

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 313
HOUSE BILL 2037

AN ACT

AMENDING SECTIONS 29-1075, 29-1103, 36-3294, 41-311, 41-312, 41-313 AND 41-330, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-332; AMENDING SECTIONS 41-351 AND 41-353, ARIZONA REVISED STATUTES; REPEALING SECTION 41-356, ARIZONA REVISED STATUTES; AMENDING SECTION 44-1272, ARIZONA REVISED STATUTES; REPEALING TITLE 44, CHAPTER 11, ARTICLE 2, ARIZONA REVISED STATUTES; AMENDING SECTIONS 44-6552 AND 44-6561, ARIZONA REVISED STATUTES; AMENDING LAWS 2008, CHAPTER 291, SECTION 9; RELATING TO THE SECRETARY OF STATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 29-1075, Arizona Revised Statutes, is amended to
3 read:

4 29-1075. Statement of dissolution

5 A. After dissolution, a partner who has not wrongfully dissociated may
6 file a statement of dissolution stating the name of the partnership and that
7 the partnership has dissolved and is winding up its business.

8 B. A statement of dissolution cancels a filed statement of partnership
9 authority for the purposes of section 29-1023, subsection D and is a
10 limitation on authority for the purposes of section 29-1023, subsection E.

11 C. For the purposes of sections 29-1021 and 29-1074, a person who is
12 not a partner is deemed to have notice of the dissolution and the limitation
13 on the partners' authority as a result of the statement of dissolution ninety
14 days after it is filed.

15 D. After filing and, if appropriate, recording a statement of
16 dissolution, a dissolved partnership may file and, if appropriate, record a
17 statement of partnership authority that operates with respect to a person who
18 is not a partner as provided in section 29-1023, subsections D and E in any
19 transaction, whether or not the transaction is appropriate for winding up the
20 partnership business.

21 E. IN ORDER FOR A PARTNERSHIP TO FILE A STATEMENT OF DISSOLUTION WHERE
22 THAT PARTNERSHIP HAS NOT PREVIOUSLY FILED A STATEMENT OF PARTNERSHIP
23 AUTHORITY WITH THE SECRETARY OF STATE, THE PARTNERSHIP MUST FIRST FILE A
24 STATEMENT OF PARTNERSHIP AUTHORITY WITH THE SECRETARY OF STATE PURSUANT TO
25 SECTION 29-1023. THE SECRETARY OF STATE SHALL NOT ACCEPT ANY STATEMENT OF
26 DISSOLUTION FOR WHICH A STATEMENT OF PARTNERSHIP AUTHORITY HAS NOT FIRST BEEN
27 FILED WITH THE SECRETARY OF STATE.

28 Sec. 2. Section 29-1103, Arizona Revised Statutes, is amended to read:

29 29-1103. Publication and annual reports; late filing penalty

30 A. Within sixty days after the filing with the secretary of state of a
31 statement of qualification, there shall be published in a newspaper of
32 general circulation in the county of the limited liability partnership's
33 chief executive office, or if the limited liability partnership's chief
34 executive office is not located in this state, in the county of the limited
35 liability partnership's office in this state, or if none, the county of the
36 limited liability ~~company's~~ PARTNERSHIP'S statutory agent, for three
37 consecutive publications, a copy of the statement of qualification. ~~An~~
38 ~~affidavit evidencing publication shall be filed with the secretary of state~~
39 ~~within ninety days after the filing of the statement of qualification.~~

40 B. A limited liability partnership and a foreign limited liability
41 partnership authorized to transact business in this state shall file an
42 annual report with the office of the secretary of state that sets forth all
43 of the following:

44 1. The name of the limited liability partnership and the state or
45 country under whose laws the foreign limited liability partnership is formed
46 or created.

1 2. The current street address of the office required to be set forth
2 in section 29-1101, subsection C, paragraph 2.

3 3. The name and street address of its agent for service of process in
4 this state.

5 C. An annual report must be filed between January 1 and April 30 of
6 each year following the calendar year in which a partnership or limited
7 partnership files a statement of qualification **TO BECOME A LIMITED LIABILITY**
8 **PARTNERSHIP** or a foreign partnership becomes authorized to transact business
9 in this state. **IF A LIMITED LIABILITY PARTNERSHIP IS DELINQUENT IN FILING**
10 **ITS ANNUAL REPORT, THE SECRETARY OF STATE MAY ASSESS A LATE FILING PENALTY**
11 **WHEN THE LIMITED LIABILITY PARTNERSHIP SUBMITS ITS ANNUAL REPORT.**

