

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 135
HOUSE BILL 2239

AN ACT

AMENDING SECTIONS 32-3605, 32-3611, 32-3614.01, 32-3614.02, 32-3619, 32-3620, 32-3631, 32-3632, 32-3635, 32-3667, 32-3668, 32-3669 AND 32-3672, ARIZONA REVISED STATUTES; AMENDING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 128, SECTION 11; REPEALING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 129, SECTION 24; AMENDING SECTION 41-1007, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 128, SECTION 12 AND CHAPTER 174, SECTION 2; REPEALING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 129, SECTION 25; AMENDING SECTION 41-1758.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 128, SECTION 13 AND CHAPTER 174, SECTION 3; REPEALING SECTION 41-1758.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 129, SECTION 26; RELATING TO THE BOARD OF APPRAISAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-3605, Arizona Revised Statutes, is amended to
3 read:
4 32-3605. State board of appraisal; duties; powers; immunity
5 A. The board shall adopt rules in aid or in furtherance of this
6 chapter.
7 B. The state board of appraisal shall:
8 1. In prescribing standards of professional appraisal practice, adopt
9 standards that at a minimum are equal to the standards prescribed by the
10 appraisal standards board.
11 2. In prescribing criteria for certification, adopt criteria that at a
12 minimum are equal to the minimum criteria for certification adopted by the
13 appraiser qualifications board.
14 3. In prescribing criteria for licensing and registration, adopt
15 criteria that at a minimum are equal to the minimum criteria for licensing
16 and registration adopted by the appraiser qualifications board.
17 4. Further define by rule with respect to state licensed or state
18 certified appraisers appropriate and reasonable educational experience,
19 appraisal experience and equivalent experience that meets the statutory
20 requirement of this chapter.
21 5. Adopt the national examination as approved by the appraiser
22 qualifications board for state certified appraisers.
23 6. Adopt the national examination as approved by the appraiser
24 qualifications board for state licensed appraisers.
25 7. Establish administrative procedures for approving or disapproving
26 applications for registration, licensure and certification and issuing
27 licenses and certificates, including registration certificates.
28 8. Define by rule, with respect to state licensed and certified
29 appraisers, the continuing education requirements for the renewal of licenses
30 or certificates that satisfy the statutory requirements provided in this
31 chapter.
32 9. Periodically review the requirements for the development and
33 communication of appraisals provided in this chapter and adopt rules
34 explaining and interpreting the requirements.
35 10. Define and explain by rule each stage and step associated with the
36 administrative procedures for the disciplinary process pursuant to this
37 chapter, including:
38 (a) Prescribing minimum criteria for accepting a complaint against a
39 registered trainee appraiser or a licensed or certified appraiser. **THE BOARD**
40 **MAY NOT CONSIDER A COMPLAINT FOR ADMINISTRATIVE ACTION IF THE COMPLAINT**
41 **EITHER:**
42 (i) **RELATES TO AN APPRAISAL THAT WAS COMPLETED MORE THAN FIVE YEARS**
43 **BEFORE THE COMPLAINT WAS SUBMITTED TO THE BOARD OR MORE THAN TWO YEARS AFTER**
44 **FINAL DISPOSITION OF ANY JUDICIAL PROCEEDING IN WHICH THE APPRAISAL WAS AN**
45 **ISSUE, WHICHEVER PERIOD OF TIME IS GREATER.**

1 (ii) IS FILED AGAINST A PERSON WHO IS A MEMBER OR STAFF PERSON OF THE
2 BOARD OR A BOARD-APPOINTED COMMITTEE AND THE PERSON IS A LICENSED OR
3 CERTIFIED APPRAISER AND THE COMPLAINT IS AGAINST THE PERSON'S LICENSE OR
4 CERTIFICATE AND RELATES TO THE PERSON'S PERFORMANCE OF BOARD OR COMMITTEE
5 DUTIES. THIS ITEM DOES NOT APPLY TO A CONTRACT INVESTIGATOR WHO IS UNDER
6 CONTRACT WITH THE BOARD FOR THE PERFORMANCE OF AN APPRAISAL REVIEW AS DEFINED
7 BY THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE. THIS ITEM DOES
8 NOT REMOVE THE REQUIREMENT THAT THE BOARD MEMBER IS SUBJECT TO THE ETHICS
9 RULES SECTION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

