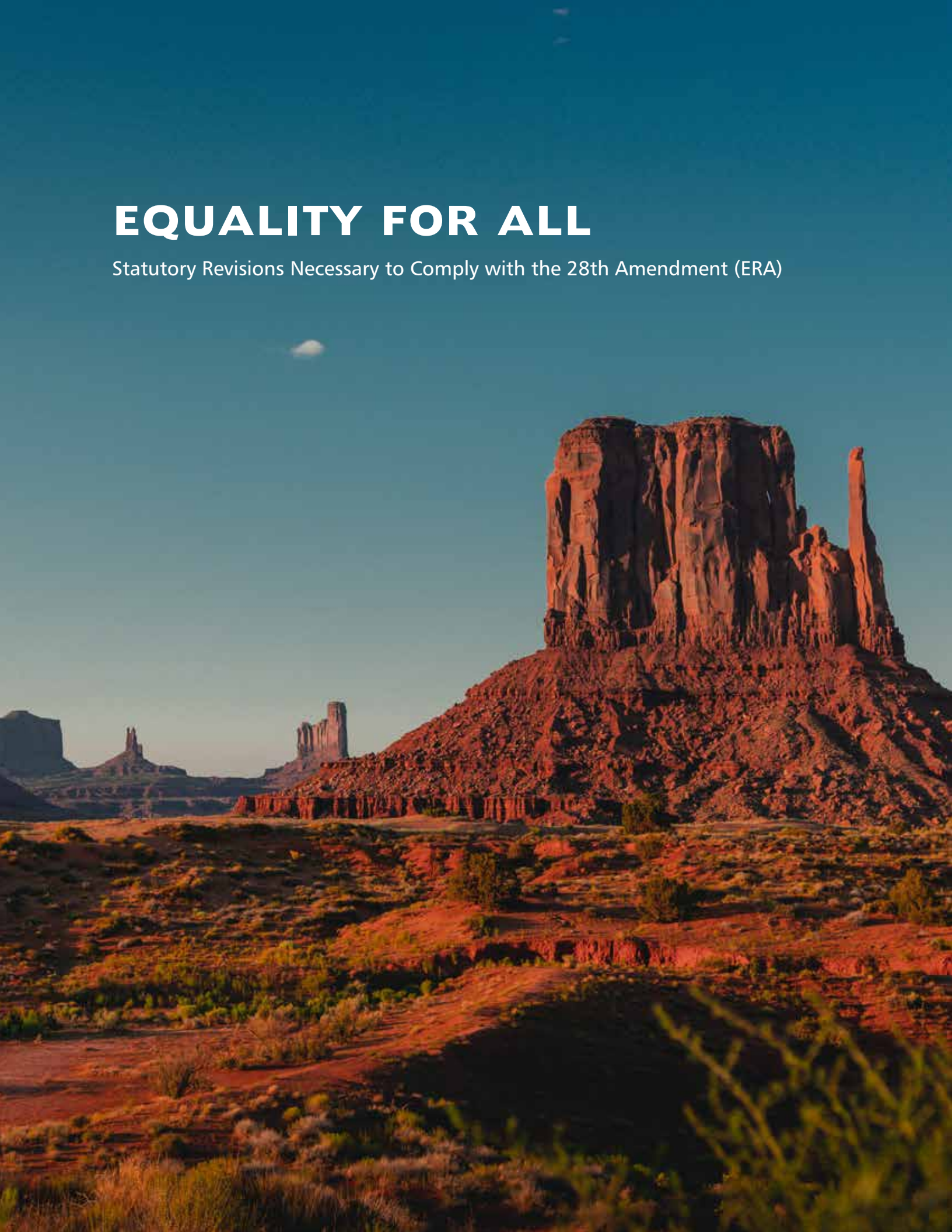


EQUALITY FOR ALL

Statutory Revisions Necessary to Comply with the 28th Amendment (ERA)



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Introduction

The Equal Rights Amendment (ERA) was first introduced into Congress in 1923, three years after women got the right to vote. Women realized that even with the right to vote, they would never get full citizenship without constitutional equality as well. The first ERA said that “[m]en and women shall have equal rights throughout the United States and every place subject to its jurisdiction”

Nothing happened for 49 years. In 1972, after Martha Griffiths was elected from Michigan, she found a folder in her new office that said “broads” and when opening it, found the ERA that by then read:

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

“ARTICLE —

“SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

“SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

“SEC. 3. This amendment shall take effect two years after the date of ratification.”

86 Stat. at 1523.

The first year she tried to get it passed, she failed. The second year, she tried a discharge petition because the committee chair would not allow it out of committee. She succeeded and it passed by the required two-thirds votes. Hawaii ratified it within 30 minutes. Thirty-four other states followed in short order. But by 1979, the Koch funded anti-ERA movement had stopped the momentum. We still only had 35 states. The deadline was extended 3 more years.