12 D. The secretary of state may administratively revoke the statement of
13 qualification of a ~~partnership or~~ limited **LIABILITY** partnership if the
14 secretary of state determines that the statement of qualification does not
15 conform to the filing provisions of this article or if the limited liability
16 partnership fails to ~~file an affidavit of publication within the time~~
17 ~~required by subsection A of this section or~~ file an annual report when due or
18 to pay the required filing fee **OR FAILS TO PERFORM THE PUBLICATION**
19 **REQUIREMENTS OF SUBSECTION A OF THIS SECTION.** The secretary of state must
20 provide the limited liability partnership at least sixty days' written notice
21 of the intent to revoke the statement. The notice shall be mailed to the
22 limited liability partnership at its office set forth in the last filed
23 statement of qualification or annual report. The notice must specify the
24 nonconformance, ~~the affidavit of publication that has not been filed,~~ **THAT**
25 **THE STATEMENT OF QUALIFICATION HAS NOT BEEN PUBLISHED PURSUANT TO SUBSECTION**
26 **A OF THIS SECTION,** the annual reports that have not been filed,~~—~~ or the fees
27 that have not been paid,~~—~~ and the future effective date of revocation. The
28 revocation will not be effective if the specified filing requirements,
29 ~~affidavit~~ **EVIDENCE** of publication or annual reports are filed and the
30 specified fees are paid ~~prior to~~ **BEFORE** the specified effective date of
31 revocation.

32 E. A revocation under subsection D of this section only affects a
33 partnership's or limited partnership's status as a limited liability
34 partnership and does not constitute an event of dissolution of the
35 partnership or limited partnership.

36 F. A partnership or limited partnership whose statement has been
37 administratively revoked may apply to the secretary of state for
38 reinstatement within two years after the effective date of the revocation.
39 The application shall recite the name of the partnership or limited
40 partnership and the effective date of the revocation and state that the
41 grounds for revocation either did not exist or have been corrected. If
42 another corporation or partnership has adopted the name of the limited
43 liability partnership or another person has adopted the name of the limited
44 liability partnership as a trade name, the application shall be accompanied
45 by an amendment to the statement of foreign qualification that is in

1 accordance with section 29-1105 and that adopts a new name for the limited
2 liability partnership that complies with section 29-1102.

3 G. A reinstatement under subsection F of this section relates back to
4 and takes effect as of the effective date of the administrative revocation,
5 and the partnership's or limited partnership's status as a limited liability
6 partnership continues as if the administrative revocation never occurred.

7 H. An amendment to the statement of qualification shall be filed by a
8 limited liability partnership or foreign limited liability partnership not
9 later than sixty days after the occurrence of any of the following:

10 1. A change in the name of the limited liability partnership.

11 2. A change in the address of the chief executive office of the
12 partnership.

13 3. The partnership or limited partnership has knowledge that a
14 material statement in the statement of qualification was false or inaccurate
15 when made or that any facts described therein have changed, making the
16 statement of qualification inaccurate in any material respect.

17 I. An amendment to the statement of qualification may be filed for any
18 other proper purpose. The filing of a statement of cancellation by or on
19 behalf of a partnership or limited partnership pursuant to this section shall
20 be effective only to cancel the partnership's or limited partnership's
21 qualification as a limited liability partnership and, unless it specifically
22 so provides, shall not indicate the dissolution of the partnership or limited
23 partnership. ~~Upon~~ ON any revocation or the filing of any statement of
24 cancellation, the secretary of state shall be the agent for service of
25 process in any action, suit or proceeding based ~~upon~~ ON any cause of action
26 arising during the time the limited liability partnership was qualified under
27 section 29-1101 or the foreign limited liability partnership was authorized
28 to transact business in this state.

29 Sec. 3. Section 36-3294, Arizona Revised Statutes, is amended to read:
30 36-3294. Registration; purge of registered documents

31 A. On receipt of a completed registration form, the secretary of state
32 shall create a digital reproduction of the ~~form~~ DOCUMENT, enter the
33 reproduced ~~form~~ DOCUMENT into the health care directives registry database
34 and assign each ~~registration~~ REGISTERED DOCUMENT a unique file number and
35 password.

36 B. The secretary of state is not required to review a document to
37 ensure that it complies with the particular statutory requirements applicable
38 to the document.

39 C. After entering the reproduced document into the registry database,
40 the secretary of state shall ~~return the original document to~~ PROVIDE the
41 person who submitted the document ~~and provide that person~~ with a printed
42 record of the information entered into the database under the file number and
43 a wallet size card that contains the document's file number and a password.

1 D. The person who submitted the document shall review the printed
2 record. If the information is accurate, the person shall check the box
3 marked "no corrections required" and sign and return the printed record to
4 the secretary of state's office.

5 E. If the person who submitted the document determines that the
6 printed record is inaccurate, the person shall correct the information and
7 sign and return the corrected printed record to the secretary of state. On
8 receipt of a corrected printed record, the secretary of state shall make the
9 proper corrections and send a corrected printed record to the person who
10 submitted the document. If the information is accurate, the person shall
11 check the box marked "no corrections required" and sign and return the
12 printed record to the secretary of state's office.

13 F. The secretary of state shall activate the entry into the health
14 care directives registry database only after receiving a printed record
15 marked "no corrections required" OR WHEN MAKING CHANGES THAT ARE INDICATED ON
16 THE PRINTED RECORD.

