies in writing
 6 that the permittee may continue taking such plants as specified on the
 7 permit.

8 ~~D.~~ E. Nothing in this article shall be construed to prevent the
 9 clearing of land, cleaning or removal of protected native plants from
 10 a canal, lateral ditch, survey line, building site, or road or other
 11 right-of-way by the owner of the land or his agent unless such protected
 12 native plants are to be transported from the land or offered for sale.
 13 USE OF DEAD WOOD FOR BRANDING FIRES OR AT PERMISSIBLE CAMPING OR COOKING
 14 SITES, FOR CAMPING OR COOKING FIRES, IS EXEMPT FROM THIS SECTION.

15 F. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT ANY
 16 PERSON FROM CUTTING, REMOVING, TRANSPORTING OR USING ANY DEAD WOOD FROM
 17 LAND OWNED OR LEASED BY SUCH PERSON, OTHER THAN STATE-OWNED LAND OR OTHER
 18 PUBLIC LAND, OR FROM LAND, THE OWNER OF WHICH HAS GIVEN CONSENT TO SUCH
 19 PERSON TO CUT, REMOVE, TRANSPORT OR USE SUCH WOOD, NOR SHALL ANYTHING IN
 20 THIS ARTICLE PREVENT ANY PERSON FROM REMOVING FROM STATE OR OTHER PUBLIC
 21 LAND, DEAD WOOD FOR PERSONAL, NON-COMMERCIAL PURPOSES IN AMOUNTS LESS THAN
 22 ONE CORD IN QUANTITY.

23 ~~E.~~ G. The commission of agriculture and horticulture shall
 24 collect fees for the issuance of permits and tags under this article,
 25 except for scientific and educational purposes, and from a landowner
 26 moving protected plants from one of his properties to another, providing
 27 that no such plants are to be offered for sale.

28 ~~F.~~ H. Any protected native plant found without a valid tag or
 29 seal securely and properly affixed thereto when being taken, transported,
 30 sold, or in possession by any person may be confiscated as evidence of
 31 a violation EXCEPT WOOD CUT OR REMOVED BY PERMIT.

32 Sec. 4. Section 3-905, Arizona Revised Statutes, is amended
 33 to read:

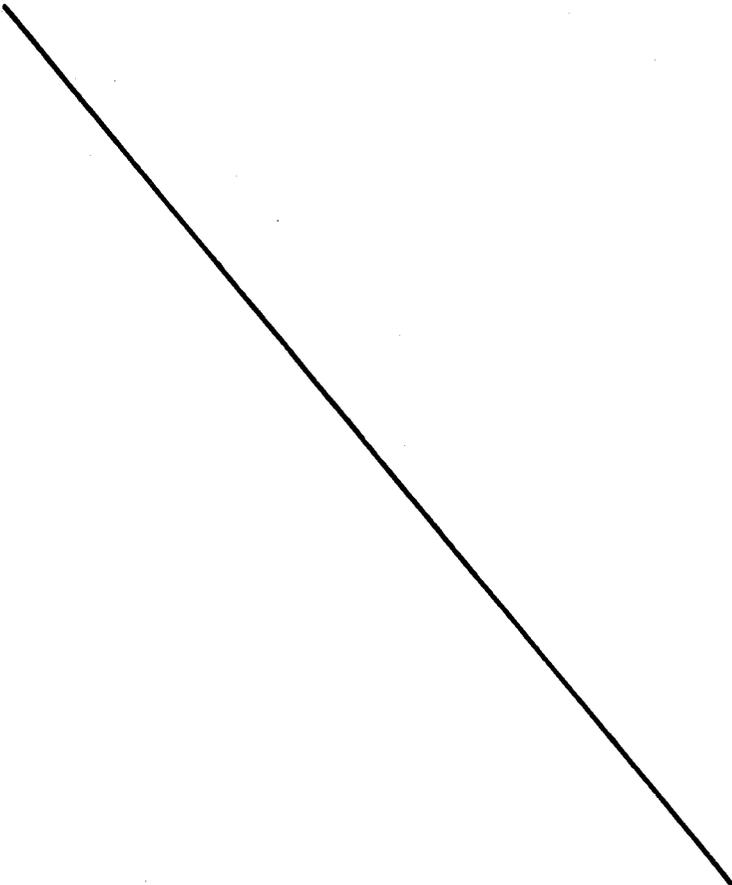
34 3-905. Shipment of plants; exhibition of permit and
 35 certificate of inspection to carrier

36 No person or common carrier shall transport a plant, or any part
 37 thereof, belonging to the protected group, nor receive or possess a
 38 protected native plant for transportation within or without the state,
 39 EXCEPT FOR MANUFACTURED WOOD ARTICLES, unless the person offering the
 40 plant for shipment exhibits to the person or common carrier a valid
 41 written permit for the transportation of the plant or part thereof,
 42 and has securely and properly attached thereto a valid native plant
 43 tag or seal. If for transport without the state, the plant shall also
 44 bear a certificate of inspection by the commission. All protected
 45 native plant species or varieties, when not grown in Arizona and
 46 imported into this state, shall be declared at an Arizona agricultural
 47 inspection station or a district office of the commission, and proceed
 48 to destination under quarantine orders issued by agents of the commis-
 49 sion employed at such station or district office.

CHAPTER 139

1 Sec. 5. Section 3-906, Arizona Revised Statutes, is amended to
2 read:

3 3-906. Arrests without warrant; confiscation of plants
4 A peace officer or an officer or employee OR AGENT of the commis-
5 sion of agriculture and horticulture may, in the enforcement of this
6 article, make arrests without warrant for a violation of this article
7 which he may witness, and may confiscate plants or parts thereof belong-
8 ing to the protected group when unlawfully taken, transported, possessed,
9 sold or otherwise in violation of this article.



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1 Sec. 6. Section 3-907, Arizona Revised Statutes, is amended to
2 read:

3 3-907. Violations; penalties.

4 A person violating any provision of this article is guilty of a
5 misdemeanor punishable by a fine of not less than fifty ONE HUNDRED
6 dollars nor more than three hundred dollars for each violation or by
7 imprisonment in the county jail not to exceed ninety days, or both,
8 and each violation constitutes a separate offense.

9 Sec. 7. Emergency

10 To preserve the public peace, health and safety it is necessary
11 that this act become immediately operative. It is therefore declared
12 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 12, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 140
HOUSE BILL 2416

AN ACT

RELATING TO EDUCATION; REMOVING AUTHORITY OF THE BOARD OF EDUCATION TO PROMULGATE RULES AND REGULATIONS RELATING TO SPECIAL EDUCATION; PROVIDING FOR DETERMINATION OF SCHOOL DISTRICT ENTITLEMENT TO STATE AID FOR EXCESS COST OF SPECIAL EDUCATION PROGRAMS; PROVIDING LIMIT ON CLASSIFICATION FOR SPECIAL EDUCATION PUPILS FOR EXCESS COST PURPOSES; PRESCRIBING CONDITION UPON GRANT OF STATE AID FOR SPECIAL EDUCATION RELATING TO SCHOOL DISTRICTS; PROVIDING METHOD FOR DETERMINATION OF ALLOWABLE BUDGET FOR SPECIAL EDUCATION PORTION OF SCHOOL DISTRICT BUDGET AND PRESCRIBING CERTAIN LIMITATIONS; ESTABLISHING JOINT LEGISLATIVE SPECIAL EDUCATION STUDY COMMITTEE AND PRESCRIBING POWERS AND DUTIES; PROVIDING THAT RULES AND REGULATIONS OF STATE BOARD OF EDUCATION RELATING TO SPECIAL EDUCATION ARE NULL AND VOID AND PRESCRIBING LIMITATION ON PROMULGATION OF CERTAIN RULES AND REGULATIONS BY THE DEPARTMENT OF EDUCATION; PROVIDING FOR USE OF AVERAGE OR ADJUSTED DAILY MEMBERSHIP FOR CERTAIN PURPOSES AND PROVIDING EXPIRATION DATE; REQUIRING PUBLIC SCHOOL AUTHORITIES TO SET ASIDE A SPECIFIC TIME EACH DAY FOR STUDENTS TO PLEDGE ALLEGIANCE TO THE UNITED STATES FLAG; AMENDING SECTIONS 15-1012, 15-1017 AND 15-1031, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 10, ARTICLE 2, BY ADDING SECTION 15-1017.01, AND MAKING AN APPROPRIATION.

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

2 Section 1. Section 15-1012, Arizona Revised Statutes, is amended
3 to read:

4 15-1012. Division of special education; director; duties;
5 qualifications; advisory committee; members

6 A. There is created a division of special education to carry out
7 the provisions of this article subject to the state superintendent of
8 public instruction.

9 B. The director of the division of special education shall be
10 appointed by the state superintendent of public instruction with the
11 advice and consent of the state board of education. The compensation of
12 the director shall be determined pursuant to section 38-611.

13 C. The director shall carry out the provisions of this article.
14 ~~and the duties prescribed by the state board of education relating to~~
15 ~~the administration of the provisions of this article.~~

16 D. The division of special education may review special education
17 programs, including placement of pupils, to determine that program, evalua-
18 tion and placement procedures comply with the provisions of sections
19 15-1013 and 15-1014. ~~and the rules and regulations approved by the state~~
20 ~~board of education.~~

21 E. Only a person with at least a master's degree in education and
22 who is experienced in special education is eligible for appointment as
23 director of the division of special education.

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1 F. There is created a special education advisory committee which
2 shall advise and consult with the state board of education, the state
3 superintendent of public instruction and the director of the division
4 of special education, and which shall engage in such other activities as
5 are hereinafter set forth. The advisory committee shall be composed of
6 twelve members, no more than five of whom may be officers or employees
7 of local school districts. The state board of education shall appoint
8 the members of the advisory committee for three-year terms, except that
9 of those first appointed, four shall be appointed for terms of one year,
10 four for terms of two years, and four for terms of three years. Vacancies
11 shall be filled for the unexpired term in the same manner as original
12 appointments.

13 G. The advisory committee shall be composed of persons broadly
14 representative of community organizations interested in exceptional
15 children, professions related to the educational needs of exceptional
16 children, and the general public. It shall have a minimum of two
17 meetings a year.

18 H. The advisory committee annually shall elect its own chairman
19 and vice-chairman. The state board of education shall regularly submit,
20 as part of its budget request, any item or items sufficient to cover
21 expenses of the operation of the advisory committee and of its members
22 in connection with their attendance at meetings of the advisory commit-
23 tee and other advisory committee activities.

24 Sec. 2. Section 15-1017, Arizona Revised Statutes, is amended
25 to read:

26 15-1017. Appropriation and apportionment; approval of
27 program; budget limit exception

28 A. All students as defined by section 15-1011 shall be included
29 in the entitlement to state aid computed pursuant to chapter 16, article
30 1 and apportionment made pursuant to section 15-1212. In addition:

31 ~~1. The legislature shall appropriate an amount equal to ninety~~
32 ~~per cent of the excess cost to provide special education programs to all~~
33 ~~handicapped children.~~

34 1. ENTITLEMENT BY SCHOOL DISTRICTS TO STATE AID FOR SPECIAL
35 EDUCATION SHALL NOT TOTAL MORE THAN THE AMOUNT APPROPRIATED BY THE
36 LEGISLATURE FOR SUCH PURPOSE. SCHOOL DISTRICT ENTITLEMENT TO STATE
37 AID FOR EXCESS COST OF SPECIAL EDUCATION PROGRAMS FOR ALL HANDICAPPED
38 CHILDREN SHALL BE DETERMINED AS PROVIDED IN SECTION 15-1017.01.

39 2. The legislature shall appropriate fifty dollars for each
40 gifted pupil enrolled in a special education program approved by the
41 division of special education.

42 B. For the purposes of subsection A of this section, excess cost
43 shall be determined by utilizing a separate budget format, as prescribed
44 by the department of education, which determines the actual per handi-
45 capped pupil cost of the district and then subtracts from that amount
46 the per pupil cost of educating a nonhandicapped pupil in the district.
47 In no event shall the excess cost exceed the basic support level per
48 state supported classroom divided by twenty-six for a common school
49 district or twenty-four for a high school district, whichever is
50 applicable.

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1 C. The superintendent of public instruction shall require each
2 district which provided special education programs in the current year
3 to furnish the superintendent with records detailing for special educa-
4 tion programs prior to February 1 of each year. The superintendent of
5 public instruction shall review all requests for special education for
6 each district authorized under subsection A of this section. If the
7 superintendent of public instruction determines that the requests for
8 state monies are consistent with program levels offered by the school
9 district in the current year plus an allowance for reasonable growth,
10 he shall furnish the treasurer and the school superintendent of each
11 county an abstract of the apportionment and shall certify the appor-
12 tionment to the division of finance which shall draw its warrant in
13 favor of the county treasurer for each county for the amount apportioned
14 thereto. If the superintendent of public instruction determines that
15 the requests for monies are inconsistent with program levels in the
16 current year, he shall reduce the excess cost of such district which
17 reduced excess cost shall be used as the basis to provide state monies
18 for program levels consistent with the program levels offered by the
19 school district in the current year plus an allowance for reasonable
20 growth. FOR EXCESS COSTS PURPOSES A PUPIL MAY NOT BE CLASSIFIED IN
21 MORE THAN ONE CATEGORY OF SPECIAL EDUCATION.

22 D. For a district which does not offer special education in the
23 current year, the superintendent of public instruction shall determine
24 the program level for special education for the school district budget
25 year which is consistent with costs of similar programs offered by other
26 school districts.

27 ~~E. In no event shall monies approved by the superintendent pur-~~
28 ~~suant to this section be greater than the monies appropriated by the~~
29 ~~legislature for special education programs authorized by subsection A~~
30 ~~of this section.~~

31 F. E. The appropriations and apportionment APPORTIONMENT OF STATE
32 AID FOR SPECIAL EDUCATION shall be computed with reference to the estimated
33 number of special education students to be taught during the current
34 year in classes and programs having a minimum of two hundred forty
35 minutes of instruction or work experience as provided for in section
36 15-1015, subsection A per school day, except that a child receiving
37 instruction under the homebound teaching program shall be deemed in
38 the school membership when he attends classes or receives instruction
39 for a period of not less than four hours per week. Any additional
40 cost resulting from the special education program and not provided
41 for under the provisions of this section shall be met by each school
42 district having students receiving special instruction or by the county
43 in the case of a county special education program.

44 G. F. The appropriations and apportionment provided under the
45 terms of this section shall not be granted to the governing body of a
46 school district or county school superintendent unless the district or
47 county complies with the provisions of this article and the conditions
48 and standards prescribed by the director of the division of special
49 education FOR PUPIL IDENTIFICATION AND PLACEMENT PURSUANT TO SECTIONS
50 15-1013 AND 15-1014. A-school-district-or-county-program-for-education

1 ~~of-handicapped-children,-as-prescribed-by-the-terms-of-this-article,~~
2 ~~shall-be-presented-to-the-state-board-of-education-for-approval.~~

3 H. G. Amounts budgeted in the special education portion of the
4 school district budget as provided in section 15-1201 shall be exempt
5 from the budget cost level--; HOWEVER, EACH SCHOOL DISTRICT SHALL DETER-
6 MINE AN ALLOWABLE BUDGET FOR THE SPECIAL EDUCATION PORTION OF THE
7 DISTRICT BUDGET FOR FISCAL YEAR 1977-1978 AND EACH SUBSEQUENT YEAR WHICH
8 SHALL NOT EXCEED AN AMOUNT COMPUTED AS FOLLOWS:

9 1. DETERMINE THE PERCENTAGE CHANGE IN THE BUDGET YEAR OVER
10 THE CURRENT YEAR IN THE TOTAL ALLOWABLE NUMBER OF STUDENTS ENROLLED
11 IN SPECIAL EDUCATION PROGRAMS IN THE DISTRICT AS DETERMINED PURSUANT
12 TO SECTION 15-1017.01, SUBSECTION C, PARAGRAPH 1.

13 2. INCREASE OR DECREASE THE PRIOR YEAR'S SPECIAL EDUCATION
14 PORTION OF THE BUDGET BY PERCENTAGE DETERMINED IN PARAGRAPH 1.

15 3. INCREASE THE AMOUNT COMPUTED IN PARAGRAPH 2 BY THE
16 ANNUAL GROWTH RATE DETERMINED PURSUANT TO THE PROVISIONS OF SECTION
17 15-1202.03, WHICH AMOUNT SHALL BE THE ALLOWABLE BUDGET FOR THE SPECIAL
18 EDUCATION PORTION OF THE BUDGET.

19 I. H. Tuition monies budgeted and received from cooperating
20 school districts by a school district acting as either fiscal or
21 administrative agent for an intergovernmental agreement pursuant to
22 section 11-952 for the provision of programs provided for in section
23 15-1015, subsection D, paragraph 1, shall be exempt from the budget
24 cost level.

25 Sec. 3. Title 15, chapter 10, article 2, Arizona Revised Statutes,
26 is amended by adding a new section 15-1017.01, to read:

27 15-1017.01. Determination of school district entitlements
28 of state aid for special education;
29 qualifying tax rate

30 A. BY NOT LATER THAN JULY 1, 1975, FOR THE FISCAL YEAR 1975-1976
31 AND BY NOT LATER THAN MAY 1 FOR EACH SUCCEEDING FISCAL YEAR, THE DEPART-
32 MENT OF EDUCATION SHALL DETERMINE AND NOTIFY EACH DISTRICT OF ITS
33 ALLOWABLE EXCESS COST FOR THE BUDGET YEAR.

34 B. ON OR BEFORE THE SECOND MONDAY IN AUGUST THE DEPARTMENT
35 SHALL NOTIFY THE BOARD OF SUPERVISORS AND COUNTY SCHOOL SUPERINTENDENT
36 OF EACH COUNTY OF THE ESTIMATED AMOUNT OF STATE AID WHICH SHALL BE
37 PROVIDED FOR THE FISCAL YEAR TO EACH SCHOOL DISTRICT IN THE COUNTY
38 FOR SPECIAL EDUCATION.

39 C. THE DEPARTMENT SHALL COMPUTE DISTRICT ENTITLEMENT TO STATE
40 AID FOR SPECIAL EDUCATION AS FOLLOWS:

41 1. FOR EXCESS COST PURPOSES, DETERMINE THE TOTAL ALLOWABLE
42 NUMBER OF STUDENTS ENROLLED STATEWIDE IN SPECIAL EDUCATION PROGRAMS
43 AS FOLLOWS:

44 (a) FOR THE FISCAL YEAR 1975-1976, THE TOTAL ALLOWABLE NUMBER
45 OF STUDENTS SHALL NOT EXCEED EIGHT PER CENT OF THE ACTUAL AVERAGE
46 DAILY MEMBERSHIP THROUGH APRIL 15 FOR ALL SCHOOL DISTRICTS.

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1 (b) FOR THE FISCAL YEAR 1976-1977, THE TOTAL ALLOWABLE NUMBER
2 OF STUDENTS SHALL NOT EXCEED TEN PER CENT OF THE ACTUAL AVERAGE DAILY
3 MEMBERSHIP THROUGH APRIL 15 FOR ALL SCHOOL DISTRICTS.

4 (c) FOR THE FISCAL YEAR 1977-1978 AND EACH SUBSEQUENT YEAR THE
5 TOTAL ALLOWABLE NUMBER OF STUDENTS SHALL NOT EXCEED ELEVEN PER CENT OF
6 THE ACTUAL AVERAGE DAILY MEMBERSHIP THROUGH APRIL 15 FOR ALL SCHOOL
7 DISTRICTS.

8 (d) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL TRANSMIT TO
9 EACH DISTRICT ITS PORTION OF ALLOWABLE ENROLLMENT IN ACCORDANCE WITH
10 THE PROVISIONS OF SECTION 15-1017 SUBJECT TO THE APPLICABLE LIMITS
11 DETERMINED IN SUBDIVISIONS (a), (b), AND (c) OF THIS PARAGRAPH.

12 2. DETERMINE THE TOTAL ALLOWABLE EXCESS COST AS FOLLOWS:

13 (a) FOR THE FISCAL YEAR 1975-1976, TOTAL ALLOWABLE EXCESS COST
14 SHALL NOT EXCEED THIRTY MILLION DOLLARS.

15 (b) FOR THE FISCAL YEAR 1976-1977, TOTAL ALLOWABLE EXCESS COST
16 SHALL NOT EXCEED THE SUM OF THE FOLLOWING:

17 (i) THE TOTAL ALLOWABLE EXCESS COST OF THE PRIOR YEAR.

18 (ii) TWENTY-FIVE PER CENT OF THE AMOUNT IN ITEM (i).

19 (iii) THE AMOUNT IN ITEM (i) MULTIPLIED BY THE ANNUAL GROWTH
20 RATE DETERMINED PURSUANT TO THE PROVISIONS OF SECTION 15-1202.03.

21 (c) FOR THE FISCAL YEAR 1977-1978, TOTAL ALLOWABLE EXCESS COST
22 SHALL NOT EXCEED THE SUM OF THE FOLLOWING:

23 (i) THE TOTAL ALLOWABLE EXCESS COST OF THE PRIOR YEAR.

24 (ii) TEN PER CENT OF THE AMOUNT IN ITEM (i).

25 (iii) THE AMOUNT IN ITEM (i) MULTIPLIED BY THE ANNUAL GROWTH
26 RATE DETERMINED PURSUANT TO THE PROVISIONS OF SECTION 15-1202.03.

27 (d) FOR THE FISCAL YEAR 1978-1979 AND EACH SUBSEQUENT YEAR, TOTAL
28 ALLOWABLE EXCESS COST SHALL NOT EXCEED THE SUM OF THE FOLLOWING:

29 (i) THE TOTAL ALLOWABLE EXCESS COST OF THE PRIOR YEAR.

30 (ii) THE AMOUNT IN ITEM (i) MULTIPLIED BY THE ANNUAL GROWTH RATE
31 DETERMINED PURSUANT TO THE PROVISIONS OF SECTION 15-1202.03.

32 3. DETERMINE THE DIFFERENCE BETWEEN THE TOTAL ALLOWABLE EXCESS
33 COST FOR SPECIAL EDUCATION FOR ALL SCHOOL DISTRICTS AND THE AMOUNT
34 APPROPRIATED FOR SPECIAL EDUCATION AID.

35 4. DETERMINE A QUALIFYING TAX RATE WHICH WHEN APPLIED TO THE
36 ASSESSED VALUATION OF EACH DISTRICT PROVIDING SPECIAL EDUCATION PROGRAMS
37 WILL PRODUCE AN AMOUNT OF REVENUE EQUAL TO THE DIFFERENCE DETERMINED IN
38 PARAGRAPH 3 OF THIS SUBSECTION.

39 5. COMPUTE EACH DISTRICT'S ENTITLEMENT TO STATE AID FOR SPECIAL
40 EDUCATION AS FOLLOWS:

41 (a) DETERMINE THE AMOUNT OF REVENUE WHICH WOULD BE RAISED ON THE
42 DISTRICT'S ASSESSED VALUATION BY THE QUALIFYING TAX RATE PROVIDED FOR
43 BY PARAGRAPH 4 OF THIS SUBSECTION.

44 (b) SUBTRACT THE AMOUNT IN SUBDIVISION (a) FROM THE DISTRICT'S
45 ALLOWABLE EXCESS COST FOR SPECIAL EDUCATION DETERMINED PURSUANT TO
46 SUBSECTION A OF THIS SECTION.

47 (c) THE DIFFERENCE PRODUCED IN SUBDIVISION (b) SHALL BE THE
48 DISTRICT'S ENTITLEMENT TO STATE AID FOR SPECIAL EDUCATION. IF THE
49 QUALIFYING TAX RATE FOR SPECIAL EDUCATION WOULD GENERATE REVENUE IN
50 EXCESS OF THE DISTRICT'S ALLOWABLE EXCESS COST FOR SPECIAL EDUCATION,

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1 THE SCHOOL DISTRICT IS NOT ENTITLED TO RECEIVE ANY STATE AID FOR SPECIAL
2 EDUCATION.

3 D. THE QUALIFYING TAX RATE OF A UNIFIED SCHOOL DISTRICT SHALL BE
4 TWICE THE RATE DETERMINED IN PARAGRAPH 4 OF SUBSECTION C.

5 E. IN DETERMINING A PROPERTY TAX LEVY FOR SPECIAL EDUCATION FOR
6 A SCHOOL DISTRICT, THE COUNTY BOARD OF SUPERVISORS SHALL INCLUDE THE
7 AMOUNT DETERMINED PURSUANT TO SUBSECTION C, PARAGRAPH 5, SUBDIVISION (c),
8 AS REVENUE AVAILABLE TO THE SCHOOL DISTRICT FOR THE SPECIAL EDUCATION
9 SECTION OF THE DISTRICT'S ADOPTED BUDGET.

10 Sec. 4. Section 15-1031, Arizona Revised Statutes, is amended
11 to read:

12 15-1031. Flag display and patriotic exercises

13 A. The school authorities of a public school shall purchase a
14 United States flag, flagstaff and appurtenances, and display the flag
15 upon or near the public school building during school hours and at such
16 other times as they direct AND SET ASIDE A SPECIFIC TIME EACH DAY FOR
17 THOSE STUDENTS WHO WISH TO RECITE THE PLEDGE OF ALLEGIANCE TO THE UNITED
18 STATES FLAG.

19 B. The state superintendent of public instruction shall prepare
20 for use in the public schools a program providing for a salute to the
21 flag and other patriotic exercises, as meet the requirements of the
22 different grades. He THE STATE SUPERINTENDENT shall also make special
23 provisions for the observance in the public schools of Lincoln's birth-
24 day, Washington's birthday, Memorial day, Flag day and other legal
25 holidays of like character.

26 Sec. 5. Joint legislative special education study committee

27 A. Beginning on July 1, 1975 and ending on December 31, 1975,
28 there shall be a joint legislative special education study committee
29 which shall consist of the entire memberships of the senate committee
30 on education and the house committee on education.

31 B. The chairman of the senate committee on education and the
32 chairman of the house of representatives committee on education shall
33 serve as cochairmen of the joint legislative special education study
34 committee.

35 C. The joint legislative special education study committee shall
36 meet as often as it deems necessary and a majority of the members shall
37 constitute a quorum for the transaction of business.

38 Sec. 6. Duties of joint legislative special education
39 study committee

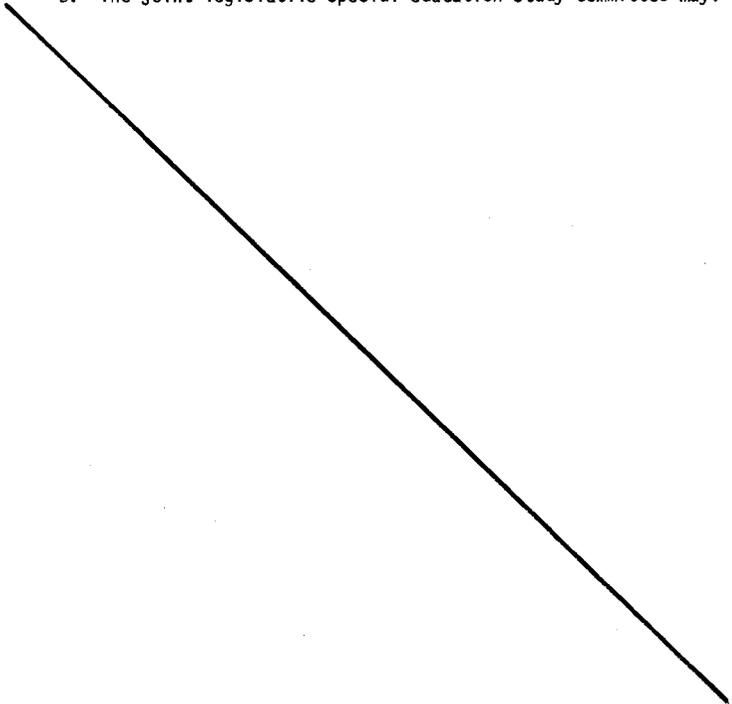
40 A. The joint legislative special education study committee shall,
41 on or before December 1, 1975:

42 1. Ascertain facts and make recommendations to the legislature
43 relating to special education aid provided by the State of Arizona and
44 special education programs provided by the school districts pursuant
45 to title 15, chapter 10, article 2, Arizona Revised Statutes.

46 2. Determine:

47 (a) Definitions of handicapping conditions which specifically
48 delineate students eligible for special education services;

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- 1 (b) How special education pupils are identified and placed in
2 present programs;
3 (c) The methods of delivering special education services covering
4 at least the following characteristics:
5 (i) Staffing;
6 (ii) Pupil-staff relationship;
7 (iii) Pupil identification and placement;
8 (iv) Establishment of educational objectives;
9 (v) Curriculum and teaching methods employed;
10 (vi) Success in attaining educational objectives;
11 (d) The costs of educating exceptional students and the factors
12 influencing these costs;
13 (e) Compare the alternative approaches to state funding of special
14 education among the several states.
15 3. Make recommendations to the legislature on the areas specified
16 in paragraph 2.
17 B. The joint legislative special education study committee may:
- 

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1 1. Make studies, conduct inquiries and investigations and hold
2 hearings.

3 2. Meet and conduct its business any place within the state during
4 the sessions of the legislature or any recess thereof and during the
5 period when the legislature is not in session.

6 3. Establish subcommittees and assign to such subcommittees any
7 study, inquiry, investigation or hearing with the right to call witnesses,
8 which the joint legislative special education study committee has the
9 authority to undertake.

10 4. Work with the department of education, the several school
11 districts and the auditor general in compiling required information.

12 C. The joint legislative special education study committee shall
13 have the powers conferred by law upon legislative committees.

14 D. Members of the joint legislative special education study com-
15 mittee shall be reimbursed by their respective houses in the same manner
16 as is provided by law for a member of the legislature who attends a
17 duly called meeting of a standing committee.

18 Sec. 7. Authority to conduct hearings

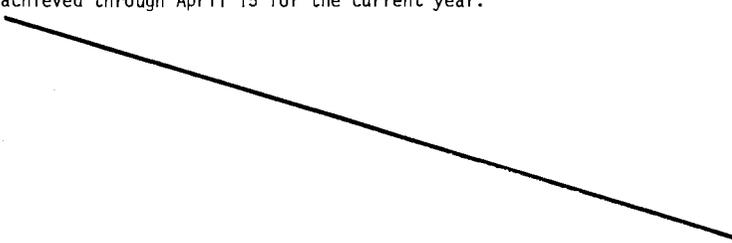
19 The joint legislative special education study committee shall have
20 the authority to issue subpoenas to compel the attendance of witnesses
21 and the production of evidence pursuant to title 41, chapter 7, article
22 4, Arizona Revised Statutes.

23 Sec. 8. Rules, regulations void; authorization required

24 Notwithstanding any other provision of law to the contrary, rules
25 and regulations of the state board of education relating to special
26 education as specified in title 15, chapter 10, on the effective date
27 of this act shall from and hereafter be null and void. The state
28 board of education shall not promulgate rules and regulations relating
29 to special education until authorized to do so by the legislature.

30 Sec. 9. Determination and apportionment of state
31 aid; exception

32 A. Notwithstanding the provisions of section 15-1212, for the
33 purposes of determination of the number of state supported classrooms,
34 apportionment and determination of state aid as provided in title 15,
35 chapter 16, article 1, Arizona Revised Statutes, the actual average
36 daily membership or adjusted actual average daily membership whichever
37 is applicable for the previous year may be used when such actual average
38 daily membership or adjusted actual average daily membership whichever
39 is applicable is greater than the actual average daily membership or
40 adjusted actual average daily membership whichever is applicable
41 achieved through April 15 for the current year.



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1 B. The provisions of this section shall expire on June 30,
2 1976.

3 Sec. 10. Appropriation; purpose

4 The sum of five million nine hundred eighty-six thousand eight
5 hundred dollars is appropriated to the department of education to meet
6 the state's requirement to provide ninety per cent of the excess cost
7 of special education as prescribed by section 15-1017, Arizona Revised
8 Statutes, of Laws 1974, First Special Session, chapter 3, section 16.

9 Sec. 11. Emergency

10 to preserve the public peace, health and safety, it is necessary
11 that this act become immediately operative. It is therefore declared
12 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 13, 1975

Filed in the office of the Secretary of State - June 13, 1975

NOT ENACTED

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 141
SENATE BILL 1393

AN ACT

RELATING TO CHILDREN, PUBLIC HEALTH AND SAFETY AND WELFARE; PRESCRIBING PROCEDURES FOR JUVENILE COURT; PRESCRIBING CERTAIN EFFECTIVE DATES; PROVIDING MEDICAL ASSISTANCE TO THE CATEGORICALLY NEEDY AND GENERAL ASSISTANCE RECIPIENTS; PRESCRIBING TAX LEVY FOR MEDICAL CARE; PROVIDING THAT TAX LEVY MONEY BE PAID TO THE STATE TREASURER; PRESCRIBING PAYMENT OF COSTS FOR MEDICAL ASSISTANCE; PRESCRIBING COSTS EXCLUDED FROM BUDGET LIMITATIONS; PRESCRIBING PAYMENT FOR INTERAGENCY SERVICES AS CREDIT TO ACCOUNT OF BUDGET UNIT; PROVIDING FOR CONTRACTS TO PROVIDE SERVICES FOR BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS; PRESCRIBING STANDARDS FOR HEALTH AND MEDICAL BENEFITS AND MEDICAL ASSISTANCE; PRESCRIBING POWERS AND DUTIES OF COUNTY BOARDS OF HEALTH; PROVIDING FOR LICENSING OF NURSING CARE INSTITUTION ADMINISTRATORS; PRESCRIBING CERTAIN PENALTIES; PROVIDING FOR CERTAIN DEFINITIONS; PROVIDING FOR APPOINTMENT OF ADDITIONAL MEMBERS TO STATE HEALTH PLANNING ADVISORY COUNCIL TO SERVE ONLY AS MEMBERS OF MEDICAL CARE ADVISORY COMMITTEE; PRESCRIBING SUPPLEMENTARY MEDICAL INSURANCE PREMIUMS; PROVIDING FOR THE SAFEGUARDING OF CERTAIN INFORMATION; PROVIDING FOR MEDICAL ASSISTANCE HEARINGS AND APPEALS; PROVIDING FOR CONFORMANCE WITH CERTAIN FEDERAL REGULATIONS; PROVIDING THAT THE DEPARTMENT OF ECONOMIC SECURITY SHALL ADMINISTER ASSISTANCE SERVICES; PROVIDING ELIGIBILITY GUIDELINES FOR ASSISTANCE PROGRAMS; PROVIDING FOR CERTAIN INTERAGENCY AGREEMENTS; PRESCRIBING FOR ISSUANCE FOR TEMPORARY LICENSES TO CERTAIN NURSE CARE INSTITUTION ADMINISTRATORS; PROVIDING FOR PROTECTION OF FETUS OR EMBRYO; CREATING JOINT LEGISLATIVE COMMITTEE; PRESCRIBING POWERS AND DUTIES; AMENDING LAWS 1974, CHAPTER 187, SECTION 22; AMENDING SECTION 11-291.01, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1974, CHAPTER 187, SECTION 2; AMENDING SECTION 11-292, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 2, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-292.01; AMENDING SECTIONS 8-223, 8-228, 8-247, 11-305, 35-148, 36-117, 36-125.04 AND 36-162, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6; REPEALING SECTION 36-2171, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1974, CHAPTER 187, SECTION 18;

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AMENDING TITLE 36, CHAPTER 21, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 36-2171; AMENDING SECTIONS 36-2172, 36-2174 AND 36-2175, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1974, CHAPTER 187, SECTION 18; AMENDING TITLE 36, CHAPTER 21, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-2178, 36-2179 AND 36-2180; REPEALING SECTION 36-2176, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1974, CHAPTER 187, SECTION 18; REPEALING SECTIONS 42-304.02 AND 46-217, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 23, ARTICLE 1; AMENDING TITLE 46, CHAPTER 2, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 46-261.13; AMENDING SECTIONS 41-1954, 46-207, 46-233, 46-252, 46-292 AND 46-295, ARIZONA REVISED STATUTES; REPEALING SECTION 46-294, ARIZONA REVISED STATUTES, AND MAKING APPROPRIATIONS.

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

2 Section 1. Section 8-223, Arizona Revised Statutes, is amended
3 to read:

4 8-223. Taking into temporary custody; interference;
5 release

6 A. A child may be taken into temporary custody:

7 1. Pursuant to an order of the juvenile court under the provisions
8 of this chapter.

9 2. Pursuant to the laws of arrest, without a warrant, when there
10 are reasonable grounds to believe that he has committed a delinquent act
11 other than as prescribed by subsection B or is incorrigible.

12 3. By a law enforcement officer or a child protective services
13 specialist of the state department of economic security if there are
14 reasonable grounds to believe that the child is suffering from illness
15 or injury or is in immediate danger from his surroundings, and that his
16 removal is necessary.

17 4. By a law enforcement officer if there are reasonable grounds
18 to believe that the child has run away from his parents, guardian or
19 other custodian.

20 B. A peace officer shall take a child into temporary custody
21 pursuant to the laws of arrest, with or without a warrant, when there
22 are reasonable grounds to believe that:

23 1. The child has committed a delinquent act which if committed
24 by an adult could be a felony or breach of the peace, and

25 2. The child has been apprehended in commission of the act or
26 in fresh pursuit.

27 Such child may be released from temporary custody only to the parents,
28 guardian or custodian of such child or to the juvenile court. ~~If the
29 child is released to the parent, guardian or custodian, such parent,
30 guardian or custodian shall execute a written promise to appear with
31 the child before the court as directed by the court.~~

32 C. A person who interferes with the taking of a child into tempo-
33 rary custody under provisions of this section is guilty of a misdemeanor.

34 Sec. 2. Section 8-228, Arizona Revised Statutes, is amended to
35 read:

1 8-228. Delinquency hearings; required attendance of
2 cited child; referring to youth service
3 bureau; notification of parents

4 A. Notwithstanding any other provision of law to the contrary,
5 any child, ten years of age or older, against whom a complaint has been
6 filed citing the commission of a delinquent act shall appear at the
7 juvenile court at a time certain set by the juvenile court. WHEN THE
8 OFFENSE ALLEGED IS A MISDEMEANOR OTHER THAN ASSAULT OR BATTERY AND IS
9 THE CHILD'S FIRST OFFENSE ACCORDING TO JUVENILE COURT RECORDS, THE
10 JUVENILE COURT MAY, IN ITS SOLE DISCRETION, REFER THE CHILD TO A YOUTH
11 SERVICE BUREAU OR SIMILAR COUNSELING PROGRAM OR MAKE THE COMPLAINT A
12 MATTER OF RECORD IN LIEU OF THE CHILD APPEARING AT THE JUVENILE COURT.

13 B. The law enforcement agency making the complaint shall imme-
14 diately notify the parents, guardian or custodian of the child that the
15 complaint is being sent to the juvenile court. Failure to make such
16 notification shall not bar any proceeding in any court.

17 Sec. 3. Section 8-247, Arizona Revised Statutes, is amended
18 to read:

19 8-247. Destruction of records

20 A. On application of a person who has been adjudicated delinquent
21 or incorrigible or on the court's own motion, and after a hearing, the
22 juvenile court shall order the destruction of the files and records,
23 including arrest records, in the proceeding, if the court finds:

- 24 1. The person has attained his eighteenth birthday.
25 2. No proceeding is pending seeking his conviction of a crime.
26 3. He has been rehabilitated to the satisfaction of the juvenile

27 court.
28 4. He is not under the jurisdiction of the juvenile court, nor
29 under commitment to the department of corrections from the juvenile
30 court.

31 B. Reasonable notice of the hearing shall be given to:

- 32 1. The county attorney.
33 2. The authority granting the discharge if the final discharge was
34 from an institution or from parole.

35 C. WHEN A JUVENILE WHO HAS BEEN ADJUDICATED DELINQUENT OR INCOR-
36 RIGIBLE HAS ATTAINED HIS OR HER TWENTY-THIRD BIRTHDAY, THE JUVENILE
37 COURT MAY ORDER DESTRUCTION OF FILES AND RECORDS, INCLUDING ARREST
38 RECORDS IF THE COURT FINDS:

- 39 1. THERE IS NO PENDING CRIMINAL COMPLAINT.
40 2. THE DEPARTMENT OF CORRECTIONS HAS NO CURRENT JURISDICTION.
41 3. THERE IS NO ADULT CRIMINAL RECORD.

42 Sec. 4. Laws 1974, chapter 187, section 22, is amended to read:

43 Sec. 22. Effective date; exceptions

44 A. Subject to the provisions of subsections B, and C AND D of
45 this section, the provisions of this act shall become effective as
46 provided by law.

47 B. Sections 1, 2, 3, 4, 5, 6, 7 and 18 of this act shall become effective
48 on ~~October~~ JULY 1, 1975 1976.

49 C. Sections 3, 4, 6, 19 and 20 of this act shall become effective
50 on January 1, 1975.

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1 D. SECTIONS 2 AND 7 OF THIS ACT SHALL BECOME EFFECTIVE OCTOBER
2 1, 1976.

3 D. E. The appropriation made by section 21 of this act shall
4 become immediately available to the director of the department of
5 health services for use in planning and preparation for implementation
6 of the provisions of this act. The director may also accept and utilize
7 all federal funds or grants available for such planning and implementation
8 and for experimentation with innovative delivery systems prior to the
9 implementation of the act.

10 Sec. 5. Section 11-291.01, Arizona Revised Statutes, as added by
11 Laws 1974, chapter 187, section 2, is amended to read:

12 11-291.01. Medical assistance for the categorically
13 needy and general assistance recipients;
14 records and reports

15 A. Notwithstanding the provisions of section 11-291, the cate-
16 gorically needy, ~~the medically-needy~~ and the general assistance recipients
17 persons in the county shall receive medical assistance pursuant to the
18 provisions of title 36, chapter 21, article 1.

19 B. In addition to the records required by section 11-296, the
20 board of supervisors shall maintain separate records relating to cost,
21 utilization and revenues concerning medical assistance for the categor-
22 ically needy, ~~the medically-needy~~ and the general assistance recipients.
23 The board of supervisors shall cooperate with and furnish to the director
24 of the department of health services such information on cost and utili-
25 zation relating to hospitalization and medical care of the indigent sick
26 as the director may request.

27 Sec. 6. Section 11-292, Arizona Revised Statutes, is amended to
28 read:

29 11-292. Tax levy for medical care; medical
30 assistance fund

31 A. The board of supervisors shall, subject to the applicable
32 provisions of title 42, chapter 2, article 4, include in its annual
33 budget and tax levy ~~for county purposes, such amount as it deems necessary~~
34 ~~and adequate for:~~ THE FOLLOWING:

35 1. FOR COUNTY PURPOSES, SUCH AMOUNT AS IT DEEMS NECESSARY AND
36 ADEQUATE FOR the hospitalization, medical care and outpatient relief of
37 the indigent sick in the county not provided for by title 36, chapter
38 21, article 1. ;-

39 2. An amount equal to the amount expended ~~by such county in fiscal~~
40 ~~year 1974-75 for hospitalization and medical care of those persons clas-~~
41 ~~sified pursuant to title 36, chapter 21, article 1, as the categorically~~
42 ~~needy, the medically-needy and the general assistance recipients, and~~
43 DETERMINED PURSUANT TO SECTION 11-292.01.

44 3. FOR COUNTY PURPOSES, SUCH AMOUNT AS IT DEEMS NECESSARY AND
45 ADEQUATE FOR the catastrophic illness benefits for those persons and
46 families covered by section 11-291.02.

47 B. ~~The amounts collected under the tax levies provided for in~~
48 ~~subsection A, paragraph 2, shall be paid into the state medical assis-~~
49 ~~tance fund established under section 36-2172. Such amounts shall be~~
50 ~~paid by the county treasurer, in quarterly installments on July 1,~~
51 ~~October 1, January 1, and April 1, to the fund.~~

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1 B. PAYMENT OF THE AMOUNT INCLUDED IN THE BUDGET AND LEVY PURSUANT
2 TO PARAGRAPH 2, SUBSECTION A, OF THIS SECTION SHALL BE MADE TO THE STATE
3 TREASURER FOR THE FISCAL YEAR 1976-1977 AND EACH YEAR THEREAFTER, ON
4 OR BEFORE THE FIFTEENTH DAY OF EACH MONTH BEGINNING IN JULY, 1976, AN
5 AMOUNT EQUAL TO ONE-TWELFTH OF THE TOTAL AMOUNT.

6 C. THE STATE TREASURER SHALL APPORTION THE AMOUNTS PAID PURSUANT
7 TO SUBSECTION B OF THIS SECTION BETWEEN THE STATE GENERAL FUND AND THE
8 STATE MEDICAL ASSISTANCE FUND IN A MANNER WHICH INSURES THAT THE STATE
9 GENERAL FUND SHALL BE REIMBURSED FOR THE AMOUNT THAT IS DESIGNATED IN
10 PREVIOUS APPROPRIATIONS FOR THE CURRENT FISCAL YEAR TO THE MEDICAL
11 ASSISTANCE FUND AS REIMBURSABLE FROM AMOUNTS COLLECTED BY THE STATE
12 THROUGH THE COUNTIES.

13 G. D. In the event PAYMENTS MADE PURSUANT TO SUBSECTION B OF
14 THIS SECTION EXCEED THE AMOUNT REQUIRED TO MEET THE COSTS INCURRED FOR
15 MEDICAL ASSISTANCE, THE DEPARTMENT OF HEALTH SERVICES MAY INSTRUCT THE
16 STATE TREASURER EITHER TO REDUCE REMAINING PAYMENTS TO BE PAID PURSUANT
17 TO THIS SECTION BY A SPECIFIED AMOUNT OR TO PROVIDE TO THE COUNTIES
18 SPECIFIED AMOUNTS FROM THE MEDICAL ASSISTANCE FUND. IF any funds, ~~other~~
19 ~~than state or federal funds,~~ ATTRIBUTABLE TO THE PAYMENTS DERIVED PURSUANT
20 TO SUBSECTION B OF THIS SECTION DEPOSITED IN THE MEDICAL ASSISTANCE FUND
21 AND THE STATE GENERAL FUND remain unexpended and uncommitted in the state
22 medical assistance fund at the end of any fiscal year, each county shall
23 be paid a percentage of such remainder equal to the percentage its ~~con-~~
24 ~~tribution to~~ COLLECTIONS FOR the fund was of total ~~county contributions~~
25 COUNTY-COLLECTED PAYMENTS for such year, except that the ~~county~~ COUNTIES
26 shall ~~repay to such~~ RETURN TO THE STATE MEDICAL ASSISTANCE fund after
27 the close of such fiscal year any sum determined by THE DEPARTMENT OF
28 HEALTH SERVICES to be applicable to and based upon a claim which arose
29 in such fiscal year. SUCH RETURN OF FUNDS SHALL BE MADE UTILIZING THE
30 SAME PERCENTAGES APPLIED IN THE DISTRIBUTION OF UNEXPENDED FUNDS.

31 ~~D. In the event the board of supervisors and the department of~~
32 ~~health services do not agree on the amount of monies expended for care~~
33 ~~of such persons or to be remitted, the auditor general shall examine all~~
34 ~~records and make a determination of the correct amount, which shall then~~
35 ~~be remitted by the county treasurer in the prescribed manner.~~

36 Sec. 7. Title 11, chapter 2, article 7, Arizona Revised Statutes,
37 is amended by adding section 11-292.01, to read:

38 11-292.01. Medical assistance costs; county share;
39 determination; notification

40 A. ON OR BEFORE APRIL 1 OF EACH YEAR OR IMMEDIATELY AFTER ENACT-
41 MENT OF THE GENERAL APPROPRIATIONS BILL FOR THE NEXT FISCAL YEAR,
42 WHICHEVER IS LATER, THE DEPARTMENT OF HEALTH SERVICES SHALL DETERMINE
43 THE AMOUNT TO BE OBTAINED BY EACH COUNTY DURING THE NEXT FISCAL YEAR
44 FOR THE STATE'S MEDICAL ASSISTANCE COSTS IN THE FOLLOWING MANNER:

45 1. DETERMINE THE TOTAL MEDICAL ASSISTANCE PROGRAM COSTS, INCLUDING
46 FEDERAL AND STATE COSTS, FOR THE NEXT FISCAL YEAR.

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1 2. DETERMINE THE NON-FEDERAL SHARE OF THE TOTAL AMOUNT DETERMINED
2 PURSUANT TO PARAGRAPH 1.

3 3. FROM THE TOTAL DETERMINED IN PARAGRAPH 2, SUBTRACT STATE APPRO-
4 PRIATED AMOUNTS ELIGIBLE FOR FEDERAL MATCHING FUNDS UNDER THE MEDICAL
5 ASSISTANCE PROGRAM AND ANY OTHER RECEIPTS FOR MEDICAL ASSISTANCE ANTICI-
6 PATED BY THE DEPARTMENT.

7 4. MULTIPLY THE AMOUNT DETERMINED PURSUANT TO PARAGRAPH 3 BY THE
8 PERCENTAGE THAT EACH COUNTY'S ASSESSED VALUATION BEARS TO THE STATE'S
9 ASSESSED VALUATION FOR THE CURRENT PROPERTY TAX YEAR.

10 B. THE DEPARTMENT SHALL NOTIFY EACH COUNTY BOARD OF SUPERVISORS
11 OF THE AMOUNT DETERMINED IN SUBSECTION A NOT LATER THAN APRIL 1 OR
12 IMMEDIATELY AFTER ENACTMENT OF THE GENERAL APPROPRIATIONS BILL FOR
13 THE NEXT FISCAL YEAR, WHICHEVER IS LATER.

14 Sec. 8. Section 11-305, Arizona Revised Statutes, is amended to
15 read:

16 11-305. Costs excluded from budget limitations

17 Amounts required to be paid by a county for medical care of the
18 indigent sick under this article AND PAYMENTS REQUIRED TO BE MADE BY
19 COUNTIES TO THE STATE MEDICAL ASSISTANCE FUND AND THE STATE GENERAL FUND
20 FOR THE PURPOSE OF PROVIDING MEDICAL ASSISTANCE TO ELIGIBLE RECIPIENTS
21 PURSUANT TO TITLE 36, CHAPTER 21, shall be excluded from the budget
22 adopted for the previous fiscal year and from the estimated budget and
23 the adopted budget for the current fiscal year for the purpose of com-
24 puting the limitations under sections 42-302, 42-303, and 42-304, on the
25 amounts proposed for expenditure or to be raised by direct taxation in
26 the estimated budget of such county for each fiscal year.

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1 Sec. 9. Section 35-148, Arizona Revised Statutes, is amended to
2 read:

3 35-148. Payment for interagency services as credit to
4 account of agency; transfer of miscellaneous
5 state monies to general fund; exceptions

6 ~~A. -- Monies collected by any department, agency, board or commission~~
7 ~~of the state, or any state institution, as reimbursement for services~~
8 ~~performed pursuant to an interagency service agreement, shall be credited~~
9 ~~to the appropriation account of the agency performing the services for~~
10 ~~use by such agency.~~

11 A. INTERAGENCY SERVICE AGREEMENTS ENTERED INTO BETWEEN BUDGET
12 UNITS MAY PROVIDE FOR REIMBURSEMENT FOR SERVICES PERFORMED OR ADVANCEMENT
13 OF FUNDS FOR SERVICES TO BE PERFORMED. IN EITHER INSTANCE, MONIES RECEIVED
14 BY THE BUDGET UNIT PERFORMING THE SERVICES SHALL BE CREDITED TO ITS APPRO-
15 PRIATION ACCOUNT FOR ITS USE IN PERFORMING THE SERVICES. IF FUNDS ARE
16 ADVANCED, THE AGENCY PERFORMING THE SERVICES SHALL MAKE AN ACCOUNTING OF
17 EXPENDITURES AND RETURN ANY ADVANCES NOT USED TO THE APPROPRIATION ACCOUNT
18 OF THE ADVANCING AGENCY.

19 B. Except as provided in subsection A, when money belonging to
20 the state comes into the possession of a state officer, by recovery at
21 law or otherwise, and no provision of law exists for the disposition of
22 such money, it shall be delivered to the state treasurer and placed in
23 the general fund.

24 C. The provisions of this section shall not apply to money realized
25 from the sale of personal property or from the sale of real property or
26 improvements thereon by the board of regents of the university and state
27 colleges of the state, or by educational institutions under the control
28 of the board of regents or the state employment security commission.

29 Sec. 10. Section 36-117, Arizona Revised Statutes, is amended to
30 read:

31 36-117. Services for licensing agencies; costs

32 A. The department, at the discretion of the director, may contract
33 to provide personal and other administrative services and facilities to
34 the following health licensing agencies:

- 35 1. State dental board.
- 36 2. Board of medical examiners.
- 37 3. State board of nursing.
- 38 4. State board of optometry.
- 39 5. Arizona board of osteopathic examiners in medicine and surgery.
- 40 6. State board of podiatry examiners.
- 41 7. Arizona state board of pharmacy.
- 42 8. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS.

43 B. The professional health licensing agency shall reimburse the
44 department for the actual costs of services or the reasonable value of
45 facilities provided to such agency.

46 Sec. 11. Section 36-125.04, Arizona Revised Statutes, is amended to
47 read:

48 36-125.04. Standards for health and medical benefits
49 and medical assistance; annual review

50 A. The following standards of health and medical benefits are
51 established for health planning purposes:

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1 1. Inpatient hospital services, other than services in an insti-
2 tution for tuberculosis or mental diseases, that are those items and
3 services ordinarily furnished by the health care institution for the
4 care and treatment of inpatients that are provided under the direction
5 of a physician.

6 2. Outpatient services that are those preventive, diagnostic,
7 therapeutic, rehabilitative or palliative items or services furnished
8 by or under the direction of a physician to an outpatient by a licensed
9 health care institution.

10 3. Other laboratory and x-ray services ordered by a physician.

11 4. Skilled nursing facility services, other than services in an
12 institution for tuberculosis or mental diseases, for individuals age
13 twenty-one or older.

14 5. Physicians' services, whether furnished in the office, the
15 patient's home, a health care institution or elsewhere, and medical
16 or remedial care services furnished by a duly licensed dentist, licensed
17 podiatrist or registered optometrist.

18 6. Early and periodic screening and diagnosis of eligible in-
19 dividuals under age twenty-one that are designed to ascertain a child's
20 physical or mental defects and to develop PROVIDE such health care,
21 treatment or other measures, INCLUDING HEARING AIDS, EYEGLASSES AND
22 PRESCRIBED DRUGS, necessary to correct or ameliorate defects and chronic
23 conditions that are discovered.

24 7. Home health care services ~~for any individual who is entitled~~
25 ~~to skilled nursing facility services under the state plan~~, including:

26 (a) Intermittent or part-time nursing services of a professional
27 registered nurse or a licensed practical nurse furnished by a home
28 health agency.

29 (b) Intermittent or part-time nursing services of a professional
30 registered nurse or a licensed practical nurse under the direction of
31 the patient's physician when no home health agency is available to
32 provide nursing services.

33 (c) Medical supplies, equipment, and appliances ordered by a
34 physician for use in the home.

35 (d) Services of a home health aide.

36 8. Transportation to and from medical care and services, including
37 the expenses of transportation and other related travel expenses neces-
38 sary to securing medical examinations or treatment when determined by
39 the agency to be necessary in the individual case. Travel expenses
40 shall include:

41 (a) The cost of transportation for the individual by ambulance,
42 taxicab, common carrier or other appropriate means.

43 (b) The cost of outside meals and lodging en route to, while
44 receiving medical care, and returning from a medical resource.

45 (c) The cost of an attendant to accompany him, if medically
46 necessary.

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1 9. Family planning ~~and adoption~~ services and supplies that con-
2 sist of any medically approved means, including diagnosis, treatment,
3 drugs, supplies, devices and related counseling which are furnished or
4 prescribed by or under the supervision of a physician for individuals
5 of child-bearing age, including minors who can be considered to be
6 sexually active, for purposes of enabling such individuals freely to
7 determine the number and spacing of their children.

8 10. Prescribed drugs ordered by a physician, dentist or podiatrist.
9 11. Dental services, other than cosmetic dental services.

10 12. Eye care services, including eyeglasses and eye examinations.

11 B. The director annually shall review the standards described in
12 this section and recommend to the department of insurance and the legis-
13 lature measures to update standards to promote and encourage the avail-
14 ability and accessibility of these health and medical benefits to all
15 residents of the state.

16 C. No benefits provided for in this section shall be construed
17 to include induced abortion, except when deemed to be medically neces-
18 sary to save the life of a mother or where pregnancy resulted from rape,
19 incest or criminal action.

20 Sec. 12. Section 36-162, Arizona Revised Statutes, is amended to
21 read:

22 36-162. Powers and duties of county boards of health

23 A. County boards of health shall meet at least once every three
24 months at the county seat at a time and place fixed by the board.

25 B. The boards shall have such powers within their respective
26 counties and outside the corporate limits of cities having a city board
27 of health as are granted the department of health services, subject
28 to supervisory control by the director.

29 C. THE COUNTY BOARD OF HEALTH MAY ADOPT A REASONABLE SCHEDULE OF
30 FEES AND MAY ACCEPT REIMBURSEMENT FROM THE DEPARTMENT OF HEALTH SERVICES
31 FOR THE PROVISION OF PUBLIC HEALTH SERVICES TO ELIGIBLE MEDICAL ASSISTANCE
32 RECIPIENTS. SUCH REIMBURSEMENT SHALL NOT BE IN EXCESS OF THE AMOUNTS
33 PAYABLE PURSUANT TO THE PAYMENT SCHEDULE ESTABLISHED BY THE DEPARTMENT
34 IN CONFORMANCE WITH TITLE XIX OF THE SOCIAL SECURITY ACT.

35 Sec. 13. Title 36, chapter 4, Arizona Revised Statutes, is amended
36 by adding article 6, to read:

37 ARTICLE 6. LICENSING OF NURSING CARE
38 INSTITUTION ADMINISTRATORS

39 36-446. Definitions

40 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

41 1. "ADMINISTRATOR" OR "NURSING CARE INSTITUTION ADMINISTRATOR"
42 MEANS ANY INDIVIDUAL WHO IS CHARGED WITH THE GENERAL ADMINISTRATION OF
43 A NURSING CARE INSTITUTION, WHETHER OR NOT SUCH INDIVIDUAL HAS AN OWNER-
44 SHIP INTEREST IN SUCH INSTITUTION AND WHETHER OR NOT HIS OR HER FUNCTIONS
45 AND DUTIES ARE SHARED WITH ONE OR MORE OTHER INDIVIDUALS.

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1 E. THE BOARD SHALL MEET AT LEAST TWICE A YEAR.

2 F. MEMBERS OF THE BOARD SHALL NOT RECEIVE COMPENSATION BUT SHALL
3 RECEIVE SUBSISTENCE AND TRAVEL ALLOWANCES AS PRESCRIBED PURSUANT TO
4 SECTION 38-624.

5 36-446.03. Powers and duties

6 A. THE BOARD MAY ADOPT, AMEND OR REPEAL REASONABLE AND NECESSARY,
7 RULES, REGULATIONS AND STANDARDS FOR THE ADMINISTRATION OF THIS ARTICLE
8 IN COMPLIANCE WITH TITLE XIX OF THE SOCIAL SECURITY ACT, INCLUDING THE
9 SETTING OF FEES OF NOT MORE THAN ONE HUNDRED DOLLARS FOR EXAMINATION
10 AND OF NOT MORE THAN FIFTY DOLLARS FOR LICENSURE.

11 B. THE BOARD MAY ELECT SUCH OFFICERS AS IT DEEMS NECESSARY.

12 C. THE BOARD SHALL APPLY APPROPRIATE TECHNIQUES, INCLUDING EXAMI-
13 NATIONS AND INVESTIGATIONS FOR DETERMINING WHETHER A PERSON MEETS THE
14 QUALIFICATIONS AS SET FORTH IN SECTION 36-446.04.

15 36-446.04. Qualifications; period of validity

16 A. THE BOARD SHALL ISSUE A LICENSE AS A NURSING CARE INSTITUTION
17 ADMINISTRATOR PURSUANT TO ITS RULES AND REGULATIONS TO ANY PERSON WHO
18 MEETS THE FOLLOWING QUALIFICATIONS:

19 1. IS OF GOOD CHARACTER.

20 2. HAS SATISFACTORILY COMPLETED A COURSE OF INSTRUCTION AND
21 TRAINING APPROVED BY THE BOARD, WHICH COURSE SHALL:

22 (a) BE DESIGNED AND SUFFICIENTLY ADMINISTERED TO GIVE THE APPLI-
23 CANT KNOWLEDGE OF THE PROPER NEEDS TO BE SERVED BY NURSING CARE INSTI-
24 TUTIONS.

25 (b) INCLUDE A THOROUGH BACKGROUND IN THE LAWS AND REGULATIONS
26 GOVERNING THE OPERATION OF NURSING CARE INSTITUTIONS AND THE PROTECTION
27 OF THE INTERESTS OF THE PATIENTS THEREIN.

28 (c) INCLUDE THOROUGH TRAINING IN ELEMENTS OF GOOD HEALTH CARE
29 FACILITIES ADMINISTRATION.

30 3. HAS PASSED AN EXAMINATION ADMINISTERED BY THE BOARD AND
31 DESIGNED TO TEST FOR COMPETENCY IN THE SUBJECT MATTER REFERRED TO IN
32 SUBSECTION A.

33 B. IN LIEU OF THE REQUIREMENTS CONTAINED IN SUBSECTION A,
34 PARAGRAPH 2, AN APPLICANT MAY PRESENT SATISFACTORY EVIDENCE TO THE BOARD
35 OF SUFFICIENT EDUCATION AND TRAINING IN THE AREAS LISTED IN SUCH
36 PARAGRAPH.

37 C. A LICENSE SHALL BE NONTRANSFERABLE AND SHALL BE VALID FOR ONE
38 YEAR FROM THE DATE OF ISSUANCE OR UNTIL SURRENDERED, SUSPENDED OR
39 REVOKED.

40 36-446.05. Reciprocity; present administrators

41 THE BOARD MAY ISSUE A NURSING CARE INSTITUTION ADMINISTRATOR'S
42 LICENSE, WITHOUT EXAMINATION OR WITH PARTIAL EXAMINATION, TO ANY PERSON
43 WHO HOLDS A CURRENT LICENSE FROM ANOTHER STATE OR TERRITORY OF THE UNITED
44 STATES PROVIDED THE STANDARDS FOR LICENSURE IN SUCH OTHER STATE OR TERRI-
45 TORY OF THE UNITED STATES ARE AT LEAST SUBSTANTIALLY EQUIVALENT TO THOSE
46 PREVAILING IN THIS STATE, AND PROVIDED THAT THE APPLICANT IS OTHERWISE
47 QUALIFIED.

48 36-446.06. Provisional licenses

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1 THE BOARD MAY ISSUE A PROVISIONAL NURSING CARE INSTITUTION ADMINIS-
2 TRATOR'S LICENSE TO INDIVIDUALS DETERMINED TO MEET STANDARDS ESTABLISHED
3 BY THE BOARD AND REVOKE OR SUSPEND PROVISIONAL LICENSES PREVIOUSLY ISSUED
4 BY THE BOARD IN ANY CASE WHERE THE INDIVIDUAL HOLDING SUCH LICENSE IS
5 DETERMINED TO HAVE SUBSTANTIALLY FAILED TO CONFORM TO THE REQUIREMENTS
6 OF SUCH STANDARDS. PROVISIONAL LICENSES MAY BE ISSUED WITHOUT EXAMINA-
7 TION, FOR A SINGLE PERIOD NOT TO EXCEED SIX MONTHS, TO A QUALIFIED
8 INDIVIDUAL FOR THE PURPOSE OF ENABLING HIM TO FILL THE POSITION OF
9 ADMINISTRATOR WHICH HAS BEEN UNEXPECTEDLY VACATED. QUALIFICATIONS FOR
10 A PROVISIONAL LICENSE SHALL INCLUDE GOOD CHARACTER AND THE ABILITY TO
11 MEET SUCH OTHER STANDARDS AS ARE ESTABLISHED BY THE BOARD.

12 36-446.07. Suspension or revocation; renewal; hearings

13 A. THE BOARD MAY SUSPEND OR REVOKE THE LICENSE OF ANY NURSING
14 CARE INSTITUTION ADMINISTRATOR WHO:

15 1. VIOLATES ANY RULE OR REGULATION ADOPTED PURSUANT TO THIS
16 ARTICLE.

17 2. COMMITS A FELONY.

18 B. EVERY HOLDER OF A NURSING CARE INSTITUTION ADMINISTRATOR'S
19 LICENSE SHALL RENEW IT ANNUALLY BY MAKING APPLICATION TO THE BOARD.
20 SUCH RENEWALS SHALL BE GRANTED AS A MATTER OF COURSE, UNLESS THE
21 APPLICANT HAS ACTED OR FAILED TO ACT IN SUCH A MANNER OR UNDER SUCH
22 CIRCUMSTANCES AS WOULD CONSTITUTE GROUNDS FOR SUSPENSION OR REVOCA-
23 TION OF A LICENSE.

24 C. DENIAL OF RENEWAL, SUSPENSION OR REVOCATION OF A LICENSE BY
25 THE BOARD SHALL BECOME EFFECTIVE ONLY UPON THE BOARD'S FIRST GIVING THE
26 LICENSEE PRIOR WRITTEN NOTICE AND AFFORDING THE LICENSEE THE RIGHT TO
27 REQUEST A HEARING WITHIN TWENTY DAYS OF THE RECEIPT OF NOTICE. NO
28 HEARING IS REQUIRED PRIOR TO THE DENIAL OF AN ORIGINAL APPLICATION FOR
29 A LICENSE. ALL HEARINGS SHALL BE CONDUCTED PURSUANT TO THE PROVISIONS
30 OF TITLE 41, CHAPTER 6, ARTICLE 1.

31 D. ANY PERSON WISHING TO MAKE A COMPLAINT AGAINST A LICENSEE UNDER
32 THIS ARTICLE SHALL FILE A WRITTEN COMPLAINT WITH THE BOARD WITHIN ONE
33 YEAR FROM THE DATE OF THE ACTION CAUSING THE COMPLAINT. IF THE BOARD
34 DETERMINES THAT THE CHARGES MADE IN THE COMPLAINT ARE SUFFICIENT, IF
35 TRUE, TO WARRANT SUSPENSION OR REVOCATION OF A LICENSE ISSUED UNDER THIS
36 ARTICLE, IT SHALL ISSUE AN ORDER FIXING THE TIME AND PLACE FOR A HEAR-
37 ING, REQUIRING THE LICENSEE COMPLAINED AGAINST TO APPEAR AND ANSWER THE
38 COMPLAINT. THE ORDER SHALL HAVE AFFIXED TO IT A COPY OF THE COMPLAINT
39 AND BOTH SHALL BE SERVED UPON THE LICENSEE EITHER PERSONALLY OR BY
40 REGISTERED MAIL SENT TO THE LICENSEE'S LAST KNOWN ADDRESS AT LEAST
41 TWENTY DAYS BEFORE THE DATE SET FOR HEARING. ALL HEARINGS SHALL BE
42 CONDUCTED PURSUANT TO THE PROVISIONS OF TITLE 41, CHAPTER 6, ARTICLE 1.

43 36-446.08. Nursing care institution administrator's
44 licensing fund

45 A. THE STATE TREASURER SHALL MAINTAIN A FUND KNOWN AS THE NURSING
46 CARE INSTITUTION ADMINISTRATOR'S LICENSING FUND.

47 B. ALL MONIES COLLECTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE
48 SHALL BE TRANSMITTED BY THE BOARD TO THE STATE TREASURER WHO SHALL PLACE
49 NINETY PER CENT OF SUCH MONIES IN THE NURSING CARE INSTITUTION ADMINIS-
50 TRATOR'S LICENSING FUND AND TEN PER CENT IN THE GENERAL FUND.

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36-446.09. Violations

A. ANY PERSON WHO MANAGES, DIRECTS AND CONTROLS THE OPERATION OF A NURSING CARE INSTITUTION WITHOUT A CURRENT AND VALID LICENSE AS REQUIRED BY THIS ARTICLE OR WHO OTHERWISE VIOLATES ANY PROVISIONS OF THIS ARTICLE, IS GUILTY OF A MISDEMEANOR. EACH DAY OF VIOLATION SHALL CONSTITUTE A SEPARATE OFFENSE.

B. ACTION TAKEN UNDER OTHER PROVISIONS OF THIS SECTION SHALL NOT BE A BAR TO ENFORCEMENT OF THIS ARTICLE AND THE STANDARDS, RULES AND REGULATIONS ISSUED PURSUANT THERETO, BY INJUNCTION OR OTHER APPROPRIATE REMEDY, AND THE BOARD SHALL HAVE THE POWER TO INSTITUTE AND MAINTAIN IN THE NAME OF THIS STATE ANY SUCH ENFORCEMENT PROCEEDING.

Sec. 14. Repeal

Section 36-2171, Arizona Revised Statutes, as added by Laws 1974, chapter 187, section 18, is repealed.

Sec. 15. Title 36, chapter 21, article 1, Arizona Revised Statutes, is amended by adding section 36-2171, to read:

36-2171. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CATEGORICALLY NEEDY" MEANS ANY OF THE FOLLOWING:

(a) RECIPIENTS OF AID UNDER THE STATE'S APPROVED PLAN UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT.

(b) RECIPIENTS OF BENEFITS, AND ELIGIBLE SPOUSES OF SUCH RECIPIENTS, UNDER TITLE XVI OF THE SOCIAL SECURITY ACT.

(c) RECIPIENTS OF A STATE SUPPLEMENTARY PAYMENT MANDATED PURSUANT TO SECTION 212 OF PUBLIC LAW 93-66.

(d) PERSONS ELIGIBLE FOR AID UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT OR BENEFITS UNDER TITLE XVI OF THE SOCIAL SECURITY ACT OR STATE SUPPLEMENTARY PAYMENTS MANDATED PURSUANT TO SECTION 212 OF PUBLIC LAW 93-66 EXCEPT FOR ANY ELIGIBILITY CONDITION OR OTHER REQUIREMENT THAT IS SPECIFICALLY PROHIBITED IN A PROGRAM OF MEDICAL ASSISTANCE UNDER TITLE XIX OF THE SOCIAL SECURITY ACT.

(e) INDIVIDUALS UNDER THE AGE OF TWENTY-ONE YEARS WHO ARE, OR WHO WOULD BE EXCEPT FOR AGE OR SCHOOL ATTENDANCE REQUIREMENTS, DEPENDENT CHILDREN UNDER THE STATE'S APPROVED PLAN UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT.

(f) INDIVIDUALS UNDER THE AGE OF TWENTY-ONE YEARS WHO QUALIFY ON THE BASIS OF FINANCIAL ELIGIBILITY, BUT DO NOT QUALIFY AS DEPENDENT CHILDREN UNDER A STATE'S PLAN UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT.

(g) INDIVIDUALS IN A FACILITY ELIGIBLE FOR REIMBURSEMENT FOR SERVICES RENDERED UNDER TITLE XIX OF THE SOCIAL SECURITY ACT WHO, IF THEY LEFT SUCH FACILITY WOULD BE ELIGIBLE FOR AID UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT, BENEFITS UNDER TITLE XVI OF THE SOCIAL SECURITY ACT OR STATE SUPPLEMENTARY PAYMENTS MANDATED PURSUANT TO SECTION 212 OF PUBLIC LAW 93-66.

(h) ALL FAMILIES WHICH WERE RECEIVING ASSISTANCE UNDER THE STATE'S PLAN UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT IN AT LEAST THREE OF THE SIX MONTHS IMMEDIATELY PRECEDING THE MONTH IN WHICH SUCH FAMILY BECAME INELIGIBLE FOR SUCH ASSISTANCE BECAUSE OF INCREASED HOURS OF, OR INCREASED INCOME FROM, EMPLOYMENT. AS LONG AS A MEMBER OF THE FAMILY IS EMPLOYED, SUCH FAMILIES WILL CONTINUE TO BE ELIGIBLE FOR MEDICAL ASSISTANCE FOR

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1 A PERIOD OF FOUR CALENDAR MONTHS BEGINNING WITH THE MONTH IN WHICH SUCH
2 FAMILY BECAME INELIGIBLE FOR ASSISTANCE UNDER TITLE IV-A OF THE SOCIAL
3 SECURITY ACT.

4 2. "GENERAL ASSISTANCE RECIPIENT" MEANS ANY PERSON, NOT ELIGIBLE
5 FOR FEDERALLY AIDED CASH ASSISTANCE PAYMENTS, WHO IS QUALIFIED AND
6 ELIGIBLE TO RECEIVE STATE GENERAL ASSISTANCE PAYMENTS PURSUANT TO TITLE
7 46, CHAPTER 2, ARTICLE 2.

8 3. "MEDICAL ASSISTANCE" MEANS PAYMENTS TO VENDORS OF MEDICAL CARE
9 AND SERVICES, RENDERED OR PROVIDED TO ELIGIBLE PERSONS UNDER THE TERMS
10 OF THIS CHAPTER, AND OTHER RELATED PAYMENTS PURSUANT TO THE TERMS OF THIS
11 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT OF HEALTH SERVICES.

12 4. "PHYSICIAN" MEANS A LICENSED DOCTOR OF MEDICINE OR DOCTOR OF
13 OSTEOPATHY.

14 Sec. 16. Section 36-2172, Arizona Revised Statutes, as added by
15 Laws 1974, chapter 187, section 18, is amended to read:

16 36-2172. Medical assistance program; administration;
17 eligibility; medical assistance fund

18 A. The department of health services shall establish a statewide
19 program of medical assistance to provide medical services to Arizona
20 residents who are the categorically needy, ~~the medically-needy~~ and the
21 general assistance recipients. The department of health services is
22 designated as the state agency to administer the program prescribed by
23 the terms of title XIX of the social security act and the provisions of
24 this chapter.

25 B. The department of economic security shall determine the
26 eligibility of applicants for medical assistance ~~and the~~ IN ACCORDANCE
27 WITH eligibility standards POLICIES, RULES AND REGULATIONS ESTABLISHED
28 BY THE DEPARTMENT OF HEALTH SERVICES WHICH shall be in conformity with
29 the provisions of, AND WHICH SHALL BE NO LESS RESTRICTIVE THAN, title
30 XIX of the social security act and of this chapter and shall provide
31 such information to the department of health services.

32 C. The department of health services shall accept and receive any
33 and all grants of money awarded to the state under the terms of title
34 XIX of the social security act. All monies so received shall be deposited
35 with the state treasurer in a special fund designated as the "medical
36 assistance fund" and shall be used exclusively for medical assistance
37 and the administration thereof under the provisions of this chapter. All
38 appropriated funds in any state agency which are eligible for federal
39 matching under the program of medical assistance provided for in this
40 section shall be transferred to and be considered a part of the medical
41 assistance fund. ~~The director has authority to transfer funds from the~~
42 ~~state medical assistance fund to the county medical reserve fund pro-~~
43 ~~vided for by section 11-292.~~

44 D. In no event shall the ~~combined state and county shares~~ NON-
45 FEDERAL SHARE of the costs of the program of medical assistance provided
46 for by this article and the catastrophic illness benefits provided for
47 in section 11-291.02 exceed a total annual amount of sixty million
48 dollars.

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1 Sec. 17. Section 36-2174, Arizona Revised Statutes, as added
2 by Laws 1974, chapter 187, section 18, is amended to read:

3 36-2174. State health planning advisory council;
4 medical assistance

5 A. The state health planning advisory council established pursuant
6 to section 36-109 shall function as the medical care advisory committee
7 and advise the department in regard to policy development and program
8 guidance in relation to the medical assistance program. Such additional
9 members as are required by title XIX of the social security act shall be
10 added APPOINTED BY THE DIRECTOR to the state health planning advisory
11 council ~~when it is functioning~~ TO SERVE ONLY as MEMBERS OF the medical
12 care advisory ~~commit~~ COMMITTEE.

13 B. In addition to the medical care advisory committee designated
14 by subsection A, the director of the department of health services shall
15 appoint one or more professional technical advisory committees to recom-
16 mend the development of the systems and procedures necessary for operation
17 of the medical assistance program. Such professional technical advisory
18 committee members shall be representative of providers of medical ser-
19 vices authorized by the medical assistance program.

20 Sec. 18. Section 36-2175, Arizona Revised Statutes, as added by
21 Laws 1974, chapter 187, section 18, is amended to read:

22 36-2175. Services; supplementary medical
23 insurance premiums

24 A. Medical services provided under the medical assistance program
25 shall include those services prescribed by section 36-125.04, subsection
26 A.

27 B. The director of the department of health services shall enter
28 into a buy-in agreement with the social security administration for
29 payment of SUCH supplementary medical insurance premiums, ~~deductibles,~~
30 ~~coinsurance, and other charges connected with title XVIII of the social~~
31 ~~security act for all eligible medical assistance recipients under the~~
32 ~~state plan who are also eligible for benefits under title XVIII of the~~
33 ~~social security act.~~ AS MAY BE REQUIRED TO OBTAIN COVERAGE PURSUANT TO
34 TITLE XVIII, PART B, OF THE SOCIAL SECURITY ACT, AS AMENDED, FOR
35 RECIPIENTS OF ASSISTANCE FOR DEPENDENT CHILDREN PURSUANT TO SECTION
36 46-292 AND RECIPIENTS OF SUPPLEMENTAL SECURITY INCOME PURSUANT TO TITLE
37 XVI OF THE SOCIAL SECURITY ACT, AS AMENDED. THE MONTHLY PREMIUM MAY BE
38 MADE THROUGH A STATE PLAN ADOPTED BY THE DEPARTMENT AND APPROVED BY THE
39 FEDERAL GOVERNMENT. COSTS OF THE PREMIUMS FOR SUPPLEMENTAL MEDICAL
40 INSURANCE BENEFITS SHALL BE PAID BY THE DEPARTMENT FROM THE MEDICAL
41 ASSISTANCE FUND.

42 C. THE DEPARTMENT SHALL ENTER INTO AGREEMENTS WITH THE SOCIAL
43 SECURITY ADMINISTRATION FOR PAYMENT OF DEDUCTIBLES, COINSURANCE AND OTHER
44 CHARGES CONNECTED WITH TITLE XVIII OF THE SOCIAL SECURITY ACT, AS AMENDED,
45 FOR ALL ELIGIBLE MEDICAL ASSISTANCE RECIPIENTS UNDER THE STATE PLAN WHO
46 ARE ALSO ELIGIBLE FOR BENEFITS PURSUANT TO TITLE XVIII OF THE SOCIAL
47 SECURITY ACT, AS AMENDED.

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1 6. D. For efficient management of the program, within the limita-
2 tion of funding available, the director may limit the amount, duration or
3 scope of the services provided.

4 Sec. 19. Title 36, chapter 21, article 1, Arizona Revised Statutes,
5 is amended by adding sections 36-2178, 36-2179 and 36-2180, to read:

6 36-2178. Safeguarding information

7 A. THE USE OR DISCLOSURE OF INFORMATION CONCERNING APPLICANTS AND
8 RECIPIENTS WILL BE LIMITED TO PURPOSES DIRECTLY CONNECTED WITH THE ADMIN-
9 ISTRATION OF THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO THIS
10 CHAPTER. SUCH PURPOSES INCLUDE ESTABLISHING AND VALIDATING ELIGIBILITY,
11 DETERMINING AMOUNT OF ASSISTANCE AND PROVIDING AND REVIEWING SERVICES FOR
12 APPLICANTS AND RECIPIENTS. THE PUBLICATION, DISTRIBUTION OR OTHERWISE
13 MAKING AVAILABLE ANY LISTS OR NAMES OF APPLICANTS OR RECIPIENTS FOR ANY
14 OTHER PURPOSES IS PROHIBITED.

15 B. THE DIRECTOR MAY PRESCRIBE RULES AND REGULATIONS IN ACCORDANCE
16 WITH FEDERAL MEDICAL ASSISTANCE REGULATIONS WHICH SPECIFY THE TYPES OF
17 INFORMATION THAT ARE SAFEGUARDED AND THE CONDITIONS UNDER WHICH SUCH
18 INFORMATION MAY BE RELEASED OR USED.

19 C. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION
20 OR THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION IS GUILTY
21 OF A MISDEMEANOR.

22 36-2179. Hearings; appeals

23 A. ANY MEDICAL ASSISTANCE APPLICANT OR RECIPIENT UNDER THIS CHAPTER
24 SHALL BE AFFORDED THE RIGHT TO A HEARING BEFORE THE DEPARTMENT OF HEALTH
25 SERVICES ON ACTIONS AFFECTING HIS OR HER CLAIM. SUCH HEARINGS SHALL BE
26 CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF TITLE 41, CHAPTER 6,
27 ARTICLE 1 AND APPLICABLE RULES AND REGULATIONS ADOPTED BY THE DEPARTMENT.

28 B. ANY PARTY AGGRIEVED BY A FINAL DETERMINATION, AFTER THE HEARING
29 PROVIDED UNDER SUBSECTION A, IS ENTITLED TO JUDICIAL REVIEW OF THE DETER-
30 MINATION PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6 EXCEPT THAT, NOTWITH-
31 STANDING THE PROVISIONS OF SECTION 12-910, THE SCOPE OF REVIEW SHALL BE
32 LIMITED TO THE RECORD BEFORE THE COURT FOR A FINDING AS TO WHETHER SUCH
33 FINAL DETERMINATION IS REASONABLY SUPPORTED BY THE EVIDENCE.

34 36-2180. Conformance with federal regulations

35 IN THE EVENT ANY PROVISION OF THIS CHAPTER CONFLICTS OR IS INCON-
36 SISTENT WITH FEDERAL RULES, REGULATIONS OR STANDARDS ADOPTED PURSUANT
37 TO TITLE XIX OF THE SOCIAL SECURITY ACT GOVERNING THE GRANT OF FEDERAL
38 FUNDS TO ANY AGENCY OR DEPARTMENT OF THE STATE OR POLITICAL SUBDIVISION
39 THEREOF, THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES SHALL ADOPT
40 SUCH RULES AND REGULATIONS PURSUANT TO THIS CHAPTER AS ARE DEEMED NEC-
41 ESSARY TO COMPLY WITH THE CONDITIONS OF FEDERAL GRANTS.

42 Sec. 20. Repeal

43 Section 36-2176, as added by Laws 1974, chapter 187, section 18,
44 and sections 42-304.02 and 46-217, Arizona Revised Statutes, are repealed.

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1 Sec. 21. Section 41-1954, Arizona Revised Statutes, is amended
2 to read:

3 41-1954. Powers and duties

4 In addition to the powers and duties of the agencies listed in
5 subsection D of section 41-1953 the department shall:

6 1. Administer the following services:

7 (a) Employment services, which shall include manpower programs
8 and work training, field operations, technical services, unemployment
9 compensation, community work and training and other related functions
10 in furtherance of programs under the Social Security Act, as amended,
11 the Wagner-Peyser Act, as amended, the Federal Unemployment Tax Act, as
12 amended, title 33, U.S. Code and other related federal acts and titles.

13 (b) Individual and family services, which shall include a section
14 on aging, services to children and youth AND ADULTS and other related
15 functions in furtherance of social service programs under the Social
16 Security Act, as amended, TITLE IV, GRANTS TO STATES FOR AID AND SERVICES
17 TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES, TITLE XX,
18 GRANTS TO STATES FOR SERVICES, the Older Americans Act, as amended, and
19 other related federal acts and titles.

20 (c) Income maintenance services, which shall include categorical
21 assistance programs, special services unit, CHILD SUPPORT COLLECTION
22 SERVICES, ESTABLISHMENT OF PATERNITY SERVICES and other related functions
23 in furtherance of programs under the Social Security Act, ~~title I, Old~~
24 ~~Age-Assistance, title IV, Aid-to-the-Families-with-Dependent-Children,~~
25 ~~title-X, Aid-to-the-Blind, title-XIV, Aid-to-Permanently-and-Totally~~
26 ~~Disabled,~~ GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH
27 CHILDREN AND FOR CHILD-WELFARE SERVICES, TITLE XX, GRANTS TO STATES FOR
28 SERVICES, as amended, and other related federal acts and titles.