10 (b) Defining the process and procedures used in investigating the
11 allegations of the complaint. THE BOARD SHALL CONSOLIDATE COMPLAINTS THAT
12 ARE FILED WITHIN A SIX-MONTH PERIOD OF TIME IF THE COMPLAINTS ARE AGAINST THE
13 SAME APPRAISER, RELATE TO THE SAME APPRAISAL AND PROPERTY AND ARE FILED BY AN
14 ENTITY THAT IS SUBJECT TO THE MANDATORY REPORTING PROVISIONS OF THE
15 DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT (P.L. 111-203; 124
16 STAT. 1376). COMPLAINTS THAT ARE CONSOLIDATED PURSUANT TO THIS SUBDIVISION
17 MUST BE CONSIDERED AND ADJUDICATED AS ONE COMPLAINT.

18 (c) Defining the process and procedures used in hearings on the
19 complaint, including a description of the rights of the board and any person
20 who is alleged to have committed the violation.

21 (d) Establishing criteria to be used in determining the appropriate
22 actions for violations.

23 11. Communicate information that is useful to the public and appraisers
24 relating to actions for violations.

25 12. ISSUE DECREES OF censure, FIX PERIODS AND TERMS OF PROBATION AND
26 suspend and revoke licenses and certificates pursuant to the disciplinary
27 proceedings provided for in section 32-3631.

28 13. At least monthly transmit to the appraisal subcommittee a roster
29 listing individuals who have received a state certificate or license in
30 accordance with this chapter.

31 14. Report on the disposition of any matter referred by the appraisal
32 subcommittee or any other federal agency or instrumentality or federally
33 recognized entity reporting any action of a state licensed or state certified
34 appraiser that is contrary to this chapter.

35 15. Make a determination and finding if there exists a scarcity of
36 state certified or state licensed appraisers to perform appraisals in
37 connection with federally related transactions in this state and issue
38 resident temporary licenses and certificates pursuant to section 32-3626.

39 16. Transmit the national registry fee collected pursuant to section
40 32-3607 to the appraisal subcommittee.

41 17. Establish the fees in accordance with ~~the limits established in~~
42 section 32-3607.

43 18. Perform such other functions and duties as may be necessary to
44 carry out this chapter.

1 C. Subject to title 41, chapter 4, article 4, the board may employ an
2 executive director and other personnel and designate their duties. The
3 executive director shall serve at the pleasure of the board.

4 D. The executive director shall not change or amend actions of the
5 board.

6 E. The board may accept and spend federal monies and grants, gifts,
7 contributions and devises from any public or private source to assist in
8 carrying out the purposes of this chapter. These monies do not revert to the
9 state general fund at the end of the fiscal year.

10 F. THE BOARD MAY IMPOSE A CIVIL PENALTY PURSUANT TO SECTION 32-3632.

11 Sec. 2. Section 32-3611, Arizona Revised Statutes, is amended to read:
12 32-3611. Registration, licensure and certification process

13 A. Applications for original registration, licensure or certification,
14 renewals and examinations shall be made in writing to the executive director
15 on forms approved by the board.

16 B. Appropriate fees, as fixed by the board pursuant to section
17 32-3607, shall accompany all applications for original registration,
18 licensure or certification, renewal and examination.

19 C. At the time of filing an application for registration, licensure or
20 certification, each applicant shall sign a pledge to comply with the
21 standards set forth in this chapter and shall state that the applicant
22 understands the types of misconduct for which disciplinary proceedings may be
23 initiated against a registered trainee appraiser or a state licensed or state
24 certified appraiser, as set forth in this chapter.