17 G. The secretary of state shall delete a document filed with the
18 registry pursuant to this section ~~when~~ IF the secretary of state receives a
19 revocation of a document along with that document's file number and password.
20 THE SECRETARY OF STATE MAY DELETE A NONACTIVE DOCUMENT FILED WITH THE
21 REGISTRY PURSUANT TO THIS SECTION IF THE SECRETARY OF STATE DOES NOT RECEIVE
22 A RESPONSE PURSUANT TO SUBSECTIONS D AND E WITHIN NINETY DAYS AFTER PROVIDING
23 THE INFORMATION PRESCRIBED BY SUBSECTIONS C AND E.

24 H. The entry of a document pursuant to this article does not:

- 25 1. Affect the validity of the document.
- 26 2. Relate to the accuracy of information contained in the document.
- 27 3. Create a presumption regarding the validity of the document or the
28 accuracy of information contained in the document.

29 I. The secretary of state shall purge a document filed with the
30 registry on verification by the director of the department of health services
31 of the death of the person who submitted the document. The secretary of
32 state shall purge the registry of documents pursuant to this subsection at
33 least once every five years. The director of the department of health
34 services shall share its registry of death certificates with the secretary of
35 state in order to conduct the document purge required by this subsection.

36 J. THE SECRETARY OF STATE MAY ESTABLISH AN ELECTRONIC MEANS OF
37 CARRYING OUT THE REQUIREMENTS OF THIS SECTION.

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

39 41-311. Definitions

40 In this article, unless the context otherwise requires:

- 41 1. "Acknowledgment" means a notarial act in which a notary certifies
42 that a signer, whose identity is proven by satisfactory evidence, appeared
43 before the notary and acknowledged that the signer signed the document.
- 44 2. "Commission" means to authorize to perform notarial acts and the
45 written authority to perform those acts.

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

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

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

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

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

16 8. "Notarial certificate" or "certificate" means the part of or
17 attachment to a notarized document for completion by the notary that bears
18 the notary's signature and seal and states the facts that are attested by the
19 notary in a particular notarization.

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

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

25 11. "Satisfactory evidence of identity" means:

26 (a) ~~That~~ Proof OF IDENTITY is evidenced by one of the following:

27 ~~(a) At least one current form of identification issued by the United~~
28 ~~States government or a state or tribal government with the individual's~~
29 ~~photograph, signature and physical description. The individual's physical~~
30 ~~description contained in the form of identification shall be written and~~
31 ~~shall include at a minimum a description of the individual's height, weight,~~
32 ~~color of hair and color of eyes.~~

33 (i) AN UNEXPIRED DRIVER LICENSE THAT IS ISSUED BY A STATE OR TERRITORY
34 OF THE UNITED STATES.

35 (ii) AN UNEXPIRED PASSPORT THAT IS ISSUED BY THE UNITED STATES
36 DEPARTMENT OF STATE.

37 (iii) AN UNEXPIRED IDENTIFICATION CARD THAT IS ISSUED BY ANY BRANCH OF
38 THE UNITED STATES ARMED FORCES.

39 (iv) ANY OTHER UNEXPIRED IDENTIFICATION CARD THAT IS ISSUED BY THE
40 UNITED STATES GOVERNMENT OR A STATE OR TRIBAL GOVERNMENT, THAT CONTAINS THE
41 INDIVIDUAL'S PHOTOGRAPH, SIGNATURE AND PHYSICAL DESCRIPTION AND THAT CONTAINS
42 THE INDIVIDUAL'S HEIGHT, WEIGHT, COLOR OF HAIR AND COLOR OF EYES.

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

45 ~~(c)~~ (vi) The oath or affirmation of a credible person who personally
46 knows the individual and who provides satisfactory evidence of identity

1 pursuant to ITEM (i), (ii), (iii) OR (iv) OF THIS subdivision ~~(a) of this~~
2 ~~paragraph.~~

3 ~~(d)~~ (vii) Personal knowledge of the individual by the notary.

4 ~~(e)~~ (b) IN ADDITION TO THE PROVISIONS OF SUBDIVISION (a), for the
5 purposes of a real estate conveyance or financing, ~~THAT PROOF OF IDENTITY~~
6 ~~MAY BE EVIDENCED BY ONE OF THE FOLLOWING:~~

7 (i) A valid unexpired passport that is issued by the United States
8 government ~~or any other national government.~~

9 (ii) A VALID UNEXPIRED passport THAT IS issued by a national
10 government other than the United States government ~~must be~~ AND THAT IS
11 accompanied by a valid UNEXPIRED visa or other documentation THAT IS issued
12 by the United States government AND THAT IS necessary to establish an
13 individual's legal presence in the United States.

14 (iii) ANY OTHER VALID UNEXPIRED IDENTIFICATION THAT IS DEEMED
15 ACCEPTABLE BY THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO ESTABLISH
16 AN INDIVIDUAL'S LEGAL PRESENCE IN THE UNITED STATES AND THAT IS ACCOMPANIED
17 WITH SUPPORTING DOCUMENTS AS REQUIRED BY THE UNITED STATES DEPARTMENT OF
18 HOMELAND SECURITY.