29 (d) Rehabilitation services, which shall include vocational re-
30 habilitation services and sections for the blind and visually impaired,
31 communication disorders, correctional rehabilitation and other related
32 functions in furtherance of programs under the Vocational Rehabilitation
33 Act, as amended, the Randolph-Sheppard Act, as amended, and other related
34 federal acts and titles.

35 (e) Administrative services, which shall include the coordination
36 of program evaluation and research, interagency program coordination and
37 in-service training, planning, grants, development and management, infor-
38 mation, legislative liaison, budget, licensing and other related func-
39 tions.

40 (f) Manpower planning, which shall include a state manpower planning
41 council for the purposes of the federal-state-local cooperative manpower
42 planning system and OTHER RELATED FUNCTIONS in furtherance of programs
43 under the ~~Manpower-Development-and-Training-Act-of-1962, as amended, Public~~
44 ~~Law-90-636, 42-U.S.-Code-2571-2620, Federal-Executive-Order-#11422-dated~~
45 ~~October-15, 1969,~~ COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973, AS
46 AMENDED, and other related federal acts and titles.

47 (g) ~~The-apprenticeship-council, which shall include responsibility~~
48 ~~for~~ APPRENTICESHIP functions AS prescribed in title 23, chapter 2, article
49 2, and furtherance of programs under the Fitzgerald Act, Public Law 308,
50 75th Congress, as amended and other related federal acts and titles.

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1 (h) Veterans' services, which shall include functions prescribed
2 in title 41, chapter 3, article 7, and furtherance of programs under title
3 38, U.S. Code relating to veterans' benefits and other related federal
4 acts and titles.

5 (i) Economic opportunity services, which shall include the further-
6 ance of programs prescribed under the Economic Opportunity Act of 1967,
7 as amended and other related federal acts and titles.

8 (j) Mental retardation and other developmental disability programs,
9 with emphasis on referral and purchase of services. The program shall
10 include, but not be limited to, educational, rehabilitation, treatment
11 and training services and other related functions in furtherance of pro-
12 grams under the Developmental Disabilities Services and Facilities Con-
13 struction Act, U.S. Public Law 91-517, and other related federal acts and
14 titles.

15 2. Provide a coordinated system of initial intake, screening,
16 evaluation and referral of persons served by the department.

17 3. Adopt rules and regulations it deems necessary or desirable to
18 further the objectives and programs of the department.

19 4. Formulate policies, plans and programs to effectuate the mis-
20 sions and purposes of the department.

21 5. Employ, determine the conditions of employment and prescribe
22 the duties and powers of administrative, professional, technical, secre-
23 tarial, clerical and other persons as may be necessary in the performance
24 of its duties, and contract for the services of outside advisors, consul-
25 tants and aides as may be reasonably necessary.

26 6. Make contracts and incur obligations within the general scope
27 of its activities and operations subject to the availability of funds.

28 7. Contract with or assist other departments, agencies and insti-
29 tutions of the state, local and federal governments in the furtherance
30 of its purposes, objectives and programs.

31 8. Be designated as the single state agency for the purposes of
32 administering and in furtherance of each federally supported state plan.

33 9. Accept AND DISBURSE grants, matching funds and direct payments
34 from public or private agencies for the conduct of programs which are
35 consistent with the overall purposes and objectives of the department.

36 10. Provide information and advice on request by local, state and
37 federal agencies and by private citizens, business enterprises and com-
38 munity organizations on matters within the scope of its duties subject to
39 the departmental rules and regulations on the confidentiality of infor-
40 mation.

41 11. Establish and maintain separate financial accounts as required
42 by federal law or regulations.

43 12. Advise with and make recommendations to the governor and the
44 legislature on all matters concerning its objectives.

45 13. Have an official seal which shall be judicially noticed.

46 Sec. 22. Section 46-207, Arizona Revised Statutes, is amended
47 to read:

48 46-207. Grant plus income; uniform assistance plan;
49 amount of assistance

50 A. In no event shall assistance paid any recipient under this
51 title be an amount, which when added to income from all other sources,

1 causes the total of income and grant to exceed the need of the recipient
 2 under uniform assistance plans for each program as determined by the
 3 state department; EXCEPT THAT THE PROVISIONS OF THIS SUBSECTION SHALL
 4 NOT APPLY TO THE OPTIONAL STATE SUPPLEMENTAL PAYMENTS PROGRAM AUTHORIZED
 5 IN SECTION 46-252.

6 B. If the total funds available for payment of assistance grants
 7 is not sufficient to meet the maximum amount for which each applicant or
 8 recipient is eligible by law, the department shall not make reductions
 9 of an equal amount from every grant in each category of assistance, but
 10 shall take into consideration the needs of the applicants or recipients,
 11 and shall make reductions necessary by specifying the percentage of
 12 budgeted needs which may be met within the maximums established in
 13 accordance with subsection A.

14 C. In determining the amount of assistance which a recipient or
 15 applicant may receive under this title, the department shall include all
 16 income and resources from every source of the person claiming such aid,
 17 except that which is required to be disregarded by the federal social
 18 security act or by other provision of this title, and shall consider and
 19 take into account earning capacity, living conditions and all facts and
 20 circumstances surrounding such person.

21 Sec. 23. Section 46-233, Arizona Revised Statutes, is amended
 22 to read:

23 46-233. Eligibility for general assistance

24 A. No person shall be entitled to general assistance who does not
 25 meet and maintain the following requirements:

26 1. Has established residence at the time of application. The
 27 applicant shall prove that he meets the residence requirements.

28 2. Is not an inmate of or being maintained by any municipal,
 29 county, state or federal institution at the time of receiving assistance.
 30 This shall not be construed to prohibit granting assistance to a person
 31 temporarily confined in an institution for medical or surgical care.

32 3. Is not employable according to the findings of the state
 33 department.

34 4. Has not, within five years prior to application, or while a
 35 recipient, transferred or assigned real or personal property with the
 36 intent to render himself eligible or with the intent to increase his
 37 need for assistance. Transfer of property with retention of a life
 38 estate for the purpose of qualifying for assistance is prohibited.
 39 Where fair consideration for the property was received, no inquiry into
 40 motive is necessary. A person found ineligible under this provision
 41 shall be ineligible for such time as the state department determines.

42 5. Does not have resources in excess of the following:

43 (a) Household furnishings used by the recipient and his family in
 44 his usual place of residence.

45 (b) Wearing apparel and necessary personal effects.

46 (c) ~~Homestead-property~~ A HOME IN WHICH THE RECIPIENT RESIDES and
 47 the land contiguous thereto, which has a fair GROSS market value not in
 48 excess of eight TWENTY-FIVE thousand dollars.

1 (d) AN AUTOMOBILE WITH A GROSS RETAIL MARKET VALUE OF TWELVE
 2 HUNDRED DOLLARS OR LESS, EXCEPT THAT IF SUCH VALUE EXCEEDS TWELVE
 3 HUNDRED DOLLARS, THE EXCESS VALUE SHALL BE COUNTED AGAINST THE OTHER
 4 PROPERTY OR ASSETS SPECIFIED IN SUBDIVISION (e).

5 (d) (e) Other property or assets having a total fair GROSS
 6 market value of ~~eight-hundred~~ ONE THOUSAND dollars for a single recipi-
 7 ent or ~~twelve~~ FOURTEEN hundred dollars for a recipient and spouse, or
 8 two or more recipients in a single household. ~~Not more than four~~
 9 ~~hundred dollars of the other property or assets for a single recipient~~
 10 ~~or six hundred dollars for a recipient and spouse or two or more~~
 11 ~~recipients in a single household shall be in cash, bonds or negotiable~~
 12 ~~securities.~~

13 (e) (f) Tools of his trade. ~~in an amount not to exceed two~~
 14 ~~hundred-fifty-dollars.~~

15 6. IS A CITIZEN OF THE UNITED STATES BY BIRTH OR NATURALIZATION,
 16 OR IF AN ALIEN, HAS BEEN LEGALLY ADMITTED FOR PERMANENT RESIDENCE.

17 B. REAL AND PERSONAL PROPERTY SHALL BE VALUED AT THEIR GROSS
 18 MARKET VALUE INCLUDING ENCUMBRANCES.

19 B. C. Nothing in this section, EXCEPT CITIZENSHIP OR LEGAL
 20 ADMITTANCE FOR PERMANENT RESIDENCE, shall be construed to prevent
 21 granting of assistance in emergency cases.

22 Sec. 24. Section 46-252, Arizona Revised Statutes, is amended
 23 to read:

24 46-252. Optional state supplemental payments program

25 A. Optional state supplemental payments provided for in this
 26 section shall be administered by the department.

27 B. In no event shall supplemental payments provided in this
 28 section be made to or on behalf of any person who has resources in
 29 excess of the following:

30 1. Household furnishings used by the person and his family
 31 in his usual place of residence.

32 2. Wearing apparel and necessary personal effects.

33 3. ~~Homestead property~~ A HOME in which such person resides and
 34 the land contiguous thereto with a fair GROSS market value not in
 35 excess of ~~eight~~ TWENTY-FIVE thousand dollars.

36 4. Tools of his trade. ~~in an amount not to exceed two-hundred~~
 37 ~~fifty-dollars.~~

38 5. Livestock used primarily for domestic purposes.

39 6. AN AUTOMOBILE WITH A GROSS RETAIL MARKET VALUE OF TWELVE
 40 HUNDRED DOLLARS OR LESS, EXCEPT THAT IF SUCH VALUE EXCEEDS TWELVE
 41 HUNDRED DOLLARS, THE EXCESS VALUE SHALL BE COUNTED AGAINST THE OTHER
 42 PROPERTY OR ASSETS SPECIFIED IN PARAGRAPH 7.

43 7. Other property or assets having a ~~total-fair~~ GROSS
 44 market value of ~~eight-hundred~~ ONE THOUSAND dollars for a single recipi-
 45 ent or ~~twelve~~ FOURTEEN hundred dollars for a recipient and spouse
 46 or two or more recipients in a single household.

47 C. A payment of eighty dollars a month shall be made by the
 48 department to or on behalf of a person at least sixty-five years of
 49 age who is receiving care in a licensed private nursing home and who
 50 is either:

1 1. Eligible for and receives a payment for the month under title
2 XVI of the social security act, as amended, or

3 2. Precluded from receiving benefits under title XVI of the
4 social security act, as amended, solely because public or private
5 nonprofit charitable organization funds are received and used in
6 defraying the cost of nursing home care the person is receiving.

7 D. A payment of one hundred seventy-four dollars a month shall
8 be made by the department to or on behalf of a person at least sixty-
9 five years of age who is PRECLUDED FROM RECEIVING BENEFITS UNDER TITLE
10 XVI OF THE SOCIAL SECURITY ACT, AS AMENDED, SOLELY BECAUSE SUCH PERSON
11 IS receiving care in a licensed county-operated nursing home.

12 E. A payment of ~~twenty~~ THIRTY-FIVE dollars a month shall be made
13 by the department to or on behalf of a person who is certified in
14 accordance with department regulations as requiring housekeeping services
15 and is entitled to and receives a payment for the month under title XVI
16 of the social security act, as amended. ~~and meets and maintains the~~
17 ~~requirements of any one of the following paragraphs:~~

- 18 1. ~~is at least sixty-five years of age.~~
- 19 2. ~~is less than sixty-five years of age but at least eighteen,~~
20 ~~and is blind as defined in section 16-1183.~~
- 21 3. ~~is at least eighteen years of age and is permanently and~~
22 ~~totally disabled and not more than four hundred dollars of the other~~
23 ~~property or assets specified in paragraph 6 of subsection B, for a~~
24 ~~single recipient or six hundred dollars for a recipient and spouse or~~
25 ~~two or more recipients in a single household, is in cash, bonds or~~
26 ~~negotiable securities.~~

27 F. When there is a medical finding to substantiate the need,
28 a payment for visiting nurse services not exceeding one hundred sixty
29 dollars for any month may be made by the department to or on behalf
30 of a person at least sixty-five years of age who is eligible for and
31 receives a payment for the month under title XVI of the social security
32 act, as amended, IF THE COSTS OF SUCH SERVICES ARE NOT PAYABLE FROM
33 ANOTHER SOURCE.

34 G. When there is a medical finding to substantiate the need, a
35 payment for home health aid not exceeding one hundred sixty dollars for
36 any month may be made by the department to or on behalf of a person at
37 least sixty-five years of age who is eligible for and receives a payment
38 for the month under title XVI of the social security act, as amended,
39 IF THE COSTS OF SUCH AID ARE NOT PAYABLE FROM ANOTHER SOURCE.

40 H. REAL AND PERSONAL PROPERTY SHALL BE VALUED AT THEIR GROSS
41 MARKET VALUE INCLUDING ENCUMBRANCES.

42 Sec. 25. Title 46, chapter 2, article 3.1, Arizona Revised Statutes,
43 is amended by adding section 46-261.13, to read:

44 46-261.13. Interagency agreement
45 THE DEPARTMENT OF ECONOMIC SECURITY SHALL ENTER INTO AN AGREEMENT
46 WITH THE DEPARTMENT OF HEALTH SERVICES WHICH WILL PROVIDE FOR CONTINUED
47 ADMINISTRATION OF THIS ARTICLE BY THE DEPARTMENT OF ECONOMIC SECURITY
48 FOLLOWING IMPLEMENTATION OF THE STATE MEDICAL ASSISTANCE PROGRAM PURSUANT
49 TO TITLE 36, CHAPTER 21.

CHAPTER 141

1 Sec. 26. Section 46-292, Arizona Revised Statutes, is amended
2 to read:

3 46-292. Eligibility for assistance

4 Assistance shall be given under this title to any dependent
5 child:

6 1. Who has established residence in Arizona at the time of
7 application AND IS EITHER A CITIZEN BY BIRTH OR NATURALIZATION OR AN
8 ALIEN LEGALLY ADMITTED FOR PERMANENT RESIDENCE OR OTHERWISE PERMANENTLY
9 RESIDING IN THE UNITED STATES UNDER COLOR OF LAW, INCLUDING ANY ALIEN
10 WHO IS LAWFULLY PRESENT IN THE UNITED STATES AS A RESULT OF THE APPLI-
11 CATION OF THE PROVISIONS OF SECTION 203(a)(7) OR SECTION 212(d)(5)
12 OF THE IMMIGRATION AND NATIONALITY ACT.

13 2. Whose parent or parents or person or persons acting in the
14 parents' place, if employable, shall not refuse to accept available
15 employment and if any employable child in the family does not refuse to
16 accept available employment. The determination of employability and the
17 conditions under which employment shall be required shall be determined
18 by the state department, except that claimed unemployability because of
19 physical or mental incapacity shall be determined by the state depart-
20 ment in accordance with the provisions of this title.

21 3. Whose parent or parents or persons legally responsible for the
22 child's support does not have resources in excess of the following:

23 (a) Household furnishings used by the recipient and his family in
24 his usual place of residence.

25 (b) Wearing apparel and necessary personal effects.

26 (c) ~~Homestead property~~ A HOME IN WHICH THEY RESIDE and the land
27 contiguous thereto, which has a fair GROSS market value not in excess
28 of eight TWENTY-FIVE thousand dollars.

29 (d) AN AUTOMOBILE WITH A GROSS RETAIL MARKET VALUE OF TWELVE
30 HUNDRED DOLLARS OR LESS, EXCEPT THAT IF SUCH VALUE EXCEEDS TWELVE
31 HUNDRED DOLLARS, THE EXCESS VALUE SHALL BE COUNTED AGAINST THE OTHER
32 PROPERTY OR ASSETS SPECIFIED IN SUBDIVISION (f).

33 (e) EQUIPMENT, TOOLS OF THE TRADE AND MATERIAL DEEMED NECESSARY
34 BY THE DEPARTMENT TO IMPLEMENT A PLAN FOR EMPLOYMENT OR REHABILITATION.

35 ~~(d) (f) Other property or assets having a total-fair GROSS~~
36 ~~market value of eight-hundred ONE THOUSAND dollars for a single recipient~~
37 ~~or twelve FOURTEEN hundred dollars for a recipient and spouse, or two~~
38 ~~or more recipients in a single household. Not more than four-hundred~~
39 ~~dollars-of-the-other-property-or-assets-for-a-single-recipient-or-six~~
40 ~~hundred-dollars-for-a-recipient-and-spouse-or-two-or-more-recipients~~
41 ~~in-a-single-household-shall-be-in-cash,-bonds-or-negotiable-securities-~~

42 (e) ~~Tools-of-his-trade-in-an-amount-not-to-exceed-two-hundred~~
43 ~~fifty-dollars.~~

44 4. Whose parent or parents or persons legally responsible for the
45 child's support, has not, within five years prior to application, or
46 while a recipient, transferred or assigned real or personal property
47 with the intent to increase his need for assistance. Transfer of
48 property with retention of a life estate for the purpose of qualifying
49

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1 for assistance is prohibited. Where fair consideration for the property
2 was received, no inquiry into motive is necessary. A person found
3 ineligible under this provision shall be ineligible for such time as
4 the state department determines.

5 B. REAL AND PERSONAL PROPERTY SHALL BE VALUED AT THEIR GROSS
6 MARKET VALUE INCLUDING ENCUMBRANCES.

7 Sec. 27. Repeal

8 Section 46-294, Arizona Revised Statutes, is repealed.

9 Sec. 28. Section 46-295, Arizona Revised Statutes, is amended
10 to read:

11 46-295. Relatives' responsibility

12 A. If a recipient or any dependent child has a spouse, father or
13 mother legally responsible for his support who is reasonably able to
14 support him but fails to provide support, the county department shall,
15 with the assistance of the attorney general or county attorney of the
16 county where assistance is granted, proceed first against the spouse,
17 then jointly against the father and the mother, which persons shall
18 be responsible for support in the order named.

19 B. Upon demand the attorney general or county attorney of the
20 county where aid is granted shall, on behalf of the county department,
21 commence an action in the superior court of the county where assistance
22 is granted, against such relatives in the order specified in this
23 section, to recover on behalf of the state such portion of the assistance
24 granted as such relative is able to pay, and to secure an order requiring
25 payment of amounts which become due in the future for which the relative
26 is liable. ~~Upon failure of any county department to take such action,~~
27 ~~the state department shall require that such action be taken.~~

28 C. Any monies recovered as provided by this section shall be
29 forwarded by the county department to the state department, ~~which shall~~
30 ~~forward them to the~~ state treasurer for deposit in the proper account
31 AND DISTRIBUTION AS REQUIRED BY LAW.

32 Sec. 29. Persons currently acting as nursing care
33 institution administrators

34 Persons who, on the effective date of section 13 of this act,
35 have been actively engaged as nursing care institution administrators
36 for at least three calendar years preceding the calendar year in which
37 this section is effective, and who do not meet the requirements of
38 section 36-446.04, subsection A, paragraphs 2 and 3 relating to satisfac-
39 tory completion of a course of instruction and training and examina-
40 tion, but who are otherwise qualified pursuant to section 36-446.04
41 shall be issued a temporary license which shall expire no later than
42 June 30, 1977.

43 Sec. 30. Title 36, Arizona Revised Statutes, is amended by
44 adding chapter 23, article 1, to read:

45 CHAPTER 23

46 PROTECTION OF FETUS OR EMBRYO

47 ARTICLE 1. GENERAL PROVISIONS

48 36-2301. Duty to promote life of fetus or embryo
49 delivered alive

50 IF AN ABORTION IS PERFORMED AND THE FETUS OR EMBRYO IS DELIVERED
51 ALIVE, IT IS THE DUTY OF ANY PHYSICIAN PERFORMING SUCH ABORTION TO SEE

1 THAT ALL AVAILABLE MEANS AND MEDICAL SKILLS SHALL BE USED TO PROMOTE,
2 PRESERVE AND MAINTAIN THE LIFE OF SUCH FETUS OR EMBRYO.

3 36-2302. Experimentation on fetus or embryo prohibited

4 NO FETUS OR EMBRYO, LIVING OR DEAD, AND NO PARTS OR ORGANS OF
5 ANY SUCH FETUS OR EMBRYO RESULTING FROM AN INDUCED ABORTION SHALL IN
6 ANY MANNER BE USED FOR ANY MEDICAL EXPERIMENTATION OR SCIENTIFIC OR
7 MEDICAL INVESTIGATION PURPOSES EXCEPT AS IS STRICTLY NECESSARY TO
8 DIAGNOSE A DISEASE OR CONDITION IN THE MOTHER OF THE FETUS OR EMBRYO
9 AND ONLY WHERE THE ABORTION WAS PERFORMED BECAUSE OF SUCH DISEASE OR
10 CONDITION.

11 36-2303. Violation and penalty

12 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE IS GUILTY
13 OF A FELONY.

14 Sec. 31. Joint legislative medical assistance committee;
15 membership; duration; compensation

16 A. Beginning on July 1, 1975 and ending on July 1, 1976, there
17 shall be a joint legislative medical assistance committee which shall
18 consist of eight members, including the majority leaders of the senate
19 and the house of representatives, the chairman of the senate appropri-
20 ations committee, the chairman of the house appropriations committee,
21 the vice chairman of the senate health and welfare committee, the
22 chairman of the house health committee, one additional member of the
23 house of representatives and one additional member of the senate. The
24 president of the senate and the speaker of the house of representatives
25 shall each appoint the additional member from their respective bodies.

26 B. The majority leader of the house of representatives and the
27 majority leader of the senate shall serve as cochairman of the joint
28 legislative medical assistance committee.

29 C. The joint legislative medical assistance committee shall meet
30 as often as they deem necessary and a majority of the members shall
31 constitute a quorum for the transaction of business.

32 D. Members of the joint legislative medical assistance committee
33 shall be reimbursed by their respective houses in the same manner as is
34 provided by law for a member of the legislature who attends a duly
35 called meeting of a standing committee.

36 Sec. 32. Powers; duties; responsibilities

37 A. The joint legislative medical assistance committee shall:

38 1. Ascertain facts and make recommendations to the legislature
39 relating to public medical assistance to be provided by the state of
40 Arizona pursuant to the provisions of title 36, chapter 21, article 1.

41 2. Determine the number of individuals and the current costs in
42 each county of health services rendered to individuals in the following
43 classifications:

44 (a) Those who would be eligible recipients of medical assistance
45 pursuant to each category in section 36-2171 if medical assistance were
46 made available in fiscal year 1975-76 pursuant to the provisions of
47 title 36, chapter 21, article 1.

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1 (b) Those who would be eligible recipients of medical assistance
2 by category for which federal financial participation is available pur-
3 suant to title XIX of the social security act, exclusive of those
4 specified in subdivision (a), paragraph 2, if such medical assistance
5 were made available in fiscal year 1975-76.

6 (c) All others not covered in subdivision (a) or (b) of this
7 paragraph.

8 3. Determine:

9 (a) Which of the following services are currently provided in
10 each county and the costs for such services in relationship to the
11 above classifications:

12 (i) Inpatient hospital services.

13 (ii) Outpatient services provided by a licensed health care
14 institution.

15 (iii) Other laboratory and x-ray services.

16 (iv) Skilled nursing facility services for persons age twenty-one
17 or older.

18 (v) Physician services (and services of an osteopath, podiatrist,
19 optometrist or dentist).

20 (vi) Early and periodic screening, diagnosis and treatment of
21 eligible individuals under age twenty-one.

22 (vii) Home health care services for persons eligible for skilled
23 nursing facility services.

24 (viii) Transportation to and from medical services when necessary.

25 (ix) Family planning services.

26 (x) Prescribed drugs ordered by a physician, dentist or
27 podiatrist.

28 (xi) Dental services other than cosmetic.

29 (xii) Eye care services (includes eyeglasses and eye examinations).

30 (b) The current capital value of all public facilities in each
31 county which provide public medical assistance;

32 (c) The alternative uses to which existing public medical
33 assistance facilities could be devoted;

34 (d) Cost projections for the title XIX program in Arizona in-
35 cluding but not limited to: state and federal percentages for federal
36 financial participation; sanctions for program non-conformance; and
37 conformity with provisions of the social security act as amended.

38 4. Make studies, conduct inquiries and investigations, and hold
39 hearings.

40 5. Meet and conduct its business any place within the state
41 during the sessions of the legislature or any recess thereof and during
42 the period when the legislature is not in session.

43 6. Establish subcommittees from the membership of the legislature
44 and assign to such subcommittees any study, inquiry, investigation or
45 hearing with the right to call witnesses, which the joint legislative
46 medical assistance committee has the authority to undertake.

47 7. Work with the department of health services, the department
48 of economic security, the joint legislative budget committee and the
49 auditor general in compiling the above-required information.

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1 B. The joint legislative medical assistance committee shall
2 have the powers conferred by law upon legislative committees.

3 C. The joint legislative medical assistance committee shall
4 have the authority to issue subpoenas to compel the attendance of
5 witnesses and the production of evidence pursuant to title 41, chapter
6 7, article 4.

7 Sec. 33. Appropriation; purpose

8 The sum of five thousand dollars is appropriated to the board of
9 examiners of nursing care institution administrators to carry out the
10 provisions of title 36, chapter 4, article 6, Arizona Revised Statutes.

11 Sec. 34. Appropriation; purpose; exemption

12 A. The sum of one million eighty thousand six hundred dollars
13 is appropriated to the department of health services for utilization
14 as matching funds for federal grants for implementation of the medical
15 assistance program.

16 B. The appropriation made by this section is exempt from the
17 provisions of section 35-190, Arizona Revised Statutes, relating to
18 lapsing of appropriations.

19 Sec. 35. Effective dates

20 A. Except as prescribed by subsections B and C of this section,
21 the provisions of this act shall become effective as provided by law.

22 B. The provisions of sections 10, 13 and 33 of this act shall
23 become effective January 1, 1976.

24 C. The provisions of sections 5, 14, 15, 16, 17, 18, 19 and 20
25 of this act shall become effective July 1, 1976.

Approved by the Governor - June 13, 1975

Filed in the office of the Secretary of State - June 13, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 142
SENATE BILL 1155

AN ACT

RELATING TO PROPERTY; PRESCRIBING RIGHTS AND DUTIES OF LANDLORD AND TENANT
IN RELATION TO MOBILE HOMES AND MOBILE HOME SPACES, AND AMENDING TITLE
33, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 11.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 33, Arizona Revised Statutes, is amended by
3 adding chapter 11, articles 1 through 6, to read:
4 CHAPTER 11
5 ARIZONA MOBILE HOME PARKS RESIDENTIAL
6 LANDLORD AND TENANT ACT
7 ARTICLE 1. GENERAL PROVISIONS
8 33-1401. Short title
9 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE ARIZONA MOBILE
10 HOME PARKS RESIDENTIAL LANDLORD AND TENANT ACT.
11 33-1402. Purposes
12 UNDERLYING PURPOSES AND POLICIES OF THIS CHAPTER ARE:
13 1. TO SIMPLIFY, CLARIFY AND ESTABLISH THE LAW GOVERNING THE
14 RENTAL OF MOBILE HOME SPACES AND RIGHTS AND OBLIGATIONS OF LANDLORD AND
15 TENANT.
16 2. TO ENCOURAGE LANDLORD AND TENANT TO MAINTAIN AND IMPROVE THE
17 QUALITY OF MOBILE HOME HOUSING.
18 33-1403. Supplementary principles of law applicable
19 UNLESS DISPLACED BY THE PROVISIONS OF THIS CHAPTER, THE PRINCIPLES
20 OF LAW AND EQUITY, INCLUDING THE LAW RELATING TO CAPACITY TO CONTRACT,
21 MUTUALITY OF OBLIGATIONS, PRINCIPAL AND AGENT, REAL PROPERTY, PUBLIC
22 HEALTH, SAFETY AND FIRE PREVENTION, ESTOPPEL, FRAUD, MISREPRESENTATION,
23 DURESS, COERCION, MISTAKE, BANKRUPTCY OR OTHER VALIDATING OR INVALIDATING
24 CAUSE SUPPLEMENT ITS PROVISIONS.

1 33-1404. Administration of remedies; enforcement
2 A. THE REMEDIES PROVIDED BY THIS CHAPTER SHALL BE SO ADMINISTERED
3 THAT THE AGGRIEVED PARTY MAY RECOVER APPROPRIATE DAMAGES. THE AGGRIEVED
4 PARTY HAS A DUTY TO MITIGATE DAMAGES.
5 B. ANY RIGHT OR OBLIGATION DECLARED BY THIS CHAPTER IS ENFORCE-
6 ABLE BY ACTION UNLESS THE PROVISION DECLARING IT SPECIFIES A DIFFERENT
7 AND LIMITED EFFECT.
8 33-1405. Settlement of disputed claim or right
9 A CLAIM OR RIGHT ARISING UNDER THIS CHAPTER OR ON A RENTAL AGREE-
10 MENT, IF DISPUTED IN GOOD FAITH, MAY BE SETTLED BY AGREEMENT.
11 33-1406. Territorial application
12 THIS CHAPTER APPLIES TO, REGULATES AND DETERMINES RIGHTS, OBLIGA-
13 TIONS AND REMEDIES UNDER A RENTAL AGREEMENT, WHEREVER MADE, FOR A MOBILE
14 HOME SPACE LOCATED WITHIN THIS STATE.
15 33-1407. Exclusions from application of chapter
16 THE PROVISIONS OF THIS CHAPTER SHALL NOT BE APPLICABLE TO AN
17 OCCUPANCY IN OR OPERATION OF PUBLIC HOUSING AS AUTHORIZED, PROVIDED OR
18 CONDUCTED UNDER OR PURSUANT TO TITLE 36, CHAPTER 12, OR UNDER OR PURSUANT
19 TO ANY FEDERAL LAW OR REGULATION WHICH MIGHT CONFLICT THEREWITH.
20 33-1408. Jurisdiction and service of process
21 A. THE APPROPRIATE COURT OF THIS STATE MAY EXERCISE JURISDICTION
22 OVER ANY LANDLORD WITH RESPECT TO ANY CONDUCT IN THIS STATE GOVERNED BY
23 THIS CHAPTER OR WITH RESPECT TO ANY CLAIM ARISING FROM A TRANSACTION
24 SUBJECT TO THIS CHAPTER. IN ADDITION TO ANY OTHER METHOD PROVIDED BY
25 RULE OR BY STATUTE, PERSONAL JURISDICTION OVER A LANDLORD MAY BE ACQUIRED
26 IN A CIVIL ACTION OR PROCEEDING INSTITUTED IN THE APPROPRIATE COURT BY
27 THE SERVICE OF PROCESS IN THE MANNER PROVIDED BY THIS SECTION.
28 B. IF A LANDLORD IS NOT A RESIDENT OF THIS STATE OR IS A CORPORA-
29 TION NOT AUTHORIZED TO DO BUSINESS IN THIS STATE AND ENGAGES IN ANY
30 CONDUCT IN THIS STATE GOVERNED BY THIS CHAPTER, OR ENGAGES IN A TRANS-
31 ACTION SUBJECT TO THIS CHAPTER, HE SHALL DESIGNATE AN AGENT UPON WHOM
32 SERVICE OF PROCESS MAY BE MADE IN THIS STATE. THE AGENT SHALL BE A
33 RESIDENT OF THIS STATE OR A CORPORATION AUTHORIZED TO DO BUSINESS IN
34 THIS STATE. THE DESIGNATION SHALL BE IN WRITING AND FILED WITH THE
35 SECRETARY OF STATE. IF NO DESIGNATION IS MADE AND FILED OR IF PROCESS
36 CANNOT BE SERVED IN THIS STATE UPON THE DESIGNATED AGENT, PROCESS MAY BE
37 SERVED UPON THE SECRETARY OF STATE, BUT THE PLAINTIFF OR PETITIONER
38 SHALL FORTHWITH MAIL A COPY OF THIS PROCESS AND PLEADING BY REGISTERED
39 OR CERTIFIED MAIL TO THE DEFENDANT OR RESPONDENT AT THIS LAST REASONABLY
40 ASCERTAINED ADDRESS. IF THERE IS NO LAST REASONABLY ASCERTAINABLE
41 ADDRESS AND IF THE DEFENDANT OR RESPONDENT HAS NOT COMPLIED WITH SECTION
42 33-1432, SUBSECTIONS A AND B, THEN SERVICE UPON THE SECRETARY OF STATE
43 SHALL BE SUFFICIENT SERVICE OF PROCESS WITHOUT THE MAILING OF COPIES TO
44 THE DEFENDANT OR RESPONDENT. SERVICE OF PROCESS SHALL BE DEEMED COM-
45 PLETE AND THE TIME SHALL BEGIN TO RUN FOR THE PURPOSES OF THIS SECTION
46 AT THE TIME OF SERVICE UPON THE SECRETARY OF STATE. THE DEFENDANT SHALL
47 APPEAR AND ANSWER WITHIN THIRTY DAYS AFTER COMPLETION THEREOF IN THE
48 MANNER AND UNDER THE SAME PENALTY AS IF HE HAD BEEN PERSONALLY SERVED
49 WITH THE SUMMONS. AN AFFIDAVIT OF COMPLIANCE WITH THIS SECTION SHALL

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1 BE FILED WITH THE CLERK OF THE COURT ON OR BEFORE THE RETURN DAY OF THE
2 PROCESS, IF ANY, OR WITHIN ANY FURTHER TIME THE COURT ALLOWS. WHERE
3 APPLICABLE, THE AFFIDAVIT SHALL CONTAIN A STATEMENT THAT DEFENDANT OR
4 RESPONDENT HAS NOT COMPLIED WITH SECTION 33-1432, SUBSECTIONS A AND B
5 OR AFFIANT COULD NOT ASCERTAIN COMPLIANCE BY INQUIRY DIRECTED TO THE
6 SECRETARY OF STATE.

7 33-1409. General definitions

8 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT ARTICLES
9 OF THIS CHAPTER WHICH APPLY TO SPECIFIC ARTICLES THEREOF, AND UNLESS
10 THE CONTEXT OTHERWISE REQUIRES, IN THIS CHAPTER:

11 1. "ACTION" INCLUDES RECOUPMENT, COUNTERCLAIM, SETOFF, SUIT IN
12 EQUITY AND ANY OTHER PROCEEDING IN WHICH RIGHTS ARE DETERMINED, INCLUDING
13 AN ACTION FOR POSSESSION.

14 2. "BUILDING AND HOUSING CODES" INCLUDE ANY LAW, ORDINANCE OR
15 GOVERNMENTAL REGULATION CONCERNING FITNESS FOR HABITATION, OR THE CON-
16 STRUCTION, MAINTENANCE, OPERATION, OCCUPANCY, USE OR APPEARANCE OF ANY
17 PREMISES, DWELLING UNIT OR MOBILE HOME SPACE.

18 3. "DWELLING UNIT" EXCLUDES REAL PROPERTY USED TO ACCOMMODATE A
19 MOBILE HOME.

20 4. "GOOD FAITH" MEANS HONESTY IN FACT IN THE CONDUCT OR TRANS-
21 ACTION CONCERNED.

22 5. "LANDLORD" MEANS THE OWNER, LESSOR, SUBLESSOR OR OPERATOR, OR
23 ANY COMBINATION THEREOF, OF A MOBILE HOME PARK AND IT ALSO MEANS A MANAGER
24 OF THE PREMISES WHO FAILS TO DISCLOSE AS REQUIRED BY SECTION 33-1432.

25 6. "MOBILE HOME" MEANS A DWELLING UNIT BUILT ON A CHASSIS AND
26 CONTAINING COMPLETE ELECTRICAL, PLUMBING AND SANITARY FACILITIES, AND
27 DESIGNED TO BE INSTALLED ON A TEMPORARY OR A PERMANENT FOUNDATION FOR
28 PERMANENT LIVING QUARTERS.

29 7. "MOBILE HOME SPACE" MEANS A PARCEL OF LAND FOR RENT WHICH HAS
30 BEEN DESIGNED TO ACCOMMODATE A MOBILE HOME AND PROVIDE THE REQUIRED
31 SEWER AND UTILITY CONNECTIONS.

32 8. "ORGANIZATION" INCLUDES A CORPORATION, GOVERNMENT, GOVERNMENTAL
33 SUBDIVISION OR AGENCY, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP OR
34 ASSOCIATION, TWO OR MORE PERSONS HAVING A JOINT OR COMMON INTEREST AND
35 ANY OTHER LEGAL OR COMMERCIAL ENTITY WHICH IS A LANDLORD, OWNER, MANAGER
36 OR CONSTRUCTIVE AGENT PURSUANT TO SECTION 33-1432.

37 9. "OWNER" MEANS ONE OR MORE PERSONS, JOINTLY OR SEVERALLY, IN
38 WHOM IS VESTED ALL OR PART OF THE LEGAL TITLE TO PROPERTY OR ALL OR PART
39 OF THE BENEFICIAL OWNERSHIP AND A RIGHT TO PRESENT USE AND ENJOYMENT OF
40 THE PREMISES. THE TERM INCLUDES A MORTGAGEE IN POSSESSION.

41 10. "PERSON" MEANS AN INDIVIDUAL OR ORGANIZATION.

42 11. "PREMISES" MEANS MOBILE HOME PARK AND EXISTING FACILITIES AND
43 APPURTENANCES THEREIN, INCLUDING FURNITURE AND UTILITIES WHERE APPLI-
44 CABLE, AND GROUNDS, AREAS AND EXISTING FACILITIES HELD OUT FOR THE USE
45 OF TENANTS GENERALLY OR WHOSE USE IS PROMISED TO THE TENANT.

46 12. "RENT" MEANS PAYMENTS TO BE MADE TO THE LANDLORD IN FULL CON-
47 sideration FOR THE RENTED PREMISES.

48 13. "RENTAL AGREEMENT" MEANS AGREEMENTS, WRITTEN OR THOSE
49 IMPLIED BY LAW, AND VALID RULES AND REGULATIONS ADOPTED UNDER SECTION
50 33-1452 EMBODYING THE TERMS AND CONDITIONS CONCERNING THE USE AND OCCU-
51 PANCY OF A MOBILE HOME SPACE OR A MOBILE HOME AND A MOBILE HOME SPACE.

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1 14. "SECURITY" MEANS MONEY OR PROPERTY GIVEN TO ASSURE PAYMENT
2 OR PERFORMANCE UNDER A RENTAL AGREEMENT.

3 15. "TENANT" MEANS A PERSON ENTITLED UNDER A RENTAL AGREEMENT TO
4 OCCUPY A MOBILE HOME SPACE TO THE EXCLUSION OF OTHERS.

5 33-1410. Obligation of good faith
6 EVERY DUTY UNDER THIS CHAPTER AND EVERY ACT WHICH MUST BE PER-
7 FORMED AS A CONDITION PRECEDENT TO THE EXERCISE OF A RIGHT OR REMEDY
8 UNDER THIS CHAPTER IMPOSES AN OBLIGATION OF GOOD FAITH IN ITS PER-
9 FORMANCE OR ENFORCEMENT.

10 33-1411. Unconscionability
11 A. IF THE COURT, AS A MATTER OF LAW, FINDS EITHER OF THE
12 FOLLOWING:

13 1. THAT A RENTAL AGREEMENT OR ANY PROVISION THEREOF WAS UNCON-
14 SCIONABLE WHEN MADE, THE COURT MAY REFUSE TO ENFORCE THE AGREEMENT,
15 ENFORCE THE REMAINDER OF THE AGREEMENT WITHOUT THE UNCONSCIONABLE PRO-
16 VISION, OR LIMIT THE APPLICATION OF ANY UNCONSCIONABLE PROVISION TO
17 AVOID AN UNCONSCIONABLE RESULT.

18 2. THAT A SETTLEMENT IN WHICH A PARTY WAIVES OR AGREES TO FOREGO
19 A CLAIM OR RIGHT UNDER THIS CHAPTER OR UNDER A RENTAL AGREEMENT WAS
20 UNCONSCIONABLE AT THE TIME IT WAS MADE, THE COURT MAY REFUSE TO ENFORCE
21 THE SETTLEMENT, ENFORCE THE REMAINDER OF THE SETTLEMENT WITHOUT THE
22 UNCONSCIONABLE PROVISION, OR LIMIT THE APPLICATION OF ANY UNCONSCIONABLE
23 PROVISION TO AVOID ANY UNCONSCIONABLE RESULT.

24 B. IF UNCONSCIONABILITY IS PUT INTO ISSUE BY A PARTY OR BY THE
25 COURT UPON ITS OWN MOTION THE PARTIES SHALL BE AFFORDED A REASONABLE
26 OPPORTUNITY TO PRESENT EVIDENCE AS TO THE SETTING, PURPOSE AND EFFECT
27 OF THE RENTAL AGREEMENT OR SETTLEMENT TO AID THE COURT IN MAKING THE
28 DETERMINATION.

29 33-1412. Notice
30 A. A PERSON HAS NOTICE OF A FACT IF HE HAS ACTUAL KNOWLEDGE OF IT,
31 HAS RECEIVED A NOTICE OR NOTIFICATION OF IT OR FROM ALL THE FACTS AND
32 CIRCUMSTANCES KNOWN TO HIM AT THE TIME IN QUESTION HE HAS REASON TO KNOW
33 THAT IT EXISTS. A PERSON "KNOWS" OR "HAS KNOWLEDGE" OF A FACT IF HE HAS
34 ACTUAL KNOWLEDGE OF IT.

35 B. A PERSON "NOTIFIES" OR "GIVES" A NOTICE OR NOTIFICATION TO
36 ANOTHER BY TAKING STEPS REASONABLY CALCULATED TO INFORM THE OTHER IN
37 ORDINARY COURSE WHETHER OR NOT THE OTHER ACTUALLY COMES TO KNOW OF IT.
38 A PERSON "RECEIVES" A NOTICE OR NOTIFICATION WHEN IT COMES TO HIS
39 ATTENTION, OR IN THE CASE OF THE LANDLORD, IT IS DELIVERED IN HAND OR
40 MAILED BY REGISTERED OR CERTIFIED MAIL TO THE PLACE OF BUSINESS OF THE
41 LANDLORD THROUGH WHICH THE RENTAL AGREEMENT WAS MADE OR AT ANY PLACE
42 HELD OUT BY HIM AS THE PLACE FOR RECEIPT OF THE COMMUNICATION OR
43 DELIVERED TO ANY INDIVIDUAL WHO IS DESIGNATED AS AN AGENT BY SECTION
44 33-1432 OR, IN THE CASE OF THE TENANT, IT IS DELIVERED IN HAND TO THE
45 TENANT OR MAILED BY REGISTERED OR CERTIFIED MAIL TO HIM AT THE PLACE
46 HELD OUT BY HIM AS THE PLACE FOR RECEIPT OF THE COMMUNICATION OR, IN
47 THE ABSENCE OF SUCH DESIGNATION, TO HIS LAST KNOWN PLACE OF RESIDENCE
48 OTHER THAN THE LANDLORD'S MOBILE HOME OR SPACE, IF KNOWN.

49 C. "NOTICE" KNOWLEDGE OR A NOTICE OR NOTIFICATION RECEIVED BY AN
50 ORGANIZATION IS EFFECTIVE FOR A PARTICULAR TRANSACTION FROM THE TIME IT

1 IS BROUGHT TO THE ATTENTION OF THE INDIVIDUAL CONDUCTING THE TRANSACTION
2 AND IN ANY EVENT FROM THE TIME IT WOULD HAVE BEEN BROUGHT TO HIS ATTEN-
3 TION IF THE ORGANIZATION HAD EXERCISED REASONABLE DILIGENCE, BUT SUCH
4 KNOWLEDGE SHALL BE SUBJECT TO PROOF.

5 33-1413. Terms and conditions of rental agreement

6 A. THE LANDLORD AND TENANT MAY INCLUDE IN A RENTAL AGREEMENT TERMS
7 AND CONDITIONS NOT PROHIBITED BY THIS CHAPTER OR OTHER RULE OF LAW INCLUD-
8 ING RENT, TERM OF THE AGREEMENT AND OTHER PROVISIONS GOVERNING THE RIGHTS
9 AND OBLIGATIONS OF THE PARTIES.

10 B. THE TENANT SHALL PAY AS RENT THE AMOUNT STATED IN THE RENTAL
11 AGREEMENT. IN THE ABSENCE OF A RENTAL AGREEMENT, THE TENANT SHALL PAY
12 AS RENT THE FAIR RENTAL VALUE FOR THE USE AND OCCUPANCY OF THE MOBILE
13 HOME SPACE.

14 C. RENT SHALL BE PAYABLE WITHOUT DEMAND OR NOTICE AT THE TIME AND
15 PLACE AGREED UPON BY THE PARTIES. PERIODIC RENT IS PAYABLE AT THE
16 BEGINNING OF ANY TERM OF ONE MONTH OR LESS, AND THEREAFTER, UNLESS OTHER-
17 WISE AGREED, IN EQUAL MONTHLY INSTALLMENTS AT THE BEGINNING OF EACH MONTH.
18 UNLESS OTHERWISE AGREED, RENT SHALL BE UNIFORMLY APPORTIONABLE FROM DAY
19 TO DAY.

20 33-1414. Prohibited provisions in rental agreements

21 A. A RENTAL AGREEMENT SHALL NOT PROVIDE THAT THE TENANT DOES ANY
22 OF THE FOLLOWING:

23 1. AGREES TO WAIVE OR TO FOREGO RIGHTS OR REMEDIES UNDER THIS
24 CHAPTER.

25 2. AGREES TO PAY THE LANDLORD'S ATTORNEY'S FEES, EXCEPT AN AGREE-
26 MENT IN WRITING MAY PROVIDE THAT ATTORNEY'S FEES MAY BE AWARDED TO THE
27 PREVAILING PARTY IN THE EVENT OF COURT ACTION.

28 3. AGREES TO THE EXCULPATION OR LIMITATION OF ANY LIABILITY OF
29 THE LANDLORD ARISING UNDER LAW OR TO INDEMNIFY THE LANDLORD FOR THAT
30 LIABILITY OR THE COSTS CONNECTED THEREWITH.

31 B. A PROVISION PROHIBITED BY SUBSECTION A INCLUDED IN A RENTAL
32 AGREEMENT IS UNENFORCEABLE. IF A LANDLORD DELIBERATELY USES A RENTAL
33 AGREEMENT CONTAINING PROVISIONS KNOWN TO BE PROHIBITED, THE TENANT
34 MAY RECOVER ACTUAL DAMAGES SUSTAINED.

35 33-1415. Separation of rents and obligations to maintain
36 property forbidden

37 A RENTAL AGREEMENT, ASSIGNMENT, CONVEYANCE, TRUST DEED OR SECURITY
38 INSTRUMENT MAY NOT PERMIT THE RECEIPT OF RENT, UNLESS THE LANDLORD HAS
39 AGREED TO COMPLY WITH SECTION 33-1434, SUBSECTION A.

40 ARTICLE 2. LANDLORD OBLIGATIONS

41 33-1431. Security deposits

42 A. A LANDLORD SHALL NOT DEMAND OR RECEIVE AS SECURITY, HOWEVER
43 DENOMINATED, INCLUDING, BUT NOT LIMITED TO, PREPAID RENT IN AN AMOUNT
44 OR VALUE IN EXCESS OF ONE AND ONE-HALF MONTH'S RENT.

45 B. CLEANING AND LANDSCAPING DEPOSITS SHALL BE REFUNDABLE UNLESS
46 OTHERWISE STATED IN THE RENTAL AGREEMENT.

47 C. UPON TERMINATION OF THE TENANCY, PROPERTY OR MONEY HELD BY THE
48 LANDLORD AS PREPAID RENT, SECURITY OR CLEANING AND LANDSCAPING DEPOSITS
49 MAY BE APPLIED TO THE PAYMENT OF ACCRUED RENT AND THE AMOUNT OF DAMAGES
50 WHICH THE LANDLORD HAS SUFFERED BY REASON OF THE TENANT'S NONCOMPLIANCE

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1 WITH SECTION 33-1451 IF IT IS ITEMIZED BY THE LANDLORD IN A WRITTEN
2 NOTICE DELIVERED TO THE TENANT TOGETHER WITH THE AMOUNT DUE WITHIN
3 FOURTEEN DAYS OF TERMINATION OF THE TENANCY AND DELIVERY OF POSSESSION
4 BY THE TENANT.

5 D. IF THE LANDLORD FAILS TO COMPLY WITH SUBSECTIONS B AND C OF
6 THIS SECTION THE TENANT MAY RECOVER THE PROPERTY AND MONEY DUE HIM
7 TOGETHER WITH DAMAGES IN AN AMOUNT EQUAL TO TWICE THE AMOUNT WRONGFULLY
8 WITHHELD.

9 E. THIS SECTION DOES NOT PRECLUDE THE LANDLORD OR TENANT FROM
10 RECOVERING OTHER DAMAGES TO WHICH HE MAY BE ENTITLED UNDER THIS CHAPTER.

11 F. THE HOLDER OF THE LANDLORD'S INTEREST IN THE PREMISES AT THE
12 TIME OF THE TERMINATION OF THE TENANCY IS BOUND BY THIS SECTION.

13 33-1432. Disclosure and tender of written rental agreement

14 A. THE LANDLORD OR ANY PERSON AUTHORIZED TO ENTER INTO A RENTAL
15 AGREEMENT ON HIS BEHALF SHALL DISCLOSE TO THE TENANT IN WRITING BEFORE
16 ENTERING INTO THE RENTAL AGREEMENT THE NAME AND ADDRESS OF EACH OF THE
17 FOLLOWING:

18 1. THE PERSON AUTHORIZED TO MANAGE THE PREMISES.

19 2. THE OWNER OF THE PREMISES OR A PERSON AUTHORIZED TO ACT FOR
20 AND ON BEHALF OF THE OWNER FOR THE PURPOSE OF SERVICE OF PROCESS AND FOR
21 THE PURPOSE OF RECEIVING AND RECEIPTING FOR NOTICES AND DEMANDS.

22 B. THE INFORMATION REQUIRED TO BE FURNISHED BY THIS SECTION SHALL
23 BE KEPT CURRENT AND REFURNISHED TO TENANT UPON TENANT'S REQUEST. WHEN
24 THERE IS A NEW OWNER OR OPERATOR THIS SECTION EXTENDS TO AND IS ENFORCE-
25 ABLE AGAINST ANY SUCCESSOR LANDLORD, OWNER OR MANAGER.

26 C. A PERSON WHO FAILS TO COMPLY WITH SUBSECTIONS A AND B BECOMES
27 AN AGENT OF EACH PERSON WHO IS A LANDLORD FOR THE FOLLOWING PURPOSES:

28 1. SERVICE OF PROCESS AND RECEIVING AND RECEIPTING FOR NOTICES
29 AND DEMANDS.

30 2. PERFORMING THE OBLIGATIONS OF THE LANDLORD UNDER THIS CHAPTER
31 AND UNDER THE RENTAL AGREEMENT AND EXPENDING OR MAKING AVAILABLE FOR THE
32 PURPOSE ALL RENT COLLECTED FROM THE PREMISES.

33 D. IF THERE IS A WRITTEN RENTAL AGREEMENT, THE LANDLORD MUST
34 TENDER AND DELIVER A SIGNED COPY OF THE RENTAL AGREEMENT TO THE TENANT
35 AND THE TENANT MUST SIGN AND DELIVER TO THE LANDLORD ONE FULLY EXECUTED
36 COPY OF SUCH RENTAL AGREEMENT WITHIN TEN DAYS AFTER THE AGREEMENT IS
37 EXECUTED. SUCH RENTAL AGREEMENT SHALL HAVE ALL BLANK SPACES COMPLETED.
38 NONCOMPLIANCE WITH THIS SUBSECTION SHALL BE DEEMED A MATERIAL NONCOM-
39 PLIANCE BY THE LANDLORD OR THE TENANT, AS THE CASE MAY BE, OF THE RENTAL
40 AGREEMENT.

41 E. THE LANDLORD OR ANY PERSON AUTHORIZED TO ENTER INTO A RENTAL
42 AGREEMENT ON HIS BEHALF SHALL FULLY EXPLAIN UTILITY RATES TO THE PROS-
43 PECTIVE TENANT BEFORE THE RENTAL AGREEMENT IS SIGNED UNLESS PAID BY
44 TENANT DIRECTLY TO THE UTILITY COMPANY.

45 F. EACH TENANT SHALL BE NOTIFIED, IN WRITING, OF ANY RENT
46 INCREASE AT LEAST SIXTY DAYS BEFORE THE EFFECTIVE DATE. SUCH EFFECTIVE
47 DATE SHALL NOT BE SOONER THAN THE EXPIRATION DATE OF THE ORIGINAL RENTAL
48 AGREEMENT OR ANY RENEWAL OR EXTENSION THEREOF.

49 33-1433. Landlord to supply possession of mobile home space
50 AT THE COMMENCEMENT OF THE TERM THE LANDLORD SHALL DELIVER

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1 POSSESSION OF THE PREMISES TO THE TENANT IN COMPLIANCE WITH THE RENTAL
2 AGREEMENT AND SECTION 33-1434. THE LANDLORD MAY BRING AN ACTION FOR
3 POSSESSION AGAINST ANY PERSON WRONGFULLY IN POSSESSION AND MAY RECOVER
4 THE DAMAGES PROVIDED IN SECTION 33-1483.

5 33-1434. Landlord to maintain fit premises

6 A. THE LANDLORD SHALL:

7 1. COMPLY WITH THE REQUIREMENTS OF ALL APPLICABLE CITY, COUNTY
8 AND STATE CODES MATERIALLY AFFECTING HEALTH AND SAFETY.
9 2. MAKE ALL REPAIRS AND DO WHATEVER IS NECESSARY TO PUT AND KEEP
10 THE PREMISES IN A FIT AND HABITABLE CONDITION.
11 3. KEEP ALL COMMON AREAS OF THE PREMISES IN A CLEAN AND SAFE
12 CONDITION.

13 4. MAINTAIN IN GOOD AND SAFE WORKING ORDER AND CONDITION ALL
14 SWIMMING POOL, SHOWER, BATHHOUSE, ELECTRICAL, PLUMBING AND SANITARY
15 FACILITIES, INCLUDING RECREATIONAL HALL OR MEETING FACILITIES SUPPLIED
16 OR REQUIRED TO BE SUPPLIED BY HIM.

17 5. PROVIDE AND MAINTAIN APPROPRIATE RECEPTACLES AND CONVENIENCES
18 FOR REMOVAL OF GARBAGE, RUBBISH, AND OTHER WASTE INCIDENTAL TO THE
19 OCCUPANCY OF THE MOBILE HOME SPACE AND ARRANGE FOR THEIR REMOVAL.

20 6. FURNISH OUTLETS FOR ELECTRIC, WATER AND SEWER SERVICES.

21 B. A MOBILE HOME PARK LANDLORD SHALL NOT IMPOSE ANY CONDITIONS OF
22 RENTAL OR OCCUPANCY WHICH RESTRICT THE MOBILE HOME OWNER IN HIS CHOICE
23 OF A SELLER OF FUEL, FURNISHINGS, GOODS, SERVICES OR MOBILE HOMES CON-
24 NECTED WITH THE RENTAL OR OCCUPANCY OF A MOBILE HOME SPACE UNLESS SUCH
25 CONDITION IS NECESSARY TO PROTECT THE HEALTH, SAFETY, AESTHETIC VALUE OR
26 WELFARE OF MOBILE HOME RESIDENTS IN THE PARK. HOWEVER, THE LANDLORD MAY
27 IMPOSE REASONABLE CONDITIONS RELATING TO CENTRAL FUEL AND GAS METER
28 SYSTEMS IN THE PARK. IF ANY SUCH CONDITIONS ARE IMPOSED WHICH RESULT
29 IN CHARGES FOR SUCH GOODS OR SERVICES, THE CHARGES SHALL NOT EXCEED THE
30 ACTUAL COST INCURRED IN PROVIDING THE TENANT WITH SUCH GOODS OR SERVICES.

31 33-1435. Limitation of liability

32 A. UNLESS OTHERWISE AGREED, A LANDLORD WHO CONVEYS PREMISES THAT
33 INCLUDE A MOBILE HOME SPACE SUBJECT TO A RENTAL AGREEMENT IN A GOOD
34 FAITH SALE TO A BONA FIDE PURCHASER IS RELIEVED OF LIABILITY UNDER THE
35 RENTAL AGREEMENT AND THIS CHAPTER AS TO EVENTS OCCURRING SUBSEQUENT TO
36 WRITTEN NOTICE TO THE TENANT OF THE CONVEYANCE. HE REMAINS LIABLE TO
37 THE TENANT FOR ANY RIGHT OF POSSESSION, PROPERTY AND MONEY TO WHICH THE
38 TENANT IS ENTITLED UNDER SECTION 33-1431.

39 B. UNLESS OTHERWISE AGREED, A MANAGER OF PREMISES THAT INCLUDE A
40 MOBILE HOME SPACE IS RELIEVED OF LIABILITY UNDER THE RENTAL AGREEMENT
41 AND THIS CHAPTER AS TO EVENTS OCCURRING AFTER WRITTEN NOTICE TO THE
42 TENANT OF THE TERMINATION OF HIS MANAGEMENT, EXCEPT SUCH NOTICE SHALL NOT
43 TERMINATE ANY AGREEMENT OR LEGAL LIABILITY.

44 ARTICLE 3. TENANT OBLIGATIONS

45 33-1451. Tenant to maintain mobile home space

46 A TENANT OF A MOBILE HOME SPACE SHALL EXERCISE DILIGENCE TO MAIN-
47 TAIN THAT PART OF THE PREMISES WHICH HE HAS LEASED IN AS GOOD CONDITION
48 AS WHEN HE TOOK POSSESSION AND SHALL:

49 1. COMPLY WITH ALL OBLIGATIONS PRIMARILY IMPOSED UPON TENANTS BY
50 APPLICABLE PROVISIONS OF CITY, COUNTY AND STATE CODES MATERIALLY AFFECT-
51 ING HEALTH AND SAFETY.

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1 2. KEEP THAT PART OF THE PREMISES THAT HE OCCUPIES AND USES AS
2 CLEAN AND SAFE AS THE CONDITION OF THE PREMISES PERMIT.

3 3. DISPOSE FROM HIS MOBILE HOME SPACE ALL RUBBISH, GARBAGE AND
4 OTHER WASTE IN A CLEAN AND SAFE MANNER AS PRESCRIBED BY PARK RULES.

5 4. NOT DELIBERATELY OR NEGLIGENTLY DESTROY, DEFACE, DAMAGE, IMPAIR
6 OR REMOVE ANY PART OF THE PREMISES OR KNOWINGLY PERMIT ANY PERSON TO DO
7 SO.

8 5. CONDUCT HIMSELF AND REQUIRE OTHER PERSONS ON THE PREMISES WITH
9 HIS CONSENT TO CONDUCT THEMSELVES IN A MANNER THAT WILL NOT DISTURB HIS
10 NEIGHBORS' PEACEFUL ENJOYMENT OF THE PREMISES.

11 6. BE OBLIGATED TO INFORM THE LANDLORD OR MANAGER OF MOBILE HOME
12 PARK WITHIN TEN DAYS PRIOR TO VACATING PREMISES. IF NOTICE IS NOT GIVEN
13 TEN DAYS PRIOR TO MOVING FROM THE MOBILE HOME SPACE, THE TENANT THEN IS
14 RESPONSIBLE FOR THE FOLLOWING MONTH'S RENT.

15 33-1452. Rules and regulations

16 A. A LANDLORD SHALL ADOPT WRITTEN RULES OR REGULATIONS, HOWEVER
17 DESCRIBED, CONCERNING THE TENANT'S USE AND OCCUPANCY OF THE PREMISES.
18 SUCH RULES OR REGULATIONS ARE ENFORCEABLE AGAINST THE TENANT ONLY IF:

19 1. THEIR PURPOSE IS TO PROMOTE THE CONVENIENCE, SAFETY OR WELFARE
20 OF THE TENANTS IN THE PREMISES, PRESERVE THE LANDLORD'S PROPERTY FROM
21 ABUSIVE USE OR MAKE A FAIR DISTRIBUTION OF SERVICES AND FACILITIES HELD
22 OUT FOR THE TENANTS GENERALLY.

23 2. THEY ARE REASONABLY RELATED TO THE PURPOSE FOR WHICH ADOPTED.

24 3. THEY APPLY TO ALL TENANTS IN THE PREMISES IN A FAIR MANNER.

25 4. THEY ARE SUFFICIENTLY EXPLICIT IN PROHIBITION, DIRECTION OR
26 LIMITATION OF THE TENANT'S CONDUCT TO FAIRLY INFORM HIM OF WHAT HE MUST
27 OR MUST NOT DO TO COMPLY.

28 5. THEY ARE NOT FOR THE PURPOSE OF EVADING THE OBLIGATIONS OF THE
29 LANDLORD.

30 6. THE PROSPECTIVE TENANT HAS A COPY OF THEM BEFORE HE ENTERS
31 INTO THE RENTAL AGREEMENT, AND THE PROSPECTIVE TENANT IS PROVIDED A COPY
32 OF THE CURRENT RULES AND REGULATIONS AT THE TIME THE RENTAL AGREEMENT
33 IS COMPLETED.

34 B. IF ANY MOBILE HOME PARK OWNER ADDS, CHANGES, DELETES, OR
35 AMENDS ANY RULE, A COPY OF ALL SUCH ADDITIONS, CHANGES, DELETIONS OR
36 AMENDMENTS SHALL BE FURNISHED TO ALL MOBILE HOME TENANTS THIRTY DAYS
37 BEFORE THEY BECOME EFFECTIVE. ANY RULE OR CONDITION OF OCCUPANCY WHICH
38 IS UNFAIR AND DECEPTIVE OR WHICH DOES NOT CONFORM TO THE REQUIREMENTS OF
39 THIS CHAPTER SHALL BE UNENFORCEABLE. A RULE OR REGULATION ADOPTED AFTER
40 THE TENANT ENTERS INTO THE RENTAL AGREEMENT IS ENFORCEABLE AGAINST THE
41 TENANT ONLY IF IT DOES NOT WORK A SUBSTANTIAL MODIFICATION OF HIS RENTAL
42 AGREEMENT.

43 C. NO PERSON WHO OWNS OR OPERATES A MOBILE HOME PARK SHALL:

44 1. DENY RENTAL UNLESS THE PARK RESIDENT OR PROSPECTIVE RESIDENT
45 CANNOT CONFORM TO PARK RULES AND REGULATIONS.

46 2. REQUIRE ANY PERSON AS A PRECONDITION TO RENTING, LEASING OR
47 OTHERWISE OCCUPYING A SPACE FOR A MOBILE HOME IN A MOBILE HOME PARK TO
48 PAY AN ENTRANCE OR EXIT FEE OF ANY KIND UNLESS FOR SERVICES ACTUALLY
49 RENDERED OR PURSUANT TO A WRITTEN AGREEMENT.

1 3. DENY ANY RESIDENT OF A MOBILE HOME PARK THE RIGHT TO SELL HIS
2 MOBILE HOME AT A PRICE OF HIS OWN CHOOSING, BUT MAY RESERVE THE RIGHT TO
3 APPROVE THE PURCHASER OF SUCH MOBILE HOME AS A TENANT BUT SUCH PERMISSION
4 MAY NOT BE UNREASONABLY WITHHELD, PROVIDED HOWEVER, THAT THE LANDLORD MAY,
5 IN THE EVENT OF A SALE TO A THIRD PARTY, IN ORDER TO UPGRADE THE QUALITY
6 OF HIS MOBILE HOME PARK, REQUIRE THAT ANY MOBILE HOME TEN FEET OR LESS
7 WIDE AND MORE THAN TEN YEARS OLD, OR ANY MOBILE HOME IN A RUNDOWN CON-
8 DITION OR IN DISREPAIR BE REMOVED FROM THE PARK WITHIN SIXTY DAYS.

9 4. EXACT A COMMISSION OR FEE WITH RESPECT TO THE PRICE REALIZED
10 BY THE TENANT SELLING HIS MOBILE HOME, UNLESS THE PARK OWNER OR OPERATOR
11 HAS ACTED AS AGENT FOR THE MOBILE HOME OWNER PURSUANT TO A WRITTEN
12 AGREEMENT.

13 5. REQUIRE TENANT TO FURNISH PERMANENT IMPROVEMENTS WHICH CANNOT
14 BE REMOVED WITHOUT DAMAGE THERETO OR TO THE MOBILE HOME SPACE BY TENANT
15 AT EXPIRATION OF THE RENTAL AGREEMENT.

16 33-1453. Access

17 A. THE LANDLORD HAS NO RIGHT OF ACCESS TO A MOBILE HOME OWNED BY
18 A TENANT.

19 B. THE LANDLORD AND TENANT MAY MUTUALLY AGREE, IN WRITING, TO GIVE
20 THE LANDLORD ACCESS.

21 33-1454. Tenant to use and occupy as a dwelling unit

22 UNLESS OTHERWISE AGREED, THE TENANT SHALL OCCUPY HIS MOBILE HOME
23 ONLY AS A DWELLING UNIT AND MAY SUBLET, UPON WRITTEN AGREEMENT WITH THE
24 PARK MANAGEMENT.

25 ARTICLE 4. REMEDIES

26 33-1471. Noncompliance by the landlord

27 A. EXCEPT AS PROVIDED IN THIS CHAPTER, IF THERE IS A MATERIAL
28 NONCOMPLIANCE BY THE LANDLORD WITH THE RENTAL AGREEMENT, THE TENANT MAY
29 DELIVER A WRITTEN NOTICE TO THE LANDLORD SPECIFYING THE ACTS AND OMIS-
30 SIONS CONSTITUTING THE BREACH AND THAT THE RENTAL AGREEMENT WILL TERMI-
31 NATE UPON A DATE NOT LESS THAN THIRTY DAYS AFTER RECEIPT OF THE NOTICE
32 IF THE BREACH IS NOT REMEDIED IN FOURTEEN DAYS. IF THERE IS A NONCOM-
33 PLIANCE BY THE LANDLORD WITH SECTION 33-1434 MATERIALLY AFFECTING HEALTH
34 AND SAFETY, THE TENANT MAY DELIVER A WRITTEN NOTICE TO THE LANDLORD
35 SPECIFYING THE ACTS AND OMISSIONS CONSTITUTING THE BREACH AND THAT THE
36 RENTAL AGREEMENT WILL TERMINATE UPON A DATE NOT LESS THAN TWENTY DAYS
37 AFTER RECEIPT OF THE NOTICE IF THE BREACH IS NOT REMEDIED IN TEN DAYS.
38 THE RENTAL AGREEMENT SHALL TERMINATE AND THE MOBILE HOME SPACE SHALL BE
39 VACATED AS PROVIDED IN THE NOTICE SUBJECT TO THE FOLLOWING:

40 1. IF THE BREACH IS REMEDIABLE BY REPAIRS OR THE PAYMENT OF
41 DAMAGES OR OTHERWISE AND THE LANDLORD ADEQUATELY REMEDIES THE BREACH
42 PRIOR TO THE DATE SPECIFIED IN THE NOTICE, THE RENTAL AGREEMENT WILL NOT
43 TERMINATE.

44 2. THE TENANT MAY NOT TERMINATE FOR A CONDITION CAUSED BY THE
45 DELIBERATE OR NEGLIGENT ACT OR OMISSION OF THE TENANT, A MEMBER OF HIS
46 FAMILY OR OTHER PERSON ON THE PREMISES WITH HIS CONSENT.

47 B. EXCEPT AS PROVIDED IN THIS CHAPTER, THE TENANT MAY RECOVER
48 DAMAGES, AND OBTAIN INJUNCTIVE RELIEF FOR ANY NONCOMPLIANCE BY THE LAND-
49 LORD WITH THE RENTAL AGREEMENT OR SECTION 33-1434.

50 C. THE REMEDY PROVIDED IN SUBSECTION B OF THIS SECTION IS IN
51 ADDITION TO ANY RIGHT OF THE TENANT ARISING UNDER SUBSECTION A OF THIS
52 SECTION.

1 D. IF THE RENTAL AGREEMENT IS TERMINATED, THE LANDLORD SHALL
2 RETURN ALL DEPOSITS.

3 33-1472. Failure to deliver possession

4 A. IF THE LANDLORD FAILS TO DELIVER PHYSICAL POSSESSION OF THE
5 MOBILE HOME SPACE TO THE TENANT AS PROVIDED IN SECTION 33-1433, RENT
6 ABATES UNTIL POSSESSION IS DELIVERED AND THE TENANT MAY DO EITHER OF THE
7 FOLLOWING:

8 1. UPON AT LEAST FIVE DAYS' WRITTEN NOTICE TO THE LANDLORD TERMI-
9 NATE THE RENTAL AGREEMENT AND UPON TERMINATION THE LANDLORD SHALL RETURN
10 ALL DEPOSITS.

11 2. DEMAND PERFORMANCE OF THE RENTAL AGREEMENT BY THE LANDLORD AND,
12 IF THE TENANT ELECTS, MAINTAIN AN ACTION FOR POSSESSION OF THE MOBILE
13 HOME SPACE AGAINST THE LANDLORD OR ANY PERSON WRONGFULLY IN POSSESSION
14 AND RECOVER THE DAMAGES SUSTAINED BY HIM.

15 B. IF THE LANDLORD FAILS TO DELIVER CONSTRUCTIVE POSSESSION TO
16 THE TENANT BECAUSE OF NONCOMPLIANCE WITH SECTION 33-1434, RENT SHALL NOT
17 ABATE. THE TENANT MAY PROCEED WITH THE REMEDIES PROVIDED FOR IN SECTION
18 33-1471.

19 C. IF A PERSON'S FAILURE TO DELIVER POSSESSION IS WILFUL AND NOT
20 IN GOOD FAITH, AN AGGRIEVED PERSON MAY RECOVER FROM THAT PERSON THE ACTUAL
21 DAMAGES SUSTAINED BY HIM, PLUS ANY ATTORNEY'S FEES AND COURT COSTS.

22 33-1473. Self-help for minor defects

23 A. IF THE LANDLORD FAILS TO COMPLY WITH SECTION 33-1434, THE TENANT
24 MAY RECOVER DAMAGES FOR THE BREACH UNDER SECTION 33-1471, SUBSECTION B,
25 OR MAY NOTIFY THE LANDLORD OF HIS INTENTION TO CORRECT THE CONDITION AT
26 THE LANDLORD'S EXPENSE. AFTER BEING NOTIFIED BY THE TENANT IN WRITING,
27 IF THE LANDLORD FAILS TO COMPLY WITHIN TWENTY DAYS OR AS PROMPTLY THERE-
28 AFTER AS CONDITIONS REQUIRE IN CASE OF EMERGENCY, THE TENANT MAY CAUSE
29 THE WORK TO BE DONE BY A LICENSED CONTRACTOR AND, AFTER SUBMITTING TO
30 THE LANDLORD AN ITEMIZED STATEMENT AND A WAIVER OF LIEN, DEDUCT FROM
31 HIS RENT THE ACTUAL AND REASONABLE COST OF THE WORK.

32 B. A TENANT MAY NOT REPAIR AT THE LANDLORD'S EXPENSE IF THE CON-
33 DITION WAS CAUSED BY THE DELIBERATE OR NEGLIGENT ACT OR OMISSION OF THE
34 TENANT, A MEMBER OF HIS FAMILY OR OTHER PERSON ON THE PREMISES WITH HIS
35 CONSENT.

36 33-1474. Wrongful failure to supply essential services

37 A. IF CONTRARY TO THE RENTAL AGREEMENT OR SECTION 33-1434, THE
38 LANDLORD DELIBERATELY OR NEGLIGENTLY FAILS TO SUPPLY ESSENTIAL SERVICES,
39 THE TENANT MAY GIVE REASONABLE NOTICE TO THE LANDLORD SPECIFYING THE
40 BREACH UNDER TENANT'S REMEDIES.

41 B. THE RIGHTS UNDER THIS SECTION DO NOT ARISE UNTIL THE TENANT
42 HAS GIVEN NOTICE TO THE LANDLORD. SUCH RIGHTS DO NOT ARISE IF THE CON-
43 DITION WAS CAUSED BY THE DELIBERATE OR NEGLIGENT ACT OR OMISSION OF THE
44 TENANT, A MEMBER OF HIS FAMILY OR OTHER PERSON ON THE PREMISES WITH HIS
45 CONSENT.

46 33-1475. Tenant's remedies for landlord's unlawful ouster,
47 exclusion or diminution of services

48 IF THE LANDLORD UNLAWFULLY REMOVES OR EXCLUDES THE TENANT FROM THE
49 PREMISES OR WILFULLY DIMINISHES SERVICES TO THE TENANT BY INTERRUPTING
50 OR CAUSING THE INTERRUPTION OF ELECTRIC, GAS, WATER OR OTHER ESSENTIAL

1 SERVICE TO THE TENANT, THE TENANT MAY RECOVER POSSESSION OR TERMINATE
2 THE RENTAL AGREEMENT AND, IN EITHER CASE, RECOVER AN AMOUNT EQUAL TO TWO
3 MONTHS' PERIODIC RENT AND TWICE THE ACTUAL DAMAGES SUSTAINED BY HIM. IF
4 THE RENTAL AGREEMENT IS TERMINATED, THE LANDLORD SHALL RETURN ALL DEPOSITS.

5 33-1476. Noncompliance with rental agreement by tenant;
6 failure to pay rent

7 A. EXCEPT AS PROVIDED IN THIS CHAPTER, IF THERE IS A MATERIAL
8 NONCOMPLIANCE BY THE TENANT WITH THE RENTAL AGREEMENT, THE LANDLORD MAY
9 DELIVER A WRITTEN NOTICE TO THE TENANT SPECIFYING THE ACTS AND OMISSIONS
10 CONSTITUTING THE BREACH AND THAT THE RENTAL AGREEMENT WILL TERMINATE
11 UPON A DATE NOT LESS THAN THIRTY DAYS AFTER RECEIPT OF THE NOTICE IF THE
12 BREACH IS NOT REMEDIED IN FOURTEEN DAYS. IF THERE IS A NONCOMPLIANCE BY
13 THE TENANT WITH SECTION 33-1434 MATERIALLY AFFECTING HEALTH AND SAFETY,
14 THE LANDLORD MAY DELIVER A WRITTEN NOTICE TO THE TENANT SPECIFYING THE
15 ACTS AND OMISSIONS CONSTITUTING THE BREACH AND THAT THE RENTAL AGREEMENT
16 WILL TERMINATE UPON A DATE NOT LESS THAN TWENTY DAYS AFTER RECEIPT OF
17 THE NOTICE IF THE BREACH IS NOT REMEDIED IN TEN DAYS. HOWEVER, IF THE
18 BREACH IS REMEDIABLE BY REPAIR OR THE PAYMENT OF DAMAGES OR OTHERWISE,
19 AND THE TENANT ADEQUATELY REMEDIES THE BREACH PRIOR TO THE DATE SPECI-
20 FIED IN THE NOTICE, THE RENTAL AGREEMENT WILL NOT TERMINATE.

21 B. IF RENT IS UNPAID WHEN DUE AND THE TENANT FAILS TO PAY RENT
22 WITHIN SEVEN DAYS AFTER WRITTEN NOTICE BY THE LANDLORD OF NONPAYMENT AND
23 HIS INTENTION TO TERMINATE THE RENTAL AGREEMENT IF THE RENT IS NOT PAID
24 WITHIN THAT PERIOD OF TIME, THE LANDLORD MAY TERMINATE THE RENTAL AGREE-
25 MENT. PRIOR TO JUDGMENT IN AN ACTION BROUGHT BY THE LANDLORD UNDER THIS
26 SUBSECTION, THE TENANT MAY HAVE THE RENTAL AGREEMENT REINSTATED BY
27 TENDERING THE PAST DUE BUT UNPAID PERIODIC RENT, REASONABLE ATTORNEY'S
28 FEES INCURRED BY THE LANDLORD AND COURT COSTS, IF ANY.

29 C. EXCEPT AS PROVIDED IN THIS CHAPTER, THE LANDLORD MAY RECOVER
30 DAMAGES, OBTAIN INJUNCTIVE RELIEF OR RECOVER POSSESSION OF THE PREMISES
31 PURSUANT TO AN ACTION IN FORCIBLE DETAINER FOR ANY NONCOMPLIANCE BY THE
32 TENANT WITH THE RENTAL AGREEMENT OR SECTION 33-1451.

33 D. THE REMEDY PROVIDED IN SUBSECTION C IS IN ADDITION TO ANY
34 RIGHT OF THE LANDLORD ARISING UNDER SUBSECTION A.

35 33-1477. Failure to maintain

36 IF THERE IS NONCOMPLIANCE BY THE TENANT WITH SECTION 33-1451
37 MATERIALLY AFFECTING HEALTH AND SAFETY THAT CAN BE REMEDIED BY REPAIR,
38 REPLACEMENT OF A DAMAGED ITEM OR CLEANING AND THE TENANT FAILS TO COMPLY
39 AS PROMPTLY AS CONDITIONS REQUIRE IN CASE OF EMERGENCY OR WITHIN TEN
40 DAYS AFTER WRITTEN NOTICE BY THE LANDLORD SPECIFYING THE BREACH AND
41 REQUESTING THAT THE TENANT REMEDY IT WITHIN THAT PERIOD OF TIME, THE
42 LANDLORD MAY ENTER THE MOBILE HOME SPACE, AND CAUSE THE WORK TO BE DONE
43 IN A WORKMANLIKE MANNER AND SUBMIT AN ITEMIZED BILL FOR THE ACTUAL AND
44 REASONABLE COST OR THE FAIR AND REASONABLE VALUE THEREOF ADDITIONAL AS
45 RENT ON THE NEXT DATE WHEN PERIODIC RENT IS DUE, OR IF THE RENTAL AGREE-
46 MENT WAS TERMINATED, FOR IMMEDIATE PAYMENT.

47 33-1478. Remedies for abandonment

48 A. IF THE TENANT ABANDONS THE MOBILE HOME UNIT ON A MOBILE HOME
49 SPACE, IT IS INCUMBENT UPON THE LANDLORD TO LOCATE THE LEGAL OWNER OR
50 LIENHOLDER OF THE MOBILE HOME UNIT WITHIN TEN DAYS AND COMMUNICATE TO

1 HIM HIS LIABILITY FOR ANY COSTS INCUMBERED FOR THE MOBILE HOME SPACE FOR
 2 SUCH MOBILE HOME UNIT, INCLUDING RENT AND UTILITIES DUE AND OWING. HOW-
 3 EVER, THE LANDLORD SHALL BE ENTITLED TO A MAXIMUM OF SIXTY DAYS' RENT
 4 DUE PRIOR TO NOTICE TO LIENHOLDER. ANY AND ALL COSTS SHALL THEN BECOME
 5 THE RESPONSIBILITY OF THE LEGAL OWNER OR LIENHOLDER OF THE MOBILE HOME.
 6 THE MOBILE HOME UNIT MAY NOT BE REMOVED FROM THE MOBILE HOME SPACE
 7 WITHOUT A SIGNED WRITTEN AGREEMENT FROM THE MOBILE HOME PARK LANDLORD,
 8 OWNER OR MANAGER SHOWING CLEARANCE FOR REMOVAL, SHOWING ALL MONIES DUE
 9 AND OWING PAID IN FULL, OR AN AGREEMENT REACHED WITH THE LEGAL OWNER AND
 10 THE LANDLORD.

11 B. A REQUIRED STANDARDIZED REGISTRATION FORM SHALL BE FILLED OUT
 12 BY EACH MOBILE HOME SPACE RENTER, UPON MOBILE HOME SPACE RENTAL, SHOWING
 13 MOBILE HOME MAKE, YEAR, SERIAL NUMBER AND LICENSE NUMBER IF ANY BE LEGALLY
 14 REQUIRED, AND ALSO SHOWING IF THE MOBILE HOME IS PAID FOR, IF THERE IS A
 15 LIEN ON THE MOBILE HOME, AND IF SO THE LIENHOLDER, AND WHO IS THE LEGAL
 16 OWNER OF THE MOBILE HOME UNIT. THE REGISTRATION CARDS OR FORMS SHALL BE
 17 KEPT ON FILE WITH THE PARK MANAGEMENT AS LONG AS THE MOBILE HOME IS ON
 18 THE MOBILE HOME SPACE WITHIN THE PARK. NOTICE SHALL BE GIVEN TO PARK
 19 MANAGEMENT WITHIN TEN DAYS OF ANY CHANGES IN A NEW LIEN, CHANGES OF
 20 EXISTING LIEN OR SETTLEMENT OF LIEN.

21 33-1479. Waiver of landlord's right to terminate
 22 ACCEPTANCE OF RENT, OR ANY PORTION THEREOF, WITH KNOWLEDGE OF A
 23 DEFAULT BY TENANT OR ACCEPTANCE OF PERFORMANCE BY THE TENANT THAT VARIED
 24 FROM THE TERMS OF THE RENTAL AGREEMENT OR RULES OR REGULATIONS SUBSE-
 25 QUENTLY ADOPTED BY THE LANDLORD CONSTITUTES A WAIVER OF HIS RIGHT TO
 26 TERMINATE THE RENTAL AGREEMENT FOR THAT BREACH, UNLESS OTHERWISE AGREED
 27 AFTER THE BREACH HAS OCCURRED.

28 33-1480. Landlord liens; distraint for rent abolished
 29 A. A LIEN OR SECURITY INTEREST ON BEHALF OF THE LANDLORD IN THE
 30 TENANT'S HOUSEHOLD GOODS IS NOT ENFORCEABLE UNLESS PERFECTED BEFORE THE
 31 EFFECTIVE DATE OF THIS CHAPTER.

32 B. DISTRAINT FOR RENT IS ABOLISHED.

33 33-1481. Remedy after termination
 34 IF THE RENTAL AGREEMENT IS TERMINATED, THE LANDLORD MAY HAVE A
 35 CLAIM FOR POSSESSION AND FOR RENT AND A SEPARATE CLAIM FOR ACTUAL DAMAGES
 36 FOR BREACH OF THE RENTAL AGREEMENT.

37 33-1482. Recovery of possession limited
 38 A LANDLORD MAY NOT RECOVER OR TAKE POSSESSION OF THE MOBILE HOME
 39 SPACE BY ACTION OR OTHERWISE, INCLUDING WILFUL DIMINUTION OF SERVICES TO
 40 THE TENANT BY INTERRUPTING OR CAUSING THE INTERRUPTION OF ELECTRIC, GAS,
 41 WATER OR OTHER ESSENTIAL SERVICE TO THE TENANT, EXCEPT IN CASE OF ABANDON-
 42 MENT, SURRENDER OR AS PERMITTED IN THIS CHAPTER.

43 33-1483. Periodic tenancy; holdover remedies
 44 A. THE LANDLORD MAY TERMINATE A TENANCY ONLY AS PROVIDED IN THIS
 45 CHAPTER.

46 B. IF THE TENANT REMAINS IN POSSESSION WITHOUT THE LANDLORD'S
 47 CONSENT AFTER EXPIRATION OF THE TERM OF THE RENTAL AGREEMENT OR ITS
 48 TERMINATION, THE LANDLORD MAY BRING AN ACTION FOR POSSESSION AND IF THE
 49 TENANT'S HOLDOVER IS WILFUL AND NOT IN GOOD FAITH THE LANDLORD IN
 50 ADDITION MAY RECOVER AN AMOUNT EQUAL TO NOT MORE THAN TWO MONTHS'
 51 PERIODIC RENT AND TWICE THE ACTUAL DAMAGES SUSTAINED BY HIM.

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1 33-1484. Landlord and tenant remedies for abuse of access

2 A. IF THE TENANT REFUSES TO ALLOW LAWFUL ACCESS, THE LANDLORD MAY
3 TERMINATE THE RENTAL AGREEMENT AND MAY RECOVER ACTUAL DAMAGES.