In Arizona, then legislator, Sandra Day O’Connor introduced it and it failed in 1973. It was later introduced by Sister Claire Dunn and failed in 1975 and 1979. Though the bill was introduced almost every year since, and many efforts have been made to get it onto the floor for a vote, the state legislature has refused to vote directly on it again.

The national movement was rejuvenated in 2017 when Nevada became the countries first state legislature with a majority of women and passed it. In 2018, Illinois where it had stopped in 1979, passed it. On January 20, 2020, Virginia became the 38th and final state needed for ratification into the Constitution as the 28th Amendment.

The two-year effective date gives each state time to revise any state statutes that are in conflict with the 28th Amendment. The ERA Task Force AZ, with a team of volunteer lawyers, has reviewed all of the Arizona Revised Statutes for compliance with the ERA and proposed suggested changes to be in compliance. The following document organized by chapter and section is the culmination of those months of work. The reason for the required change is outlined. Many of the changes are due to exclusionary use of language. Some of the changes are due to federal or state court decisions and that is noted. Some of the changes are also due to stereotypical or discriminatory assumptions or decisions made by previous legislatures. These are noted with supporting research noted when applicable. An additional benefit is that by the repeated use of pronouns, many of the statutes are very unclear. The revisions made also improve the precision and legal understanding of the law.

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May this work help to bring us a step forward into a world in which all people have equality and freedom.

ERA Task Force AZ

Dianne Post, Anissa Rasheta, Patricia Sahertian, Steering Committee, December 8, 2020

Overview

In each title, the reason for the needed revision is stated before the title itself and the revisions have been made according to the style requested by the Legislative Council. Many of the revisions are necessary because of the exclusive use of the male pronoun and male nouns. Every title requires revisions on these grounds. Some titles require revisions only because of the pronoun/noun. Those are: Titles 1, 3-6, 10-11, 17-19, 22-23, 26-30, 33-35, 37-40, 42, 45, 47.

Some of the revisions are needed because of the Supreme Court finding in the *Obergefell v. Hodges* case and the subsequent Arizona court decisions applying it. These are identified with their citations at the appropriate locations. These all have to do with relationships between children and parents and between spouses. Those titles that require revisions in addition because they are in violation of *Obergefell v. Hodges* and the Arizona follow up decisions are: Titles 7-8, 12, 14, 16, 21, 23, 25, 33, 43.

A smaller number of titles require revision due to discrimination against women or discriminatory treatment between women and men. It is obvious that some of these are from a very different time than today. Those titles are: Titles 8, 13, 31-33, 41.

The last category of titles require revision due to a misunderstanding and misapplication of the terms “sex” and “gender” that result in women losing protections they had previously. Those titles are: Titles 15, 20, 36, 41, 44, 46.

TITLE 1 General Provisions



1-215. Definitions

All revisions are necessary due to exclusionary use of male pronouns.

27. “Peace officers” means sheriffs of counties, constables, marshals, ~~policemen~~ POLICE OFFICERS of cities and towns, commissioned personnel of the department of public safety, personnel who are employed by the state department of corrections and the department of juvenile corrections and who have received a certificate from the Arizona peace officer standards and training board, peace officers who are appointed by a multicounty water conservation district and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by community college district governing boards and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the Arizona board of regents and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the governing body of a public airport pursuant to section 28-8426 and who have received a certificate from the Arizona peace officer standards and training board, peace officers who are appointed by a private postsecondary institution pursuant to section 15-1897 and who have received a certificate from the Arizona peace officer standards and training board and special agents from the office of the attorney general, or of a county attorney, and who have received a certificate from the Arizona peace officer standards and training board.

TITLE 3 Agriculture



All revisions are necessary due to exclusionary use of male pronouns.

3-103. Director; search committee; qualifications; deputy director and associate and assistant directors; legal counsel

F. The director may employ legal counsel ~~to advise him~~ FOR ADVICE, represent the department in connection with legal matters before other departments and agencies of this state and represent the department and this state in litigation concerning affairs of the department. Legal counsel is exempt from title 41, chapter 4, articles 5 and 6 relating to state service and serves at the pleasure of the director.

3-104. Advisory council

A. The governor shall appoint a department of agriculture advisory council consisting of five members appointed to terms of five years. A member may continue to serve until ~~his~~ THAT MEMBER'S successor is appointed and assumes office. A member may not be appointed to more than one full term plus appointment to fill a vacancy for the remainder of the unexpired term.