25 D. Except as otherwise provided in this chapter, the executive
26 director shall require such other proof and request such documents, through
27 the application or otherwise, as the board deems necessary for the interests
28 of the public and to verify the honesty, truthfulness, reputation and
29 competency of the applicant and shall require that the applicant for
30 registration, licensure or certification:

31 1. Be at least eighteen years of age and a citizen of the United
32 States or a qualified alien as defined in 8 United States Code section 1641.

33 2. Not have had a license or certificate denied pursuant to this
34 chapter within one year immediately preceding the application.

35 3. Not have had a license or certificate revoked pursuant to this
36 chapter within ~~two~~ FIVE years immediately preceding the application.

37 4. State whether or not the applicant has ever been convicted in a
38 court of competent jurisdiction in this or any other state of a felony or of
39 forgery, theft, extortion or conspiracy to defraud or any other crime
40 involving dishonesty or moral turpitude.

41 E. Applications for registration, licensure or certification by
42 persons who are charged or under indictment for fraud involving appraisal of
43 real property may be denied pending final disposition of the charge or
44 indictment. On final disposition, the board shall review the proceedings and
45 act on the application.

1 C. An appraiser or registered trainee appraiser who fails to seek
2 renewal within the time period specified in subsection A or B of this section
3 must reapply for licensure or certification and meet all of the requirements
4 of this chapter.

5 D. An appraiser or registered trainee appraiser shall not engage in,
6 advertise or purport to engage in real estate appraisal activity in this
7 state after a license or certificate has expired and before the renewal of
8 the expired license or certificate EXCEPT AS PROVIDED IN SECTION 41-1092.11.

9 ~~E. Notwithstanding section 41-1092.11, a license or certificate~~
10 ~~expires on its expiration date.~~

11 Sec. 6. Section 32-3620, Arizona Revised Statutes, is amended to read:
12 32-3620. Basis for denial of a license or certificate

13 A. The board may deny the INITIAL issuance OR RENEWAL of a license or
14 certificate as a registered trainee appraiser, a supervisory appraiser or a
15 state licensed or state certified appraiser to an applicant who has been
16 convicted of a felony or on any of the grounds prescribed in this chapter.

17 B. To assist in determining whether grounds exist to deny the INITIAL
18 issuance OR RENEWAL of a license or certificate to an applicant, the board
19 ~~may SHALL require a criminal background check including the fingerprinting of~~
20 ~~every applicant for an original license and certificate. The criminal~~
21 ~~background check may be conducted pursuant to section 41-1750 or in any other~~
22 ~~manner deemed suitable by the board. The board may charge the cost of each~~
23 ~~criminal background check to the applicant THE APPLICANT TO OBTAIN A VALID~~
24 ~~FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03.~~

25 C. A person who is denied the issuance of a license or certificate may
26 request, and if requested shall receive, a hearing in accordance with title
27 41, chapter 6, article 10.

28 Sec. 7. Section 32-3631, Arizona Revised Statutes, is amended to read:
29 32-3631. Disciplinary proceedings

30 A. The rights of an applicant or holder under a license or certificate
31 as a registered trainee appraiser or a state licensed or state certified
32 appraiser may be revoked or suspended, or the holder of the license or
33 certificate may otherwise be disciplined, INCLUDING BEING PLACED ON PROBATION
34 AS PRESCRIBED BY RULE, in accordance with this chapter on any of the grounds
35 set forth in this section. The board may investigate the actions of a
36 registered trainee appraiser or a state licensed or state certified appraiser
37 IN THIS STATE OR IN ANY OTHER STATE and may revoke or suspend the rights of a
38 license or certificate holder or otherwise discipline a registered trainee
39 appraiser or a state licensed or state certified appraiser for any of the
40 following acts or omissions:

41 1. Procuring or attempting to procure a license or certificate
42 pursuant to this chapter by knowingly making a false statement, submitting
43 false information, refusing to provide complete information in response to a
44 question in an application for a license or certificate or committing any
45 form of fraud or misrepresentation.