4 B. IF THE LANDLORD MAKES AN UNLAWFUL ENTRY OR A LAWFUL ENTRY IN
5 AN UNREASONABLE MANNER OR MAKES REPEATED DEMANDS FOR ENTRY OTHERWISE
6 LAWFUL BUT WHICH HAVE THE EFFECT OF UNREASONABLY HARASSING THE TENANT,
7 THE TENANT MAY OBTAIN INJUNCTIVE RELIEF TO PREVENT THE RECURRENCE OF THE
8 CONDUCT OR TERMINATE THE RENTAL AGREEMENT. IN EITHER CASE, THE TENANT
9 MAY RECOVER ACTUAL DAMAGES NOT LESS THAN AN AMOUNT EQUAL TO ONE MONTH'S
10 RENT PLUS ATTORNEY'S FEES, PLUS ANY UNUSED PREPAID RENT.

11 ARTICLE 5. RETALIATORY ACTION

12 33-1491. Retaliatory conduct prohibited

13 A. EXCEPT AS PROVIDED IN THIS SECTION, A LANDLORD MAY NOT RETALIATE
14 BY INCREASING RENT OR DECREASING SERVICES OR BY BRINGING OR THREATENING TO
15 BRING AN ACTION FOR POSSESSION AFTER ANY OF THE FOLLOWING:

16 1. THE TENANT HAS COMPLAINED TO A GOVERNMENTAL AGENCY CHARGED
17 WITH RESPONSIBILITY FOR ENFORCEMENT OF A BUILDING OR HOUSING CODE OF A
18 VIOLATION APPLICABLE TO THE PREMISES MATERIALLY AFFECTING HEALTH AND
19 SAFETY.

20 2. THE TENANT HAS COMPLAINED TO THE LANDLORD OF A VIOLATION UNDER
21 SECTION 33-1434.

22 3. THE TENANT HAS ORGANIZED OR BECOME A MEMBER OF A TENANT'S UNION
23 OR SIMILAR ORGANIZATION.

24 B. IF THE LANDLORD ACTS IN VIOLATION OF SUBSECTION A OF THIS SEC-
25 TION, THE TENANT IS ENTITLED TO THE REMEDIES PROVIDED IN SECTION 33-1475
26 AND HAS A DEFENSE IN ACTION AGAINST HIM FOR POSSESSION. IN AN ACTION BY
27 OR AGAINST THE TENANT, EVIDENCE OF A COMPLAINT WITHIN SIX MONTHS PRIOR
28 TO THE ALLEGED ACT OF RETALIATION CREATES A PRESUMPTION THAT THE LAND-
29 LORD'S CONDUCT WAS IN RETALIATION. THE PRESUMPTION DOES NOT ARISE IF
30 THE TENANT MADE THE COMPLAINT AFTER NOTICE OF TERMINATION OF THE RENTAL
31 AGREEMENT. FOR THE PURPOSE OF THIS SUBSECTION, "PRESUMPTION" MEANS THAT
32 THE TRIER OF FACT MUST FIND THE EXISTENCE OF THE FACT PRESUMED UNLESS
33 AND UNTIL EVIDENCE IS INTRODUCED WHICH WOULD SUPPORT A FINDING OF ITS
34 NONEXISTENCE.

35 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, A LANDLORD
36 MAY BRING AN ACTION FOR POSSESSION IF EITHER OF THE FOLLOWING OCCURS:

37 1. THE VIOLATION OF THE APPLICABLE BUILDING OR HOUSING CODE WAS
38 CAUSED PRIMARILY BY LACK OF REASONABLE CARE BY THE TENANT OR OTHER PER-
39 SON IN HIS HOUSEHOLD OR UPON THE PREMISES WITH HIS CONSENT.

40 2. THE TENANT IS IN DEFAULT IN RENT. THE MAINTENANCE OF THE
41 ACTION DOES NOT RELEASE THE LANDLORD FROM LIABILITY UNDER SECTION 33-1471,
42 SUBSECTION B.

43 ARTICLE 6. ADDITIONAL RIGHTS OF PARTIES

44 33-1501. Automatic rental increases; duration of agreement;
45 prohibited conduct; improvements; right of
46 joint tenants

47 A. IN ADDITION TO ANY OTHER RENTAL PROVISIONS, THE LANDLORD SHALL
48 BE ENTITLED TO AN AUTOMATIC RENTAL INCREASE TO COMPENSATE HIM FOR ACTUAL

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1 UNFORESEEN COSTS INCLUDING TAXES AND RATE INCREASES FOR UTILITIES, WHICH
2 SHALL BE SUBSTANTIATED BY SUCH LANDLORD.

3 B. UNLESS OTHERWISE AGREED, RENTAL AGREEMENTS SHALL BE FOR A TERM
4 OF ONE YEAR AND SHALL BE AUTOMATICALLY RENEWED ON A YEARLY BASIS UNLESS
5 OTHERWISE SPECIFIED IN THE ORIGINAL WRITTEN OR ORAL RENTAL AGREEMENT OR
6 ANY RENEWAL THEREOF OR MAY BE CANCELED BY AT LEAST THIRTY DAYS WRITTEN
7 NOTICE GIVEN BEFORE THE EXPIRATION OF ANY SUCH LEASE BY EITHER PARTY.

8 C. AT THE REQUEST OF EITHER THE LANDLORD OR THE TENANT, A RENTAL
9 AGREEMENT FOR A TERM UP TO ONE YEAR SHALL BE EXECUTED.

10 D. THE LANDLORD SHALL NOT PROHIBIT MEETINGS BETWEEN TENANTS IN THE
11 MOBILE HOME PARK RELATING TO MOBILE HOME LIVING AND AFFAIRS IN THE PARK
12 COMMUNITY OR RECREATIONAL HALL IF SUCH MEETINGS ARE HELD AT REASONABLE
13 HOURS AND WHEN THE FACILITY IS NOT OTHERWISE IN USE.

14 E. ANY IMPROVEMENTS MADE BY TENANT SUCH AS PLANTS, VINES, EDGINGS,
15 GRAVEL, STONE OR OTHER ADDITIONS MADE FOR THE BENEFIT OF HIS TENANCY
16 SHALL BE REMOVABLE EXCEPT THAT THE LANDLORD MAY KEEP THE SAME BY PAYING
17 TENANT FOR ACTUAL COST THEREOF.

18 F. SHOULD A TENANT DIE, HIS SURVIVING JOINT TENANT SHALL CONTINUE
19 AS TENANT WITH ALL RIGHTS AND PRIVILEGES AND ALL LIABILITIES THE SAME AS
20 IF SHE OR HE WAS THE ORIGINAL TENANT.

21 G. SHOULD TENANT WHO WAS SOLE OWNER OF THE MOBILE HOME DIE DURING
22 THE TERM OF RENTAL AGREEMENT THEN HIS HEIRS OR LEGAL REPRESENTATIVE SHALL
23 HAVE THE RIGHT TO CANCEL TENANT'S LEASE BY GIVING SIXTY DAYS WRITTEN
24 NOTICE TO THE LANDLORD WITH THE SAME RIGHTS, PRIVILEGES AND LIABILITIES
25 OF THE ORIGINAL TENANT.

26 Sec. 2. Savings clause

27 Transactions entered into before the effective date of this act,
28 and not extended or renewed after that date and the rights, duties and
29 interests flowing from them remain valid and may be terminated, com-
30 pleted, consummated or enforced as required or permitted by any statute
31 or other law amended or repealed by this act as though the repeal or
32 amendment has not occurred.

Approved by the Governor - June 13, 1975

Filed in the office of the Secretary of State - June 16, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 143
SENATE BILL 1246

AN ACT

RELATING TO LABOR; PROVIDING THAT WORKMEN'S COMPENSATION PAYMENTS CONTINUE DURING TIME AN APPEAL IS PENDING, AND AMENDING SECTION 23-952, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 23-952, Arizona Revised Statutes, is amended
3 to read:
4 23-952. Continuation of order or award pending
5 hearing or appeal

6 When an order or award is issued by the industrial commission
7 AWARDING PERMANENT COMPENSATION BENEFITS, compensation shall be paid
8 as provided in such order or award and shall not be interrupted when
9 there is a petition for hearing or appeal to a higher court. ANY
10 OVERPAYMENT OF PERMANENT COMPENSATION RESULTING THEREFROM SHALL BE
11 CREDITED AGAINST ANY FUTURE LIABILITY INVOLVING PERMANENT COMPENSATION
12 BENEFITS IN THE SAME CLAIM. ~~As provided the only issue in the petition~~
13 ~~for hearing or appeal is an increase in the previous order or award.~~

Approved by the Governor - June 13, 1975

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 144
SENATE BILL 1098

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; INCLUDING REVOCATION OF CERTAIN PERMITS AND DENIAL OR REVOCATION OF TEMPORARY CONDITIONAL PERMIT WITHIN GROUNDS FOR APPEALS TO HEARING BOARD; PROVIDING FOR TEMPORARY CONDITIONAL PERMITS FOR POLLUTION SOURCE; REMOVING CONSTRUCTION REQUIREMENT LIMITATION FOR ENFORCEMENT OF AIR POLLUTION CONDITIONAL PERMITS; PRESCRIBING TERMS OF CONDITIONAL PERMIT, AND AMENDING SECTIONS 36-1707.03, 36-1711, 36-1712.02 AND 36-1712.03, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 36-1707.03, Arizona Revised Statutes, is
3 amended to read:

4 36-1707.03. Appeals to hearing board

5 Within ten days after notice is given by the director of denial
6 OR REVOCATION of an installation permit, A TEMPORARY CONDITIONAL PERMIT
7 or an operating permit, the applicant may petition the hearing board,
8 in writing, for a public hearing, which shall be held within thirty days
9 after receipt of the petition. The hearing board, after notice and a
10 public hearing, may sustain, modify or reverse the action of the di-
11 rector.

12 Sec. 2. Section 36-1711, Arizona Revised Statutes, is amended
13 to read:

14 36-1711. Temporary conditional permits

15 ~~Notwithstanding any provision to the contrary, after a person~~
16 ~~has petitioned for a conditional permit, the director may issue such~~
17 ~~person one nonrenewable temporary conditional permit which shall be~~
18 ~~valid for no more than ninety days when it appears that, if granted,~~
19 ~~activities allowed by the permit will not unduly endanger human health~~
20 ~~or safety either directly or indirectly and extraordinary or emergency~~
21 ~~circumstances are present that would make application under the other~~
22 ~~provisions of this chapter inequitable.~~

23 A. AFTER A PERSON HAS PETITIONED FOR A CONDITIONAL PERMIT AND
24 PRIOR TO SUCH PERMIT'S GRANT OR DENIAL, OR AFTER A PERSON HAS OBTAINED
25 AN OPERATING PERMIT, THE DIRECTOR MAY GRANT TO SUCH PERSON A TEMPORARY

1 CONDITIONAL PERMIT FOR A POLLUTION SOURCE WHICH ALLOWS A PERSON TO VARY
2 FROM CERTAIN REQUIREMENTS OF RULES OR REGULATIONS ADOPTED BY THE DIRECTOR
3 WHEN IT APPEARS THAT, IF GRANTED, ACTIVITIES ALLOWED BY THE PERMIT WILL
4 NOT UNDULY ENDANGER HUMAN HEALTH OR SAFETY EITHER DIRECTLY OR INDIRECTLY,
5 AND EXTRAORDINARY OR EMERGENCY CIRCUMSTANCES ARE PRESENT THAT WOULD MAKE
6 APPLICATION UNDER THE OTHER PROVISIONS OF THIS CHAPTER INEQUITABLE. THE
7 INITIAL TERM OF ANY TEMPORARY CONDITIONAL PERMIT ISSUED UNDER THIS SUB-
8 SECTION SHALL NOT EXCEED NINETY DAYS. THE HOLDER OF A TEMPORARY CON-
9 DITIONAL PERMIT MAY PETITION THE DIRECTOR FOR RENEWALS OF SUCH PERMIT
10 BUT THE TOTAL TERM OF THE PERMIT AS RENEWED SHALL NOT EXCEED ONE YEAR
11 FROM THE DATE OF INITIAL ISSUANCE. THE DIRECTOR MAY GRANT SUCH A
12 TEMPORARY CONDITIONAL PERMIT IF HE FINDS:

13 1. THERE HAS BEEN A BREAKDOWN OF EQUIPMENT OR UPSET OF OPERATIONS,
14 RESULTING IN EMISSIONS IN EXCESS OF ESTABLISHED LIMITS, THAT SUCH BREAK-
15 DOWN OF EQUIPMENT OR UPSET OF OPERATIONS WAS NOT DUE TO PETITIONER'S
16 FAILURE TO USE REASONABLE CARE, AND THAT THE SUGGESTED PERIOD OF TIME
17 FOR CORRECTION IS REASONABLE AND NECESSARY, OR

18 2. A GOVERNMENTAL AGENCY HAS IMPOSED ENERGY-CONSERVING RESTRIC-
19 TIONS OR CONDITIONS ON THE OPERATION OF THE POLLUTION SOURCE INVOLVING
20 CUTBACKS IN THE CONSUMPTION OF FUELS OR POWER, OR SHORTAGES IN CERTAIN
21 FUELS REQUIRING THE USE OF ALTERNATIVE FUELS, WHICH CAUSE OR TEND TO
22 CAUSE THE VIOLATION OF SUCH RULES OR REGULATIONS.

23 B. TEMPORARY CONDITIONAL PERMITS ISSUED BY THE DIRECTOR UNDER
24 THIS SECTION SHALL BE SUBJECT TO SUCH TERMS AND CONDITIONS AS SHALL
25 BE IMPOSED BY THE DIRECTOR AT THE TIME THE PERMIT IS ISSUED.

26 C. THE DIRECTOR SHALL ADOPT, AMEND, REPEAL AND PROMULGATE RULES
27 AND REGULATIONS NECESSARY FOR THE EFFICIENT IMPLEMENTATION AND ADMINIS-
28 TRATION OF THIS SECTION.

29 D. THE DIRECTOR MAY REVOKE ANY PERMIT ISSUED UNDER THIS SECTION
30 IF HE FINDS THAT THE CONDITIONS OF THE PERMIT HAVE BEEN VIOLATED OR
31 CONTINUED OPERATION OF THE PERMIT WILL UNDULY ENDANGER HUMAN HEALTH
32 OR SAFETY EITHER DIRECTLY OR INDIRECTLY.

33 Sec. 3. Section 36-1712.02, Arizona Revised Statutes, is amended
34 to read:

35 36-1712.02. Decisions on petitions for conditional
36 permit; terms and conditions

37 A. Within thirty days after the conclusion of the hearing on the
38 petition for a conditional permit, the hearing board shall deny the
39 petition or grant the petition on such terms and conditions as it deems
40 appropriate.

41 B. The terms and conditions which are imposed as a condition to
42 the granting or the continued existence of a conditional permit shall
43 include, but not be limited to:

44 1. A detailed plan for completion of corrective steps needed to
45 conform to the requirements of the rules and regulations of the director
46 and the provisions of this article.

47 2. A requirement that necessary construction shall begin during
48 the first year of the conditional permit.

49 3. A requirement that all necessary construction shall be completed
50 within such period as the hearing board may prescribe but such period

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1 shall not exceed three years from the date of initial issuance of such
2 conditional permit except as provided in subsection B of section 36-1712.03.
3 ~~Except when agreed to by the petitioner, no condition of the permit shall~~
4 ~~require that any portion of the plan for completion of the corrective~~
5 ~~steps be implemented until all necessary construction has been completed.~~

6 4. Such written reports as may be required.

7 5. The right to make periodic inspection of the facilities for
8 which the conditional permit is granted.

9 C. A reasonable fee as may be prescribed by the director shall be
10 deposited in the state general fund.

11 Sec. 4. Section 36-1712.03, Arizona Revised Statutes, is amended
12 to read:

13 36-1712.03. Term of conditional permit

14 A. A conditional permit issued by the hearing board shall be valid
15 for such period as the hearing board prescribes but in no event for more
16 than one year.

17 B. A holder of a conditional permit may petition the hearing board
18 for renewals of such permit. The total term of such renewals and the
19 initial period of such permit shall not exceed three years from the date
20 of initial issuance of such permit. Such petition may be filed at any
21 time not more than sixty days nor less than thirty days prior to the
22 expiration of such permit. The board, within thirty days of receipt of
23 such petition, shall renew the conditional permit for one year if the
24 petitioner is in compliance with and conforming to the terms and
25 conditions imposed pursuant to section 36-1712.02. The board may refuse
26 to renew the conditional permit, if after a public hearing held within
27 thirty days of receipt of such petition the board finds that the petitioner
28 is not in compliance with and conforming to the terms and conditions of
29 the conditional permit. If, after a period of three years from the date
30 of original issuance, the petitioner is not in compliance with and
31 conforming to such terms and conditions, the board may renew such permit
32 for a total term of two additional years if the board finds that such
33 failure to comply and conform is due to conditions beyond the control
34 of such petitioner.

35 C. IF THE DIRECTOR AMENDS OR ADOPTS ANY RULE IMPOSING CONDITIONS
36 ON THE OPERATION OF AN AIR POLLUTION SOURCE WHICH HAVE BECOME EFFECTIVE
37 AS TO THE SOURCE BY REASON OF THE ACTION OF THE DIRECTOR OR OTHERWISE,
38 AND WHICH REQUIRE THE IMPLEMENTATION OF CONTROL STRATEGIES NECESSITATING
39 THE INSTALLATION OF ADDITIONAL OR DIFFERENT AIR POLLUTION CONTROL EQUIP-
40 MENT, ONE NEW CONDITIONAL PERMIT MAY BE ISSUED TO THE SOURCE BY THE
41 HEARING BOARD IN ACCORDANCE WITH THIS ARTICLE. THE TERM OF THE NEW
42 CONDITIONAL PERMIT SHALL BE GOVERNED BY THE PRECEDING PARAGRAPHS OF
43 THIS SECTION, EXCEPT THAT THE TOTAL TERM OF THE NEW CONDITIONAL PERMIT,
44 AND ANY RENEWALS THEREOF, SHALL NOT EXCEED TWO YEARS FROM THE DATE OF
45 INITIAL ISSUANCE OF SUCH NEW CONDITIONAL PERMIT.

Approved by the Governor - June 13, 1975

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State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 145
SENATE BILL 1349

AN ACT

RELATING TO LABOR; PRESCRIBING PROCEDURES TO TAKING, KEEPING STENOGRAPHIC RECORDS OF WORKMEN'S COMPENSATION HEARINGS, AND AMENDING SECTION 23-941, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 23-941, Arizona Revised Statutes, is amended
3 to read:
4 23-941. Hearing rights and procedure
5 A. Subject to the provisions of section 23-947, any interested
6 party may file a request for a hearing concerning a claim.
7 B. A request for a hearing shall be made in writing, signed
8 by or on behalf of the interested party and including his address,
9 stating that a hearing is desired, and filed with the commission.
10 C. The commission shall refer the request for the hearing to
11 the hearing officer division for determination as expeditiously as
12 possible. The presiding hearing officer may dismiss a request for
13 hearing when it appears to his satisfaction that the disputed issue or
14 issues have been resolved by the parties. Any interested party who
15 objects to such dismissal may request a review pursuant to section
16 23-943.
17 D. At least twenty days' prior notice of the time and place of
18 the hearing shall be given to all parties in interest by mail at their
19 last known address. In the case of a hearing concerning suspension of
20 benefits, pursuant to section 23-1026, 23-1027, 23-1047, subsection D,
21 or 23-1071, only ten days' prior notice need be given. Hearings shall
22 be held in the county where the workman resided at the time of the
23 injury or such other place selected by the hearing officer.

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1 E. A stenographic record of all proceedings at the hearing
2 shall be kept MADE but need not be transcribed unless a party requests
3 ~~a-review-of-the-order-of-the-hearing-officer~~ APPLIES TO THE COURT OF
4 APPEALS FOR A WRIT OF CERTIORARI PURSUANT TO SECTION 23-951. THE RECORD
5 OF THE PROCEEDINGS IF NOT TRANSCRIBED, SHALL BE KEPT FOR AT LEAST TWO
6 YEARS BUT MAY BE DESTROYED AFTER SUCH TIME IF A TRANSCRIPTION IS NOT
7 REQUESTED.

8 F. Except as otherwise provided in this section and rules or
9 procedure established by the commission, the hearing officer is not
10 bound by common law or statutory rules of evidence or by technical
11 or formal rules of procedure and may conduct the hearing in any manner
12 that will achieve substantial justice.

13 G. Any party shall be entitled to issuance and service of sub-
14 poenas under the provisions of section 23-921. Any party or his repre-
15 sentative may serve such subpoenas.

16 H. Any interested party or his authorized agent shall be entitled
17 to inspect any claims file of the commission, provided that such autho-
18 rization is filed in writing with the commission.

19 I. Within thirty days after the date of notice of hearing any
20 interested party to a hearing before the commission may file an
21 affidavit for change of hearing officer against any hearing officer
22 of the commission hearing such matters or commencing to hear such
23 matter, setting forth any of the grounds as provided in subsection J
24 of this section, and the hearing officer shall immediately transfer the
25 matter to another officer of the commission who shall preside therein.
26 Not more than one change of hearing officer shall be granted to any one
27 party.

28 J. Grounds which may be alleged as provided in subsection I of
29 this section for change of hearing officer are:

30 1. That the hearing officer has been engaged as counsel in the
31 hearing prior to appointment as hearing officer.

32 2. That the hearing officer is otherwise interested in the
33 hearing.

34 3. That the hearing officer is of kin or otherwise related to
35 a party to the hearing.

36 4. That the hearing officer is a material witness in the hearing.

37 5. That the party filing the affidavit has cause to believe and
38 does believe that on account of the bias, prejudice, or interest of the
39 hearing officer he cannot obtain a fair and impartial hearing.

Approved by the Governor - June 13, 1975

Filed in the office of the Secretary of State - June 16, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 146
SENATE BILL 1122

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; AUTHORIZING CERTAIN ACTIVE MEMBERS OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM THAT HAD CERTAIN PREVIOUS SERVICE WITH AN EMPLOYER OF THE SYSTEM TO REPAY WITHDRAWN SEVERANCE BENEFITS AND RECEIVE CREDIT FOR SUCH SERVICE; PROVIDING THAT CITY, TOWN OR COUNTY MAY ELECT BY RESOLUTION TO AUTHORIZE PRIOR SERVICE CREDIT FOR ELIGIBLE EMPLOYEES; PRESCRIBING CERTAIN PERCENTAGES OF PREFERENCE IN DETERMINATION OF FINAL RATING ON EXAMINATION FOR EMPLOYMENT BY THE STATE OR ANY POLITICAL SUBDIVISION UNDER A MERIT SYSTEM OF EMPLOYMENT; PRESCRIBING AUTHORITY OF ASSISTANT DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION FOR THE DIVISION OF WEIGHTS AND MEASURES TO ESTABLISH STANDARDS FOR THE PRESENTATION OF COST-PER-UNIT INFORMATION AND PRESCRIBING THAT THIS AUTHORITY SHALL NOT BE CONSTRUED TO MANDATE USE OF COST-PER-UNIT INFORMATION IN CONNECTION WITH SALE OF ANY COMMODITY; REPEALING LAWS 1974, CHAPTER 168, AND AMENDING SECTIONS 38-492 AND 41-2065, ARIZONA REVISED STATUTES.

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

2 Section 1. Credit by certain active members of the public
3 safety personnel retirement system with previous
4 service with other employers of the system; city,
5 town, and county elections

6 A. All present active members of the public safety personnel retire-
7 ment system who are employed by the state and who had previous service in
8 the state of Arizona as police officers, firemen, deputy sheriffs or high-
9 way patrolmen with employers now covered by the public safety personnel
10 retirement system, prior to the effective date of the public safety person-
11 nel retirement system as defined by section 38-842 and who received a
12 severance benefit from the firemen's pension and relief fund, police pen-
13 sion fund, state highway patrol retirement fund or state retirement system
14 or plan upon termination of such employment prior to the effective date of
15 the public safety personnel retirement system may elect to redeem any part
16 of such prior service by paying into the system amounts set forth in sub-
17 section B of this section. The provisions of this subsection shall also be
18 applicable to present active members of the public safety personnel retirement
19 system employed by cities, towns or counties provided the city or town council,
20 or the board of supervisors of such city, town or county, as the case may be,
21 by resolution, elects to authorize such prior service credit for eligible
22 employees pursuant to the provisions of this subsection.

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1 B. Any present active member employed by the state who elects to
2 redeem any part of his prior service under the provisions of this section
3 shall pay into the system the amounts previously withdrawn by him as
4 severance benefits plus the amount that his present employer would have
5 been required to contribute to the system for each year of prior service
6 for which the employee is deemed eligible by the fund manager, together
7 with accumulated interest on both, as determined by the fund manager,
8 within the time limitation set forth in subsection C of this section.
9 The provisions of this subsection shall also be applicable to present
10 active members of the public safety personnel retirement system employed
11 by cities, towns or counties provided the city or town council or the
12 board of supervisors of such city, town or county, as the case may be,
13 has elected to authorize the prior service credit for eligible employees
14 pursuant to subsection A.

15 C. The provisions of this section shall expire on June 30, 1976.

16 Sec. 2. Repeal

17 Laws 1974, chapter 168, is repealed.

18 Sec. 3. Section 38-492, Arizona Revised Statutes, is amended to
19 read:

20 38-492. Percentage of preference

21 A. A veteran of the armed forces of the United States as defined
22 by Title 37, Chapter 1, Section 101, United States Code, separated there-
23 from under honorable conditions following more than six months of active
24 duty, who takes an examination for employment by the state or any polit-
25 ical subdivision under a merit system of employment as provided by
26 section 38-491 shall, in the determination of his final rating on such
27 examination, be given a preference of five per cent over persons other
28 than veterans. The preference shall be added to the grade earned by
29 him, but only if such veteran earns a passing grade without preference.

30 B. ANY PERSON HAVING A PERMANENT CONDITION THAT IMPAIRS MOBILITY
31 TO THE EXTENT THAT SPECIAL PHYSICAL AIDS OR EQUIPMENT ARE REQUIRED TO
32 ENABLE SUCH PERSON TO FUNCTION EFFICIENTLY WHO TAKES AN EXAMINATION FOR
33 EMPLOYMENT BY THE STATE OR ANY POLITICAL SUBDIVISION UNDER A MERIT SYS-
34 TEM OF EMPLOYMENT SHALL, IN THE DETERMINATION OF HIS OR HER FINAL RATING
35 ON SUCH EXAMINATION, BE GIVEN A PREFERENCE OF FIVE PER CENT. THE PREF-
36 ERENCE SHALL BE ADDED TO THE GRADE EARNED BY HIM OR HER BUT ONLY IF
37 SUCH PERSON EARNS A PASSING GRADE WITHOUT PREFERENCE.

38 C. A PERSON QUALIFIED FOR A PREFERENCE PURSUANT TO SUBSECTION A
39 AND SUBSECTION B SHALL BE GIVEN A TEN PER CENT PREFERENCE.

40 D. If a department, division or agency of the state or any
41 political subdivision is operated under a merit system prescribed by
42 the federal government or a department, division or agency thereof, the
43 provisions of such system, including ~~preference-to-veterans~~ PREFERENCES,
44 shall prevail.

45 Sec. 4. Section 41-2065, Arizona Revised Statutes, is amended
46 to read:

47 41-2065. Duties of assistant director

48 A. The assistant director shall:

49 1. Maintain custody of the state standards of weight and measure
50 that are traceable to the United States prototype standards and that

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1 are supplied to the states by the federal government or that are other-
2 wise approved as being satisfactory by the national bureau of
3 standards.

4 2. Keep the state primary standards in a safe and suitable place
5 in the metrology laboratory of the division and insure that they shall
6 not be removed from the laboratory except for repairs or for calibration
7 as may be prescribed by the national bureau of standards.

8 3. Keep accurate records of all standards and equipment.

9 4. Make any rules necessary to carry out the provisions of this
10 chapter and issue reasonable regulations for the enforcement of this
11 chapter, which regulations shall have the force and effect of law. Such
12 rules and regulations shall be issued pursuant to the administrative
13 procedures act, title 41, chapter 6, Arizona Revised Statutes. In
14 making such rules and regulations, the assistant director shall consider,
15 so far as is practicable, the requirements established by other states
16 and by authority of the United States, except that no rules and regula-
17 tions shall be made in conflict with the provisions of this chapter.

18 5. Publish such rules and regulations promulgated pursuant to this
19 chapter and issue copies to all applicants for license and certification.
20 Updated copies of the rules and regulations shall be distributed to all
21 current licensees and certification holders when there is a change in the
22 rules and regulations.

23 6. Investigate complaints made to the department concerning
24 violations of the provisions of this chapter and, upon his own initiative,
25 conduct such investigations as he deems appropriate to develop information
26 relating to prevailing procedures in commercial quantity determination
27 and relating to possible violations of this chapter, and in order to
28 promote the general objective of accuracy in the determination and
29 representation of quantity in commercial transactions.

30 7. Establish labeling standards, ~~establish standards for the~~
31 ~~presentation of cost per unit information~~, establish standards of
32 weight, measure, or count, and reasonable standards of fill for any
33 packaged commodity, and may establish standards for open dating
34 information.

35 8. Grant, pursuant to this chapter, exemptions from the
36 licensing provisions of this chapter for commercial weighing and measuring
37 instruments when the ownership and use of the instrument or device is
38 limited to federal, state or local government agencies in the performance
39 of official functions.

40 9. Delegate to appropriate personnel any of the responsibilities
41 of the assistant director for the proper administration of this chapter.

42 10. Test annually the standards of weight and measure used by any
43 city or town within the state, and approve the same when found to be
44 correct.

45 11. Inspect and test weights and measures kept, offered, or exposed
46 for sale.

47 12. Inspect and test to ascertain if they are correct, weights
48 and measures commercially used:

49 (a) In determining the weight, measure or count of commodities or
50 things sold, or offered or exposed for sale, on the basis of weight,
51 measure or count, or

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1 (b) In computing the basic charge or payment for services rendered
2 on the basis of weight, measure or count.

3 13. Test all weights and measures used in checking the receipt or
4 disbursement of supplies in every institution, for the maintenance of
5 which funds are appropriated by the legislature.

6 14. Approve for use, and may mark, such weights and measures as
7 he finds to be correct, and shall reject and mark as rejected such weights
8 and measures as he finds to be incorrect. Weights and measures that have
9 been rejected may be seized if not corrected within the time specified or
10 if used or disposed of in a manner not specifically authorized. The
11 assistant director shall condemn and may seize weights and measures found
12 to be incorrect that are not capable of being made correct.

13 15. Issue weighing and measuring instructions and regulations,
14 in addition to the certificate of approval, to be posted on all approved
15 weighing and measuring devices for the information of consumers and the
16 operators of such devices.

17 16. Weigh, measure or inspect packaged commodities kept, offered
18 or exposed for sale, sold or in the process of delivery, to determine
19 whether they contain the amounts represented and whether they are kept,
20 offered or exposed for sale in accordance with this chapter or regulations
21 promulgated pursuant thereto. In carrying out the provisions of this
22 section, the director shall employ recognized sampling procedures, such
23 as are designated in appropriate national bureau of standards handbooks
24 and supplements thereto.

25 17. Prescribe by regulation the appropriate term or unit of
26 weight or measure to be used, whenever he determines in the case of a
27 specific commodity that an existing practice of declaring the quantity
28 by weight, measure, numerical count or combination thereof, does not
29 facilitate value comparisons by consumers, or offers an opportunity for
30 consumer confusion.

31 18. Allow reasonable variations from the stated quantity of
32 contents only after a commodity has entered intrastate commerce. Such
33 variations shall include those caused by loss or gain of moisture during
34 the course of good distribution practice or by unavoidable deviations
35 in good manufacturing practice.

36 19. Provide for the weights and measures training of inspection
37 personnel and shall establish minimum training requirements which shall
38 be met by all state weights and measures inspection personnel in the
39 state.

40 20. Prescribe the standards of weight and measure, and additional
41 equipment methods of test and inspection to be employed in the enforcement
42 of this chapter. The assistant director may prescribe or provide or
43 prescribe and provide the official test and inspection forms to be used
44 in the enforcement of this chapter.

45 21. Apply to any court of competent jurisdiction for a temporary
46 or permanent injunction restraining any person from violating any provision
47 of this chapter.

48 22. Report to the governor on June 1 each year and at such other
49 times as may be required on the work accomplished by the division.

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1 23. Employ such personnel as needed to assist in administering
2 the provisions of this chapter.

3 B. The assistant director may provide for the periodic examination
4 and inspection of metering devices of utility companies, including but
5 not limited to such devices utilized to measure usage of electricity,
6 natural gas or water by a consumer.

7 C. THE ASSISTANT DIRECTOR MAY ESTABLISH STANDARDS FOR THE PRE-
8 SENTATION OF COST-PER-UNIT INFORMATION. NOTHING IN THIS SUBSECTION
9 SHALL BE CONSTRUED TO MANDATE THE USE OF COST-PER-UNIT INFORMATION IN
10 CONNECTION WITH THE SALE OF ANY COMMODITY.

Approved by the Governor - June 13, 1975

Filed in the office of the Secretary of State - June 18, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 147

SENATE BILL 1338

AN ACT

RELATING TO PUBLIC RECORDS; PRESCRIBING CERTAIN DEFINITIONS; PROVIDING FOR THE PRESERVATION, MAINTENANCE AND CARE OF PUBLIC RECORDS; PROVIDING FOR RIGHT OF INSPECTION OF PUBLIC RECORDS; PROVIDING FOR COPIES, PRINTOUTS OR PHOTOGRAPHS OF PUBLIC RECORDS; PRESCRIBING PROCEDURES; PROVIDING FOR SPECIAL ACTION FOR DENIAL OF ACCESS; PRESCRIBING FOR CERTAIN AWARD; PROVIDING FOR CAUSE OF ACTION FOR DAMAGES RESULTING FROM DENIAL OF ACCESS, AND AMENDING TITLE 39, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 39-121.01 AND 39-121.02.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 39, chapter 1, article 2, Arizona Revised
3 Statutes, is amended by adding new sections 39-121.01 and 39-121.02, to
4 read:

5 39-121.01. Copies; printouts or photographs of public records
6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "OFFICER" MEANS ANY PERSON ELECTED OR APPOINTED TO HOLD ANY
8 ELECTIVE OR APPOINTIVE OFFICE OF ANY PUBLIC BODY AND ANY CHIEF
9 ADMINISTRATIVE OFFICER, HEAD, DIRECTOR, SUPERINTENDENT OR CHAIRMAN OF
10 ANY PUBLIC BODY.

11 2. "PUBLIC BODY" MEANS THE STATE, ANY COUNTY, CITY, TOWN, SCHOOL
12 DISTRICT, POLITICAL SUBDIVISION OR TAX-SUPPORTED DISTRICT IN THE STATE,
13 ANY BRANCH, DEPARTMENT, BOARD, BUREAU, COMMISSION, COUNCIL OR COMMITTEE
14 OF THE FOREGOING, AND ANY PUBLIC ORGANIZATION OR AGENCY, SUPPORTED IN
15 WHOLE OR IN PART BY FUNDS FROM THE STATE OR ANY POLITICAL SUBDIVISION
16 THEREOF, OR EXPENDING FUNDS PROVIDED BY THE STATE OR ANY POLITICAL
17 SUBDIVISION THEREOF.

18 3. ALL OFFICERS AND PUBLIC BODIES SHALL MAINTAIN ALL RECORDS
19 REASONABLY NECESSARY OR APPROPRIATE TO MAINTAIN AN ACCURATE KNOWLEDGE
20 OF THEIR OFFICIAL ACTIVITIES AND OF ANY OF THEIR ACTIVITIES WHICH ARE
21 SUPPORTED BY FUNDS FROM THE STATE OR ANY POLITICAL SUBDIVISION THEREOF.

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 148
SENATE BILL 1030

AN ACT

RELATING TO PUBLIC FINANCES; PROVIDING FOR REFUNDING BONDS ISSUED IN ADVANCE OF MATURITY OF THE BONDS TO BE REFUNDED; PRESCRIBING CERTAIN PROCEDURES FOR THE AUTHORIZATION, ISSUANCE AND SALE OF REFUNDING BONDS IN ADVANCE OF MATURITY OF BONDS TO BE REFUNDED; PROVIDING THAT TAXES SHALL BE LEVIED, ASSESSED AND COLLECTED TO PAY INTEREST, PRINCIPAL INSTALLMENTS AND ANNUAL PORTION OF SINKING FUND FOR RETIREMENT THEREOF; PROVIDING FOR SUMMARY SALE OF PROPERTY FOR SPECIAL ASSESSMENT DEFAULT; PROVIDING CERTAIN RETROACTIVE APPLICATION; AMENDING SECTION 35-473.01, ARIZONA REVISED STATUTES, AND AMENDING TITLE 35, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.1.

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

2 Section 1. Declaration of purpose

3 It is declared that the purpose of this enactment is to enable
4 additional types of political subdivisions, with respect to additional
5 types of outstanding bonds, to obtain adjustment of the annual or total
6 amounts payable with respect to such bonds by properties subject thereto,
7 by the issuance of refunding bonds thereby obtaining interest and repay-
8 ment flexibility and investment earnings consistent with federal internal
9 revenue code yield restrictions or by the summary sale of delinquent
10 properties, thereby bringing individual properties current with their
11 repayment obligations and reducing the deficiency levies on the other
12 properties.

13 Sec. 2. Section 35-473.01, Arizona Revised Statutes, is amended
14 to read:

15 35-473.01. Refunding bonds issued in advance of maturity
16 of the bonds to be refunded

17 A. Refunding bonds, DESIGNATED AS SUCH, may also be AUTHORIZED,
18 issued ~~hereunder~~ AND SOLD PURSUANT TO THE PROVISIONS OF THIS ARTICLE
19 for the purpose of refunding any bonds theretofore issued under the
20 authority of article 3 of this chapter or under the authority of

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1 chapter 13 of title 15, OR BY ANY POLITICAL SUBDIVISION WHICH IS A
2 PUBLIC, CORPORATE BODY UNDER THE LAWS OF THIS STATE THE PROPERTY OF
3 WHICH IS EXEMPT FROM TAXATION, FOR THE PURPOSE OF REFUNDING ANY BONDS,
4 THEREFORE ISSUED UNDER AUTHORITY OF LAW AND PAYABLE FROM THE
5 PROCEEDS OF TAXES, INCLUDING ASSESSMENTS, WHICH MAY BE LEVIED ANNUALLY
6 AT UNIFORM RATES AND ARE SECURED BY PROPERTY SUBJECT THERETO IN THE
7 POLITICAL SUBDIVISION, in advance of the maturity or call date of the
8 SUCH bonds to be refunded. No election on the issuance of such THE
9 REFUNDING bonds shall be required, but if such THE REFUNDING bonds are
10 combined into a single issue with bonds authorized for nonrefunding
11 purposes, the bonds so authorized for nonrefunding purposes shall have
12 been submitted at an election as otherwise provided by law.

13 B. When refunding bonds issued pursuant to this section are sold,
14 the net proceeds shall be invested in obligations issued by or guaranteed
15 by the United States government, so long as such investments will mature
16 with interest so as to provide funds to pay when due, or called for
17 redemption, the bonds to be refunded together with interest thereon and
18 redemption premiums, if any, and such proceeds or obligations shall, and
19 other funds legally available for such purposes may be deposited in the
20 respective principal and interest redemption funds and shall be held in
21 trust for the payment of the refunded bonds with interest and redemption
22 premiums, if any, on maturity or upon an available redemption date or
23 upon an earlier voluntary surrender with the consent of the issuer.

24 C. When bonds are issued in advance of maturity of the bonds
25 being refunded the holder of the refunding bonds shall rely upon the
26 sufficiency of the funds or securities held in trust for the payment of
27 the refunded bonds. The issuance of refunding bonds shall in no way
28 infringe upon the rights of the holder of the refunded bonds to rely
29 upon a tax levy for the payment of principal and interest on the refunded
30 bonds if the investments in the redemption funds prove insufficient.
31 The total aggregate of taxes levied to pay principal and interest on the
32 refunding bonds in the aggregate shall not exceed the total aggregate
33 principal and interest to become due on the refunded bonds from the date
34 of issuance of the refunding bonds to the final date of maturity on the
35 bonds being refunded. SUBJECT TO SUCH LIMITATION, TAXES IN AN AMOUNT
36 SUFFICIENT TO PAY THE INTEREST ON ALL REFUNDING BONDS ISSUED PURSUANT
37 TO THIS SECTION, THEN OUTSTANDING, THE INSTALLMENTS OF THE PRINCIPAL
38 THEREOF BECOMING DUE AND PAYABLE IN THE ENSUING YEAR, AND THE ANNUAL
39 PORTION OF SUCH SINKING FUND AS MAY BE SET UP FOR RETIREMENT THEREOF,
40 SHALL BE LEVIED, ASSESSED AND COLLECTED AS OTHER TAXES OF THE POLITICAL
41 SUBDIVISION AND THE PROCEEDS THEREFROM KEPT IN A SPECIAL FUND AND USED
42 ONLY FOR THE PURPOSES FOR WHICH COLLECTED.

43 D. PROCEEDINGS PURSUANT TO THIS SECTION SHALL BE HAD BY THE
44 BOARD OR BOARDS WHICH WOULD BE AUTHORIZED TO ISSUE AND SELL THE BONDS
45 TO BE REFUNDED IF SUCH BONDS WERE THEN TO BE ISSUED AND SOLD. THE
46 REFUNDING BONDS TO BE ISSUED PURSUANT HERETO MAY BE OF SERIAL, INCLUDING
47 SEMI-ANNUAL, OR TERM MATURITIES PAYABLE AT ANY TIME ON OR BEFORE THE
48 MAXIMUM MATURITY DATE OTHERWISE AUTHORIZED BY THIS ARTICLE, AND THE
49 PROVISIONS RELATING TO EXECUTION, VALIDITY, RECORDS, PLACE OF PAYMENT,
50 AND PAYMENT, CANCELLATION AND DESTRUCTION UPON MATURITY OF THE BONDS
51 TO BE REFUNDED SHALL APPLY TO SUCH REFUNDING BONDS.

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1 E. REFUNDING BONDS TO BE ISSUED PURSUANT TO THIS SECTION MAY
2 BE COMBINED WITH BONDS OTHERWISE AUTHORIZED PROVIDED THAT THEY ARE OF
3 EQUAL PRIORITY.

4 F. THE POWERS CONFERRED BY THIS SECTION ARE IN ADDITION TO, AND
5 NOT IN SUBSTITUTION OF, AND THE LIMITATIONS IMPOSED BY THIS SECTION
6 SHALL NOT AFFECT THE POWERS CONFERRED BY, ANY OTHER LAW.

7 Sec. 3. Title 35, chapter 3, Arizona Revised Statutes, is
8 amended by adding article 4.1, to read:

9 ARTICLE 4.1. SUMMARY SALE OF PROPERTY
10 FOR SPECIAL ASSESSMENT DEFAULT

11 35-481. Applicability

12 A. THE PROVISIONS OF THIS ARTICLE SHALL BE APPLICABLE WHEN
13 INSTALLMENTS OF PRINCIPAL AND INTEREST OF A SPECIAL ASSESSMENT IN A
14 SPECIFIC AMOUNT SECURED BY A LIEN ON PROPERTY AND ON THE SECURITY OF
15 WHICH BONDS SHALL HAVE BEEN ISSUED EITHER COLLECTIBLE IN THE MANNER AND
16 BY THE OFFICERS PROVIDED FOR THE COLLECTION AND ENFORCEMENT OF THE
17 GENERAL TAXES LEVIED BY A MUNICIPALITY OR DISTRICT ONLY, OR WHICH MAY
18 BE COLLECTIBLE BY SUCH METHOD AND FOR WHICH A RESOLUTION PROVIDING FOR
19 SUCH COLLECTION SHALL HAVE BEEN ADOPTED.

20 B. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY RELATING
21 TO, OR ANY INFORMALITIES, ILLEGALITIES OR IRREGULARITIES IN THE COLLEC-
22 TION OF SUCH INSTALLMENTS, THE REMEDY PROVIDED BY THIS ARTICLE SHALL
23 BE AVAILABLE, IN ADDITION TO THE OTHER REMEDIES PROVIDED BY LAW, IN THE
24 COLLECTION OF DELINQUENT INSTALLMENTS.

25 35-482. Summary sale of delinquent property

26 A. AS A CUMULATIVE REMEDY, IF ANY INSTALLMENT IS DELINQUENT, THE
27 GOVERNING BODY MAY ORDER THE SUMMARY SALE OF THE PROPERTY AS PROVIDED IN
28 THIS SECTION.

29 B. THE ORDER OF THE GOVERNING BODY SHALL IDENTIFY THE PROPERTY
30 AND SHALL STATE THE AMOUNT OF THE DELINQUENT INSTALLMENTS FOR WHICH
31 THE PROPERTY IS TO BE SOLD.

32 C. NOTICE OF SUCH ORDER SHALL BE MAILED TO THE OWNERS OF THE
33 PROPERTY TO BE SOLD AS THEIR NAMES AND ADDRESSES APPEAR ON THE LAST
34 EQUALIZED TAX ROLL OR AS FILED WITH THE SUPERINTENDENT OR AS KNOWN TO
35 THE CLERK, WITHIN TWENTY DAYS OF SUCH ORDER.

36 D. THE PROVISIONS OF, IN THE CASE OF A MUNICIPALITY, SECTION
37 9-698, SECTION 9-700, SUBSECTION A, SECTION 9-701, SECTION 9-702, SUB-
38 SECTIONS A AND B, AND SECTIONS 9-703 AND 9-704, AND IN THE CASE OF A
39 DISTRICT, SECTION 11-738, SECTION 11-740, SUBSECTION A, SECTION 11-741,
40 SECTION 11-742, SUBSECTIONS A AND B, AND SECTIONS 11-743 AND 11-744,
41 SHALL BE APPLICABLE, EXCEPT THAT THE LIST OF ASSESSMENTS OF DELINQUENT
42 PROPERTY ORDERED SOLD SHALL BE PUBLISHED WITHIN TWENTY DAYS OF THE
43 ORDER FOR SALE, THE NOTICE APPENDED TO SAME SHALL MAKE NO PROVISION FOR
44 DECLARING THE WHOLE AMOUNT OF THE ASSESSMENT DUE, REDEMPTION MAY BE
45 HAD PRIOR TO SALE BY PAYING THE DELINQUENT AMOUNTS, TOGETHER WITH
46 INTEREST, PENALTIES AND CHARGES THEN DUE, AND THE AMOUNTS FOR WHICH
47 PROPERTY IS SOLD SHALL INCLUDE, IN ADDITION TO INTEREST AND PENALTIES,
48 THE DELINQUENT INSTALLMENTS AND CHARGES FOR COSTS OF THE TAX DELINQUENCY
49 AND SUMMARY SALE PROCEEDINGS.

1 E. THE PURCHASER AT A SUMMARY SALE SHALL, AS TO ASSESSMENTS,
2 TAKE THE PROPERTY SUBJECT TO ALL UNPAID INSTALLMENTS, INTEREST AND
3 PENALTIES UNDER THE SAME PROCEEDING, TO ALL PUBLIC IMPROVEMENT ASSESS-
4 MENTS AND INSTALLMENTS WHICH SHALL NOT BE SUBORDINATE THERETO, AND
5 TO ANY CONTINGENT OR SUPPLEMENTAL OBLIGATIONS FOR DEFICIENCIES.

6 35-483. Option to accelerate upon delinquency

7 A. IF ANY INSTALLMENT IS DELINQUENT, THE GOVERNING BODY MAY ORDER
8 THAT THE WHOLE OF THE UNPAID PRINCIPAL AMOUNT OF THE ASSESSMENT BECOME
9 IMMEDIATELY DUE AND PAYABLE, AND BE COLLECTED BY SUMMARY SALE PROCEED-
10 INGS PURSUANT TO SECTION 35-482.

11 B. IF SUCH ORDER IS MADE, THE AMOUNT FOR WHICH THE PROPERTY IS
12 TO BE SOLD SHALL INCLUDE, IN ADDITION TO THE DELINQUENT INSTALLMENTS,
13 PENALTIES, INTEREST AND CHARGES, THE OTHER AMOUNTS NECESSARY TO PREPAY
14 SUCH ASSESSMENT IN FULL COMPUTED PURSUANT TO APPLICABLE LAW.

15 C. IF SUCH ORDER IS MADE, THE OWNER OR PERSONS INTERESTED MAY, AT
16 ANY TIME PRIOR TO SALE, PAY THE DELINQUENT INSTALLMENTS, WITH INTEREST,
17 PENALTIES AND CHARGES, AND THEREUPON BE RESTORED TO THE RIGHT THEREAFTER
18 TO PAY IN INSTALLMENTS IN THE SAME MANNER AS IF DEFAULT HAS NOT OCCURRED,
19 AND THE AMOUNT OF INTEREST, PENALTIES AND CHARGES WHICH SHALL ACCRUE
20 SHALL BE UNAFFECTED BY EXERCISE OF THE OPTION TO ACCELERATE HEREBY
21 PROVIDED.

22 D. NOTICES PURSUANT TO SECTION 35-482 SHALL, WHEN THE OPTION TO
23 ACCELERATE HAS BEEN EXERCISED, SO STATE AND SHALL STATE THE UNPAID
24 PRINCIPAL BALANCE OF THE ASSESSMENT FOR WHICH THE PROPERTY IS TO BE SOLD.

25 Sec. 4. Retroactive application

26 The provisions of this act shall be applicable in the collection of
27 special assessments and the refunding of bonds whether the proceedings
28 shall have been commenced, the special assessments confirmed or bonds
29 issued prior or subsequent to the adoption of this act, insofar as is
30 constitutionally permissible.

31 Sec. 5. Emergency

32 To preserve the public peace, health and safety it is necessary
33 that this act become immediately operative. It is therefore declared
34 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 13, 1975

Filed in the office of The Secretary of State - June 16, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

Chapter 149
SENATE BILL 1272

AN ACT

RELATING TO PROPERTY; PROVIDING FOR PAYMENT OF PROBATE FEES BY PUBLIC FIDUCIARY; PROVIDING NOTICE TO ATTORNEY GENERAL IF ESTATE NOT TAKEN; PROVIDING FOR DETERMINATIONS TO BE MADE BY REGISTRAR IN INFORMAL APPOINTMENT PROCEEDINGS; PROVIDING FOR GIVING NOTICE OF APPOINTMENT BY PERSONAL REPRESENTATIVE TO DEPARTMENT OF REVENUE; PROVIDING FOR COMPENSATION OF GUARDIANS; PROVIDING FOR APPOINTMENT OF CONSERVATORS; PROVIDING FOR THE APPOINTMENT, POWERS AND DUTIES OF PUBLIC FIDUCIARIES; PROVIDING FOR INCLUDING GRANTEE'S NAME ON INSTRUMENTS TRANSFERRING REAL PROPERTY BY PERSONAL REPRESENTATIVE; PROVIDING FOR SPECIFICATION OF TRUSTEE IN DEEDS OF TRUST; PROVIDING FOR RESTRICTION AGAINST SALE OR LEASE OF PROPERTY IN CERTAIN SITUATIONS AND PROVIDING A PENALTY; PROVIDING THAT SALE FOR PURPOSES OF CONSUMER FRAUD PROVISIONS INCLUDES THE SALE AND LEASE OF REAL ESTATE; AMENDING SECTIONS 12-313, 14-3308, 14-3705, 14-3907, 14-5401, 14-5407, 14-5601, 14-5602 THROUGH 14-5607, 33-303, 33-802, 33-1317 AND 44-1521, ARIZONA REVISED STATUTES; AMENDING TITLE 14, CHAPTER 1, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 14-1401.01, AND AMENDING TITLE 14, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 14-5314.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 12-313, Arizona Revised Statutes, is amended
3 to read:
4 12-313. Probate conservatorship, guardianship and
5 fiduciary fees
6 A. On filing any of the following:
7 1. A petition in a formal testacy or appointment proceeding,
8 2. An application for informal probate or informal appointment,
9 3. A petition for supervised administration,
10 4. A petition to appoint a guardian,
11 5. A petition to appoint a conservator or make other protective
12 order, twenty dollars shall be paid by the petitioner to the clerk of
13 the superior court. If the same person petitions for special letters
14 as well as for general letters in a single estate, he shall pay only

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1 one fee of twenty dollars. If in a single estate the same person files
2 an application or petition under chapter 3 of title 14 and a subsequent
3 petition under the same chapter, no fee shall be due for the later
4 filing. If a petition to appoint a guardian also requests appointment
5 of a conservator or other protective order, only one fee shall be due
6 for the filing. If the public ~~guardian, conservator or personal repre-~~
7 ~~sentative~~ FIDUCIARY is the petitioner, the twenty dollar fee shall not
8 be required to be paid on filing any of the aforesaid petitions or
9 applications for a protective order, except that such fee shall be paid

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1 by the public ~~guardian, conservator or personal representative~~ FIDUCIARY
2 out of ANY assets of each SUCH estate, ~~if any~~, prior to his discharge
3 at the termination of such estate.

4 B. Any person opposing a petition in a testacy or appointment
5 proceeding or appointment of a guardian or conservator, shall pay the
6 fees of a plaintiff to the clerk. Every person opposing such contest,
7 unless he has theretofore paid a clerk's fee in the matter, shall pay
8 the fees of a defendant to the clerk. The provisions of sections 12-311
9 and 12-312 in relation to several persons appearing by the same attorney
10 are applicable to this section.

11 C. In all estates, guardianships and conservatorships wherein
12 the original petition is filed and wherein the original fees of the
13 contestants or resisters have been paid before January 1, 1974, no
14 additional fees shall be payable.

15 Sec. 2. Title 14, chapter 1, article 4, Arizona Revised Statutes,
16 is amended by adding section 14-1401.01, to read:

17 14-1401.01. Notice to attorney general

18 WHENEVER IT APPEARS BY SUGGESTION OF ANY INTERESTED PERSON OR
19 THE COURT THAT NO TAKER OF THE ESTATE EXISTS, EITHER AT THE COMMENCEMENT
20 OF OR DURING PROCEEDINGS UNDER THIS TITLE, NOTIFICATION OF SUCH PRO-
21 CEEDINGS SHALL BE GIVEN TO THE ATTORNEY GENERAL.

22 Sec. 3. Section 14-3308, Arizona Revised Statutes, is amended
23 to read:

24 14-3308. Informal appointment proceedings; proof and
25 findings required

26 A. In informal appointment proceedings, the registrar must
27 determine whether:

28 1. The application for informal appointment of a personal
29 representative is complete.

30 2. The applicant has made oath or affirmation that the state-
31 ments contained in the application are true to the best of his knowledge
32 and belief.

33 3. The applicant appears from the application to be a person
34 permitted to apply as provided in section 14-3301, subsection A.

35 4. On the basis of the statements in the application, venue
36 is proper.

37 5. Any will to which the requested appointment relates has been
38 formally or informally probated, OR WITH RESPECT TO WHICH AN APPLICATION
39 FOR FORMAL OR INFORMAL PROBATE IS PENDING, except this requirement does
40 not apply to the appointment of a special administrator.

41 6. Any notice required by section 14-3204 has been given.

42 7. From the statements in the application, the person whose
43 appointment is sought has priority entitling him to the appointment.

44 8. The will, if any, requires supervised administration.

45 B. Unless section 14-3612 controls, the application must be denied
46 if it indicates any of the following:

47 1. A personal representative who has not filed a written state-
48 ment of resignation as provided in section 14-3610, subsection C has
49 been appointed in this or another county of this state.

50 2. The decedent was not domiciled in this state, a personal

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1 representative whose appointment has not been terminated has been
2 appointed by a court in the state of domicile and the applicant is
3 not the domiciliary personal representative or his nominee.

4 3. Other requirements of this section have not been met.

5 Sec. 4. Section 14-3705, Arizona Revised Statutes, is amended
6 to read:

7 14-3705. Duty of personal representative; information to
8 heirs, devisees and department of revenue

9 Not later than ten days after his appointment every personal
10 representative, except any special administrator, shall give informa-
11 tion of his appointment to the heirs and devisees, including, if there
12 has been no formal testacy proceeding and if the personal representative
13 was appointed on the assumption that the decedent died intestate, the
14 devisees in any will mentioned in the application for appointment of a
15 personal representative; information shall also be given to the ~~state~~
16 ~~tax-commission~~ DEPARTMENT OF REVENUE. The information shall be delivered
17 or sent by ordinary mail to the ~~state-tax-commission~~ DEPARTMENT OF
18 REVENUE and to each of the heirs and devisees whose address is reasonably
19 available to the personal representative. The duty does not extend to
20 require information to persons who have been adjudicated in a prior
21 formal testacy proceeding to have no interest in the estate. The informa-
22 tion shall include the name and address of the personal representative,
23 indicate that it is being sent to persons who have or may have some
24 interest in the estate being administered, indicate whether bond has
25 been filed, and describe the court where papers relating to the estate
26 are on file. The personal representative's failure to give this informa-
27 tion is a breach of his duty to the persons concerned but does not
28 affect the validity of his appointment, his powers or other duties. A
29 personal representative may inform other persons of his appointment by
30 delivery or ordinary first class mail.

31 Sec. 5. Section 14-3907, Arizona Revised Statutes, is amended
32 to read:

33 14-3907. Distribution in kind; evidence

34 A. If distribution in kind is made, the personal representative
35 shall execute an instrument or deed of distribution assigning, trans-
36 ferring or releasing the assets to the distributee as evidence of the
37 distributee's title to the property.

38 B. THE NAMES AND ADDRESSES OF EACH DISTRIBUTEE SHALL BE INCLUDED
39 IN ANY INSTRUMENT OF DISTRIBUTION TRANSFERRING TITLE TO REAL PROPERTY
40 RECORDED BY ANY COUNTY RECORDER.

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1 Sec. 6. Title 14, chapter 5, article 3, Arizona Revised Statutes,
2 is amended by adding section 14-5314, to read:

3 14-5314. Compensation of appointees

4 IF NOT OTHERWISE COMPENSATED FOR SERVICES RENDERED ANY VISITOR,
5 LAWYER, PHYSICIAN, GUARDIAN OR TEMPORARY GUARDIAN APPOINTED PURSUANT
6 TO THIS ARTICLE IS ENTITLED TO REASONABLE COMPENSATION FROM THE ESTATE,
7 IF ANY, OF THE WARD IF THE PETITION BE GRANTED, OR FROM THE PETITIONER,
8 IF THE PETITION BE DENIED. IF COMPENSATION BY THE WARD OF PETITIONER
9 IS NOT FEASIBLE THE COURT SHALL DETERMINE AND PAY REASONABLE COMPENSA-
10 TION FOR SERVICES RENDERED BY ANY VISITOR, LAWYER, PHYSICIAN, GUARDIAN
11 OR TEMPORARY GUARDIAN APPOINTED IN A GUARDIANSHIP PROCEEDING.

12 Sec. 7. Section 14-5401, Arizona Revised Statutes, is amended
13 to read:

14 14-5401. Protective proceedings

15 Upon petition and after notice and hearing in accordance with the
16 provisions of this article, the court may appoint a conservator or
17 make other protective order for cause as follows:

18 1. Appointment of a conservator or other protective order may
19 be made in relation to the estate and affairs of a minor if the court
20 determines that a minor owns money or property that requires management
21 or protection which cannot otherwise be provided, has or may have busi-
22 ness affairs which may be jeopardized or prevented by his minority,
23 or that funds are needed for his support and education and that protec-
24 tion is necessary or desirable to obtain or provide funds.

25 2. Appointment of a conservator or other protective order may
26 be made in relation to the estate and affairs of a person if the court
27 determines that both:

28 (a) The person is unable to manage his property and affairs
29 effectively for reasons such as mental illness, mental deficiency,
30 MENTAL DISORDER, physical illness or disability, advanced age, chronic
31 use of drugs, chronic intoxication, confinement, detention by a foreign
32 power or disappearance.

33 (b) The person has property which will be wasted or dissipated
34 unless proper management is provided, or that funds are needed for the
35 support, care and welfare of the person or those entitled to be sup-
36 ported by him and that protection is necessary or desirable to obtain
37 or provide funds.

38 Sec. 8. Section 14-5407, Arizona Revised Statutes, is amended
39 to read:

40 14-5407. Procedure concerning hearing and order on
41 original petition

42 A. Upon receipt of a petition for appointment of a conservator
43 or other protective order because of minority, the court shall set a
44 date for hearing on the matters alleged in the petition. If, at any
45 time in the proceeding, the court determines that the interests of the
46 minor are or may be inadequately represented, it may appoint an attor-
47 ney to represent the minor, giving consideration to the choice of the

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1 minor if fourteen years of age or older. A lawyer appointed by the
2 court to represent a minor has the powers and duties of a guardian
3 ad litem.

4 B. Upon receipt of a petition for appointment of a conservator
5 or other protective order for reasons other than minority, the court
6 shall set a date for hearing. After hearing, upon finding that a
7 basis for the appointment of a conservator or other protective order
8 has been established, the court shall make an appointment or other
9 appropriate protective order. Unless the person to be protected
10 has counsel of his own choice, the court must appoint a lawyer to
11 represent him who then has the powers and duties of a guardian ad
12 litem. If the alleged disability is mental illness, mental defi-
13 ciency, MENTAL DISORDER, physical illness or disability, advanced age,
14 chronic use of drugs, or chronic intoxication, the court may direct
15 that the person to be protected be examined by a physician designated
16 by the court, preferably a physician who is not connected with any
17 institution in which the person is a patient or is detained. The court
18 may send a visitor to interview the person to be protected. The
19 visitor may be a guardian ad litem or an officer or employee of the
20 court.

21 C. In any case where the veterans administration is or may be
22 an interested party, a certificate of an authorized official of the
23 veterans administration that the person to be protected has been
24 found incapable of handling the benefits payable, on examination in
25 accordance with the laws and regulations governing the veterans
26 administration, shall be prima facie evidence of the necessity for
27 appointment of a conservator.

28 Sec. 9. Section 14-5601, Arizona Revised Statutes, is amended
29 to read:

30 14-5601. Establishment of public fiduciary

31 A. Each county board of supervisors shall, by resolution or
32 ordinance, create the office of and appoint a public ~~guardian, conser-~~
33 ~~vator and personal representative~~ FIDUCIARY.

34 B. Costs incurred in conducting the office of public ~~guardian,~~
35 ~~conservator and personal representative~~ FIDUCIARY shall be a charge
36 against the county.

37 Sec. 10. Section 14-5602, Arizona Revised Statutes, is amended
38 to read:

39 14-5602. Duties of public fiduciary; appointment

40 The court shall appoint a public ~~guardian, conservator or personal~~
41 ~~representative~~ FIDUCIARY for those persons OR DECEDENTS' ESTATES in need
42 of guardianship, conservatorship or public administration and for whom
43 there is no person or corporation qualified and willing to act in such
44 capacity.

45 Sec. 11. Section 14-5603, Arizona Revised Statutes, is amended
46 to read:

47 14-5603. Deposit of funds

48 All funds coming into the custody of the public ~~guardian, conser-~~
49 ~~vator and personal representative~~ FIDUCIARY shall be deposited in the

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1 county treasury and disbursed by order of the court or shall be de-
2 posited in one or more insured banks authorized to do business in the
3 county or invested in one or more insured savings and loan associations
4 authorized to do business in the county, and if there are no such insured
5 banks or such insured savings and loan associations in the county, then
6 the public ~~guardian, conservator and personal representative~~ FIDUCIARY
7 may deposit such funds in any insured bank or invest such funds in any
8 insured savings and loan association in the state. Money deposited with
9 the county treasurer or with an insured bank or invested in an account
10 or accounts in an insured savings and loan association may be withdrawn
11 only upon an order of the court.

12 Sec. 12. Section 14-5604, Arizona Revised Statutes, is amended
13 to read:

14 14-5604. Claim against estate for expenses

15 The public ~~guardian, conservator and personal representative~~
16 FIDUCIARY shall have a claim against the ward's estate for his reason-
17 able expenses incurred in the execution of the guardianship, conservator-
18 ship or public administration and such compensation for his services
19 and those of his attorney as the court in which his accounts are
20 settled deems just and reasonable. All such funds received for expenses
21 and compensation shall be paid into the county treasury to be credited
22 to the general fund of the county.

23 Sec. 13. Section 14-5605, Arizona Revised Statutes, is amended
24 to read:

25 14-5605. Letter testamentary or of administration not
26 required; statement to be filed; powers

27 A. Whenever the gross assets of an estate do not exceed in value
28 three thousand dollars the public ~~guardian, conservator and personal~~
29 ~~representative~~ FIDUCIARY may act without the issuance of letters TESTA-
30 MENTARY OR of administration.

31 B. Upon commencing to act pursuant to ~~this section~~ SUBSECTION A
32 the public ~~guardian, conservator and personal representative~~ FIDUCIARY
33 shall file with the court a statement showing the name and domicile of
34 the decedent, the date and place of death and the name, address and
35 relationship of any EACH known heir or devisee. The filing of such
36 ~~notice~~ STATEMENT shall have the same effect as the issuance of formal
37 letters TESTAMENTARY OR of administration.

38 C. In the event the gross assets of an estate in which the public
39 ~~guardian, conservator and personal representative~~ FIDUCIARY commences
40 to act pursuant to subsection A exceeds LATER IS FOUND TO EXCEED three
41 thousand dollars the public ~~guardian, conservator and personal represen-~~
42 ~~tative~~ FIDUCIARY shall ~~forthwith~~ apply for letters for the estate.

43 D. In the event the public ~~guardian, conservator and personal~~
44 ~~representative~~ FIDUCIARY, acting in any estate pursuant to subsection
45 A, shall ascertain the names and whereabouts of persons believed to be
46 heirs or devisees of the estate, ~~then and in that event~~ WHO ARE NOT
47 SHOWN IN THE STATEMENT FILED PURSUANT TO SUBSECTION B he shall forthwith
48 file a ~~supplemental~~ statement SUPPLEMENTAL TO THE STATEMENT PREVIOUSLY
49 FILED pursuant to subsection B.

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1 dollars delivered to him by any county officer or department, but such
2 sale shall not be had unless three months have elapsed since the
3 delivery thereof to him and unless the property is unclaimed and until
4 notice of the public auction shall ~~be~~ HAVE BEEN published once a week
5 for two consecutive weeks in a newspaper published in the county, the
6 first publication to be not less than twenty days prior to the public
7 auction.

8 2. To sell OTHER personal property of the decedent valued at less
9 than one thousand dollars at private sale at any time and to sell it at
10 private sale if in excess of that value or at public AUCTION sale,
11 regardless of value, in such manner and upon such notice as SHALL BE
12 directed by the court.

13 3. To file in the court after the expiration of seven months but
14 no later than twelve months from the time he commences to act as ~~personal~~
15 ~~representative~~ PUBLIC FIDUCIARY of the estate an account in estates in
16 which the gross value of the assets accounted for is less than three
17 thousand dollars. ~~and~~ A copy of such account shall be mailed by certi-
18 fied mail, return receipt requested, to each of the persons entitled to
19 receive ~~process~~ NOTICE upon an accounting proceeding provided the
20 names and addresses of such persons be ARE known to OR ARE REASONABLY
21 ASCERTAINABLE BY him. Unless objection or claim ~~be~~ IS properly filed
22 in the court within thirty days ~~from~~ AFTER mailing such account a final
23 decree settling his account may be entered without further notice or
24 proceedings and with the same effect as in an accounting proceeding
25 and he shall be entitled to costs, fees and reimbursement OUT OF THE
26 ESTATE by the court in the decree.

27 4. To pay for the use and benefit of a minor heir or devisee
28 who has no ~~guardian~~ PUBLIC FIDUCIARY the share of ~~legacy~~ AN INTESTATE
29 ESTATE OR A DEVISEE due him if IT DOES not ~~exceeding~~ EXCEED five thousand
30 dollars by payment pursuant to section 14-5103.

31 Sec. 16. Section 33-303, Arizona Revised Statutes, is amended
32 to read:

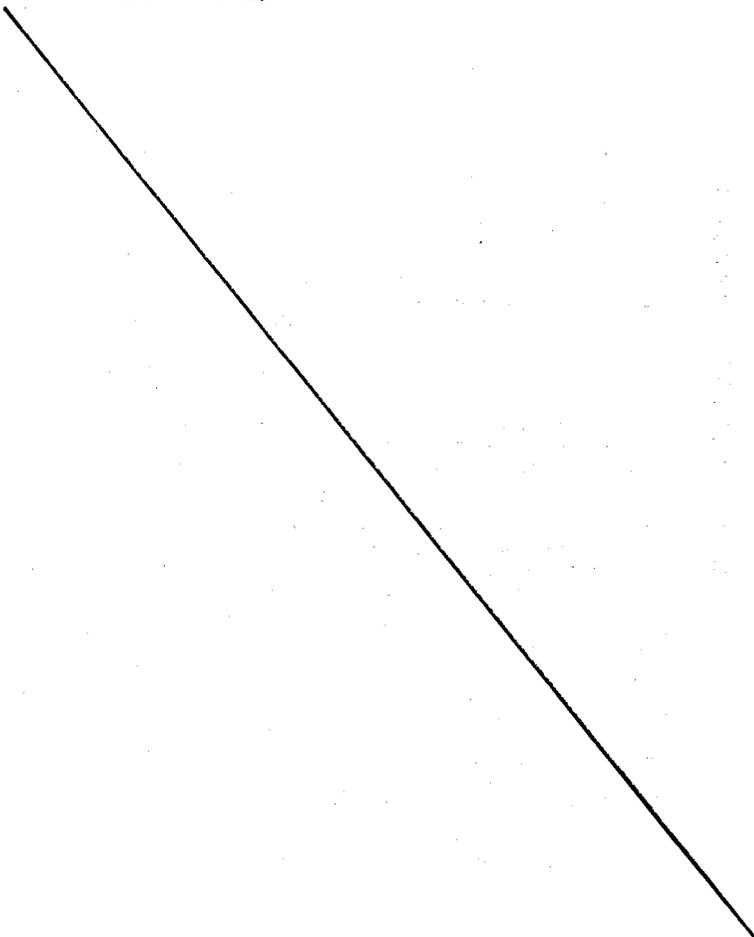
33 33-303. Discrimination by landlord or lessor against
34 tenant with children prohibited; penalty;
35 exceptions

36 A. A person who refuses to rent to any other person a place to
37 be used for a dwelling for the reason that the other person has a child
38 or children, or who advertises in connection with the rental a restric-
39 tion against children, either by the display of a sign, placard, written
40 or printed notice, or by publication thereof in a newspaper of general
41 circulation, shall be punished for the first offense by a fine of not
42 less than one hundred nor more than five hundred dollars, and for a
43 subsequent conviction by a fine of five hundred dollars, by imprisonment
44 for three months in the county jail, or both.

45 B. NO PERSON SHALL RENT OR LEASE HIS PROPERTY TO ANOTHER IN
46 VIOLATION OF A VALID RESTRICTIVE COVENANT AGAINST THE SALE OF SUCH
47 PROPERTY TO PERSONS WHO HAVE A CHILD OR CHILDREN LIVING WITH THEM
48 NOR SHALL A PERSON RENT OR LEASE HIS PROPERTY TO PERSONS WHO HAVE A
49 CHILD OR CHILDREN LIVING WITH THEM WHEN HIS PROPERTY LIES WITHIN A
50 SUBDIVISION WHICH SUBDIVISION IS PRESENTLY DESIGNED, ADVERTISED AND

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1 USED AS AN EXCLUSIVE ADULT SUBDIVISION. A PERSON WHO RENTS OR LEASES
2 HIS PROPERTY IN VIOLATION OF THE PROVISIONS OF THIS SUBSECTION SHALL
3 BE PUNISHED FOR THE FIRST OFFENSE BY A FINE OF NOT LESS THAN ONE HUN-
4 DRED NOR MORE THAN FIVE HUNDRED DOLLARS, AND FOR A SUBSEQUENT CONVIC-
5 TION BY A FINE OF FIVE HUNDRED DOLLARS, BY IMPRISONMENT FOR THREE
6 MONTHS IN THE COUNTY JAIL, OR BOTH.



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1 Sec. 17. Section 33-802, Arizona Revised Statutes, is amended
2 to read:

3 33-802. Description of trust property; mailing address
4 of trustor and trustee

5 A. In deeds of trust the legal description of trust property shall
6 be given by one of the following methods:

- 7 1. By the use of lot, block, tract or parcel as set forth within
8 a recorded subdivision plat.
9 2. By the use of a metes and bounds or course and distance survey.
10 3. By the use of the governmental rectangular survey system with
11 specific identification of the location within any section or sections,
12 tract or tracts, of a township and range.
13 4. By the use of the name of an unpatented mining claim together
14 with the recording data of the location notice thereof recorded in the
15 county recorder's office in which the claim is located.
16 5. By the use of the name of a patented mining claim together
17 with the mineral survey number and the recording data of the patent
18 to such mining claim.

19 6. By the use of a homestead entry survey number.

20 B. The mailing address of each trustor AND TRUSTEE shall be
21 specified in each deed of trust.

22 Sec. 18. Section 33-1317, Arizona Revised Statutes, is amended
23 to read:

24 33-1317. Discrimination by landlord or lessor against
25 tenant with children prohibited; penalty;
26 exceptions

27 A. A person who refuses to rent to any other person a place to
28 be used for a dwelling for the reason that the other person has a child
29 or children, or who advertises in connection with the rental a restric-
30 tion against children, either by the display of a sign, placard, written
31 or printed notice, or by publication thereof in a newspaper of general
32 circulation, shall be punished for the first offense by a fine of not
33 less than one hundred nor more than five hundred dollars, and for a
34 subsequent conviction by a fine of five hundred dollars, by imprisonment
35 for three months in the county jail, or both.

36 B. NO PERSON SHALL RENT OR LEASE HIS PROPERTY TO ANOTHER IN
37 VIOLATION OF A VALID RESTRICTIVE COVENANT AGAINST THE SALE OF SUCH
38 PROPERTY TO PERSONS WHO HAVE A CHILD OR CHILDREN LIVING WITH THEM NOR
39 SHALL A PERSON RENT OR LEASE HIS PROPERTY TO PERSONS WHO HAVE A CHILD
40 OR CHILDREN LIVING WITH THEM WHEN HIS PROPERTY LIES WITHIN A SUBDIVI-
41 SION WHICH SUBDIVISION IS PRESENTLY DESIGNED, ADVERTISED AND USED AS
42 AN EXCLUSIVE ADULT SUBDIVISION. A PERSON WHO RENTS OR LEASES HIS
43 PROPERTY IN VIOLATION OF THE PROVISIONS OF THIS SUBSECTION SHALL BE
44 PUNISHED FOR THE FIRST OFFENSE BY A FINE OF NOT LESS THAN ONE HUNDRED
45 NOR MORE THAN FIVE HUNDRED DOLLARS, AND FOR A SUBSEQUENT CONVICTION
46 BY A FINE OF FIVE HUNDRED DOLLARS, BY IMPRISONMENT FOR THREE MONTHS
47 IN THE COUNTY JAIL, OR BOTH.

48 Sec. 19. Section 44-1521, Arizona Revised Statutes, is amended
49 to read:

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1 44-1521. Definitions

2 In this article, unless the context otherwise requires:

3 1. "Advertisement" includes the attempt by publication, dissemi-
4 nation, solicitation or circulation, oral or written, to induce di-
5 rectly or indirectly any person to enter into any obligation or
6 acquire any title or interest in any merchandise.

7 2. "Attorney general" means the attorney general of Arizona or
8 his authorized delegate.

9 3. "Authorized delegate" means any attorney, investigator or
10 administrative personnel employed by the attorney general and so desig-
11 nated, and, when requested by the county attorney and authorized by the
12 attorney general may include similar personnel employed by the several
13 county attorneys of this state.

14 4. "Examine" means the inspection, study or copying of any account,
15 book, document, merchandise, paper or record.

16 5. "Merchandise" means any objects, wares, goods, commodities,
17 intangibles, real estate, or services.

18 6. "Person" means any natural person or his legal representative,
19 partnership, domestic or foreign corporation, any company, trust, busi-
20 ness entity, or association, any agent, employee, salesman, partner,
21 officer, director, member, stockholder, associate, or trustee.

22 7. "Sale" means any sale, offer for sale, or attempt to sell any
23 merchandise for any consideration, INCLUDING SALES, LEASES AND RENTALS
24 OF ANY REAL ESTATE SUBJECT TO ANY FORM OF DEED RESTRICTION IMPOSED AS
25 PART OF A PREVIOUS SALE.

26 Sec. 20. Deed effective date of section 5

27 The provisions of section 5 of this act shall only affect instru-
28 ments and deeds dated on or after September 1, 1975.

Approved by the Governor - June 13, 1975

Filed in the office of the Secretary of State- June 16, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 150
HOUSE BILL 2424

AN ACT

RELATING TO TAXATION; PROVIDING FOR SPECIAL PROPERTY TAX REBATE; PROVIDING FOR CLASSIFICATION OF CERTAIN PROPERTY; AMENDING LAWS 1975, CHAPTER 19, SECTION 1; AMENDING SECTION 42-136, ARIZONA REVISED STATUTES, AND MAKING APPROPRIATIONS.

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

2 Section 1. Appropriations; purposes; exemption; reversion

3 A. The sum of fifteen million dollars is appropriated from the
4 state general fund to the state treasurer for the purpose of reimbursing
5 county treasurers for total property tax reduction amounts computed as
6 provided in this act and for special property tax rebates as provided
7 in this act. Of the sums appropriated in this subsection, the sum of
8 seven hundred thousand dollars shall be deposited in the special rebate
9 fund for the payment of the special property tax rebate pursuant to the
10 provisions of sections 2 and 3 of this act and the balance shall be used
11 for the payment of property tax reduction.

12 B. The sum of twenty-four million dollars is appropriated from
13 the federal revenue sharing trust fund, account 34-140-801, to the state
14 treasurer for the purpose of reimbursing county treasurers for property
15 tax reduction computed as provided in this act.

16 C. Of the thirty-eight million three hundred thousand dollars
17 appropriated for property tax reduction pursuant to subsections A and
18 B of this section, the sum of thirty-six million three hundred thousand
19 dollars shall be for the purpose of reimbursing county treasurers for
20 property tax reduction computed for the tax year 1975 as provided in
21 title 42, chapter 2, article 5.1, Arizona Revised Statutes, and the sum
22 of two million dollars shall be for the purpose of reimbursing county
23 treasurers for property tax reduction computed for the tax year beginning
24 January 1, 1976 and ending December 31, 1976 as provided in title 42,
25 chapter 3, article 4, Arizona Revised Statutes.

26 D. The appropriations made by this act are exempt from the provi-
27 sions of section 35-190, relating to lapsing of appropriations, except
28 that any funds thereof remaining unexpended on January 31, 1977 shall
29 revert to the funds from which appropriated.

1 E. An amount not to exceed two hundred fifty thousand dollars of
2 the sums appropriated for property tax reduction pursuant to the provi-
3 sions of subsections A and B of this section may be held in reserve by
4 the state treasurer for the purpose of making adjustments to the amounts
5 of property tax reduction remitted to the various counties. No such
6 adjustment may be made later than May 31, 1976. Any monies held in
7 reserve and not used in making adjustments shall be included in the final
8 remittance made to the county treasurers pursuant to the provisions of
9 section 42-373.

10 Sec. 2. Special property tax rebate; eligible property
11 procedure

12 A. Each taxpayer who owned eligible property on January 1, 1974
13 or acquired eligible property prior to July 1, 1975 and who owns eligible
14 property on the date of making application for a special property tax
15 rebate shall upon making application therefor to the county treasurer
16 of the county in which the eligible property lies, receive a special
17 rebate equal to the amount of property tax reduction to which the resi-
18 dent would otherwise have been entitled for the tax year 1974 pursuant
19 to title 42, chapter 2, article 5.1, Arizona Revised Statutes, if the
20 property had been classified as a class five property pursuant to the
21 provisions of section 42-136, Arizona Revised Statutes, for the tax
22 year 1974.

23 B. Eligible property as used in this section means secured property
24 classified as class four property pursuant to section 42-136, Arizona
25 Revised Statutes, for the tax year 1974 and classified as class five
26 property pursuant to section 42-136, Arizona Revised Statutes, for the
27 tax year 1975.

28 C. The county treasurer shall prescribe the forms and procedures,
29 not inconsistent with the provisions of this section, to be utilized by
30 persons applying for the special property tax rebate and shall be respon-
31 sible for checking each application to determine the eligibility of the
32 applicant. Upon determination of the eligibility of an applicant, the
33 county treasurer shall within thirty days pay to the applicant from the
34 county general fund, the amount of special property tax rebate to which
35 the taxpayer is entitled. Upon application to the state treasurer, the
36 county treasurer shall be reimbursed from the special rebate fund an
37 amount equal to the amounts paid by the county treasurer for special
38 property tax rebates during the period covered by the application.

39 Sec. 3. Special rebate fund; county reimbursements

40 A. There is established a special rebate fund which shall consist
41 of legislative appropriations made thereto.

42 B. The special rebate fund shall be deposited with the state
43 treasurer. Each county treasurer who has made special rebate payments
44 to owners of eligible property pursuant to the provisions of section 2
45 of this act may make application to the state treasurer for reimbursement
46 of the actual amount of such special rebates from the special rebate fund.

47 Sec. 4. Laws 1975, chapter 19, section 1, is amended to read:

48 Section 1. Authorization for property tax credit or refund
49 for overpayment of 1974 tax on mobile homes

50 A. Any taxpayer who paid property tax during the calendar year
51 1974 on a mobile home CLASSIFIED AS A CLASS FIVE PROPERTY PURSUANT TO

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1 SECTION 42-136, which TAX was based on an assessed valuation ~~in excess~~
2 of ~~fourteen~~ EIGHTEEN per cent of the full cash value thereof for such
3 year, shall be given credit by the county assessor for the amount paid
4 based on an assessed valuation in excess of fifteen per cent of the full
5 cash value thereof, regardless whether or not such taxes were paid under
6 protest. Such tax credit shall be granted by deducting such amount of
7 overpayment on the 1974 tax rolls from the amount of property tax assessed
8 on such mobile home and required to be paid by such taxpayer during the
9 calendar year 1975.

10 B. If the amount of such taxes required to be paid by such taxpayer
11 on such mobile home during the calendar year 1975 is less than the amount
12 of such overpayment, or if no such taxes are required to be paid thereon
13 by such taxpayer during the calendar year 1975, then such amount of
14 overpayment of such tax during the calendar year 1974 shall be refunded
15 by the county treasurer of the county in which it was collected by payment
16 of such amount to the taxpayer by whom it was paid. No payment may be
17 made pursuant to the provisions of this subsection unless such taxpayer
18 submits a claim therefor, which shall include the tax receipt or cancelled
19 check, to the county treasurer before January 1, 1976.

20 C. The county treasurer shall be entitled to credit for such
21 refunds in the next accounting after such repayment with each of the
22 political subdivisions and the state to which such overpayment or dup-
23 licate payment may have been transmitted in the event he had previously
24 transmitted such overpayment or duplicate payment or payments to any of
25 the political subdivisions of the state or to the state.

26 Sec. 5. Section 42-136, Arizona Revised Statutes, is amended to
27 read:

28 42-136. Classification of property for taxation

29 A. There are established the following classes of property for
30 taxation:

31 1. Class one:

32 (a) Flight property valued under the provisions of sections 42-701
33 through 42-705.

34 (b) All real and personal property used in the operation of pri-
35 vate car companies valued under the provisions of sections 42-741 through
36 42-748.

37 (c) All real and personal property of railroad companies used in
38 the continuous operation of a railroad valued under the provisions of
39 sections 42-761 through 42-766.

40 (d) Producing mines and mining claims, the personal property used
41 thereon, the improvements thereto and the mills and smelters operated in
42 conjunction therewith valued under the provisions of section 42-124.

43 (e) Standing timber.

44 2. Class two:

45 (a) All real and personal property used in the operation of tele-
46 phone and telegraph companies valued under the provisions of sections
47 42-791 through 42-795.

48 (b) All property, both real and personal, of gas, water and elec-
49 tric utility companies and pipeline companies valued under the provisions
50 of section 42-124.01.

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3. Class three:

All real and personal property devoted to any commercial or industrial use other than property included in classes one, two or four, including but not limited to land, the improvements thereto or any part of such land or improvements leased or rented for residential use.