C. The governor may remove a member for cause. In addition, a member vacates ~~his~~ THE office if ~~he~~ THE MEMBER:

1. Ceases to engage in ~~his~~ THE qualifying occupation.

2. No longer resides in this state.

3. Is absent without excuse from three consecutive regular meetings of the council.

4. Resigns, dies or becomes unable to perform ~~his~~ **THE** duties as a council member.

E. The advisory council shall:

1. Select a ~~chairman~~ **CHAIR** and ~~vice-chairman~~ **VICE-CHAIR** from among its members.

2. Hold a regular meeting every calendar quarter and additional meetings at the call of the director, the ~~chairman~~ **CHAIR** or a majority of its members.

3-105. Division councils

B. Members shall serve two-year terms of office that are staggered among the members. Members of division councils serve without compensation but are eligible for reimbursement for travel and other expenses as provided by law. Each division council shall select a ~~chairman~~ **CHAIR** and ~~vice-chairman~~ **VICE-CHAIR** from among its members. Division councils are public bodies for purposes of title 38, chapter 3, article 3.1. Each division council shall assist and make recommendations to the associate director of the division regarding the administration and implementation of the various programs within the division. The associate director shall make a written response to the division council within fifteen days to each formal recommendation made by the council.

3-208. Hearing on plant menace; evidence; quarantine zones; violation

B. If the director finds that a menace exists, ~~he~~ **THE DIRECTOR** may make and enforce rules and orders and establish quarantine zones or districts to eradicate, suppress or control the menace.

C. When the director finds the danger which caused the establishment of a prohibited zone is no longer present, ~~he~~ **THE DIRECTOR** shall revoke the order establishing the zone, and may by order change or modify the order establishing a zone or applicable rules without notice or hearing, but no additional territory shall by subsequent order be added to or included within the boundaries of the zone except by notice and hearing as required for establishing the zone.

3-344. Advisory committee; membership; appointment; duties; uniformity of labeling and standards of pesticides

A. The director may appoint an advisory committee as needed to assist and advise the director and associate director in adopting technical rules. The director shall designate the ~~chairman~~ **CHAIR**. Meetings of the committee shall be held upon call of the associate director or director. Members of the committee shall serve without compensation, but shall be entitled to reimbursement for expenses of travel and subsistence incurred in the performance of their duties, which shall be paid from and limited by the pesticide trust fund.

3-347. Delegation of duties

All authority vested in the director under this article may with like force and effect be executed by **his** authorized representatives as **he THE DIRECTOR** designates for such purpose.

3-352. Prohibited acts

B. It is unlawful:

2. For any person to use for **his THAT PERSON'S** own advantage or to reveal, other than to the director or proper officials or employees of the state or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 3-351.

3-376. Discrimination prohibited

A. No person may intimidate, threaten, restrain, coerce, blacklist, discharge or in any manner discriminate against any person because that person has filed a complaint or instituted, or caused to be instituted, a proceeding under this article or has testified or is about to testify in such a proceeding or has exercised, on behalf of **himself THEMSELVES** or others, any right or protection afforded by this article.

B. A person who believes **he THEY HAVE BEEN has** been discriminated against in violation of this section may, within one hundred eighty days after the violation, file a complaint with the attorney general. On receipt of the complaint, the attorney general may investigate as **he deems DEEMED** appropriate. If, after investigation, the attorney general determines that this section has been violated, **he THE ATTORNEY GENERAL** may bring an action in superior court against any alleged violator.

3-414. Powers and duties of a marketing commission or marketing committee

A. A marketing commission or marketing committee shall:

2. Annually elect a **chairman CHAIR**, secretary and treasurer from among its members.

3. Meet at least twice annually or at additional times called by the **chairman CHAIR** or when requested by a quorum of the marketing commission or marketing committee.

3-416. Indemnification of marketing commission or marketing committee members

Each member or employee of a marketing commission or marketing committee is indemnified by the commission or committee against reasonable costs and expenses, including attorney fees, incurred **by him** in connection with any action, suit or proceeding to which **he THE MEMBER OR EMPLOYEE** may be a party by reason of being or having been a member or employee of the commission or committee, except in relation to matters as to which **he THE MEMBER OR EMPLOYEE** is adjudged in such action, suit or proceeding to have acted in bad faith as a commission or committee member or employee. The right of indemnification is in addition to other rights to which the member or employee is entitled as a matter of law.

3-420. Inspection and enforcement

A. An inspector, discharging **his** **THE** duties **OF THIS CHAPTER**, may enter every facility during operating hours or commercial vehicles in this state where an affected commodity is produced, stored, packed, delivered for shipment, being transported or offered for sale and inspect representative samples of the affected commodity to determine compliance with a marketing order or marketing agreement.