19 Sec. 5. Section 41-312, Arizona Revised Statutes, is amended to read:
20 41-312. Appointment; term; oath and bond; training courses; fee

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

27 B. The secretary of state shall give notice of the appointment to the
28 person appointed who shall take, within twenty days after receiving such
29 notice, the oath prescribed by law and give a bond, with sureties approved by
30 the state, in an amount prescribed by the secretary of state and file it with
31 the secretary of state. ~~Upon~~ ON filing the official oath and bond, the
32 secretary of state shall deliver the commission to such person.

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

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

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

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

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

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

7 1. Be at least eighteen years of age.

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

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

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

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

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

26 G. ~~The~~ THIS state or any of its political subdivisions may pay the
27 fees and costs for the commissioning of a notary public who is an employee of
28 this state or any of its political subdivisions and who performs notarial
29 services in the course of the notary public's employment or for the
30 convenience of public employees.

31 H. THE SECRETARY OF STATE MAY REQUIRE THAT APPLICANTS ATTEND A NOTARY
32 TRAINING COURSE BEFORE RECEIVING THEIR COMMISSIONS AND NOTARIES ATTEND A
33 NOTARY TRAINING COURSE WITHIN NINETY DAYS BEFORE RENEWING THEIR
34 COMMISSIONS. THE SECRETARY OF STATE MAY ASSESS A FEE PRESCRIBED BY THE
35 SECRETARY OF STATE FOR ADMINISTERING NOTARY TRAINING COURSES. THE SECRETARY
36 OF STATE SHALL DEPOSIT THE FEES COLLECTED IN THE NOTARY EDUCATION FUND
37 ESTABLISHED BY SECTION 41-332.

38 Sec. 6. Section 41-313, Arizona Revised Statutes, is amended to read:
39 41-313. Duties

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

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

44 2. Administer oaths and affirmations.

45 3. Perform jurats.

46 4. Perform copy certification.

1 B. Notaries public shall:

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

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

9 3. Authenticate with the official seal all official acts, ~~and affix~~
10 ~~the date of the expiration of the notary's commission as the notary~~ on every
11 certificate or acknowledgment signed and sealed by the notary.

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

15 Sec. 7. Section 41-330, Arizona Revised Statutes, is amended to read:

16 41-330. Grounds for refusal, revocation or suspension of
17 commission

18 A. The secretary of state may refuse to appoint any person as a notary
19 public or may revoke or suspend the commission of any notary public for any
20 of the following reasons:

21 1. Substantial and material misstatement or omission in the
22 application for a notary public commission that is submitted to the secretary
23 of state.

24 2. Conviction of a felony unless restored to civil rights, or of a
25 lesser offense involving moral turpitude or of a nature that is incompatible
26 with the duties of a notary public. A conviction after a plea of no contest
27 is deemed to be a conviction for purposes of this paragraph.

28 3. Revocation, suspension, restriction or denial of a professional
29 license if that action was for misconduct, dishonesty or any cause that
30 substantially relates to the duties or responsibilities of a notary public.

31 4. Failure to discharge fully and faithfully any of the duties or
32 responsibilities required of a notary public.

33 5. The use of false or misleading advertising in which the notary
34 public has represented that the notary public has duties, rights or
35 privileges that the notary public does not possess by law.

36 6. Charging more than the fees authorized by statute or rule.

37 7. The commission of any act involving dishonesty, fraud or deceit
38 with the intent to substantially benefit the notary public or another person
39 or to substantially injure another person.

40 8. Failure to complete the acknowledgment or jurat at the time the
41 notary's signature and seal are affixed to the document.

42 9. Failure to administer the oath or affirmation required at the time
43 of performing a jurat for an individual.

44 10. Execution of any notarial certificate by the notary public
45 containing a statement known by the notary public to be false.

1 11. The return for insufficient funds or any other reason for
2 nonpayment of a check issued for the bond filing fees or the application fees
3 to the secretary of state.

4 12. Notarizing a document that contains no notarial certificate.

5 B. If an application is denied, the secretary of state shall notify
6 the applicant within thirty days after receipt of the application and shall
7 state the reasons for the denial.

8 C. The secretary of state may suspend the commission of a notary for
9 at least thirty days and for not more than one hundred eighty days.

10 D. If a person has had a notary commission in this state revoked, the
11 secretary of state may refuse to ~~AGAIN~~ appoint the person as a notary public
12 ~~for four years from the date of the revocation~~ FOR AN INDEFINITE PERIOD OF
13 TIME.

14 E. On revocation or suspension of a notary public's commission, the
15 secretary of state shall give notice to the notary public and shall provide
16 the person with notice of the opportunity for a hearing on the revocation or
17 suspension pursuant to chapter 6, article 10 of this title. The revocation
18 or suspension of a notary public commission is an appealable agency action.