4. Class four:

(a) All real property and the improvements thereto, if any, used for agricultural purposes, and all other real property and the improvements thereto, if any, not included in classes one, two, three or five.

(b) All personal property used for agricultural purposes, and all other personal property not included in classes one, two, three or five.

5. Class five:

(a) All real property and the improvements thereto and personal property used for residential purposes and not otherwise included in classes ~~1, 2, 3, 4~~ ONE, TWO, THREE OR FOUR.

(b) ALL REAL PROPERTY AND IMPROVEMENTS THERETO AND PERSONAL PROPERTY USED FOR THE OPERATION OF RESIDENTIAL HOUSING FACILITIES NOT USED OR HELD FOR PROFIT AND STRUCTURED TO THE CARE OR HOUSING OF HANDICAPPED PERSONS OR PERSONS SIXTY-TWO YEARS OF AGE OR OLDER.

B. FOR THE PURPOSES OF CLASSIFICATION OF PROPERTY UNDER THIS SECTION, PARTIALLY COMPLETED OR VACANT IMPROVEMENTS SHALL BE CLASSIFIED ACCORDING TO THEIR INTENDED USE.

Sec. 6. Retroactivity

The provisions of section 5 of this act upon becoming effective shall be effective retroactive to, from and after December 31, 1974.

Sec. 7. Emergency

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 13, 1975

Filed in the office of the Secretary of State - June 16, 1975]

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 151
HOUSE BILL 2312

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; PROVIDING STATUTORY REVISIONS RELATING TO THE REAL ESTATE DEPARTMENT; PRESCRIBING ORGANIZATION OF THE REAL ESTATE DEPARTMENT; PROVIDING FOR APPOINTMENT AND QUALIFICATIONS OF THE REAL ESTATE COMMISSIONER; CHANGING REAL ESTATE COMMISSION TO REAL ESTATE ADVISORY BOARD; PRESCRIBING MEMBERS AND QUALIFICATIONS OF REAL ESTATE ADVISORY BOARD; PRESCRIBING CERTAIN POWERS AND DUTIES; PRESCRIBING QUALIFICATIONS OF LICENSEES; PROVIDING FOR REMOVAL OF LICENSE; PRESCRIBING PENALTIES; PROVIDING FOR CERTAIN SURETY BOND REQUIREMENTS; PROVIDING FOR THE SALE AND MORTGAGING OF UNSUBDIVIDED LAND; AMENDING SECTIONS 32-2101, 32-2103, 32-2104 AND 32-2105, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2106, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2106; AMENDING SECTIONS 32-2107, 32-2111, 32-2121, 32-2123 AND 32-2124, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2125.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-2126, 32-2130, 32-2151, 32-2153, 32-2154, 32-2158, 32-2160, 32-2181, 32-2183, 32-2184, 32-2185.01 AND 32-2185.03, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 20, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2185.05; AMENDING SECTIONS 32-2186, 32-2188, 32-2189, 32-2190, 32-2191 AND 32-2192, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 20, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7, SECTIONS 32-2195.01 THROUGH 32-2195.04; AMENDING SECTIONS 9-463.01 AND 11-806.01, ARIZONA REVISED STATUTES, AND MAKING APPROPRIATIONS.

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

2 Section 1. Section 32-2101, Arizona Revised Statutes, is amended
3 to read:

4 32-2101. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Associate broker" means a person who has qualified as a broker
7 and whose license permits him to act only on behalf of and in the employ
8 of a licensed corporation or partnership qualified under the provisions
9 of this chapter.

10 2. "Blanket encumbrance" means any mortgage, deed of trust or any
11 other encumbrance or lien, securing or evidencing the payment of money
12 and affecting more than one lot or parcel of subdivided land, or an agree-
13 ment affecting more than one such lot or parcel by which the subdivider
14 holds such subdivision under an option, contract to sell or trust agree-
15 ment. Blanket encumbrance does not include taxes and assessments levied
16 by public authority.

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- 1 3. "BOARD" MEANS THE STATE REAL ESTATE ADVISORY BOARD.
2 ~~3.~~ 4. "Broker", when used without modification, means a person
3 licensed as a broker under any of the provisions of this chapter.
4 ~~4.~~ 5. "Cemetery" or "cemetery property" means any one, or com-
5 bination of more than one, of the following, in a place used, or intended
6 to be used, and dedicated for cemetery purposes:
7 (a) A burial park, for earth interments.
8 (b) A mausoleum, for crypt or vault entombments.
9 (c) A crematory, or a crematory and columbarium, for cinerary
10 interments.
11 ~~5.~~ 6. "Cemetery broker" means a person other than a real estate
12 broker or real estate salesman who, for another, for compensation:
13 (a) Sells, leases or exchanges cemetery property or interment ser-
14 vices of or for another, or on his own account.
15 (b) Offers for another or for his own account to buy, sell, lease
16 or exchange cemetery property or interment services.
17 (c) Negotiates the purchase and sale, lease or exchange of cemetery
18 property or interment services.
19 (d) Negotiates the purchase or sale, lease or exchange, or lists or
20 solicits, or negotiates a loan on or leasing of cemetery property or
21 interment services.
22 ~~6.~~ 7. "Cemetery salesman" means a natural person, other than a
23 real estate broker or real estate salesman, engaged by or on behalf of
24 a licensed broker to perform any act or transaction included in the
25 definition of cemetery broker.
26 ~~7.~~ ~~"Commission" means the state real estate commission.~~
27 8. "Commissioner" means the state real estate commissioner.
28 9. "Compensation" means any fee, commission, salary, money or other
29 valuable consideration for services rendered or to be rendered as well as
30 the promise of consideration whether contingent or not.
31 10. "Department" means the state real estate department.
32 11. "Designated broker" means the officer or member of a corpora-
33 tion or partnership licensed under any of the provisions of this chapter
34 designated under the provisions of section 32-2125 by such corporation or
35 partnership to act in its behalf as broker. A designated broker may only
36 act as a broker for or on behalf of the corporation or partnership by
37 whom he has been designated as a broker. He may not hold any other license
38 as a real estate broker.
39 12. "Fractional interest" means an undivided interest in improved or
40 unimproved land, lots or parcels of any size created for the purpose of
41 sale or lease and evidenced by a receipt, certificate, deed or other
42 document conveying such interest. Undivided interests in land, lots or
43 parcels created in the names of a husband and wife as community property,
44 joint tenants or tenants in common, or in the names of other persons who,
45 acting in concert together as part of a single transaction, acquire
46 such interests without a purpose to divide such interests for present
47 or future sale or lease shall be deemed to constitute only one fractional
48 interest.
49 13. "Improved lot or parcel" means a lot or parcel of a subdivision
50 upon which lot or parcel there is a residential, commercial or industrial

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1 building or concerning which a contract has been executed to erect such
2 an improvement.

3 14. "Inactive license" means a license which has been returned to
4 the commissioner and is being held by the commissioner on an inactive
5 status during the current license year.

6 15. "Lease" or "leasing" includes any lease, whether it is the
7 sole, the principal or any incidental part of a transaction.

8 16. "Licensee" means a person to whom a license for the current
9 license year as broker or salesman has been granted under any provision
10 of this chapter.

11 17. "License year" means the twelve-month period beginning with
12 the date of original issue or renewal of a particular license.

13 18. "Member" means a member of the real estate ~~commission~~
14 ADVISORY BOARD.

15 19. "Permanent access", as required under article 4 of this chapter,
16 means permanent access from the subdivision to any federal, state or
17 county highway.

18 20. "Perpetual or endowed-care cemetery" means a cemetery wherein
19 lots or other burial spaces are sold or transferred under the represen-
20 tation that the cemetery will receive "perpetual" or "endowed" care
21 as herein defined, free of further cost to the purchaser after payment
22 of the original purchase price for the lot or burial space.

23 21. "Perpetual-care" or "endowed-care" means the maintenance and
24 care of all places where interments have been made, of the trees, shrubs,
25 roads, streets and other improvements and embellishments contained within
26 or forming a part of the cemetery. This shall not include the maintenance
27 or repair of monuments, tombs, copings or other man-made ornaments as
28 associated with individual burial spaces.

29 22. "Person" means any individual, corporation, partnership, com-
30 pany and any other form of multiple organization for carrying on business,
31 foreign or domestic.

32 23. "Real estate" includes leasehold-interests and any ~~other~~
33 ~~interests or~~ estates in land, ~~whether corporeal, incorporeal, freehold~~
34 ~~or nonfreehold~~ AS DEFINED IN TITLE 33, CHAPTER 2, ARTICLES 1 AND 2,
35 regardless of whether located in this state.

36 24. "Real estate broker" means a person, other than a salesman,
37 who, for another and for compensation:

38 (a) Sells, exchanges, purchases, rents or leases real estate.

39 (b) Offers to sell, exchange, purchase, rent or lease real
40 estate.

41 (c) Negotiates, offers, attempts or agrees to negotiate the sale,
42 exchange, purchase, rental or leasing of real estate.

43 (d) Lists, offers, attempts or agrees to list real estate for sale,
44 lease or exchange.

45 (e) Auctions, offers, attempts or agrees to auction real estate.

46 (f) Buys, sells, offers to buy or sell or otherwise deals in options
47 on real estate or improvements thereon.

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1 (g) Collects, offers, attempts or agrees to collect rent for the
2 use of real estate.

3 (h) Advertises or holds himself out as being engaged in the business
4 of buying, selling, exchanging, rental or leasing real estate or counseling
5 or advising thereon.

6 (i) Assists or directs in the procuring of prospects, calculated to
7 result in the sale, exchange, leasing or rental of real estate.

8 (j) Assists or directs in the negotiation of any transaction cal-
9 culated or intended to result in the sale, exchange, leasing or rental of
10 real estate.

11 (k) Negotiates, or offers, attempts or agrees to negotiate
12 a loan secured or to be secured by a mortgage or other encumbrance upon or
13 transfer of real estate subject to the provisions of subsection C of section
14 32-2155. The provisions of this subdivision do not apply to mortgage brokers
15 as defined in and subject to the provisions of title 6, chapter 9, article 1.

16 (l) Engages in the business of assisting or offering to assist
17 another in filing an application for the purchase or lease of, or in
18 locating or entering upon lands owned by the state or federal government.

19 (m) Claims, demands, charges, receives, collects or contracts for
20 the collection of an advance fee in connection with any employment
21 enumerated in this section, INCLUDING EMPLOYMENT UNDERTAKEN TO PROMOTE
22 THE SALE OR LEASE OF REAL PROPERTY BY ADVANCE FEE LISTING, BY FURNISHING
23 RENTAL INFORMATION TO A PROSPECTIVE TENANT FOR A FEE PAID BY SUCH PRO-
24 SPECTIVE TENANT, BY ADVERTISEMENT OR BY ANY OTHER OFFERING TO SELL, LEASE,
25 EXCHANGE OR RENT REAL PROPERTY or selling kits connected therewith. THIS
26 SHALL NOT INCLUDE THE ACTIVITIES OF ANY COMMUNICATIONS MEDIA OF GENERAL
27 CIRCULATION OR COVERAGE NOT PRIMARILY ENGAGED IN THE ADVERTISEMENT OF REAL
28 ESTATE.

29 (n) Performing any of the foregoing acts as an employee of, or in
30 behalf of, the owner of real estate, or interest therein, or improvements
31 affixed thereon, for compensation.

32 25. "Real estate sales contract" means an agreement in which
33 one party agrees to lease or convey title to real estate to another
34 party upon the satisfaction of specified conditions set forth in the
35 contract.

36 26. "Real estate salesman" means a natural person engaged by or on
37 behalf of a licensed real estate broker to perform any act or participate
38 in any transaction in a manner included in the definition of real estate
39 broker subject to the provisions of subsection C of section 32-2155.

40 27. "Sale" or "lease" includes every disposition, transfer or offer
41 or attempt to dispose of or transfer land in a subdivision, or an interest
42 or estate therein, by a subdivider or his agent, including the offering of
43 such property as a prize or gift if a monetary charge or consideration for
44 whatever purpose is required by the subdivider or his agent.

45 28. "Salesman", when used without modification, means a natural
46 person licensed as a salesman under any of the provisions of this chapter.

47 29. "Subdivider" means any person who causes land to be subdivided
48 into a subdivision for himself or for others, or who undertakes to develop

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1 a subdivision, but does not include a public agency or officer authorized
2 by law to create subdivisions.

3 30. "Subdivision" or "subdivided lands" means improved or unimproved
4 land or lands divided or proposed to be divided for the purpose of sale,
5 lease, or for cemetery purposes, whether immediate or future, into four
6 or more lots, parcels or fractional interests. This paragraph shall not
7 apply to the division or proposed division of land located in the state
8 of Arizona into lots or parcels each of which is, or will be, thirty-six
9 acres or more in area including to the center line of dedicated roads or
10 easements, if any, contiguous to the lot or parcel AND PROVIDED FURTHER
11 THAT THIS DEFINITION SHALL NOT BE DEEMED TO INCLUDE THE LEASING OF APART-
12 MENTS, OFFICES, STORES, HOTELS, MOTELS, OR SIMILAR SPACE WITHIN AN APART-
13 MENT BUILDING, INDUSTRIAL BUILDING OR COMMERCIAL BUILDING EXCEPT THAT
14 HORIZONTAL PROPERTY REGIMES AS DEFINED IN TITLE 33, CHAPTER 4.1 SHALL BE
15 INCLUDED IN THIS DEFINITION.

16 31. "Trustee" means:

17 (a) A person designated under section 32-2194.11 to act as a
18 trustee for an endowment-care cemetery fund.

19 (b) A person holding bare legal title to real property under a sub-
20 division trust. A trustee shall not be deemed to be a developer, sub-
21 divider, broker or salesman within the provisions of this chapter.

22 32. "Unimproved lot or parcel" means a lot or parcel of a sub-
23 division which is not an improved lot or parcel.

24 Sec. 2. Section 32-2103, Arizona Revised Statutes, is amended to
25 read:

26 32-2103. Disbursement of funds; report to the governor

27 ~~A. The state treasurer shall maintain a fund known as the real~~
28 ~~estate fund.~~

29 ~~B. A. All monies collected under the provisions of this chapter~~
30 ~~shall be transmitted at least once each month by the department to the~~
31 ~~state treasurer who shall place ninety per cent of such monies, less the~~
32 ~~amount provided for the real estate education fund, in the real estate~~
33 ~~fund, and ten per cent in the general fund UNLESS OTHERWISE PRESCRIBED~~
34 ~~BY LAW.~~

35 ~~C. B. All monies to the credit of the real estate fund are appro-~~
36 ~~priated to the real estate commissioner for the payment of salaries, office~~
37 ~~and traveling expenses and otherwise in carrying out the purposes of this~~
38 ~~chapter. The commissioner shall report to the governor semiannually under~~
39 ~~oath the total amount of receipts and expenditures of the department for~~
40 ~~the preceding six months. At the end of each fiscal year all balances~~
41 ~~remaining in the real estate fund, over and above sixty thousand dollars,~~
42 ~~shall revert to the general fund. No such reversion need be made for the~~
43 ~~1972-1973 fiscal year only.~~

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1 D. C. From the amount of any license fee, collected under section
2 32-2132, paragraphs 1, 3, 5, 6, 8 and 9, the state treasurer shall after
3 depositing ~~the ten per cent~~ SUCH MONIES in the general fund, deduct the
4 sum of five dollars for each such license ~~from the ninety per cent credited~~
5 ~~to the real estate fund~~ and deposit these monies to the real estate educa-
6 tional fund. The monies in the real estate educational fund shall not revert
7 to the state general fund. The department shall expend ~~real estate educa-~~
8 ~~tional fund~~ SUCH MONIES AS ARE ANNUALLY APPROPRIATED FROM THE REAL ESTATE
9 EDUCATIONAL FUND BY THE LEGISLATURE for the purpose of advancing education
10 in real estate, including distributing printed matter of an educational
11 nature, and conducting educational meetings for the benefit of licensed
12 brokers and salesmen.

13 Sec. 3. Section 32-2104, Arizona Revised Statutes, is amended to
14 read:

15 32-2104. Real estate advisory board; members; terms;
16 qualifications; compensation; chairman; duties

17 A. There shall be a real estate ~~commission~~ ADVISORY BOARD composed
18 of seven members who shall be appointed by the governor. The term of
19 office of each member shall be six years, the terms of two members to
20 expire January 31 each odd numbered year except that each third odd
21 numbered year the terms of three members shall expire. Appointment to
22 fill a vacancy occurring other than by expiration of term shall be
23 filled by appointment for the unexpired portion of the term only.

24 B. The membership of the ~~commission~~ BOARD shall consist of:

25 1. Five TWO members who have each been, for five years, a real
26 estate broker actively engaged in business as such in Arizona THIS
27 STATE. Not more than ~~two members~~ ONE MEMBER shall be appointed from
28 any one county.

29 2. ~~One member~~ TWO MEMBERS who shall be primarily engaged in sub-
30 dividing real property.

31 3. ~~One~~ THREE public ~~member~~ MEMBERS WHO ARE NOT RELATED WITHIN
32 THE THIRD DEGREE CONSANGUINITY OR AFFINITY TO ANY PERSON HOLDING A BROKER'S
33 OR SALESMAN'S LICENSE FROM THIS STATE.

34 ~~6. --The two vacancies on the real estate commission which occur~~
35 ~~by expiration of terms in January 1973 shall be filled by the appoint-~~
36 ~~ment of both a member who qualifies as a person primarily engaged in~~
37 ~~subdividing real property and a public member.~~

38 B. C. Members of the ~~commission~~ BOARD shall receive NO compensation
39 ~~as determined pursuant to section 38-611 for each day spent in attending~~
40 ~~regular or special meetings of the commission~~ BUT SHALL BE REIMBURSED FOR
41 SUBSISTENCE EXPENSES PURSUANT TO SECTION 38-624 AND TRAVEL EXPENSES PUR-
42 SUANT TO SECTION 38-623.

43 D. THE BOARD ANNUALLY SHALL SELECT FROM ITS MEMBERSHIP A CHAIR-
44 PERSON FOR THE BOARD.

45 E. THE BOARD SHALL PROVIDE THE COMMISSIONER WITH SUCH RECOMMEN-
46 DATIONS AS IT DEEMS NECESSARY AND BENEFICIAL TO THE BEST INTERESTS OF THE
47 PUBLIC. THE BOARD SHALL ALSO PROVIDE RECOMMENDATIONS ON SPECIFIC QUESTIONS
48 OR PROPOSALS AS REQUESTED BY THE COMMISSIONER.

49 F. THE BOARD ANNUALLY SHALL PRESENT TO THE GOVERNOR AN EVALUATION
50 OF THE PERFORMANCE OF THE REAL ESTATE COMMISSIONER AND THE REAL ESTATE
51 DEPARTMENT.

52 Sec. 4. Section 32-2105, Arizona Revised Statutes, is amended to
53 read:

1 32-2105. Meetings of the state real estate
2 advisory board

3 A. The ~~commissioner~~ BOARD shall meet for the transaction of
4 business not less than once each quarter-year at a place within the
5 state it designates. The ~~commissioner~~ BOARD may hold other meetings it
6 deems advisable upon five days' written notice of the time and place of
7 the meeting, signed by the commissioner or a majority of the members of
8 the ~~commissioner~~ BOARD.

9 B. A majority of the ~~commissioner~~ BOARD shall constitute a quorum.
10 A vacancy on the ~~commissioner~~ BOARD shall not impair the rights or powers
11 of the remaining members.

12 Sec. 5. Repeal

13 Section 32-2106, Arizona Revised Statutes, is repealed.

14 Sec. 6. Title 32, chapter 20, article 1, Arizona Revised Statutes,
15 is amended by adding a new section 32-2106, to read:

16 32-2106. Real estate commissioner; appointment;
17 qualifications

18 A. THE REAL ESTATE COMMISSIONER SHALL BE APPOINTED BY THE GOVERNOR,
19 PURSUANT TO SECTION 38-211. THE REAL ESTATE COMMISSIONER SHALL SERVE AT THE
20 PLEASURE OF THE GOVERNOR.

21 B. TO BE A CANDIDATE FOR THE POSITION OF REAL ESTATE COMMISSIONER
22 A PERSON SHALL HAVE AT LEAST FIVE YEARS' EXPERIENCE IN THE REAL ESTATE
23 INDUSTRY, TITLE INSURANCE INDUSTRY, BANKING OR MORTGAGE BROKER INDUSTRY
24 AND THREE YEARS' ADMINISTRATIVE EXPERIENCE AND SHALL NOT AT THE DATE OF
25 ACCEPTANCE OF APPOINTMENT BE FINANCIALLY INTERESTED IN ANY REAL ESTATE
26 OR BROKERAGE FIRM, NOR ACT AS A BROKER, AND SALESMAN OR AGENT THEREFOR
27 EXCEPT THROUGH A TRUST OVER WHICH THE APPLICANT HAS NO CONTROL.

28 Sec. 7. Section 32-2107, Arizona Revised Statutes, is amended
29 to read:

30 32-2107. Powers and duties of commissioner; compensation;
31 administration of department; seal; directory
32 of brokers and salesmen

33 A. The commissioner shall have charge of the department with power
34 to administer it in accordance with the provisions of and to carry out the
35 purposes of this chapter. He shall adopt a seal which shall bear the words
36 "real estate commissioner, state of Arizona", which shall be used for the
37 authentication of proceedings of the department and the official documents
38 thereof. He shall have his principal office at the state capitol but may
39 have branch offices he deems necessary in other cities.

40 B. The commissioner shall receive compensation as determined pursuant
41 to section 38-611.

42 C. The commissioner shall publish, at least annually, a directory
43 containing the names and addresses of all currently licensed brokers and
44 salesmen, and licensees whose licenses have been suspended, revoked or
45 cancelled within one year. The commissioner shall also publish, at least,
46 quarter-annually a bulletin containing information relating to the depart-
47 ment and the real estate profession in general. The department shall pro-
48 vide for delivery of one copy of the bulletin to each licensee. One copy

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1 of the directory shall be delivered to each licensed broker at no charge to
2 such broker. A charge may be established by the commissioner for additional
3 copies for brokers, salesmen and nonlicensees.

4 D. The commissioner shall prepare and cause to be printed and circu-
5 lated among the licensees such printed educational matter as he deems help-
6 ful and proper for the guidance and assistance of licensees. Single copies
7 of educational matter printed and circulated, except replacement pages and
8 a real estate primer, may be furnished without charge to each licensee.
9 Except as may be otherwise required by law a real estate primer, additional
10 copies of printed matter and replacement pages furnished to licensees and
11 any educational material furnished to any other person shall be sold for a
12 fee set by the commissioner. The commissioner shall set the fee at a level
13 reasonably estimated to be sufficient to recover the cost of printing and
14 distributing copies to be sold.

15 E. THE COMMISSIONER SHALL PRESCRIBE SUCH RULES AND REGULATIONS,
16 IN ACCORD WITH THE PROVISIONS OF THIS CHAPTER, AS THE COMMISSIONER
17 DEEMS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS CHAPTER.

18 Sec. 8. Section 32-2111, Arizona Revised Statutes, is amended
19 to read:

20 32-2111. Attorney general as legal adviser and
21 representative of commissioner

22 A. The attorney general shall act for the commissioner in all legal
23 actions or proceedings and shall advise him upon all questions of law
24 arising out of the administration of this chapter.

25 B. Upon request of the commissioner, the attorney general shall
26 designate, ~~for such time and purposes as the commissioner requires,~~
27 ~~an~~ ONE OR MORE ASSISTANT ~~attorney~~ ATTORNEYS GENERAL acceptable to the
28 commissioner whose compensation shall be in an amount as determined
29 pursuant to section 38-611 and a ~~charge against~~ PAID FROM the real
30 estate ~~fund~~ DEPARTMENT APPROPRIATIONS.

31 Sec. 9. Section 32-2121, Arizona Revised Statutes, is amended
32 to read:

33 32-2121. Persons and activities not subject to chapter

34 Except as to the requirements with respect to the subdivision of land,
35 this chapter shall not apply to:

36 1. A natural person, or corporation through its officers receiving
37 no special compensation therefor, dealing in his, HERS or its own prop-
38 erty, but this chapter does apply to sales of cemetery property, except
39 by a natural person acting with reference to property owned by him in
40 his own name if he is not engaged in the business of selling cemetery
41 property.

42 2. A person holding a valid power of attorney which is being used
43 for A specific ~~purposes~~ PURPOSE IN AN ISOLATED TRANSACTION AND NOT AS
44 A METHOD OF CONDUCTING A REAL ESTATE BUSINESS.

45 3. An attorney at law in the performance of his duties as such.

46 4. A receiver, trustee in bankruptcy or other person acting under
47 an order of a court.

48 5. A trustee selling under a deed of trust.

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1 6. Any registered professional engineer or architect appraising,
2 offering, attempting or agreeing to appraise real estate where such
3 appraisal primarily involves the utilization of the specialized knowledge
4 of such registered professional engineer or architect and is not made for
5 the purpose of establishing the sale or market value of the property.

6 7. A natural person acting as manager of not more than one income
7 property and employed by the owner or the owner's licensed management agent
8 to perform the duties customarily associated with such employment.

9 8. Any officer or employee of a governmental agency in the conduct
10 of his official duties.

11 Sec. 10. Section 32-2123, Arizona Revised Statutes, is amended
12 to read:

13 32-2123. Application for license as broker or salesman

14 A. Every application for license shall be in writing and signed by
15 the applicant. The application shall be accompanied by the examination fee
16 and the recommendation of two real estate owners of the county in which the
17 applicant resides or has his place of business, certifying the good moral
18 character of the applicant.

19 B. An application for a license as a broker shall set forth:

20 1. The name and address of the applicant.

21 2. The name under which the business is to be conducted.

22 3. The location of applicant's place of business, or if more than
23 one, the location of each.

24 4. Whether the applicant has ever been CHARGED OR convicted of
25 A FELONY AND IF SO, THE NATURE OF THE FELONY, AND IF COMMITTED WHERE
26 AND WHEN COMMITTED AND THE DISPOSITION OF THE CONVICTION, OR HAS
27 BEEN DISBARRED FROM THE PRACTICE OF LAW. ~~or-is-or-has-been-charged~~
28 ~~with-forgery,-embezzlement,-obtaining-money-under-false-pretenses,~~
29 ~~larceny,-extortion,-a-crime-involving-moral-turpitude,-conspiracy~~
30 ~~to-defraud-or-other-like-offenses-or-has-been-disbarred-from-the~~
31 ~~practice-of-law.~~

32 5. Whether the applicant has been refused a broker's or salesman's
33 license or any other occupational license in this or any other state or
34 whether his license as a broker or salesman or in any other occupational
35 or professional capacity has been revoked or suspended in this or any
36 other state.

37 C. An application for a license as a salesman shall set forth:

38 1. That the applicant shall have been a resident of the state
39 for at least ninety days.

40 2. Such applicable information as is required in a broker's
41 application, and also shall set forth the period of time, if any,
42 during which the applicant has been engaged in the real estate busi-
43 ness, stating the name and address of his last employer, if any.

44 3. The name and place of business of his present employer, if
45 any.

46 D. THE COMMISSIONER MAY REQUIRE ANY ADDITIONAL INFORMATION WHICH
47 IS REASONABLY NECESSARY TO DETERMINE THE GOOD MORAL CHARACTER OF AN
48 APPLICANT FOR A BROKER OR SALESMAN'S LICENSE. THE INFORMATION MAY INCLUDE
49 BUT SHALL NOT BE LIMITED TO:

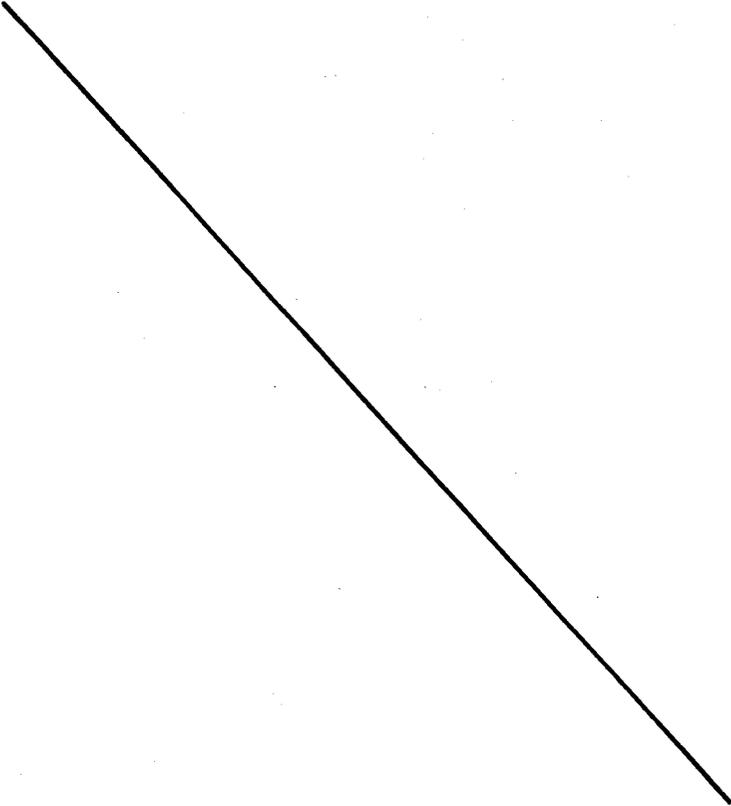
50 1. PRIOR CRIMINAL RECORDS.

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1 2. FINGERPRINTS OR BACKGROUND INFORMATION, PURSUANT TO SUBSECTION
2 G OF SECTION 41-1750. EACH APPLICANT REQUIRING A FINGERPRINT OR BACK-
3 GROUND INVESTIGATION WILL BE CHARGED A FEE OF NOT MORE THAN TWO DOLLARS.
4 FOR SUCH PURPOSE, THE REAL ESTATE DEPARTMENT AND THE DEPARTMENT OF PUBLIC
5 SAFETY MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO TITLE
6 11, CHAPTER 7, ARTICLE 3. SUCH FEES SHALL BE CREDITED PURSUANT TO SECTION
7 35-148.

8 3. AN AFFIDAVIT SETTING OUT WHETHER THE APPLICANT HAS PARTICIPATED
9 IN, OPERATED OR HELD AN INTEREST IN ANY LAND DEVELOPMENT COMPANY WHICH
10 HAS FILED, OR IS SUBJECT TO, A PETITION UNDER ANY CHAPTER OF THE FEDERAL
11 BANKRUPTCY ACT.

12 Sec. 11. Section 32-2124, Arizona Revised Statutes, is amended
13 to read:



32-2124. Qualifications of licensees; bond

A. Except as otherwise provided in this chapter, the commissioner shall require such other proof, through the application or otherwise, as he deems advisable with due regard to the interests of the public, as to the honesty, truthfulness, reputation, and competency of the applicant, and shall require that the applicant has:

1. If for an original real estate broker's license, at least three years' actual experience as a licensed real estate salesman, or real estate broker, during the five years immediately preceding the time of application, has at least one year's residence in the state, and is a citizen of the United States.

2. If for an original cemetery broker's license, either an existing broker's license, or if the applicant does not have any existing broker's license, at least three years' experience as a cemetery salesman or as a licensed real estate salesman during the five years immediately preceding the time of application and at least one year's residence in the state.

8. All applicants for an original real estate salesman's license shall show evidence satisfactory to the commissioner that they have completed at least forty-five classroom hours, or its equivalent, of instruction in a real estate course prescribed and approved by the ~~state~~ real-estate-commission COMMISSIONER, and have satisfactorily passed an examination on same.

C. All applicants for an original real estate broker's license shall show evidence satisfactory to the commissioner that they have completed at least ninety classroom hours, or the equivalent, of instruction in a real estate course prescribed and approved by the ~~state-real-estate-commission~~ COMMISSIONER, and have satisfactorily passed an examination on same.

D. An applicant for a salesman's license shall be at least eighteen years of age.

E. The commissioner shall ascertain by written examination held in the presence of the commissioner or his deputy that an applicant for a real estate license has:

1. An appropriate knowledge of the English language, including reading, writing and spelling and of arithmetical computations common to real estate practices.

2. An understanding of the following:

(a) Principles of real estate conveyances.

(b) The general purposes and legal effect of agency contracts, deposit receipts, deeds, mortgages, deeds of trust, security agreements, bills of sale, land contract of sale and leases.

(c) The principles of business and land economics and appraisals.

3. A general understanding of the obligations between principal and agent, the principles of real estate and business opportunity practice, the applicable canons of business ethics, the provisions of this chapter, and rules and regulations made under this chapter.

F. The commissioner shall ascertain by written examination held in his presence or that of his deputy, that an applicant for a license as a cemetery broker or a cemetery salesman has:

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1 1. Appropriate knowledge of the English language, including
2 reading, writing and spelling, and of elementary arithmetic.

3 2. A general understanding of:

4 (a) Cemetery associations, cemetery corporations and duties of
5 cemetery directors and officers.

6 (b) Plot ownership, deeds, certificates of ownership, contracts
7 of sale, liens and leases.

8 (c) Establishing, dedicating, maintaining, managing, operating,
9 improving, preserving and conducting a cemetery.

10 (d) The provisions of this chapter and rules and regulations made
11 under this chapter relating to the organization and regulation of ceme-
12 teries and the licensing and regulation of cemetery brokers and cemetery
13 salesmen.

14 3. A general understanding of the obligations between principal
15 and agent, the principles of real estate practice and the canons of
16 business ethics pertaining to the operation of cemeteries and the sale of
17 cemetery property.

18 G. The commissioner shall waive the examination of:

19 1. Any applicant for a broker's license who held an unrevoked
20 and unsuspended broker's license on the last day of the preceding license
21 year.

22 2. Any applicant for a salesman's license who held an unrevoked and
23 unsuspended broker's or salesman's license on the last day of the preced-
24 ing license year.

25 3. Any applicant for a broker's or salesman's license holding an
26 honorable discharge from the armed forces of the United States who, at
27 the time of entering such services, held an unrevoked and unsuspended
28 license of the kind applied for.

29 H. The commissioner shall require of the applicant, if for a
30 broker's license, a corporate surety bond, to be approved by him, in the
31 amount of five thousand dollars. The bond shall be conditioned upon the
32 faithful compliance of the broker with the provisions of this chapter,
33 and that he will conduct the business of real estate broker or cemetery
34 broker in a reliable and dependable manner. All bonds shall be in favor
35 of the state, for the benefit of any person injured by the wrongful
36 act, default, fraud or misrepresentation of the broker in his capacity
37 as such, and any person so injured may bring suit on the bond in his
38 own name. No additional bond shall be required from officers of a cor-
39 poration or members of a partnership licensed to act as a real estate
40 broker or cemetery broker while in the employment of a corporation or
41 partnership.

42 I. The examination for a broker's license, conducted by the com-
43 missioner, shall be of more exacting and stringent and of a broader
44 scope than the examination for a salesman's license.

45 Sec. 12. Repeal

46 Section 32-2125.02, Arizona Revised Statutes, is repealed.

47 Sec. 13. Section 32-2126, Arizona Revised Statutes, is amended
48 to read:

1 32-2126. Place of business required; notice of change
2 in location; failure to give notice as
3 cancellation of license; signs

4 A. Each licensed broker shall have and maintain a definite place
5 of business. Notice of change of business location, shall be given to
6 the commissioner in writing, whereupon the commissioner shall issue a
7 new license for the unexpired period. Change or abandonment of a busi-
8 ness location without notice shall automatically cancel the license.

9 B. Each licensed broker shall cause a sign to be affixed at the
10 entrance to his place of business, in a place and position clearly visible
11 to all entering such place of business, the name of the broker, the name
12 under which he is doing business if other than his given name, and suf-
13 ficient wording to establish that he is a real estate broker or cemetery
14 broker. In addition to any other applicable law, the sign shall conform
15 to regulations prescribed by the ~~commissioner~~ COMMISSIONER.

16 C. Upon removal from any location it is the broker's duty to see
17 that the sign is removed from the location. A broker shall not display
18 any name at designated places of business named in his license other
19 than the name under which he is licensed.

20 Sec. 14. Section 32-2130, Arizona Revised Statutes, is amended
21 to read:

22 32-2130. Renewal of licenses

23 A. A license may be renewed by filing an application therefor on a
24 form provided by the commissioner, and paying the renewal fee specified in
25 this chapter if that fee is paid on or before the first day of the month
26 following the month of the birthdate of the licensee, and, beginning with
27 the 1975-1976 license year, by presenting evidence of attendance during
28 the preceding license year of twelve clock-hours, or such lesser number
29 of clock-hours as may be prescribed by the ~~commissioner~~ COMMISSIONER, of
30 real estate oriented educational sessions approved by the ~~real-estate~~
31 ~~commissioner~~ COMMISSIONER. The department shall maintain a current list
32 of approved sessions. The commissioner may waive the annual educational
33 requirement for good cause shown.

34 B. Between the last day of the month of a licensee's birthdate and
35 the date of renewal of the license the rights of the licensee under such
36 license shall be terminated. While such license is terminated it is un-
37 lawful for a person to act or attempt or offer to act in a manner included
38 in the definition of a real estate or cemetery broker or salesman.

39 C. The renewal shall be granted without again requiring the appli-
40 cant to present recommendations or submit to examination, if the appli-
41 cant is a bona fide resident of the state of Arizona, and, if the applicant
42 held an unrevoked and unsuspended Arizona license on the last day of the
43 preceding license year, subject to the authority of the commissioner to
44 deny renewal of a license as provided in this chapter.

45 D. BEFORE GRANTING THE RENEWAL OF A LICENSE, THE COMMISSIONER MAY
46 REQUIRE ANY ADDITIONAL INFORMATION WHICH IS REASONABLY NECESSARY TO
47 DETERMINE THE GOOD MORAL CHARACTER OF THE APPLICANT. THE INFORMATION
48 MAY INCLUDE BUT SHALL NOT BE LIMITED TO:

- 49 1. PRIOR CRIMINAL RECORDS.

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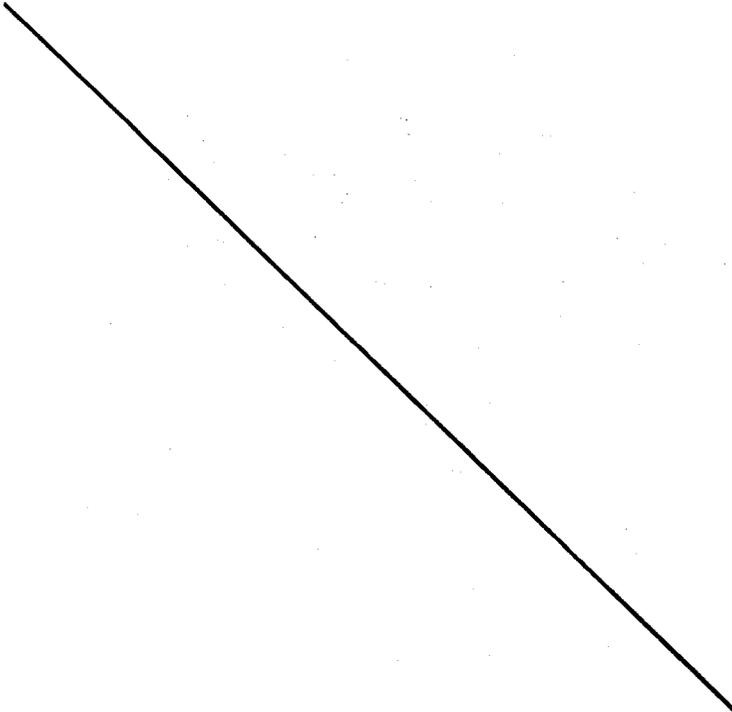
1 2. FINGERPRINTS OR BACKGROUND INFORMATION, PURSUANT TO SUBSECTION
2 G OF SECTION 41-1750. EACH APPLICANT REQUIRING A FINGERPRINT OR BACK-
3 GROUND INVESTIGATION WILL BE CHARGED A FEE OF NOT MORE THAN TWO DOLLARS.
4 FOR SUCH PURPOSE, THE REAL ESTATE DEPARTMENT AND THE DEPARTMENT OF PUBLIC
5 SAFETY MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO TITLE 11,
6 CHAPTER 7, ARTICLE 8. SUCH FEES SHALL BE CREDITED PURSUANT TO SECTION
7 35-148.

8 3. AN AFFIDAVIT SETTING OUT WHETHER THE APPLICANT HAS PARTICIPATED
9 IN, OPERATED OR HELD AN INTEREST IN ANY LAND DEVELOPMENT COMPANY WHICH
10 HAS FILED, OR IS SUBJECT TO, A PETITION UNDER ANY CHAPTER OF THE FEDERAL
11 BANKRUPTCY ACT.

12 Sec. 15. Section 32-2151, Arizona Revised Statutes, is amended
13 to read:

14 32-2151. Disposition of funds

15 Unless otherwise provided in writing by all parties to a transaction,
16 any licensed real estate broker, who does not immediately place all funds
17 entrusted to him, in his capacity as a real estate broker, in a neutral



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1 escrow depository in this state, shall upon receipt place all such funds
2 in a trust fund account with a bank or other recognized depository located
3 in this state. The ~~commission~~ COMMISSIONER shall establish rules and
4 regulations to provide for records to be maintained and the manner in
5 which such trust fund deposits may be made.

6 Sec. 16. Section 32-2153, Arizona Revised Statutes, is amended
7 to read:

8 32-2153. Grounds for denial, suspension or revocation of
9 licenses; retention of jurisdiction by commissioner

10 A. The commissioner may suspend, revoke or deny the renewal or the
11 right of renewal of a license issued under the provisions of this chapter
12 when it appears that the holder thereof, while a licensee under this
13 chapter, within three years immediately preceding, in the performance of
14 or attempt to perform any acts authorized by such license or by this
15 chapter, has:

16 1. Made any substantial misrepresentation.

17 2. Made any false promises of a character likely to influence,
18 persuade or induce.

19 3. Pursued a flagrant course of misrepresentation or made false
20 promises through agents or salesmen.

21 4. Acted for more than one party in a transaction without the
22 knowledge or consent of all parties thereto.

23 5. Been guilty of any other conduct, whether of the same or differ-
24 ent character, which constitutes fraud or dishonest dealings.

25 6. Violated any rules or regulations prescribed by the commission.

26 7. Knowingly authorized, directed, connived at or aided in the
27 publication, advertisement, distribution or circulation of any material
28 false statement or representation concerning his business or any land, or
29 cemetery property or subdivision offered for sale, in this or any other
30 state.

31 8. Wilfully disregarded or violated any of the provisions of this
32 chapter.

33 9. Wilfully used the term "real estate broker" or "cemetery broker"
34 without legal right to do so.

35 10. Employed any unlicensed salesman.

36 11. Accepted compensation as a salesman for the performance of any
37 of the acts specified in this chapter from any person other than the li-
38 censed broker by whom he is employed.

39 12. ~~Representing~~ REPRESENTED or ~~attempting~~ ATTEMPTED to represent
40 a broker other than the employer, without the express knowledge and
41 consent of the employer.

42 13. Failed, within a reasonable time, to account for or to remit any
43 monies, to surrender to the rightful owner any documents or other valuable
44 property coming into his possession which belong to others, or issuing an
45 appraisal report on real property or cemetery property in which he has an
46 interest, unless the nature and extent of such interest is fully disclosed
47 in the report.

48 14. Paid or received any rebate, profit, compensation or commission
49 in violation of this chapter.

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- 1 15. Induced any party to a contract to break such contract for the
2 purpose of substituting a new contract with the same or a different princi-
3 pal, if such substitution is motivated by the personal gain of the licensee.
4 ~~16.--Forgery, theft, theft-by-extortion, extortion, conspiracy to~~
5 ~~defraud, a crime of moral turpitude, or other like offense or offenses,~~
6 ~~and who had been convicted thereof in a court of competent jurisdiction~~
7 ~~in this or any other state.~~
8 16. BEEN CONVICTED IN A COURT OF COMPETENT JURISDICTION IN THIS
9 OR ANY OTHER STATE OF FORGERY, THEFT, THEFT BY EXTORTION, EXTORTION,
10 CONSPIRACY TO DEFRAUD, A CRIME OF MORAL TURPITUDE, OR OTHER LIKE OFFENSE
11 OR OFFENSES.
12 17. Placed a sign on any property offering it for sale or for rent
13 without the written authority of the owner or his authorized agent.
14 18. Solicited, sold or offered for sale real property or cemetery
15 property by offering "free lots", conducting lotteries or contests or
16 offering prizes for the purpose of influencing a purchaser or prospective
17 purchaser of real property.
18 19. ~~Failing~~ FAILED to pay to the commissioner the annual renewal
19 fee as specified in this chapter promptly and before the time specified.
20 20. ~~Failing~~ FAILED to keep an escrow or trust account or other
21 record of funds deposited with him relating to a real estate transaction.
22 21. ~~Commingling~~ COMMINGLED the money or other property of his
23 principal or client with his own.
24 22. ~~Failing~~ FAILED or ~~refusing~~ REFUSED upon demand to produce
25 any document, book or record in his possession concerning any real estate
26 or cemetery property business transacted by him, for inspection of the
27 real estate commissioner or his representative.
28 23. ~~Failing~~ FAILED to maintain a complete record of each trans-
29 action which comes within the provisions of this chapter.
30 24. ~~Violation of~~ VIOLATED the federal fair housing law, the Arizona
31 civil rights law or any local ordinance of a similar nature.
32 B. The commissioner may suspend or revoke a license, deny the issu-
33 ance of a license or deny the renewal or the right of renewal of a license
34 issued under the provisions of this chapter when it appears that the holder
35 or applicant therefor, has:
36 1. Procured or attempted to procure a license under the provisions
37 of this chapter for himself or another by fraud, misrepresentation or
38 deceit.
39 2. Been convicted of a felony IN A COURT OF COMPETENT JURISDICTION
40 IN THIS OR ANY OTHER STATE, knowledge of which the commissioner did not
41 have at the time of last issuing a license to the licensee, has been
42 convicted of a felony subsequent to such last issuance or has been
43 convicted of a felony prior to application for such license.
44 3. Engaged in the business of a real estate broker or real estate
45 salesman or cemetery broker or cemetery salesman without holding a license
46 as prescribed in this chapter.
47 4. Not shown that he is a person of honesty, truthfulness and good
48 reputation.
49 C. The lapsing or suspension of a license by operation of law or by
50 order or decision of the commissioner or a court of law, or the voluntary
51 surrender of a license by a licensee shall not deprive the commissioner of
52 jurisdiction to proceed with any investigation of or action or disciplinary

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1 proceeding against such licensee, or to render a decision suspending or re-
2 voking such license, or denying the renewal or right of renewal of such li-
3 cense.

4 Sec. 17. Section 32-2154, Arizona Revised Statutes, is amended
5 to read:

6 32-2154. Unlicensed person acting as or advertising
7 as broker or salesman; penalty

8 A person or corporation who acts as a broker or salesman within the
9 meaning of this chapter, or who advertises in a manner which indicates that
10 he is a broker, without being licensed as prescribed by this chapter,
11 UPON CONVICTION, shall be punished, ~~if an individual, by a fine of not~~
12 ~~more than five hundred dollars, by imprisonment in the county jail not~~
13 ~~to exceed six months, or both, or if a corporation, by a fine of not to~~
14 ~~exceed five thousand dollars~~ BY A FINE OF NOT LESS THAN FIVE HUNDRED
15 DOLLARS NOR MORE THAN FIVE THOUSAND DOLLARS OR BY IMPRISONMENT FOR NOT
16 LESS THAN SIXTY DAYS NOR MORE THAN TWO YEARS, OR BOTH.

17 Sec. 18. Section 32-2158, Arizona Revised Statutes, is amended
18 to read:

19 32-2158. Hearing; witnesses; deposition; service of process

20 A. Any party to a hearing shall have the right to the attendance
21 of witnesses in his behalf, in person or by deposition, upon making
22 request therefor to the commissioner and designating the person or per-
23 sons requested to be subpoenaed. For the purpose of investigation or
24 hearing the commissioner shall have the powers vested in public officers
25 by section 12-2212. The commissioner may cause the deposition of wit-
26 nesses within or without the state to be taken as prescribed by law
27 for depositions in civil cases.

28 B. Process issued by the commissioner may be served by any person
29 authorized to serve process of courts of record or by any person des-
30 ignated for that purpose by the commissioner. The person serving process
31 shall receive compensation allowed by the commissioner, not to exceed
32 the fees prescribed by law for similar service. Any witness who appears
33 by order of the commissioner shall receive the same fees and mileage
34 allowed by law to a witness in civil cases, which shall be paid by the
35 party at whose request the witness is subpoenaed. Fees for serving
36 process and of witnesses subpoenaed by the commissioner not upon the
37 request of any other person shall be paid ~~from the real-estate fund~~
38 as other expenses of the department are paid.

39 Sec. 19. Section 32-2160, Arizona Revised Statutes, is amended
40 to read:

41 32-2160. Filing of complaint by commissioner; prosecution

42 The commissioner may file a complaint for a violation of this act
43 CHAPTER before a court of competent jurisdiction, and may in person or
44 by his deputies, assistants, or counsel assist in the prosecution of
45 the complaint. The county attorney of any county in which a violation
46 occurs shall, upon the written request of the commissioner or the
47 attorney general, prosecute the violation.

48 Sec. 20. Section 32-2181, Arizona Revised Statutes, is amended
49 to read:

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1 32-2181. Notice to commissioner of intention to subdivide
2 lands; fractional interests; exceptions

3 A. Before offering subdivided lands for sale or lease, the owner,
4 agent or subdivider shall notify the commissioner in writing of his
5 intention. The notice shall contain:

- 6 1. Name and address of owner.
- 7 2. Name and address of subdivider.
- 8 3. Legal description and area of land.
- 9 4. A true statement of the condition of the title to the land,
10 including all encumbrances thereon.
- 11 5. The terms and conditions on which it is intended to dispose of
12 the land, together with copies of any real estate sales contract, con-
13 veyance, lease, assignment or other instrument intended to be used, and
14 such other information the owner, his agent or subdivider desires to
15 present.
- 16 6. A map of the subdivision which has been filed in the office
17 of the county recorder in the county in which the subdivision is located.
- 18 7. A brief but comprehensive statement describing the land on
19 and the locality in which the subdivision is located.
- 20 8. A statement of the provisions that have been made for
21 permanent access and provisions, if any, for health department approved
22 sewage and solid waste collection and disposal and public utilities in
23 the proposed subdivision, including water, electricity, gas and telephone
24 facilities.
- 25 9. A statement as to the location of the nearest public common
26 and high schools available for the attendance of school age pupils
27 residing on the subdivision property.
- 28 10. A statement of the use or uses for which the proposed
29 subdivision will be offered.
- 30 11. A statement of the provisions, if any, limiting the use or
31 occupancy of the parcels in the subdivision- , TOGETHER WITH COPIES OF
32 ANY RESTRICTIVE COVENANTS AFFECTING ALL OR PART OF THE SUBDIVISION.
- 33 12. The name and business address of the principal broker selling
34 or leasing, within this state, lots or parcels in the subdivision.

1 13. A true statement of the approximate amount of indebtedness
 2 which is a lien on the subdivision or any part thereof and which was
 3 incurred to pay for the construction of any on-site or off-site improve-
 4 ment, or any community or recreational facility.

5 14. A true statement or reasonable estimate, if applicable, of
 6 the amount of any indebtedness which has been or is proposed to be
 7 incurred by an existing or proposed special district, entity, taxing
 8 area or assessment district, within the boundaries of which, the sub-
 9 division, or any part thereof is located, and which is to pay for the
 10 construction or installation of any improvement or to furnish community
 11 or recreational facilities to such subdivision, and which amounts are to
 12 be obtained by ad valorem tax or assessment, or by a special assessment
 13 or tax upon the subdivision or any part thereof.

14 15. A true statement as to the approximate amount of annual taxes,
 15 special assessments or fees to be paid by the buyer for the proposed
 16 annual maintenance of common facilities in the subdivision.

17 16. A statement of the provisions for easements for permanent
 18 access for irrigation water where applicable.

19 17. A TRUE STATEMENT OF ASSURANCES FOR THE INSTALLATION OF OFF-
 20 SITE IMPROVEMENTS, SUCH AS ROADS AND UTILITIES, AND APPROVAL THEREOF
 21 BY THE POLITICAL SUBDIVISION HAVING SUCH AUTHORITY.

22 18. A TRUE STATEMENT OF PROVISIONS MADE FOR FINANCING ANY
 23 COMMUNITY, RECREATIONAL OR OTHER FACILITIES TO BE INCLUDED IN THE
 24 OFFERING OR REPRESENTED AS BEING IN THE OFFERING. SUCH STATEMENT SHALL
 25 INCLUDE A TRUST AGREEMENT OR OTHER EVIDENCE OF ASSURANCES FOR DELIVERY
 26 OF SUCH FACILITIES AND A STATEMENT OF THE PROVISIONS, IF ANY, FOR THE
 27 CONTINUED MAINTENANCE OF SUCH FACILITIES.

28 ~~B.--A person or a group of persons acting in concert may not avoid~~
 29 ~~the provisions of this chapter by offering for sale or lease land desig-~~
 30 ~~nated or advertised as a common unit or by a common name in individual~~
 31 ~~offerings.--Any such offering as a part of a common promotional plan is~~
 32 ~~subject to the provisions of this article.~~

33 B. IT SHALL BE UNLAWFUL FOR A PERSON OR GROUP OF PERSONS ACTING
 34 IN CONCERT TO ATTEMPT TO AVOID THE PROVISIONS OF THIS ARTICLE BY ACTING
 35 IN CONCERT TO DIVIDE A PARCEL OF LAND BY USING A SERIES OF OWNERS OR
 36 CONVEYANCES OR BY ANY OTHER METHOD WHICH ULTIMATELY RESULTS IN THE
 37 DIVISION OF SUCH LANDS INTO A SUBDIVISION. SUCH A PLAN OR OFFERING IS
 38 SUBJECT TO THE PROVISIONS OF THIS ARTICLE.

39 C. A creation of four or more fractional interests in improved or
 40 unimproved land, lots or parcels of any size shall subject such land to
 41 the provisions of this article except when:

42 1. Each of the fractional interests represents, on a partition
 43 basis, thirty-six acres or more in area of land located in this state
 44 including to the center line of dedicated roads or easements, if any,
 45 contiguous to the land in which such interests are held.

46 2. The fractional interests are the result of a foreclosure sale,
 47 the exercise by a trustee under a deed of trust of a power of sale or the
 48 grant of a deed in lieu of foreclosure.

49 3. The fractional interests are created by a valid order or decree
 50 of a court or by operation of law.

1 4. The fractional interests consist of interests in any oil, gas
2 or mineral lease, permit, claim or right therein and such interests are
3 regulated as securities by the United States or by this state.

4 5. The fractional interests are registered as securities under
5 the laws of the United States or the laws of this state or are exempt
6 transactions under the provisions of sections 44-1844, 44-1845, or
7 44-1846.

8 6. The commissioner by special order exempts offerings or disposi-
9 tions of any fractional interests from compliance with the provisions of
10 this article upon written petition and upon a showing satisfactory to
11 the commissioner that compliance is not essential to the public interest
12 or for the protection of buyers.

13 D. If the Arizona water commission, pursuant to section 45-513,
14 reports an inadequate on-site supply of water to meet the needs projected
15 by the developer or if no water is available the state real estate com-
16 missioner shall require that all promotional material and contracts for
17 sale of lots in subdivisions approved by the commissioner adequately
18 display the Arizona water commission's report or the developer's brief
19 summary thereof as approved by the commissioner on the proposed water
20 supply for the subdivision.

21 E. The commissioner may require ANY additional information he
22 deems WHICH IS REASONABLY necessary ~~by submitting a questionnaire to the~~
23 ~~owner, his agent or subdivider.~~ TO DETERMINE THE GOOD MORAL CHARACTER
24 OF ANYONE DIRECTLY INVOLVED IN SUBDIVIDING LAND WITHIN THE STATE. THE
25 INFORMATION MAY INCLUDE, BUT SHALL NOT BE LIMITED TO:

26 1. PRIOR CRIMINAL RECORDS.

27 2. FINGERPRINTS OR BACKGROUND INFORMATION, PURSUANT TO SUBSECTION
28 G OF SECTION 41-1750. EACH APPLICANT REQUIRING A FINGERPRINT OR BACKGROUND
29 INVESTIGATION WILL BE CHARGED A FEE OF NOT MORE THAN TWO DOLLARS. FOR
30 SUCH PURPOSE, THE REAL ESTATE DEPARTMENT AND THE DEPARTMENT OF PUBLIC
31 SAFETY MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO TITLE
32 11, CHAPTER 7, ARTICLE 3. SUCH FEES SHALL BE CREDITED PURSUANT TO
33 SECTION 35-148.

34 3. AN AFFIDAVIT SETTING OUT WHETHER THE APPLICANT HAS PARTICIPATED
35 IN, OPERATED OR HELD AN INTEREST IN ANY LAND DEVELOPMENT COMPANY WHICH
36 HAS FILED, OR IS SUBJECT TO, A PETITION UNDER ANY CHAPTER OF THE FEDERAL
37 BANKRUPTCY ACT, OR THE NAMES OF ANY PERSONS WHO HAVE BEEN INDICTED FOR
38 FRAUD OR AGAINST WHOM AN INFORMATION FOR FRAUD HAS BEEN FILED.

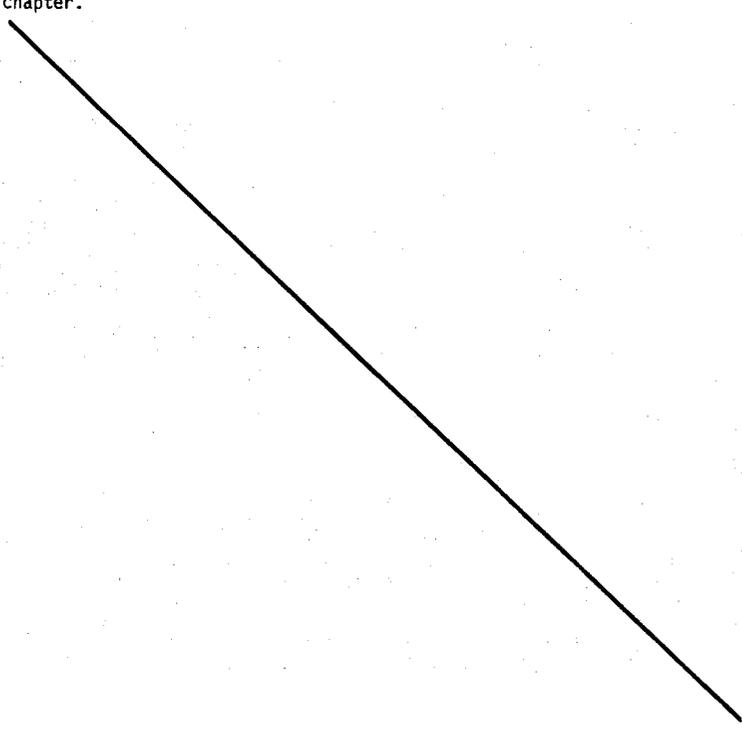
39 Sec. 21. Section 32-2183, Arizona Revised Statutes, is amended
40 to read:

41 32-2183. Report of commissioner on subdivision; order
42 prohibiting sale or lease; investigations by
43 commissioner; public hearings; summary orders

44 A. Upon examination of a subdivision, the commissioner within a
45 reasonable time shall prepare a report thereon. It is unlawful for
46 subdivided lands to be offered for sale or lease by the owner, agent or
47 subdivider thereof until the public report has been prepared and the
48 owner, agent or subdivider has been given notice by the commissioner that
49 the subdivided lands may be offered for sale or lease. ANY SALE OR LEASE
50 OF SUBDIVIDED LANDS PRIOR TO ISSUANCE OF SUCH NOTICE SHALL BE VOIDABLE BY

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1 THE PURCHASER. AN ACTION BY THE PURCHASER TO VOID SUCH TRANSACTION SHALL
2 BE BROUGHT WITHIN THREE YEARS OF THE DATE OF EXECUTION OF THE PURCHASE
3 AGREEMENT BY THE PURCHASER. IN ANY SUCH ACTION, THE PREVAILING PARTY
4 SHALL BE ENTITLED TO REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE
5 COURT. The commissioner may require the owner, agent or subdivider to
6 reproduce the report and furnish each prospective customer with a copy,
7 taking a receipt therefor. An order prohibiting the sale or lease
8 of the property may be issued by the commissioner if the examination
9 discloses that sale or lease would constitute misrepresentation, deceit
10 or fraud, OR THAT THE OWNER, AGENT, SUBDIVIDER, OFFICER OR PARTNER,
11 SUBDIVIDER TRUST BENEFICIARY OR, IF A CORPORATION, ANY STOCKHOLDER
12 OWNING TEN PER CENT OR MORE OF THE STOCK IN SUCH CORPORATION HAS PARTI-
13 CIPATED IN, OPERATED OR HELD AN INTEREST IN ANY LAND DEVELOPMENT COMPANY
14 WHICH IS BANKRUPT OR HAS BEEN INDICTED FOR FRAUD OR AGAINST WHOM AN
15 INFORMATION FOR FRAUD HAS BEEN FILED OR HAS BEEN CONVICTED OF A FELONY.
16 Except as provided in section 32-2157, before an order of prohibition
17 shall issue, the commissioner shall hold a hearing as provided in this
18 chapter.



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1 B. The commissioner, on his own motion, or when he has received a
2 complaint and he has satisfactory evidence that the owner, agent or sub-
3 divider is violating any provision set forth in this article or the rules
4 and regulations of the ~~real-estate-commission~~ COMMISSIONER or deviated
5 from the provisions of the public report, may investigate the subdivision
6 project and examine the books and records of the owner, agent or sub-
7 divider. For the purpose of examination, the owner, agent or subdivi-
8 der shall keep and maintain records of all sales transactions and funds
9 received by him pursuant thereto, and make them accessible to the com-
10 missioner upon reasonable notice and demand.

11 C. The commissioner, on his own motion, or when he has received a
12 complaint and he has satisfactory evidence that any person has violated
13 any of the provisions of this article or the rules and regulations of the
14 ~~real-estate-commission~~ COMMISSIONER, or deviated from the provisions of
15 the public report, OR THAT THE OWNER, AGENT, SUBDIVIDER, OFFICER OR PARTNER,
16 SUBDIVIDER TRUST BENEFICIARY OR, IF A CORPORATION, ANY STOCKHOLDER OWNING
17 TEN PER CENT OR MORE OF THE STOCK IN SUCH CORPORATION HAS PARTICIPATED IN,
18 OPERATED OR HELD AN INTEREST IN ANY LAND DEVELOPMENT COMPANY WHICH IS
19 BANKRUPT OR HAS BEEN INDICTED FOR FRAUD OR AGAINST WHOM AN INFORMATION
20 FOR FRAUD HAS BEEN FILED OR HAS BEEN CONVICTED OF A FELONY, before or
21 after the commissioner prepares the public report as provided in sub-
22 section A, he may conduct an investigation of such matter, issue a
23 summary order as provided in section 32-2157, or hold a public hearing
24 and, after the hearing, may issue such order or orders as he may deem
25 necessary to protect the public interest and insure compliance with the
26 law, or rules and regulations or public report. ~~---If, after such hearing,~~
27 ~~violation-of-the-law, rules-and-regulations-or-public-report-continues,~~
28 OR the commissioner may bring action in any court of competent
29 jurisdiction against such person to enjoin such person from continuing
30 such violation or engaging therein or doing any act or acts in furtherance
31 thereof. SUCH COURT MAY MAKE SUCH ORDERS OR JUDGMENTS AS MAY BE
32 NECESSARY TO PREVENT THE USE OR EMPLOYMENT BY A PERSON OF ANY UNLAWFUL
33 PRACTICES, OR WHICH MAY BE NECESSARY TO RESTORE TO ANY PERSON IN INTEREST
34 ANY MONIES OR PROPERTY, REAL OR PERSONAL, WHICH MAY HAVE BEEN ACQUIRED
35 BY MEANS OF ANY PRACTICE IN THIS ARTICLE DECLARED TO BE UNLAWFUL, INCLUD-
36 ING THE APPOINTMENT OF A RECEIVER.

37 D. WHEN IT APPEARS TO THE COMMISSIONER THAT A PERSON HAS ENGAGED
38 IN OR IS ENGAGING IN A PRACTICE DECLARED TO BE UNLAWFUL BY THIS
39 ARTICLE AND THAT SUCH PERSON IS CONCEALING ASSETS OR SELF OR HAS MADE
40 ARRANGEMENTS TO CONCEAL ASSETS OR IS ABOUT TO LEAVE THE STATE, THE
41 COMMISSIONER MAY APPLY TO THE SUPERIOR COURT, EX PARTE, FOR AN ORDER
42 APPOINTING A RECEIVER OF THE ASSETS OF SUCH PERSON, FOR A WRIT OF NE
43 EXEAT OR BOTH.

44 E. THE COURT UPON RECEIPT OF AN APPLICATION FOR THE APPOINTMENT
45 OF A RECEIVER, FOR A WRIT NE EXEAT OR BOTH SHALL EXAMINE THE VERIFIED
46 APPLICATION OF THE COMMISSIONER AND SUCH OTHER EVIDENCE THAT THE
47 COMMISSIONER MAY PRESENT THE COURT. IF SATISFIED THAT THE INTERESTS

1 OF THE PUBLIC REQUIRE THE APPOINTMENT OF A RECEIVER OR THE ISSUANCE OF
 2 A WRIT NE EXEAT WITHOUT NOTICE, THE COURT SHALL ISSUE AN ORDER APPOINTING
 3 THE RECEIVER OR ISSUE THE WRIT OR BOTH. IF THE COURT DETERMINES THAT
 4 THE INTERESTS OF THE PUBLIC WILL NOT BE HARMED BY THE GIVING OF NOTICE,
 5 THE COURT SHALL SET A TIME FOR A HEARING AND REQUIRE SUCH NOTICE BE GIVEN
 6 AS THE COURT DEEMS SATISFACTORY.

7 F. IF THE COURT APPOINTS A RECEIVER WITHOUT NOTICE, THE COURT
 8 SHALL FURTHER DIRECT THAT A COPY OF THE ORDER APPOINTING A RECEIVER
 9 BE SERVED UPON THE PERSON ENGAGED IN OR ENGAGING IN A PRACTICE DE-
 10 CLARED TO BE UNLAWFUL UNDER THIS ARTICLE BY DELIVERING SUCH ORDER TO
 11 THE LAST ADDRESS OF SUCH PERSON WHICH IS ON FILE WITH THE REAL
 12 ESTATE DEPARTMENT. THE ORDER SHALL INFORM SUCH PERSON THAT HE HAS THE
 13 RIGHT TO REQUEST A HEARING WITHIN TEN DAYS OF THE DATE OF THE ORDER
 14 AND IF REQUESTED, THE HEARING SHALL BE HELD WITHIN THIRTY DAYS FROM
 15 THE DATE OF THE ORDER.

16 Sec. 22. Section 32-2184, Arizona Revised Statutes, is amended
 17 to read:

18 32-2184. Change of subdivision plan after approval by
 19 commissioner; notice

20 It is unlawful for any owner, agent or subdivider, after submitting
 21 to the commissioner the plan under which a subdivision is to be offered
 22 for sale or lease, and securing his approval, to change the plan materially
 23 without first notifying the commissioner in writing of the intended change.
 24 Material changes covered by this section shall be prescribed in the rules
 25 and regulations of the ~~real-estate-commission~~ COMMISSIONER. Upon receipt
 26 of any notice of a material change, the commissioner may, if he determines
 27 such action to be necessary for the protection of purchasers, suspend his
 28 approval of sale or lease pending amendment of the public report.

29 Sec. 23. Section 32-2185.01, Arizona Revised Statutes, is amended
 30 to read:

31 32-2185.01. Sale of unimproved lots or parcels; conditions
 32 precedent; methods

33 A. It is unlawful for the owner, agent or subdivider of subdivided
 34 lands to sell or offer to sell unimproved lots or parcels within a sub-
 35 division unless the sale complies with one of the following:

36 1. Execution, delivery and recording of a deed in good and suffi-
 37 cient form conveying to the purchaser merchantable and marketable title
 38 to the property subject only to such exceptions as may be agreed to in
 39 writing by the purchaser. Any balance remaining unpaid by the purchaser
 40 may be evidenced by a note and mortgage or deed of trust. THE DEED AND
 41 MORTGAGE OR DEED OF TRUST SHALL BE RECORDED BY THE OWNER, AGENT OR
 42 SUBDIVIDER WITHIN SIXTY DAYS OF EXECUTION THEREOF BY THE PURCHASER.

43 2. Execution, delivery, recording and depositing in escrow, not
 44 later than ~~six-months~~ SIXTY DAYS after the ~~date-of-sale~~ EXECUTION BY
 45 THE PURCHASER, with a person or firm authorized to receive escrows under
 46 the laws of this state or the state in which the subdivision is located,
 47 of a real estate sales contract pertaining to the property, which contract
 48 sets forth the full and correct legal description of the property being
 49 sold and the precise terms and conditions under which the property is
 50 being sold together with:

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1 (a) A copy of a preliminary title report showing the conditions of
2 title to the property on the date of the real estate sales contract or a
3 preliminary title report showing the condition of title on an earlier
4 date together with a copy of any document, recorded subsequent to the
5 date of the preliminary title report, which affects the title to the
6 property.

7 (b) An executed deed in good and sufficient form conveying to the
8 purchaser merchantable and marketable title, subject only to such excep-
9 tions as may be agreed to in writing by the purchaser which deed, under
10 the terms of the real estate sales contract, is to be delivered to the
11 escrow agent provided for under the contract and is to be recorded upon
12 WITHIN SIXTY DAYS AFTER purchaser's compliance with the obligations
13 imposed on him under the contract TOGETHER WITH ANY RELEASE OR PARTIAL
14 RELEASE OF ANY BLANKET ENCUMBRANCE PERTAINING TO SAID LOT.

15 (c) Any and all documents necessary to release or extinguish any
16 blanket encumbrance to the extent it applies to the real property being
17 sold, or a partial release of the lot or parcel being sold from the terms
18 and provisions of such blanket encumbrance.

19 3. Execution, delivery and recording of a deed to the real prop-
20 erty to a trustee together with a trust agreement and any and all docu-
21 ments necessary to release or extinguish any blanket encumbrance to the
22 extent it applies to property being sold, or a partial release of the
23 lot or parcel being sold from the terms and provisions of such blanket
24 encumbrance. The trust agreement shall provide for conveyance by the
25 trustee to a purchaser, upon purchaser's compliance with the obligations
26 imposed on him under his real estate sales contract, by a deed in good
27 and sufficient form conveying to the purchaser merchantable and mar-
28 ketable title, subject only to such exceptions as may be agreed to in
29 writing by the purchaser. THE REAL ESTATE SALES CONTRACT OF THE LOT
30 BEING SOLD SHALL BE RECORDED BY THE OWNER, AGENT OR SUBDIVIDER WITHIN
31 SIXTY DAYS OF EXECUTION OF THE REAL ESTATE SALES CONTRACT BY THE PURCHASER.
32 THE TRUSTEE SHALL EXECUTE, RECORD AND DELIVER THE DEED AND RECORD THE
33 RELEASE OR PARTIAL RELEASE REQUIRED BY THIS SUBSECTION WITHIN SIXTY DAYS
34 OF THE PURCHASER'S FULFILLMENT OF THE TERMS OF HIS REAL ESTATE SALES CONTRACT.

35 B. ALL DOCUMENTS REQUIRED TO BE RECORDED UNDER THE PROVISIONS OF
36 THIS SECTION SHALL BE RECORDED IN THE COUNTY AND STATE WHEREIN THE SUB-
37 DIVISION IS LOCATED.

38 C. ANY SALE OR ASSIGNMENT OF A MORTGAGE, DEED OF TRUST OR REAL ESTATE
39 SALES CONTRACT BY AN OWNER, AGENT, SUBDIVIDER OR TRUSTEE SHALL BE RECORDED
40 IN THE COUNTY AND STATE WHERE THE SUBDIVISION IS LOCATED AND A NOTICE OF
41 SUCH SALE OR ASSIGNMENT PROVIDED TO THE COMMISSIONER, THE RECORDING AND
42 NOTICE THEREOF TO BE EFFECTED NOT LATER THAN SIXTY DAYS AFTER THE EXECUTION
43 OF SUCH ASSIGNMENT.

44 D. IF A BUYER OF AN UNIMPROVED LOT OR PARCEL HAS NOT INSPECTED THE
45 LOT OR PARCEL PRIOR TO THE EXECUTION OF THE PURCHASE AGREEMENT, THE BUYER
46 SHALL HAVE A SIX-MONTH PERIOD AFTER THE EXECUTION OF THE PURCHASE AGREE-
47 MENT TO INSPECT THE LOT OR PARCEL AND AT THE TIME OF THE INSPECTION HAVE
48 THE RIGHT TO UNILATERALLY RESCIND THE PURCHASE AGREEMENT. AT THE TIME
49 OF INSPECTION THE BUYER MUST SIGN AN AFFIDAVIT STATING THAT HE HAS IN-
50 SPECTED THE LOT, AND AT THE REQUEST OF THE COMMISSIONER, SUCH AFFIDAVIT
51 MAY BE REQUIRED TO BE FILED WITH THE DEPARTMENT.

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1 B. E. Only a bank, savings and loan association, or title insur-
2 ance company doing business under the laws of this state or the United
3 States or the state in which the subdivision is located, or a title
4 insurance company wholly owned subsidiary or underwriting agent
5 qualified under section 20-1580, or persons or firms authorized to
6 receive escrows under the laws of this state or the state in which the
7 subdivision is located may act as trustee under paragraph 3 of subsection
8 A of this section. Nothing in this subsection extends to a firm or
9 individual authority to act as a trustee unless such authority is other-
10 wise provided by law.

11 F. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE SALE OF
12 IMPROVED LOTS AS DEFINED BY PARAGRAPH 13 OF SECTION 32-2101.

13 Sec. 24. Section 32-2185.03, Arizona Revised Statutes, is amended
14 to read:

15 32-2185.03. Deposit of fees

16 All fees and earned expense collected under this ~~article~~ CHAPTER
17 shall be deposited in the real-estate STATE GENERAL fund and are avail-
18 ~~able to the commissioner for the purpose of making the required examina-~~
19 ~~tion prior to issuance of a public report and for review examinations or~~
20 ~~investigations to determine compliance with the provisions of this~~
21 ~~article,~~ UNLESS OTHERWISE PRESCRIBED BY LAW.

22 Sec. 25. Title 32, chapter 20, article 4, Arizona Revised Statutes,
23 is amended by adding section 32-2185.05, to read:

24 32-2185.05. Surety bond requirements; cancellation;
25 exemption

26 A. AS A CONDITION PRECEDENT TO THE SALE OF ANY SUBDIVIDED LANDS,
27 THE COMMISSIONER SHALL REQUIRE OF THE SUBDIVIDER A SURETY BOND TO ASSURE
28 THAT THE SUBDIVIDER SHALL COMPLY FAITHFULLY WITH ALL THE PROVISIONS OF
29 THIS CHAPTER. ALL BONDS SHALL BE IN FAVOR OF THE STATE, FOR THE USE,
30 BENEFIT AND PROTECTION OF ANY PERSON WHO AS THE PURCHASER OF A LOT IS
31 INJURED BY FRAUD OR MISREPRESENTATION OF THE SUBDIVIDER IN HIS CAPACITY
32 AS SUCH. ANY PERSON WHO SUFFERS LOSS MAY BRING SUIT UPON THE BOND IN HIS
33 OWN NAME EXCEPT THAT THE TOTAL AGGREGATE LIABILITY OF THE SURETY FOR ALL
34 CLAIMS SHALL BE LIMITED TO THE PRINCIPAL AMOUNT OF THE BOND IRRESPECTIVE
35 OF THE NUMBER OF YEARS THE BOND IS IN FORCE. THE PRINCIPAL SUM OF THE
36 BOND SHALL BE IN SUCH AMOUNT AS THE COMMISSIONER SHALL DEEM NECESSARY
37 TO PROTECT PURCHASERS WHEN THE VOLUME OF BUSINESS OF THE SUBDIVIDER AND
38 OTHER RELEVANT FACTORS ARE TAKEN INTO CONSIDERATION, BUT IN NO EVENT
39 LESS THAN FIVE THOUSAND DOLLARS.

40 B. THE SURETY BOND SHALL CONTINUE IN EFFECT UNTIL ALL SALES OF THE
41 SUBDIVIDER HAVE BEEN SUBSTANTIALLY COMPLETED AS DETERMINED BY THE COM-
42 MISSIONER AND UNTIL THE COMMISSIONER MAY DETERMINE THAT SUCH BOND IS NO
43 LONGER NECESSARY, UNLESS CANCELLED EARLIER BY THE SURETY AS HEREIN PRO-
44 VIDED. UPON RECEIPT BY THE COMMISSIONER OF NOTICE TO CANCEL A BOND BY
45 ANY SURETY, THE COMMISSIONER SHALL IMMEDIATELY NOTIFY THE SUBDIVIDER
46 ON THE BOND OF THE EFFECTIVE DATE OF CANCELLATION OF THE BOND AND THAT
47 SUBDIVIDER MUST FURNISH A LIKE BOND WITHIN THIRTY DAYS AFTER MAILING OF
48 NOTICE BY THE COMMISSIONER OR THE SUBDIVIDER'S RIGHT TO SELL LOTS IN ANY
49 SUBDIVISION SHALL BE SUSPENDED. NOTICE TO THE SUBDIVIDER SHALL BE BY
50 CERTIFIED MAIL IN A SEALED ENVELOPE WITH POSTAGE FULLY PREPAID THEREON,
51 ADDRESSED TO THE SUBDIVIDER'S LATEST ADDRESS OF RECORD IN THE COMMISS-
52 SIONER'S OFFICE. THE SUBDIVIDER'S RIGHT TO SELL LOTS SHALL BE SUSPENDED

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1 BY OPERATION OF LAW ON THE DATE THE BOND IS CANCELLED UNLESS A REPLACEMENT
2 BOND IS FILED WITH THE COMMISSIONER.

3 C. THE COMMISSIONER MAY EXEMPT A SUBDIVIDER OF FIFTY OR FEWER
4 LOTS, PARCELS, UNITS OR INTERESTS FROM THE BONDING PROVISIONS OF SUB-
5 SECTIONS A AND B OF THIS SECTION, IF THE COMMISSIONER DETERMINES THAT
6 THE PLAN OF PROMOTION AND DISPOSITION IS PRIMARILY DIRECTED TO PERSONS
7 IN THE LOCAL COMMUNITY IN WHICH THE SUBDIVISION IS LOCATED.

8 Sec. 26. Section 32-2186, Arizona Revised Statutes, is amended to
9 read:

10 32-2186. Use of fund; exception; fees

11 A. The ~~real-estate-commission~~ COMMISSIONER is authorized and
12 directed to establish and maintain a real estate recovery fund from
13 which any person, except bonding companies when they are not principals
14 in a real estate transaction, aggrieved by an act, representation, trans-
15 action or conduct of a duly licensed broker or salesman, which is in viola-
16 tion of the provisions of this chapter or the regulations promulgated pursu-
17 ant thereto, may recover by order of the superior court or justice court of
18 the county where the violation occurred for only actual or compensatory
19 damages, and not including interest and costs sustained by the act,
20 representation, transaction or conduct, provided that nothing shall be
21 construed to obligate the fund for more than ten thousand dollars per
22 transaction regardless of the number of persons aggrieved or parcels of
23 real estate involved in such transaction. In addition:

24 1. This article shall not be construed to obligate the fund for
25 the acts of a broker or salesman while acting on his own behalf in prop-
26 erty owned or controlled by him.

27 2. The liability of the fund for the acts of a duly licensed broker
28 or salesman, when acting as such, is terminated upon the issuance of court
29 orders authorizing payments from the fund for judgments, or any unsatisfied
30 portion of judgments, in an aggregate amount of twenty thousand dollars on
31 behalf of such licensee.

32 3. A licensee acting as a principal or agent in a real estate trans-
33 action has no claim against the fund.

34 B. When any person makes application for an original license to
35 practice as a broker, he shall pay, in addition to his original license
36 fee, a fee of twenty dollars for deposit in the real estate recovery fund.
37 When any person makes application for an original license to practice as a
38 salesman, he shall pay, in addition to his original license fee, a fee of
39 ten dollars for deposit in the real estate recovery fund. In the event
40 that the ~~real-estate-commission~~ COMMISSIONER does not issue the license,
41 this fee shall be returned to the applicant.

42 Sec. 27. Section 32-2188, Arizona Revised Statutes, is amended to
43 read:

44 32-2188. Statute of limitations; recovery from fund

45 A. No action for a judgment which subsequently results in an order
46 for collection from the real estate recovery fund shall be started later
47 than two years from the accrual of the cause of action thereon. When
48 any aggrieved person commences action for a judgment which may result in
49 collection from the real estate recovery fund, the aggrieved person shall
50 notify the ~~real-estate-commission~~ COMMISSIONER in writing, by certified

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1 mail return receipt requested, to this effect at the time of the commence-
2 ment of such action. The ~~real-estate-commission~~ COMMISSIONER shall have
3 the right to intervene in and defend any such action.

4 B. When any aggrieved person recovers a valid judgment in any court
5 of competent jurisdiction against any broker or salesman, for any act,
6 representation, transaction, or conduct which is in violation of the pro-
7 visions of this chapter or the regulations promulgated pursuant thereto,
8 which occurred on or after July 1, 1964, the aggrieved person may, upon
9 the termination of all proceedings, including reviews and appeals in
10 connection with the judgment, file a verified claim in the court in which
11 the judgment was entered and, upon ten days' written notice to the ~~real~~
12 ~~estate-commission~~ COMMISSIONER, may apply to the court for an order
13 directing payment out of the real estate recovery fund, of the amount
14 unpaid upon the judgment, subject to the limitations stated in this section.

15 C. The court shall proceed upon such application in a summary
16 manner, and, upon the hearing thereof, the aggrieved person shall be
17 required to show:

18 1. He is not a spouse ~~or~~ OF debtor, or the ~~person~~ PERSONAL repre-
19 sentative of such spouse.

20 2. He has complied with all the requirements of this section.

21 3. He has obtained a judgment as set out in subsection B of this
22 section, stating the amount thereof and the amount owing thereon at the
23 date of the application, and that in such action he had joined any and
24 all bonding companies which issued corporate surety bonds to the judg-
25 ment debtors as principals and all other necessary parties.

26 4. He has caused to be issued a writ of execution upon such judg-
27 ment and the officer executing the same has made a return showing that
28 no personal or real property of the judgment debtor liable to be levied
29 upon in satisfaction of the judgment could be found, or that the amount
30 realized on the sale of them or of such of them as were found, under
31 such execution, was insufficient to satisfy the judgment, stating the
32 amount so realized and the balance remaining due on the judgment after
33 application thereon of the amount realized.

34 5. He has caused the judgment debtor to make discovery under oath,
35 pursuant to section 12-1631, concerning his property.

36 6. He has made all reasonable searches and inquiries to ascertain
37 whether the judgment debtor is possessed of real or personal property
38 or other assets, liable to be sold or applied in satisfaction of the
39 judgment.

40 7. That by such search he has discovered no personal or real prop-
41 erty or other assets liable to be sold or applied, or that he has dis-
42 covered certain of them, describing them, owned by the judgment debtor
43 and liable to be so applied, and that he has taken all necessary action
44 and proceedings for the realization thereof, and that the amount thereby
45 realized was insufficient to satisfy the judgment, stating the amount
46 so realized and the balance remaining due on the judgment after appli-
47 cation of the amount realized.

48 8. That the following items, if any, as recovered by him have
49 been applied to the actual or compensatory damages awarded by the court:

50 (a) Any amount recovered from the judgment debtor or debtors.

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1 (b) Any amount recovered from the bonding company or companies.

2 (c) Any amount recovered in out of court settlements as to par-
3 ticular defendants.