3-464. Wrongful performance of duty; improper influence; classification

B. A person who knowingly and improperly influences an inspector in the performance of **his** **THE INSPECTOR'S** duty is guilty of a class 1 misdemeanor.

3-468.02. Powers and duties of the council

A. The council shall:

2. Annually elect a **chairman** **CHAIR**, secretary and treasurer from among its members.

3. Meet at least once each calendar quarter or at such times as called by the **chairman** **CHAIR** or when requested by three or more members of the council. A quorum consists of three or more members of the council.

3-468.07. Indemnification of council members

Each member of the council is indemnified by the council against reasonable costs and expenses, including attorney fees, incurred **by him** in connection with any action, suit or proceedings to which **he** **THE MEMBER** may be a party by reason of **his** being or having been a member of the council, except in relation to matters as to which **he** **THE MEMBER** is adjudged in such action, suit or proceeding to have acted in bad faith as a council member. The right of indemnification is in addition to other rights to which the member is entitled as a matter of law.

3-520. Wrongful performance of duty by inspector; improper influence; classification

B. Any person who knowingly and improperly influences an inspector in the performance of **his** **THE INSPECTOR'S** duty is guilty of a class 1 misdemeanor.

3-526.02. Powers and duties of the council

A. The council shall:

2. Annually elect a **chairman** **CHAIR**, secretary and treasurer from among its members.

3. Meet at least once each calendar quarter or at such times as called by the **chairman** **CHAIR** or when requested by four or more members of the council. A quorum consists of four or more members of the council.

3-527.02. Powers and duties of the council

A. The council shall:

1. Annually elect a **chairman CHAIR** and vice **chairman CHAIR** from among its members.
2. Meet at least once each calendar quarter and at such additional times as called by the **chairman CHAIR** or if requested by four or more members of the council.

3-527.04. Indemnification of council members

Each member of the council is indemnified by the council against reasonable costs and expenses, including attorney fees, incurred **by him** in connection with any action, suit or proceedings to which **he THE MEMBER** may be a party by reason of **his** being or having been a member of the council, except in relation to matters as to which **he THE MEMBER** is adjudged in such action, suit or proceeding to have been acting in bad faith as a council member. The right of indemnification is in addition to other rights to which such member is entitled as a matter of law.

3-562. Restrictions on sales by food producers prohibited

B. The right to sell and dispose of food products shall extend to the producer in person, members of **his THE PRODUCER'S** family, **his** agents and all persons in **his THE PRODUCER'S** service, when the products are sold or disposed of on **his THE PRODUCER'S** behalf and for **his THE PRODUCER'S** benefit.

3-584. Powers and duties of the council

A. The council shall:

1. Meet at least once during each calendar quarter and more frequently on the call of the **chairman CHAIR**, vice-**chairman CHAIR** or any three members of the council.
2. Annually elect a **chairman CHAIR** from among its members.
4. Establish an executive committee, consisting of the **chairman CHAIR**, secretary and treasurer. The executive committee shall act pursuant to direction received from the full council, or if the situation arises, the executive committee shall act and then bring the subject and its action before the full council at the next regular meeting of the council for review and ratification.

3-585. Indemnification of council members

Each member of the council is indemnified by the council against reasonable costs and expenses, including attorney fees, incurred **by him** in connection with any action, suit or proceedings to which **he THE MEMBER** may be a party by reason of **his** being or having been a member of the council, except in relation to matters as to which **he THE MEMBER** is adjudged in such action, suit or proceeding to have been acting in bad faith as a council member. The right of indemnification is in addition to other rights to which such member is entitled as a matter of law.

3-610. Diseased handlers of dairy products prohibited; health examination

No person known to have a contagious or infectious disease shall occupy a room in which dairy products are handled, or actively engage in handling or in any operation of producing, processing, manufacturing, distributing, transporting or dispensing dairy products. A person so engaged shall at **his THEIR** own expense submit to a health examination at the request of the associate director.

3-611. Tuberculin testing of dairy herds; veterinarian's certificate; other diseases; exclusion of animals from herds

C. The associate director, on the recommendation of the state veterinarian, may, for a disease not otherwise provided for, prescribe the tests and examinations to be used. **He THE ASSOCIATE DIRECTOR** shall prescribe the times at which the tests shall be given and the methods to be used and shall provide for the disposition of animals reacting to the tests.

3-619. Qualification of sampler; license; certificate of proficiency; revocation

A. No person shall sample milk or cream for the purpose of determining the amount of milk fat contained therein where the result of the test is used as a basis for payment for the milk or cream, or for official inspection or public record, unless licensed by the division. An applicant for a license shall give proof satisfactory to the associate director of **his THE** ability to perform **his ALL OF THE** duties and shall pay a license fee of five dollars. The license shall be valid for the calendar year in which issued and upon payment of a renewal fee of one dollar fifty cents shall be renewed for each year in which the licensee desires to operate. A license not renewed prior to February 1 is void.