- 1 2. Failing to meet the minimum qualifications established by this
2 chapter.
- 3 3. Paying or offering to pay money or other considerations other than
4 as provided by this chapter to any member or employee of the board to procure
5 a license or certificate under this chapter.
- 6 4. A conviction, including a conviction based on a plea of guilty, of
7 a crime that is substantially related to the qualifications, functions and
8 duties of a person developing appraisals and communicating appraisals to
9 others, or a conviction for any felony or any crime involving moral
10 turpitude.
- 11 5. An act or omission involving dishonesty, fraud or misrepresentation
12 with the intent to substantially benefit the license or certificate holder or
13 another person or with the intent to substantially injure another person.
- 14 6. Violation of any of the standards of the development or
15 communication of appraisals as provided in this chapter.
- 16 7. Negligence or incompetence by the state licensed or state certified
17 appraiser in developing an appraisal, in preparing an appraisal report or in
18 communicating an appraisal.
- 19 8. Wilfully disregarding or violating any of the provisions of this
20 chapter **OR A BOARD ORDER** or the rules of the board for the administration and
21 enforcement of this chapter.
- 22 9. Accepting an appraisal assignment if the employment itself is
23 contingent on the appraiser reporting a predetermined estimate, analysis or
24 opinion or if the fee to be paid is contingent on the opinion, conclusion or
25 value reached or on the consequences resulting from the appraisal assignment.
- 26 10. Violating the confidential nature of any records to which the
27 registered trainee appraiser or the state licensed or state certified
28 appraiser gains access through employment or engagement as a registered
29 trainee appraiser or an appraiser.
- 30 11. Entry of a final civil judgment against the person on grounds of
31 fraud, misrepresentation or deceit in the making of any appraisal.
- 32 B. In a disciplinary proceeding based on a civil judgment, a
33 registered trainee appraiser or state licensed or state certified appraiser
34 shall be afforded an opportunity to present matters in mitigation and
35 extenuation.
- 36 C. The board may issue subpoenas for the attendance of witnesses and
37 the production of books, records, documents and other evidence necessary and
38 relevant to an investigation or hearing.
- 39 D. The lapsing or suspension of a license or certificate by operation
40 of law or by order or decision of the board or a court of law, or the
41 voluntary surrender of a license or certificate by a license or certificate
42 holder, shall not deprive the board of jurisdiction to do any of the
43 following within twenty-four months after the expiration of the license or
44 certificate pursuant to section 32-3616:
 - 45 1. Proceed with any investigation of or action or disciplinary
46 proceeding against the license or certificate holder.

1 E. FAILURE TO PAY BOARD-IMPOSED FEES AND EXPENSES AUTHORIZED BY
2 SECTION 32-3632, SUBSECTION C IS UNPROFESSIONAL CONDUCT AS DEFINED BY UNIFORM
3 STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

4 Sec. 10. Section 32-3667, Arizona Revised Statutes, is amended to
5 read:

6 32-3667. Fee; bond

7 A. The board shall establish the fee for appraisal management company
8 registration by rule.

9 B. The appraisal management company is required to show proof of a
10 surety bond of ~~twenty~~ AT LEAST TWENTY thousand dollars BUT NOT MORE THAN
11 FIFTY THOUSAND DOLLARS.

12 Sec. 11. Section 32-3668, Arizona Revised Statutes, is amended to
13 read:

14 32-3668. Owner requirements

15 A. An appraisal management company applying for registration may not
16 be owned by a person or have any principal of the company who has had any
17 financial, real estate or mortgage lending industry license or certificate
18 refused, denied, canceled, revoked or voluntarily surrendered in this state
19 or in any other state. This requirement may be waived by appeal and at the
20 discretion of the board.

21 B. Each person that owns, is an officer of or has a financial interest
22 in an appraisal management company in this state shall:

23 1. Be of good moral character.

24 2. ~~Submit to a criminal background check conducted pursuant to section~~
25 ~~41-1750. The board may charge the cost of a criminal background check to the~~
26 ~~applicant.~~ OBTAIN A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO
27 SECTION 41-1758.03.