4 D. Whenever the aggrieved person satisfies the court that it is
5 not practicable to comply with one or more of the requirements enumerated
6 in paragraphs 4, 5, 6, 7 and 8 of subsection C of this section and that
7 the aggrieved person has taken all reasonable steps to collect the amount
8 of the judgment or the unsatisfied part thereof and has been unable to
9 collect the same, the court may in its discretion dispense with the
10 necessity for complying with such requirements.

11 E. The court shall make an order directed to the ~~real-estate~~
12 ~~commissioner~~ COMMISSIONER requiring payment from the real estate recovery
13 fund of whatever sum it shall find to be payable upon the claim, pursuant
14 to the provisions of and in accordance with the limitations contained in
15 this section, if the court is satisfied, upon the hearing, of the truth
16 of all matters required to be shown by the aggrieved person by subsection
17 C of this section and that the aggrieved person has fully pursued and
18 exhausted all remedies available to him for recovering the amount awarded
19 by the judgment of the court.

20 F. Should the ~~real-estate-commissioner~~ COMMISSIONER pay from the real
21 estate recovery fund any amount in settlement of a claim or toward
22 satisfaction of a judgment against a licensed broker or salesman the
23 license of such broker or salesman shall be automatically terminated
24 upon the issuance of a court order authorizing payment from the real
25 estate recovery fund. No such broker or salesman shall be eligible to
26 receive a new license until he has repaid in full, plus interest at the
27 rate of six per cent a year, the amount paid from the real estate recovery
28 fund on his account. A discharge in bankruptcy shall not relieve a person
29 from the penalties and disabilities provided in this subsection.

30 G. If, at any time, the money deposited in the real estate recovery
31 fund is insufficient to satisfy any duly authorized claim or portion
32 thereof, the ~~real-estate-commissioner~~ COMMISSIONER shall, when sufficient
33 money has been deposited in the real estate recovery fund, satisfy such
34 unpaid claims or portions thereof, in the order that such claims or portions
35 thereof were originally filed, plus accumulated interest at the rate of
36 four per cent a year.

37 Sec. 28. Section 32-2189, Arizona Revised Statutes, is amended to
38 read:

39 32-2189. Management of fund

40 The sums received by the ~~real-estate-commissioner~~ COMMISSIONER pur-
41 suant to any provisions of this article shall be deposited into the state
42 treasury and held in a special fund to be known as the real estate recovery
43 fund, and shall be held by the ~~real-estate-commissioner~~ COMMISSIONER in trust
44 for carrying out the purposes of this article. These funds may be invested
45 and reinvested in the same manner as funds of the state employees' retirement
46 system, and the interest from these investments shall be deposited to the
47 credit of the real estate recovery fund, and shall be available for the
48 same purposes as all other money deposited in the real estate recovery
49 fund.

50 Sec. 29. Section 32-2190, Arizona Revised Statutes, is amended to
51 read:

1 32-2190. False statement

2 It shall be unlawful for any person or his agent to file with the
3 ~~real-estate-commission~~ COMMISSIONER any notice, statement or other document
4 required under the provisions of this article, which is false or untrue or
5 contains any material misstatement of fact and shall constitute a misde-
6 meanor.

7 Sec. 30. Section 32-2191, Arizona Revised Statutes, is amended to
8 read:

9 32-2191. Commissioners' standing in court

10 When the ~~real-estate-commission~~ COMMISSIONER receives notice, as
11 provided in section 32-2188, the ~~real-estate-commission~~ COMMISSIONER may
12 enter an appearance, file an answer, appear at the court hearing, defend
13 the action or take whatever other action ~~it~~ HE may deem appropriate on the
14 behalf and in the name of the defendant, and take recourse through any
15 appropriate method of review on behalf of, and in the name of, the
16 defendant.

17 Sec. 31. Section 32-2192, Arizona Revised Statutes, is amended to
18 read:

19 32-2192. Subrogation of rights

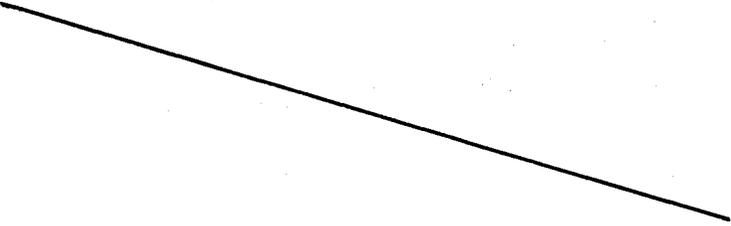
20 When, upon the order of the court, the ~~real-estate-commission~~
21 COMMISSIONER has paid from the real estate recovery fund any sum to the
22 judgment creditor, the ~~real-estate-commission~~ COMMISSIONER shall be sub-
23 rogated to all of the rights of the judgment creditor and the judgment
24 creditor shall assign all his right, title and interest in the judgment to
25 the ~~real-estate-commission~~ COMMISSIONER and any amount and interest so
26 recovered by the ~~real-estate-commission~~ COMMISSIONER on the judgment shall
27 be deposited to the fund.

28 Sec. 32. Title 32, chapter 20, Arizona Revised Statutes, is amended
29 by adding article 7, sections 32-2195.01 through 32-2195.04, to read:

30 ARTICLE 7. SALE AND MORTGAGING OF
31 UNSUBDIVIDED LANDS

32 32-2195.01. Notice to commissioner of intention prior
33 to the offering for sale or lease of
34 unsubdivided land

35 A. PRIOR TO THE OFFERING FOR SALE OR LEASE OF UNSUBDIVIDED LAND
36 WHICH CONSISTS OF FOUR OR MORE CONTIGUOUS PARCELS OF LAND, WHICH PARCELS
37 ARE MORE THAN THIRTY-SIX ACRES EACH BUT LESS THAN ONE HUNDRED SIXTY ACRES
38 EACH, AND WHICH ARE OFFERED, KNOWN OR ADVERTISED UNDER A COMMON PLAN FOR
39 SALE OR LEASE, THE OWNER, AGENT OR SUBDIVIDER SHALL NOTIFY THE COMMISSIONER
40 IN WRITING OF HIS INTENTION TO OFFER SUCH PARCELS FOR SALE OR LEASE.



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1 B. THE NOTICE REQUIRED BY THIS SECTION SHALL CONTAIN THE FOLLOWING
2 INFORMATION:

- 3 1. THE NAME AND ADDRESS OF THE OWNER.
4 2. THE NAME AND ADDRESS OF THE SUBDIVIDER.
5 3. THE LEGAL DESCRIPTION AND AREA OF THE LANDS.
6 4. A TRUE STATEMENT OF THE CONDITION OF THE TITLE TO THE LAND,
7 INCLUDING ALL ENCUMBRANCES THEREON.
8 5. A TRUE STATEMENT OF THE TERMS AND CONDITIONS UNDER WHICH SUCH
9 LANDS ARE TO BE OFFERED TO THE PUBLIC.
10 6. A TRUE STATEMENT OF THE PROVISIONS, IF ANY, THAT HAVE BEEN MADE
11 FOR INSTALLATION OF ALL UTILITIES.
12 7. A TRUE STATEMENT SETTING OUT THE AVAILABILITY OF WATER OR LACK
13 THEREOF.
14 8. A TRUE STATEMENT OF THE PROVISIONS MADE FOR PERMANENT ACCESS.
15 9. COPIES OF ORIGINAL PROMOTIONAL AND ADVERTISING MATERIAL TO BE
16 USED WITH SUCH OFFERING SHALL BE ATTACHED TO THE NOTICE.
17 10. SUCH OTHER INFORMATION AS THE COMMISSIONER MAY REQUIRE FOR
18 THE PROTECTION OF THE PUBLIC.

19 C. IT SHALL BE UNLAWFUL FOR ANY AGENT, OWNER OR SUBDIVIDER TO
20 MAKE ANY OFFERINGS REGULATED BY THIS SECTION WITHOUT THE WRITTEN AUTHO-
21 RIZATION OF THE COMMISSIONER. THE COMMISSIONER MAY ISSUE A PUBLIC
22 REPORT THEREON AND REQUIRE A COPY OF SAME TO BE FURNISHED TO EACH
23 OFFEREE AT THE TIME OF SUCH OFFERING.

24 D. IT SHALL BE UNLAWFUL TO OFFER ANY LANDS REGULATED BY THIS
25 SECTION WITHOUT PROVISIONS HAVING BEEN MADE FOR PERMANENT ACCESS.

26 E. THE COMMISSIONER MAY TERMINATE ANY AUTHORIZATION ISSUED UPON
27 THE GROUNDS AND IN THE MANNER SET OUT IN SECTION 32-2183.

28 32-2195.02. Examination of unsubdivided land
29 by commissioner; fee

30 THE COMMISSIONER SHALL EXAMINE ANY UNSUBDIVIDED LAND OFFERED FOR
31 SALE OR LEASE PURSUANT TO THIS ARTICLE, AND SHALL MAKE PUBLIC HIS FINDINGS.
32 THE TOTAL COST OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED BY THE DEPART-
33 MENT IN THE EXAMINATION, IN ADDITION TO THE INITIAL FILING FEE PROVIDED
34 FOR IN THIS SECTION, SHALL BE BORNE BY THE OWNER OF THE UNSUBDIVIDED LAND
35 OR HIS AGENT, OR THE SUBDIVIDER OF THE PROJECT, ON THE BASIS OF ACTUAL
36 COST TO THE DEPARTMENT. AN INITIAL FILING FEE OF SEVENTY-FIVE DOLLARS
37 SHALL ACCOMPANY THE WRITTEN NOTIFICATION REQUIRED IN SECTION 32-2195.01.

38 32-2195.03. Report of commissioner on unsubdivided
39 land; order prohibiting sale or lease;
40 investigations by commissioner; public
41 hearings; summary orders

42 A. UPON EXAMINATION OF UNSUBDIVIDED LAND, THE COMMISSIONER WITHIN
43 A REASONABLE TIME SHALL PREPARE A REPORT THEREON. IT IS UNLAWFUL FOR
44 UNSUBDIVIDED LANDS TO BE OFFERED FOR SALE OR LEASE BY THE OWNER, AGENT
45 OR SUBDIVIDER THEREOF UNTIL THE PUBLIC REPORT HAS BEEN PREPARED AND THE
46 OWNER, AGENT OR SUBDIVIDER HAS BEEN GIVEN NOTICE BY THE COMMISSIONER THAT
47 THE UNSUBDIVIDED LANDS MAY BE OFFERED FOR SALE OR LEASE. THE COMMISSIONER
48 MAY REQUIRE THE OWNER, AGENT OR SUBDIVIDER TO REPRODUCE THE REPORT AND
49 FURNISH EACH PROSPECTIVE CUSTOMER WITH A COPY, TAKING A RECEIPT THEREFOR.
50 AN ORDER PROHIBITING THE SALE OR LEASE OF THE PROPERTY MAY BE ISSUED BY

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1 THE COMMISSIONER IF THE EXAMINATION DISCLOSES THAT SALE OR LEASE WOULD
2 CONSTITUTE MISREPRESENTATION, DECEIT OR FRAUD, OR THAT THE OWNER, AGENT,
3 SUBDIVIDER, OFFICER OR PARTNER, SUBDIVIDER TRUST BENEFICIARY OR, IF A
4 CORPORATION, ANY STOCKHOLDER OWNING TEN PER CENT OR MORE OF THE STOCK
5 IN SUCH CORPORATION HAS BEEN CONVICTED OF A FELONY, IF THE OFFENSE HAS
6 A SUBSTANTIAL RELATIONSHIP TO THE FUNCTIONS OF SELLING OR LEASING UN-
7 SUBDIVIDED LANDS. EXCEPT AS PROVIDED IN SECTION 32-2157, BEFORE AN
8 ORDER OF PROHIBITION SHALL ISSUE, THE COMMISSIONER SHALL HOLD A HEARING
9 AS PROVIDED IN THIS CHAPTER.

10 B. THE COMMISSIONER, ON HIS OWN MOTION, OR WHEN HE HAS RECEIVED
11 A COMPLAINT AND HE HAS SATISFACTORY EVIDENCE THAT THE OWNER, AGENT OR
12 SUBDIVIDER IS VIOLATING ANY PROVISION SET FORTH IN THIS ARTICLE OF THE
13 RULES AND REGULATIONS OF THE COMMISSIONER OR DEVIATED FROM THE PROVISIONS
14 OF THE PUBLIC REPORT, MAY INVESTIGATE THE SUBDIVISION PROJECT AND EXAMINE
15 THE BOOKS AND RECORDS OF THE OWNER, AGENT OR SUBDIVIDER. FOR THE PURPOSE
16 OF EXAMINATION, THE OWNER, AGENT OR SUBDIVIDER SHALL KEEP AND MAINTAIN
17 RECORDS OF ALL SALES TRANSACTIONS AND FUNDS RECEIVED BY HIM PURSUANT
18 THERETO, AND MAKE THEM ACCESSIBLE TO THE COMMISSIONER UPON REASONABLE
19 NOTICE AND DEMAND.

20 C. THE COMMISSIONER, ON HIS OWN MOTION, OR WHEN HE HAS RECEIVED A
21 COMPLAINT AND HE HAS SATISFACTORY EVIDENCE THAT ANY PERSON HAS VIOLATED
22 ANY OF THE PROVISIONS OF THIS ARTICLE OR THE RULES AND REGULATIONS OF
23 THE COMMISSIONER, OR DEVIATED FROM THE PROVISIONS OF THE PUBLIC REPORT,
24 OR THAT THE OWNER, AGENT, SUBDIVIDER, OFFICER OR PARTNER, SUBDIVIDER
25 TRUST BENEFICIARY OR, IF A CORPORATION, ANY STOCKHOLDER OWNING TEN PER
26 CENT OR MORE OF THE STOCK IN SUCH CORPORATION HAS BEEN CONVICTED OF A
27 FELONY, IF THE OFFENSE HAS A SUBSTANTIAL RELATIONSHIP TO THE FUNCTIONS
28 OF SELLING OR LEASING UNSUBDIVIDED LANDS, BEFORE OR AFTER THE COMMISSIONER
29 PREPARES THE PUBLIC REPORT AS PROVIDED IN SUBSECTION A, MAY CONDUCT AN
30 INVESTIGATION OF SUCH MATTER, ISSUE A SUMMARY ORDER AS PROVIDED IN SECTION
31 32-2157, OR HOLD A PUBLIC HEARING AND, AFTER THE HEARING, MAY ISSUE SUCH
32 ORDER OR ORDERS AS HE MAY DEEM NECESSARY TO PROTECT THE PUBLIC INTEREST
33 AND INSURE COMPLIANCE WITH THE LAW, OR RULES AND REGULATIONS OF PUBLIC
34 REPORT. IF, AFTER SUCH HEARING, VIOLATION OF THE LAW, RULES AND REGULA-
35 TIONS OR PUBLIC REPORT CONTINUES, THE COMMISSIONER MAY BRING ACTION IN
36 ANY COURT OF COMPETENT JURISDICTION AGAINST SUCH PERSON TO ENJOIN SUCH
37 PERSON FROM CONTINUING SUCH VIOLATION OR ENGAGING THEREIN OR DOING ANY
38 ACT OR ACTS IN FURTHERANCE THEREOF.

39 32-2195.04. Violation of article: penalties

40 ANY PERSON WHO KNOWINGLY VIOLATES ANY OF THE PROVISIONS OF THIS
41 ARTICLE OR THE RULES AND REGULATIONS PRESCRIBED PURSUANT THERETO, OR
42 ANY PERSON WHO WILFULLY, IN A STATEMENT OF RECORD FILED UNDER, OR IN A
43 PROPERTY REPORT ISSUED PURSUANT TO THIS ARTICLE, MAKES ANY UNTRUE STATE-
44 MENT OF A MATERIAL FACT OR OMITTS TO STATE ANY MATERIAL FACT REQUIRED TO
45 BE STATED THEREIN SHALL UPON CONVICTION BE FINED NOT MORE THAN FIVE
46 THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH.

47 Sec. 33. Section 9-463.01, Arizona Revised Statutes, is amended
48 to read:

49 9-463.01. Authority

50 A. Pursuant to the provisions of this article, the legislative

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1 body of every municipality may SHALL regulate the subdivision of all
2 lands within its corporate limits.

3 B. ~~If~~ The legislative body of a municipality exercises SHALL
4 EXERCISE the authority granted in subsection A, ~~regulation shall be~~ by
5 ordinance prescribing:

6 1. Procedures to be followed in the preparation, submission,
7 review and approval or rejection of all final plats.

8 2. Standards governing the design of subdivision plats.

9 3. Minimum requirements and standards for the installation of
10 subdivision streets, sewer and water utilities and improvements as a
11 condition of final plat approval.

12 C. By ordinance, the legislative body of any municipality may
13 SHALL:

14 1. Require the preparation, submission and approval of a pre-
15 liminary plat as a condition precedent to submission of a final plat.

16 2. Establish the procedures to be followed in the preparation,
17 submission, review and approval of preliminary plats.

18 3. Make requirements as to the form and content of preliminary
19 plats.

20 4. Determine that certain lands may either not be subdivided,
21 by reason of adverse topography, periodic inundation, adverse soils,
22 subsidence of the earth's surface, high water table, lack of water or
23 other natural or man-made hazard to life or property, or control the
24 lot size, establish special grading and drainage requirements, and
25 impose other regulations deemed reasonable and necessary for the public
26 health, safety or general welfare on any lands to be subdivided affected
27 by such characteristics.

28 5. Require payment of a proper and reasonable fee by the sub-
29 divider based upon the number of lots or parcels on the surface of the
30 land to defray municipal costs of plat review and site inspection.

31 6. Require the dedication of public streets, sewer and water
32 utility easements or rights-of-way, within the proposed subdivision.

33 7. Require the preparation and submission of acceptable engi-
34 neering plans and specifications for the installation of required
35 street, sewer, ELECTRIC and water ~~utility~~ UTILITIES, DRAINAGE, FLOOD
36 CONTROL, ADEQUACY OF WATER and improvements as a condition precedent
37 to recordation of an approved final plat.

38 8. Require the posting of performance bonds, assurances or
39 such other security as may be appropriate and necessary to assure the
40 installation of required street, sewer, ELECTRIC and water ~~utility~~
41 UTILITIES, DRAINAGE, FLOOD CONTROL and improvements meeting established
42 minimum standards of design and construction.

43 D. The legislative body of any municipality may require by
44 ordinance that land areas within a subdivision be reserved for parks,
45 recreational facilities, school sites and fire stations subject to
46 the following conditions:

47 1. The requirement may only be made upon preliminary plats filed
48 at least thirty days after the adoption of a general or specific plan
49 affecting the land area to be reserved.

50 2. The required reservations are in accordance with definite

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1 principles and standards adopted by the legislative body.

2 3. The land area reserved shall be of such a size and shape as
3 to permit the remainder of the land area of the subdivision within
4 which the reservation is located to develop in an orderly and efficient
5 manner.

6 4. The land area reserved shall be in such multiples of streets
7 and parcels as to permit an efficient division of the reserved area
8 in the event that it is not acquired within the prescribed period.

9 E. The public agency for whose benefit an area has been re-
10 served shall have a period of one year after recording the final
11 subdivision plat to enter into an agreement to acquire such reserved
12 land area. The purchase price shall be the fair market value thereof at
13 the time of the filing of the preliminary subdivision plat plus the taxes
14 against such reserved area from the date of the reservation and any other
15 costs incurred by the subdivider in the maintenance of such reserved
16 area, including interest cost incurred on any loan covering such re-
17 served area.

18 F. If the public agency for whose benefit an area has been re-
19 served does not exercise the reservation agreement set forth in
20 subsection E of this section within such one year period or such extended
21 period as may be mutually agreed upon by such public agency and the
22 subdivider, the reservation of such area shall terminate.

23 6. The legislative body of every municipality shall comply with
24 all provisions of this article and applicable state statutes pertaining
25 to the hearing, approval or rejection, and recordation of:

26 1. Final subdivision plats.

27 2. Plats filed for the purpose of reverting to acreage of land
28 previously subdivided.

29 3. Plats filed for the purpose of vacating streets or easements
30 previously dedicated to the public.

31 4. Plats filed for the purpose of vacating or redescribing lot
32 or parcel boundaries previously recorded.

33 H. Approval of every preliminary and final plat by a legislative
34 body is conditioned upon compliance by the subdivider with:

35 1. Rules as may be established by the Arizona-highway department
36 OF TRANSPORTATION relating to provisions for the safety of entrance upon
37 and departure from abutting state primary highways.

38 2. Rules as may be established by a county flood control district
39 relating to the construction or prevention of construction of streets
40 in land established as being subject to periodic inundation.

41 3. Rules as may be established by the state department of health
42 SERVICES or a county health department relating to the provision of
43 domestic water supply and sanitary sewage disposal.

44 I. Every municipality is responsible for the recordation of
45 all final plats approved by the legislative body and shall receive from
46 the subdivider and transmit to the county recorder the recordation fee
47 established by the county recorder.

48 J. Pursuant to provisions of applicable state statutes, the
49 legislative body of any municipality may itself prepare or have pre-
50 pared a plat for the subdivision of land under municipal ownership.

1 Sec. 34. Section 11-806.01, Arizona Revised Statutes, is amended
2 to read:

3 11-806.01. Subdivision regulation; platting
4 rules; penalty

5 A. THE COUNTY BOARD OF SUPERVISORS SHALL REGULATE THE SUBDIVISION
6 OF ALL LANDS WITHIN ITS CORPORATE LIMITS, EXCEPT SUBDIVISIONS WHICH ARE
7 REGULATED BY MUNICIPALITIES.

8 A- B. No plat of a subdivision of land within the area of juris-
9 diction of such county shall be accepted for recording or recorded
10 until it has been approved by the board. The approval of the board
11 shall be endorsed in writing on the plat AND SHALL ALSO INCLUDE SPECIFIC
12 IDENTIFICATION OF AND APPROVAL OF THE ASSURANCES REQUIRED BY THIS SECTION.
13 Where a county planning and zoning commission exists, the plat shall first
14 have been referred to such commission for its consideration and the board
15 shall have received the recommendation of the commission.

16 B- C. Any person causing a final plat to be recorded without
17 first submitting the plat and obtaining approval of the board shall
18 be guilty of a misdemeanor. No county recorder shall accept for
19 recording or record any plat which has not been approved as provided
20 by this article.

21 G- D. The ground of refusal or approval of any plat submitted,
22 including citation of or reference to the rule or regulation violated
23 by the plat, shall be stated upon the record of the board.

24 D- E. The commission ~~may~~ SHALL recommend to the board and the
25 board ~~may~~ SHALL adopt general rules and regulations of uniform application
26 governing plats and subdivisions of land within its area of jurisdiction.
27 The regulations adopted shall secure and provide for the proper arrange-
28 ment of streets or other highways in relation to existing or planned
29 streets or highways or to the official map for adequate and convenient
30 open spaces for traffic, utilities, drainage, access of fire fighting
31 apparatus, recreation, light and air. The general rules and regula-
32 tions may provide for the modification thereof by the commission in
33 planned area development or specific cases where unusual topographical
34 or other exceptional conditions may require such action. The regula-
35 tions shall include provisions as to the extent to which streets and
36 other highways shall be graded and improved and to which water, sewer,
37 or other utility mains, piping or other facilities shall be installed
38 or provided for on the plat as a condition precedent to the approval
39 of the final plat.

40 E- F. Boards of supervisors of counties ~~may~~ SHALL prepare
41 specifications and make orders, inspections, examinations and certifi-
42 cates as may be necessary to protect and complete the provisions and
43 make them effective. THE REGULATIONS SHALL REQUIRE THE POSTING OF
44 PERFORMANCE BONDS, ASSURANCES OR SUCH OTHER SECURITY AS MAY BE AP-
45 PROPRIATE AND NECESSARY TO ASSURE THE INSTALLATION OF REQUIRED STREET,
46 SEWER, ELECTRIC AND WATER UTILITIES, DRAINAGE, FLOOD CONTROL AND IMPROVE-
47 MENTS MEETING ESTABLISHED MINIMUM STANDARDS OF DESIGN AND CONSTRUCTION.

48 F- G. Before adoption of rules and regulations by the board or
49 any amendment thereof as provided in this article, a public hearing shall
50 be held by the commission. A copy of the rules and regulations shall :

1 be certified by the commission to the county board of supervisors which
 2 shall hold a public hearing after notice of time and place has been
 3 given by one publication fifteen days prior to the public hearing in a
 4 newspaper of general circulation in the county.

5 G. H. Approval of a plat shall not be deemed to constitute or
 6 effect an acceptance by the county for designation of any street,
 7 highway or other way or open space shown upon the plat into the county
 8 maintenance system. However, at such time as the streets, highways or
 9 other ways are fully completed in accordance with the approved plat
 10 and written specifications made by the county board, the county ~~must~~
 11 SHALL accept said SUCH streets, highways and other ways into the county
 12 maintenance system within one year of completion.

13 Sec. 35. Limitations

14 No provision of this act shall be construed to require the re-
 15 adoption of any rule or regulation previously adopted by the real estate
 16 commission or the real estate commissioner prior to the effective date of
 17 this act.

18 Sec. 36. Appointments

19 The two vacancies on the real estate advisory board which occur by
 20 expiration of terms in January, 1977 shall be filled by the appointment
 21 of two public members. One of the vacancies on the real estate advisory
 22 board which occurs by the expiration of terms in January, 1981 will be
 23 filled by the appointment of a member who qualifies as a person primarily
 24 engaged in subdividing real property. Thereafter all appointments occur-
 25 ring by expiration of term shall be made pursuant to section 32-2104 as
 26 amended by this act.

27 Sec. 37. Appropriations; purposes; lapsing of
 28 appropriations

29 A. The sum of six hundred fifty-five thousand three hundred dollars
 30 is appropriated from the general fund to the real estate department for
 31 the purposes of carrying out the operations of the department for the
 32 balance of this fiscal year and for the fiscal year 1975-76. The appro-
 33 priation made pursuant to this subsection is in lieu of the appropriation
 34 made in the general appropriation bill but such monies are to be expended
 35 in accordance with the procedures for appropriations made in the general
 36 appropriation bill.

37 B. The sum of eighty-two thousand eight hundred dollars is appro-
 38 priated to the department of real estate for the fiscal year 1975-76
 39 from the real estate educational fund for the purposes of carrying out
 40 the requirements of subsection C of section 32-2103, Arizona Revised
 41 Statutes.

42 C. The appropriations made in subsections A and B of this section
 43 shall be exempt from the provisions of section 35-190, Arizona Revised
 44 Statutes, relating to lapsing of appropriations, except that all un-
 45 expended and unencumbered funds remaining to the credit of the real
 46 estate department on June 30, 1976 shall revert to the general fund.

47 Sec. 38. Transfer of funds

48 All unencumbered and unexpended funds on deposit in the fund known
 49 as the real estate fund on the day before the effective date of this
 50 act shall on the effective date of this act be transferred to the general
 51 fund.

CHAPTER 151

1 Sec. 39. Emergency

2 To preserve the public peace, health and safety it is necessary that
3 this act become immediately operative. It is therefore declared to be an
4 emergency measure, to take effect as provided by law.

Approved by the Governor - June 13, 1975

Filed in the office of the Secretary of State - June 16, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 152
HOUSE BILL 2423

AN ACT

RELATING TO APPROPRIATIONS FOR THE DIFFERENT DEPARTMENTS OF THE STATE, FOR
STATE INSTITUTIONS, AND FOR PUBLIC SCHOOLS.

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

Section 1. Subject to applicable laws, the sums or sources of revenue
herein set forth are appropriated for the fiscal year beginning July 1, 1975
for the purposes and objects herein specified:

Subdivision 1. DEPARTMENT OF ADMINISTRATION

Director's office	\$ 63,100.00
<u>Management and administrative services</u>	
Administrative services	\$ 372,900.00
Management services	194,300.00
Risk management services	<u>120,400.00</u>
Total - management and administrative services	\$ 687,600.00
<u>Finance division</u>	
Assistant director	\$ 224,900.00
Accounting	1,221,700.00
Budget	342,200.00

CHAPTER 152

Planning	165,300.00
Purchasing	<u>370,200.00</u>
Total - finance division	\$ 2,324,300.00
<u>Library, archives and public records division</u>	
Administration	\$ 40,200.00
Research library	365,100.00
Library extension service	594,300.00
Library for the blind and physically handicapped	154,700.00
Archives and public records	39,900.00
Records management	<u>177,600.00</u>
Total - library, archives and public records division	\$ 1,371,800.00*

The foregoing appropriation is in addition to funds granted to the state by the federal government for library extension services.

Personnel division

Assistant Director	\$ 170,800.00
Employment	487,800.00
Training	133,300.00
Classification	184,400.00
Compensation	182,500.00
Operations	<u>104,500.00</u>
Total - personnel division	\$ 1,263,300.00

Personnel board

Lump sum appropriation	\$ 31,000.00
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Public buildings maintenance division

Personal services	\$ 1,374,100.00
Employee related expenditures	298,300.00

CHAPTER 152

Travel - state	10,100.00
Other operating expenditures	1,320,900.00
Capital outlay - equipment	17,300.00
Motor pool vehicles	150,000.00
Moving expense	<u>15,000.00</u>
Total - public buildings maintenance division	\$ 3,185,700.00

Weights and measures division

Personal services	\$ 252,600.00
Employee related expenditures	39,400.00
Professional and outside services	12,000.00
Travel - state	73,500.00
Travel - out of state	2,000.00
Other operating expenditures	60,600.00
Capital outlay - equipment	<u>9,800.00</u>
Total - weights and measures division	\$ <u>449,900.00</u>

Total appropriation - department of administration \$ 9,376,700.00

Subdivision 2. ATTORNEY GENERAL - DEPARTMENT OF LAW

Administration

Personal services, operating expenditures, and capital outlay	\$ 320,700.00
Racing commission litigation	50,000.00*
Employment of outside counsel	<u>25,000.00**</u>
Total - administration	\$ 395,700.00

**For the employment of outside counsel at state expense for any state employee defendant arising from a civil rights complaint.

CHAPTER 152

Civil

Personal services	\$ 437,200.00
Employee related expenditures	57,000.00
Professional and outside services	15,000.00
Travel - state	6,300.00
Travel - out of state	4,300.00
Other operating expenditures	20,800.00
Capital outlay - equipment	<u>4,500.00</u>
Total - civil	\$ 545,100.00

Civil rights

Personal services	\$ 156,200.00
Employee related expenditures	24,300.00
Travel - state	14,300.00
Travel - out of state	2,500.00
Other operating expenditures	20,700.00
Capital outlay - equipment	<u>600.00</u>
Total - civil rights	\$ 218,600.00

Economic protection

Personal services	\$ 231,200.00
Employee related expenditures	30,800.00
Professional and outside services	9,000.00
Travel - state	7,700.00
Travel - out of state	1,200.00
Other operating expenditures	9,700.00
Capital outlay - equipment	<u>6,800.00</u>
Total - economic protection	\$ 296,400.00

CHAPTER 152

Criminal

Personal services	\$ 474,700.00
Employee related expenditures	66,600.00
Professional and outside services	10,000.00
Travel - state	16,100.00
Travel - out of state	7,000.00
Other operating expenditures	50,100.00
Capital outlay - equipment	<u>14,600.00</u>

Total - criminal \$ 639,100.00

Tax

Personal services	\$ 147,800.00
Employee related expenditures	21,300.00
Professional and outside services	10,000.00
Travel - state	2,500.00
Travel - out of state	1,400.00
Other operating expenditures	13,000.00
Capital outlay - equipment	<u>7,700.00</u>

Total - tax \$ 203,700.00

Total appropriation - attorney general - department of law \$ 2,298,600.00

Subdivision 3. ARIZONA COLISEUM AND EXPOSITION CENTER BOARD

All collections paid into the state treasury are appropriated for personal services, operating expenditures and capital outlay.

Subdivision 4. COMMISSION ON JUDICIAL QUALIFICATIONS

Lump sum appropriation \$ 10,000.00

CHAPTER 152

Subdivision 5. COURT OF APPEALS

Division I

Personal services	\$ 724,000.00
Employee related expenditures	69,100.00
Professional and outside services	1,000.00
Travel - state	36,000.00
Travel - out of state	4,500.00
Other operating expenditures	136,000.00
Capital outlay	
Equipment	15,000.00
Library and reference facilities	<u>22,000.00</u>

Total - division I \$ 1,007,600.00

Division II

Personal services	\$ 274,800.00
Employee related expenditures	27,200.00
Professional and outside services	500.00
Travel	11,000.00
Other operating expenditures	39,500.00
Capital outlay	
Equipment	1,600.00
Library and reference facilities	<u>11,000.00</u>

Total - division II \$ 365,600.00

Total appropriation - court of appeals \$ 1,373,200.00

Subdivision 6. SUPERIOR COURTS

Personal services - salaries of judges	\$ 1,138,500.00
Employee related expenditures	15,300.00

CHAPTER 152

Professional and outside services	500.00
Judicial assistance	<u>41,900.00</u>
Total appropriation	<u>\$ 1,196,200.00</u>

Subdivision 7. SUPREME COURT

Personal services	\$ 573,800.00
Employee related expenditures	56,200.00
Professional and outside services	10,200.00
Travel	9,400.00
Other operating expenditures	158,500.00
Capital outlay	
Equipment	6,000.00
Library and reference facilities	15,500.00
Publishing Arizona reports	<u>71,000.00</u>

Total appropriation	<u>\$ 900,600.00</u>
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Subdivision 8. COMMISSION ON APPELLATE AND TRIAL COURT APPOINTMENTS

Lump sum appropriation	<u>\$ 5,000.00</u>
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Subdivision 9. GOVERNOR

Administration	\$ 437,900.00
Arizona advisory council on intergovernmental relations	37,200.00
Four corners regional commission	32,600.00**

Tourism

Personal services	\$ 59,300.00
Employee related expenditures	8,400.00
Professional and outside services	7,000.00
Travel - state	2,600.00
Travel - out of state	1,900.00

CHAPTER 152

Other operating expenditures	51,000.00
Media advertising	<u>82,000.00</u>
Total - tourism	\$ 212,200.00
Total appropriation - governor	<u>\$ 719,900.00</u>

**To reimburse any state agency participating in the four corners regional commission.

Subdivision 10. ETHICS BOARD

Lump sum appropriation	<u>\$ 10,000.00</u>
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Subdivision 11. AMERICAN REVOLUTION BICENTENNIAL COMMISSION OF ARIZONA

Lump sum appropriation	<u>\$ 91,100.00</u>
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Subdivision 12. GOVERNOR - OFFICE OF ECONOMIC PLANNING AND DEVELOPMENT

Administration

Personal services	\$ 133,600.00
Employee related expenditures	18,500.00
Professional and outside services	1,000.00
Travel - state	10,000.00
Travel - out of state	2,200.00
Other operating expenditures	50,200.00
Capital outlay - equipment	<u>800.00</u>
Total - administration	\$ 216,300.00

Development

Personal services	\$ 234,600.00
Employee related expenditures	33,000.00
Professional and outside services	2,500.00
Travel - state	24,800.00
Travel - out of state	13,100.00

CHAPTER 152

Other operating expenditures	72,300.00
Media advertising	37,000.00
Capital outlay - equipment	<u>300.00</u>
Total - development	\$ 417,600.00**
<u>Planning</u>	
Personal services	\$ 150,400.00
Employee related expenditures	19,900.00
Professional and outside services	14,200.00
Travel - state	5,700.00
Travel - out of state	2,900.00
Other operating expenditures	<u>33,600.00</u>
Total - planning	\$ 226,700.00
<u>Fuel and energy</u>	
Personal services	\$ 73,100.00
Employee related expenditures	10,000.00
Professional and outside services	1,000.00
Travel - state	2,300.00
Travel - out of state	3,000.00
Other operating expenditures	19,200.00
Capital outlay - equipment	<u>500.00</u>
Total - fuel and energy	\$ <u>109,100.00***</u>
Total appropriation - office of economic planning and development	\$ <u>969,700.00</u>

**Of this amount, \$92,500 is for motion picture industry and shall be matched in an equal amount by industry.

***Less any federal funds received for fuel allocation, unless state matching is required. Federal funds shall not be used to increase the number of positions

CHAPTER 152

or expenditures authorized for fuel allocation without prior approval of the joint legislative budget committee.

Subdivision 13. GOVERNOR - PROGRAM INFORMATION PROJECT

Lump sum appropriation \$ 148,100.00

Subdivision 14. LAW ENFORCEMENT MERIT SYSTEM COUNCIL

Lump sum appropriation \$ 17,200.00

Subdivision 15. LEGISLATURE

Senate \$ 1,700,000.00*

House of representatives 2,055,000.00*

Legislative council 484,800.00*

Joint legislative budget committee 228,500.00*

Auditor general

Personal services \$ 1,027,400.00

Employee related expenditures 148,000.00

Professional and outside services 165,000.00

Travel - state 140,000.00

Travel - out of state 3,500.00

Other operating expenditures 60,000.00

Capital outlay - equipment 4,100.00

Total - auditor general \$ 1,548,000.00

Total appropriation - legislature \$ 6,016,300.00

Subdivision 16. STATE RETIREMENT SYSTEM

From the state retirement system board administration fund, the following is appropriated:

Personal services \$ 403,600.00

Employee related expenditures 61,600.00

CHAPTER 152

Professional and outside services	446,900.00
Travel - state	4,000.00
Travel - out of state	400.00
Other operating expenditures	116,700.00
Capital outlay - equipment	<u>2,400.00</u>
Total appropriation	<u>\$ 1,035,600.00**</u>

**In addition to the above appropriation, the state retirement system may use for administrative expenses any additional amounts received under the provisions of section 38-756, Arizona Revised Statutes.

From the state general fund, the following is appropriated:

Prior service funding	\$ 762,400.00**
Plan transfer	<u>410,000.00***</u>
Total appropriation	<u>\$ 1,172,400.00*</u>

**This amount is the fourteenth of twenty annual payments to amortize the total liability of the state for funding prior service credit pensions for state employees and for former members of the Arizona teachers' retirement system who became members of the Arizona state retirement system under the provisions of section 38-747, Arizona Revised Statutes.

***This amount is the third of eleven annual payments to amortize the liability of the state for funding benefits of retired system members transferred to the plan as provided by section 38-781.35, Arizona Revised Statutes.

Subdivision 17. DEPARTMENT OF STATE - SECRETARY OF STATE

Administration

Personal services	\$ 54,800.00
Employee related expenditures	11,300.00
Professional and outside services	3,600.00
Travel - state	1,500.00
Travel - out of state	1,800.00

CHAPTER 152

Other operating expenditures	15,600.00
Total - administration	\$ 88,600.00
<u>Commercial services</u>	
Lump sum appropriation	\$ 128,100.00
<u>Governmental services</u>	
Personal services	\$ 31,500.00
Employee related expenditures	4,300.00
Other operating expenditures	105,600.00
Printing of rules and regulations	63,000.00
Total - governmental services	\$ 204,400.00
Total appropriation - department of state	\$ 421,100.00
Subdivision 18. DEPARTMENT OF REVENUE	
Personal services	\$ 4,777,400.00
Employee related expenditures	720,700.00
Professional and outside services	33,500.00
Travel - state	218,900.00
Travel - out of state	90,500.00
Other operating expenditures	1,602,000.00
Capital outlay - equipment	6,700.00
<u>Arizona resources information system</u>	
Personal services	\$ 66,300.00
Employee related expenditures	9,900.00
Professional and outside services	20,000.00
Travel - state	1,000.00
Travel - out of state	1,000.00
Other operating expenditures	80,100.00
Total - Arizona resources information system	\$ 178,300.00
Total appropriation - department of revenue	\$ 7,628,000.00

CHAPTER 152

Subdivision 19. STATE BOARD OF TAX APPEALS

Personal services	\$ 177,100.00
Employee related expenditures	27,200.00
Professional and outside services	40,400.00
Travel - state	10,000.00
Travel - out of state	2,000.00
Other operating expenditures	<u>39,800.00</u>

Total appropriation \$ 296,500.00

Subdivision 20. STATE TREASURER

Personal services	\$ 156,700.00
Employee related expenditures	26,800.00
Professional and outside services	33,300.00
Travel - state	2,000.00
Travel - out of state	1,600.00
Other operating expenditures	35,800.00
Family counseling	<u>250,000.00</u>

Total appropriation \$ 506,200.00

Subdivision 21. ARIZONA COMMISSION ON UNIFORM STATE LAWS

Lump sum appropriation	<u>\$ 10,000.00</u>
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Subdivision 22. GOVERNOR - ARIZONA RANGERS' PENSIONS

Pensions	<u>\$ 2,400.00</u>
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CHAPTER 152

Subdivision 23. DEPARTMENT OF ECONOMIC SECURITY

Administration

Office of director - administration

Personal services	\$ 136,700.00
Employee related expenditures	16,700.00
Professional and outside services	30,000.00
Travel - state	15,700.00
Travel - out of state	4,900.00
Other operating expenditures	104,000.00
Capital outlay - equipment	<u>42,400.00</u>
Total - office of director - administration	\$ 350,400.00

Employment and training

Special group services	\$ 494,100.00
Veterans' services	366,000.00
Youth conservation corps	<u>106,000.00</u>
Total - employment and training	\$ 966,100.00

Income maintenance

Administration

Personal services	\$ 5,493,700.00
Employee related expenditures	859,900.00
Professional and outside services	145,300.00
Travel - state	218,500.00
Travel - out of state	3,000.00
Other operating expenditures	524,100.00

CHAPTER 152

Capital outlay - equipment	83,200.00
Medicals	<u>5,000.00</u>
Total - administration	\$ 7,332,700.00
Aid to dependent children	14,496,000.00**
Emergency relief	726,000.00
Food stamp program	5,002,400.00
General assistance	4,482,200.00
<u>Supplemental security income</u>	
Personal services	\$ 83,400.00
Employee related expenditures	13,100.00
Professional and outside services	18,600.00
Travel - state	1,500.00
Other operating expenditures	12,600.00
Supplemental security income	<u>2,699,100.00</u>
Total - supplemental security income	\$ 2,828,300.00
Medical assistance for the aged	1,795,000.00
Tuberculosis control grants	<u>35,800.00</u>
Total - income maintenance	\$ 36,698,400.00
**Aid to dependent children is based on 70 per cent of need.	
<u>Rehabilitation services</u>	
Arizona industries for the blind	\$ 90,500.00
General vocational rehabilitation services	1,518,000.00**
Blind rehabilitative services	<u>521,700.00</u>
Total - rehabilitation services	\$ 2,130,200.00
**Funds cannot be used unless matched by federal funds.	

CHAPTER 152

Social services

Administration

Personal services	\$ 3,579,100.00
Employee related expenditures	561,000.00
Professional and outside services	16,300.00
Travel - state	200,000.00
Travel - out of state	7,000.00
Other operating expenditures	353,700.00
Capital outlay - equipment	<u>18,200.00</u>
Total - administration	\$ 4,735,300.00

Adult social services

Lump sum appropriation	\$ 163,300.00
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Children's social services

Personal services	\$ 1,216,100.00
Employee related expenditures	181,300.00
Professional and outside services	145,300.00
Travel - state	110,900.00
Travel - out of state	2,000.00
Other operating expenditures	99,100.00
Comprehensive medical and dental	1,485,200.00
Foster home care	9,360,000.00
Shelter care	720,100.00
Special education and day treatment	<u>121,600.00</u>
Total - children's social services	\$ 13,441,600.00

CHAPTER 152

<u>Family social services</u>	
Administration	\$ 383,600.00
Day care	<u>1,321,400.00</u>
Total - family social services	\$ 1,705,000.00
<u>Navajo social services project</u>	
Lump sum appropriation	\$ 153,900.00
<u>Older Americans' services</u>	
Lump sum appropriation	<u>\$ 64,500.00</u>
Total - social services	\$ 20,263,600.00
<u>Mental retardation</u>	
<u>Operations and administration</u>	
Personal services	\$ 1,009,600.00
Employee related expenditures	174,800.00
Professional and outside services	15,000.00
Travel - state	35,800.00
Travel - out of state	5,000.00
Other operating expenditures	342,600.00
Capital outlay - equipment	<u>99,600.00</u>
Total - operations and administration	\$ 1,682,400.00
<u>Community outreach</u>	
Personal services	\$ 408,600.00
Employee related expenditures	72,700.00
Professional and outside services	3,100.00
Travel - state	17,800.00
Travel - out of state	700.00

CHAPTER 152

Other operating expenditures	9,400.00
Capital outlay - equipment	500.00
Purchase of care	<u>1,500,000.00**</u>
Total - community outreach	\$ 2,012,800.00

**If federal funds are available, \$100,000 shall be used for matching money in vocational rehabilitation.

Residential care and treatment

Personal services	\$ 6,249,700.00
Employee related expenditures	1,175,200.00
Professional and outside services	215,200.00
Travel - state	18,900.00
Travel - out of state	700.00
Other operating expenditures	715,600.00
Capital outlay - equipment	90,000.00
Food	969,300.00
Stipends	<u>13,600.00</u>
Total - residential care and treatment	\$ 9,443,200.00

Training and rehabilitation

Personal services	\$ 2,202,300.00
Employee related expenditures	402,100.00
Professional and outside services	7,800.00
Travel - state	5,300.00
Travel - out of state	2,600.00
Other operating expenditures	119,400.00
Capital outlay - equipment	7,900.00

CHAPTER 152

Food	44,300.00
Stipends	<u>125,600.00</u>
Total - training and rehabilitation	<u>\$ 2,917,300.00</u>
Total - mental retardation	\$ 16,060,700.00
<u>Veterans' guardianship</u>	

From the veterans' guardianship fund the following is appropriated:

Lump sum appropriation	<u>\$ 85,200.00</u>
Total appropriation - department of economic security	<u>\$ 76,554,600.00</u>

The public welfare appropriation with the exception of administration is in addition to funds granted to the state by the federal government for the same purposes, but shall be deemed to include the sums deposited in the state treasury to the credit of the department of economic security, pursuant to the provisions of section 42-1341, Arizona Revised Statutes.

Subdivision 24. DEPARTMENT OF HEALTH SERVICES

Personal services	\$ 16,413,200.00
Employee related expenditures	2,826,200.00
Professional and outside services	3,850,100.00
Travel - state	291,800.00
Travel - out of state	34,600.00
Other operating expenditures	3,182,000.00
Food	851,400.00
Capital outlay - equipment	118,300.00
Assistance to local health planning councils	181,500.00**
Provider hospital care - tuberculosis	600,000.00
Local health - tuberculosis control	460,000.00

CHAPTER 152

Kidney treatment centers	150,000.00
Nutrition subventions	129,100.00
Mental health pre-care	110,000.00
Mental health grants	1,500,000.00***
Alcohol abuse subventions	1,700,000.00****
Drug abuse subventions	970,000.00
Direct grants to counties	300,000.00*****
Reimbursement to counties	<u>648,000.00*****</u>
Total appropriation	<u>\$ 34,316,200.00</u>

**Funds shall not provide for more than fifty per cent of matching requirements for federal appropriation.

***This appropriation is to provide funds on a dollar per dollar matching basis.

****Fifty per cent or more match in kind, subject to being reduced to twenty-five per cent match in kind in case of a finding of financial hardship within a political subdivision, subject to the approval of the health services department director.

*****This appropriation is for local health work and is to be divided equally among the 14 counties on a non-matching basis. All funds received by a county under this appropriation which are not used for the prescribed purposes shall revert to the state general fund.

*****This appropriation is to provide matching funds to counties for local health work on a 50-50 matching basis and shall be distributed to each county on an equal per capita basis as determined by the 1970 federal decennial census.

The director of health services may contract with the department of economic security for services to mental retardation patients.

CHAPTER 152

Earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the enabling act and the constitution for the state hospital, pioneer's home and the hospital for disabled miners.

The foregoing appropriation shall be deemed to include all of the monies received from parents or guardians for the care of children in the crippled children's hospital and shall be deposited in the state general fund pursuant to the provisions of subsection 7 of section 46-503, Arizona Revised Statutes, or deposited pursuant to any law enacted to replace or modify the provisions of section 46-503, Arizona Revised Statutes.

The foregoing appropriation shall include all funds granted to the department of health services by the federal government except for funds from bloc grants, formula grants, project grants, categorical grants-in-aid, contracts and agreements.

Subdivision 25. ARIZONA COMMISSION OF INDIAN AFFAIRS

Personal services	\$ 53,400.00
Employee related expenditures	7,600.00
Travel - state	8,500.00
Travel - out of state	400.00
Other operating expenditures	<u>9,700.00</u>
Total appropriation	<u>\$ 79,600.00</u>

Subdivision 26. STATE BOARD OF ACCOUNTANCY

From the board of accountancy fund, the following is appropriated:

Lump sum appropriation	<u>\$ 90,800.00</u>
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Subdivision 27. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

Lump sum appropriation	<u>\$ 90,250.00</u>
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CHAPTER 152

Subdivision 28. AGRICULTURE AND HORTICULTURE COMMISSION

Administration	\$ 298,100.00
Compliance	87,500.00
<u>Pest control</u>	
Personal services	\$ 251,000.00
Employee related expenditures	37,000.00
Travel - state	31,700.00
Other operating expenditures	7,100.00
Capital outlay - equipment	<u>1,200.00</u>
Total - pest control	\$ 328,000.00
<u>Plant quarantine</u>	
Personal services	\$ 1,284,300.00
Employee related expenditures	231,200.00
Travel - state	19,700.00
Other operating expenditures	50,000.00
Capital outlay - equipment	<u>7,800.00</u>
Total - plant quarantine	\$ 1,593,000.00
Total appropriation - agriculture and horticulture commission	<u>\$ 2,305,600.00</u>

Subdivision 29. ARIZONA STATE ATHLETIC COMMISSION

Ninety per cent of all collections paid into the state treasury is appropriated to the Arizona state athletic commission.

CHAPTER 152

Subdivision 30. ATOMIC ENERGY COMMISSION

Personal services	\$ 180,700.00
Employee related expenditures	25,100.00
Professional and outside services	4,000.00
Travel - state	11,500.00
Travel - out of state	4,400.00
Other operating expenditures	45,600.00
Capital outlay - equipment	<u>16,000.00</u>
Total appropriation	<u>\$ 287,300.00</u>

Subdivision 31. BANKING DEPARTMENT

Personal services	\$ 363,200.00
Employee related expenditures	53,800.00
Professional and outside services	1,000.00
Travel - state	35,300.00
Travel - out of state	5,200.00
Other operating expenditures	<u>31,300.00</u>
Total appropriation	<u>\$ 489,800.00</u>

Subdivision 32. BOARD OF BARBER EXAMINERS

From the board of barber examiners fund the following is appropriated:

Lump sum appropriation	<u>\$ 53,100.00</u>
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Subdivision 33. STATE BOARD OF CHIROPRACTIC EXAMINERS

Ninety per cent of all collections paid into the state treasury is appropriated to the state board of chiropractic examiners.

Subdivision 34. REGISTRAR OF CONTRACTORS

From the contractors' license fund, the following is appropriated:

Lump sum appropriation	<u>\$ 877,500.00</u>
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CHAPTER 152

Subdivision 35. REGISTRAR OF CONTRACTORS - DIVISION OF BUILDING CODES

Personal services	\$ 231,100.00
Employee related expenditures	35,700.00
Other operating expenditures	<u>49,100.00</u>
Total appropriation	<u>\$ 315,900.00</u>

Subdivision 36. CORPORATION COMMISSION

Administration

Personal services	\$ 290,300.00
Employee related expenditures	55,300.00
Travel - state	8,600.00
Travel - out of state	1,500.00
Other operating expenditures	87,400.00
Capital outlay - equipment	<u>600.00</u>
Total - administration	\$ 443,700.00

Hearing

Personal services	\$ 72,900.00
Employee related expenditures	9,700.00
Travel - state	2,700.00
Travel - out of state	1,000.00
Other operating expenditures	6,500.00
Capital outlay - equipment	<u>1,000.00</u>
Total - hearing	\$ 93,800.00

CHAPTER 152

Incorporating

Personal services	\$ 188,600.00
Employee related expenditures	29,600.00
Professional and outside services	58,600.00
Other operating expenditures	65,900.00
Capital outlay - equipment	<u>6,100.00</u>
Total - incorporating	\$ 348,800.00

Securities

Personal services	\$ 199,600.00
Employee related expenditures	29,800.00
Professional and outside services	2,000.00
Travel - state	23,100.00
Travel - out of state	1,000.00
Other operating expenditures	<u>44,900.00</u>
Total - securities	\$ 300,400.00

Utilities

Personal services	\$ 269,600.00
Employee related expenditures	39,700.00
Professional and outside services	500,000.00**
Travel - state	21,200.00
Travel - out of state	1,800.00
Other operating expenditures	<u>74,500.00</u>
Total - utilities	\$ 906,800.00

**If senate bill 1057 passes, the additional amount under professional and outside services shall be adjusted accordingly.

CHAPTER 152

Regulation

Personal services	\$	89,600.00
Employee related expenditures		13,900.00
Professional and outside services		3,900.00
Travel - state		200.00
Travel - out of state		500.00
Other operating expenditures		33,300.00
Capital outlay - equipment		<u>300.00</u>
Total - regulation	\$	141,700.00

Enforcement

Personal services	\$	376,500.00
Employee related expenditures		67,900.00
Travel - state		60,100.00
Travel - out of state		500.00
Other operating expenditures		9,000.00
Capital outlay - equipment		<u>300.00</u>
Total - enforcement	\$	514,300.00

Tariff and rate

Personal services	\$	53,800.00
Employee related expenditures		8,100.00
Travel - state		3,300.00
Travel - out of state		300.00
Other operating expenditures		<u>1,700.00</u>
Total - tariff and rate	\$	67,200.00

CHAPTER 152

Railroad safety and emergency vehicles

Personal services	\$ 147,300.00
Employee related expenditures	23,700.00
Travel - state	22,000.00
Travel - out of state	700.00
Other operating expenditures	17,500.00
Capital outlay - equipment	<u>1,000.00</u>

Total - railroad safety and emergency vehicles \$ 212,200.00

Total appropriation - corporation commission \$ 3,028,900.00

Subdivision 37. BOARD OF COSMETOLOGY

From the board of cosmetology fund, the following is appropriated:

Lump sum appropriation \$ 137,100.00

Subdivision 38. DAIRY COMMISSIONER

Personal services	\$ 83,100.00
Employee related expenditures	12,500.00
Professional and outside services	60,000.00
Travel - state	11,900.00
Travel - out of state	800.00
Other operating expenditures	<u>11,200.00</u>

Total appropriation \$ 179,500.00

Subdivision 39. STATE BOARD OF DENTAL EXAMINERS

Ninety per cent of all collections paid into the state treasury is appropriated to the state board of dental examiners.

Subdivision 40. STATE BOARD OF DISPENSING OPTICIANS

Ninety per cent of all collections paid into the state treasury is appropriated to the state board of dispensing opticians.

CHAPTER 152

Subdivision 41. STATE EGG INSPECTION BOARD

From the state egg inspection board fund, the following is appropriated:

Lump sum appropriation	<u>\$ 87,554.00</u>
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Subdivision 42. STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Ninety per cent of all collections paid into the state treasury is appropriated to the state board of funeral directors and embalmers.

Subdivision 43. INDUSTRIAL COMMISSION

Administrative services

Lump sum appropriation	\$ 516,900.00
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Claims

Personal services	\$ 494,000.00
Employee related expenditures	83,400.00
Professional and outside services	87,400.00
Travel - state	10,000.00
Other operating expenditures	101,200.00
Capital outlay - equipment	<u>200.00</u>

Total - claims	\$ 776,200.00
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Hearing

Lump sum appropriation	\$ 1,282,800.00
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Labor

Personal services	\$ 65,300.00
Employee related expenditures	10,200.00
Travel - state	6,000.00
Travel - out of state	400.00
Other operating expenditures	<u>18,500.00</u>

Total - labor	\$ 100,400.00
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CHAPTER 152

Occupational safety and health

Personal services	\$ 325,200.00
Employee related expenditures	47,100.00
Professional and outside services	25,700.00
Travel - state	38,000.00
Travel - out of state	7,400.00
Other operating expenditures	70,500.00
Capital outlay - equipment	<u>1,400.00</u>
Total - occupational safety and health	\$ 515,300.00

Fire marshal

Lump sum appropriation	\$ 173,200.00
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Special fund

Personal services	\$ 42,100.00
Employee related expenditures	6,400.00
Professional and outside services	14,500.00
Other operating expenditures	<u>9,700.00</u>
Total - special fund	<u>\$ 72,700.00</u>

Total appropriation - industrial commission \$ 3,437,500.00

Subdivision 44. DEPARTMENT OF INSURANCE

Personal services	\$ 587,300.00
Employee related expenditures	90,600.00
Professional and outside services	25,000.00
Travel - state	2,000.00
Travel - out of state	1,500.00
Other operating expenditures	127,600.00
Capital outlay - equipment	<u>400.00</u>

Total appropriation \$ 834,400.00

CHAPTER 152

Subdivision 45. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

Personal services	\$ 137,700.00
Employee related expenditures	20,100.00
Professional and outside services	11,100.00
Travel - state	4,400.00
Other operating expenditures	52,800.00
Capital outlay - equipment	<u>1,100.00</u>
Total appropriation	<u>\$ 227,200.00</u>

Subdivision 46. LIVESTOCK SANITARY BOARD

Administrative services

Personal services	\$ 197,600.00
Employee related expenditures	29,900.00
Professional and outside services	2,400.00
Travel - state	10,000.00
Travel - out of state	900.00
Other operating expenditures	54,800.00
Capital outlay - equipment	5,500.00
Predatory animal and rodent control	32,400.00**
Screworm eradication	<u>5,000.00</u>
Total - administrative services	\$ 338,500.00

Livestock inspection

Personal services	\$ 890,900.00
Employee related expenditures	142,700.00
Travel - state	148,800.00
Travel - out of state	400.00

CHAPTER 152

Other operating expenditures	10,800.00
Capital outlay - equipment	<u>5,000.00</u>
Total - livestock inspection	\$ 1,198,600.00
<u>Animal disease control</u>	
Personal services	\$ 77,700.00
Employee related expenditures	10,800.00
Travel - state	14,800.00
Travel - out of state	1,400.00
Other operating expenditures	15,700.00
Capital outlay - equipment	9,400.00
Tuberculosis and brucellosis control	12,000.00***
Indemnities for reactor animals	<u>4,000.00***</u>
Total - animal disease control	\$ 145,800.00
<u>Meat and poultry inspection</u>	
Personal services	\$ 444,900.00
Employee related expenditures	68,500.00
Professional and outside services	5,500.00
Travel - state	23,800.00
Travel - out of state	4,000.00
Other operating expenditures	16,800.00
Capital outlay - equipment	<u>14,500.00</u>
Total - meat and poultry inspection	\$ <u>578,000.00</u>
Total appropriation	<u>\$ 2,260,900.00</u>

**This appropriation is made to enable the state to cooperate with the federal wildlife department for the eradication of predatory animals and control of rodents. No part of this appropriation shall be used to pay bounty fees.

CHAPTER 152

***These appropriations are made to enable the state to cooperate with the bureau of animal industry of the United States department of agriculture, or other agency of the United States vested with similar powers and duties for the eradication of disease among animals as provided for in section 24-107, Arizona Revised Statutes.

Subdivision 47. BOARD OF MEDICAL EXAMINERS

From the board of medical examiners fund, the following is appropriated:

Lump sum appropriation	<u>\$ 193,700.00</u>
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Subdivision 48. STATE MINE INSPECTOR

Personal services	\$ 266,400.00
Employee related expenditures	41,700.00
Professional and outside services	3,000.00
Travel - state	59,400.00
Travel - out of state	1,000.00
Other operating expenditures	20,900.00
Capital outlay - equipment	<u>2,300.00</u>

Total appropriation	<u>\$ 394,700.00</u>
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Subdivision 49. NATUROPATHIC BOARD OF EXAMINERS

Ninety per cent of all collections paid into the state treasury is appropriated to the naturopathic board of examiners.

Subdivision 50. STATE BOARD OF NURSING

From the nursing board fund, the following is appropriated:

Lump sum appropriation	<u>\$ 282,200.00</u>
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Subdivision 51. STATE BOARD OF OPTOMETRY

Ninety per cent of all collections paid into the state treasury is appropriated to the state board of optometry.

CHAPTER 152

Subdivision 52. ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

Ninety per cent of all collections paid into the state treasury is appropriated to the state board of osteopathic examiners.

Subdivision 53. BOARD OF PESTICIDE CONTROL

From the pesticide control fund, the following is appropriated:

Lump sum appropriation \$ 71,600.00

Subdivision 54. ARIZONA STATE BOARD OF PHARMACY

From the Arizona state board of pharmacy fund, the following is appropriated:

Lump sum appropriation \$ 200,700.00

Subdivision 55. BOARD OF PHYSICAL THERAPY EXAMINERS

Ninety per cent of all collections paid into the state treasury is appropriated to the board of physical therapy examiners.

Subdivision 56. STATE BOARD OF PODIATRY EXAMINERS

Ninety per cent of all collections paid into the state treasury is appropriated to the state board of podiatry examiners.

Subdivision 57. ARIZONA RACING COMMISSION

Commercial racing

Personal services	\$ 283,600.00
Employee related expenditures	44,300.00
Professional and outside services	84,900.00
Travel - state	33,000.00
Travel - out of state	1,500.00
Other operating expenditures	<u>26,100.00</u>
Total - commercial racing	\$ 473,400.00

CHAPTER 152

County fairs

Personal services	\$ 58,500.00
Employee related expenditures	8,600.00
Professional and outside services	8,400.00
Travel - state	<u>25,300.00</u>
Total - county fairs	<u>\$ 100,800.00</u>
Total appropriation - Arizona racing commission	<u>\$ 574,200.00</u>

Subdivision 58. BOARD OF PSYCHOLOGIST EXAMINERS

Ninety per cent of all collections paid into the state treasury is appropriated to the board of psychologist examiners.

Subdivision 59. STATE BOARD OF PRIVATE TECHNICAL AND BUSINESS SCHOOLS

Ninety per cent of all collections paid into the state treasury is appropriated to the board of private technical and business schools.

Subdivision 60. REAL ESTATE DEPARTMENT

From the real estate board fund, the following is appropriated:

Lump sum appropriation \$ 655,300.00

Subdivision 61. STRUCTURAL PEST CONTROL BOARD

Ninety per cent of all collections paid into the state treasury is appropriated to the structural pest control board.

Subdivision 62. STATE BOARD OF TECHNICAL REGISTRATION

From the state board of technical registration fund, the following is appropriated:

Lump sum appropriation \$ 161,500.00

CHAPTER 152

Subdivision 63. ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

Ninety per cent of all collections paid into the state treasury is appropriated to the Arizona state veterinary medical examining board.

Subdivision 64. ARIZONA COMMISSION ON THE ARTS AND HUMANITIES

Personal services	\$ 56,600.00
Employee related expenditures	8,700.00
Travel - state	5,300.00
Travel - out of state	600.00
Other operating expenditures	14,500.00
Capital outlay - equipment	<u>1,000.00</u>
Total appropriation	<u>\$ 86,700.00</u>

Subdivision 65. STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES

Board expense

Personal services	\$ 115,300.00
Employee related expenditures	14,200.00
Professional and outside services	11,100.00
Travel - state	22,300.00
Travel - out of state	2,500.00
Other operating expenditures	<u>24,200.00</u>
Total - board expense	\$ 189,600.00

Cochise county community college district

Academic grant	\$ 1,032,000.00
Technical - vocational grant	163,200.00
Capital outlay grant	<u>243,000.00</u>
Total - Cochise county community college district	\$ 1,438,200.00

CHAPTER 152

<u>Graham county community college district</u>	
Academic grant	\$ 956,320.00
Technical - vocational grant	134,640.00
Capital outlay grant	219,780.00
Equalization aid	<u>180,000.00</u>
Total - Graham county community college district	\$ 1,490,740.00
<u>Maricopa county community college district</u>	
Academic grant	\$ 11,227,282.00
Technical - vocational grant	1,496,080.00
Capital outlay grant	<u>3,371,085.00</u>
Total - Maricopa county community college district	\$ 16,094,447.00
<u>Mohave county community college district</u>	
Academic grant	\$ 496,400.00
Technical - vocational grant	68,000.00
Capital outlay grant	<u>98,550.00</u>
Total - Mohave county community college district	\$ 662,950.00
<u>Navajo county community college district</u>	
Academic grant	\$ 547,400.00
Technical - vocational grant	87,584.00
Capital outlay grant	<u>108,675.00</u>
Total - Navajo county community college district	\$ 743,659.00
<u>Pima county community college district</u>	
Academic grant	\$ 5,212,000.00
Technical - vocational grant	752,304.00
Capital outlay grant	<u>1,525,500.00</u>
Total - Pima county community college district	\$ 7,489,804.00

CHAPTER 152

<u>Pinal county community college district</u>	
Academic grant	\$ 1,428,000.00
Technical - vocational grant	324,800.00
Capital outlay grant	<u>364,500.00</u>
Total - Pinal county community college district	\$ 2,117,300.00
<u>Yavapai county community college district</u>	
Academic grant	\$ 1,120,000.00
Technical - vocational grant	163,200.00
Capital outlay grant	<u>270,000.00</u>
Total - Yavapai county community college district	\$ 1,553,200.00
<u>Yuma county community college district</u>	
Academic grant	\$ 1,208,000.00
Technical - vocational grant	190,400.00
Capital outlay grant	<u>297,000.00</u>
Total - Yuma county community college district	<u>\$ 1,695,400.00</u>
Total appropriation - state board of directors for community colleges	<u>\$ 33,475,300.00</u>
Subdivision 66. ARIZONA HISTORICAL SOCIETY	
Personal services	\$ 353,100.00
Employee related expenditures	54,600.00
Professional and outside services	23,200.00
Travel - state	3,800.00
Travel - out of state	700.00
Other operating expenditures	198,800.00

CHAPTER 152

Capital outlay - equipment	9,100.00
Assistance to historical societies	32,000.00
Journal of Arizona history	<u>10,000.00</u>
Total appropriation	<u>\$ 685,300.00</u>

Subdivision 67. PRESCOTT HISTORICAL SOCIETY

Personal services	\$ 80,300.00
Employee related expenditures	14,400.00
Professional and outside services	700.00
Travel - state	600.00
Other operating expenditures	18,300.00
Capital outlay - equipment	<u>600.00</u>
Total appropriation	<u>\$ 114,900.00</u>

Subdivision 68. STATE BOARD OF EDUCATION AND SUPERINTENDENT OF
PUBLIC INSTRUCTION

As provided by law, the following is appropriated:

State board of education

Personal services	\$ 18,000.00
Employee related expenditures	2,900.00
Professional and outside services	13,200.00
Travel - state	6,600.00
Travel - out of state	800.00
Other operating expenditures	<u>8,100.00</u>
Total - State board of education	\$ 49,600.00

CHAPTER 152

Administration

Personal services	\$ 978,700.00
Employee related expenditures	150,600.00
Professional and outside services	85,700.00
Travel - state	21,600.00
Travel - out of state	4,700.00
Other operating expenditures	484,200.00
Teachers' retirement	<u>224,000.00**</u>
Total - Administration	\$ 1,949,500.00***

**This appropriation is made to enable the state to carry out the provisions of section 15-1421 and section 15-1439, Arizona Revised Statutes.

***The total includes \$76,000.00 in matching funds for food and nutrition program.

General education

Lump sum appropriation \$ 1,591,050.00**

**Included in the total is \$1,800.00 for education of crippled children in Pima County, \$48,700.00 for education of crippled children in Maricopa County, and \$192,300.00 for state support for adult education programs.

Career education

Personal services	\$ 158,800.00
Employee related expenditures	21,400.00
Professional and outside services	113,000.00
Travel - state	15,000.00
Travel - out of state	1,600.00

CHAPTER 152

Other operating expenditures	83,600.00
Career education projects	<u>3,559,200.00</u>
Total - career education	\$ 3,952,600.00
<u>Vocational education</u>	
Lump sum appropriation	\$ 264,500.00
Reimbursement for vocational education programs	<u>2,988,400.00</u>
Total - vocational education	\$ 3,252,900.00

The above appropriation is made to enable the state to cooperate with the federal government in carrying out the provisions of an act of congress approved February 23, 1917, and acts amendatory and supplementary thereto, providing for the promotion and development of cooperative vocational education.

Basic state support aid

Lump sum appropriation	\$305,720,900.00
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The above general fund appropriation, when combined with all other monies in the state school fund, provides basic state support to school districts for maintenance and operations funding as provided by section 15-1212, Arizona Revised Statutes.

Assistance to public school districts for children of state employees

Lump sum appropriation	\$ 350,000.00
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For the assistance of school districts in educating the children of certain state employees as prescribed by section 15-1214, Arizona Revised Statutes.

State levy - night school

Lump sum appropriation	\$ 5,000.00
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For each student who attends and satisfactorily completes a specific course, each district shall be reimbursed by the state in the amount of ten dollars for each course operated at hours other than those during which regular school is in session, as provided in section 15-1212, Arizona Revised Statutes.

CHAPTER 152

State aid - gifted children

Lump sum appropriation \$ 396,000.00

Aid in the amount of fifty dollars for each gifted student enrolled in a special education program, as provided by section 15-1017, Arizona Revised Statutes.

Certificate of educational convenience

Lump sum appropriation \$ 1,000,000.00

For the reimbursement of school districts that have students enrolled on certificates of educational convenience as provided by section 15-304, Arizona Revised Statutes.

Special English training and bilingual instruction

Lump sum appropriation \$ 850,000.00

For the education of students enrolled in special English training as provided by section 15-1099, subsection D, Arizona Revised Statutes.

Voucher for special education

Lump sum appropriation \$ 400,000.00

For the education of those students whose district of residence does not provide special education, upon the approval of the division of special education, in accordance with laws 1973, chapter 181, section 7.

Excess cost for special education

Lump sum appropriation \$ 20,500,000.00

This appropriation is made to enable the state to carry out the requirements of section 15-1017, Arizona Revised Statutes.

Transportation aid

Lump sum appropriation \$ 5,500,000.00

This appropriation provides state support to qualifying school districts for transportation costs as provided in section 15-1622, Arizona Revised Statutes.

CHAPTER 152

state lands and interest on the investment of the permanent land funds are appropriated in compliance with the enabling act and the constitution.

Subdivision 70. ARIZONA BOARD OF REGENTS

Personal services	\$ 259,000.00
Employee related expenditures	30,300.00
Professional and outside services	25,000.00
Travel - state	15,000.00
Travel - out of state	3,000.00
Other operating expenditures	<u>42,200.00</u>
Total appropriation	<u>\$ 374,500.00</u>

Subdivision 71. ARIZONA STATE UNIVERSITY

Lump sum appropriation	<u>\$ 45,175,500.00**</u>
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**For salaries and wages; for operation, including dues, assessments or membership fees in societies, associations and organizations; for travel to attend meetings, conferences and for other university purposes; for capital investment; for repairs and replacements. No part of this appropriation shall be expended for life insurance or supplemental retirement.

Any unencumbered balance remaining in the collections account on June 30, 1975, and all collections received by the university during the fiscal year, when paid into the state treasury are appropriated for personal services, operating expenditures, capital outlay, and fixed charges; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the enabling act and the constitution. No part of this appropriation shall be expended for life insurance or supplemental retirement.

Subdivision 72. NORTHERN ARIZONA UNIVERSITY

Lump sum appropriation	<u>\$ 15,175,600.00**</u>
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CHAPTER 152

**For salaries and wages; for operation, including dues, assessments or membership fees in societies, associations and organizations; for travel to attend meetings, conferences and for other university purposes; for capital investment; for repairs and replacements. No part of this appropriation shall be expended for life insurance or supplemental retirement.

Any unencumbered balance remaining in the collections account on June 30, 1975, and all collections received by the university during the fiscal year, when paid into the state treasury are appropriated for personal services, operating expenditures, capital outlay, and fixed charges; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the enabling act and the constitution. No part of this appropriation shall be expended for life insurance or supplemental retirement.

Subdivision 73. UNIVERSITY OF ARIZONA

Main campus	\$ 56,129,400.00
College of medicine	9,183,400.00**
University hospital	<u>8,924,700.00</u>
Total appropriation	<u>\$ 74,237,500.00***</u>

**Of this amount \$90,000.00 shall be used for a pilot project on the fifth pathway program.

***For salaries and wages; for operation, including dues, assessments or membership fees in societies, associations and organizations; for travel to attend meetings, conferences and for other university purposes; for capital investment; for repairs and replacements. No part of this appropriation shall be expended for life insurance or supplemental retirement.

CHAPTER 152

All collections received by the university during the said fiscal year when paid into the state treasury are appropriated for personal services, operating expenditures, capital outlay and fixed charges; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the enabling act and the constitution. No part of this appropriation shall be expended for life insurance or supplemental retirement.

Subdivision 74. ARIZONA BOARD OF REGENTS - WESTERN INTERSTATE

COMMISSION FOR HIGHER EDUCATION

Commission expenses	\$ 9,400.00
Western interstate commission	28,000.00
Medical, dental, veterinary, and dental hygiene student subsidies	<u>679,000.00</u>
Total appropriation	<u>\$ 716,400.00</u>

This appropriation shall include all unexpended balances remaining to the credit of the western interstate commission for higher education on June 30, 1975.

Subdivision 75. DEPARTMENT OF CORRECTIONS

Reception, diagnosis and classification	\$ 860,900.00
<u>Custody</u>	
Lump sum appropriation	\$ 12,333,900.00
Discharge money	76,100.00
Forestry - other	<u>55,200.00</u>
Total - custody	\$ 12,465,200.00
Institutional rehabilitation services	3,519,100.00
Community rehabilitation services	3,083,400.00
Support services	<u>964,000.00</u>
Total appropriation	<u>\$ 20,892,600.00*</u>

CHAPTER 152

**Earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the enabling act and the constitution.
 Subdivision 76. DEPARTMENT OF EMERGENCY SERVICES AND MILITARY AFFAIRS

Emergency services

Personal services	\$ 68,200.00
Employee related expenditures	10,400.00
Travel - state	4,300.00
Travel - out of state	1,200.00
Other operating expenditures	34,700.00
Capital outlay - equipment	<u>5,500.00</u>
Total - emergency services	\$ 124,300.00

Military affairs

Personal services	\$ 467,900.00
Employee related expenditures	82,800.00
Professional and outside services	500.00
Travel - state	15,700.00
Travel - out of state	2,100.00
Other operating expenditures	481,500.00
Food	500.00
Capital outlay - equipment	20,800.00
Service contracts	239,500.00
Armory facilities maintenance	<u>46,400.00</u>
Total - military affairs	\$ <u>1,357,700.00</u>

Total appropriation - department of emergency and military affairs \$ 1,482,000.00

CHAPTER 152

Subdivision 77. ARIZONA STATE JUSTICE PLANNING AGENCY

Personal services and operating expenditures	\$ 73,400.00
Federal grant matching funds	<u>898,000.00**</u>
Total appropriation	<u>\$ 971,400.00</u>

**Funds shall lapse after three years.

Subdivision 78. BOARD OF PARDONS AND PAROLES

Personal services	\$ 72,500.00
Employee related expenditures	10,800.00
Travel - state	14,600.00
Other operating expenditures	9,000.00
Capital outlay - equipment	<u>800.00</u>
Total appropriation	<u>\$ 107,700.00</u>

Subdivision 79. DEPARTMENT OF PUBLIC SAFETY

From the Arizona highway user fund, in compliance with section 28-1598, subsection B, paragraph 1, Arizona Revised Statutes, there is appropriated from the Arizona highway patrol fund the sum of \$18,524,000.00.

From the general fund there is appropriated the sum of \$9,216,200.00.

The sums appropriated above shall be deposited in a joint account for the following purposes:

Administration	\$ 8,502,900.00
Highway patrol	11,291,800.00
Criminal investigation	3,630,700.00
Crime laboratory	567,700.00
Criminal identification	582,600.00

CHAPTER 152

Technical communications	2,184,400.00
Emergency medical services	<u>980,100.00</u>
Total appropriation - department of public safety	<u>\$ 27,740,200.00</u>

In addition to the funds appropriated above, any balances and receipts received under section 28-1891, Arizona Revised Statutes, are appropriated for the use of the Arizona highway patrol.

Subdivision 80. DEPARTMENT OF TRANSPORTATION

From the unencumbered balance remaining in the state highway fund, as of June 30, 1975, there is appropriated \$64,065,700.00 for the following:

Director

Personal services	1,206,100.00
Employee related expenditures	175,800.00
Professional and outside services	7,500.00
Travel - state	61,000.00
Travel - out of state	20,500.00
Other operating expenditures	133,700.00
Capital outlay - equipment	6,800.00
Transportation board reserve	225,000.00
Salary contingency	<u>75,000.00**</u>
Total - director	\$ 1,911,400.00

CHAPTER 152

**No funds are to be encumbered or expended without the approval of the joint legislative budget committee.

Highway division

Personal services	\$ 15,016,100.00
Employee related expenditures	2,387,500.00
Professional and outside services	3,900.00
Travel - state	724,800.00
Travel - out of state	22,300.00
Other operating expenditures	2,027,100.00
Capital outlay - equipment	264,600.00
Highway maintenance	<u>20,674,800.00</u>
Total - highway division	\$ 41,121,100.00

Transportation planning

Personal services	\$ 1,781,800.00
Employee related expenditures	275,600.00
Professional and outside services	22,000.00
Travel - state	78,700.00
Travel - out of state	12,400.00
Other operating expenditures	224,900.00
Capital outlay - equipment	<u>23,300.00</u>
Total - transportation planning	\$ 2,418,700.00

Administrative services

Personal services	\$ 3,799,800.00
Employee related expenditures	581,800.00
Professional and outside services	68,000.00

CHAPTER 152

Travel - state	28,700.00
Travel - out of state	6,600.00
Other operating expenditures	4,055,900.00
Capital outlay - equipment	24,500.00
Educational training	25,000.00
Warehouse revolving fund	80,000.00
Radio communications	<u>157,600.00</u>
Total - administrative services	\$ 8,827,900.00
<u>Public transit</u>	
Personal services	\$ 38,900.00
Employee related expenditures	5,500.00
Travel - state	2,600.00
Travel - out of state	1,100.00
Other operating expenditures	1,500.00
Capital outlay - equipment	<u>800.00</u>
Total - public transit	\$ 50,400.00
<u>Motor vehicle</u>	
Personal services	\$ 6,765,000.00
Employee related expenditures	1,260,600.00
Professional and outside services	27,600.00
Travel - state	100,600.00
Travel - out of state	5,000.00
Other operating expenditures	986,000.00
Capital outlay - equipment	38,100.00
License plates and tabs	<u>553,300.00</u>
Total - motor vehicle	\$ 9,736,200.00
Total - state highway fund	\$ 64,065,700.00

CHAPTER 152

Aeronautics

From the state aviation fund, there is appropriated \$292,600.00 for the following:

Personal services	\$ 151,100.00
Employee related expenditures	30,300.00
Professional and outside services	13,800.00
Travel - state	9,500.00
Travel - out of state	1,500.00
Other operating expenditures	53,400.00
Airport fire truck - Grand Canyon Airport	<u>33,000.00</u>
Total - aeronautics	\$ 292,600.00

Any balances and collections in the state aviation fund in excess of the specific amounts set forth above for the purposes designated, are appropriated exclusively for airport development grants for the construction, development and improvement of airports within the state.

Air search and rescue

From the state general fund, the following is appropriated:

Lump sum appropriation	\$ 45,000.00
Total appropriation - department of transportation	<u>\$ 64,403,300.00</u>

Any balances and collections in the state highway fund in excess of the specific amounts set forth above for the purposes designated, are appropriated exclusively for construction of state highways, including (1) national system of interstate highways within Arizona, (2) state primary system, (3) state secondary system, (4) county secondary or primary system, (5) urban area routes; the acquisition of right-of-way; the cost of field administration, field engineering on construction projects.

CHAPTER 152

Subdivision 81. ARIZONA COPPER TARIFF BOARD

Lump sum appropriation \$ 3,000.00

Subdivision 82. ARIZONA GAME AND FISH DEPARTMENT

From the game and fish protection fund, the following is appropriated:

Commission and director

Personal services	\$ 142,100.00
Employee related expenditures	25,800.00
Travel - state	8,700.00
Travel - out of state	7,700.00
Other operating expenditures	6,200.00
Dingell-Johnson act for fish restoration	124,000.00**
Pittman-Robertson act for wildlife restoration	383,000.00**
Commercial fisheries	3,500.00**
Commissioners' reserve	<u>30,000.00</u>
Total - commission and director	\$ 731,000.00

Operations

Personal services	\$ 1,542,100.00
Employee related expenditures	559,800.00
Professional and outside services	20,800.00
Travel - state	169,300.00
Other operating expenditures	326,900.00
Capital outlay - equipment	55,800.00
Cooperative wildlife research unit	15,000.00**
Cooperative fishery research unit	<u>9,000.00**</u>
Total - operations	\$ 2,698,700.00

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Services

Personal services	\$ 624,800.00
Employee related expenditures	98,700.00
Professional and outside services	74,900.00
Travel - state	176,100.00
Other operating expenditures	418,300.00
Capital outlay - equipment	<u>266,000.00</u>
Total - services	<u>\$ 1,658,800.00</u>
Total appropriation - Arizona game and fish department	<u>\$ 5,088,500.00</u>

**Any part of this appropriation may be used for the purpose of matching federal funds. This appropriation is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing appropriations.

Subdivision 83. ARIZONA OUTDOOR RECREATION COORDINATING COMMISSION

From the state lake improvement fund, the following is appropriated:

Personal services	\$ 18,000.00
Employee related expenditures	2,900.00
Professional and outside services	3,000.00
Travel - state	2,300.00
Other operating expenditures	3,100.00
Assistance to others	
Yuma county - Ah Villa Park	296,750.00
Mohave county - Sheriff's patrol boats	19,491.00
Gila county - Roosevelt Lake portable sanitation	79,500.00
Maricopa county - Apache Lake first aid station	91,965.00
Game and fish commission - Canyon Lake - Laguna beach parking	160,129.00

CHAPTER 152

State parks board - Buckskin Mountain Park - Castle mountain (amendment to project No. 10-74)	33,475.00
Maricopa county - Lake Pleasant water safety aid station (amendment to project No. 7-74)	<u>46,000.00</u>

Total appropriation	<u>\$ 756,610.00</u>
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Subdivision 84. STATE LAND DEPARTMENT.