19 Sec. 8. Title 41, chapter 2, article 2, Arizona Revised Statutes, is
20 amended by adding section 41-332, to read:

21 41-332. Notary education fund

22 THE NOTARY EDUCATION FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED
23 PURSUANT TO SECTION 41-312. THE SECRETARY OF STATE SHALL ADMINISTER THE
24 FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION.

25 Sec. 9. Section 41-351, Arizona Revised Statutes, is amended to read:

26 41-351. Definitions

27 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

45 6. "Electronic jurat" means an electronic notarial act in which the
46 electronic notary certifies that a signer, whose identity is proven by

1 satisfactory evidence, has made in the electronic notary's presence a
2 voluntary electronic signature or mark and has taken an oath or affirmation
3 vouching for the truthfulness of the signed electronic document.

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

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

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

15 (a) Unique to the person using it.

16 (b) Capable of verification.

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

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

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

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

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

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

33 14. "Satisfactory evidence of identity" means:

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

35 ~~(a) At least one current form of identification issued by a federal,~~
36 ~~state or tribal government with the individual's photograph, signature and~~
37 ~~written physical description.~~

38 (i) AN UNEXPIRED DRIVER LICENSE THAT IS ISSUED BY A STATE OR TERRITORY
39 OF THE UNITED STATES.

40 (ii) AN UNEXPIRED PASSPORT THAT IS ISSUED BY THE UNITED STATES
41 DEPARTMENT OF STATE.

42 (iii) AN UNEXPIRED IDENTIFICATION CARD THAT IS ISSUED BY ANY BRANCH OF
43 THE UNITED STATES ARMED FORCES.

44 (iv) ANY OTHER UNEXPIRED IDENTIFICATION CARD THAT IS ISSUED BY THE
45 UNITED STATES GOVERNMENT OR A STATE OR TRIBAL GOVERNMENT, THAT CONTAINS THE

1 INDIVIDUAL'S PHOTOGRAPH, SIGNATURE AND PHYSICAL DESCRIPTION AND THAT CONTAINS
2 THE INDIVIDUAL'S HEIGHT, WEIGHT, COLOR OF HAIR AND COLOR OF EYES.

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

6 ~~(e)~~ (vi) The oath or affirmation of a credible person who personally
7 knows the individual and who provides satisfactory evidence of identity
8 pursuant to ITEM (i), (ii), (iii) OR (iv) OF THIS subdivision ~~(a) of this~~
9 ~~paragraph.~~

10 ~~(d)~~ (vii) Personal knowledge of the individual signer by the
11 electronic notary.

12 ~~(e)~~ (b) IN ADDITION TO THE PROVISIONS OF PARAGRAPH 14, SUBDIVISION
13 (a) OF THIS SECTION, for the purposes of a real estate conveyance or
14 financing, ~~— THAT PROOF OF IDENTITY MAY BE EVIDENCED BY ONE OF THE FOLLOWING:~~

15 (i) A valid unexpired passport that is issued by the United States
16 government ~~or any other national government.~~

17 (ii) A VALID UNEXPIRED passport THAT IS issued by a national
18 government other than the United States government ~~must be~~ AND THAT IS
19 accompanied by a valid UNEXPIRED visa or other documentation THAT IS issued
20 by the United States government AND THAT IS necessary to establish an
21 individual's legal presence in the United States.

22 (iii) ANY OTHER VALID UNEXPIRED IDENTIFICATION THAT IS DEEMED
23 ACCEPTABLE BY THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO ESTABLISH
24 AN INDIVIDUAL'S LEGAL PRESENCE IN THE UNITED STATES AND THAT IS ACCOMPANIED
25 WITH SUPPORTING DOCUMENTS AS REQUIRED BY THE UNITED STATES DEPARTMENT OF
26 HOMELAND SECURITY.

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

33 Sec. 10. Section 41-353, Arizona Revised Statutes, is amended to read:
34 41-353. Appointment; term; bond; duties

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

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

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

45 D. An electronic notary public is a public officer commissioned by
46 this state and the following apply without regard to whether the electronic

1 notary public's employer or any other person has paid the fees and costs for
2 the commissioning of the electronic notary public, including costs for the
3 materials and methods employed with the electronic notary token and the
4 materials and methods for creating notary service electronic certificates and
5 journals:

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

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

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

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

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

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

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

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

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

31 1. Be at least eighteen years of age.

32 2. BE A CITIZEN OR A LEGAL PERMANENT RESIDENT OF THE UNITED STATES.

33 ~~2-~~ 3. Be a resident of this state for income tax purposes and claim
34 the individual's residence in this state as the individual's primary
35 residence on state and federal tax returns.

36 ~~3-~~ 4. Except as provided in section 41-368, subsection A, paragraph
37 2, never have been convicted of a felony.

38 ~~4-~~ 5. Keep as a reference a manual that is approved by the secretary
39 of state and that describes the duties, authority and ethical
40 responsibilities of electronic notaries public.