3-620. Bacterial count; method; inspection of equipment

C. The associate director or **his** authorized representative may at any time, for the purpose of determining the accuracy thereof, inspect the equipment and assist in making a bacterial count of milk or cream received at a place of business making bacterial counts.

3-631. Restraint of competition prohibited; discrimination against localities prohibited; allowances

A person engaged in the business of buying milk, cream or butterfat, either by **himself THEMSELVES** or by another, shall not restrain in any manner open competition in the business, nor discriminate between different sections of the state by purchasing or offering to purchase milk, cream or butterfat at a higher price in one locality than that paid or offered for the same commodity by the person in another locality, but allowance may be made for the difference in the grade or quality of the commodity, and in the cost of transportation from the place of purchase to the place of manufacture, sale or storage.



3-709. Supervisor of egg inspection; egg inspectors

A. The associate director, with the approval of the director, shall employ a supervisor of egg inspection. The supervisor shall qualify by taking and filing the official oath of office. He THE SUPERVISOR shall be possessed of not less than three years' experience in the production, sale and determining of standards and grades of eggs. He THE SUPERVISOR shall be possessed of technical and educational qualifications or practical experience in the handling and inspection of eggs, and in all matters relating to the egg industry.

3-735. Arrests; appearance before magistrate; notice; written promise to appear; bail

A. When a person is arrested for transporting eggs or egg products in violation of this article, unless he THE PERSON demands the right to an immediate appearance before a magistrate, the arresting officer, upon production of satisfactory evidence of the identity of the person arrested, shall take his THE name and address, the license number of his THE motor vehicle and such other information as may be necessary, and notify him THE PERSON in writing to appear at a time and place specified in the notice not less than five days after arrest before a magistrate of the precinct in which the offense is alleged to have been committed, and if the defendant gives his A written promise to appear at the time and place specified, the arresting officer shall forthwith release him THE PERSON from custody.

B. When the defendant refuses to give a written promise to appear, or demands an immediate appearance before a magistrate, he THE DEFENDANT shall be taken forthwith before a magistrate of the precinct in which the offense is alleged to have been committed. He THE DEFENDANT shall then be entitled to not less than five days continuance in which to plead or prepare for trial unless he THE DEFENDANT waives the time and gives written promise to appear at such time and place as the court may fix, or, if he THE DEFENDANT refuses to give the promise, the court may fix bail, and when given the defendant shall be released from custody.

3-905. Destruction of protected plants by state

B. If the director determines that the proposed action by the state agency may affect a highly safeguarded plant, **he THE DIRECTOR** shall consult with the state agency and other appropriate parties and use the best scientific data available to issue a written finding as to whether the proposed action would appreciably reduce the likelihood of survival or recovery of the plant taxon in this state. If the determination is affirmative, the director shall also specify reasonable, prudent and distinct alternatives to the proposed project that can be implemented and are consistent with conserving the plant taxon.

3-906. Collection and salvage of protected plants; procedures, permits, tags and seals; duration; exception

A. Except as provided in this chapter a person shall not take, transport or possess any protected native plant taken from the original growing site in this state without possessing a valid permit issued by the division. The division shall issue permits in either a name or business name. A permit to take, transport or possess native plants is nontransferable, except that a permittee, by subcontract or otherwise, may allow its agents to work under the permit if the permittee remains primarily responsible for the actions of persons acting under **his THE PERMITEE'S** expressed or implied authority.

F. This section does not apply to the transporting of protected native plants by a landowner or **his** agent from one of **his THE LANDOWNER'S** properties to another if the plants are not offered for sale.

3-931. Enforcement powers and procedures

A. An employee, officer or agent of the department may enter in or on any premises or other place, train, vehicle or other means of transportation within or entering this state, if **he has** reason **EXISTS** to believe there is present or on such premises or means of transportation a protected native plant taken, transported or possessed in violation of this chapter.

C. In the enforcement of this chapter, a peace officer or an officer or employee of the department may make arrests without warrant for a violation of this chapter which **he THE OFFICER OR EMPLOYEE** may witness and may confiscate, or seize by the attachment of a "warning hold" notice, any protected native plant found without a valid and properly affixed tag and seal when required by this chapter, or any plant by-product, fiber or wood from protected native plants found in the possession of a person without a valid receipt if a receipt is required under this chapter. It is unlawful to move or otherwise handle or dispose of any protected plant or part of a plant held under a "warning hold" notice, except with the express written permission of the enforcing officer, and for the specified purpose. Plants, by-products, fiber or wood confiscated under this subsection, if not released to the person from whom they were seized before such time, shall be disposed of by the department or pursuant to court order at the conclusion of the proceedings.