Administrative services

Personal services	\$ 294,700.00
Employee related expenditures	43,900.00
Travel - state	3,000.00
Travel - out of state	2,000.00
Other operating expenditures	106,800.00
Capital outlay - equipment	<u>1,400.00</u>
Total - administrative services	\$ 451,800.00

Contract audit and review

Personal services	\$ 184,200.00
Employee related expenditures	27,900.00
Travel - state	200.00
Other operating expenditures	18,000.00
Capital outlay - equipment	<u>1,000.00</u>
Total - contract audit and review	\$ 231,300.00

Planning and research

Personal services	\$ 233,400.00
Employee related expenditures	34,000.00
Travel - state	12,000.00
Other operating expenditures	<u>17,300.00</u>
Total - planning and research	\$ 296,700.00

CHAPTER 152

Natural resource management

Personal services	\$ 232,900.00
Employee related expenditures	34,500.00
Professional and outside services	8,000.00
Travel - state	22,900.00
Travel - out of state	1,600.00
Other operating expenditures	18,600.00
Natural resource conservation districts	<u>80,000.00</u>
Total - natural resource management	\$ 397,500.00

Forestry management

Personal services	\$ 60,900.00
Employee related expenditures	9,600.00
Travel - state	1,000.00
Other operating expenditures	6,000.00
Capital outlay - equipment	<u>6,700.00</u>
Total - forestry management	\$ 84,200.00

Board of appeals

Lump sum appropriation	\$ 17,300.00
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Total appropriation - state land department \$ 1,478,800.00

Subdivision 85. DEPARTMENT OF MINERAL RESOURCES

Personal services	\$ 168,400.00
Employee related expenditures	25,200.00
Travel - state	9,000.00
Travel - out of state	1,300.00
Other operating expenditures	13,400.00
Capital outlay - equipment	<u>600.00</u>
Total appropriation	<u>\$ 217,900.00</u>

CHAPTER 152

Subdivision 86. OIL AND GAS CONSERVATION COMMISSION

Personal services	\$ 122,800.00
Employee related expenditures	17,300.00
Professional and outside services	3,000.00
Travel - state	7,700.00
Travel - out of state	2,200.00
Other operating expenditures	24,100.00
Capital outlay - equipment	<u>400.00</u>
Total appropriation	<u>\$ 177,500.00</u>

Subdivision 87. ARIZONA STATE PARKS BOARD

Administration and supportive services

Personal services	\$ 290,600.00
Employee related expenditures	49,500.00
Professional and outside services	1,300.00
Travel - state	16,600.00
Travel - out of state	1,500.00
Other operating expenditures	61,400.00
Capital outlay - equipment	<u>1,100.00</u>
Total - administration and supportive services	\$ 422,000.00

Acquisition and development

Personal services	\$ 128,700.00
Employee related expenditures	24,800.00
Travel - state	6,200.00
Other operating expenditures	53,500.00

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Capital outlay - equipment	10,300.00
Flume maintenance and repair - Dead Horse Ranch	<u>27,000.00</u>
Total - acquisition and development	\$ 250,500.00
<u>Historic and interpretive recreation</u>	
Personal services	\$ 214,300.00
Employee related expenditures	42,200.00
Travel - state	5,000.00
Other operating expenditures	48,600.00
Capital outlay - equipment	<u>11,900.00</u>
Total - historic and interpretive recreation	\$ 322,000.00
<u>Outdoor recreation</u>	
Personal services	\$ 348,400.00
Employee related expenditures	66,800.00
Travel - state	13,100.00
Other operating expenditures	111,900.00
Capital outlay - equipment	<u>48,900.00</u>
Total - outdoor recreation	\$ <u>589,100.00</u>
Total appropriation - Arizona state parks board	\$ <u>1,583,600.00</u>
Subdivision 88. ARIZONA WATER COMMISSION	
Water resource planning	\$ 870,600.00
Supervision of dam and safety	<u>151,200.00</u>
Total appropriation	\$ <u>1,021,800.00</u>

Sec. 2. For the purposes of this act "*" means this appropriation is exempt from the provision of section 35-190, Arizona Revised Statutes, relating to lapsing appropriations.

CHAPTER 152

Funds in this appropriation for law enforcement programs may be used to provide matching funds for programs and projects for law enforcement, as required by sections 301, 303 and 306 of the omnibus crime control and safe streets act of 1968 as amended by the omnibus crime control act of 1970.

Included in the appropriations for other operating expenditures for all applicable agencies are funds for rent as provided in section 41-800, Arizona Revised Statutes.

Included in appropriations for employee related expenditures are funds for health and accident insurance at the rate of fifteen dollars per month per employee received such coverage as authorized in section 38-651, Arizona Revised Statutes. The intent here being that under no circumstances shall the fifteen dollars per month per employee be exceeded.

Nothing included in this act shall be construed to authorize or provide for merit increases to state employees.

Approved by the Governor - June 16, 1975

Filed in the office of the Secretary of State - June 16, 1975

CHAPTER 152

STATE OF ARIZONA

GENERAL FUND APPROPRIATIONS

1975 - 1976

General Government	\$ 33,166,800.00
Health and Welfare	110,867,600.00
Inspection and Regulation	14,427,150.00
Education	518,887,350.00
Protection and Safety	32,669,900.00
Transportation	45,000.00
Natural Resources	<u>4,482,600.00</u>
GRAND TOTAL	<u>\$714,546,400.00</u>

CHAPTER 152

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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 153
HOUSE BILL 2425

AN ACT

MAKING APPROPRIATIONS FOR THE RELIEF OF CERTAIN CLAIMANTS, AND AUTHORIZING
PAYMENT OF CERTAIN FUNDS.

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

2 Section 1. Appropriations; relief of named parties;
3 basis of claims

4 A. There is appropriated from the state general fund the
5 following sums as payment of claims for the relief of the named
6 parties and for the purposes as follow:

7 1. The sum of one thousand seven hundred sixty dollars for the
8 relief of the Department of Administration, Data Processing Division,
9 which shall be in full satisfaction of claim No. 65, dated January 16,
10 1975, submitted to the assistant director for the division of finance
11 for services performed prior to June 30, 1974.

12 2. The sum of two thousand seven hundred sixty-seven dollars
13 eighteen cents for the relief of the Department of Administration, Data
14 Processing Division, which shall be in full satisfaction of claim No. 1,
15 dated August 1, 1974, submitted to the department of property valuation
16 for services performed prior to June 30, 1974.

17 3. The sum of one thousand four hundred seventy-eight dollars
18 twelve cents for the relief of Pima county, which shall be in full
19 satisfaction of claim No. 62, dated February 11, 1975, submitted to the
20 state treasurer for adjustment of 1973 property taxes that should have
21 been paid on or before January 31, 1975, at which time the appropriation
22 expired.

23 4. The sum of two thousand three hundred forty dollars forty-four
24 cents for the relief of Pima county, which shall be in full satisfaction
25 of claim No. 04301, dated October 21, 1974, in the amount of one thousand
26 one hundred eighty-two dollars forty-seven cents and claim No. 04149,

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1 dated October 17, 1974, in the amount of one thousand one hundred
 2 fifty-seven dollars ninety-seven cents, as payment for telephone
 3 services for the period from April 25 to June 24, 1974 charged to the
 4 department of economic security.

5 5. The sum of two thousand three hundred seventy-six dollars
 6 for the relief of Pima County Health Department, which shall be in
 7 full satisfaction of claim No. 01328, dated August 22, 1974, submitted
 8 to the department of economic security for services and supplies for
 9 recipients on the family planning program for the fiscal year ended
 10 June 30, 1974.

11 6. The sum of eighty-seven thousand six hundred eighty-seven
 12 dollars fifty cents to the division of finance for payment of the
 13 following claims made payable to the Department of Economic Security
 14 and assigned to the federal supplemental medical insurance trust fund
 15 in the following amounts:

16	Claim No. 00208, dated July 29, 1974	\$10,848.40
17	Claim No. 01518, dated August 29, 1974	14,605.90
18	Claim No. 03074, dated October 3, 1974	15,415.10
19	Claim No. 04252, dated October 23, 1974	11,314.80
20	Claim No. 05723, dated November 26, 1974	9,764.20
21	Claim No. 06959, dated December 19, 1974	3,733.90
22	Claim No. 08695, dated January 29, 1975	19,905.00
23	Claim No. 10982, dated March 12, 1975	2,100.20
24		TOTAL \$87,687.50

25 as payment of premiums for medical assistance for the aged for the fiscal
 26 year ended June 30, 1974.

27 7. The sum of thirty-nine thousand seven hundred eighty-one
 28 dollars ninety-nine cents for the relief of Blue Cross of Arizona, Inc.,
 29 as payment and in full satisfaction of the following claims from Blue
 30 Cross, Inc., in the following amounts:

31	Claim No. 11762, dated April 10, 1974	\$ 1,236.76
32	Claim No. 13529, dated April 30, 1974	30,253.07
33	Claim No. 13884, dated May 20, 1974	1,861.13
34	Claim No. 00493, dated August 5, 1974	2,006.06
35	Claim No. 10038, dated February 24, 1975	2,209.57
36	Claim No. 10365, dated March 5, 1975	2,215.40
37		TOTAL \$39,781.99

38 for services rendered by Blue Cross of Arizona, Inc., under the Arizona
 39 Blue Shield medical service foster child health program during the fiscal
 40 year ended June 30, 1973.

41 8. The sum of seventeen hundred dollars fifty-three cents for the
 42 relief of The Robert Widen Company, which shall be in full satisfaction
 43 of claim No. 226, dated August 21, 1974, which was submitted to the state
 44 department of economic security mental retardation Arizona training
 45 program at Coolidge for merchandise delivered prior to June 30, 1974.

46 9. The sum of twenty-three thousand nine hundred fifty-seven
 47 dollars for the relief of St. Mary's Hospital, which shall be in full
 48 satisfaction of the following claims in the following amounts:
 49
 50

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1	Claim No. 5035, dated August 14, 1974	\$ 8,945.00
2	Claim No. 5036, dated August 14, 1974	5,490.00
3	Claim No. 5037, dated August 14, 1974	9,522.00
4	TOTAL	<u>\$23,957.00</u>

5 as payment for services performed during the fiscal years ended June 30,
6 1971, June 30, 1972 and June 30, 1973, for crippled children's services.

7 10. The sum of two thousand four hundred dollars for the relief
8 of Adib H. Sabbagh, M.D., which shall be in full satisfaction of the
9 following claims in the following amounts:

10	Claim No. 5077, dated August 9, 1974	\$ 1,200.00
11	Claim No. 5512, dated February 19, 1975	1,200.00
12	TOTAL	<u>\$ 2,400.00</u>

13 as payment for services performed during the fiscal year ended June 30,
14 1974 for the state board of crippled children's services.

15 11. The sum of twelve hundred dollars for the relief of Robert
16 M. Anderson, M.D., which shall be in full satisfaction of claim No.
17 5139, dated August 7, 1974, for services performed for the state board
18 of crippled children's services during the fiscal year ended June 30, 1974.

19 12. The sum of one thousand six hundred thirty-two dollars twenty
20 cents for the relief of Lee B. Brown, M.D., which shall be in full satis-
21 faction of claim No. 5149, dated August 15, 1974, submitted to the state
22 board of crippled children's services for services performed during the
23 fiscal year ended June 30, 1974.

24 13. The sum of one thousand one dollar for the relief of the
25 Children's Memorial Hospital, which shall be in full satisfaction of
26 claim No. 5495, dated February 14, 1975, submitted to the state board
27 of crippled children's services for services performed during the fiscal
28 year ended June 30, 1974.

29 14. The sum of two thousand nine hundred eleven dollars for the
30 relief of Medical Service Plan, which shall be in full satisfaction of
31 claim No. 5526, dated March 6, 1975, submitted to the state board of
32 crippled children's services for services performed during the fiscal
33 year ended June 30, 1974.

34 15. The sum of twenty-two thousand six hundred twenty-seven dollars
35 forty-seven cents for the relief of the Apache county treasurer, which
36 shall be in full satisfaction of claim No. 167, dated December 31, 1974,
37 from Arizona department of education (certificates of educational
38 convenience) to Arizona department of education, and assigned to Apache
39 county treasurer for a special apportionment for certificates of educa-
40 tional convenience for the fiscal year ended June 30, 1974.

41 16. The sum of one thousand three hundred twenty-three dollars
42 sixty-five cents for the relief of Mt. Graham Community Hospital, which
43 shall be in full satisfaction of claim No. 2301, dated February 6, 1975,
44 submitted to the department of corrections, Fort Grant training center,
45 for services performed during the fiscal year ended June 30, 1974.

46 17. The sum of three thousand eight hundred fifteen dollars
47 twenty-seven cents for the relief of the Department of Administration,
48 Data Processing Division, which shall be in full satisfaction of claim
49 No. 57075, dated August 23, 1974, submitted to the department of economic
50 security for services performed during May and June, 1974.
51

1 B. None of the claims for which payments are made as provided in
 2 subsection A of this section were submitted within the statutory time
 3 required by section 35-190, Arizona Revised Statutes, and the amount
 4 of each such claim is in excess of the amount authorized for payment
 5 by the division of finance pursuant to section 35-191, Arizona Revised
 6 Statutes.

7 Sec. 2. Appropriation; relief of Community Organization
 8 for Drug Abuse Control; basis of claim

9 A. The sum of ten thousand dollars is appropriated from the
 10 general fund for the relief of the Community Organization for Drug
 11 Abuse Control.

12 B. The appropriation made by this section is to correct an error
 13 by the department of health services in settlement of a contract between
 14 the department of health services and the vendor, which resulted in a
 15 shortage in payment. This error was not discovered until after the
 16 statutory time required by section 35-190, Arizona Revised Statutes,
 17 had expired. The amount is in excess of the amount authorized for
 18 payment by the division of finance pursuant to section 35-191, Arizona
 19 Revised Statutes.

20 Sec. 3. Appropriation; relief of Department of Public
 21 Safety; basis of claim

22 A. The sum of two thousand five hundred ninety-seven dollars
 23 twenty cents is appropriated from the state general fund, continuing
 24 appropriation account No. 13-150-500-20, for the relief of the Department
 25 of Public Safety for the following invoices charged to the State House
 26 of Representatives:

27 Invoice No. 30134, dated December 12, 1974	\$ 1,298.60
28 Invoice No. 30137, dated December 13, 1974	1,298.60
29 TOTAL	\$ 2,597.20

30 B. The appropriation made by this section is to pay for services
 31 performed prior to June 30, 1974. The invoices were not submitted within
 32 the statutory time required by section 35-190, Arizona Revised Statutes,
 33 and are in excess of the amount authorized for payment by the division
 34 of finance pursuant to section 35-191, Arizona Revised Statutes.

35 Sec. 4. Appropriation for relief of Standard Oil Co.;
 36 basis of claim

37 A. The sum of one hundred forty-three dollars thirty-three cents
 38 is appropriated for the relief of Standard Oil Co.

39 B. Payment of the sum appropriated by this section shall be in
 40 full satisfaction of claim No. 319, dated August 19, 1974, for gasoline
 41 sold to the secretary of state during the fiscal year ended June 30, 1974,
 42 which claim was not presented for payment within the statutory time pro-
 43 vided by section 35-190, Arizona Revised Statutes, and for which there
 44 were insufficient funds available for payment pursuant to section 35-191,
 45 Arizona Revised Statutes.

46 Sec. 5. Appropriation for relief of Blue Cross of
 47 Arizona, Inc.; basis of claim

48 A. The sum of two hundred twenty-six thousand three hundred
 49 eighty dollars seventeen cents is appropriated for the relief of Blue
 50 Cross of Arizona, Inc., in payment of the following claims in the
 51 following amounts:
 52

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1	Claim No. 11763, dated April 10, 1974	\$	7.42
2	Claim No. 12495, dated April 18, 1974		10.60
3	Claim No. 10035, dated February 24, 1975		137.80
4	Claim No. 10036, dated February 24, 1975		128.26
5	Claim No. 10037, dated February 24, 1975		62.01
6	Claim No. 10812, dated March 20, 1975		8.29
7	Claim No. 10813, dated March 20, 1975		39.22
8	Claim No. 9526, dated February 10, 1975		99,641.78
9	Claim No. 9527, dated February 10, 1975		45,086.46
10	Claim No. 9528, dated February 10, 1975		53,933.33
11	Claim No. 11166, dated March 17, 1975		17,954.00
12	Claim No. 11167, dated March 17, 1975		9,371.00
13		TOTAL	\$226,380.17

14 B. The appropriation made by this section is for the purpose of
 15 payment of charges by Blue Cross of Arizona, Inc., to the department of
 16 economic security for Arizona Blue Shield Medical Service foster children
 17 health program services for the fiscal years ended June 30, 1973, and
 18 June 30, 1974, which claims were not presented for payment within the
 19 statutory time provided by section 35-190, Arizona Revised Statutes,
 20 and for which there were either insufficient funds or no funds available
 21 for payment pursuant to section 35-191, Arizona Revised Statutes.

22 Sec. 6. Appropriation for relief of certain claimants
 23 of Department of Economic Security, Mental
 24 Retardation Arizona Training Program at
 25 Tucson; basis of claims

26 A. The sum of one hundred eighty-nine dollars eight cents is
 27 appropriated for relief of the following vendors:

28	Copy Boy		
29	Claim No. 5489, dated April 24, 1974	\$	63.08
30	Sanitary Supply Co.		
31	Claim No. 7011, dated July 30, 1974		126.00
32		TOTAL	\$ 189.08

33 B. Payment of the sum appropriated shall be in full satisfaction
 34 of the above referenced claims for merchandise delivered to the department
 35 of economic security, mental retardation Arizona training program at
 36 Tucson during the fiscal year ended June 30, 1974, which claims were
 37 presented for payment within the statutory time provided by section
 38 35-190, Arizona Revised Statutes, but for which there were insufficient
 39 funds for payment pursuant to section 35-191, Arizona Revised Statutes.

40 Sec. 7. Appropriation for relief of ATPT Sheltered
 41 Workshop; basis of claim

42 A. The sum of three thousand, four hundred sixty-one dollars
 43 forty-two cents is appropriated for the relief of ATPT Sheltered Workshop.

44 B. Payment of the sum appropriated by this section shall be in
 45 full satisfaction of claim No. 8415, dated February 19, 1975, for costs
 46 incurred for sheltered workshop trainee compensation by the department
 47 of economic security, mental retardation Arizona training program at
 48 Tucson during the fiscal year ended June 30, 1974, which claim was not
 49 presented for payment within the statutory time provided by section
 50 35-190, Arizona Revised Statutes, and for which there were insufficient
 51 funds for payment pursuant to section 35-191, Arizona Revised Statutes.

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Sec. 8. Appropriation for relief of certain claimants of Department of Health Services for services to the former State Board of Crippled Children's Services; basis of claims

A. The sum of twenty-eight thousand, nine hundred forty-three dollars eight cents is appropriated in payment of the following claims in the following amounts:

1. For the fiscal year ended June 30, 1971:

Robert Reilly, M.D.		
Claim No. 4499, dated May 9, 1974	\$	480.00
Howard Lawrence, M.D.		
Claim No. 5158, dated August 27, 1974		25.00
Daniel B. Carroll, M.D.		
Claim No. 5099, dated August 13, 1974		150.00
Stanley Millstein, M.D.		
Claim No. 5123, dated August 13, 1974		110.00

2. For the fiscal year ended June 30, 1973:

Lee Brown, M.D.		
Claim No. 5031, dated July 25, 1974		220.20
Howard C. Lawrence, M.D.		
Claim No. 5053, dated August 12, 1974		360.00
Laurence Linkner, M.D.		
Claim No. 5055, dated August 14, 1974		180.00
Robert W. Peterson, M.D.		
Claim No. 5060, dated August 13, 1974		25.00
Harvey G. Goodman, M.D.		
Claim No. 5069, dated August 5, 1974		35.00
Paul F. Rowe, D.D.S.		
Claim No. 5083, dated August 5, 1974		54.00
William Bohnert, M.D.		
Claim No. 5097, dated August 14, 1974		240.00
Harvey Brown, M.D.		
Claim No. 5098, dated August 13, 1974		107.90
Robert W. Croddy, M.D.		
Claim No. 5106, dated August 14, 1974		270.60
Good Samaritan Hospital		
Claim No. 5112, dated August 14, 1974		48.00
Good Samaritan Hospital		
Claim No. 5165, dated August 26, 1974		492.00
Good Samaritan Hospital		
Claim No. 5167, dated August 26, 1974		4.50
Good Samaritan Hospital		
Claim No. 5259, dated September 18, 1974		8.00
Good Samaritan Hospital		
Claim No. 5260, dated September 18, 1974		16.00
John J. Kelley, M.D.		
Claim No. 5113, dated August 13, 1974		105.60
John J. Kelley, M.D.		
Claim No. 5114, dated August 12, 1974		540.00
John J. Kelley, M.D.		
Claim No. 5116, dated August 14, 1974		276.00

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1	Robert Maresca, M.D.	
2	Claim No. 5120, dated August 19, 1974	\$ 403.24
3	Robert L. Maresca, M.D.	
4	Claim No. 5121, dated August 13, 1974	50.00
5	Stanley Millstein, M.D.	
6	Claim No. 5122, dated August 19, 1974	100.00
7	Stanley Millstein, M.D.	
8	Claim No. 5124, dated August 13, 1974	100.00
9	Rex Peterson, M.D.	
10	Claim No. 5126, dated August 13, 1974	122.00
11	Rex Peterson, M.D.	
12	Claim No. 5239, dated August 19, 1974	150.00
13	David S. Trump, M.D.	
14	Claim No. 5134, dated August 13, 1974	900.00
15	David Trump, M.D.	
16	Claim No. 5341, dated October 18, 1974	48.00
17	T. G. Dodenhoff, M.D.	
18	Claim No. 5136, dated August 14, 1974	25.00
19	Montgomery Hart, M.D.	
20	Claim No. 5156, dated August 12, 1974	96.00
21	Stratford Medical Eye Clinic	
22	Claim No. 5170, dated August 27, 1974	100.00
23	Don W. Longfellow, M.D.	
24	Claim No. 5199, dated August 12, 1974	70.00
25	Alfred Miller, M.D.	
26	Claim No. 5201, dated August 19, 1974	240.00
27	Carl Nau, M.D.	
28	Claim No. 5211, dated August 13, 1974	139.40
29	Paul Borgesen, M.D.	
30	Claim No. 5256, dated September 19, 1974	75.00
31	3. Fiscal year ended June 30, 1974:	
32	George W. Dorman, M.D.	
33	Claim No. 5532, dated February 26, 1975	750.00
34	George W. Dorman, M.D.	
35	Claim No. 5533, dated February 26, 1975	309.00
36	Bernard Laezman, M.D.	
37	Claim No. 5535, dated February 26, 1975	221.40
38	David S. Trump, M.D.	
39	Claim No. 5536, dated February 26, 1975	18.00
40	James Zemer, M.D.	
41	Claim No. 5537, dated February 28, 1975	45.40
42	Blue Cross/Blue Shield	
43	Claim No. 5518, dated February 28, 1975	11,594.99
44	Blue Cross/Blue Shield	
45	Claim No. 5538, dated March 12, 1975	140.63
46	Blue Cross/Blue Shield	
47	Claim No. 5539, dated March 12, 1975	1,772.27
48	Blue Cross/Blue Shield	
49	Claim No. 5540, dated March 12, 1975	152.15
50		

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1	Harvey Brown, M.D.		
2	Claim No. 5541, dated March 7, 1975	\$	9.40
3	Daniel B. Carroll, M.D.		
4	Claim No. 5542, dated March 6, 1975		447.00
5	Sheldon Davidson, M.D.		
6	Claim No. 5543, dated March 6, 1975		360.00
7	William Hawke, M.D.		
8	Claim No. 5545, dated March 6, 1975		196.80
9	David P. Lehman, M.D.		
10	Claim No. 5546, dated March 10, 1975		139.40
11	Alfred F. Miller, M.D.		
12	Claim No. 5547, dated March 7, 1975		430.00
13	Patrick P. Moraca, M.D.		
14	Claim No. 5548, dated March 3, 1975		172.20
15	James Zemer, M.D.		
16	Claim No. 5549, dated March 6, 1975		213.20
17	Blue Cross/Blue Shield		
18	Claim No. 5550, dated March 18, 1975		5,495.69
19	Radiology, Ltd.		
20	Claim No. 5552, dated March 18, 1975		109.11
21		TOTAL	\$28,943.08

22 B. The appropriation made by this section is for the purpose
 23 of payment of charges for professional services performed for the former
 24 state board of crippled children's services, which claims were not pre-
 25 sented for payment within the statutory time provided by section 35-190,
 26 Arizona Revised Statutes, and for which there were no funds available for
 27 payment pursuant to section 35-191, Arizona Revised Statutes.

28 Sec. 9. Appropriation for relief of Standard Oil of
 29 California; basis of claim

30 A. The sum of one thousand two hundred eleven dollars sixty-one
 31 cents is appropriated for the relief of Standard Oil of California.

32 B. Payment of the sum appropriated by this section shall be in
 33 full satisfaction of claim No. 4826, dated August 6, 1974, for credit
 34 card purchases by the Arizona commission of agriculture and horticulture
 35 during the fiscal year ended June 30, 1974, which claim was not presented
 36 for payment within the statutory time provided by section 35-190, Arizona
 37 Revised Statutes, and for which there were insufficient funds available
 38 for payment pursuant to section 35-191, Arizona Revised Statutes.

39 Sec. 10. Appropriation for relief of Scottsdale Urology
 40 Associates, Ltd.; basis of claim

41 A. The sum of thirteen dollars is appropriated for the relief
 42 of Scottsdale Urology Associates, Ltd.

43 B. Payment of the sum appropriated by this section shall be in
 44 full satisfaction of claim No. 3086, dated June 30, 1973, for professional
 45 services for the department of corrections, Arizona state prison, for
 46 the fiscal year ended June 30, 1973, which claim was not presented for
 47 payment within the statutory time provided by section 35-190, Arizona
 48 Revised Statutes, and for which no funds were available for payment
 49 pursuant to section 35-191, Arizona Revised Statutes.
 50

CHAPTER

1 Sec. 11. Appropriation for relief of Maricopa County
 2 General Hospital; basis of claim

3 A. The sum of one thousand nine hundred sixty dollars forty-four
 4 cents is appropriated for the relief of Maricopa County General Hospital.

5 B. Payment of the sum appropriated by this section shall be in
 6 full satisfaction of claim No. 2060, dated January 21, 1975, for medical
 7 care for inmates of the department of corrections, Arizona state prison
 8 for the fiscal year ended June 30, 1974, which claim was not presented
 9 for payment within the statutory time provided by section 35-190, Arizona
 10 Revised Statutes, and for which there were no funds available for pay-
 11 ment pursuant to section 35-191, Arizona Revised Statutes.

12 Sec. 12. Appropriation for relief of Department of
 13 Administration, Division of Finance;
 14 basis of claim

15 A. The sum of thirty thousand forty dollars sixty-four cents is
 16 appropriated to the department of administration, division of finance to
 17 be used to pay the following obligations:

18	Employer's portion of FICA taxes	\$10,435.18
19	Employer's retirement contributions	10,331.53
20	Employer's contribution for health insurance	2,762.53
21	Workmen's compensation insurance premiums	6,511.40
22		TOTAL \$30,040.64

23 B. The amounts as provided in subsection A of this section consti-
 24 tute charges by the division of finance for the last quarter of the
 25 fiscal year ended June 30, 1974, to the following agencies in the
 26 following amounts:

27	Tax commission	\$ 341.43
28	State treasurer	437.32
29	Department of economic security, mental	
30	retardation Arizona training program	
31	at Tucson	5,425.55
32	Department of economic security, mental	
33	retardation Arizona training program	
34	at Coolidge	21,994.36
35	Commission of agriculture and horticulture	433.80
36	Department of corrections, Alpine	
37	conservation center	600.00
38	Oil and gas conservation commission	163.34
39	Arizona water commission	644.84
40		TOTAL \$30,040.64

41 which claims were presented for payment within the statutory time provided
 42 by section 35-190, Arizona Revised Statutes, but for which there were
 43 insufficient funds for payment pursuant to section 35-191, Arizona Revised
 44 Statutes.

45 Sec. 13. Appropriation for relief of the Department
 46 of Administration, Data Processing Division;
 47 basis of claim

48 A. The sum of five thousand four hundred fifty-seven dollars
 49 four cents is appropriated for the relief of the department of adminis-
 50 tration, data processing division in payment of the following claims in
 51 the following amounts:

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Department of Administration

Fiscal Office-Personnel Division	
Claim No. 886, dated February 28, 1975	\$ 3,677.75
Fiscal Office-Personnel Division	
Claim No. 999, dated February 28, 1975	1,779.29
TOTAL	\$ 5,457.04

B. The appropriation made by this section is for the purpose of payment of claims submitted by the data processing division to the personnel commission for services performed during the fiscal year ended June 30, 1974, which claims were not presented for payment within the statutory time provided by section 35-190, Arizona Revised Statutes, and for which there were insufficient funds available for payment pursuant to section 35-191, Arizona Revised Statutes.

Sec. 14. Appropriation for relief of Internal Revenue Service; basis of claim

A. The sum of sixty-five thousand six hundred dollars eighty-nine cents is appropriated to the division of finance for the relief of the federal Internal Revenue Service.

B. Payment of the sum appropriated by this section shall be in full satisfaction of the claim by the Internal Revenue Service against state general fund agencies for federal excise taxes on air fares for the period from January 1, 1970 through December 31, 1973, which, upon instructions of the Attorney General, were not paid pending final settlement of a suit by the State of Texas against the United States, claiming such tax was a federal excise tax from which the state of Texas was exempt, and which suit was decided in favor of the United States. The amount of the state's general fund liability was determined by an audit by independent certified public accountants retained by the state.

Sec. 15. Appropriation; Department of Administration, Finance Division; basis of claim

A. The sum of one hundred twelve thousand three hundred dollars is appropriated to the department of administration, finance division.

B. It is the opinion of the attorney general that the provisions of chapter 120, session laws of 1974, do not become effective until 12:00 noon, July 1, 1975, and that to receive the increased benefits, an employee must retire after that date and time. It is further the opinion of the attorney general that retiring employees cannot be paid accrued annual leave benefits until the actual date of retirement.

C. The amount appropriated by this section is to be distributed by the division of finance to the following agencies, in amounts not to exceed those shown, for the purpose of paying accrued annual leave and related FICA taxes for employees retiring on July 1, 1975:

Department of administration	
Finance division	\$ 20,605.00
Personnel division	1,335.00
Public buildings division	633.00
Total department of administration	\$ 22,573.00
Department of revenue	27,865.00
Department of economic security	13,650.00
Department of economic security, mental retardation	4,340.00

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1	Department of health services	\$ 6,550.00
2	Commission of agriculture and horticulture	2,508.00
3	Livestock sanitary board	7,660.00
4	Department of education	12,820.00
5	Arizona state school for the Deaf and	
6	the Blind	7,100.00
7	Department of corrections	6,770.00
8	Department of emergency services and	
9	military affairs, division of military	
10	affairs	464.00
11		TOTAL \$112,300.00

12 D. The appropriation made by this section shall not lapse until
13 July 1, 1976.

14 Sec. 16. Appropriation; relief of Chrystle Aurand;
15 basis of claim

16 The sum of one hundred seventy-two dollars is appropriated to the
17 division of finance for replacement of state warrant No. 392744, dated
18 April 1, 1971, payable to Chrystle Aurand, which warrant was not pre-
19 sented for payment within the statutory time required by section 35-187,
20 Arizona Revised Statutes.

21 Sec. 17. Appropriation; relief of Heritage of
22 Camelback; basis of claim

23 The sum of one hundred thirty dollars is appropriated to the
24 division of finance for replacement of state warrant No. 271296, dated
25 January 1, 1972, and state warrant No. 315924, dated February 1, 1972,
26 both in the amount of sixty-five dollars, payable to Mrs. Pearly
27 Lindsey, which warrants were turned over by Mrs. Lindsey to Heritage
28 of Camelback, and which were not presented for payment within the
29 statutory time required by section 35-187, Arizona Revised Statutes.

30 Sec. 18. Appropriation; relief of Robert Randolph;
31 basis of claim

32 The sum of four hundred thirty dollars is appropriated to the
33 division of finance for replacement of the following warrants issued
34 to Robert Randolph on the following dates and in the following amounts,
35 which were not presented for payment within the statutory time required
36 by section 35-187, Arizona Revised Statutes:

37	Warrant No. 508974, dated June 2, 1972	\$ 38.00
38	Warrant No. 539024, dated June 19, 1972	98.00
39	Warrant No. 044551, dated July 18, 1972	98.00
40	Warrant No. 093889, dated August 18, 1972	98.00
41	Warrant No. 140457, dated September 18, 1972	98.00
42		TOTAL \$ 430.00

43 Sec. 19. Appropriation; relief of The Partridge
44 School; basis of claim

45 The sum of sixty dollars is appropriated to the division of finance
46 for replacement of warrant No. 027345, dated August 21, 1972, payable to
47 The Partridge School, which warrant was not presented for payment within
48 the statutory time required by section 35-187, Arizona Revised Statutes.

49 Sec. 20. Appropriation; relief of Food State Market;
50 basis of claim

1 The sum of ninety-one dollars is appropriated to the division of
 2 finance for replacement of state warrant No. 275694, dated March 12,
 3 1973, issued to Food State Market in the amount of thirty dollars, and
 4 warrant No. 444685, dated April 2, 1973, issued to Fesser Hill in the
 5 amount of sixty-one dollars which warrant was cashed by Food State
 6 Market, and which warrants were not presented for payment within the
 7 statutory time required by section 35-187, Arizona Revised Statutes.

8 Sec. 21. Appropriation; relief of Gladyce D. Overson;
 9 basis of claim

10 The sum of sixty-eight dollars is appropriated to the division of
 11 finance for replacement of state warrant No. 362749, dated May 17, 1973,
 12 payable to Gladyce D. Overson, which warrant was not presented for pay-
 13 ment within the statutory time required by section 35-187, Arizona
 14 Revised Statutes.

15 Sec. 22. Appropriation; relief of Arizona State
 16 University; basis of claim

17 The sum of sixty dollars eighty-seven cents is appropriated to
 18 the division of finance for replacement of state warrant No. 234293,
 19 dated August 25, 1969, payable to J. S. Cochran, which warrant was
 20 cashed by Arizona State University but was not presented for payment
 21 within the statutory time required by section 35-187, Arizona Revised
 22 Statutes.

23 Sec. 23. Appropriation; relief of Olivetti Underwood
 24 Corp.; basis of claim

25 The sum of five hundred twenty-two dollars forty-eight cents is
 26 appropriated to the division of finance for replacement of state warrant
 27 No. 4215668, dated January 17, 1974, which warrant was not presented
 28 within the statutory time required by section 35-187, Arizona Revised
 29 Statutes.

30 Sec. 24. Appropriation; relief of payees named on
 31 certain State of Arizona payroll warrants

32 The sum of one thousand six hundred eighteen dollars eighty cents
 33 is appropriated to the division of finance for replacement of State of
 34 Arizona payroll warrants that were not presented for payment within the
 35 statutory time required by section 35-187, Arizona Revised Statutes,
 36 and which are numbered, dated, payable to the payees and in the amounts
 37 as follows:

- | | | |
|----|---|----------|
| 38 | 1. Warrant No. 566328, dated March 10, 1972, | |
| 39 | payable to F. P. Steger in the amount of | \$ 63.09 |
| 40 | 2. Warrant No. 674873, dated May 15, 1972, | |
| 41 | payable to R. B. Streets in the amount of | 38.84 |
| 42 | 3. Warrant No. 715183, dated June 15, 1972, | |
| 43 | payable to C. E. Lehner in the amount of | 88.73 |
| 44 | 4. Warrant No. 207083, dated April 6, 1973, | |
| 45 | payable to E. Y. Sheydayi in the amount of | 290.79 |
| 46 | 5. Warrant No. 394495, dated June 13, 1973, | |
| 47 | payable to R. S. Lane in the amount of | 19.77 |
| 48 | 6. Warrant No. 4835024, dated October 19, 1973, | |
| 49 | payable to J. Winter in the amount of | 90.22 |
| 50 | | |

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1	7. Warrant No. 4306525, dated October 31, 1973,	
2	payable to C. W. Davis in the amount of	\$ 103.39
3	8. Warrant No. 4305157, dated October 31, 1973,	
4	payable to M. Zeltzerpaul in the amount of	617.07
5	9. Warrant No. 4308744, dated October 31, 1973,	
6	payable to L. K. Zeltzer in the amount of	175.53
7	10. Warrant No. 543108, dated January 5, 1973,	
8	payable to P. Getzwiller in the amount of	131.37
9		TOTAL \$ 1,618.80

10 Sec. 25. Appropriation; relief of the State Treasurer;
 11 basis of claim

12 The sum of forty-five dollars is appropriated to the state
 13 treasurer for reimbursement of the following:

14	1. Counterfeit Federal Reserve note, serial	
15	number K26371273A, series 1969D, sur-	
16	rendered to the Treasury Department on	
17	February 13, 1975	\$ 20.00
18	2. Check No. 155, drawn on Southern Arizona	
19	Bank and Trust Company, dated August 31,	
20	1973, signed by J. M. Branch, which was	
21	returned due to insufficient funds	25.00
22		TOTAL \$ 45.00

23 Sec. 26. Appropriation; relief of Globe Ticket Co.;
 24 basis of claim

25 The sum of eighty-nine dollars forty-four cents is appropriated
 26 from Arizona state university collection account No. 16-405-701 to the
 27 division of finance for replacement of state warrant number 113802,
 28 dated October 31, 1972, which warrant was not received by the vendor,
 29 and which was therefor not presented within the statutory time required
 30 by section 35-187, Arizona Revised Statutes.

31 Sec. 27. Appropriation; relief of various vendors
 32 of University of Arizona; basis of claim

33 The sum of one hundred seventy dollars sixty cents is appropriated
 34 to the division of finance for replacement of state warrants that were
 35 not presented for payment within the statutory time required by section
 36 35-187, Arizona Revised Statutes, and which are numbered, dated, payable
 37 to the payees and in the amounts as follows:

38	1. From account No. 16-480-701-00, warrant	
39	No. 154827, dated November 30, 1972,	
40	payable to Trude Harshman in the amount of	\$ 75.00
41	2. From account No. 16-480-701-00, warrant	
42	No. 312436, dated April 6, 1973, payable	
43	to Dorothea Stuessy in the amount of	75.00
44	3. From account No. 13-480-501-00, warrant	
45	No. 4059886, dated September 20, 1973,	
46	payable to Cole-Parmer Instrument	
47	Company in the amount of	20.60
48		TOTAL \$ 170.60

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1	23.	Warrant No. 390140, dated April 10, 1973,	
2		payable to F. S. and M. C. Jabczenski	
3		in the amount of	\$ 11.28
4	14.	Warrant No. 418582, dated April 10, 1973,	
5		payable to P. C. and M. Raymond in the	
6		amount of	26.73
7	15.	Warrant No. 428244, dated May 2, 1973,	
8		payable to W. and M. Feist in the	
9		amount of	6.00
10	16.	Warrant No. 459222, dated May 2, 1973,	
11		payable to M. A. Casas in the amount of	11.29
12	17.	Warrant No. 460526, dated May 2, 1973,	
13		payable to M. C. and S. Campos as heirs	
14		of decedent E. C. Campos in the amount of	14.08
15	18.	Warrant No. 462510, dated May 2, 1973,	
16		payable to C. S. Barnett in the amount of	1.88
17	19.	Warrant No. 464864, dated May 2, 1973,	
18		payable to M. D. and C. Wallace in the	
19		amount of	42.48
20	20.	Warrant No. 471346, dated May 2, 1973,	
21		payable to J. E. and L. Dews in the	
22		amount of	26.70
23	21.	Warrant No. 480054, dated May 14, 1973,	
24		payable to A. E. Feehey, Jr. in the	
25		amount of	7.77
26	22.	Warrant No. 495630, dated May 14, 1973,	
27		payable to O. M. and H. H. Perry in the	
28		amount of	17.22
29	23.	Warrant No. 505823, dated May 14, 1973,	
30		payable to A. Kent in the amount of	10.31
31	24.	Warrant No. 517541, dated May 21, 1973,	
32		payable to C. J. and M. Shipp in the	
33		amount of	77.48
34	25.	Warrant No. 515860, dated May 21, 1973,	
35		payable to J. W. and J. W. Hunt in the	
36		amount of	9.52
37	26.	Warrant No. 520803, dated May 21, 1973,	
38		payable to G. C. Silides, Jr. in the	
39		amount of	7.13
40	27.	Warrant No. 522644, dated May 21, 1973,	
41		payable to M. E. McKay in the amount of	16.79
42	28.	Warrant No. 551256, dated June 4, 1973,	
43		payable to W. K. and G. O. Crough in the	
44		amount of	10.34
45	29.	Warrant No. 552493, dated June 4, 1973,	
46		payable to Don Fields in the amount of	66.15
47	30.	Warrant No. 553484, dated June 4, 1973,	
48		payable to J. and V. Enriquez in the	
49		amount of	2.72
50			

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1	31. Warrant No. 549151, dated June 4, 1973,	
2	payable to F. R. and D. I. Smith in the	
3	amount of	\$ 22.62
4	32. Warrant No. 555159, dated June 4, 1973,	
5	payable to V. R. Thorn in the amount of	10.47
6	33. Warrant No. 557600, dated June 4, 1973,	
7	payable to B. F. and N. M. Banta in the	
8	amount of	52.11
9	34. Warrant No. 581129, dated June 11, 1973,	
10	payable to F. S. and H. Jerome in the	
11	amount of	120.00
12	35. Warrant No. 582950, dated June 11, 1973,	
13	payable to J. G. White in the amount of	14.22
14	36. Warrant No. 587076, dated June 18, 1973,	
15	payable to W. E. and A. Simon in the	
16	amount of	158.00
17	37. Warrant No. 589945, dated June 18, 1973,	
18	payable to M. B. and K. Harrison in the	
19	amount of	27.21
20	38. Warrant No. 603099, dated June 25, 1973,	
21	payable to W. F. and M. P. Maday in the	
22	amount of	87.41
23	39. Warrant No. 606416, dated June 25, 1973,	
24	payable to D. J. Coutts in the amount of	16.04
25	40. Warrant No. 617778, dated June 26, 1973,	
26	payable to J. L. Roe in the amount of	533.84
27	R. B. Roe, one of the payees named on	
28	the warrant has endorsed his share of	
29	the refund to J. L. Roe	
30	41. Warrant No. 618109, dated June 26, 1973,	
31	payable to K. A. Rogers in the amount of	80.11
32	42. Warrant No. 618897, dated June 26, 1973,	
33	payable to E. L. Arnold in the amount of	36.87
34	43. Warrant No. 622599, dated June 26, 1973,	
35	payable to R. T. and D. E. Hildreth, Jr.	
36	in the amount of	66.00
37	44. Warrant No. 636472, dated June 26, 1973,	
38	payable to V. R. Riddle in the amount of	26.38
39	45. Warrant No. 4245999, dated February 11, 1974,	
40	payable to J. M. and V. Lomatewama in the	
41	amount of	103.73
42		TOTAL \$ 2,039.02

Sec. 30. Appropriation; relief of Constance L. Cohen,
Executrix of the Estate of Jesse L. Cohen,
deceased; basis of claim

The sum of thirty-eight dollars ninety-seven cents is appropriated from account No. 39-179-000-50 to the division of finance for replacement of state warrant No. 4061317, dated September 21, 1973, which warrant was not presented for payment within the statutory time required by section 35-187, Arizona Revised Statutes.

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1 39-357-000-00 to the division of finance to replace state warrant No.
2 149907, dated November 28, 1972, payable to Neal Kurn, Agent in the
3 amount of thirty-seven dollars fifty cents, and state warrant No.
4 180962, dated December 22, 1972, payable to Neal Kurn, in the amount
5 of thirty-seven dollars fifty cents, which warrants were not presented
6 for payment within the statutory time required by section 35-187,
7 Arizona Revised Statutes.

8 Sec. 36. Appropriation; relief of Bro-Dart; basis of claim

9 The sum of twenty-one dollars twenty-seven cents is appropriated
10 from account No. 26-475-803-00 to the division of finance for replace-
11 ment of state warrant No. 4081873, dated October 5, 1973, payable to
12 Bro-Dart, which warrant was not presented for payment within the statutory
13 time required by section 35-187, Arizona Revised Statutes.

14 Sec. 37. Appropriation; relief of Smith Pipe and Steel
15 Co.; basis of claim

16 The sum of one hundred dollars seventy-eight cents is appropriated
17 from account No. 26-520-900-34 to the division of finance for replacement
18 of state warrant No. 313897, dated May 14, 1971, payable to Smith Pipe
19 and Steel Company, which warrant was not presented for payment within
20 the statutory time required by section 35-187, Arizona Revised Statutes.

21 Sec. 38. Appropriation; relief of Olivetti Corporation
22 of America; basis of claim

23 The sum of thirty-three dollars twenty-eight cents is appropriated
24 from account No. 26-535-807-10 to the division of finance for replacement
25 of state warrant No. 4219756, dated January 21, 1974, payable to Olivetti
26 Corporation of America, which warrant was not presented for payment within
27 the statutory time required by section 35-187, Arizona Revised Statutes.

28 Sec. 39. Appropriation; relief of Kent Industries, Inc.;
29 basis of claim

30 The sum of forty-four dollars ninety-eight cents is appropriated
31 from account No. 21-580-000-00 to the division of finance for replacement
32 of state warrant No. 323697, dated April 17, 1973, payable to Kent
33 Industries, Inc., which warrant was not presented for payment within
34 the statutory time required by section 35-187, Arizona Revised Statutes.

35 Sec. 40. Appropriation; relief of Miller's Marine-Saw
36 Supply; basis of claim

37 The sum of eleven dollars twenty-three cents is appropriated from
38 account No. 21-610-000-00 to the division of finance for replacement of
39 state warrant No. 4125574, dated November 8, 1973, payable to Miller's
40 Marine-Saw Supply, which warrant was not presented for payment within
41 the statutory time required by section 35-187, Arizona Revised Statutes.

42 Sec. 41. Appropriation; relief of various payees of the
43 Department of Transportation; basis of claim

44 The sum of one thousand nine hundred sixty-five dollars is appro-
45 priated from account No. 33-610-902-00 to the division of finance for
46 replacement of the following warrants issued to the payees shown, which
47 warrants were not presented for payment within the statutory time re-
48 quired by section 35-187, Arizona Revised Statutes:

- 49 1. Warrant No. 270256, dated March 13, 1972,
50 payable to Joe D. Cunningham in the
51 amount of

\$ 165.00

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1	2. Warrant No. 270255, dated March 13, 1972,	
2	payable to Joe D. Cunningham, assigned	
3	to Dairyland Insurance Company in the	
4	amount of	\$ 600.00
5	3. Warrant No. 4001216, dated July 12, 1973,	
6	issued to James L. Cooley in the amount	
7	of	1,200.00
8		TOTAL
9		\$ 1,965.00

Sec. 42. Appropriation; relief of Department of Transportation, Motor Vehicle Division; purpose

12 The sum of one hundred forty dollars is appropriated from the
 13 state highway fund account No. 21-610-000-00 to the motor vehicle
 14 division of the department of transportation for the following counter-
 15 feit federal reserve notes:

16	Counterfeit Federal Reserve note, serial	
17	No. 4841, surrendered to Treasury	
18	Department on April 29, 1974	\$ 20.00
19	Counterfeit Federal Reserve note, serial	
20	No. 4484, surrendered to Treasury	
21	Department on May 21, 1974	20.00
22	Counterfeit Federal Reserve note, serial	
23	No. 4361, surrendered to Treasury	
24	Department on July 19, 1974	100.00
25		TOTAL
26		\$ 140.00

Sec. 43. Appropriation for the relief of various vendors of the Department of Administration, Data Processing Division; basis of claim

29 A. The sum of seventy-three thousand two hundred ninety-five
 30 dollars three cents is appropriated from the data processing revolving
 31 fund, account No. 52-101-900-20, for the following claims in the fol-
 32 lowing amounts, for the purposes shown:

33	Department of administration, finance	
34	division, charges for employer related	
35	expenditures	\$ 4,136.73
36	Airesearch Mfg. Co., Inc., claim No.	
37	2031, dated July 31, 1974, for	
38	computer services	161.40
39	Department of corrections, correctional	
40	industries, claim No. 2038, dated	
41	July 24, 1974, for data processing	
42	services	4,945.05
43	Honeywell Information Systems, Inc.	
44	Claim No. 1967, dated June 13, 1974,	
45	for sales tax on installment sales	7,054.80
46	Claim No. 2134, dated July 31, 1974,	
47	for maintenance on system H635	19,070.00
48	Claim No. 2139, dated July 31, 1974,	
49	for maintenance on system BDD436	15,318.80
50	Claim No. 2143, dated August 6, 1974,	
51	for unscheduled maintenance	488.40

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1	Claim No. 2144, dated August 6, 1974,	
2	for transportation charges	\$ 955.00
3	Claim No. 2145, dated February 28, 1975,	
4	for catalogues	36.66
5	Claim No. 2146, dated October 31, 1974,	
6	for unscheduled maintenance	900.00
7	Claim No. 2147, dated October 31, 1974,	
8	for unscheduled maintenance	922.50
9	Claim No. 2148, dated February 28, 1975,	
10	for maintenance	393.63
11	Claim No. 2149, dated February 28, 1975,	
12	for down payment on 9 MA050 disk packs	
13	and shipping charges	523.10
14	Claim No. 2150, dated February 28, 1975,	
15	for disk pack equipment use	414.00
16	Claim No. 2160, dated February 26, 1975,	
17	for unscheduled maintenance	176.40
18	Claim No. 2161, dated February 28, 1975,	
19	for maintenance	778.40
20	Total	<u>\$47,031.69</u>
21	Inleasing Corporation, claim No. 2066,	
22	dated July 26, 1974, for monthly rent	
23	and maintenance of Remcom/terminals	9,149.33
24	Mountain Bell	
25	Claim No. 2082, dated July 30, 1974,	
26	for telephone services on SSM-20	2,865.40
27	Claim No. 2136, dated July 31, 1974,	
28	for telephone service	21.09
29	Total	<u>\$ 2,886.49</u>
30	SCS/Remcom Corporation, claim No. 2152,	
31	dated October 31, 1974, for maintenance	50.00
32	Standard Oil Co. of Calif., claim No.	
33	2151, dated October 31, 1974, for	
34	credit card purchases	15.06
35	Unistrut Arizona, Inc., claim No. 2101,	
36	dated July 25, 1974, for office movable	
37	partitions and metal wire partition	3,084.64
38	Harold Sieglaff, claim No. 2155, dated	
39	August 29, 1974, for reimbursement	
40	for attending seminar	15.00
41	United Data Services Co., Inc., claim	
42	No. 2103, dated December 10, 1974, for	
43	rental of terminals and couplers	334.88
44	Xerox Corporation	
45	Claim No. 2116, dated July 31, 1974,	
46	for equipment rental	926.33
47	Claim No. 2117, dated October 31, 1974,	
48	for equipment rental	360.99
49	Claim No. 2156, dated October 21, 1974,	
50	for supplies	103.58

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1 Claim No. 2157, dated October 21, 1974,
 2 for supplies \$ 93.86
 3 Total \$ 1,484.76
 4 TOTAL \$73,295.03

5 B. The appropriation made by this section is to pay for goods and
 6 services delivered to the data processing division by the vendors named
 7 in subsection A of this section during the fiscal year ended June 30, 1974,
 8 which claims were not submitted within the statutory time required by
 9 section 35-190, Arizona Revised Statutes, and for which there were in-
 10 sufficient funds available for payment, pursuant to section 35-191,
 11 Arizona Revised Statutes.

12 Sec. 44. Appropriation; relief of certain vendors of
 13 Department of Public Safety; basis of claim

14 A. The sum of thirty-seven thousand seven hundred ninety-two
 15 dollars sixty-five cents is appropriated from the Arizona highway
 16 patrol fund, account No. 29-580-901 for payment of the following
 17 claims in the following amounts:

18 Exxon Company USA
 19 Claim No. 80130, dated August 20, 1974 \$ 6,424.42
 20 Exxon Company
 21 Claim No. 80267, dated September 17, 1974 1,662.85
 22 Mobil Oil Co.
 23 Claim No. 80225, dated September, 1974 3,357.12
 24 Standard Oil Co.
 25 Claim No. 80094, dated August 15, 1974 25,000.06
 26 Standard Oil Co.
 27 Claim No. 80190, dated August 30, 1974 1,348.20
 28 TOTAL \$37,792.65

29 B. The appropriation made by this section is to pay for merchan-
 30 dise delivered to the department of public safety by the vendors named
 31 in subsection A of this section during the fiscal year ended June 30,
 32 1974. The claims were not submitted within the statutory time required
 33 by section 35-190, Arizona Revised Statutes, and are in excess of the
 34 amount authorized for payment by the division of finance pursuant to
 35 section 35-191, Arizona Revised Statutes.

36 Sec. 45. Appropriation; relief of State of California
 37 Department of Transportation; basis of claim

38 A. The sum of six thousand three hundred sixty-seven dollars
 39 forty-nine cents is appropriated from the state highway fund, account
 40 No. 21-610-000 for the relief of State of California Department of
 41 Transportation, for payment of the following claims in the following
 42 amounts:

43 Claim dated February 5, 1975, for fiscal
 44 year ended June 30, 1973 \$ 1,180.90
 45 Claim dated February 5, 1975, for fiscal
 46 year ended June 30, 1974 5,186.59
 47 TOTAL \$ 6,367.49

48 B. The appropriation made by this section is to pay for the state
 49 of Arizona's share of power for operation of a flashing beacon on the
 50 Colorado river bridge, and for maintenance of bridges at Topcock and

1 Parker, for the fiscal years set forth in subsection A of this section,
 2 per agreement between the state of California Department of Transporta-
 3 tion and the state of Arizona department of transportation, which claims
 4 were not submitted within the statutory time required by section 35-190,
 5 Arizona Revised Statutes, and are in excess of the amount authorized for
 6 payment by the division of finance, pursuant to section 35-191, Arizona
 7 Revised Statutes.

8 Sec. 46. Appropriation for relief of Edward T. Seale, Sr.;
 9 basis of claim

10 A. The sum of eight hundred seventeen dollars fifty-one cents
 11 is appropriated from the state highway fund, account No. 21-610-000,
 12 for the relief of Edward T. Seale, Sr.

13 B. The sum appropriated by this section is to reimburse Mr. Seale
 14 for the cost of replacing personal tools which were taken from a locked
 15 state vehicle in a locked state transportation equipment shop yard in a
 16 burglary which took place at the Tucson equipment shop yard sometime
 17 during the period between October 11 and October 15, 1974.

18 Sec. 47. Appropriation for relief of Internal Revenue
 19 Service; basis of claim

20 A. The sum of one thousand eight hundred thirty-three dollars
 21 ninety-seven cents is appropriated from the state highway fund, account
 22 No. 21-610-000, to the division of finance for the relief of the federal
 23 Internal Revenue Service.

24 B. Payment of the sum appropriated by this section shall be in
 25 full satisfaction of the claim by Internal Revenue Service against the
 26 state highway department for federal excise taxes on air fares for the
 27 period from January 1, 1970 through December 31, 1973, which, upon
 28 instructions of the attorney general, were not paid pending final
 29 settlement of a suit by the state of Texas against the United States,
 30 claiming such tax was a federal excise tax from which the state of
 31 Texas was exempt, and which suit was decided in favor of the United
 32 States. The amount of the highway department's liability was determined
 33 by an audit by independent certified public accountants retained by the
 34 state.

35 Sec. 48. Appropriation; Department of Administration,
 36 Finance Division; basis of claim

37 A. The sum of fifty-five thousand sixty dollars is appropriated
 38 from the state highway fund, account No. 21-610-000, and the sum of
 39 fourteen thousand forty dollars is appropriated from the transportation
 40 department equipment revolving fund, account No. 54-610-903, to the
 41 department of administration, finance division for the purpose of paying
 42 accrued annual leave and related FICA taxes for department of transpor-
 43 tation employees retiring on July 1, 1975.

44 B. It is the opinion of the attorney general that the provisions
 45 of chapter 120, session laws of 1974, do not become effective until
 46 12:00 noon, July 1, 1975, and that to receive the increased benefits
 47 provided by chapter 120, an employee must retire after that date and
 48 time. It is further the opinion of the attorney general that retiring
 49 employees cannot be paid accrued annual leave benefits until the actual
 50 date of retirement.

1 C. The appropriation made by this section shall not lapse until
2 July 1, 1976.

3 Sec. 49. Appropriation; relief of Pima County; basis
4 of claim

5 A. The sum of seven thousand seven hundred sixty dollars sixteen
6 cents is appropriated from the federal revenue sharing trust fund,
7 account No. 34-140-801, for the relief of Pima County.

8 B. Payment of the sum appropriated by this section shall be in
9 full satisfaction of claim No. 63, dated February 11, 1975, submitted
10 to the state treasurer for adjustment of 1973 property taxes which, in
11 accordance with the provisions of chapter 182, session laws of 1973,
12 should have been paid either on the last day of October, 1973 and
13 March, 1974, and in no event later than January 31, 1975, at which
14 time the appropriation expired. The claim was not submitted within
15 the statutory time required by section 35-190, Arizona Revised Statutes,
16 and is in excess of the amount authorized for payment by the division
17 of finance pursuant to section 35-191, Arizona Revised Statutes.

18 Sec. 50. Appropriation for the relief of certain insurance
19 carriers; basis of claim

20 A. The sum of twenty-six thousand nine hundred thirty-three dollars
21 is appropriated to the personnel division, department of administration,
22 for the relief of certain insurance carriers as follows:

23 Arizona Health Foundation	\$10,549.00
24 Connecticut General Life Insurance	
25 Co. (Arizona Health Plan)	13,747.00
26 Pacific Mutual Life Insurance Co.	449.00
27 Associated Hospital Service of Arizona	2,188.00
	TOTAL \$26,933.00

28 B. Payment of the sum appropriated by this section shall be in
29 full satisfaction of health insurance premiums not paid by the state or
30 any of its employees from January, 1973 through June, 1974, which amounts
31 were determined by an audit/review of health insurance records maintained
32 by the personnel division, department of administration.

33 Sec. 51. Appropriation; relief of Diane Hermann;
34 basis of claim

35 The sum of seventy-nine dollars twenty-five cents is appropriated to
36 the division of finance for replacement, from account No. 27-220-801-40,
37 of state warrant No. 341209, dated April 30, 1973, payable to Diane
38 Hermann, which warrant was not presented for payment within the statutory
39 time required by section 35-187, Arizona Revised Statutes.

40 Sec. 52. Appropriation; relief of Merchants Despatch
41 Transportation Corporation

42 A. The sum of eighteen thousand eight hundred sixty-eight dollars
43 four cents is appropriated to the division of finance for the relief of
44 Merchants Despatch Transportation Corporation.

45 B. Payment of the sum appropriated in subsection A of this
46 section shall be in full satisfaction of the state's obligation for a
47 judgment rendered November 14, 1974, against the Arizona state tax
48 commission and L. Waldo DeWitt as chairman and John M. Hazelett and
49 Robert A. Kennedy as members of the Arizona state tax commission, in
50

1 civil cause No. C252911 in the superior court of the state of Arizona
 2 in and for the county of Maricopa, entitled Merchants Despatch Trans-
 3 portation, a corporation, plaintiff, vs. Arizona state tax commission,
 4 a body corporate and politic; and L. Waldo DeWitt, chairman, and John
 5 M. Hazelett and Robert A. Kennedy, as members of and constituting said
 6 Arizona state tax commission, defendants, in the amount of thirteen
 7 thousand six hundred two dollars twenty-six cents, together with
 8 interest at the rate of six per cent per annum from December 16, 1968,
 9 resulting from an over assessment of the full cash value of plaintiff's
 10 property for the purpose of the tax imposed by section 42-746, Arizona
 11 Revised Statutes. The sum appropriated in subsection A shall be paid
 12 by the division of finance to Merchants Despatch Transportation Cor-
 13 poration in the amount of thirteen thousand six hundred two dollars
 14 twenty-six cents, together with interest at the rate of six per cent
 15 per annum from December 16, 1968 until paid, but not later than May
 16 30, 1975, in the amount of not more than five thousand two hundred
 17 sixty-five dollars seventy-eight cents, pursuant to section 12-826,
 18 Arizona Revised Statutes.

19 Sec. 53. Appropriation; relief of Town of Parker;
 20 basis of claim

21 The sum of one thousand three hundred seventy-three dollars thirty
 22 cents is appropriated from account No. 39-610-901-00 to the division of
 23 finance for replacement of state warrant No. 4290097, dated March 14,
 24 1974, which warrant was lost and therefore not presented for payment
 25 within the statutory time required by section 35-187, Arizona Revised
 26 Statutes.

27 Sec. 54. Appropriation; relief of Claude A. Carr;
 28 basis of claim

29 A. The sum of one thousand six hundred eighty-eight dollars
 30 sixty-four cents is appropriated from the general fund to the Divi-
 31 sion of Finance for the relief of Claude A. Carr.

32 B. Payment of the sum appropriated in subsection A of this
 33 section shall be in full satisfaction of a disputed claim presented
 34 by Claude A. Carr in the sum of two hundred six dollars which amount
 35 claimant was charged by the Veterans Administration in January of
 36 1960 for an alleged overpayment by the Industrial Commission Associa-
 37 tion together with interest at the rate of six per cent per annum for
 38 fifteen years in the amount of two hundred eighty-seven dollars
 39 forty-six cents and for the sum of five hundred ninety-four dollars
 40 for forty weeks of benefits from the 52-20 Club of the Veterans
 41 Readjustment Act which was not paid to Mr. Carr because of a deter-
 42 mination by the Employment Security Commission of Arizona together
 43 with interest at six per cent per annum for twelve years in the
 44 amount of six hundred one dollars eighteen cents.

45 Sec. 55. Emergency

46 To preserve the public peace, health and safety it is necessary
 47 that this act become immediately operative. It is therefore declared
 48 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 16, 1975

Filed in the Office of the Secretary of State - June 16, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 154

HOUSE BILL 2131

AN ACT

RELATING TO CHILDREN AND CRIMES; PRESCRIBING CONDUCT PUNISHABLE AS A CRIME OF PANDERING; PROVIDING FOR PUBLIC SUBSIDY TO CERTAIN ADOPTIVE PARENTS; PRESCRIBING ELIGIBILITY AND LIMITATIONS ON SUCH SUBSIDY; AMENDING SECTION 13-591, ARIZONA REVISED STATUTES, AND AMENDING TITLE 8, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2, SECTIONS 8-141 THROUGH 8-145.

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

2 Section 1. Section 13-591, Arizona Revised Statutes, is amended
3 to read:

4 13-591. Pandering; definitions; methods; punishment

5 A. A person is guilty of a felony who:

6 1. Places OR ATTEMPTS TO PLACE, any person in the charge or
7 custody of any other person for ~~immoral~~ purposes OF PROSTITUTION.

8 2. Places OR ATTEMPTS TO PLACE, any person in a house of
9 prostitution with the intent that such person lead a life of pros-
10 titution.

11 3. Compels, INDUCES OR ENCOURAGES any person to reside with
12 that person, or with any other person, ~~for immoral purposes, or~~ for
13 the purpose of prostitution.

14 4. Compels, INDUCES OR ENCOURAGES any person to lead a life
15 of prostitution.

16 B. A person violating any provision of this section shall be
17 punished by a fine of not less than one thousand dollars and by imprison-
18 ment in the state prison for not less than one nor more than ten years.

19 Sec. 2. Title 8, chapter 1, Arizona Revised Statutes, is amended
20 by adding article 2, sections 8-141 through 8-145, to read:

21 ARTICLE 2. ADOPTION SUBSIDIES

22 8-141. Definitions

23 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "CHILD"
24 MEANS ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS WHO IS LEGALLY FREE FOR

1 ADOPTION, WHO HAS EITHER BECOME EMOTIONALLY ATTACHED TO THE PROSPECTIVE
2 ADOPTIVE PARENTS WHILE IN THEIR CARE AS A FOSTER CHILD OR WHO OTHERWISE
3 MAY NOT BE ADOPTED BECAUSE OF ANY OF THE FOLLOWING SPECIAL CIRCUMSTANCES:
4 1. PHYSICAL OR MENTAL DISABILITY.
5 2. EMOTIONAL DISTURBANCE.
6 3. HIGH RISK OF PHYSICAL OR MENTAL DISEASE.
7 4. AGE.
8 5. SIBLING RELATIONSHIP.
9 6. RACIAL OR ETHNIC FACTORS.
10 7. ANY COMBINATION OF CIRCUMSTANCES DESCRIBED BY PARAGRAPHS 1

11 THROUGH 6.

12 8-142. Adoption subsidy program; funding

13 THE DEPARTMENT OF ECONOMIC SECURITY SHALL ESTABLISH AND ADMINISTER
14 AN ONGOING PROGRAM OF SUBSIDIZED ADOPTION. SUBSIDIES AND SERVICES FOR
15 CHILDREN SHALL BE PROVIDED FROM FUNDS APPROPRIATED TO THE DEPARTMENT OR
16 MADE AVAILABLE TO IT FROM OTHER SOURCES.

17 8-143. Eligibility

18 FOSTER PARENTS INTERESTED IN ADOPTING A CHILD IN THEIR HOME OR ANY
19 OTHER PERSONS INTERESTED IN ADOPTING A CHILD UNDER PUBLIC OR PRIVATE AGENCY
20 CARE, WHETHER THE ADOPTION IS THROUGH A PUBLIC OR PRIVATE AGENCY, MAY
21 APPLY TO THE DEPARTMENT OF ECONOMIC SECURITY TO HAVE THE ADOPTION OF A
22 CHILD SUBSIDIZED. ALL PERSONS APPROVED FOR THE PROGRAM AS ADOPTIVE
23 PARENTS MUST MEET ADOPTION AGENCY STANDARDS EXCEPT FOR THE FINANCIAL ABILITY
24 TO SUPPORT THE CHILD. SUCH SUBSIDY SHALL IN NO CASE BE DENIED SOLELY ON
25 THE GROUNDS THAT THE CHILD IS PLACED FOR ADOPTION THROUGH A PRIVATE AGENCY.

26 8-144. Subsidy agreement; duration; amount; periodic
27 review; confidentiality

28 A. THE FAMILY ENTERING INTO SUBSIDIZED ADOPTION AND THE DEPARTMENT
29 SHALL SIGN A SUBSIDY AGREEMENT BEFORE THE FINAL DECREE OF ADOPTION IS
30 ISSUED. ADOPTION SUBSIDIES MAY COMMENCE WITH THE ADOPTION PLACEMENT OR AFTER
31 THE ADOPTION DECREE, AND WILL VARY WITH THE NEEDS DUE TO THE SPECIAL CIRCUM-
32 STANCES OF THE ADOPTED CHILD AS WELL AS THE AVAILABILITY OF OTHER RESOURCES.
33 THE SUBSIDY MAY CONTINUE SO LONG AS THE NEEDS OF THE CHILD EXIST AND THE
34 CHILD IS THE LEGAL DEPENDENT OF THE ADOPTIVE PARENTS. THE SUBSIDY MAY BE
35 FOR SPECIAL SERVICES ONLY OR FOR MONEY PAYMENTS, AND EITHER FOR A LIMITED
36 PERIOD OR FOR A LONG TERM, OR FOR ANY COMBINATION THEREOF. THE AMOUNT OF
37 THE SUBSIDY MAY IN NO CASE EXCEED THAT ALLOWABLE UNDER FOSTER FAMILY CARE
38 OR, IN THE CASE OF A SPECIAL SERVICE, THE REASONABLE FEE FOR THE SERVICE
39 RENDERED.

40 B. THERE SHALL BE A PERIODIC REVIEW WHICH SHALL TAKE PLACE AT LEAST
41 ONCE A YEAR BY THE DEPARTMENT OF ALL SUBSIDIES THAT CONTINUE FOR MORE THAN
42 ONE YEAR TO ASCERTAIN THE NEED FOR CONTINUING OR ADJUSTING THE SUBSIDY.

43 C. ALL RECORDS REGARDING SUBSIDIZED ADOPTION SHALL BE CONFIDENTIAL
44 AND MAY BE DISCLOSED ONLY IN ACCORDANCE WITH THE REGULATIONS OF THE DEPART-
45 MENT OF ECONOMIC SECURITY.

46 8-145. Appeals

47 A. AN ORDER DENYING, REDUCING OR TERMINATING A SUBSIDY SHALL BE
48 APPEALABLE TO THE DIRECTOR PURSUANT TO THE PROVISIONS OF TITLE 41, CHAPTER 6,
49 ARTICLE 1.

50 B. A DECISION BY THE DIRECTOR SHALL BE SUBJECT TO REVIEW PURSUANT TO
51 THE PROVISIONS OF TITLE 12, CHAPTER 7, ARTICLE 6.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 155
HOUSE BILL 2129

AN ACT

RELATING TO CRIMES; PRESCRIBING PENALTIES FOR ILLEGAL TAKING OR TRANSFERRING OF A MOTOR VEHICLE OR MOTORCYCLE; AMENDING SECTION 13-672, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 2, ARTICLE 38, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-672.01, AND REPEALING SECTION 28-1423, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 13-672, Arizona Revised Statutes, is amended
3 to read:

4 13-672. Theft of motor vehicle or motorcycle; penalty

5 A. It shall be unlawful for any person to take from another a
6 motor vehicle or motorcycle with the intent to DEPRIVE either temporarily
7 or permanently deprive such other person of such motor vehicle or motor-
8 cycle.

9 B. A person found guilty of intent to DEPRIVE permanently deprive
10 another of his motor vehicle or motorcycle is guilty of a felony.

11 C. A person found guilty of intent to DEPRIVE temporarily deprive
12 another of his motor vehicle or motorcycle is guilty of a misdemeanor
13 CRIMINAL OFFENSE PUNISHABLE BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT
14 MORE THAN ONE YEAR, OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR
15 BOTH.

16 D. A PERSON WHO RECEIVES a second OR SUBSEQUENT conviction of-a
17 person-of FOR intent to DEPRIVE temporarily deprive another of his motor
18 vehicle or motorcycle is guilty of a felony.

19 Sec. 2. Title 13, chapter 2, article 38, Arizona Revised Stat-
20 utes, is amended by adding section 13-672.01, to read:

21 13-672.01. Receiving or transferring stolen vehicle; penalty
22 A PERSON WHO, WITH INTENT TO PROCURE OR PASS TITLE TO A MOTOR
23 VEHICLE OR MOTORCYCLE WHICH HE KNOWS OR HAS REASON TO BELIEVE HAS BEEN
24 STOLEN, RECEIVES OR TRANSFERS POSSESSION OF SUCH VEHICLE FROM ONE TO
25 ANOTHER, OR WHO HAS IN HIS POSSESSION A MOTOR VEHICLE OR MOTORCYCLE
26 WHICH HE KNOWS OR HAS REASON TO BELIEVE HAS BEEN STOLEN, IS GUILTY OF
27 A CRIME PUNISHABLE BY IMPRISONMENT IN THE STATE PRISON FOR NOT LESS
28 THAN ONE YEAR NOR MORE THAN FIVE YEARS OR BY IMPRISONMENT IN THE COUNTY
29 JAIL FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN ONE
30 THOUSAND DOLLARS, OR BY BOTH FINE AND IMPRISONMENT.

31 Sec. 3. Repeal

32 Section 28-1423, Arizona Revised Statutes, is repealed.

Approved by the Governor - June 18, 1975
Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 156
HOUSE BILL 2357

AN ACT

RELATING TO TRADE AND COMMERCE; PROVIDING FOR THE REGULATION OF SALES OF INDIAN ARTS AND CRAFTS; PRESCRIBING UNLAWFUL ACTS AND PENALTIES; REPEALING SECTION 44-1221, ARIZONA REVISED STATUTES, AND AMENDING TITLE 44, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Repeal
3 Section 44-1221, Arizona Revised Statutes, is repealed.
4 Sec. 2. Title 44, chapter 9, Arizona Revised Statutes, is amended
5 by adding article 2.1, to read:
6 ARTICLE 2.1. INDIAN ARTS AND CRAFTS
7 44-1231. Definitions
8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
9 1. "AUTHENTIC INDIAN ARTS AND CRAFTS" MEANS THOSE ARTICLES
10 WHOLLY HANDCRAFTED BY AMERICAN INDIAN LABOR AND BEARING A REGISTERED
11 LABEL OF AUTHENTIC INDIAN LABOR OR WORKMANSHIP.
12 2. "IMITATION INDIAN ARTS AND CRAFTS" MEANS THOSE ARTICLES
13 MADE WHOLLY BY MACHINE, OR MADE WHOLLY OR PARTIALLY OUT OF SYNTHETIC
14 OR ARTIFICIAL MATERIALS, OR ARTICLES WHICH ARE NOT MADE BY INDIAN
15 LABOR OR WORKMANSHIP.
16 3. "INDIAN" MEANS A PERSON WHO IS ENROLLED OR WHO IS A LINEAL
17 DESCENDANT OF ONE ENROLLED UPON AN ENROLLMENT LISTING OF THE BUREAU
18 OF INDIAN AFFAIRS, OR UPON THE ENROLLMENT LISTING OF A RECOGNIZED
19 INDIAN TRIBE DOMICILED WITHIN THE UNITED STATES BORDER AND YAQUI
20 INDIANS.
21 4. "REGISTERED LABEL" MEANS A LABEL OR INSIGNIA REGISTERED
22 WITH THE SECRETARY OF STATE PURSUANT TO THE PROVISIONS OF TITLE 44,
23 CHAPTER 10, ARTICLE 3, BY A PERSON OR GROUP OF PERSONS RESPONSIBLE
24 FOR SEEING THAT SUCH LABEL OR INSIGNIA IS PLACED UPON AUTHENTIC
25 INDIAN ARTS AND CRAFTS.

1 44-1232. Unlawful acts
2 A. IT IS UNLAWFUL TO HOLD OUT IMITATION INDIAN ARTS AND CRAFTS
3 FOR TRADE OR SALE AS AUTHENTIC INDIAN ARTS AND CRAFTS.
4 B. IT IS UNLAWFUL TO PLACE A REGISTERED LABEL UPON ANY ART OR
5 CRAFT WHICH IS NOT AN AUTHENTIC INDIAN ART OR CRAFT.
6 44-1233. Violations; penalty
7 ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS ARTICLE SHALL BE
8 PUNISHED BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN
9 THREE HUNDRED DOLLARS, BY IMPRISONMENT FOR NOT LESS THAN TEN DAYS NOR
10 MORE THAN NINETY DAYS, OR BOTH.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 157
HOUSE BILL 2007

AN ACT

RELATING TO EDUCATION; PROVIDING EXEMPTION FROM AGGREGATE SCHOOL DISTRICT BUDGET LIMIT FOR SCHOOLS EMPLOYING TWO CLASSROOM TEACHERS OR LESS; PROVIDING THAT SCHOOL DISTRICTS SHALL KEEP COPIES OF THEIR PROPOSED BUDGET SUMMARY ON FILE TO BE MADE AVAILABLE TO THE PUBLIC; PRESCRIBING CERTAIN PUBLISHING REQUIREMENTS RELATING TO PROPOSED BUDGET OF SCHOOL DISTRICTS; CONFORMING CERTAIN STATUTORY REFERENCES; PROVIDING CONDITIONS AND PROCEDURES FOR OBTAINING SPECIAL EDUCATION INSTRUCTION OR SUPPORTIVE SERVICES OUTSIDE THIS STATE; AMENDING SECTION 15-1201.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1975, CHAPTER 106, SECTION 3; AMENDING SECTION 15-1202, ARIZONA REVISED STATUTES, AND AMENDING LAWS 1973, CHAPTER 181, SECTION 7.

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

2 Section 1. Section 15-1201.01, Arizona Revised Statutes, as
3 amended by Laws 1975, chapter 106, section 3, is amended to read:
4 15-1201.01. Budget control; exceptions

5 A. The funds budgeted under the capital outlay section of the
6 budget prescribed by section 15-1201 shall be used only for the purpose
7 of capital outlay.

8 B. For the purposes of the budget cost level, the actual average
9 daily membership for the previous year may be used when such actual aver-
10 age daily membership is greater than the estimated actual average daily
11 membership for the budget year.

12 C. A school district may budget for excess utility costs which
13 shall be exempt from the budget cost level limit. Expenditure items
14 allowed as excess utility costs shall be specified by the department of
15 education and shall be limited to direct operational costs of heating,
16 cooling, water, electricity, telephone communications and sanitational
17 fees. The department of education shall include in the maintenance and
18 operation section of the budget format as defined in section 15-1201, a
19 separate line for utility expenditures. A special excess utility cost
20 category shall also be provided in the maintenance and operation section,
21 which shall contain budgeted expenditures for utilities determined in the
22 following manner:

23 1. Determine the total budgeted utility expenditures for the
24 current year.

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1 PROPOSED BUDGET shall contain the percentage OF increase or decrease
2 ~~of the aggregate budget limit for the budget year~~ IN EACH BUDGET CATEGORY
3 OF THE PROPOSED BUDGET as compared to ~~the aggregate budget limit~~ EACH
4 CATEGORY OF THE BUDGET for the current year. ~~The second publication~~
5 ~~shall be made~~ GOVERNING BOARD SHALL PUBLISH THE NOTICE OF THE MEETING
6 A SECOND TIME no later than five days prior to the meeting. PUBLICATION
7 SHALL BE MADE IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE DISTRICT.
8 The cost of publication shall be a charge against the school district.
9 The publisher's affidavit of publication shall be filed by the governing
10 board with the state superintendent of public instruction within thirty
11 days after publication.

1 D. At the time and place fixed in the notice, the members of the
 2 governing board shall hold the meeting and present the proposed budget
 3 to the residents or taxpayers attending the meeting. Upon request of
 4 any person, the governing board shall explain the budget and any resi-
 5 dent or taxpayer may protest the inclusion of any item.

6 E. After the meeting, the governing board shall adopt the budget
 7 which shall not exceed the aggregate budget limit making such deductions
 8 therefrom as it sees fit but making no additions thereto, and shall
 9 enter the budget as adopted in its minutes. Not later than June 18,
 10 the budget as finally adopted shall be filed by the governing board
 11 with the county school superintendent who shall immediately transmit a
 12 copy to the board of supervisors of the county and a copy to the state
 13 superintendent of public instruction.

14 F. For the year 1973-74 each district shall compute a budget
 15 cost level as follows:

16 1. Add estimated money received in the fiscal year 1973-74 from
 17 the basic grant as defined by section 15-1211, financial assistance as
 18 defined by section 15-1221, equalization aid as defined by section
 19 15-1228, county aid as defined by section 15-1235, estimated auto lieu
 20 receipts as defined by section 28-1591, estimated monies from the state
 21 permanent school fund as defined by section 37-521, district maintenance
 22 and operation levies and balances used for reduction of school district
 23 taxes as provided by section 15-1204.

24 2. Subtract from the sum obtained in paragraph 1 the sum budgeted
 25 for transportation expenses for fiscal year 1973-74 as defined in section
 26 15-1601.

27 G. No school district shall be allowed to increase its mainte-
 28 nance and operation budget by transferring monies budgeted and expended
 29 for capital outlay in a prior year. For determination of this limita-
 30 tion each school district shall:

31 1. Determine the amount budgeted for maintenance and operation
 32 as defined by section 15-1601, for the fiscal year 1973-74 and each year
 33 thereafter.

34 2. Determine the increase or decrease allowed in the budget cost
 35 level for the budget year from the current year.

36 3. Add the amounts budgeted for maintenance and operations autho-
 37 rized by an election for budget increase in accordance with section
 38 15-1202.01 and increased revenues for the budget year from the sources
 39 listed in paragraphs 3, 4, 5, 6 and 7 of subsection I of this section
 40 to the figure obtained in paragraph 2.

41 4. Add or subtract, as the case may be, the figure obtained in
 42 paragraph 3 to or from the figure obtained in paragraph 1.

43 5. Compare the figure obtained in paragraph 4 with the monies
 44 budgeted for maintenance and operation and if the total monies budgeted
 45 for maintenance and operation for the budget year is greater, reduce
 46 the budget amount so that it does not exceed the figure obtained in
 47 paragraph 4.

48 H. For the budget year 1974-75 and each budget year thereafter
 49 each district shall compute a budget cost level as follows:

50 1. For common school districts:

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- 1 (a) Multiply the number of state supported classrooms for the
2 budget year by the budget cost level per state supported classroom
3 for the current year.
- 4 (b) Subtract the basic support level per state supported class-
5 room for common school districts for the current year from the basic
6 support level per state supported classroom for common school districts
7 for the budget year.
- 8 (c) Multiply the difference obtained from subdivision (b) by
9 the number of state supported classrooms for the budget year.
- 10 (d) Add the product obtained in subdivision (a) to the product
11 obtained in subdivision (c).
- 12 2. For high school districts:
- 13 (a) Multiply the number of state supported classrooms for the
14 budget year by the budget cost level per state supported classroom for
15 the current year.
- 16 (b) Subtract the basic support level per state supported class-
17 room for high school districts for the current year from the basic
18 support level per state supported classroom for high school districts
19 for the budget year.
- 20 (c) Multiply the difference obtained from subdivision (b) by
21 the number of state supported classrooms for the budget year.
- 22 (d) Add the product obtained in subdivision (a) to the product
23 obtained in subdivision (c).
- 24 3. Add to the sum obtained in paragraph 1 or 2, as the case may
25 be, special budget increases computed in accordance with section
26 15-1202.02.
- 27 1. For the budget year 1974-75 and each year thereafter, the
28 aggregate school district budget limit shall be the sum of the following:
- 29 1. The budget cost level for the budget year.
- 30 2. The amount of budget increase authorized for the current or a
31 previous year subsequent to July 1, 1973 by a special election called
32 in accordance with the provisions of section 15-1202.01.
- 33 3. Distribution from the county school fund, section 15-1238 and
34 from the county school reserve fund, sections 15-1246 and 15-1247.
- 35 4. Federal assistance.
- 36 5. Tuition paid for attendance of nonresident pupils.
- 37 6. State impact assistance from section 15-1214.
- 38 7. Special grant monies from section 15-1242.
- 39 8. Special education assistance for exceptional children from
40 chapter 10, article 2.
- 41 9. Special English instruction assistance from chapter 10,
42 article 10.
- 43 10. Transportation levies and transportation aid specifically
44 authorized by law.
- 45 11. Capital outlay levies specifically authorized by law.
- 46 12. Any other budget item exempt from the budget cost level.
- 47 J. No expenditure shall be made by any school district for a
48 purpose not particularly itemized and included in the budget and no
49 expenditure shall be made and no debt, obligation, or liability shall
50 be incurred or created in any year for any purpose itemized in the

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1 budget in excess of the amount specified for such item irrespective of
2 whether the district at any time has received or has on hand funds in
3 excess of those required to meet the expenditures, debts, obligations
4 and liabilities provided for under such budget except pursuant to the
5 provision of section 15-1245.

6 K. When a new school district is created pursuant to the provi-
7 sions of law, the governing board shall adopt a budget in the form
8 prescribed by the state department of education, which will provide
9 funds sufficient for operation of the district during its first year,
10 but thereafter, such districts shall be subject to the provisions of
11 this article.

12 Sec. 3. Section 7 of Chapter 181, Laws of 1973, is amended to
13 read:

14 Sec. 7. Voucher for special education prior to district
15 program

16 A. Until the school year 1976-1977 or such earlier time as the
17 district of a pupil's residence provides a course of instruction for the
18 nonemotionally disturbed handicapped children for which such child is
19 eligible, the child, upon application of his parent or guardian to the
20 division of special education, shall have a voucher qualification level
21 equal to the state basic grant under section 15-1211 15-1212, Arizona
22 Revised Statutes, and the relevant category of state special education
23 assistance under section 15-1017, Arizona Revised Statutes.

24 B. The parent or guardian may present the voucher for such child
25 to any person, school or other institution within this state which offers
26 suitable special education instruction and supportive services approved
27 by the department of education, division of special education. IF NO
28 SUCH INSTRUCTION OR SUPPORTIVE SERVICES ARE OFFERED IN THIS STATE, THE
29 PARENT OR GUARDIAN MAY PRESENT THE VOUCHER FOR SUCH CHILD TO AN INSTI-
30 TUTION OUTSIDE THE STATE WHICH IS APPROVED BY THE DEPARTMENT OF EDUCATION,
31 DIVISION OF SPECIAL EDUCATION.

32 C. The voucher shall be valid as a payment of tuition and costs
33 of such instruction to the extent of the qualification level under
34 subsection A, but not in excess of the standard charge for tuition and
35 costs as applicable to any pupils of such instruction for whom no
36 voucher under this section is available.