41 G. An applicant for appointment and commission as an electronic notary
42 shall complete an application form prescribed by the secretary of state.
43 Except for the applicant's name, physical business address, electronic
44 business address and business telephone number, all other information on the
45 application is confidential and shall not be disclosed to any person other
46 than the applicant, the applicant's personal representative or an officer or

1 employee of the federal government or this state or its political
2 subdivisions who is acting in an official capacity. The secretary of state
3 shall use the information contained on the application only for carrying out
4 the purposes of this article.

5 H. The state or any of its political subdivisions may pay the fees and
6 costs for the commissioning of an electronic notary who is an employee of
7 this state or any of its political subdivisions and performs electronic
8 notarial services in the course of the electronic notary's employment or for
9 the convenience of public employees.

10 Sec. 11. Repeal

11 Section 41-356, Arizona Revised Statutes, is repealed.

12 Sec. 12. Section 44-1272, Arizona Revised Statutes, is amended to
13 read:

14 44-1272. Telephone seller; registration; late filing penalty

15 A. A seller shall file a verified registration statement with the
16 secretary of state before the seller solicits any consumer from a location in
17 this state or any consumer located in this state. Each principal of the
18 seller shall sign the registration statement, have the signature notarized
19 and file the statement with the secretary of state along with the annual
20 registration fee prescribed by section 44-1275. The registration statement
21 expires on June 30 of each year and shall be annually renewed by completing a
22 new registration statement within thirty days before expiration. **IF A SELLER
23 IS DELINQUENT IN FILING ITS ANNUAL REGISTRATION STATEMENT, THE SECRETARY OF
24 STATE MAY ASSESS A LATE FILING PENALTY WHEN THE SELLER SUBMITS ITS ANNUAL
25 REGISTRATION STATEMENT.**

26 B. If, before the expiration of a seller's annual registration, there
27 is a change in any of the information required by subsection C of this
28 section, within ten days of the change the seller shall file a supplemental
29 statement with the secretary of state, except that a seller shall only update
30 quarterly any changes in solicitors hired by the seller.

31 C. Each registration statement shall contain all of the following
32 information:

33 1. The true legal name of the seller.

34 2. The name under which the seller is doing business or intends to do
35 business.

36 3. The seller's business form and state of organization.

37 4. If the seller is a corporation or limited liability company, a copy
38 of its articles of incorporation and bylaws and amendments to the bylaws. If
39 the seller is a partnership or limited liability partnership, a copy of the
40 partnership agreement. If the seller is operating under a fictitious
41 business name, the location where the fictitious name has been registered.

42 5. The complete street address of the physical location of the
43 principal place of business of the seller, the complete street address of all
44 other locations from which the seller will be conducting business and all
45 telephone numbers for telephones at these locations.

1 6. For each principal and manager, the true legal name, residence
2 address, telephone number and date of birth and a clear and legible copy of
3 the current driver license or valid government issued photo identification
4 card. A seller is not required to submit the information required in this
5 section for the seller's employees.

6 7. For each manager, the address of the business location for which
7 the manager is responsible.

8 8. For each solicitor, the solicitor's true legal name, ~~its~~ business
9 address and telephone number and, for each principal and manager of A
10 solicitor, ~~their~~ THE true legal name, residence address, telephone number and
11 date of birth and a clear and legible copy of the current driver license or
12 valid government issued photo identification card. A solicitor is not
13 required to submit the information required in this section for the
14 solicitor's employees.

15 9. The name and address of the seller's agent in this state who is
16 authorized to receive service of process in this state.

17 10. A copy of the bond filed with the state treasurer pursuant to
18 section 44-1274.

19 11. Whether a principal or manager:

20 (a) Has been convicted or pleaded no contest to a felony or
21 misdemeanor involving moral turpitude or a violation of this article.

22 (b) Has been held liable in a civil action, either by final judgment
23 or by entry of a stipulated judgment, if the civil action alleged fraud,
24 embezzlement, racketeering, fraudulent conversion or misappropriation of
25 property or a violation of this article or the use of untrue or misleading
26 representations in an attempt to sell or dispose of real or personal property
27 or the use of unfair, unlawful or deceptive business practices.

28 (c) Is subject to a currently effective injunction or restrictive
29 order relating to a business activity as a result of an action brought by a
30 public agency or department, including an action affecting a vocational
31 license. The statement shall include the name of the court, the date of the
32 conviction, the judgment, order or injunction and, if applicable, the name of
33 the governmental agency that filed the action resulting in the conviction,
34 judgment, order or injunction.

35 12. A copy of any:

36 (a) Script, outline or presentation the seller will require or suggest
37 that a solicitor use, except that if the seller does not require or suggest a
38 script, outline or presentation, a statement that no such document is
39 required or suggested.

40 (b) Sales information and literature provided by the seller to a
41 solicitor or described by the seller for use by the solicitor, including
42 scripts, outlines, presentations, information on how to conduct telephone
43 sales, sample instructions, sample closings, product information and contest
44 or premium award information.