3-1212. Private practice prohibited

The state veterinarian shall devote **his THE** entire time to the duties of **his THE** office and shall not engage in private practice.

3-1232. Arizona beef council; appointment; term

C. The governor shall declare the office of any member of the council vacant when **he THE GOVERNOR** finds that:

1. The member is no longer a producer.
2. The member is unable to perform **his THE** duties.
3. The member has become a resident of another state.

3-1233. Powers and duties of council

A. The council shall:

2. Annually elect a **chairman CHAIR** from among its members. No **chairman CHAIR** shall succeed **himself IN THE SAME POSITION** more than once.
4. Meet regularly every three months and at such other times as called by the **chairman CHAIR** or when requested by five or more members of the council.

3-1293. Procedure for owner to authorize another person to deal with animals; violation

A. A person who desires to authorize another person to gather, drive or otherwise handle animals bearing the recorded brand or mark owned by the person granting the authority, or animals of which **he THE PERSON** is the lawful owner but which bear other brands or marks, shall furnish the other person an authority in writing which lists the brands or marks authorized to be handled, and authorizes the other person to gather, drive or otherwise handle the animals described.

3-1309. Proof of branding with brand of accused as tending to show conversion by accused

Upon a trial for a violation of the livestock laws of the state, the prosecution may prove, as tending to show a conversion by the accused, that the animals in question were branded into a brand or were marked into a mark claimed by the accused to be **his THE ACCUSED'S** brand or mark, although neither the brand nor the mark is recorded.

3-1311. Dogs killing or chasing livestock; liability of owner; classification

A. If any person discovers a dog killing, wounding or chasing livestock, or discovers a dog under circumstances which show conclusively that it has recently killed or chased livestock, **he THE PERSON** may pursue and kill the dog.

3-1345. Transfer or issuance of ownership and hauling certificates; fees

D. An equine trader permittee shall sign and enter **his THE TRADER'S** permit number on the transfer document when **he THE TRADER** transfers ownership of an equine.

3-2002. Application for license to slaughter

Every person, including an exempt slaughterer, before ~~he begins~~ BEGINNING or ~~carries~~ CARRYING on the slaughter of livestock, sheep, goats or swine for compensation, shall make written application to the division for a license to slaughter, stating that the applicant will comply with the law and will not slaughter animals, or sell, exchange, or expose for sale the meat thereof, except in conformity with the law relating thereto and the rules of the director.

3-2007. Purchase of uninspected hide; classification; exception

It is unlawful to purchase or otherwise acquire possession of a hide of any livestock until the hide has been inspected for brands and marks. Possession of an untagged or unmarked hide upon which the tagging or marking has not been waived by the director is a class 2 misdemeanor unless the person possessing the hide can show that it was taken from an animal owned by ~~him~~ THAT PERSON at the time of slaughter or after death, or that ~~he~~ THE ACCUSED had written authority from the owner to remove the hide from the carcass.

3-2089. Vehicles

Every vehicle used by any slaughterer, meat or poultry processor, wholesaler, jobber or peddler in the transporting of dressed carcasses of animals intended for human consumption, parts thereof, meats or meat food products shall be maintained in a clean and sanitary condition, shall comply with the minimum requirements of the director and shall be subject to inspection by the chief veterinary meat inspector or ~~his~~ authorized employees.

3-2162. Exemptions and exceptions

A. The following shall be exempted from the provisions of this article:

3. The slaughtering by any person of poultry of ~~his~~ THAT PERSON'S own raising, and the processing by ~~him~~ THAT PERSON and transportation of the poultry products exclusively for use by ~~him~~ THAT PERSON and members of ~~his~~ THAT PERSON'S household and ~~his~~ nonpaying guests and employees.

4. The custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation of the poultry products exclusively for use, in the household of such owner, by ~~him~~ THE OWNER and members of ~~his~~ THAT household and ~~his~~ nonpaying guests and employees, if the custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food.

5. The slaughtering and processing of poultry products by any poultry producer on ~~his~~ THAT PRODUCER'S own premises with respect to sound and healthy poultry raised on ~~his~~ THAT PRODUCER'S premises and the distribution by any person of the poultry products derived from such operations, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of such poultry producer, and if they are not otherwise misbranded, and are sound, clean and fit for human food when so distributed.

6. The slaughtering of sound and healthy poultry or the processing of poultry products of such poultry by any poultry producer or other person for distribution by ~~him~~ THAT PRODUCER directly to

household consumers, restaurants, hotels and boarding houses for use in their own dining rooms, or in the preparation of meals for sales direct to consumers, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of the processor, and if they are not otherwise misbranded and are sound, clean and fit for human food when distributed by such processor.