37 Sec. 4. Emergency

38 To preserve the public peace, health and safety it is necessary
39 that this act become immediately operative. It is therefore declared
40 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 158
SENATE BILL 1255

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PROVIDING FOR ADDITIONAL MEMBERS ON STATE RETIREMENT SYSTEM BOARD AND PROVIDING FOR QUALIFICATIONS AND APPOINTMENTS; PROVIDING FOR CONTRIBUTIONS BY EMPLOYEE MEMBERS; PROVIDING FOR CONTRIBUTIONS BY STATE AND POLITICAL SUBDIVISIONS; PROVIDING FOR PROMULGATION OF CERTAIN RULES AND REGULATIONS; PROVIDING CONDITIONS OF INVESTMENT, AND AMENDING SECTIONS 38-742, 38-748, 38-749 AND 38-757, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-742, Arizona Revised Statutes, is amended
3 to read:

4 38-742. State retirement system board; qualifications;
5 term

6 A. There shall be a state retirement system board consisting of
7 ~~five~~ SEVEN members appointed by the governor pursuant to section 38-211.
8 ~~Two~~ FOUR members, ONE OF WHOM SHALL BE AN EDUCATOR, ONE OF WHOM SHALL BE
9 AN EMPLOYEE OF A POLITICAL SUBDIVISION OF THE STATE, ONE OF WHOM SHALL
10 BE A RETIREE MEMBER AND ONE OF WHOM SHALL BE AN EMPLOYEE OF THE STATE,
11 shall be appointed from among the employees of the system or the partic-
12 ipants of the plan to represent the employee members of the system and
13 three lay members shall be appointed to represent the public, ~~except~~
14 ~~that one~~ ONE of the SEVEN members shall also be a member of the invest-
15 ment advisory council. Each member shall have not less than five years
16 of administrative management experience. ~~Of the members first appointed,~~
17 ~~two shall be appointed for a term of one year and three members each for~~
18 ~~a term of two years.~~ A member may be reappointed. VACANCIES OCCURRING
19 OTHER THAN BY EXPIRATION OF TERM SHALL BE FILLED IN THE SAME MANNER FOR
20 THE BALANCE OF SUCH TERM. Upon the expiration of any term, a successor
21 shall be appointed for a full term of ~~two~~ THREE years which shall expire
22 on the third Monday in January of the appropriate year.

23 B. Board members shall receive necessary traveling expenses and
24 subsistence as provided by law for other state officers while away from
25 home on business of the board.

26 Sec. 2. Appointments; terms of office

27 Of the members appointed to the state retirement system board in
28 1975, one member who is a member of the investment advisory council and
29 one employee member who is an educator shall be appointed for terms

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1 expiring on the third Monday in 1977, and one lay member, one employee
2 member who is an employee of a political subdivision and one employee
3 member who is a retiree shall be appointed for terms expiring on the
4 third Monday in 1978.

5 Sec. 3. Section 38-748, Arizona Revised Statutes, is amended to
6 read:

7 38-748. Contributions by employee members

8 A. All employee members shall have deducted from each wage payment
9 ~~five~~ SEVEN per cent of total wages, which shall be paid to the system
10 for deposit in the system's depository.

11 B. Subject to regulation prescribed by the board any employee
12 member may elect to make lump sum contributions in an amount not exceed-
13 ing the amount the member has been required to contribute to his retire-
14 ment account at the time of the lump sum payment. Lump sum contributions
15 may be made at any time preceding one year prior to retirement.

16 C. Excess contributions shall be commingled and become a part of
17 the member's retirement account and shall be treated in the same manner
18 as required contributions, except that the employer of the member shall
19 not contribute matching amounts to the retirement account for such excess
20 contributions.

21 D. Each state department and employer member of the system in
22 accordance with board regulations shall certify on each payroll the
23 amount to be contributed by its employees and shall remit such amount
24 forthwith to the system on the respective payroll dates.

25 E. Payment of salaries or wages less such contributions as pro-
26 vided in this section shall be in full discharge of all claims and demands
27 whatever for the service rendered by the employee during the period
28 covered by such payment, except for the benefits afforded by this article.

29 F. THE BOARD SHALL IMMEDIATELY PROMULGATE RULES AND REGULATIONS
30 TO CONTROL THE ADMINISTRATION OF THIS SECTION, AS AMENDED. SUCH RULES
31 AND REGULATIONS SHALL TAKE EFFECT BEGINNING ON JULY 1, 1975.

32 Sec. 4. Section 38-749, Arizona Revised Statutes, is amended to
33 read:

34 38-749. Contributions by state; by political subdivisions

35 A. From the general fund there is appropriated on payroll dates
36 to the system for deposit in the system's depository the state's contri-
37 bution of the amount equal to ~~five~~ SEVEN per cent of wages paid employees
38 whose compensation is paid from the general fund.

39 B. Each state department paying salaries of its officers or
40 employees wholly or in part from funds received from other sources than
41 appropriations from the general fund is authorized and directed to pay
42 the state's contribution of the amount of ~~five~~ SEVEN per cent of wages
43 paid from such departmental funds. Such contribution shall be made on
44 payroll dates to the system for deposit in the system's depository. Per-
45 centage appropriation of department receipts paid into the general fund
46 shall be deemed funds from other sources than the general fund.

47 C. For employees whose membership in the system is established by
48 section 38-752, contributions by members under section 38-748, subsection
49 A, shall continue to be three and one-half per cent and contributions
50 by the political subdivision, under section 38-752, subsections A and C,

1 shall continue to be three and one-half per cent, unless the governing
 2 body of the political subdivision authorizes the five SEVEN per cent
 3 employer and employee contributions by approving a modification of the
 4 membership agreement between such governing body and the retirement
 5 board. The modification of the agreement shall commit employee contri-
 6 butions of five SEVEN per cent as provided by section 38-748, subsection
 7 A, and employer contributions in equal amounts shall be paid from funds
 8 of the political subdivision.

9 D. THE BOARD SHALL IMMEDIATELY PROMULGATE RULES AND REGULATIONS
 10 TO CONTROL THE ADMINISTRATION OF THIS SECTION, AS AMENDED. SUCH RULES
 11 AND REGULATIONS SHALL TAKE EFFECT BEGINNING ON JULY 1, 1975.

12 Sec. 5. Section 38-757, Arizona Revised Statutes, is amended to
 13 read:

14 38-757. Financing of retirement system; investment
 15 of funds; limitations

16 A. The investment management after investigation and study, shall
 17 determine the method of financing the retirement system established by
 18 this article to insure the greatest return commensurate with sound finan-
 19 cing policy and adequate safety. The investment management may invest
 20 and reinvest the monies in its accounts as authorized by this section
 21 and may hold, purchase, sell, assign, transfer and dispose of any of the
 22 securities and investments in which any of the monies of its accounts are
 23 invested, and, upon such sale, the proceeds thereof shall be redeposited
 24 in the system's depository subject to reinvestment.

25 B. Investment management may invest and reinvest the monies
 26 directed to it as follows:

27 1. Bonds or other evidences of indebtedness of the United States
 28 of America or any of its agencies or instrumentalities when such obliga-
 29 tions are guaranteed as to principal and interest by the United States
 30 of America or by any agency or instrumentality thereof.

31 2. Bonds or other evidences of indebtedness of any state of the
 32 United States, or of any of the counties or incorporated cities, towns
 33 or duly organized school districts of any state or territory of the
 34 United States.

35 3. Bonds, notes or evidences of indebtedness of any county,
 36 municipal or municipal district utility within the United States, which
 37 are payable from revenues or earnings specifically pledged for the pay-
 38 ment of the principal and interest on such obligations, and for the pay-
 39 ment of which a lawful sinking fund or reserve fund has been established
 40 and is being maintained, but only if no default in payment or principal
 41 or interest on the obligations to be purchased has occurred within five
 42 years of the date of investment therein, or, if such obligations were
 43 issued less than five years prior to the date of investment, no default
 44 in payment of principal or interest has occurred on the obligations to
 45 be purchased nor on any other obligations of the issuer within five years
 46 of such investment.

47 4. Bonds, notes or evidences of indebtedness issued by any muni-
 48 cipal improvement district in this or any other state to finance local
 49 improvements authorized by law, if the principal and interest of such
 50 obligations are payable from assessments on real property within such

1 local improvement district. No such investment shall be made unless the
2 face value of all such obligations, and similar obligations outstanding,
3 do not exceed fifty per cent of the market value of the real property
4 and improvements upon which such bonds or the assessments for the pay-
5 ment of principal and interest thereon are liens inferior only to the
6 liens for general ad valorem property taxes. No such investment shall
7 be made unless no default in payment of principal or interest on the
8 obligations to be purchased has occurred within five years of the date
9 of investment therein, or, if such obligations were issued less than
10 five years prior to the date of investment, no default in payment of
11 principal or interest has occurred on the obligations to be purchased
12 or on any other obligation of the issuer within five years of such invest-
13 ment.

14 5. (a) Bonds, debentures, notes and other evidences of indebted-
15 ness issued, assumed or guaranteed by any solvent institution created
16 or existing under the laws of the United States or of any state, district
17 or territory thereof, which are not in default as to principal or in-
18 terest and which are secured by collateral worth at least fifty per cent
19 more than the par value of the entire issue of such obligations, but only
20 if not more than one third of the total value of such required collateral
21 shall consist of common stock.

22 (b) Fixed interest bearing obligations which are not in default
23 as to principal or interest, other than those described in subdivision (a)
24 above, of such institutions if the net earnings of the issuing, assuming
25 or guaranteeing institution available for its fixed charges for a period
26 of five fiscal years next preceding the date of investment therein have
27 averaged per year not less than one and one-half times its average annual
28 fixed charges applicable to such period and if during either of the last
29 two years of such period such net earnings have been not less than one
30 and one-half times its fixed charges for such year.

31 6. Equipment trust obligations or certificates which in the
32 opinion of the investment management are adequately secured, or other
33 instruments so secured and evidencing an interest in transportation
34 equipment, wholly or in part within the United States, which carry the
35 right to receive determined portions of rental, purchase or other fixed
36 obligatory payments to be made for the use or purchase of such transpor-
37 tation equipment.

38 7. Preferred or guaranteed stock or shares of any solvent insti-
39 tution created or existing under the laws of the United States or of any
40 state, district or territory thereof, if all of the prior obligations and
41 prior preferred stocks, if any, of such institution at the date of acqui-
42 sition are eligible as investments under this subsection and if the net
43 earnings of such institution available for its fixed charges during
44 either of the last two years shall have been, and during each of the
45 last five years shall have averaged not less than one and one-half times
46 the sum of its average annual fixed charges, if any, its average annual
47 maximum contingent interest, if any, and its average annual preferred
48 dividend requirements. For the purposes of this paragraph, such computa-
49 tion shall refer to the fiscal years immediately preceding the date of
50 acquisition, and the term "preferred dividend requirement" shall be

1 deemed to mean cumulative or noncumulative dividends, whether paid or
2 not. The retirement system shall not invest more than four per cent
3 of its assets in the preferred stock of any one issuing company, nor
4 shall the aggregate of its investments under this paragraph exceed
5 twenty per cent of its assets.

6 8. Nonassessable, except for taxes or wages, common stocks or
7 shares of any solvent institution, created or existing under the laws of
8 the United States or of any state, district or territory thereof if all
9 the obligations and preferred stock, if any, of such institution are
10 eligible as investments under the provisions of this subsection, and if
11 such institution has earned, during a period of five fiscal years next
12 preceding the date of acquisition, an aggregate sum applicable to divi-
13 dends on its common shares equal at least to an aggregate sum which would
14 have been sufficient to pay dividends of four per cent per annum on the
15 par value, or in the case of shares having no par value, then upon the
16 value upon which those shares were issued, of all its common shares out-
17 standing during such period. The retirement system shall not, however,
18 invest more than four per cent of its assets in the common stock or
19 capital stock of any one issuing company, nor shall the aggregate of its
20 investments under the provisions of this paragraph, at a cost not to
21 exceed sixty per cent of its assets.

22 9. Term contracts of sale and lease purchase agreements issued,
23 agreed to or entered into by the federal government or any agency thereof
24 or by the state or any department, agency or duly constituted authority
25 of the state or a political subdivision thereof authorized by law to
26 enter into contracts and agreements for the acquisition of lands and
27 improvements thereon for public use, provided that such investments shall
28 be repaid to the system at the prevailing rate of interest for private
29 investments of a similar nature and that each such investment made by
30 the investment management does not exceed ninety per cent of the ap-
31 praised valuation of the property securing the investment loan.

32 10. Interest bearing savings accounts or certificates of deposit
33 in banks doing business in this state whose accounts are insured by the
34 Federal Deposit Insurance Corporation, but only if such deposits in
35 excess of the insured amount are secured by the depository to the same
36 extent and in the same manner as required by the general depository law
37 of the state.

38 11. Interest bearing savings accounts or certificates of deposit
39 in savings and loan associations doing business in this state, whose
40 accounts are insured by the Federal Savings and Loan Insurance Corpora-
41 tion, but only if such deposits in excess of the insured amount are
42 secured by the depository to the same extent and in the same manner as
43 required by the general depository law of the state.

44 12. Bonds, notes or other evidences of indebtedness which are
45 secured by first mortgages upon improved unencumbered real property
46 located in Arizona, but only upon condition that:

47 (a) No such mortgage loan acquired on any one property shall,
48 at the time of investment by the investment management, exceed seventy-
49 five per cent of the value of the real property securing the same, except
50 that such loan may equal the amount of any guaranty by the United States

1 of America or by any agency or instrumentality of the United States of
2 America.

3 (b) Each such mortgage loan shall provide for amortization pay-
4 ments to be made by the borrower on the principal thereof at least quar-
5 terly in each year in amounts sufficient to completely amortize the loan
6 within a period of twenty-five years, except that in the case of loans
7 guaranteed or insured by the United States of America or by any agency
8 or instrumentality of the United States of America, the amortization
9 schedule may not exceed that permitted by such guaranteed or insured loan.

10 (c) The value of the real property securing such mortgage loan
11 shall be as determined by an appraisal made by an accredited member of
12 a nationally recognized Real Estate appraisal organization and no such
13 mortgage loan shall be acquired except after such appraisal, except that
14 in the case of loans guaranteed or insured by the United States of
15 America or by any agency or instrumentality of the United States of
16 America, the value of the real property receiving such loan shall be as
17 determined by an appraiser approved by the guaranteeing or insuring
18 agency.

19 (d) No mortgage loan shall be originated or serviced by the sys-
20 tem but shall be acquired from and serviced by an approved mortgagee or
21 the federal housing administration doing business in Arizona.

22 (e) The aggregate of its investments under the provisions of this
23 paragraph shall not, at cost, exceed forty per cent of its assets.

24 13. In mutual funds, insurance company investment funds, commer-
25 cial paper and banker's acceptance. For the purpose of this paragraph:

26 (a) "Banker's acceptance" is a written unconditional order in the
27 form of a draft drawn on a bank for a period not to exceed one hundred
28 eighty days, requiring the bank to pay on demand a specified amount
29 which, when accepted by the bank, becomes the bank's promise to pay.

30 (b) "Commercial paper" means negotiable short term promissory
31 notes issued by a well known corporation borrower for any term up to two
32 hundred seventy days.

33 (c) "Mutual fund" means an open end investment company managing a
34 diversified portfolio in accordance with specified investment objectives.
35 Such company offers and has outstanding redeemable securities of which
36 it is the issuer. Seventy-five per cent of the assets of such mutual
37 fund shall be so invested that:

38 (i) Not more than five per cent of its assets is invested in any
39 one corporation.

40 (ii) Not more than ten per cent of the voting securities of any
41 corporation may be held by the mutual fund.

42 14. IN NOTES OR OTHER EVIDENCES OF INDEBTEDNESS OR IN LEASES UPON
43 REAL PROPERTY SITUATED IN THE STATE OF ARIZONA TO THE EXTENT SUCH NOTES,
44 EVIDENCES OF INDEBTEDNESS OR LEASES ARE GUARANTEED BY THE SMALL BUSINESS
45 ADMINISTRATION OF THE UNITED STATES GOVERNMENT. THE AGGREGATE OF ITS
46 INVESTMENTS UNDER THE PROVISIONS OF THIS PARAGRAPH SHALL NOT, AT COST,
47 EXCEED TEN PER CENT OF ITS ASSETS.

48 C. The system shall not have at any time any combination of invest-
49 ments in any one institution, agency, corporation or political subdivi-
50 sion aggregating an amount exceeding seven per cent of the assets of the

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1 retirement system, nor shall the system have any combination of equity
2 investments in any one industry exceeding fifteen per cent, excepting
3 electric and gas utilities, telephone communications, banking, finance
4 and insurance industries. In such excepted industries, the system shall
5 not have a combination of equity investments exceeding twenty-five per
6 cent in any one, nor collectively more than sixty per cent, of the total
7 equity assets of the retirement system. The latter percentages shall be
8 measured by cost or carrying value in the portfolio. This restriction
9 shall not apply to investments in general obligations of the United
10 States of America.

11 Sec. 6. Emergency

12 To preserve the public peace, health and safety it is necessary
13 that this act become immediately operative. It is therefore declared
14 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

CHAPTER 159

SENATE BILL 1247

AN ACT

RELATING TO BANKS; PROVIDING FOR DISCLOSURE OF CERTAIN TRUST INFORMATION TO CERTAIN LAW ENFORCEMENT OFFICERS; PROVIDING FOR CONFIDENTIALITY OF DISCLOSED INFORMATION; PROVIDING FOR DISCLOSURE TO THE SUPERINTENDENT OR TO ANY STATE OR FEDERAL ADMINISTRATIVE AGENCY; REPEALING THE BLIND TRUST LAW; REPEALING SECTION 6-860, ARIZONA REVISED STATUTES, AND AMENDING TITLE 6, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 6-860.

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

2 Section 1. Repeal

3 Section 6-860, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 6, chapter 8, article 1, Arizona Revised Statutes,
5 is amended by adding a new section 6-860, to read:

6 6-860. Duty of trustee to produce trust records
7 for inspection

8 A. ANY TRUSTEE SHALL PRODUCE FOR INSPECTION ANY TRUST RECORDS CON-
9 CERNING THE ASSETS, EXISTENCE, CONDITION, MANAGEMENT AND ADMINISTRATION
10 AND THE NAMES OF THE PARTIES, INCLUDING ANY OR ALL BENEFICIARIES, OF ANY
11 TRUST OF WHICH HE OR SHE IS THE TRUSTEE, TO ANY PEACE OFFICER OR LOCAL,
12 STATE OR FEDERAL LAW ENFORCEMENT AGENCY, PROVIDED SUCH PERSON REQUESTING
13 INFORMATION SIGNS AND SUBMITS A SWORN STATEMENT TO THE TRUSTEE THAT THE
14 REQUEST IS MADE IN THE LAWFUL PERFORMANCE OF SUCH PERSON'S DUTIES. THE
15 PEACE OFFICER OR LOCAL, STATE OR FEDERAL LAW ENFORCEMENT AGENCY SHALL BE
16 PROHIBITED FROM USING OR RELEASING SAID INFORMATION EXCEPT IN THE PROPER
17 PERFORMANCE OF HIS OR HER DUTIES.

18 B. ANY TRUSTEE SHALL PRODUCE FOR INSPECTION REQUIRED BY LAW ANY
19 TRUST RECORDS OF ANY TRUST OF WHICH HE OR SHE IS THE TRUSTEE TO THE
20 SUPERINTENDENT OR TO ANY STATE OR FEDERAL ADMINISTRATIVE AGENCY LAWFULLY
21 REQUIRING SUCH DISCLOSURE. THE SUPERINTENDENT OR ANY STATE OR FEDERAL
22 ADMINISTRATIVE AGENCY SHALL BE PROHIBITED FROM USING OR RELEASING SAID
23 INFORMATION EXCEPT IN THE PROPER PERFORMANCE OF HIS OR HER DUTIES.

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1 Sec. 3. Emergency

2 To preserve the public peace, health and safety it is necessary
3 that this act become immediately operative. It is therefore declared
4 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 160
HOUSE BILL 2240

AN ACT

RELATING TO WATER; PROVIDING AUTHORIZATION FOR FLOOD CONTROL ASSISTANCE,
AND MAKING AN APPROPRIATION TO THE ARIZONA WATER COMMISSION FOR FLOOD
CONTROL ASSISTANCE.

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

2 Section 1. Project authorization

3 The New River and Phoenix city streams, phase B, flood control
4 program is authorized to be eligible for flood control assistance
5 pursuant to title 45, chapter 14, article 1, Arizona Revised Statutes.

6 Sec. 2. Appropriation; purpose; exemption

7 A. The sum of one hundred seventy-six thousand dollars is
8 appropriated to the Arizona water commission for disbursement on
9 authorized flood control projects pursuant to title 45, chapter 14,
10 article 1, Arizona Revised Statutes.

11 B. The appropriation made by this act is exempt from the pro-
12 visions of section 35-190, Arizona Revised Statutes, relating to
13 lapsing of appropriations.

14 Sec. 3. Emergency

15 To preserve the public peace, health and safety it is necessary
16 that this act become immediately operative. It is therefore declared
17 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 161
HOUSE BILL 2086

AN ACT

MAKING AN APPROPRIATION TO THE FUND MANAGER OF THE PUBLIC SAFETY PERSONNEL
RETIREMENT SYSTEM FOR DEPOSIT TO THE PUBLIC SAFETY PERSONNEL RETIREMENT
FUND.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Appropriation; purpose
3 A. The sum of forty-four thousand two hundred twenty dollars is
4 appropriated to the fund manager of the public safety personnel retirement
5 system to be immediately deposited in the public safety personnel retire-
6 ment fund and to be used only for the purpose provided in this section.
7 B. The sum appropriated in subsection A of this section shall be
8 used only for the fiscal year that begins July 1, 1975, for payment of
9 a cost of living increase of five per cent in the rate of payments pay-
10 able to retirees who were receiving retirement benefits on June 30, 1968
11 under any of the three prior retirement systems as referred to in section
12 38-841, Arizona Revised Statutes. The increase in benefits provided in
13 this section shall be based on the retirement benefits that such retirees
14 are receiving under any of such three prior systems on the effective date
15 of this act.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 162
HOUSE BILL 2421

AN ACT

RELATING TO STATE GOVERNMENT; PROVIDING FOR AN ARIZONA DRUG CONTROL DISTRICT AND AN ARIZONA DRUG CONTROL DISTRICT COORDINATING COUNCIL; PRESCRIBING MEMBERSHIP, COMPENSATION AND MEETINGS; PROVIDING THAT GOVERNOR MAY ACCEPT FUNDS ON BEHALF OF THE DISTRICT; PROVIDING THAT FUNDS RECEIVED ON BEHALF OF THE DISTRICT SHALL BE DEPOSITED IN SPECIAL FUND; PRESCRIBING POWERS AND DUTIES; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 16; MAKING AN APPROPRIATION; MAKING A CONDITIONAL APPROPRIATION, AND PROVIDING FOR AN EXPIRATION DATE.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 41, Arizona Revised Statutes, is amended by
3 adding chapter 16, to read:

4 CHAPTER 16

5 DRUG CONTROL DISTRICTS

6 ARTICLE 1. ARIZONA DRUG CONTROL DISTRICT

7 41-2151. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 9 1. "ADMINISTRATOR" MEANS THE COUNTY ATTORNEY OF ONE OF THE
10 COUNTIES COMPOSING THE DISTRICT APPOINTED BY THE GOVERNOR.
11 2. "COUNCIL" MEANS THE COORDINATING COUNCIL FOR THE DISTRICT.
12 3. "DISTRICT" MEANS THE ARIZONA DRUG CONTROL DISTRICT.

13 41-2152. Arizona drug control district; coordinating
14 council; purpose; membership; compensation

15 A. THERE IS ESTABLISHED AN ARIZONA DRUG CONTROL DISTRICT COMPOSED
16 OF COCHISE, PIMA, SANTA CRUZ AND YUMA COUNTIES FOR THE PURPOSE OF OPER-
17 ATING A CONTINUING STRIKE FORCE AGAINST VIOLATIONS OF THIS STATE'S
18 NARCOTICS AND DRUG CONTROL LAWS.

1 B. THERE IS ESTABLISHED A COORDINATING COUNCIL COMPOSED OF THE
2 FOUR SHERIFFS AND COUNTY ATTORNEYS OF THE COUNTIES IN THE DISTRICT,
3 THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY AND THE FOLLOWING
4 PERSONS, OR IN THE ABSENCE OF ANY OF THEM SUCH PERSON'S REPRESENTATIVE:

- 5 1. THE GOVERNOR, SERVING AS CHAIRMAN OF THE COUNCIL.
- 6 2. THE ATTORNEY GENERAL.
- 7 3. THE SPEAKER OF THE ARIZONA HOUSE OF REPRESENTATIVES.
- 8 4. THE PRESIDENT OF THE ARIZONA SENATE.

9 C. IF AT ANY TIME THE MAJORITY OF THE COUNCIL MEMBERS DETERMINE
10 THAT AN ADDITIONAL COUNTY OR COUNTIES SHOULD BE INCLUDED WITHIN THE
11 ARIZONA DRUG CONTROL DISTRICT, THE SHERIFFS AND THE COUNTY ATTORNEYS OF
12 SUCH COUNTIES SHALL BECOME MEMBERS OF THE COUNCIL.

13 D. MEMBERS OF THE COUNCIL AND THE ADMINISTRATOR SHALL RECEIVE NO
14 COMPENSATION BUT SHALL RECEIVE REIMBURSEMENT FOR EXPENSES PURSUANT TO
15 TITLE 38, CHAPTER 4, ARTICLE 2.

16 E. THE COUNCIL SHALL MEET NOT LESS THAN TWO TIMES EACH YEAR, OR
17 ON THE CALL OF THE GOVERNOR. A QUORUM OF THE COUNCIL IS NECESSARY FOR
18 CONDUCTING ITS BUSINESS.

19 F. THE GOVERNOR ON BEHALF OF THE DISTRICT MAY ACCEPT CONTRIBUTIONS,
20 GRANTS, GIFTS, DONATIONS, SERVICES OR OTHER FINANCIAL ASSISTANCE FROM ANY
21 INDIVIDUAL, ASSOCIATION, CORPORATION OR OTHER ORGANIZATION HAVING AN IN-
22 TEREST IN THE WORK OF THE DISTRICT, AND FROM THE UNITED STATES OF AMERICA
23 AND ANY OF ITS AGENCIES OR INSTRUMENTALITIES, CORPORATE OR OTHERWISE.
24 SUCH MONIES SHALL BE DEPOSITED IN THE FUND CREATED BY SECTION 41-2154.

25 G. MEMBERSHIP ON THE COUNCIL SHALL NOT CONSTITUTE THE HOLDING OF
26 AN OFFICE, AND MEMBERS OF THE COUNCIL SHALL NOT BE REQUIRED TO TAKE AND
27 FILE OATHS OF OFFICE BEFORE SERVING ON THE COUNCIL. NO MEMBER OF THE
28 COUNCIL SHALL BE DISQUALIFIED FROM HOLDING ANY PUBLIC OFFICE OR EMPLOY-
29 MENT BY REASON OF SERVING ON THE COUNCIL, NOTWITHSTANDING THE PROVISIONS
30 OF ANY GENERAL, SPECIAL OR LOCAL LAW, ORDINANCE OR CITY CHARTER.

31 41-2153. Powers and duties

32 A. THE COUNCIL SHALL ESTABLISH PROCEDURES, RULES AND REGULATIONS
33 FOR THE FUNCTIONING OF THE DISTRICT, AS PROVIDED BY THIS TITLE AND SHALL
34 APPROVE ALL EXPENDITURES MADE BY THE ADMINISTRATOR.

35 B. THE ADMINISTRATOR, UNDER THE SUPERVISION OF THE COUNCIL, SHALL:

36 1. ASSIST IN THE INVESTIGATION AND PROSECUTION THROUGHOUT THE
37 DISTRICT OF VIOLATIONS OF THE NARCOTICS AND DRUG ABUSE LAWS OF THIS STATE.
38 SUCH ASSISTANCE MAY INCLUDE, BUT IS NOT LIMITED TO, TECHNICAL, TRAINING,
39 PROSECUTION, MANPOWER AND FINANCIAL ASSISTANCE AND USE OF THE DISTRICT'S
40 PHYSICAL RESOURCES.

41 2. COOPERATE WITH LOCAL, COUNTY, STATE AND FEDERAL AUTHORITIES
42 ENGAGED IN ENFORCEMENT OF NARCOTICS AND DRUG ABUSE LAWS IN CARRYING OUT
43 THE PURPOSES OF THIS CHAPTER. SUCH LOCAL, COUNTY AND STATE AUTHORITIES
44 MAY LEND ASSISTANCE AND PERSONNEL TO THE ADMINISTRATOR AND DISTRICT, WHEN
45 POSSIBLE. STATE, COUNTY AND LOCAL AUTHORITIES MAY AUTHORIZE DESIGNATED
46 REPRESENTATIVES OF THE DISTRICT TO ENGAGE IN INVESTIGATION AND PROSECUTION
47 OF SUCH NARCOTICS AND DRUG ABUSE LAWS. SUCH DESIGNATED REPRESENTATIVES
48 MAY BE PERSONS RESIDING WITHIN OR WITHOUT THE DISTRICT OR THIS STATE.

49 3. RENT, LEASE OR PURCHASE EQUIPMENT AND FACILITIES NECESSARY FOR
50 CARRYING OUT THE PURPOSES OF THIS CHAPTER.

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1 4. DIRECT THE ACTIVITIES OF PERSONNEL ASSIGNED TO THE DISTRICT BY
2 LOCAL, COUNTY OR STATE AUTHORITIES.

3 5. EMPLOY AND DIRECT THE ACTIVITIES OF PERSONNEL NECESSARY TO
4 CARRY OUT THE DUTIES OF THE DISTRICT.

5 41-2154. Special fund

6 ALL FUNDS RECEIVED ON BEHALF OF THE DISTRICT SHALL BE DEPOSITED
7 IN A SPECIAL FUND ESTABLISHED BY THE STATE TREASURER TO BE EXPENDED
8 UNDER THE SUPERVISION OF THE COUNCIL TO EFFECTUATE THE PROVISIONS AND
9 PURPOSES OF THIS CHAPTER, EXCEPT THAT SUCH MONIES NOT IMMEDIATELY
10 REQUIRED MAY BE INVESTED BY THE STATE TREASURER IN A LIKE MANNER AS
11 ANY OTHER PUBLIC MONIES. ALL AMOUNTS TO BE PAID FROM THE FUND SHALL
12 BE ON WARRANTS DRAWN BY THE ASSISTANT DIRECTOR FOR THE DIVISION OF
13 FINANCE UPON PRESENTATION OF A PROPER CLAIM OR VOUCHER APPROVED AND
14 SIGNED BY THE ADMINISTRATOR. THE FUND SHALL BE AUDITED ANNUALLY BY
15 THE STATE AUDITOR GENERAL.

16 Sec. 2. Appropriation

17 A. The sum of five hundred thousand dollars is appropriated to
18 the governor for distribution to the administrator of the Arizona drug
19 control district to carry out the purposes of this chapter.

20 B. In the event the amount of money deposited in the state general
21 fund from the settlement of master file Civil No. 50173, known as the
22 Western Liquid Asphalt Cases, in the United States District Court for
23 the Northern District of California, and specifically cause No. 51092
24 entitled State of Arizona, et al, plaintiffs, vs. American Petrofina,
25 Inc., et al, defendants, is equal to or exceeds one hundred sixty-two
26 thousand dollars, an additional one hundred sixty-two thousand dollars
27 is appropriated to the governor for distribution as specified in sub-
28 section A of this section.

29 Sec. 3. Expiration date

30 The provisions of this chapter shall expire on July 1, 1980.

31 Sec. 4. Emergency

32 To preserve the public peace, health and safety it is necessary
33 that this act become immediately operative. It is therefore declared to
34 be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 163
HOUSE BILL 2327

AN ACT

RELATING TO EDUCATION; AUTHORIZING THE ARIZONA BOARD OF REGENTS TO ACQUIRE AND REMODEL THE STADIUMS AT THE UNIVERSITY OF ARIZONA AND ARIZONA STATE UNIVERSITY, AND ACQUIRE, CONSTRUCT, EQUIP, FURNISH AND MAINTAIN ADDITIONS THERETO; AND TO ACQUIRE AND CONSTRUCT AN ENCLOSED MULTIPURPOSE STADIUM-FIELDHOUSE AND PHYSICAL EDUCATION FACILITY AT NORTHERN ARIZONA UNIVERSITY; AND INCLUDING ACCESS AND PARKING THEREFOR AND EXTENSION OF HEATING, LIGHTING AND OTHER SERVICE FACILITIES IN CONNECTION THEREWITH; AND FOR SUCH PURPOSES TO ACCEPT GIFTS, TO BORROW MONEY AND ISSUE BONDS, TO REFUND BONDS ISSUED FOR SUCH INSTITUTIONS, TO PROVIDE FOR THE PAYMENT AND SECURITY OF ALL BONDS ISSUED, AND TO PERFORM NECESSARY OR CONVENIENT ACTS IN CONNECTION WITH SUCH PROJECTS, AND AMENDING LAWS 1974, CHAPTER 171, SECTIONS 1, 2, 3 AND 5.

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

2 Section 1. Laws 1974, chapter 171, section 1, is amended to
3 read:

4 Section 1. Definitions

5 In this act, unless the context otherwise requires:

6 1. "Acquire" includes to purchase, erect, build, construct,
7 reconstruct, raze, remodel, repair, replace, alter, extend, expand,
8 better, equip, furnish, develop, improve, and embellish a project, and
9 the acquisition, preparation and development of sites therefor.

10 2. "Board" means the Arizona board of regents or its successor.

11 3. "Bonds" means any revenue bonds issued pursuant to this act.

12 4. "Federal agency" means the United States of America, the
13 president of the United States of America, the department of housing
14 and urban development, or any other agency or agencies of the United
15 States of America as may be designated or created to make loans or
16 grants or both.

17 5. "Institution" or "university" means the university of Arizona,
18 located at Tucson, Arizona, Arizona state university located at Tempe,

1 Arizona or northern Arizona university located at Flagstaff, Arizona,
2 under the jurisdiction and control of the board or its successor.

3 6. "Project" means and includes the acquisition and remodeling
4 of the stadium STADIUMS at the university of Arizona AND ARIZONA STATE
5 UNIVERSITY and the construction of parts thereof, and additions and
6 extensions thereto at the institution and parking therefor; heating,
7 lighting, and other service facilities in connection therewith, including
8 sewer and other utility systems, or parts thereof, or extensions thereto;
9 and equipment and furnishings therefor, AND ALSO MEANS AND INCLUDES
10 THE ACQUISITION AND CONSTRUCTION OF AN ENCLOSED MULTIPURPOSE STADIUM-
11 FIELDHOUSE AND PHYSICAL EDUCATION FACILITY AT NORTHERN ARIZONA UNIVERSITY,
12 AND ADDITIONS AND EXTENSIONS THERETO, AND PARKING AND ACCESS THEREFOR;
13 HEATING, LIGHTING AND OTHER SERVICE FACILITIES IN CONNECTION THERewith,
14 INCLUDING SEWER AND OTHER UTILITY SYSTEMS, OR PARTS THEREOF, OR EXTEN-
15 SIONS THERETO; AND EQUIPMENT AND FURNISHINGS THEREFOR. ~~and includes~~
16 ~~any and all other purposes for which revenue bonds may be issued by~~
17 ~~the board of regents for any of the universities.~~

18 Sec. 2. Laws 1974, chapter 171, section 2, is amended to read:

19 Sec. 2. Powers

20 The board shall have power for any such EACH university to:

21 1. Acquire any A project, and to own, operate and maintain the
22 same.

23 2. Acquire by purchase, contract, lease, gift or the exercise of
24 eminent domain, and hold or dispose of, real or personal property or
25 rights or interest therein intended solely toward the construction,
26 remodeling, equipping and furnishing of such project.

27 3. Accept grants, subsidies or loans of money or materials or
28 property of any kind from a federal agency, or others, upon such terms
29 and conditions as may be imposed, and to pledge the proceeds of grants,
30 subsidies or loans of money received, or to be received, from the United
31 States of America or any agency or instrumentality thereof, or others,
32 pursuant to agreements entered into between such board and the United
33 States of America or any agency or instrumentality thereof, or others.

34 4. Borrow money and issue bonds to acquire such A project, and
35 to refund bonds heretofore or hereafter issued to acquire any A project,
36 and to refund any such refunding bonds, or for any one, or more than one,
37 or all of such purposes, or any combination thereof, and to provide for
38 the security and payment of such bonds and for the rights of the holders
39 thereof.

40 5. Make contracts and leases and execute all instruments and
41 perform all acts and do all things necessary or convenient to carry out
42 the powers granted in this act.

43 6. Retain in its treasury:

44 (a) All monies received from the sale of all bonds issued under
45 this act,

46 (b) All fees, rentals and other charges from students, faculty,
47 staff members and others using or being served by, or having the right
48 to use or the right to be served by, or to operate, such A project,

49 (c) All fees for student activities, student services, and all
50 other fees collected from students matriculated, registered or otherwise

1 enrolled at and attending said university pledged under the terms of any
2 resolution authorizing bonds pursuant to this act, and

3 (d) All rentals from any A project leased to the United States
4 of America, or others.

5 Sec. 3. Laws 1974, chapter 171, section 3, is amended to read:

6 Sec. 3. Issuance of bonds

7 The board shall have power, and is hereby authorized from time to
8 time, to issue negotiable bonds in various amounts but not exceeding in
9 the aggregate principal amount the sum of five SIX million ~~five-hundred~~
10 ~~thousand~~ dollars for the university of Arizona, ~~five SIX million five~~
11 ~~hundred-thousand~~ dollars for Arizona state university and ~~three SIX~~
12 ~~million five-hundred-thousand~~ dollars for northern Arizona university:

- 13 1. To acquire any A project for any-such EACH university,
- 14 2. To refund bonds heretofore and hereinafter issued to acquire
15 any A project for any-such EACH university as hereafter provided for,
- 16 3. To refund any such refunding bonds,
- 17 4. For any one, or more than one, or all of such purposes, or any
18 combination thereof.

19 All bonds shall be authorized by resolution of the board, subject to final
20 approval by the joint legislative budget committee, and may be issued in
21 one or more series, may bear such date or dates, may be in such denomina-
22 tion or denominations, may mature at such time or times not exceeding
23 forty years from the respective dates thereof, may mature in such amount
24 or amounts, may bear interest at such rate or rates not to exceed ten
25 per cent payable at such time or times, semi-annually, may be in such
26 form, either coupon or registered as to principal only or as to both
27 principal and interest, may carry such registration privileges, includ-
28 ing the conversion of a fully registered bond to a coupon bond or bonds
29 and the conversion of a coupon bond or bonds to a fully registered bond,
30 may be executed in such manner, may be made payable in such medium
31 of payment, at such place or places within or without the state, may be
32 subject to such terms of redemption prior to their expressed maturity,
33 with or without premium, as such resolution or other resolutions
34 may provide. All bonds issued under this act shall be sold as the board
35 shall determine. Such resolution may provide that one of the officers
36 of the board shall sign such bonds manually and that the other signatures
37 may be printed, lithographed, engraved or otherwise reproduced thereon.
38 The coupon bonds shall be fully negotiable within the meaning of the
39 uniform commercial code, chapter 14, title 44, Arizona Revised Statutes,
40 as amended.

41 Sec. 4. Laws 1974, chapter 171, section 5, is amended to read:

42 Sec. 5. Security of bonds

43 ~~A. Notwithstanding any other provisions of law, including any~~
44 ~~other provisions in this act, no fees required to be paid by any students~~
45 ~~may be increased for the purpose of securing payment of any bonds issued~~
46 ~~pursuant to this act.~~

47 B. In connection with the issuance of any bonds under this act,
48 and in order to secure the payment of any such bonds and the interest
49 thereon, the board shall have power for such EACH university:

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1 1. To fix, maintain and collect:

2 (a) Fees, rentals and other charges from students, faculty, staff
3 members and others using or being served by, or having the right to use
4 or the right to be served by, or to operate, such A project,

5 (b) Fees for student activities, student services, and all other
6 fees from students matriculated, registered or otherwise enrolled at and
7 attending such EACH university, and

8 (c) Rentals from any facility or building leased to the United
9 States of America, or others; the aggregate of which shall be sufficient
10 at all times to pay the bonds at maturity and accruing interest thereon
11 in accordance with their terms, and to create and maintain all reserves
12 therefor as provided by the resolution authorizing such bonds, and to
13 pay all necessary expenses of the operation and maintenance of such
14 project.

15 2. To provide that bonds issued under this act shall be payable
16 from and secured by a pledge of and lien on all or part of the income
17 and revenues derived from, and to pledge and assign to, or in trust for
18 the benefit of, the holder or holders of bonds issued under this act
19 all or any part of the income and revenues derived from:

20 (a) Fees, rentals and other charges from students, faculty, staff
21 members and others using or being served by, or having the right to use
22 or the right to be served by, or to operate, such project,

23 (b) Fees for student activities, student services, and all other
24 fees collected from students matriculated, registered or otherwise
25 enrolled at and attending such EACH university, and

26 (c) Rentals from any facility or building leased to the United
27 States of America, or others; provided that, if such board provides that
28 any bonds issued under this act shall also be payable from the income
29 and revenues of any project heretofore acquired for such EACH university,
30 any such provision for the payment of such bonds from the income and
31 revenues of any such project heretofore acquired for such EACH univer-
32 sity shall be subject to, and in all respects in full conformity and
33 compliance with, the rights of the holders of any bonds or obligations
34 payable from the income and revenues of any such project heretofore
35 issued for such EACH university and then outstanding.

36 3. To covenant with or for the benefit of the holder or holders
37 of the bonds issued under this act that so long as any such bonds shall
38 remain outstanding and unpaid the board will fix, maintain and collect
39 in such installments as may be agreed upon:

40 (a) Fees, rentals and other charges from students, faculty, staff
41 members and others using or being served by, or having the right to
42 use or the right to be served by, or to operate such project,

43 (b) Fees for student activities, student services, and all other
44 fees from students matriculated, registered or otherwise enrolled at
45 and attending such EACH university pledged under the terms of any resolu-
46 tion authorizing bonds pursuant to this act, and

47 (c) Rentals from any facility or building leased to the United
48 States of America, or others; the aggregate of which shall be sufficient
49 at all times to pay the bonds at maturity and accruing interest thereon
50 in accordance with their terms, and to create and maintain all reserves

1 therefor as provided by the resolution authorizing such bonds, until
2 such bonds and accruing interest have been paid in accordance with their
3 terms, and to pay all necessary expenses of the operation and maintenance
4 of any project.

5 4. To covenant with or for the benefit of the holder or holders
6 of bonds issued under this act as to all matters deemed advisable by the
7 board, including:

8 (a) The purposes, terms and conditions for the issuance of addi-
9 tional parity or junior lien bonds that may thereafter be issued, and
10 for the payment of the principal, redemption premiums, and interest on
11 such bonds.

12 (b) The kind and amount of all insurance to be carried, the cost
13 of which shall be charged as an operation and maintenance expense of
14 such project.

15 (c) The operation, maintenance and management of such project to
16 assure the maximum use and occupancy thereof; the accounting for, and
17 the keeping of records, reports and audits of, all income and revenue
18 from, and all expenses of, such project; and the employment of engineers
19 and consultants.

20 (d) The obligation of the board to maintain such project in good
21 condition and to operate the same at all times in an economical and
22 efficient manner.

23 (e) The terms and conditions for creating and maintaining sinking
24 funds, reserve funds, and such other special funds as may be created in
25 the resolution authorizing such bonds, separate and apart from all other
26 funds and accounts of such board and such university.

27 (f) The procedure by which the terms of any contract with the
28 holders of the bonds may be amended, the amount of the bonds the holders
29 of which must consent thereto, and the manner in which consent may be
30 given.

31 (g) Providing the procedure for refunding such bonds.

32 (h) Such other covenants as may be deemed necessary or desirable
33 to assure a successful operation of such project and the prompt payment
34 of the principal of and interest upon the bonds so authorized.

35 5. To make and enforce and agree to make and enforce parietal
36 rules that shall insure the use of such project to the maximum extent
37 to which the same is capable of serving students, faculty, staff members
38 and others using or being served by, or having the right to use or the
39 right to be served by, or to operate, such project.

40 6. To covenant that so long as any of the bonds issued under
41 this act shall remain outstanding and unpaid, it will not, except upon
42 such terms and conditions as may be determined:

43 (a) Voluntarily create or cause to be created any debt, lien,
44 mortgage, pledge, assignment, encumbrance or other charge having priority
45 to the lien of the bonds issued under this act upon any of the income
46 and revenues derived from:

47 (1) All fees, rentals and other charges from students, faculty,
48 staff members and others using or being served by, or having the right
49 to use or the right to be served by, or to operate, such project.
50

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1 (ii) Fees for student activities, student services, and all other
2 fees collected from students matriculated, registered or otherwise
3 enrolled at and attending such university, and

4 (iii) All rentals from any facility or building leased to the
5 United States of America, or others.

6 (b) Convey or otherwise alienate such project or the real estate
7 upon which such project shall be located, except at a price sufficient
8 to pay all the bonds issued for such project then outstanding and
9 interest accrued thereon, and then only in accordance with any agreements
10 with the holder or holders of such bonds.

11 7. To vest in a trustee or trustees the right to receive all or
12 any part of the income and revenue pledged and assigned to, or for the
13 benefit of the holder or holders of bonds issued under this act, and to
14 hold, apply and dispose of the same and the right to enforce any covenant
15 made to secure or pay or in relation to the bonds; execute and deliver a
16 trust agreement or trust agreements which may set forth the powers and
17 duties and remedies available to such trustee or trustees and limiting
18 the liabilities thereof and describing what occurrences shall constitute
19 events of default and prescribing the terms and conditions upon which
20 such trustee or trustees or the holder or holders of any specified amount
21 or percentage of such bonds may exercise such rights and enforce any
22 and all such covenants and resort to such remedies as may be appropriate.

23 8. To covenant to perform any and all acts and to do any and all
24 such things as may be necessary or convenient or desirable in order to
25 secure its bonds, or as may in the judgment of the board tend to make
26 the bonds more marketable, notwithstanding that such acts or things may
27 not be enumerated herein, it being the intention hereof to give the
28 board issuing bonds pursuant to this act power to make all covenants, to
29 perform all acts and to do all things not inconsistent with the consti-
30 tution of the state of Arizona.

31 Sec. 5. Emergency

32 To preserve the public peace, health and safety it is necessary
33 that this act become immediately operative. It is therefore declared
34 to be an emergency measure, to take effect as provided by law.

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36 *Approved by the Governor - June 18, 1975*

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38 *Filed in the office of the Secretary of State - June 19, 1975*
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State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 164
HOUSE BILL 2239

AN ACT

RELATING TO LIVESTOCK AND ANIMALS; GRANTING COUNTY BOARD OF SUPERVISORS
AUTHORITY TO CONTRACT FOR ENFORCEMENT OF CITY AND TOWN ORDINANCES
ON DOG CONTROL; PRESCRIBING POWERS AND DUTIES OF COUNTY ENFORCEMENT
AGENT; PROVIDING FOR LICENSING, IMPOUNDING AND DESTRUCTION OF CERTAIN
ANIMALS; PROVIDING THAT OWNER OR PERSON RESPONSIBLE FOR A DOG IS LIABLE
FOR DAMAGES BY THE DOG; AMENDING SECTIONS 24-361, 24-362, 24-364, 24-365,
24-366, 24-367, 24-368, 24-370, 24-371 AND 24-372, ARIZONA REVISED
STATUTES, AND AMENDING TITLE 24, CHAPTER 2, ARTICLE 8, ARIZONA REVISED
STATUTES, BY ADDING SECTION 24-378.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 24-361, Arizona Revised Statutes, is amended
3 to read:
4 24-361. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Animal" means any animal of a species that is susceptible to
7 rabies, EXCEPT MAN.
8 2. "AT LARGE" MEANS BEING NEITHER CONFINED BY AN ENCLOSURE NOR
9 PHYSICALLY RESTRAINED BY A LEASH.
10 2. 3. "County board of health" means the duly constituted board
11 of health of each county.
12 3. 4. "County enforcement agent" means that person in each
13 county who is responsible for the enforcement of this article and the
14 regulations promulgated thereunder.
15 4. 5. "County pound" means any establishment authorized by the
16 county board of supervisors for the confinement, maintenance, safekeep-
17 ing and control of dogs and other animals that come into the custody of
18 the county enforcement agent in the performance of his official duties.
19 5. 6. "Department" means the department of health services.

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1 restricting or involving the movements of livestock within that area
2 shall be subject to approval by the state veterinarian.

3 Sec. 4. Section 24-365, Arizona Revised Statutes, is amended to
4 read:

5 24-365. Powers and duties of board of supervisors

6 A. Each county board of supervisors may:

7 1. Designate or employ a county enforcement agent. If such
8 designation or employment is not made within ten days after the effec-
9 tive date of this article, the county sheriff shall be the county
10 enforcement agent, but nothing in this article shall be deemed to
11 prevent the county board of supervisors from designating or employing
12 a county enforcement agent at any time it is deemed necessary or
13 advisable.

14 2. Provide the county enforcement agent with such personnel and
15 equipment as is necessary to enforce the provisions of this article and
16 the regulations promulgated thereunder.

17 3. ~~CONTRACT WITH ANY CITY OR TOWN TO ENFORCE THE PROVISIONS OF~~
18 ~~ANY ORDINANCE ENACTED BY SUCH CITY OR TOWN FOR THE CONTROL OF DOGS.~~

19 B. Each county board of supervisors may establish pound fees for
20 impounding and maintaining animals at the county pound.

21 Sec. 5. Section 24-366, Arizona Revised Statutes, is amended to
22 read:

23 24-366. Powers and duties of county enforcement agent

24 A. The county enforcement agent shall:

25 1. Enforce the provisions of this article, and the regulations
26 promulgated thereunder AND MUNICIPAL ORDINANCES WHICH THE BOARD OF
27 SUPERVISORS HAS CONTRACTED TO ENFORCE.

28 2. Issue citations for the violation of the provisions of this
29 article, and the regulations promulgated thereunder AND MUNICIPAL
30 ORDINANCES WHICH THE BOARD OF SUPERVISORS HAS CONTRACTED TO ENFORCE.
31 THE PROCEDURE FOR THE ISSUANCE OF NOTICES TO APPEAR SHALL BE AS PROVIDED
32 FOR PEACE OFFICERS IN SECTION 13-1422, EXCEPT THAT THE ENFORCEMENT AGENT
33 SHALL NOT MAKE AN ARREST BEFORE ISSUING THE NOTICE.

34 B. The county enforcement agent may designate deputies.

35 Sec. 6. Section 24-367, Arizona Revised Statutes, is amended to
36 read:

37 24-367. License fees for dogs; issuance of dog tags;
38 records; penalties

39 A. The board of supervisors of each county shall set a license
40 fee NOT TO EXCEED FIVE DOLLARS which shall be paid for each dog four
41 months of age or over that is kept, harbored or maintained within the
42 boundaries of the state for at least ~~sixty~~ THIRTY CONSECUTIVE days of
43 each calendar year. License fees shall become payable ~~on January 1 or~~
44 ~~July 1~~ at the discretion of the board of supervisors of each county. The
45 licensing period shall not exceed the period of time for revaccination as
46 designated by the state veterinarian. The board of supervisors may estab-
47 lish a fee for an annual THE license. ~~or for a license effective for three~~
48 ~~years in conformity with the period of time for revaccination.~~ License
49 fees shall be paid within ninety days to the county treasurer or his
50 authorized representative. A penalty not to exceed two dollars shall be
51 added to the license fee in the event that application is made subsequent

1 to the date on which the dog is required to be licensed under the provi-
 2 sions of this article. This penalty shall not be assessed against appli-
 3 cants who furnish adequate proof that the dog to be licensed has been in
 4 their possession in Arizona less than ~~sixty~~ THIRTY CONSECUTIVE days.

5 B. Durable dog tags shall be provided by the board of supervisors
 6 of each county. Each dog licensed under the terms of this article shall
 7 receive, at the time of licensing, such a tag on which shall be inscribed
 8 the name of the county, the number of the license, and the year-~~in~~ DATE
 9 ON which it expires. The tag shall be attached to a collar or harness
 10 which shall be worn by the dog at all times while running at large,
 11 except as otherwise provided in this article. Whenever a dog tag is
 12 lost, a duplicate tag shall be issued upon application by the owner and
 13 payment of a fee ~~of not more than one dollar~~ ESTABLISHED BY THE COUNTY
 14 BOARD OF SUPERVISORS to the county treasurer or his authorized repre-
 15 sentative.

16 C. THE BOARD OF SUPERVISORS MAY SET LICENSE FEES THAT ARE LOWER
 17 FOR DOGS PERMANENTLY INCAPABLE OF PROCREATION. AN APPLICANT FOR A LICENSE
 18 FOR A DOG CLAIMED TO BE INCAPABLE OF PROCREATION SHALL FURNISH ADEQUATE
 19 PROOF SATISFACTORY TO THE ENFORCEMENT AGENT THAT SUCH DOG HAS BEEN
 20 SURGICALLY ALTERED TO BE PERMANENTLY INCAPABLE OF PROCREATION.

21 G. D. Any person who fails within fifteen days after WRITTEN
 22 notification from the county enforcement agent to obtain a license for
 23 a dog required to be licensed, or counterfeits or attempts to counter-
 24 feit an official dog tag, or remove such tag from any dog for the purpose
 25 of wilful and malicious mischief or places a dog tag upon a dog unless
 26 the tag was issued for that particular dog is guilty of a misdemeanor.

27 Sec. 7. Section 24-368, Arizona Revised Statutes, is amended to
 28 read:

29 24-368. Anti-rabies vaccination; vaccination and
 30 license stations

31 A. Before a license is issued for any dog, the owner must present
 32 a vaccination certificate signed by a veterinarian stating the owner's
 33 name and address, and giving the dog's description, date of vaccination,
 34 and type, manufacturer, and serial number of the vaccine used and date
 35 revaccination is due. A duplicate of each rabies vaccination certificate
 36 issued shall be transmitted to the county enforcement agent on or before
 37 the tenth day of the month following the month during which the dog was
 38 vaccinated. No dog shall be licensed unless it is vaccinated in accord-
 39 dance with the provisions of this article and the regulations promulgated
 40 thereunder.

41 B. A dog vaccinated in any other state prior to entry into Arizona
 42 may be licensed in Arizona provided that, at the time of licensing, the
 43 owner of such dog presents a vaccination certificate, signed by a veteri-
 44 narian licensed to practice in that state or a veterinarian employed by
 45 a governmental agency in that state, stating the owner's name and address
 46 and giving the dog's description, date of vaccination, and type, manufac-
 47 turer, and serial number of the vaccine used. The vaccination must be
 48 in conformity with the provisions of this article and the regulations
 49 promulgated thereunder.

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1 C. The county enforcement agent shall make provisions for ~~few~~
2 ~~east~~ vaccination clinics as deemed necessary. The vaccination shall be
3 performed by a veterinarian.

4 Sec. 8. Section 24-370, Arizona Revised Statutes, is amended to
5 read:

6 24-370. Dogs not permitted at large; wearing licenses

7 A. Neither a female dog during her breeding or mating season
8 nor a vicious dog shall be permitted at large.

9 B. In a rabies quarantine area, no dogs shall be permitted at
10 large. Each dog shall be confined within an enclosure on the owner's
11 property, or ~~securely-tied~~ SECURED so that the dog is confined entirely
12 to the owner's property, or on a leash not to exceed ~~five~~ SIX feet in
13 length and directly under the owner's control when not on the owner's
14 property.

15 C. Any dog over the age of four months running at large shall
16 wear a collar or harness to which is attached a valid license tag.
17 Dogs USED FOR CONTROL OF LIVESTOCK OR while being used OR TRAINED for
18 hunting or dogs while being exhibited OR TRAINED at an ~~American~~ A kennel
19 club ~~approved-show~~ EVENT or dogs while engaged in races approved by the
20 Arizona racing commission, and such dogs while being transported to and
21 from such events, need not wear a collar or harness with a valid license
22 attached provided that they are properly vaccinated, and licensed AND
23 CONTROLLED.

24 D. NO PERSON IN CHARGE OF ANY DOG SHALL PERMIT SUCH DOG IN A
25 PUBLIC PARK OR UPON ANY PUBLIC SCHOOL PROPERTY UNLESS THE DOG IS
26 PHYSICALLY RESTRAINED BY A LEASH, ENCLOSED IN A CAR, CAGE OR SIMILAR
27 ENCLOSURE, OR BEING EXHIBITED OR TRAINED AT A RECOGNIZED KENNEL CLUB
28 EVENT, PUBLIC SCHOOL OR PARK SPONSORED EVENT.

29 Sec. 9. Section 24-371, Arizona Revised Statutes, is amended to
30 read:

31 24-371. Establishment of county pounds; impounding
32 and disposing of dogs; reclaiming impounded
33 dogs; pound fees

34 A. The board of supervisors in each county may provide or
35 authorize a county pound or pounds or enter into a cooperative agreement
36 with a city, ~~or~~ a veterinarian OR AN ARIZONA INCORPORATED HUMANE SOCIETY
37 for the establishment and operation of a county pound.

38 B. Any stray dog shall be impounded. ~~in any county where a county~~
39 ~~pound exists.~~ All dogs so impounded shall be given proper care and
40 maintenance.

41 C. Each stray dog impounded shall be kept and maintained at the
42 county pound for a minimum of ~~three-days~~ SEVENTY-TWO HOURS UNLESS CLAIMED
43 BY ITS OWNER. ~~At the~~ ANY PERSON MAY PURCHASE SUCH A DOG UPON expiration
44 of the impoundment period, ~~anyone may claim the dog~~ provided such person
45 pays all pound fees established by the county board of supervisors and
46 complies with the licensing AND VACCINATING provisions of this article.
47 ~~within-seventy-two hours--if no person claims the dog, the county~~
48 ~~enforcement agent may dispose of the dog in a humane manner.~~ IF SUCH
49 DOG IS TO BE USED FOR MEDICAL RESEARCH, NO LICENSE OR VACCINATION SHALL
50 BE REQUIRED. THE COUNTY ENFORCEMENT AGENT MAY DESTROY IMPOUNDED SICK

1 OR INJURED DOGS WHENEVER SUCH DESTRUCTION IS NECESSARY TO PREVENT SUCH
2 DOG FROM SUFFERING OR TO PREVENT THE SPREAD OF DISEASE.

3 D. Any impounded licensed dog may be reclaimed BY ITS OWNER OR
4 SUCH OWNER'S AGENT provided that the person reclaiming the dog furnishes
5 proof of right to do so and pays all pound fees established by the
6 board of supervisors. If the dog is not reclaimed within the seventy-two
7 hours following the end of the impoundment period, the county enforcement
8 agent shall take possession and may place the dog for adoption SALE or may
9 dispose of the dog in a humane manner. Any person adopting PURCHASING
10 such a dog shall pay all pound fees established by the board of supervisors.

11 Sec. 10. Section 24-372, Arizona Revised Statutes, is amended to
12 read:

13 24-372. Handling of biting animals; responsibility
14 for reporting animal bites

15 A. An unlicensed DOG or unvaccinated dog OR CAT that bites any
16 person shall be confined and quarantined in a county pound or, upon
17 request of and at the expense of the owner, at a veterinary hospital
18 for a period of not less than seven days. A dog properly licensed and
19 vaccinated pursuant to this article, that bites any person, may be con-
20 fined and quarantined at the home of the owner or wherever the dog is
21 harbored and maintained with the consent of and in a manner prescribed
22 by the county enforcement agent.

23 B. Any animal other than a dog OR CAT that bites any person shall
24 be confined and quarantined in a county pound or, upon the request of
25 and at the expense of the owner, at a veterinary hospital for a period
26 of not less than fourteen days, provided that livestock shall be confined
27 and quarantined for the fourteen-day period in a manner regulated by the
28 Arizona livestock sanitary board. If the animal is a caged rodent, it
29 may be confined and quarantined at the home of the owner or where it is
30 harbored or maintained, for the required period of time, with the consent
31 of and in a manner prescribed by the county enforcement agent.

32 C. Any wild animal which bites any person may be killed and
33 submitted to the county enforcement agent or his deputies for transmis-
34 sion to an appropriate diagnostic laboratory.

35 D. Whenever an animal bites any person, the incident shall be
36 reported to the county enforcement agent immediately by any person
37 having direct knowledge.

38 E. ANY ANIMAL CONFINED AND QUARANTINED PURSUANT TO THIS SECTION
39 MAY BE DESTROYED PRIOR TO THE TERMINATION OF THE MINIMUM CONFINEMENT
40 PERIOD FOR LABORATORY EXAMINATION FOR RABIES IF:

41 1. SUCH ANIMAL SHOWS CLEAR CLINICAL SIGNS OF RABIES.

42 2. THE OWNER OF SUCH ANIMAL CONSENTS TO ITS DESTRUCTION. ANY
43 ANIMAL SUBJECT TO LICENSING UNDER THIS ARTICLE FOUND WITHOUT A TAG
44 IDENTIFYING ITS OWNER SHALL BE DEEMED UNOWNED.

45 Sec. 11. Title 24, chapter 2, article 8, Arizona Revised Statutes,
46 is amended by adding a new section 24-378, to read:

47 24-378. Dogs; liability

48 INJURY TO ANY PERSON OR DAMAGE TO ANY PROPERTY BY A DOG WHILE AT
49 LARGE SHALL BE THE FULL RESPONSIBILITY OF THE DOG OWNER OR PERSON OR
50 PERSONS RESPONSIBLE FOR THE DOG WHEN SUCH DAMAGES WERE INFLICTED.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 165
HOUSE BILL 2233

AN ACT

RELATING TO TRANSPORTATION; PRESCRIBING PUNISHMENT FOR CONVICTION OF DRIVING WHILE UNDER INFLUENCE OF INTOXICATING LIQUOR OR DRUGS DURING PERIOD WHEN OPERATOR'S OR CHAUFFEUR'S LICENSE IS SUSPENDED, REVOKED OR REFUSED OR WHEN PERSON WHO HAS NEVER APPLIED FOR AN OPERATOR'S OR CHAUFFEUR'S LICENSE COMMITS A SECOND OFFENSE OF DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS, AND AMENDING SECTION 28-692.02, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-692.02, Arizona Revised Statutes, is amended
3 to read:

4 28-692.02. Increased punishment for conviction of driving
5 when under the influence of intoxicating liquor
6 or drugs while license suspended, revoked or
7 refused or when person never applied for or
8 obtained a license

9 A person whose operator's or chauffeur's license is suspended,
10 revoked or refused and who commits the offense of driving a vehicle while
11 under the influence of intoxicating liquor OR DRUGS during the period of
12 such suspension, revocation or refusal, OR A PERSON WHO HAS NEVER APPLIED
13 FOR OR OBTAINED AN OPERATOR'S OR CHAUFFEUR'S LICENSE WHO COMMITS A
14 SECOND OFFENSE OF DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING
15 LIQUOR OR DRUGS, shall be punished upon conviction of such driving of a
16 vehicle while under the influence of intoxicating liquor OR DRUGS by ~~im-~~
17 ~~prisonment-in-the-state-prison-for-not-less-than-one-nor-more-than-five~~
18 ~~years-or~~ by imprisonment in the county jail for not to exceed one year or
19 by A fine not exceeding one thousand dollars or both.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 166
HOUSE BILL 2178

AN ACT

RELATING TO TRADE AND COMMERCE; PROVIDING THAT MOBILE HOME DEALERS SHALL MAINTAIN A TRUST FUND OR ESCROW ACCOUNT FOR EARNEST MONEY DEPOSITS, AND AMENDING SECTION 44-1712, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 44-1712, Arizona Revised Statutes, is
3 amended to read:

4 44-1712. Licensing of dealers; issuance; fees;
5 bonds; trust account

6 A. No person may operate in this state as a dealer of recrea-
7 tional vehicles, mobile housing or factory built buildings or com-
8 ponents thereof unless licensed by the director.

9 B. For the purposes of this section, dealer means any person
10 who engages in the business of selling, renting or leasing recreational
11 vehicles, mobile housing, custom made units or factory built building
12 units or components thereof.

13 C. To obtain a license to operate as a dealer pursuant to this
14 section, the applicant shall file with the director an application
15 provided by the director which shall be accompanied by a license fee
16 and bond established by the director.

17 D. Licenses issued under this section shall expire on June 30
18 each year. Application for renewal accompanied by a fee established
19 by the director shall be submitted to the director not later than
20 June 30 and shall be authorization for the licensee to operate as a
21 dealer of recreational vehicles, mobile housing or factory built
22 buildings or components thereof until issuance or rejection of the
23 renewal license.

24 E. EACH DEALER EXCEPT MOTOR VEHICLE DEALERS LICENSED PURSUANT
25 TO SECTION 28-1304 SHALL MAINTAIN A TRUST FUND ACCOUNT OR AN ESCROW
26 ACCOUNT WITH A BANK OR OTHER RECOGNIZED DEPOSITORY OR REGULATED ESCROW
27 COMPANY LOCATED IN THIS STATE AND SHALL PLACE ALL EARNEST MONEY DEPOSITS
28 RECEIVED IN SUCH ACCOUNT. WHEN APPLICATION FOR TITLE TRANSFER HAS BEEN
29 MADE THE EARNEST MONEY DEPOSIT SHALL BE CONVEYED TO THE LENDING INSTITU-
30 TION OR THE MOBILE HOME DEALER, WHICHEVER IS APPLICABLE.

Approved by the Governor - June 18, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 167
HOUSE BILL 2320

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR SELECTION OF LICENSEE; PRESCRIBING CERTAIN LIMITATIONS; PRESCRIBING CONDITIONS FOR REAPPLICATION AFTER REJECTION OF APPLICATION; PRESCRIBING SPIRITUOUS LIQUOR LICENSES WHICH MAY BE HELD BY CLUBS, AND AMENDING SECTIONS 4-203, 4-205 AND 4-208, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 4-203, Arizona Revised Statutes, is amended
3 to read:

4 4-203. Licenses; issuance; limitation; contents;
5 transfers; suspension or revocation;
6 reversion to state

7 A. The board shall issue a spirituous liquor license only after
8 satisfactory showing of the capability, qualifications and reliability
9 of the applicant, and, with the exception of club licensees, that the
10 public convenience required and that the best interest of the community
11 will be substantially served by the issuance.

12 B. ~~After the board makes the determinations required by subsection A, and if there are more qualified applicants than the number of~~
13 ~~available spirituous liquor licenses, the board shall provide a method~~
14 ~~of random selection within a county to determine which applicant shall~~
15 ~~be issued a license.~~ PRIOR TO MAKING THE DETERMINATIONS REQUIRED BY
16 SUBSECTION A, THE BOARD SHALL, IF THERE ARE MORE APPLICANTS THAN THE
17 NUMBER OF AVAILABLE SPIRITUOUS LIQUOR LICENSES, PROVIDE A METHOD OF
18 RANDOM SELECTION WITHIN A COUNTY TO DETERMINE WHICH APPLICANT OR
19 APPLICANTS SHALL BE CONSIDERED FOR ISSUANCE OF A LICENSE. The random
20 selection method shall allow each applicant within the county an equal
21 opportunity of obtaining the available license or licenses.
22

23 C. IF THERE ARE MORE APPLICANTS THAN THE NUMBER OF AVAILABLE
24 SPIRITUOUS LIQUOR LICENSES WITHIN A COUNTY, THE FOLLOWING LIMITATIONS SHALL
25 APPLY:

26 1. NO PERSON SHALL MAKE MORE APPLICATIONS THAN THE NUMBER OF SPIR-
27 ITUOUS LIQUOR LICENSES AVAILABLE.

1 2. IF THERE ARE MORE THAN FIVE SPIRITUOUS LIQUOR LICENSES TO BE
2 ISSUED, NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH 1, NO PERSON SHALL
3 MAKE MORE THAN FIVE APPLICATIONS.

4 D. FOR THE PURPOSES OF RANDOM SELECTION, THE BOARD MAY SET A
5 DEADLINE BY WHICH ALL APPLICANTS MUST FILE THEIR APPLICATIONS. AFTER
6 ALL APPLICATIONS ARE FILED WITH THE BOARD, THE BOARD SHALL THEN DETER-
7 MINE, BY RANDOM SELECTION, THE ORDER IN WHICH EACH APPLICANT WILL BE
8 EVALUATED PURSUANT TO SUBSECTION A.

9 E. The license shall be to manufacture, sell or deal in
10 spirituous liquors only at the place and in the manner provided therein,
11 and a separate license shall be issued for each specific business, each
12 license specifying:

13 1. The particular spirituous liquors which the licensee is
14 authorized to manufacture, sell or deal in.

15 2. The place of business for which issued.

16 3. The purpose for which the liquors may be manufactured or sold.

17 B. F. A spirituous liquor license shall be transferable as to any
18 permitted location within the same county, provided such transfer meets
19 the requirements of an original application. A spirituous liquor license,
20 other than a club license, a hotel-motel license and a restaurant license,
21 may be transferred to a person qualified to be a licensee, provided such
22 transfer is pursuant to either judicial decree, a bona fide bulk sale of
23 the entire business and stock in trade, or such other bona fide trans-
24 actions as may be provided for by a regulation of the board and that such
25 transfer meets the requirements of an original application. Any change
26 in ownership of the business of a licensee, directly or indirectly, as
27 defined by board regulation, shall be deemed a transfer and shall comply
28 with this section.

29 E. G. All applications for a transfer pursuant to subsection B- F
30 shall be filed with and determined by the designated representative of
31 the board, provided that:

32 1. In the event the governing body of the city or town or the
33 board of supervisors receiving such application pursuant to section 4-201
34 orders disapproval of such application, such application shall be
35 presented to the board, and the transfer shall not become effective
36 unless approved by the board.

37 2. Any person may appeal to the board on the decision of the
38 designated representative of the board to grant or deny such transfer,
39 provided that such appeal is filed in writing and in detail with the
40 board within ten days after the decision of the designated representative
41 of the board is made, and the decision of the designated representative
42 of the board shall be suspended until the determination of such appeal
43 by the board.

44 3. The decision of the designated representative of the board on
45 any transfer shall not become final until ten days after such decision
46 is made by the designated representative of the board.

47 F. H. No spirituous liquor license shall be assigned, transferred
48 or sold, except as provided for in this title. No spirituous liquor
49 license shall be leased or subleased.

50 G. I. A license which is not used by the licensee for a period
51 in excess of six months shall revert to the state, except that the

board may grant additional time if, in its judgment, the licensee is in good faith attempting to comply with this subsection.

Sec. 2. Section 4-205, Arizona Revised Statutes, is amended to read:

4-205. Issuance of club license; regulatory provisions; revocation

A. The board may issue one club license to any club as defined in section 4-101.

B. The provisions of section 4-206, except subsection D, shall not apply to nor in any manner restrict the issuance of a club license pursuant to or within the provisions of this section.

C. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve, ~~but not to~~ AND sell, to members' bona fide guests. A club license is not transferable from person to person.

D. No member and no officer, agent or employee of a club licensee shall be paid or shall directly or indirectly receive, in the form of salary or other compensation, any of the profits from the revenue producing activities of the club or from the distribution or sale of alcoholic beverages to the members of the club or to its guests, beyond the amount of the salary as fixed and voted at a regular meeting by the members of the club licensee or by its governing body out of the general revenue of the licensee, nor shall such salaries or compensation be in excess of reasonable compensation for the services actually performed.

E. The board may revoke a club license issued pursuant to this section in any case where, in its judgment the licensee ceases to operate as a bona fide club as defined in section 4-101.

F. NO CLUB MAY HOLD A SPIRITUOUS LIQUOR LICENSE OTHER THAN ONE ISSUED PURSUANT TO THIS SECTION, EXCEPT THAT ANY CLUB WHICH ON JANUARY 1, 1975, HOLDS A SPIRITUOUS LIQUOR LICENSE OTHER THAN ONE ISSUED PURSUANT TO THIS SECTION SHALL HAVE THE RIGHT TO USE SUCH LICENSE UNTIL SUCH TIME AS THE LICENSE IS TRANSFERRED, REVOKED OR REVERTED.

Sec. 3. Section 4-208, Arizona Revised Statutes, is amended to read:

4-208. Rejection as to location

A. The board shall not accept an application nor issue a license to sell or deal in spirituous liquors at a location for which a prior application has been rejected until twelve months after the date of the prior rejection.

B. NO APPLICATION FOR A LICENSE TO DEAL IN SPIRITUOUS LIQUORS SHALL BE FILED WITH NOR ACCEPTED BY THE BOARD WITHIN FIVE YEARS AFTER THE DATE OF THE REJECTION OF THE LAST OF THREE PREVIOUS APPLICATIONS AT THE SAME LOCATION HAS BEEN REJECTED BY THE BOARD ON THE BASIS OF LACK OF PUBLIC CONVENIENCE AND NECESSITY OR DENIED ON APPEAL TO THE SUPERIOR COURT PURSUANT TO SECTION 4-211. IT SHALL BE INCUMBENT UPON THE APPLICANT FOR A LICENSE FILED AFTER THE EXPIRATION OF SUCH FIVE-YEAR PERIOD TO ESTABLISH BEFORE THE BOARD THAT THERE HAVE BEEN SIGNIFICANT CHANGES OF FACT IN RESPECT TO THE LOCATION WHICH JUSTIFY THE ISSUANCE OF A LICENSE TO DEAL IN SPIRITUOUS LIQUOR.

Approved by the Governor - June 16, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 168
HOUSE BILL 2205

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; REVISING CERTAIN LAWS RELATING TO WATER POLLUTION CONTROL; PROVIDING FOR ADOPTION OF A WATER POLLUTION PERMIT SYSTEM; PRESCRIBING POWERS AND DUTIES OF WATER QUALITY CONTROL COUNCIL; PRESCRIBING CERTAIN POWERS AND DUTIES OF DIRECTOR OF DEPARTMENT OF HEALTH SERVICES; PRESCRIBING VIOLATIONS AND PENALTIES; PROVIDING FOR CERTAIN LIMITATIONS AND FOR REVIEW; AMENDING SECTIONS 36-1851, 36-1852, 36-1854, 36-1855 AND 36-1858, ARIZONA REVISED STATUTES; REPEALING SECTIONS 36-1859 AND 36-1860, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 36-1859 AND 36-1860; AMENDING SECTIONS 36-1864 AND 36-1868, ARIZONA REVISED STATUTES, AND AMENDING TITLE 36, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-1864.01, 36-1864.02 AND 36-1870.

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

2 Section 1. Legislative findings and declaration

3 The legislature finds and declares that, since the federal water
4 pollution control act, as amended, (33 U.S.C. 1251, et seq.), provides
5 for a permit system to regulate the discharge of pollutants to the
6 waters of the United States and provides that permits may be issued by
7 states which are authorized to implement the provisions of such act,
8 it is in the interest of the people of Arizona, in order to avoid
9 direct regulation by the federal government, to enact the provisions
10 of this act in order to authorize the director to implement the pro-
11 visions of the federal water pollution control act and acts amendatory
12 thereof or supplementary thereto, and federal regulations and guidelines
13 issued pursuant thereto. It is intended that the authority to adopt
14 rules and regulations for this state's permit program granted by this act,
15 for discharges into waters of the United States within this state, shall
16 not exceed that necessary to obtain approval from the administrator of
17 this state's permit program.

18 Sec. 2. Section 36-1851, Arizona Revised Statutes, is amended
19 to read:

20 36-1851. Definitions

21 In this chapter, unless the context otherwise provides:

22 1. "ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE FEDERAL ENVIRON-
23 MENTAL PROTECTION AGENCY.

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1 1- 2. "Council" means the water quality control council estab-
2 lished by this chapter.

3 2- 3. "Department" means the department of health services,
4 which for the purposes of this article includes the council.

5 3- 4. "Director" means the director of the department of health
6 services.

7 5. "DISCHARGE" MEANS DISCHARGE OF ANY POLLUTANT INTO WATERS OF
8 THE STATE FROM ANY POINT SOURCE.

9 4- 6. "Disposal system" means a system for disposing of wastes,
10 either by surface or underground methods, and includes sewerage systems,
11 treatment works, disposal wells and other systems.

12 5- 7. "Hearing officer" means any individual appointed by the
13 council or director to perform the duties of a hearing officer at any
14 hearing.

15 6- 8. "Permit" means a certificate or letter issued by the
16 department DIRECTOR stating the conditions and restrictions governing
17 the discharge of a pollutant ~~into any waters of the state~~ UNDER THIS
18 CHAPTER.

19 7- 9. "Person" means the FEDERAL GOVERNMENT, state or any agency
20 or institution thereof, any municipality, political subdivision, public or
21 private corporation, individual, partnership, association, or other entity,
22 and includes any officer or governing or managing body of any municipality,
23 political subdivision, or public or private corporation.

24 10. "POINT SOURCE" MEANS ANY DISCERNIBLE, CONFINED AND DISCRETE
25 CONVEYANCE, INCLUDING BUT NOT LIMITED TO ANY PIPE, DITCH, CHANNEL,
26 TUNNEL, CONDUIT, WELL, DISCRETE FISSURE, CONTAINER, ROLLING STOCK, CON-
27 CENTRATED ANIMAL FEEDING OPERATION, OR VESSEL OR OTHER FLOATING CRAFT,
28 FROM WHICH POLLUTANTS ARE OR MAY BE DISCHARGED.

29 11. "POLLUTANT" MEANS DREDGED SPOIL, SOLID WASTE, INCINERATOR
30 RESIDUE, SEWAGE, GARBAGE, SEWAGE SLUDGE, MUNITIONS, CHEMICAL WASTES,
31 BIOLOGICAL MATERIALS, RADIOACTIVE MATERIALS, HEAT, WRECKED OR DISCARDED
32 EQUIPMENT, ROCK, SAND, CELLAR DIRT AND INDUSTRIAL, MUNICIPAL AND AGRI-
33 CULTURAL WASTE, INCLUDING IRRIGATION AND DRAINAGE WATERS, DISCHARGED INTO
34 WATER. THE TERM DOES NOT MEAN "SEWAGE FROM VESSELS" WITHIN THE MEANING OF
35 SECTION 312 OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED. THE
36 TERM DOES NOT MEAN WATER, GAS OR OTHER MATERIAL WHICH IS INJECTED INTO A
37 WELL TO FACILITATE PRODUCTION OF OIL OR GAS, OR WATER DERIVED IN ASSOCIA-
38 TION WITH OIL OR GAS PRODUCTION AND DISPOSED OF IN A WELL, IF A PERMIT
39 FOR DRILLING OF THE WELL HAS BEEN ISSUED PURSUANT TO TITLE 27, CHAPTER 4,
40 ARTICLE 1.

41 8--~~"Pollution" means such contamination, or other alteration of~~
42 ~~the physical, chemical, or biological properties of any waters of the~~
43 ~~state, including change in temperature, taste, color, turbidity, or odor~~
44 ~~of the waters, or such discharge of any liquid, gaseous, solid, radio-~~
45 ~~active, or other substance into any waters of the state as will or is~~
46 ~~likely to create a public nuisance or render such waters harmful,~~
47 ~~detrimental, or injurious to public health, safety, or welfare, or to~~
48 ~~domestic, agricultural, commercial, industrial, recreational, or other~~
49 ~~beneficial uses, or to livestock, wild animals, birds, fish or other~~
50 ~~aquatic life.~~

1 12. "POLLUTION" MEANS THE MAN-MADE OR MAN-INDUCED ALTERATION OF
2 THE CHEMICAL, PHYSICAL, BIOLOGICAL AND RADIOLOGICAL INTEGRITY OF WATER.

3 9- 13. "Sewerage system" means pipelines or conduits, pumping
4 stations, and force mains, and all other structures, devices, appurte-
5 nances, and facilities used for collecting or conducting wastes to an
6 ultimate point for treatment or disposal.

7 ~~10-~~ 14. "Treatment works" means any plant or other works used
8 for the purpose of treating, stabilizing, or holding wastes.

9 ~~11-~~ 15. "Wastes" means sewage, industrial wastes, and all other
10 liquid, gaseous, solid, radioactive, or other substance which may pollute
11 or tend to pollute any waters of the state. The term "wastes" does not
12 include agricultural irrigation and drainage waters for which water
13 quality standards shall have been established pursuant to this article.

14 ~~12-~~ 16. "Waters of the state" means all waters within the juris-
15 diction of this state including all streams, perennial or intermittent,
16 lakes, ponds, impounding reservoirs, marshes, watercourses, waterways,
17 wells, springs, irrigation systems, drainage systems, and all other
18 bodies or accumulations of water, surface and underground, natural or
19 artificial, public or private, situated wholly or partly within or
20 bordering upon the state.

21 Sec. 3. Section 36-1852, Arizona Revised Statutes, is amended
22 to read:

23 36-1852. Designation of state agency

24 The department of health services, which for the purposes of this
25 article includes the council, is designated as the state water pollution
26 control agency for this state for all purposes of the federal water
27 pollution control act, as amended, (~~33-4-5-6-466~~), and is authorized to
28 take all action necessary or appropriate to secure to this state the
29 benefits of such act, and all such action shall be taken at the
30 direction of the council or the director as their duties are set forth
31 in this article.

32 Sec. 4. Section 36-1854, Arizona Revised Statutes, is amended
33 to read:

34 36-1854. Powers and duties of council

35 1. The council shall have the following powers and duties:

36 A. To exercise ~~general supervision of the administration and~~
37 ~~enforcement AND CONTROL OVER THE ESTABLISHMENT, REVIEW, REVISION OR~~
38 ~~DELETION~~ of water quality standards for waters of the state and of
39 the rules, regulations and orders pertaining thereto.

40 2. To adopt a comprehensive program for the ~~prevention, control,~~
41 ~~and abatement of pollution of the waters of the state, and from time~~
42 ~~to time review and modify such program as necessary.~~ ADMINISTRATION OF
43 SUCH WATER QUALITY STANDARDS AND ENFORCEMENT THEREOF BY ORDER WHEN SUCH
44 ENFORCEMENT DOES NOT INVOLVE APPROVAL OF OR ENFORCEMENT OF THE CONDITIONS
45 OF A PERMIT ISSUED UNDER THE PROGRAM ESTABLISHED BY SECTION 36-1859.

46 3. To adopt, modify, and repeal, after notice as provided in
47 section 36-1860 and title 41, chapter 6, ARTICLE 1 rules and regulations
48 implementing or effectuating its powers and duties ~~as it may deem neces-~~
49 ~~sary~~ to establish water quality standards and to ~~prevent, control and~~
50 ~~abate existing or potential pollution.~~ ENFORCE SUCH STANDARDS PURSUANT
51 TO PARAGRAPH 2 OF THIS SUBSECTION.

1 4. ~~To hold such public hearings, to issue notices of hearings, to~~
2 ~~issue subpoenas requiring the attendance of witnesses and the production~~
3 ~~of such evidence, to administer oaths, and to take such testimony as it~~
4 ~~deems necessary, all in conformity with the rules and regulations adopted~~
5 ~~by the council.~~

6 5. ~~To designate and employ a hearing officer who shall have the~~
7 ~~power to issue notices of hearings, to issue subpoenas requiring the~~
8 ~~attendance of witnesses and the production of evidence, to administer~~
9 ~~oaths and to take such testimony as may be necessary or in conformity~~
10 ~~with the rules and regulations adopted pursuant to paragraph 3 of this~~
11 ~~section, and section 36-1860, and such hearing officer shall certify and~~
12 ~~file with the council for adoption or modification by the council recom-~~
13 ~~mended findings, inclusions, and a proposed order.~~

14 4. TO ESTABLISH, REVIEW, REVISE AND DELETE RULES AND REGULATIONS
15 PERTAINING TO EFFLUENT LIMITATIONS, WATER QUALITY RELATED LIMITATIONS,
16 NEW SOURCE PERFORMANCE STANDARDS, TOXIC AND PRETREATMENT EFFLUENT STANDARDS,
17 AND INSPECTION, MONITORING AND ENTRY PROVISIONS FOR THE DISCHARGE OF POLLU-
18 TANTS INTO WATERS OF THE UNITED STATES WITHIN THIS STATE IN ACCORDANCE WITH
19 THE REQUIREMENTS OF SECTIONS 301, 302, 306, 307 AND 308 OF THE FEDERAL
20 WATER POLLUTION CONTROL ACT, AS AMENDED.