45 (c) Sales information and any other literature provided by the seller
46 to a consumer in connection with any solicitation.

1 D. If a seller expressly represents or implies to any consumer,
2 directly or through a solicitor, that the consumer is or may be eligible to
3 receive any premium, the seller shall submit with the registration statement
4 another statement setting forth for each premium mentioned:

5 1. A description of the premium.

6 2. The value or worth of the premium and the basis for the valuation.

7 3. All terms and conditions a consumer must satisfy in order to
8 receive the premium.

9 4. The odds of being able to receive the premium, and if the odds are
10 not calculable in advance, the factors used in calculating the odds.

11 5. If the consumer will receive fewer than all of the premiums
12 described by the seller:

13 (a) The manner in which the seller decides which premium the consumer
14 will receive.

15 (b) The odds of being able to receive each premium, and if the odds
16 are not calculable in advance, the factors used in calculating the odds.

17 (c) The name and address of each person who within the past twelve
18 months has received the premium having the greatest value and the
19 premium with the smallest odds of being received.

20 E. If the seller expressly ~~or impliedly~~ represents OR IMPLIES to any
21 consumer, directly or through a solicitor, that the seller can or may be able
22 to make a loan, arrange a loan, assist in arranging a loan or assist in
23 providing information that may lead to obtaining a loan, the seller shall
24 submit with the registration statement another statement setting forth:

25 1. For the previous twenty-four months, the names and addresses of any
26 person who lent money to:

27 (a) Consumers who responded to the solicitations of the seller's
28 predecessor or the seller's officers or owners or those persons having
29 present management responsibilities or to companies with which they were
30 associated.

31 (b) The seller's predecessor or the seller's officers or owners or
32 those persons having present management responsibilities or to those
33 companies with which they were associated for them to lend to consumers who
34 responded to solicitations.

35 2. For the twelve months after the date of the registration, the names
36 and addresses of all persons who informed the seller that they may be able to
37 lend money to consumers solicited by the seller or to the seller for the
38 seller to lend to consumers who respond to the seller's representations that
39 the seller can make a loan, arrange a loan, assist in arranging a loan or
40 assist in providing information that can lead to obtaining a loan.

41 3. Copies of all contracts between the seller and lenders or
42 prospective lenders who may lend money:

43 (a) To the seller to lend to consumers who, in conjunction with the
44 seller's business, respond to the seller's representations that the seller
45 can make a loan, arrange a loan, assist in arranging a loan or assist in
46 providing information that can lead to obtaining a loan.

1 (b) Directly to consumers to whom the seller may represent that it can
2 arrange or assist in providing information that can lead to obtaining a loan.

3 F. If any change is made to any script, outline, presentation, sales
4 information or literature to be used by a seller during any solicitation, the
5 seller shall submit the new or revised material before it is used.

6 G. Compliance with the registration and filing requirements of this
7 article by a seller does not constitute an approval or endorsement by this
8 state of the seller's registration documents or conduct.

9 Sec. 13. Repeal

10 Title 44, chapter 11, article 2, Arizona Revised Statutes, is repealed.

11 Sec. 14. Section 44-6552, Arizona Revised Statutes, is amended to
12 read:

13 44-6552. Charitable organizations; registration; late
14 registration penalty

15 A. Except as provided in subsection E of this section and section
16 44-6553, before soliciting its first contribution, whether through a
17 contracted fund raiser or otherwise ~~and each September thereafter~~, a
18 charitable organization shall file a registration statement with the
19 secretary of state in a format prescribed and adopted by the secretary of
20 state by rule.

21 B. A CHARITABLE ORGANIZATION MUST FILE AN ANNUAL REGISTRATION
22 STATEMENT BETWEEN SEPTEMBER 1 AND SEPTEMBER 30 OF EACH YEAR FOLLOWING THE
23 CALENDAR YEAR IN WHICH THE CHARITABLE ORGANIZATION FILES ITS INITIAL
24 REGISTRATION STATEMENT WITH THE SECRETARY OF STATE IN A FORMAT THAT IS
25 PRESCRIBED AND ADOPTED BY THE SECRETARY OF STATE BY RULE.

26 ~~B.~~ C. If the internal revenue service determines that a person is a
27 charitable organization exempt from federal income taxes pursuant to section
28 501(c)(3) of the internal revenue code, ~~then~~ at the time of its initial
29 registration under this section, the organization shall submit to the
30 secretary of state a copy of the internal revenue service's written
31 determination that it is exempt from taxes.