28 3. Certify to the board that the person has never had any financial,
29 real estate or mortgage lending industry license or certificate refused,
30 denied, canceled, revoked or voluntarily surrendered in this state or in any
31 other state. This requirement may be waived by appeal and at the discretion
32 of the board.

33 Sec. 12. Section 32-3669, Arizona Revised Statutes, is amended to
34 read:

35 32-3669. Controlling person

36 A. Each appraisal management company applying to the board for
37 registration in this state shall designate one controlling person that will
38 be the main contact for all communication between the board and the appraisal
39 management company.

40 B. To serve as a controlling person of an appraisal management
41 company, a person shall:

42 1. Certify to the board that the person has never had any financial,
43 real estate or mortgage lending industry license or certificate issued by
44 this state, or any other state, refused, denied, canceled, revoked or
45 voluntarily surrendered. This requirement may be waived by appeal and at the
46 discretion of the board.

1 2. Be of good moral character.

2 3. ~~Submit to a criminal background check conducted pursuant to section~~
3 ~~41-1750. The board may charge the cost of a criminal background check to the~~
4 ~~applicant.~~ OBTAIN A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO
5 SECTION 41-1758.03.

6 Sec. 13. Section 32-3672, Arizona Revised Statutes, is amended to
7 read:

8 32-3672. Certification on renewal

9 A. Each appraisal management company seeking to be registered in this
10 state shall certify to the board on ~~an annual basis~~ RENEWAL on a form
11 prescribed by the board that the appraisal management company has a system
12 and process in place to verify that a person being added to the appraiser
13 panel of the appraisal management company holds a license or certificate in
14 good standing in this state pursuant to the board.

15 B. Each appraisal management company seeking to be registered in this
16 state shall certify to the board on ~~an annual basis~~ RENEWAL that it has a
17 system in place to review the quality of appraisals of all independent
18 appraisers that are performing real property appraisal services for the
19 appraisal management company on a periodic basis to confirm that the real
20 property appraisal services are being conducted in accordance with uniform
21 standards of professional appraisal practice.

22 C. Each appraisal management company seeking to be registered shall
23 certify to the board on ~~an annual basis~~ RENEWAL that it maintains a detailed
24 record of each service request that it receives and the name of the
25 independent appraiser that performs the real property appraisal services for
26 the appraisal management company. An appraisal management company shall
27 maintain a detailed record for the same time period that an appraiser is
28 required to maintain an appraisal record for the same real property appraisal
29 activity.

30 D. Each appraisal management company seeking to be registered shall
31 certify to the board on ~~an annual basis~~ RENEWAL that it has a system in place
32 to train those who select individual appraisers for real property APPRAISAL
33 services in this state, to ensure that the selectors have appropriate
34 training in placing appraisal assignments.

35 Sec. 14. Section 41-619.51, Arizona Revised Statutes, as amended by
36 Laws 2013, chapter 128, section 11, is amended to read:

37 41-619.51. Definitions

38 In this article, unless the context otherwise requires:

39 1. "Agency" means the supreme court, the department of economic
40 security, the department of education, the department of health services, the
41 department of juvenile corrections, the department of emergency and military
42 affairs, the department of transportation, the state real estate department,
43 THE STATE BOARD OF APPRAISAL or the board of examiners of nursing care
44 institution administrators and assisted living facility managers.

45 2. "Board" means the board of fingerprinting.

1 3. "Central registry exception" means notification to the department
2 of economic security or the department of health services, as appropriate,
3 pursuant to section 41-619.57 that the person is not disqualified because of
4 a central registry check conducted pursuant to section 8-804.

5 4. "Expedited review" means an examination, in accordance with board
6 rule, of the documents an applicant submits by the board or its hearing
7 officer without the applicant being present.

8 5. "Good cause exception" means the issuance of a fingerprint
9 clearance card to an employee pursuant to section 41-619.55.