21 5. TO ADOPT, MODIFY AND REPEAL, AFTER DUE NOTICE AND HEARING AS
22 PROVIDED IN SECTION 36-1860 AND TITLE 41, CHAPTER 6, ARTICLE 1, RULES
23 AND REGULATIONS IMPLEMENTING OR EFFECTUATING ITS POWERS AND DUTIES AS
24 MAY BE REASONABLY NECESSARY TO ESTABLISH EFFLUENT LIMITATIONS, WATER
25 QUALITY RELATED LIMITATIONS, NEW SOURCE PERFORMANCE STANDARDS, TOXIC AND
26 PRETREATMENT EFFLUENT STANDARDS, AND INSPECTION, MONITORING AND ENTRY
27 PROVISIONS PURSUANT TO PARAGRAPH 4 OF THIS SUBSECTION.

28 6. To develop procedures, and make recommendations for determi-
29 nations thereon, regarding the priority of project applications for
30 grants made or approved pursuant to the authorization of this article.

31 7. To exercise all incidental powers necessary to carry out the
32 purposes of this chapter.

33 8. To employ or contract, through the department, professional
34 assistance, including lawyers, hearing officers and other necessary
35 persons and to delegate to them such duties and responsibilities as it
36 may deem necessary, provided that such persons shall not have any
37 authority to formulate, adopt, promulgate, amend or repeal rules and
38 regulations or to make determinations or issue or countermand orders.

39 B. IN FORMULATING ANY RULE OR REGULATION PURSUANT TO PARAGRAPHS
40 4 AND 5 OF SUBSECTION A OF THIS SECTION, THE COUNCIL SHALL BE GUIDED BY
41 THE PRINCIPLE THAT WATERS OF THE STATE ARE PUT TO BENEFICIAL USE WITHIN
42 THE STATE AND BECOME RETURN FLOWS TO THE WATERS OF THE STATE AND SUB-
43 SEQUENTLY REUSED, AND THAT SUCH RULES AND REGULATIONS SHALL NOT DIMINISH
44 THE WATER AVAILABLE FOR SUCH BENEFICIAL USES NOR DEPRIVE THE STATE OF
45 SUCH WATER.

46 Sec. 5. Section 36-1855, Arizona Revised Statutes, is amended to
47 read:

48 36-1855. Powers and duties of the director

49 In addition to other powers and duties prescribed by law, the
50 director may exercise the following powers and duties:

1 1. Adopt, modify, repeal, and promulgate ADMINISTER, after due
 2 notice and hearing as provided in title 41, chapter 6, article 1, OR
 3 OTHERWISE PROVIDED IN THIS ARTICLE, rules and regulations implementing
 4 or effectuating the powers and duties of the department under this
 5 article INCLUDING ESTABLISHMENT OF A SYSTEM OF USER CHARGES AS MAY BE
 6 REQUIRED BY THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, and as
 7 ~~may be necessary to minimize, prevent, control and abate existing or~~
 8 ~~potential pollution resulting from discharge of wastes, except the~~
 9 ~~establishment and enforcement of water quality standards for waters of~~
 10 ~~the state and the issuance of orders regarding control of irrigation~~
 11 ~~and drainage waters, each of which shall repose exclusively~~ EXCEPT THOSE
 12 POWERS AND DUTIES EXPRESSLY VESTED in the council.

13 2. Hold hearings, in accordance with its rules of practice and
 14 procedure as may be necessary to effectuate the enforcement of rules and
 15 regulations adopted pursuant to paragraph 1, or when appealed to by any
 16 person adversely affected by any order or denial made by the department
 17 pursuant to rules and regulations adopted pursuant to paragraph 1, or by
 18 any person who deems himself adversely affected by the operation or
 19 administration of this article.

20 Sec. 6. Section 36-1858, Arizona Revised Statutes, is amended to
 21 read:

22 36-1858. Prohibitions

23 It shall be unlawful for any person:

24 ~~1. To cause pollution of any waters of the state or to place or~~
 25 ~~cause any wastes to be placed in a location where they are likely to~~
 26 ~~cause pollution of any waters of the state.~~

27 2. 1. To discharge any wastes into any THE waters of the state
 28 which AND THEREBY reduce the quality of such waters below the water
 29 quality standards established therefor by the council IN VIOLATION OF AN
 30 ORDER ISSUED PURSUANT TO SECTION 36-1854. ~~Any such action is declared~~
 31 ~~to be a public nuisance.~~

32 2. 2. To discharge any AGRICULTURAL, irrigation and OR drainage
 33 waters into any waters of the state which AND THEREBY reduce the quality
 34 of such waters below the water quality standards established therefor by
 35 the council IN VIOLATION OF AN ORDER ISSUED PURSUANT TO SECTION 36-1854.

36 3. TO DISCHARGE POLLUTANTS INTO THE WATERS OF THE UNITED STATES
 37 WITHIN THIS STATE EXCEPT IN COMPLIANCE WITH A PERMIT THEREFOR AS MAY BE
 38 REQUIRED BY THE DIRECTOR UNDER THE PROVISIONS OF THIS ARTICLE AND ANY
 39 RULES AND REGULATIONS PROMULGATED HEREUNDER.

40 Sec. 7. Repeal

41 Sections ~~36-1859~~ and 36-1860, Arizona Revised Statutes, are repealed.

42 Sec. 8. Title 36, chapter 16, article 1, Arizona Revised Statutes,
 43 is amended by adding new sections 36-1859 and 36-1860, to read:

44 36-1859. Issuance of permits; rules and regulations;
 45 enforcement

46 A. THE DIRECTOR MAY, AFTER NOTICE AND OPPORTUNITY FOR PUBLIC HEAR-
 47 ING, AS PROVIDED IN SECTION 36-1860 AND TITLE 41, CHAPTER 6, ARTICLE 1, DENY,
 48 ISSUE, MODIFY OR REPEAL, BY ORDER, A PERMIT, UNDER CONDITIONS IMPOSED BY
 49 THIS ARTICLE AND RULES AND REGULATIONS PROMULGATED HEREUNDER, FOR THE
 50 DISCHARGE OF ANY POLLUTANT OR COMBINATION OF POLLUTANTS INTO WATERS OF

1 THE UNITED STATES WITHIN THIS STATE OR OTHER DISCHARGES FOR WHICH PERMIT
2 AUTHORITY IS REQUIRED AS A CONDITION FOR APPROVAL OF THE STATE'S PROGRAM
3 UNDER THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED.

4 B. THE DIRECTOR SHALL, AFTER DUE NOTICE AND HEARING AS PROVIDED
5 IN SECTION 36-1860 AND TITLE 41, CHAPTER 6, ARTICLE 1, ADOPT, MODIFY OR
6 REPEAL SUCH RULES AND REGULATIONS, EXCEPT AS TO THOSE POWERS AND DUTIES
7 EXPRESSLY VESTED IN THE COUNCIL, AS ARE NECESSARY TO ENABLE THIS STATE
8 TO ADMINISTER A PERMIT PROGRAM IN ACCORDANCE WITH THE REQUIREMENTS OF
9 THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED. THE AUTHORITY TO
10 ADOPT RULES AND REGULATIONS GRANTED TO THE DIRECTOR BY THIS SECTION
11 SHALL NOT EXCEED THAT NECESSARY TO OBTAIN APPROVAL, BY THE ADMINIS-
12 TRATOR, OF THIS STATE'S PERMIT PROGRAM.

13 C. IN ISSUING ANY PERMIT OR FORMULATING ANY RULE OR REGULATION
14 THE DIRECTOR SHALL BE GUIDED BY THE PRINCIPLE THAT WATERS OF THE STATE
15 ARE PUT TO BENEFICIAL USE WITHIN THE STATE AND BECOME RETURN FLOWS TO
16 THE WATERS OF THE STATE AND SUBSEQUENTLY REUSED AND THAT SUCH PERMITS,
17 RULES AND REGULATIONS SHALL NOT DIMINISH THE WATER AVAILABLE FOR SUCH
18 BENEFICIAL USES NOR DEPRIVE THE STATE OF SUCH WATER.

19 36-1860. Public hearings; notice; hearing procedures;
20 trade secrets

21 A. THE COUNCIL, PRIOR TO ADOPTING, MODIFYING OR REPEALING WATER
22 QUALITY STANDARDS PURSUANT TO SECTION 36-1854, SUBSECTION A, PARAGRAPH
23 3, EFFLUENT LIMITATIONS, WATER QUALITY RELATED LIMITATIONS, NEW SOURCE
24 PERFORMANCE STANDARDS, TOXIC AND PRETREATMENT EFFLUENT STANDARDS, AND
25 INSPECTION, MONITORING AND ENTRY PROVISIONS PURSUANT TO SECTION 36-1854,
26 SUBSECTION A, PARAGRAPH 4, OR ADOPTING, MODIFYING OR REPEALING RULES
27 AND REGULATIONS PURSUANT TO SECTION 36-1854, SUBSECTION A, PARAGRAPH 5,
28 AND THE DIRECTOR IN ADOPTING, MODIFYING, OR REPEALING RULES AND REGULATIONS
29 PURSUANT TO SUBSECTION B OF SECTION 36-1859, SHALL GIVE NOTICE AND CONDUCT
30 PUBLIC HEARINGS THEREON AS PROVIDED IN THIS SECTION AND TITLE 41, CHAPTER 6,
31 ARTICLE 1. WHERE APPLICABLE, NOTICE SHALL SPECIFY THE WATERS TO BE AFFECTED.
32 IN ADDITION TO ANY OTHER NOTICE REQUIREMENTS, NOTICE OF SUCH HEARING SHALL
33 BE PUBLISHED AT LEAST THREE TIMES BEFORE SUCH HEARING IN A NEWSPAPER OR
34 NEWSPAPERS OF GENERAL CIRCULATION IN THE AREA FOR WHICH SUCH STANDARDS,
35 PROVISIONS, RULES OR REGULATIONS, ARE TO BE ADOPTED. THE FIRST OF SUCH
36 NOTICES SHALL BE PUBLISHED AT LEAST THIRTY DAYS BEFORE THE HEARING. A
37 COPY OF THE NOTICE OF HEARING SHALL BE MAILED AT LEAST THIRTY DAYS PRIOR
38 TO SUCH HEARING TO SUCH MUNICIPALITIES, IRRIGATION DISTRICTS, AGRICULTURAL
39 IMPROVEMENT DISTRICTS, WATER USERS ASSOCIATIONS, STATE FRANCHISED WATER
40 COMPANIES AND OTHER PERSONS WHOM THE COUNCIL AND DIRECTOR DEEM MAY BE
41 AFFECTED OR WHO HAVE REQUESTED NOTIFICATION OF COUNCIL ACTION. THE
42 FIXING OF WATER QUALITY STANDARDS, EFFLUENT LIMITATIONS, WATER QUALITY
43 LIMITATIONS, NEW SOURCE PERFORMANCE STANDARDS, TOXIC AND PRETREATMENT
44 STANDARDS, AND INSPECTION, MONITORING AND ENTRY PROVISIONS SHALL BE BY
45 ORDER OF THE COUNCIL.

46 B. THE DIRECTOR, PRIOR TO DENYING, ISSUING, MODIFYING OR REPEALING
47 A PERMIT UNDER SUBSECTION A OF SECTION 36-1859, SHALL GIVE THIRTY DAYS
48 NOTICE THEREOF IN THE MANNER SPECIFIED IN SUBSECTION A OF THIS SECTION.
49 WRITTEN COMMENTS WILL BE RECEIVED DURING SUCH PERIOD AND THE DIRECTOR
50 SHALL HOLD A PUBLIC HEARING IF THERE IS A SUFFICIENT PUBLIC INTEREST

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1 OR IF SUCH IS REQUESTED BY THE APPLICANT OR PERMITTEE. THE DIRECTOR
2 SHALL GIVE THIRTY DAYS NOTICE OF ANY PUBLIC HEARING IN THE MANNER
3 SPECIFIED IN SUBSECTION A OF THIS SECTION.

4 C. ANY WRITTEN REPORTS, DATA, STUDIES OR OTHER MATERIALS PREPARED
5 BY OR FOR THE COUNCIL, DEPARTMENT, OR DIRECTOR WHICH THE COUNCIL OR
6 DIRECTOR INTEND TO CONSIDER OR RELY UPON IN MAKING ANY DETERMINATION
7 UNDER SUBSECTION A OR B OF THIS SECTION SHALL BE AVAILABLE FOR PUBLIC
8 INSPECTION AND COPYING AT LEAST THIRTY DAYS PRIOR TO HEARING OR ISSUING,
9 MODIFYING OR REPEALING A PERMIT.

10 D. ANY INTERESTED PERSON MAY SUBMIT WRITTEN COMMENTS DURING THE
11 NOTICE PERIOD OR AT HEARINGS HELD UNDER THIS SECTION. ANY PERMIT APPLI-
12 CANT OR PERMITTEE WHO DESIRES TO PRESENT FURTHER WRITTEN COMMENTS FOL-
13 LOWING THE SUBMISSION OF WRITTEN COMMENTS OR ORAL TESTIMONY BY ANY
14 INTERESTED PERSONS SHALL BE PERMITTED THIRTY DAYS IN WHICH TO DO SO
15 FOLLOWING THE NOTICE PERIOD OR ANY HEARING HELD UNDER SUBSECTION B OF
16 THIS SECTION. ALL WRITTEN COMMENTS RECEIVED IN CONNECTION WITH ANY
17 DETERMINATION TO BE MADE UNDER SUBSECTION A OR B OF THIS SECTION SHALL
18 BE CONSIDERED IN THE FINAL DETERMINATIONS, MADE AVAILABLE FOR PUBLIC
19 INSPECTION AND COPYING, AND RETAINED BY THE COUNCIL OR DIRECTOR.

20 E. NOTWITHSTANDING THE PROVISIONS OF SECTION 41-1002, ANY
21 INTERESTED PERSON SHALL BE AFFORDED THE OPPORTUNITY TO PRESENT ORAL
22 TESTIMONY AT THE HEARINGS. THE PROVISIONS OF SECTION 41-1003 SHALL
23 NOT APPLY TO ACTION OF THE COUNCIL UNDER SUBSECTION A OF THIS SECTION.
24 THE PERMIT APPLICANT OR PERMITTEE AND THE DIRECTOR SHALL HAVE THE
25 OPPORTUNITY TO CROSS-EXAMINE ANY WITNESS AND ANY EMPLOYEE OR CONSULTANT
26 OF ANY PERSON, WHO PRESENTS WRITTEN OR ORAL EVIDENCE OR TESTIMONY ON
27 THE APPLICATION OR PERMIT. IN ALL HEARINGS NOT INVOLVING ISSUANCE,
28 MODIFICATION, OR REPEAL OF A PERMIT, CROSS-EXAMINATION MAY BE CONDUCTED
29 BY THE DIRECTOR OR COUNCIL, AND THE DIRECTOR OR COUNCIL MAY PERMIT
30 REASONABLE CROSS-EXAMINATION OF WITNESSES BY INTERESTED PERSONS TO
31 THE EXTENT NECESSARY FOR A FULL AND TRUE DISCLOSURE OF THE FACTS.

32 F. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE AND EXCEPT AS
33 OTHERWISE REQUIRED BY LAW, PUBLIC DISCLOSURE SHALL NOT BE REQUIRED
34 OF ANY INFORMATION SUBMITTED BY ANY PERSON WHICH WOULD DIVULGE METHODS
35 OR PROCESSES WHICH ARE TRADE SECRETS.

36 Sec. 9. Section 36-1864, Arizona Revised Statutes, is amended
37 to read:

38 36-1864. Injunctive relief; appeal; violation; penalty

39 A. Whenever ~~in the opinion of~~ the department FINDS, after proper
40 notice and hearing, any person is engaging, continues to engage, or
41 threatens to engage in any act or practice which constitutes or will
42 constitute a violation of any order of the council or director, the
43 department shall make application, through the attorney general, to
44 the superior court for an order enjoining such act or practice. The
45 superior court after notice, as prescribed by the court, to the parties
46 in interest shall then proceed to hear the matter and, ~~if it finds that~~
47 ~~the order was lawful and reasonable,~~ ~~it~~ SUBJECT TO THE PROVISIONS OF
48 SECTION 36-1868, may issue an injunction or a restraining order in
49 accordance with the Arizona rules of civil procedure and laws relating

1 thereto. ~~In any action for injunction or restraining order brought~~
 2 ~~pursuant to this section, any finding of the council or director shall~~
 3 ~~be prima facie evidence of the fact or facts found therein.~~ An appeal
 4 or a special writ may be taken from any such order of the court in the
 5 same manner as is provided in civil cases.

6 B. Whenever the department shall determine FINDS, after investigation,
 7 that any person is discharging or causing to be discharged into the
 8 waters of the state directly or indirectly any wastes POLLUTANT which
 9 in the opinion of the department constitutes a clear, present, and
 10 immediate danger to the health of the public OR THE WELFARE OF PERSONS
 11 WHERE SUCH DANGER AFFECTS THE LIVELIHOOD OF SUCH PERSONS, the department
 12 shall issue its written order to such person that he must immediately
 13 discontinue the discharge of such wastes POLLUTANT into the waters of
 14 the state, and whereupon such person shall immediately discontinue such
 15 discharge. If such person, notwithstanding such order, continues the
 16 discharge of such wastes POLLUTANT into the waters of the state, the
 17 department shall make application, through the attorney general, to the
 18 superior court of this state for the county in which the discharge is
 19 occurring for a temporary restraining order, preliminary injunction
 20 or permanent injunction as provided in the Arizona rules of civil
 21 procedure. Such action in such superior court shall be given precedence
 22 over all other matters pending in such court. An appeal or a special
 23 writ may be taken from any such order of the court in the same manner
 24 as is provided in civil cases.

25 ~~G.--Any person who shall violate any of the provisions of, or who~~
 26 ~~fails to perform any duty imposed by, this article, or any regulation~~
 27 ~~issued hereunder or who violates any order or determination of the~~
 28 ~~department promulgated pursuant to this article other than an order~~
 29 ~~or determination relating to agricultural, irrigation and drainage~~
 30 ~~waters shall be guilty of a misdemeanor and in addition thereto may~~
 31 ~~be enjoined from continuing such violation.~~

32 Sec. 10. Title 36, chapter 16, article 1, Arizona Revised Statutes,
 33 is amended by adding sections 36-1864.01 and 36-1864.02, to read:

34 36-1864.01. Violations; civil penalty

35 A. NOTWITHSTANDING THE PROVISIONS OF SECTION 13-101, ANY PERSON
 36 WHO VIOLATES ANY PROVISION OF THIS ARTICLE OR OF ANY PERMIT, RULE, REGU-
 37 LATION OR ORDER ISSUED OR PROMULGATED PURSUANT TO THIS ARTICLE SHALL BE
 38 PUNISHED BY A FINE IN AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS, OR
 39 IN THE EVENT OF CONTINUOUS DISCHARGE FROM A POINT SOURCE, NOT TO EXCEED
 40 TEN THOUSAND DOLLARS PER DAY OF SUCH VIOLATION.

41 B. NOTWITHSTANDING THE PROVISIONS OF SECTION 13-101, ACTIONS TO
 42 RECOVER PENALTIES UNDER THIS SECTION SHALL BE BROUGHT BY THE ATTORNEY
 43 GENERAL IN THE NAME OF THE STATE IN THE SUPERIOR COURT OF THE COUNTY IN
 44 WHICH THE VIOLATION OCCURRED OR IN A COUNTY IN WHICH THE DEPARTMENT
 45 MAINTAINS AN OFFICE.

46 36-1864.02. Violations; criminal penalty

47 A. ANY PERSON WHO WILFULLY OR NEGLIGENTLY DISCHARGES ANY POLLUTANT
 48 INTO THE WATERS OF THE UNITED STATES WITHIN THIS STATE IN VIOLATION OF
 49 PARAGRAPH 3 OF SECTION 36-1858 OR SECTION 36-1859 OR ANY CONDITION IN
 50 A PERMIT ISSUED BY THE DIRECTOR OR VIOLATES ANY PROVISION OF THIS
 51 ARTICLE OR RULE OR REGULATION PROMULGATED BY THE COUNCIL PERTAINING
 52 TO MONITORING, RECORDING, REPORTING, INSPECTION AND ENTRY OR WITH

1 RESPECT TO INTRODUCTION OF ANY POLLUTANT INTO PUBLICLY OWNED TREATMENT
 2 WORKS OR VIOLATES A PRETREATMENT STANDARD OR TOXIC EFFLUENT STANDARD,
 3 IS GUILTY OF A MISDEMEANOR AND PUNISHABLE BY A FINE OF NOT MORE THAN
 4 TWENTY-FIVE THOUSAND DOLLARS, OR IN THE EVENT OF CONTINUOUS DISCHARGE
 5 FROM A POINT SOURCE, NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER
 6 DAY OF VIOLATION. IF THE CONVICTION IS FOR A VIOLATION COMMITTED AFTER
 7 A FIRST CONVICTION OF SUCH PERSON UNDER THIS SUBSECTION, PUNISHMENT
 8 SHALL BE BY A FINE OF NOT MORE THAN FIFTY THOUSAND DOLLARS, OR IN THE
 9 EVENT OF CONTINUOUS DISCHARGE FROM A POINT SOURCE, NOT TO EXCEED FIFTY
 10 THOUSAND DOLLARS PER DAY OF VIOLATION.

11 B. ANY PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENT, REPRESENTA-
 12 TION, OR CERTIFICATION IN ANY APPLICATION, RECORD, REPORT, PLAN OR OTHER
 13 DOCUMENT FILED OR REQUIRED TO BE MAINTAINED UNDER THIS ARTICLE OR BY
 14 ANY PERMIT, RULE, REGULATION OR ORDER ISSUED PURSUANT TO THIS ARTICLE OR
 15 WHO FALSIFIES, TAMPERS WITH, OR KNOWINGLY RENDERS INACCURATE ANY MONI-
 16 TORING DEVICE OR METHOD REQUIRED TO BE MAINTAINED UNDER THIS ARTICLE OR
 17 BY ANY PERMIT, RULE, REGULATION OR ORDER ISSUED PURSUANT TO THIS ARTICLE,
 18 IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN TEN
 19 THOUSAND DOLLARS OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BOTH.

20 C. ANY VIOLATION OF OTHER PROVISIONS OF THIS ARTICLE OR THE RULES
 21 AND REGULATIONS ADOPTED THEREUNDER SHALL BE PUNISHABLE AS A MISDEMEANOR.
 22 EACH DAY OF VIOLATION CONSTITUTES A SEPARATE OFFENSE.

23 Sec. 11. Section 36-1868, Arizona Revised Statutes, is amended
 24 to read:

25 **36-1868. Scope of review; burden of proof**

26 A. An appeal may be taken from any ~~final~~ RULE, REGULATION OR
 27 order or other final determination ~~of~~ ISSUED OR MADE BY the council or
 28 director by any person who is or may be adversely affected thereby, or
 29 by the attorney general on behalf of the state, to the superior court
 30 in accordance with the provisions of title 12, chapter 7, article 6.
 31 A copy of the proceedings before the council or director shall be
 32 certified to the court in connection with each appeal.

33 B. ANY RULE OR REGULATION UNDER THIS ARTICLE MAY BE SUBJECT
 34 TO REVIEW TO DETERMINE WHETHER THE COUNCIL OR DIRECTOR ACTED WITHIN
 35 THE SCOPE OF AUTHORITY DELEGATED BY THE LEGISLATURE AND WITHIN THE
 36 LEGISLATIVE STANDARDS SET FORTH BY THIS ARTICLE AND WHETHER SUCH RULE
 37 OR REGULATION IS REASONABLE AND NECESSARY UNDER THE CIRCUMSTANCES,
 38 INCLUDING BUT NOT LIMITED TO THE ECONOMIC EFFECTS CONTEMPLATED TO BE
 39 CONSIDERED UNDER THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED.

40 C. ANY ORDER OR OTHER FINAL DETERMINATION UNDER THIS ARTICLE MAY
 41 BE SUBJECT TO REVIEW ONLY TO DETERMINE WHETHER THE ADMINISTRATIVE RECORD
 42 AS MAY BE SUPPLEMENTED BY OTHER EVIDENCE SUPPORTS SUCH ORDER OR DETER-
 43 MINATION BY SUBSTANTIAL EVIDENCE. ENFORCEMENT PROVISIONS OF SECTIONS
 44 36-1864 AND 36-1864.01 SHALL BE INVOKED ONLY UPON A SHOWING OF VIOLATIONS
 45 THEREUNDER BY A PREPONDERANCE OF THE EVIDENCE. SANCTIONS PROVIDED BY
 46 SECTION 36-1864.02 SHALL BE INVOKED ONLY UPON A SHOWING OF VIOLATIONS
 47 THEREUNDER BEYOND A REASONABLE DOUBT.

48 Sec. 12. Title 36, chapter 16, article 1, Arizona Revised Statutes,
 49 is amended by adding section 36-1870, to read:

50 **36-1870. Limitation; review**

51 A. THE COUNCIL, IN ESTABLISHING EFFLUENT LIMITATIONS, WATER
 52 QUALITY RELATED LIMITATIONS, NEW SOURCE PERFORMANCE STANDARDS, TOXIC

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1 AND PRETREATMENT EFFLUENT LIMITATIONS AND INSPECTION, MONITORING AND
2 ENTRY PROVISIONS AND IN FORMULATING RULES AND REGULATIONS PURSUANT TO
3 SECTION 36-1854, AND THE DIRECTOR, IN ISSUING PERMITS AND IN FORMULATING
4 RULES AND REGULATIONS PURSUANT TO SECTION 36-1859 NECESSARY TO ENABLE
5 THIS STATE TO ADMINISTER A PERMIT PROGRAM FOR THE DISCHARGE OF POLLUTANTS
6 INTO THE WATERS OF THE UNITED STATES WITHIN THIS STATE IN ACCORDANCE WITH
7 THE REQUIREMENTS OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED,
8 SHALL EXCLUDE FROM THE REQUIREMENTS OF THIS STATE'S PROGRAM ALL DIS-
9 CHARGES PERMITTED TO BE EXCLUDED FROM STATE PROGRAMS BY THE FEDERAL
10 WATER POLLUTION CONTROL ACT, AS AMENDED.

11 B. DENIAL, ISSUANCE, MODIFICATION OR REPEAL BY THE DIRECTOR OF
12 A PERMIT FOR DISCHARGE INTO THE WATERS OF THE UNITED STATES WITHIN THIS
13 STATE, AND ANY CONDITION OR REQUIREMENT CONTAINED THEREIN, SHALL BE
14 SUBJECT TO REVIEW AS A FINAL ORDER OF THE DIRECTOR AS PROVIDED IN SECTION
15 36-1868.

16 C. NOTWITHSTANDING THE PROVISIONS OF TITLE 12, CHAPTER 7, ARTICLE
17 6, ANY EFFLUENT LIMITATION, WATER QUALITY RELATED LIMITATION, NEW SOURCE
18 PERFORMANCE STANDARD, TOXIC AND PRETREATMENT STANDARD, AND INSPECTION,
19 MONITORING AND ENTRY PROVISION ESTABLISHED BY THE COUNCIL, ANY RULE OR
20 REGULATION ADOPTED BY THE COUNCIL PURSUANT TO SECTION 36-1854, SUB-
21 SECTION A, PARAGRAPH 5, OR ANY RULE OR REGULATION ADOPTED BY THE
22 DIRECTOR PURSUANT TO SECTION 36-1859 SHALL BE SUBJECT TO REVIEW AS A
23 FINAL ORDER OR OTHER FINAL DETERMINATION OF THE COUNCIL OR DIRECTOR
24 AS PROVIDED IN SECTION 36-1868.

Approved by the Governor - June 16, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

CHAPTER 169
HOUSE BILL 2017

AN ACT

RELATING TO INSURANCE; PROVIDING FOR CATASTROPHIC MEDICAL COST INSURANCE PROGRAM; PRESCRIBING CERTAIN DEDUCTIONS; REPEALING SECTIONS 20-1001 AND 20-1002, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 20-1001 AND 20-1002, AND AMENDING SECTIONS 43-123.03, AS AMENDED BY LAWS 1975, CHAPTER 104, SECTION 42, AND 43-123.26, ARIZONA REVISED STATUTES.

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

2 Section 1. Repeal

3 Sections 20-1001 and 20-1002, Arizona Revised Statutes, as added by
4 Laws 1974, chapter 187, section 6, are repealed.

5 Sec. 2. Title 20, chapter 4, article 7, Arizona Revised Statutes,
6 is amended by adding new sections 20-1001 and 20-1002, to read:

7 20-1001. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "CATASTROPHIC MEDICAL COSTS" MEANS THOSE MEDICAL COSTS BEYOND
10 FIVE THOUSAND DOLLARS INCURRED BY AN INDIVIDUAL IN ANY TWO-YEAR PERIOD
11 FOR ANY INJURY, SICKNESS OR IMPAIRMENT TO THE EXTENT SUCH COSTS ARE NOT
12 ELIGIBLE FOR BENEFITS THROUGH INSURANCE OR GOVERNMENTAL PROGRAM OF ANY
13 DESCRIPTION.

14 2. "HEALTH INSURANCE" MEANS COVERAGE OF ANY DESCRIPTION PROVIDED
15 BY HEALTH INSURERS FOR EXPENSE OF INJURY, SICKNESS OR IMPAIRMENT.

16 3. "HEALTH INSURERS" MEANS INSURANCE COMPANIES, HOSPITAL SERVICE
17 CORPORATIONS, MEDICAL SERVICE CORPORATIONS OR HEALTH CARE SERVICES
18 ORGANIZATIONS.

19 4. "MEDICAL COSTS" MEANS AS A MINIMUM:

20 (a) EXPENSES OF INSTITUTIONAL CARE ORDERED BY A PHYSICIAN AND
21 CONSISTING OF NECESSARY INPATIENT AND OUTPATIENT CARE INCLUDING USUAL
22 ANCILLARY SERVICES PERFORMED IN A LICENSED HOSPITAL AND CARE PERFORMED
23 IN A LICENSED EXTENDED CARE FACILITY OR A LICENSED HOME HEALTH AGENCY,
24 A LICENSED FREE-STANDING SURGICAL FACILITY OR A LICENSED SKILLED NURSING
25 FACILITY.

1 (b) EXPENSES OF PROFESSIONAL SERVICES CONSISTING OF NECESSARY
2 MEDICAL OR SURGICAL SERVICES FOR PREVENTIVE, DIAGNOSTIC, THERAPEUTIC,
3 CONSULTATIVE OR REHABILITATIVE, BUT NOT CUSTODIAL PURPOSES AND PERFORMED
4 BY A PHYSICIAN, LICENSED DENTIST, LICENSED PODIATRIST, LICENSED REGISTERED
5 NURSE, REGISTERED OPTOMETRIST OR LICENSED PHYSICAL THERAPIST.

6 (c) EXPENSES OF MEDICAL SUPPLIES AND ITEMS CONSISTING OF NECESSARY
7 PRESCRIPTION DRUGS AND MEDICINES, LABORATORY AND X-RAY SERVICES, BLOOD
8 AND OXYGEN, AMBULANCE TRANSPORTATION, ORTHOPEDIC BRACES AND PROSTHETIC
9 APPLIANCES AND RENTAL OR PURCHASE OF DURABLE MEDICAL EQUIPMENT.

10 5. "PHYSICIAN" MEANS A LICENSED DOCTOR OF MEDICINE OR DOCTOR OF
11 OSTEOPATHY.

12 20-1002. Scope of coverage; utilization and cost control

13 A. EACH QUALIFIED INSURER, OTHER THAN THOSE SPECIFIED IN SECTIONS
14 20-708, 20-934 AND 20-1602, TRANSACTING HEALTH INSURANCE SHALL INCLUDE
15 IN ITS COVERAGE CATASTROPHIC MEDICAL COSTS, UNLESS THE INSURED DECLINES
16 SUCH COVERAGE IN WRITING. SUCH COVERAGE SHALL PROVIDE THAT WHEN A COVERED
17 INDIVIDUAL INCURS FIVE THOUSAND DOLLARS OR MORE WITHIN A PERIOD OF TWELVE
18 MONTHS IN CHARGES FOR SERVICES OR ITEMS COVERED IN WHOLE OR PART BY THIS
19 SECTION, THEREAFTER BENEFITS, AS SPECIFIED IN THIS ARTICLE, SHALL BE PAY-
20 ABLE WITHOUT REGARD TO ANY COPAYMENT OR DEDUCTIBLE UP TO A MAXIMUM LIFE-
21 TIME LIMIT FOR ANY INDIVIDUAL OF TWO HUNDRED FIFTY THOUSAND DOLLARS.

22 B. THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES SHALL ESTABLISH
23 EFFECTIVE UTILIZATION AND COST CONTROL MEASURES TO CONTROL OVER-UTILIZATION
24 AND EXCESSIVE COSTS. SUCH MEASURES SHALL NOT EXCEED THOSE STANDARDS RE-
25 QUIRED IN HOSPITALS AND HEALTH CARE INSTITUTIONS IN THIS STATE FOR PRO-
26 VIDERS OF SERVICES UNDER TITLE XIX OF THE SOCIAL SECURITY ACT.

27 C. IN THIS SECTION:

28 1. "COPAYMENT" MEANS AN AMOUNT PAID BY AN INSURED TO A PROVIDER OF
29 HEALTH OR MEDICAL SERVICES FOR THE RENDERING OF SUCH SERVICES.

30 2. "DEDUCTIBLE" MEANS A DOLLAR AMOUNT WHICH MUST BE PAID OR INCURRED
31 BY AN INSURED BEFORE A SPECIFIED PORTION OF AN INSURANCE CONTRACT BECOMES
32 EFFECTIVE.

33 Sec. 3. Section 43-123.03, Arizona Revised Statutes, as amended by
34 Laws 1975, chapter 104, section 42, is amended to read:

35 43-123.03. Deductions for expenses

36 A. In computing net income there shall be allowed as a deduction
37 all the ordinary and necessary expenses paid or incurred during the
38 taxable year in carrying on any trade or business, including a reasonable
39 allowance for salaries or other compensation for personal services
40 actually rendered; traveling expenses (including the entire amount ex-
41 pended for meals and lodging) while away from home in the pursuit of a
42 trade or business; and rentals or other payments required to be made as
43 a condition to the continued use or possession, for purposes of the
44 trade or business, of property to which the taxpayer has not taken or
45 is not taking title or in which he has no equity:

46 1. In the case of a taxpayer engaged in the business of farming,
47 expenditures made for the purpose of soil and water conservation and

1 the prevention of erosion of land used in farming shall be allowed as
2 deductions under this section. For the purposes of this paragraph, the
3 term "expenditures made for the purpose of soil and water conservation,
4 and the prevention of erosion" means expenditures for the treatment,
5 moving, or cultivation of earth, including (but not limited to) leveling,
6 grading and terracing, contour furrowing, the construction of diversion
7 channels and drainage ditches, the control and protection of water
8 courses, outlets and ponds, the planting and cultivation of cover and
9 protective crops or windbreaks, the control of weeds and brush and
10 other special or emergency cultivation and tillage; but such term does
11 not include the purchase, construction, installation or improvement of
12 structures, appliances, and facilities made of masonry, concrete, tile,
13 metal, or wood, such as tanks, reservoirs, pipes, conduits, canals, dams,
14 wells, and pumps, which are subject to the allowance for depreciation
15 provided in section 43-123.14. For the purposes of this paragraph the
16 term "land used in farming" means land used (prior to the expenditure
17 for conservation made by the taxpayer) by the taxpayer or his tenant or
18 the predecessor owner or his tenant for the production of crops, fruits,
19 and similar agricultural products or for the sustenance of livestock.

20 2. No deduction shall be allowable under this subsection, to a
21 corporation for any contribution or gift which would be allowable as a
22 deduction under section 43-123.19, subsection A, were it not for the
23 five per cent limitation therein contained and for the requirements
24 therein that payment must be made within the income year.

25 3. FOR EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1976, no
26 deduction shall be allowable under this section to an employer for the
27 costs or expenses of providing medical care, as defined in section
28 43-123.26, to employees unless such care is pursuant to a plan which
29 includes coverage for catastrophic medical costs as described in section
30 20-1002.

31 B. In computing net income there shall be allowed as a deduction
32 all the ordinary and necessary expenses paid or incurred during the
33 taxable year for the production or collection of income, or for the
34 management, conservation, or maintenance of property held for the
35 production of income.

36 C. The deductions permitted by subsection A of this section shall
37 not be allowed to the extent that they are connected with the production
38 of income not taxable under this title. Proper apportionment and allo-
39 cation of such deductions with respect to taxable and nontaxable income
40 shall be determined pursuant to section 43-126, subsection (a), para-
41 graph (5).

42 D. In computing net income there shall be allowed as a deduction
43 a reasonable amount for ordinary and necessary expenses paid or incurred
44 during the taxable year for additional education or training required
45 for the satisfaction of upgraded professional or occupational require-
46 ments. To be eligible to claim the deduction provided by this para-
47 graph, the taxpayer shall be actively engaged in the taxpayer's trade,
48 profession or occupation in the state of Arizona and the purpose of
49 such education must be to maintain or improve a taxpayer's skills or
50 meet the express requirements of the taxpayer's employer. Nothing in

1 this section shall be construed as to allow any educational expenses
2 paid or incurred in regard to sabbatical leave abroad or within the
3 United States, or to meet the minimum educational requirements to
4 qualify for the trade, profession or occupation or to qualify for a
5 new trade, profession or occupation.

6 Sec. 4. Section 43-123.26, Arizona Revised Statutes, is amended
7 to read:

8 43-123.26. Deductions; medical expenses

9 A. In computing net income, there shall be allowed as a deduction,
10 except as limited under subsections B and C of this section, expenses
11 paid during the taxable year, not compensated for by insurance or other-
12 wise, for medical care of the taxpayer, his spouse, or a dependent of
13 the taxpayer specified in section 43-127(b). The term "medical care",
14 shall include amounts paid for the diagnosis, cure, mitigation, treat-
15 ment, or prevention of disease, or for the purpose of affecting any
16 structure or function of the body (including amounts paid for accident
17 or health insurance, provided THAT FOR EACH TAXABLE YEAR BEGINNING AFTER
18 DECEMBER 31, 1976 the health insurance premiums are payment for a policy
19 which includes coverage for catastrophic medical costs as described in
20 section 20-1002), only when substantiated by a schedule showing to whom
21 such amounts have been paid.

22 B. A husband and wife who file a joint return may deduct expenses
23 paid for medical care, however the maximum deduction for the taxable
24 year shall not exceed five thousand dollars.

25 C. An individual who files a separate return may deduct expenses
26 paid for medical care, however the maximum deduction for the taxable
27 year shall not exceed five thousand dollars in the case of the head of
28 a household, and shall not exceed two thousand five hundred dollars in
29 the case of all other individuals.

30 D. In the case of a husband and wife filing a joint return or
31 an individual filing a separate return, if the husband or wife or the
32 individual has reached the age of sixty-five before the close of the
33 taxable year, the expenses for the medical care of the husband or wife
34 or the individual are deductible without regard to the limitation speci-
35 fied in subsections B and C of this section. This subsection does not
36 relate to or in any way affect the deductibility of expenses incurred
37 for the medical care of a dependent.

38 Sec. 5. Effective dates; exceptions

39 A. Subject to the provisions of subsection B of this section,
40 the provisions of this act shall become effective as provided by law.

41 B. Section 2 of this act shall become effective on October 1,
42 1976.

Approved by the Governor - June 16, 1975

Filed in the office of the Secretary of State - June 19, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

Chapter 170
HOUSE BILL 2412

AN ACT

RELATING TO TAXATION; PRESCRIBING EXCEPTIONS TO THE REQUIREMENT OF TAXING ALL PROPERTY IN THE STATE, AND AMENDING SECTION 42-271, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-271, Arizona Revised Statutes, is amended
3 to read:
4 42-271. Property subject to taxation; exceptions
5 All property in the state shall be subject to taxation, except:
6 1. Federal, state, county and municipal property.
7 2. Public debts as evidenced by the bonds of this state, counties,
8 municipalities or other subdivisions thereof.
9 3. Public libraries, colleges, schoolhouses and other buildings
10 used for education, with their furniture, libraries and equipment, and
11 the lands appurtenant thereto and used therewith, as long as they are
12 used for the purpose of education and not used or held for profit, but
13 when such property is private property from which a rent or valuable
14 consideration is received for its use it shall be taxed as other property.
15 4. Hospitals, asylums, poor houses and other charitable institu-
16 tions for relief of the indigent or afflicted, and the lands appurtenant
17 thereto, with their fixtures and equipment, not used or held for profit.
18 5. Grounds and buildings belonging to agricultural societies,
19 as long as they are used for those purposes only, and not used or held
20 for profit.
21 6. Churches and other buildings used for religious worship, with
22 their furniture and equipment, and the land and improvements appurtenant
23 thereto and used therewith, provided rent is not paid for such land or
24 improvements, and as long as the property is not used or held for profit.
25 7. Cemeteries and graveyards set apart and used for interring
26 the dead, except such portions thereof as are used or held for profit.
27 8. The property of widows, widowers, honorably discharged veterans,
28 members of revenue marine service and military nurses, residents of this

CHAPTER 170

1 state, not exceeding the amount of two thousand dollars, where the total
2 assessment of such person does not exceed five thousand dollars, but no
3 exemption shall be allowed to such persons other than widows and widowers
4 unless they have served at least sixty days in the military or naval
5 service of the United States during time of war, and have been residents
6 of this state prior to September 1, 1945.

7 9. Observatories maintained for astronomical research and education
8 for the public welfare, together with all property used in the work or
9 maintenance thereof, including property held in trust therefor, as long
10 as the observatories and other property are used for such purposes only
11 and not used or held for profit.

12 10. PROPERTY USED FOR OPERATION OF A HEALTH CARE INSTITUTION WHICH
13 PROVIDES MEDICAL SERVICES, NURSING SERVICES OR HEALTH RELATED SERVICES TO
14 HANDICAPPED PERSONS OR PERSONS SIXTY-TWO YEARS OF AGE OR OLDER, AND WHICH
15 IS NOT USED OR HELD FOR PROFIT.

16 11. PROPERTY USED FOR THE OPERATION OF A RESIDENTIAL APARTMENT
17 HOUSING FACILITY WHICH IS NOT USED OR HELD FOR PROFIT AND IS STRUCTURED TO
18 THE CARE AND HOUSING OF HANDICAPPED PERSONS OR PERSONS SIXTY-TWO YEARS OF
19 AGE OR OLDER, AND FOR WHICH A SUBSIDY OR PAYMENT IS GIVEN BY FEDERAL,
20 STATE OR LOCAL GOVERNMENT OR BY NONPROFIT ORGANIZATIONS IN A SUBSTANTIAL
21 AMOUNT IN RELATION EITHER TO THE AMOUNT GIVEN OR TO THE TOTAL ANNUAL
22 OPERATING EXPENSES TO PAY FOR PRINCIPAL, INTEREST AND OPERATING EXPENSES
23 PROVIDED SUCH NONPROFIT ORGANIZATIONS ARE NOT CREATED OR OPERATED FOR THE
24 PRIMARY PURPOSE OF PROVIDING SUCH SUBSIDY OR PAYMENT.

25 12. PROPERTY OF OTHER CHARITABLE INSTITUTIONS FOR RELIEF OF THE
26 INDIGENT OR AFFLICTED, INCLUDING THE LANDS APPURTENANT THERETO, WITH THEIR
27 FIXTURES AND EQUIPMENT, AND OTHER REASONABLY REQUIRED PROPERTY, SO LONG AS
28 SUCH INSTITUTIONS AND THEIR PROPERTY ARE NOT HELD OR USED FOR PROFIT AND
29 ANY INCOME THEREFROM IS USED EXCLUSIVELY FOR THE RELIEF OF THE INDIGENT
30 OR AFFLICTED AND NECESSARY AND REASONABLE OPERATING EXPENSES.

31 13. THE EXCEPTIONS CONTAINED IN THIS SECTION RELATING TO CHARITABLE
32 INSTITUTIONS DO NOT APPLY TO PROPERTY OWNED BY CHARITABLE INSTITUTIONS BUT
33 PRIMARILY HELD OR USED BY OTHERS WHOSE USE IS NOT EXCEPTED FROM TAXATION
34 BY THIS SECTION.

Approved by the Governor - June 19, 1975

Filed in the office of the Secretary of State - June 19, 1975

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in the context of public administration and financial management. The text highlights that records should be kept in a secure and accessible manner, ensuring that they are available for review and audit at any time.

2. The second part of the document focuses on the role of internal controls in preventing fraud and mismanagement. It outlines various control mechanisms, such as segregation of duties, authorization procedures, and regular audits, which are designed to minimize the risk of errors and ensure the integrity of the organization's operations. The document stresses that these controls should be implemented consistently and monitored effectively to achieve their intended purpose.

3. The third part of the document addresses the issue of data security and privacy. It discusses the need to protect sensitive information from unauthorized access, disclosure, and loss. Key measures mentioned include the use of encryption, access controls, and secure communication channels. The document also emphasizes the importance of educating employees about data security best practices and the potential consequences of a data breach.

4. The fourth part of the document discusses the importance of regular communication and reporting. It highlights that timely and accurate reporting is crucial for decision-making and strategic planning. The text suggests that reports should be clear, concise, and easy to understand, providing relevant information to the appropriate stakeholders. Regular communication is also emphasized as a means of fostering a culture of transparency and trust within the organization.

5. The fifth and final part of the document provides a summary of the key points discussed and offers recommendations for further action. It reiterates the importance of continuous improvement and the need to stay updated on the latest trends and best practices in the field. The document concludes by encouraging all stakeholders to take ownership of their responsibilities and work together to ensure the highest standards of performance and integrity.

MEMORIALS

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE CONCURRENT MEMORIAL 2003

A CONCURRENT MEMORIAL

URGING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO REFRAIN FROM ANY ACTION WHICH WOULD THREATEN OR AFFECT THE FREEDOM OR SECURITY OF THE REPUBLIC OF CHINA.

1 To the President and the Congress of the United States of America:
2 Your memorialist respectfully represents:
3 Whereas, The Republic of China has been a friend and ally of the
4 United States through the years; and
5 Whereas, The United States has an obligation to insure the safety
6 and freedom of the Republic of China; and
7 Whereas, The Republic of China, through the free enterprise system,
8 has built a successful economic base; and
9 Whereas, The Republic of China is important to the economy of the
10 United States and of the State of Arizona through its use of cotton and
11 other products; and
12 Whereas, The Republic of China is important to the national
13 security of the United States by virtue of its location and its com-
14 mitment to the philosophy of the free world.
15 Wherefore your memorialist, the Legislature of the State of
16 Arizona, prays:
17 1. That the President and the Congress of the United States make
18 no commitment which would in any way compromise the freedom and security
19 of our friend, ally and business partner, the Republic of China, or
20 its people.
21 2. That the Honorable Wesley Bolin, Secretary of State of the
22 State of Arizona, transmit copies of this Memorial to the President of
23 the United States, the President of the United States Senate, the
24 Speaker of the House of Representatives of the United States and to
25 each member of the Congress of the United States.

~~Passed the House May 5, 1975 by the following vote: 51 Ayes, 7 Nays, 2 Not Voting.~~

~~Passed the Senate, May 30, 1975 by the following vote: 20 Ayes, 9 Nays, 1 Not Voting.~~

~~Approved by the Governor - June 2, 1975~~

~~Filed in the Office of the Secretary of State - June 3, 1975~~

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE CONCURRENT MEMORIAL 2004

A CONCURRENT MEMORIAL

URGING NEW MEXICO TO RECONSIDER ITS ENACTMENT OF ITS "ELECTRICAL ENERGY TAX ACT" AND URGING CONGRESS TO ENACT LEGISLATION PROHIBITING THE IMPOSITION OF SUCH A TAX BY ANY STATE.

1 To the State of New Mexico and the Congress of the United States of
2 America:
3 Your memorialist respectfully represents:
4 Whereas, the State of New Mexico, with the enactment of Senate
5 Bill 258 in the First Session of its Thirty-second Legislature, will
6 impose a "temporary" tax of four-tenths of one mill on each net kilowatt
7 hour of electricity generated in New Mexico beginning on July 1, 1975; and
8 Whereas, this tax will extend to the ultimate consumers of such
9 electricity only outside the State of New Mexico; and
10 Whereas, such tax could cost Arizona consumers more than three
11 million dollars; and
12 Whereas, the regional power system that has been developed coopera-
13 tively over the years for the benefit of power consumers in the Southwest
14 is placed in grave danger of being fragmented by this action; and
15 Whereas, the imposition of such a tax by one state may well lead to
16 retaliatory actions on the part of other states, thereby resulting in the
17 creation of trade barriers and the establishment of burdens on free and
18 open interstate commerce, with the result that power consumers in energy-
19 poor areas could bear the total cost of such tax; and
20 Whereas, the precipitous action of the State of New Mexico clearly
21 violates the commerce clause, the due process clause and equal protection
22 clause of the United States Constitution.

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Wherefore, your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the Governor and Legislature of the State of New Mexico reconsider the wisdom of enactment of the Electrical Energy Tax Act and consider repealing such act.

2. That the Congress of the United States enact legislation to prohibit the imposition of such a tax by any state as that adopted by the State of New Mexico.

3. That copies of this memorial be transmitted by the Secretary of State of Arizona to the Governor, Speaker of the House of Representatives and President of the Senate of the State of New Mexico, to each member of the New Mexico and Arizona Congressional delegations, to the Multistate Tax Commission and federal energy agencies.

Passed the House May 9, 1975 by the following vote: 51 Ayes, 5 Nays, 4 Not Voting.

Passed the Senate May 30, 1975 by the following vote: 18 Ayes, 11 Nays, 1 Not Voting.

Approved by the Governor - June 2, 1975

Filed in the Office of the Secretary of State - June 3, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE MEMORIAL 2002

A MEMORIAL

URGING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO OPPOSE ANY
HANDGUN CONTROL PROPPSALS FOR FEDERAL LEGISLATION.

1 To the President and the Congress of the United States of America:
2 Your memorialist respectfully represents:
3 Whereas, defense of one's person against assault by another is a
4 natural right recognized by every generation; and
5 Whereas, every individual's right to the possession of adequate
6 weapons for his defense or the defense of his home and family is essential
7 to the protection of this natural right; and
8 Whereas, the Bill of Rights of the Constitution of the United
9 States and Article 2, Section 26 of the Constitution of the State of
10 Arizona guarantee to its citizens the right to keep and bear arms; and
11 Whereas, the handgun is the most effective weapon for self-defense,
12 and its mere possession frequently is sufficient to repel an invader or
13 attacker; and
14 Whereas, crime statistics only cover the use of firearms in crimes,
15 and do not disclose the many instances where the lawful possession or
16 use of firearms for defense have prevented crimes; and
17 Whereas, such legislation would deny a citizen the right to obtain
18 weapons for self-defense, but would not prevent the acquisition of weapons
19 by criminals or their misuse by criminals; and
20 Whereas, there are adequate laws now on the books to punish criminals
21 for the misuse of firearms in crimes if properly enforced.
22 Wherefore your memorialist, the House of Representatives of the State of
23 Arizona, prays:
24 1. That the President and the Congress of the United States take
25 those steps necessary for the proper enforcement and judicial punishment
26 of criminals, rather than consider legislation to curtail the right of
27 honest citizens to acquire weapons for sport or self-defense.
28 2. That the Secretary of State of the State of Arizona transmit a
29 copy of this Memorial to the President of the United States, the President
30 of the United States Senate, the Speaker of the United States House of
31 Representatives, and to each member of the Arizona Congressional delegation.

*Adopted by the House of Representatives on April 11, 1975 by the following vote:
49 Ayes, 4 Nays, 7 Not Voting.*

Approved by the Governor - April 16, 1975

Filed in the Office of the Secretary of State - April 21, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE MEMORIAL 2004

A MEMORIAL

URGING CONGRESS AND THE FEDERAL TRADE COMMISSION TO NOT PERMIT SALE OF THE
PEABODY COAL COMPANY TO THE TAX-EXEMPT TENNESSEE VALLEY AUTHORITY.

1 To the Congress of the United States and the Federal Trade Commission:

2 Your memorialist respectfully represents:

3 Whereas, the Federal Trade Commission has ordered Kennecott
4 Copper Corporation to sell its subsidiary, Peabody Coal Company, which
5 operates the Black Mesa coal mine in the heart of the Navajo-Hopi
6 Indian reservation in Arizona; and

7 Whereas, Peabody Coal Company has notified its stockholders that
8 it has received three acceptable offers, one of which is from the
9 Tennessee Valley Authority; and

10 Whereas, any purchase of the property, valued for assessment
11 purposes in 1973 at fifteen and one-half million dollars and in 1974
12 at eleven million dollars, is subject to approval by the Federal Trade
13 Commission; and

14 Whereas, the Tennessee Valley Authority is not subject to federal
15 or state income taxes or state transaction privilege taxes; and

16 Whereas, the Peabody Coal Company's operations in this state are
17 located on federal land and, thus, not subject to real property taxes; and

18 Whereas, such sale to a tax-exempt governmental entity shall result
19 in serious losses of income taxes and transaction privilege taxes to
20 this state and the United States.

21 Wherefore your memorialist, the House of Representatives of the State
22 of Arizona, prays:

23 1. That the United States Congress investigate and oppose the
24 sale of the Peabody Coal Company to the Tennessee Valley Authority
25 because of the serious tax losses which would be suffered by this state
26 and the United States.

1 2. That the Federal Trade Commission refuse to give approval of
2 such sale.

3 3. That the Honorable Wesley Bolin, Secretary of State of Arizona,
4 transmit copies of this memorial to the President of the United States,
5 the President of the United States Senate, the Speaker of the House of
6 Representatives of the United States, the Federal Trade Commission and
7 to each member of the Arizona Congressional Delegation.

*Adopted by the House on June 2, 1975 by the following vote: 40 Ayes,
17 Nays, 2 Not Voting.*

Approved by the Governor - June 2, 1975

Filed in the Office of the Secretary of State - June 3, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

SENATE CONCURRENT MEMORIAL 1002

A CONCURRENT MEMORIAL

URGING POSITIVE ACTION BY CONGRESS TO ENSURE RETURN OF MISSING PRISONERS OF WAR AND APPOINTMENT BY THE PRESIDENT OF A SPECIAL TASK FORCE TO ASSIST IN ACHIEVING SUCH OBJECTIVE.

1 To the President and the Congress of the United States of America:

2 Your memorialist respectfully represents:

3 Whereas, on January 27, 1973, the Vietnam Cease-fire Agreement
4 was signed in Paris, France; and

5 Whereas, on August 15, 1973, the United States government ended
6 all United States military involvement in Indochina; and

7 Whereas, today, over two years after the signing of the Paris
8 Agreement, the fate of over thirteen hundred men, prisoners of war
9 and missing in action, in Vietnam, Laos, Cambodia and China is still
10 unknown; and

11 Whereas, in view of the recent fall of the governments of Cambodia
12 and South Vietnam and the take over of those countries by the Communist
13 forces of Southeast Asia, there is no evidence the Communists intend to
14 comply with the provisions of the Paris Agreement calling for the return
15 of all prisoners of war, an accounting of all of the men who are still
16 missing in action and a return of the remains of those who died on foreign
17 soil; and

18 Whereas, it is the responsibility of the people of the United
19 States of America and their elected representatives in the Congress of
20 the United States to ensure the officials of the Administration, includ-
21 ing the Executive Branch and the Department of State, do everything
22 humanly possible within their power to secure an honorable accounting
23 of these prisoners and missing men; and

24 Whereas, recent information available to the United States govern-
25 ment reveals two United States Army men missing in Cambodia since 1970
26 and 1971 were alive as of July, 1974, and being held by Communist forces
27 in that country and thereby providing evidence some of these men are, in
28 fact, alive.

1 Wherefore, your memorialist, the Senate of the State of Arizona, the
2 House of Representatives concurring, prays:
3 1. That the Congress of the United States take immediate, strong,
4 positive action to ensure the return of all American prisoners of war
5 held by Communist forces in Southeast Asia, to account for all of those
6 who remain missing and to return the remains of these brave Americans
7 who died in Southeast Asia; and
8 2. That the Congress of the United States, in the Senate and in
9 the House, appoint special investigative committees to resolve this
10 issue; and
11 3. That the President of the United States appoint a Presidential
12 Task Force which will assist him in making the decisions necessary to
13 determine the fate of those unaccounted for and to return them, alive or
14 dead, to their beloved Nation and their grieving families.
15 4. That copies of this Memorial be dispatched to the President
16 of the United States, the President of the United States Senate, the
17 Speaker of the United States House of Representatives and to each Member
18 of the Arizona Delegation to the United States Congress.

*Passed by the Senate May 22, 1975 by the following vote: 20 Ayes,
6 Nays, 4 Not Voting.*

*Passed the House June 10, 1975 by the following vote: 56 Ayes, 1 Nay,
3 Not Voting.*

Approved by the Governor - June 11, 1975

Filed in the office of the Secretary of State - June 12, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

SENATE MEMORIAL 1002

A MEMORIAL

URGING THE VETERANS ADMINISTRATION OF THE UNITED STATES TO ENACT LEGISLATION
ESTABLISHING A NATIONAL CEMETERY IN ARIZONA.

1 To the President and the Congress of the United States of America:

2 Your memorialist respectfully represents:

3 The State of Arizona's one hundred seventy available National
4 Cemetery burial spaces are totally inadequate to handle the potential
5 demand of the more than two hundred fifty thousand veterans residing
6 in the state.

7 A deceased veteran who has expressed a desire to be buried in a
8 National Cemetery must be transported to another state for burial thereby
9 causing great hardships for his survivors.

10 Veterans organizations within the State of Arizona have some six
11 hundred forty acres of land in central Arizona available, without cost,
12 for utilization as a National Cemetery and Memorial Park.

13 Wherefore your memorialist, the Senate of the State of Arizona, prays:

14 1. That the Veterans Administration give its most earnest con-
15 sideration to the establishment of a National Cemetery in the State of
16 Arizona.

17 2. That the Secretary of State of the State of Arizona transmit a
18 copy of this Memorial to the President of the United States, the President
19 of the United States Senate, the Speaker of the United States House of
20 Representatives, the Administrator of the Veterans Administration and to
21 each member of the Arizona Congressional Delegation.

*Passed the Senate February 20, 1975 by the following vote: 25 Ayes, 5
Nays, 0 Not Voting.*

Approved by the Governor - February 21, 1975

Filed in the Office of the Secretary of State - February 24, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

SENATE MEMORIAL 1003

A MEMORIAL

RELATING TO VETERANS' DAY; URGING CONGRESS TO ENACT LEGISLATION RETURNING
OBSERVANCE OF VETERANS' DAY TO NOVEMBER 11.

1 To the Congress of the United States:

2 Your memorialist respectfully represents:

3 Whereas, the Congress of the United States enacted legislation
4 which changed observance of Veterans' Day from November 11, the date
5 of the armistice ending World War I and the traditional day of obser-
6 vance of that historical event; and

7 Whereas, the change of Veterans' Day to the fourth Monday in
8 October for the sole purpose of adding a three-day weekend to the
9 holidays of the year is not a sufficient reason for breaking with
10 tradition, memories, sentiments and history, and the reduction which
11 follows in participation in patriotic ceremonies.

12 Wherefore your memorialist, the Senate of the State of Arizona, prays:

13 1. That the President and Congress give their most earnest
14 consideration to the prompt enactment of legislation which would
15 result in the return of Veterans' Day to the traditional day of
16 observance, November 11, of each year.

17 2. That the Honorable Wesley Bolin, Secretary of State of the
18 State of Arizona, transmit copies of this Memorial to the President
19 of the United States, the President of the United States Senate, the
20 Speaker of the House of Representatives of the United States and to
21 each Member of the Arizona Congressional Delegation.

*Passed the Senate February 20, 1975 by the following vote: 20 Ayes,
10 Nays, 0 Not Voting.*

Approved by the Governor - February 21, 1975

Filed in the Office of the Secretary of State - February 24, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

SENATE MEMORIAL 1004

A MEMORIAL

RELATING TO RELEASE OF ALVIN TYGER; URGING THE GOVERNOR OF ARKANSAS AND THE ARKANSAS PARDONS AND PAROLES BOARD TO CONSIDER ALVIN TYGER REHABILITATED AND TO FREE HIM FROM IMPRISONMENT.

1 To the Governor of the State of Arkansas and the Arkansas Pardons and
2 Paroles Board:
3 Your memorialist respectfully represents:
4 Whereas, the purpose of incarceration for criminal actions must
5 be to rehabilitate such offenders; and
6 Whereas, such rehabilitation should manifest itself in such
7 offender leading an exemplary life as a good and respected member of
8 society; and
9 Whereas, the Senate of the State of Arizona believes that Alvin
10 Tyger has shown himself to be rehabilitated and has shown himself to
11 be a good husband, father, employee and citizen of the State of Arizona.
12 Whereas, imprisonment places the burden of support of Mr. Tyger
13 and his family upon the States of Arkansas and Arizona, respectively
14 when Mr. Tyger has shown he is able to support himself and his family.
15 Wherefore your memorialist, the Senate of the State of Arizona prays:
16 1. That the Governor of the State of Arkansas use the power
17 available to him to return Alvin Tyger to the State of Arizona.
18 2. That the Arkansas Pardons and Paroles Board use whatever
19 means available to such Board to allow Alvin Tyger to return to the
20 State of Arizona.
21 3. That the Honorable Wesley Bolin, Secretary of State to the
22 State of Arizona, transmit copies of this Memorial to the Governor of
23 the State of Arkansas and the Arkansas Pardons and Paroles Board.

Passed the Senate March 20, 1975 by the following vote: 19 Ayes, 11 Nays, 0 Not Voting.

Approved by the Governor - March 20, 1975

Filed in the Office of the Secretary of State - March 21, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

SENATE MEMORIAL 1005

A MEMORIAL

URGING THE UNITED STATES DEPARTMENT OF STATE AND THE SENATE OF THE UNITED STATES TO REFUSE ANY TREATY WITH PANAMA WHICH WOULD GIVE AWAY UNITED STATES' OWNERSHIP, OPERATION AND CONTROL OF THE PANAMA CANAL.

1 To the Senate of the United States, the United States State Department
2 and the President of the United States:

3 Your memorialist represents:

4 Whereas, in 1903 the United States of America and the Republic
5 of Panama entered into a treaty under which the United States at great
6 expenditure of lives and money constructed the Panama Canal, a vital
7 waterway link between the Caribbean Sea and the Pacific Ocean; and

8 Whereas, the fifty-mile canal was completed under very adverse
9 conditions which were overcome only by United States engineering genius
10 where other nations had tried and failed; and

11 Whereas, in 1914 the United States paid Panama ten million dollars
12 for the canal zone, has paid all expenses for the construction and
13 maintenance of that waterway, has paid Panama an increasing percentage
14 of the annual revenue generated by the canal, has a net investment in
15 the project of about six billion dollars and has never recovered its
16 original costs from revenues; and

17 Whereas, the 1903 treaty gave the United States sovereign control
18 "in perpetuity" to operate the canal and maintain a fortified ten-mile-
19 wide zone along the path of the canal through Panama; and

20 Whereas, in 1964 the two nations agreed to renegotiate the treaty
21 and it appears such negotiation will result in the transfer of the
22 canal's operation and maintenance to Panama, the retention of some "use
23 rights" by the United States and the obligation of military protection
24 would remain with the United States; and

25 Whereas, the Panamanian government is now run by a military
26 dictator who rose to power in a coup d'etat in 1968 and who is a close
27 friend of Cuba's Fidel Castro; and

1 Whereas, such a renegotiated treaty would amount to a complete
2 giveaway of a vital security holding of an interoceanic passageway to
3 a government whose intentions toward the security of the United States
4 are at least questionable; and

5 Whereas, such a giveaway would be a serious blunder and would
6 severely threaten the security of our nation.

7 Wherefore, your memorialist, the Senate of the State of Arizona,

8 prays:

9 1. That the President of the United States and the United States
10 Department of State cause the negotiations concerning rewriting the
11 treaty governing the Panama Canal Zone to be halted.

12 2. That the Senate of the United States, if a proposed treaty
13 giving away the Panama Canal Zone is presented for ratification, refuse
14 to ratify such treaty.

15 3. That the Secretary of State of the State of Arizona transmit
16 copies of this Memorial to the President of the United States, the
17 Secretary of State of the United States, the President of the United
18 States Senate and to each member of the Arizona Congressional Delegation.

*Passed the Senate May 22, 1975 by the following vote: 17 Ayes, 10 Nays,
3 Not Voting.*

Approved by the Governor - May 22, 1975

Filed in the Office of the Secretary of State - May 23, 1975

RESOLUTIONS

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE CONCURRENT RESOLUTION 2005

A CONCURRENT RESOLUTION

ON THE DEATH OF THE HONORABLE JACOB WEINBERGER.

1 The Honorable Jacob Weinberger, a federal judge and the last
2 surviving member of Arizona's 1910 Constitutional Convention, passed
3 away on the twenty-first day of May, 1974, at the age of ninety-two in
4 his Mission Hills, California home.

5 Judge Weinberger was born in Czechoslovakia on January 4, 1882.
6 His family emigrated to the United States and came to Denver in 1889
7 to join his father who had emigrated earlier. He worked his way through
8 the University of Colorado at Boulder, received his law degree, and at
9 the age of twenty-three moved to Globe, Arizona, where he practiced
10 law in addition to being a part-time district attorney. He was chosen
11 as a Gila County delegate to the 1910 Arizona Constitutional Convention
12 along with George W. P. Hunt, Arizona's first Governor.

13 Judge Weinberger was one of the fifty-two delegates to the Conven-
14 tion who labored for sixty days in the one hundred degree plus weather
15 in drafting the constitution. During the Convention, he participated in
16 the battles and discussions which raged over the proposed initiative,
17 referendum and recall provisions as the delegates forged a new constitu-
18 tion. His vote was one of forty-one votes in favor of the proposed
19 constitution that set out the rights and duties of citizens of Arizona,
20 a constitution that substantially still remains in effect today, more
21 than a half-century later.

22 He moved to San Diego in 1911, practiced law until 1918 and served
23 for the next twenty-one years on the Board of Education. He became San
24 Diego's city attorney in 1941 and was appointed to fill a vacancy on the
25 California Superior Court bench in 1943. In 1946 he was appointed to
26 the U.S. District Court in Los Angeles and was assigned as San Diego's
27 first resident U.S. District judge in 1949. From 1949 until his death,
28 he served the American people in his capacity as a federal judge.

1 He will be deeply missed, by his family, his friends and the people
2 of the State of Arizona.
3 Therefore
4 Be it resolved by the House of Representatives of the State of Arizona,
5 the Senate concurring:
6 That the members of the Legislature sincerely regret the passing
7 of the Honorable Judge Jacob Weinberger and do, therefore, extend their
8 most sincere sympathies and condolences to his widow and his surviving
9 relatives.

Unanimously adopted by the House - January 28, 1975

Unanimously adopted by the Senate - January 29, 1975

Approved by the Governor - February 4, 1975

Filed in the Office of the Secretary of State - February 4, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE RESOLUTION 2001

A RESOLUTION

ON THE DEATH OF THE HONORABLE ROBERT BREWER.

1 The Honorable Robert Brewer, who served for six terms in the
2 Arizona Legislature, passed away on November 10, 1974 in Phoenix,
3 Arizona at the age of sixty-one years.

4 Mr. Brewer was born in Sidney, Ohio on May 9, 1913 and came to
5 Arizona twenty-six years ago. He worked as a tool and die maker, an
6 accountant and a tax consultant.

7 He began his public service career in 1953 when he was elected
8 to the House of Representatives. He served with distinction in the
9 Twenty-first Legislature and the Twenty-third through the Twenty-
10 seventh Legislatures as a member of the House of Representatives. He
11 served ably and competently as vice-chairman of the State Government,
12 Ways and Means and Judiciary committees and as a member of many other
13 House committees, including Labor, County Affairs, Highways and Bridges,
14 Tourist and Industry Development and Rules.

15 Therefore
16 Be it resolved by the House of Representatives of the State of
17 Arizona:

18 That the members of the House of Representatives sincerely regret
19 the passing of the Honorable Robert Brewer and do, therefore, extend
20 their most sincere sympathies and condolences to his widow and other
21 surviving family members.

Adopted by the House of Representatives - January 22, 1975

Approved by the Governor - January 21, 1975

Filed in the Office of the Secretary of State - February 1, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE RESOLUTION 2002

A RESOLUTION

ON THE DEATH OF THE HONORABLE OWEN A. KANE.

1 On October 15, 1974, at the age of ninety-three, the Honorable
2 Owen A. Kane, a four-term member of the Arizona House of Representatives,
3 passed away in Phoenix, Arizona.

4 Mr. Kane, a real estate and insurance executive, was born in
5 La Rue, Ohio, on May 23, 1881. He moved to Phoenix in 1911.

6 In Ohio and New Mexico he was a railroad telegrapher and dis-
7 patcher. He taught night classes in telegraphy at Phoenix Union
8 High School sixteen years. He was agent cashier for the Occidental
9 Life Insurance Company. He retired from the insurance and real estate
10 business in 1963.

11 He was chief criminal deputy under Sheriff Jerry Sullivan in
12 Maricopa County.

13 Mr. Kane's first elected position was that of justice of peace
14 in the Indian pueblo of Laguna in New Mexico.

15 He served in the Arizona House of Representatives in the Six-
16 teenth, Seventeenth, Twentieth and Twenty-first Legislatures, completing
17 his last term in 1954.

18 He distinguished himself as a member of several House standing
19 committees including Education, Labor, Banking, Insurance and Corpo-
20 rations, Health, Welfare and Corrections, and Capitol Buildings and
21 Grounds.

22 He was a member of the Knights of Columbus and Elk lodges since
23 1902. Therefore

24 Be it resolved by the House of Representatives of the State of
25 Arizona:

26 That the members of the House of Representatives sincerely regret
27 the passing of the Honorable Owen A. Kane and do, therefore, express
28 their sympathies and condolences to the surviving members of his family.

Adopted by the House of Representatives - January 21, 1975

Approved by the Governor - January 21, 1975

Filed in the Office of the Secretary of State - February 4, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE RESOLUTION 2003

A RESOLUTION

CONGRATULATING OUR MEXICAN NEIGHBORS AND JOINING WITH THEM IN THE CELEBRATION OF CINCO DE MAYO, A NATIONAL HOLIDAY IN MEXICO, ON MAY 5, 1975.

1 On May 5, 1862, almost one hundred thirteen years ago, a fierce
2 battle was waged between six thousand French invaders and four thousand
3 poorly clad and poorly equipped Mexican defenders in the city of Puebla,
4 capital of the State of Puebla in Mexico, ending in the total defeat
5 of the French.

6 The victory, after many earlier defeats, gave courage and heart
7 to the people of Mexico, who were at that time beginning to emerge
8 from a state of anarchy. The event has since been observed as a national
9 holiday, Cinco de Mayo, for celebrating the Mexican national resistance
10 to foreign intervention.

11 At that time Mexico was ruled by France with Emperor Maximilian
12 on the throne. The battle paved the way for Mexico's independence from
13 a foreign power and the ultimate downfall and execution of Maximilian.
14 The Mexican Republic, under President Benito Juarez, was restored in 1867.

15 In 1861 allied forces of England, France and Spain invaded Mexico
16 and occupied Veracruz. In March, 1862, England and Spain settled their
17 difficulties with Mexico peacefully and withdrew. France, however,
18 commenced hostilities and advanced on Puebla, which is situated between
19 Veracruz on the coast and Mexico City on the plateau.

20 The superior French forces rolled through to the outskirts of
21 Puebla and expected to continue to Mexico City. The Mexican forces were
22 commanded by General Ignacio Zaragoza, assisted by two who later won
23 fame, General Osobedo, the hero of Queretaro and captor of Maximilian,
24 and General Porfirio Diaz, who later was President of Mexico for nearly
25 thirty-four years.

26 The battle began at four a.m. and lasted until seven p.m. with the
27 French making two major attacks, both of which were decisively routed.

1 The French retreated to the camp from which they had started and on
2 May 8, 1862, they retreated to Orizaba, where they awaited the arrival
3 of reinforcements from France.

4 During the long war with France the Mexican troops were cheered
5 up by the memory of the Cinco de Mayo victory and when peace came it
6 was made a national holiday. It now ranks in importance with the
7 anniversary of the independence of the Republic of Mexico, September
8 16, 1810.

9 Arizona's people on the border and officials in years passed
10 have joined in celebration of Cinco de Mayo with their Mexican
11 neighbors.

12 Throughout the history of both nations, with but few brief inter-
13 ludes, the United States and Mexico have maintained their national
14 friendship.

15 Therefore

16 Be it resolved by the House of Representatives of the State of
17 Arizona:

18 1. That the Legislature of the State of Arizona recognizes
19 Cinco de Mayo, May 5, 1975, as a day of celebration with the people
20 of Mexico; and

21 2. That the people of this state join the people of Mexico in
22 celebrating Cinco de Mayo and do extend to their Mexican neighbors
23 good wishes and hopes for continuing happiness.

*Adopted by the House of Representatives on April 11, 1975 by the following
vote: 55 Ayes, 0 Nays, 7 Not Voting.*

Approved by the Governor - April 17, 1975

Filed in the Office of the Secretary of State - April 21, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE RESOLUTION 2004

A RESOLUTION

DENYING PUBLIC EMPLOYMENT OF ANY PERSON WHO LEFT THE UNITED STATES TO AVOID SERVICE OR WHO DESERTED FROM THE ARMED FORCES DURING THE VIETNAM CONFLICT.

1 Whereas, the first duty of every American is to answer his or her
2 country's call in time of need, and
3 Whereas, thousands of Americans answered that call and gave their
4 lives in the service of this nation in the Vietnam conflict, and
5 Whereas, thousands more are in hospitals from wounds received while
6 serving their country in such conflict, and
7 Whereas, many more veterans of that conflict are now unemployed.
8 Wherefore
9 Be it resolved by the House of Representatives of the State of Arizona:
10 1. That it recommends that any person who left the United States
11 to avoid service to this nation in the Vietnam conflict or who deserted
12 from the armed forces during the period of the Vietnam conflict be re-
13 fused employment in this state in any position supported by tax monies
14 including state, county, city or town positions, even though such per-
15 son has been granted clemency by the National Amnesty Board.
16 2. That the Secretary of State of Arizona transmit certified
17 copies of this resolution to the state personnel administration division,
18 to each county's board of supervisors and to the governing body of each
19 city or town in this state.

*Adopted by the House on April 4, 1975 by the following vote: 45 Ayes, 8 Nays,
7 Not Voting.*

Approved by the Governor - April 10, 1975

Filed in the Office of the Secretary of State - April 10, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE RESOLUTION 2005

A RESOLUTION

ON THE DEATH OF THE HONORABLE JOHN H. WILSON.

1 On March 9, 1975, the Honorable John Hugh Wilson, a member of the
2 Arizona House of Representatives in the Nineteenth Legislature, passed
3 away in Phoenix, Arizona, at the age of sixty-seven.

4 Mr. Wilson, a resident of Arizona since 1932, was born in Ripley,
5 Tennessee, on March 31, 1907. He attended elementary school in Ripley
6 and high school in Milwaukee, Wisconsin. He was a contractor four years,
7 an employee of the Arizona highway department three years and later op-
8 erated a store. He retired in 1960 after serving in the Legislature
9 and after twelve years' service as an agent of the Arizona liquor con-
10 trol department. He served in the army during World War II.

11 Mr. Wilson served with distinction on House standing committees,
12 including County and County Affairs, of which he was vice-chairman,
13 Highways and Bridges, and Labor.

14 Therefore
15 Be it resolved by the House of Representatives of the State of Arizona:
16 That the members of the House of Representatives sincerely regret
17 the passing of the Honorable John Hugh Wilson and do, therefore, extend
18 their sympathies and condolences to the surviving members of his family.

Adopted by the House - March 14, 1975

Approved by the Governor - March 14, 1975

Filed in the Office of the Secretary of State - March 14, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE RESOLUTION 2006

A RESOLUTION

ON THE DEATH OF THE HONORABLE WALTER C. HIRSCH.

1 On February 7, 1975, the Honorable Walter C. Hirsch, of Phoenix,
2 Arizona, a member of the House of Representatives during the Twenty-first
3 Legislature, passed away at the age of seventy.
4 Born in Neche, North Dakota, on September 10, 1904, he attended
5 Wesley College, Grand Forks, North Dakota, and Hamline University,
6 St. Paul, Minnesota.
7 Mr. Hirsch was a school teacher and salesman and he established
8 the Geneva Supply Company in Phoenix in the 1950's.
9 He was a member of the Phoenix Jaycees, was a past president of
10 Phoenix Sertoma and a district governor of Sertoma. He was in the
11 real estate business in his later years.
12 Mr. Hirsch served with distinction on House of Representatives
13 standing committees, including Banking and Insurance and Ways and Means.
14 Therefore
15 Be it resolved by the House of Representatives of the State of Arizona:
16 That the members of the House of Representatives sincerely regret
17 the passing of the Honorable Walter C. Hirsch and do, therefore, extend
18 their sympathies and condolences to the surviving members of his family.

Adopted by the House - March 14, 1975

Approved by the Governor - March 14, 1975

Filed in the Office of the Secretary of State - March 14, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE RESOLUTION 2007

A RESOLUTION

ON THE DEATH OF THE HONORABLE MARVIN L. BURTON.

1 The Honorable Marvin L. Burton, teacher, principal, school super-
2 intendent and member of the Arizona House of Representatives for three
3 terms, passed away on March 2, 1974, in Tucson, Arizona, at the age of
4 seventy-eight.

5 Mr. Burton was born February 9, 1896, in Benton, Missouri and
6 dedicated most of his life to public service through education. Both
7 prior to 1923 in Missouri and after 1923 in Arizona, he served the
8 public and its educational system in administrative positions of in-
9 creasing responsibilities. He diligently worked to maintain and im-
10 prove his skills and received his Masters' degree from the University
11 of Arizona in 1940.

12 He was first elected to the House of Representatives in 1948
13 and served with distinction in the Nineteenth, Twentieth and Twenty-
14 third Legislatures. He was a member of numerous House committees
15 including Aeronautics, Child Welfare, Education, Agriculture and
16 Irrigation, County and Municipal Affairs, Public Health and Suffrage
17 and Elections, and served as Vice-Chairman for Enrolling and Engross-
18 ing and Chairman for Public Institutions.
19 Therefore

20 Be it resolved by the House of Representatives of the State of Arizona:

21 That the members of the House of Representatives sincerely re-
22 gret the passing of the Honorable Marvin L. Burton and do, therefore,
23 extend condolences to his widow and other surviving members of his
24 family.

~~Adopted by the House of Representatives - March 21, 1975~~

~~Approved by the Governor March 21, 1975~~

~~Filed in the Office of the Secretary of State - March 21, 1975~~

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE RESOLUTION 2008

A RESOLUTION

ON THE DEATH OF THE HONORABLE GEORGE A. BATCHELDER.

1 The Honorable George A. Batchelder passed away at the age of sixty-
2 seven on February 21, 1975, in the City of Phoenix.

3 Mr. Batchelder was the former owner and operator of the Indian
4 School Pharmacy, which closed in 1972 after fifty years of operation.
5 Subsequent to the close of the Indian School Pharmacy, Mr. Batchelder
6 graciously donated many of the antique items accumulated during the
7 pharmacy's operation to the Arizona Pharmaceutical College Museum at
8 the University of Arizona.

9 Mr. Batchelder was a past member of the Board of Directors of
10 the Arizona Pharmaceutical Association and served his profession and
11 association with distinction in that capacity.

12 He was first elected to the Arizona House of Representatives to
13 serve in the Twelfth Legislative Session beginning in 1935 and also
14 served in the Thirteenth and Fourteenth Legislative Sessions as a
15 member of the House of Representatives. He served with distinction
16 on the County and County Affairs, Fish and Game, Highways and Bridges,
17 Education and Judiciary Committees and also served as Chairman of the
18 Public Health Committee and Vice Chairman of the Ways and Means Committee.

19 He will be missed, by his family, his friends and the people of
20 the State of Arizona.

21 Therefore

22 Be it resolved by the House of Representatives of the State of Arizona:

23 That the members of the House of Representatives sincerely regret
24 the passing of the Honorable George A. Batchelder and do, therefore,
25 extend their most sincere sympathies and condolences to his widow Joyce
26 and his surviving relatives.

Adopted by the House - March 21, 1975

Approved by the Governor - March 20, 1975

Filed in the Office of the Secretary of State - March 21, 1975

State of Arizona
House of Representatives
Thirty-second Legislature
First Regular Session

HOUSE RESOLUTION 2009

A RESOLUTION

ON THE DEATH OF THE HONORABLE DONALD R. VAN PETTEN.

1 On May 2, 1975, the Honorable Donald R. Van Petten, a member of
2 the Arizona House of Representatives elected in 1928 and 1930, passed
3 away in Tempe, Arizona, at the age of eighty-four.

4 Dr. Van Petten, who retired in 1961, was a professor of political
5 science at Arizona State University where he taught history and political
6 science nineteen years.

7 Born in Joliet, Illinois, on August 7, 1880, he graduated from
8 Illinois Wesleyan University, at Bloomington, Illinois, and Illinois State
9 Normal University, at Normal, Illinois. He was superintendent of schools
10 at Cissna Park, Illinois, from 1910 to 1912. He came to Tempe, Arizona,
11 in 1918, where he lived throughout the rest of his life.

12 He served with distinction in the Ninth and Tenth Legislatures and
13 was a member of several House standing committees including Agriculture
14 and Irrigation, Education, Livestock, Public Institutions and Accounting
15 and Business Methods.

16 A rancher, legislator and educator, he also was the author of a
17 widely-used authoritative book entitled "The Constitution and Government
18 of Arizona" which was published in three editions in 1952, 1955 and 1960.

19 A brother-in-law of the Honorable D. Lee Jones, a present member of
20 the Arizona House of Representatives from District 25, Dr. Van Petten was
21 a past president of the Tempe Rotary Club, a member of Phi Gamma Delta
22 Fraternity, Masonic Lodge and Tempe Chamber of Commerce. He was a member

1 of the board of education of Tempe Normal School many years.
2 Therefore
3 Be it resolved by the House of Representatives of the State of Arizona:
4 That the members of the House of Representatives sincerely regret
5 the passing of the Honorable Donald Robinson Van Petten and do, therefore,
6 extend their sympathies and condolences to the surviving members of his
7 family.

Adopted by the House - May 13, 1975

Approved by the Governor - May 14, 1975

Filed in the Office of the Secretary of State - May 14, 1975

State of Arizona
Senate
Thirty-second Legislature
First Regular Session

SENATE RESOLUTION 1002

A RESOLUTION

ON THE DEATH OF THE HONORABLE JOHN RICHARD FRANKS

The Honorable John Richard Franks passed away at his home in Phoenix on May 17, 1974, at the age of sixty-three.

Mr. Franks was born on November 12, 1910 in Goldendale, Washington and came to Arizona with his family at the age of five. He went through Prescott schools, graduated from the University of Arizona in 1934 with a bachelor of laws degree, and entered into the practice of law in Prescott.

In 1943, Mr. Franks was elected county attorney of Yavapai County, from 1943 to 1944 he was assistant United States Attorney for Arizona, and in 1946 and 1947 he was an attorney for the state industrial commission.

While in private practice in Prescott, Mr. Franks was elected to the Senate representing Yavapai County. He served with distinction in the Nineteenth and Twentieth Legislatures. He was a member of many Senate committees including Employees and Supplies, Livestock, Highways and Bridges, Mines and Mining, Public Defense and State Institutions. He also served as vice chairman of the Banking and Insurance and Education Committees and chairman of the Judiciary Committee.

From 1959 to 1962 Mr. Franks served as City of Phoenix attorney. He was a member of the Phoenix law firm of Murphy, Posner and Franks.

Therefore
Be it resolved by the Senate of the State of Arizona:

That the members of the Legislature of the State of Arizona wish to express their sincere regret and profound sorrow over the passing of the Honorable John Richard Franks and do extend their most sincere sympathies to his widow, Lena, and his surviving relatives.

Unanimously adopted by the Senate - March 26, 1975

Approved by the Governor - March 27, 1975

Filed in the Office of the Secretary of State - March 28, 1975

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