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

37 ~~D.—The secretary of state may deliver by certified mail a notice of~~
38 ~~failure to file a registration statement pursuant to this section to any~~
39 ~~charitable organization that is required to file a registration statement and~~
40 ~~that fails to comply with the registration requirements of this section. The~~
41 ~~charitable organization shall comply with the registration requirements of~~
42 ~~this section within thirty days after receiving the notice from the secretary~~
43 ~~of state and shall pay a late registration penalty of twenty-five dollars. If~~
44 ~~the charitable organization does not comply with the requirements of this~~
45 ~~subsection, the charitable organization is guilty of a class 1 misdemeanor.~~

1 E. IF A CHARITABLE ORGANIZATION IS DELINQUENT IN FILING ITS ANNUAL
2 REGISTRATION STATEMENT, THE SECRETARY MAY ASSESS A LATE REGISTRATION PENALTY
3 OF TWENTY-FIVE DOLLARS WHEN THE CHARITABLE ORGANIZATION FILES ITS
4 REGISTRATION STATEMENT.

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

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

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

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

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

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

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

28 ~~G-~~ H. The secretary of state may deny an application for registration
29 of the name of a charitable organization if:

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

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

33 (a) An existing corporate name or a corporate name reserved pursuant
34 to title 10, chapter 4, 18 or ~~22~~ 27.

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

39 ~~H-~~ I. The secretary of state may deny an application for registration
40 or may revoke the registration of a charitable organization for any of the
41 following reasons:

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

44 2. Conviction of a felony substantially related to solicitation by any
45 employee, member, officer or director who has any solicitation
46 responsibilities on behalf of the organization or any other person holding

1 any proprietary or beneficial interest in the charitable organization, unless
2 the civil rights have been restored.

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

6 4. ~~Violating~~ THE VIOLATION OF any provision of this article.

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

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

12 Sec. 15. Section 44-6561, Arizona Revised Statutes, is amended to
13 read:

14 44-6561. Unlawful acts or practices; violation; classification;
15 civil penalty

16 A. The following acts and practices are unlawful as applied to the
17 planning, conduct or execution of a solicitation and constitute unlawful
18 practices under section 44-1522 that the attorney general may investigate and
19 for which ~~he~~ THE ATTORNEY GENERAL may take appropriate action as prescribed
20 by chapter 10, article 7 of this title:

21 1. Knowingly utilizing an emblem, device or printed matter belonging
22 to or associated with a charitable organization without first being
23 authorized in writing to do so by the charitable organization.

24 2. Knowingly utilizing a name, symbol or statement so closely related
25 or similar to that used by another charitable organization for the purpose of
26 misleading a solicited person.

27 3. Knowingly making a misrepresentation to a person that the person on
28 whose behalf a solicitation is being conducted is a charitable organization.

29 4. Knowingly making a representation to a person that another person
30 sponsors, endorses or approves the solicitation if the other person has not
31 given consent in writing to the use of ~~his~~ THAT PERSON'S name for these
32 purposes.

33 5. Knowingly representing to a person that the registration
34 constitutes an endorsement or approval by this state.

35 6. Knowingly failing to post in a clear and conspicuous manner at a
36 location in which a charitable organization or other business entity receives
37 donated items for the purpose of reselling the items to financially benefit a
38 charitable organization one of the following statements:

39 (a) This collection site is owned by [name of charity], a charitable
40 organization. Donated items received at this location will support the
41 charitable mission of [name of charity].

42 (b) This collection site is owned by [name of company], a for-profit
43 company. Donated items received at this location will be sold by [name of
44 company] with a portion of the proceeds benefiting [name of charity].

45 B. Except as provided in ~~section 44-6552, subsection D or~~ subsection
46 C of this section, a person who fails to register or provide reports as

1 provided by this article or who otherwise fails to comply with any provision
2 of this article is guilty of a class 1 misdemeanor.

3 C. A contracted fund raiser who knowingly conducts any act or practice
4 proscribed in subsection A of this section is guilty of a class 6 felony.

5 D. An independent solicitor who knowingly conducts any act or practice
6 proscribed in subsection A of this section or who fails to comply with
7 section 44-6555, subsection D is guilty of a class 1 misdemeanor.

8 E. In addition to the criminal offenses provided in subsections B, C
9 and D of this section, if a person conducts an act or practice proscribed in
10 subsection A of this section, the attorney general may recover from the
11 person on behalf of the state a civil penalty of not more than one thousand
12 dollars per violation. The civil penalty prescribed by this subsection is in
13 lieu of the penalty prescribed by section 44-1531.

14 F. For the purposes of subsection A, paragraph 6 of this section, an
15 entity owns a collection site if the entity receives at least fifty-one per
16 cent of the proceeds generated by the retail sale of the donated items
17 received at the collection site.

18 Sec. 16. Laws 2008, chapter 291, section 9 is amended to read:

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

21 A. Notwithstanding any other law, the secretary of state shall not
22 implement title 23, chapter 3, article 4, Arizona Revised Statutes, relating
23 to professional employer organization registration, or any rules adopted
24 pursuant to title 23, chapter 3, article 4, Arizona Revised Statutes, until
25 July 1, ~~2010~~ 2012.

26 B. This section is effective retroactively to from and after February
27 29, 2008.

APPROVED BY THE GOVERNOR MAY 11, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2010.