10 6. "Person" means a person who is required to be fingerprinted
11 pursuant to this article or who is subject to a central registry check and
12 any of the following:

- 13 (a) Section 8-105.
- 14 (b) Section 8-322.
- 15 (c) Section 8-509.
- 16 (d) Section 8-802.
- 17 (e) Section 8-804.
- 18 (f) Section 8-804.01.
- 19 (g) Section 15-183.
- 20 (h) Section 15-534.
- 21 (i) Section 15-782.02.
- 22 (j) Section 15-1330.
- 23 (k) Section 15-1881.
- 24 (l) Section 17-215.
- 25 (m) Section 26-103.
- 26 (n) SECTION 28-3413.
- 27 ~~(n)~~ (o) Section 32-2108.01.
- 28 ~~(o)~~ (p) Section 32-2123.
- 29 ~~(p)~~ (q) Section 32-2371.
- 30 ~~(q)~~ (r) Section 32-2372.
- 31 (s) SECTION 32-3620.
- 32 (t) SECTION 32-3668.
- 33 (u) SECTION 32-3669.
- 34 ~~(r)~~ (v) Section 36-207.
- 35 ~~(s)~~ (w) Section 36-411.
- 36 ~~(t)~~ (x) Section 36-425.03.
- 37 ~~(u)~~ (y) Section 36-446.04.
- 38 ~~(v)~~ (z) Section 36-594.01.
- 39 ~~(w)~~ (aa) Section 36-594.02.
- 40 ~~(x)~~ (bb) Section 36-882.
- 41 ~~(y)~~ (cc) Section 36-883.02.
- 42 ~~(z)~~ (dd) Section 36-897.01.
- 43 ~~(aa)~~ (ee) Section 36-897.03.
- 44 ~~(bb)~~ (ff) Section 36-3008.
- 45 ~~(cc)~~ (gg) Section 41-619.53.
- 46 ~~(dd)~~ (hh) Section 41-1964.

- 1 ~~(ee)~~ (ii) Section 41-1967.01.
- 2 ~~(ff)~~ (jj) Section 41-1968.
- 3 ~~(gg)~~ (kk) Section 41-1969.
- 4 ~~(hh)~~ (ll) Section 41-2814.
- 5 ~~(ii)~~ (mm) Section 46-141, subsection A.
- 6 ~~(jj)~~ (nn) Section 46-321.

7 Sec. 15. Repeal

8 Section ~~41-619.51~~, Arizona Revised Statutes, as amended by Laws 2013,
9 chapter 129, section 24, is repealed.

10 Sec. 16. Section 41-1007, Arizona Revised Statutes, is amended to
11 read:

12 41-1007. Award of costs and fees against a department in
13 administrative hearings; exceptions; definitions

14 A. Except as provided in SECTION 32-3632 AND section 42-2064,
15 subsection G, a hearing officer or administrative law judge shall award fees
16 and other costs to any prevailing party in a contested case or an appealable
17 agency action brought pursuant to any state administrative hearing
18 authority. For purposes of this subsection, a person is considered to be a
19 prevailing party only if both:

20 1. The agency's position was not substantially justified.

21 2. The person prevails as to the most significant issue or set of
22 issues unless the reason that the person prevailed is due to an intervening
23 change in the law.

24 B. Reimbursement under this section may be denied if during the course
25 of the proceeding the party unduly and unreasonably protracted the final
26 resolution of the matter.

27 C. A party that seeks an award of fees or other costs shall apply to
28 the hearing officer or administrative law judge, within thirty days after the
29 final decision or order, providing:

30 1. Evidence of the party's eligibility for the award.

31 2. The amount sought.

32 3. An itemized statement from the attorneys and experts stating:

33 (a) The actual time spent representing the party.

34 (b) The rate at which the fees were computed.

35 D. The award of reasonable attorney fees pursuant to subsection A of
36 this section need not equal or relate to the attorney fees actually paid or
37 contracted, but an award may not exceed the amount paid or agreed to be paid.