B. In addition to the specific exemptions authorized in subsection A, the director shall, when **he THE DIRECTOR** determines that the protection of consumers from adulterated or misbranded poultry products will not be impaired by such action, provide by rule, consistent with subsection C, for the exemption of the operation and products of small enterprises including poultry producers, not exempted under subsection A, which are engaged in slaughtering or cutting up poultry for distribution as carcasses or parts thereof, solely for distribution within this state, from such provisions of this article as **he THE DIRECTOR** deems appropriate, while still protecting the public from adulterated or misbranded products under such conditions, including sanitary requirements, as **he THE DIRECTOR** prescribes.

3-2662. Administration and enforcement

The director shall adopt rules deemed necessary to carry out the purposes of this article, and the director or **his** authorized representative shall enforce the rules.

3-2664. Permit to feed garbage to swine; exception

B. This article shall not apply to any person who feeds only **his THAT PERSON'S** own household garbage to swine which are raised for **his THAT PERSON'S** own use.

3-2666. Permit for removal of swine from premises

Before removal of any swine from the premises where swine are fed on garbage, a permit shall be obtained from the state veterinarian or **his** authorized representative for the removal of the swine. A permit for the removal of dead swine which are to be processed by rendering shall not be required.

3-3104. Duties of employer and employee

A. Each employer shall furnish to each **of his** employees **employment and** a place of employment which **are IS** free from recognized hazards that are causing or are likely to cause death or serious physical harm to **his AN** employees.

D. Each employee shall comply with agricultural safety and health standards and all rules and orders issued pursuant to this article which apply to **his THAT EMPLOYEE'S** own actions and conduct.

3-3107. Inspection of places and practices of employment; employee initiation of investigation; violation; injunction; classification

A. The assistant director or **his AN** authorized representative, on presentation of credentials, shall be permitted to inspect places of employment, question employees and investigate conditions, practices or matters in connection with employment subject to this article at reasonable times as **he THE REPRESENTATIVE** may deem appropriate to determine whether any person has violated this article or

any rule which is adopted under this article or which may aid in enforcing this article. An employer or other person shall admit the assistant director or **his AN** authorized representatives to any such place and permit the inspection if the proper credentials are presented and the inspection is made at a reasonable time.

E. A representative of the employer and a representative authorized by **his THE** employees shall be given an opportunity to accompany the assistant director or **his** authorized representative during the physical inspection of any workplace for the purpose of aiding such inspection. If there is no authorized employee representative, the assistant director or **his AN** authorized representative shall consult a reasonable number of employees concerning matters of safety and health in the workplace.

G. An employee or a representative of employees who believes that a violation of a safety or health standard or rule exists that threatens physical harm or that an imminent danger exists may request an investigation by notifying the assistant director or **his AN** authorized representative of such violation or danger. Any such notice shall be in writing, shall state with reasonable particularity the grounds for the notice and shall be signed by the employees or representative of the employees. On the request of the employee giving such notice, **his THE EMPLOYEE'S** name and the names of other employees referred to in the notice shall not appear on any copy of the notice or any record published, released or made available. If on receipt of the notice the assistant director determines that there are reasonable grounds to believe that such violation or danger exists, **he THE ASSISTANT DIRECTOR** shall make an investigation pursuant to this article as soon as practicable to determine if a violation or danger exists. If the assistant director determines that there are no reasonable grounds to believe that a violation or danger exists, **he THE ASSISTANT DIRECTOR** shall notify the employees or the representative of the employees in writing of that determination.

3-3108. Development of standards and rules

A. Safety and health standards and rules shall be formulated in the following manner:

1. The assistant director shall either propose adoption of national consensus standards or federal standards or draft such rules as **he considers CONSIDERED** necessary after conducting sufficient investigations through the employees of the office and through consultation with the department advisory council, an ad hoc advisory committee if one is appointed and other persons knowledgeable in agriculture for which the standards or rules are being formulated.

2. Proposed standards or rules, or both, shall be submitted to the director for **his** approval. If the director approves the proposed standards or rules, or both, **he THE DIRECTOR** shall adopt them pursuant to title 41, chapter 6.

E. A person who may be adversely affected by a standard or rule issued under this article at any time before the sixtieth day after the standard or rule is adopted may file a complaint challenging the validity of the standard or rule with the superior court in the county in which the person resides or has **his THAT PERSON'S** principal place of business for a judicial review of the standard or rule. The filing of a complaint, unless otherwise ordered by the court, does not operate as a stay of the standard or rule. The determinations of the director are conclusive if supported by substantial evidence in the record considered as a whole.