38 E. A decision of a hearing officer or administrative law judge under
39 this section is subject to judicial review. If fees and other costs were
40 denied by the hearing officer or administrative law judge because the party
41 was not the prevailing party but the party prevails on appeal, the court may
42 award fees and other costs for the proceedings before the hearing officer or
43 administrative law judge if the court finds that fees and other costs should
44 have been awarded under subsection A of this section.

45 F. The department shall pay the fees and costs awarded pursuant to
46 this section from any monies appropriated to the department and available for

1 that purpose, or from other operating costs of the department. If the
2 department fails or refuses to pay the award within thirty days after the
3 demand, and if no further review or appeals of the award are pending, the
4 person may file a claim for the award with the department of administration
5 which shall pay the claim within thirty days in the same manner as an
6 uninsured property loss under chapter 3.1, article 1 of this title, except
7 that the department shall be responsible for the total amount awarded and
8 shall pay it from operating monies. If the department had appropriated
9 monies available for paying the award at the time it failed or refused to
10 pay, the legislature shall reduce the department's operating appropriation
11 for the following fiscal year by the amount of the award and appropriate that
12 amount to the department of administration as reimbursement for the loss.

13 G. This section does not apply to:

- 14 1. Any grievance and appeal procedure pursuant to title 36, chapter
15 29.
16 2. Any appeal procedure pursuant to chapter 4, article 6 of this
17 title.
18 3. Any administrative appeal filed by an inmate in an Arizona state
19 prison.

20 H. ~~As used in~~ FOR THE PURPOSES OF this section:

- 21 1. "Department" includes a state agency, department, board or
22 commission, and the universities.
23 2. "Party" includes an individual, partnership, corporation,
24 association and public or private organization.

25 Sec. 17. Section 41-1758, Arizona Revised Statutes, as amended by Laws
26 2013, chapter 128, section 12 and chapter 174, section 2, is amended to read:
27 41-1758. Definitions

28 In this article, unless the context otherwise requires:

- 29 1. "Agency" means the supreme court, the department of economic
30 security, the department of education, the department of health services, the
31 department of juvenile corrections, the department of emergency and military
32 affairs, the department of transportation, the state real estate department,
33 THE STATE BOARD OF APPRAISAL, the board of fingerprinting or the board of
34 examiners of nursing care institution administrators and assisted living
35 facility managers.

36 2. "Division" means the fingerprinting division in the department of
37 public safety.

38 3. "Electronic or internet-based fingerprinting services" means a
39 secure system for digitizing applicant fingerprints and transmitting the
40 applicant data and fingerprints of a person or entity submitting fingerprints
41 to the department of public safety for any authorized purpose under this
42 title. For the purposes of this paragraph, "secure system" means a system
43 that complies with the information technology security policy approved by the
44 department of public safety.

45 4. "Good cause exception" means the issuance of a fingerprint
46 clearance card to an employee pursuant to section 41-619.55.

- 1 5. "Person" means a person who is required to be fingerprinted
2 pursuant to any of the following:
- 3 (a) Section 8-105.
 - 4 (b) Section 8-322.
 - 5 (c) Section 8-509.
 - 6 (d) Section 8-802.
 - 7 (e) Section 15-183.
 - 8 (f) Section 15-503.
 - 9 (g) Section 15-512.
 - 10 (h) Section 15-534.
 - 11 (i) Section 15-782.02.
 - 12 (j) Section 15-1330.
 - 13 (k) Section 15-1881.
 - 14 (l) Section 17-215.
 - 15 (m) Section 26-103.
 - 16 (n) [SECTION 28-3413.](#)
 - 17 ~~(n)~~ (o) Section 32-2108.01.
 - 18 ~~(o)~~ (p) Section 32-2123.
 - 19 ~~(p)~~ (q) Section 32-2371.
 - 20 ~~(q)~~ (r) Section 32-2372.
 - 21 (s) [SECTION 32-3620.](#)
 - 22 (t) [SECTION 32-3668.](#)
 - 23 (u) [SECTION 32-3669.](#)
 - 24 ~~(r)~~ (v) Section 36-207.
 - 25 ~~(s)~~ (w) Section 36-411.
 - 26 ~~(t)~~ (x) Section 36-425.03.
 - 27 ~~(u)~~ (y) Section 36-446.04.
 - 28 ~~(v)~~ (z) Section 36-594.01.
 - 29 ~~(w)~~ (aa) Section 36-594.02.
 - 30 ~~(x)~~ (bb) Section 36-882.
 - 31 ~~(y)~~ (cc) Section 36-883.02.
 - 32 ~~(z)~~ (dd) Section 36-897.01.
 - 33 ~~(aa)~~ (ee) Section 36-897.03.
 - 34 ~~(bb)~~ (ff) Section 36-3008.
 - 35 ~~(cc)~~ (gg) Section 41-619.52.
 - 36 ~~(dd)~~ (hh) Section 41-619.53.
 - 37 ~~(ee)~~ (ii) Section 41-1964.
 - 38 ~~(ff)~~ (jj) Section 41-1967.01.
 - 39 ~~(gg)~~ (kk) Section 41-1968.
 - 40 ~~(hh)~~ (ll) Section 41-1969.
 - 41 ~~(ii)~~ (mm) Section 41-2814.
 - 42 ~~(jj)~~ (nn) Section 46-141, subsection A.
 - 43 ~~(kk)~~ (oo) Section 46-321.
- 44 6. "Vulnerable adult" has the same meaning prescribed in section
45 13-3623.
- 46 Sec. 18. [Repeal](#)

1 Section 41-1758, Arizona Revised Statutes, as amended by Laws 2013,
2 chapter 129, section 25, is repealed.

3 Sec. 19. Section 41-1758.01, Arizona Revised Statutes, as amended by
4 Laws 2013, chapter 128, section 13 and chapter 174, section 3, is amended to
5 read:

6 41-1758.01. Fingerprinting division: powers and duties

7 A. The fingerprinting division is established in the department of
8 public safety and shall:

9 1. Conduct fingerprint background checks for persons and applicants
10 who are seeking licenses from state agencies, employment with licensees,
11 contract providers and state agencies or employment or educational
12 opportunities with agencies that require fingerprint background checks
13 pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512,
14 15-534, 15-782.02, 15-1330, 15-1881, 17-215, 26-103, 28-3413, 32-2108.01,
15 32-2123, 32-2371, 32-2372, 32-3620, 32-3668, 32-3669, 36-207, 36-411,
16 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01,
17 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968,
18 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

19 2. Issue fingerprint clearance cards. On issuance, a fingerprint
20 clearance card becomes the personal property of the cardholder and the
21 cardholder shall retain possession of the fingerprint clearance card.

22 3. On submission of an application for a fingerprint clearance card,
23 collect the fees established by the board of fingerprinting pursuant to
24 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
25 monies collected in the board of fingerprinting fund.

26 4. Inform in writing each person who submits fingerprints for a
27 fingerprint background check of the person's right to petition the board of
28 fingerprinting for a good cause exception pursuant to sections 41-1758.03 and
29 41-1758.07.

30 5. Administer and enforce this article.

31 B. The fingerprinting division may contract for electronic or
32 internet-based fingerprinting services through an entity or entities for the
33 acquisition and transmission of applicant fingerprint and data submissions to
34 the department, including identity verified fingerprints pursuant to section
35 15-106. The entity or entities contracted by the department of public safety
36 may charge the applicant a fee for services provided pursuant to this
37 article. The entity or entities contracted by the department of public
38 safety shall comply with:

39 1. All information privacy and security measures and submission
40 standards established by the department of public safety.

41 2. The information technology security policy approved by the
42 department of public safety.

43 Sec. 20. Repeal

44 Section 41-1758.01, Arizona Revised Statutes, as amended by Laws 2013,
45 chapter 129, section 26, is repealed.

H.B. 2239

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.