3-3115. Imminent dangers

C. If, and as soon as, the director or **his AN** authorized representative concludes that conditions or practices described in subsection A exist in any place of employment, **he THE DIRECTOR OR AUTHORIZED REPRESENTATIVE** shall inform the affected employees and employers of the danger and that **he THE DIRECTOR OR AUTHORIZED REPRESENTATIVE** is recommending that relief be sought.

D. If the director or **his AN** authorized representative arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure or the representative of such employees may bring an action against the director in superior court for a writ of mandamus to compel the director to seek such an order and for such further relief as may be appropriate.

3-3119. Nonliability

Notwithstanding any law to the contrary, neither the director nor **his AN** authorized representative is subject to civil liability for any acts or omissions in the course of any inspection or investigation for the department if **he THE DIRECTOR OR AN AUTHORIZED REPRESENTATIVE** is acting in a reasonable manner, considering the activity in which **he THE DIRECTOR OR AN AUTHORIZED REPRESENTATIVE** is engaged.

3-3122. Employer and employee representation

Any affected employee or employer may designate any person or persons to represent **him THE EMPLOYEE** for the purpose of proceedings before any hearing officer under this article, regardless of the person's membership in the state bar.

3-3124. Agricultural education and training program

A. The assistant director shall develop an agricultural safety education and training program utilizing visits to the workplace of employers to provide education and advice to employers. The visits:

B. If, after evaluating the request, the assistant director determines an alternative means of providing education is more appropriate and equally effective, **he THE ASSISTANT DIRECTOR** may provide the alternative means rather than education at the workplace.

TITLE 4 Alcoholic Beverages



All revisions are necessary due to exclusionary use of male pronouns.

4-111. State liquor board; department of liquor licenses and control; members; director; appointment and removal

C. The board shall annually elect from its membership a **chairman CHAIR** and **vice-chairman VICE-CHAIR**. A majority of the board constitutes a quorum, and a concurrence of a majority of a quorum is sufficient for taking any action. If there are unfilled positions on the board, a majority of those persons appointed and serving on the board constitutes a quorum.

D. The **chairman CHAIR** may designate panels of not less than three members. A panel may take any action that the board is authorized to take pursuant to this title. Such action includes the ability to hold hearings and hear appeals of administrative disciplinary proceedings of licenses issued pursuant to this chapter. A panel shall not, however, adopt rules as provided in section 4-112, subsection A, paragraph 2. The **chairman CHAIR** may from time to time add additional members or remove members from a panel. A majority of a panel may on the concurrence of a majority of the members of the panel take final action on hearings and appeals of administrative disciplinary proceedings concerning licenses issued pursuant to this chapter.

4-114. Interest in business prohibited; forfeiture of office

B. Violation of this section by the director or any member of the board shall be deemed a resignation by such person, and a violation by an employee of the department shall result in **his** immediate dismissal.

4-221. Registration of stills; forfeiture; sale; proceeds

A. Every person having in **his THEIR** possession or custody or under **his THEIR** control a still or distilling apparatus shall register it with the director under the rules the director may prescribe, and every still or distilling apparatus not so registered, together with all mash, wort or wash, for distillation or for the production of spirits or alcohol, and all finished products, together with all personal property in the possession or custody of, or under the control of any person, which may be used in the manufacture or transportation of spirituous liquors, and which is found in the building or in any yard or enclosure connected with the building in which the unregistered still or distilling apparatus is located, shall be forfeited to the state.

4-244. Unlawful acts

It is unlawful:

6. For a person to take or solicit orders for spirituous liquors unless the person is a **salesman SALESPERSON** or solicitor of a licensed wholesaler, a **salesman SALESPERSON** or solicitor of a distiller, brewer, vintner, importer or broker or a registered retail agent.

7. For any retail licensee to purchase spirituous liquors from any person other than a solicitor or **salesman SALESPERSON** of a wholesaler licensed in this state.

13. For an employee of a retail licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for the employee or consume spirituous liquor, except that:

(d) An unpaid volunteer who is a bona fide member of a club and who is not engaged in waiting on or serving spirituous liquor to customers may purchase for **himself THEMSELVES** and consume spirituous liquor while participating in a scheduled event at the club. An unpaid participant in a food competition may purchase for **himself THEMSELVES** and consume spirituous liquor while participating in the food competition.

4-244.02. Unlawful importation of spirituous liquor; exceptions

A. It is unlawful for any person, not a qualified licensee under this title, to import spirituous liquors into this state from a foreign country unless:

2. Such person has been physically within such foreign country immediately prior to such importation and such importation coincides with **his THE** return from such foreign country.

TITLE 5 Sports and Amusements



All revisions are necessary due to exclusionary use of male pronouns.

5-107.02. Qualification for eligibility of racing meeting operator

No person, association or corporation is eligible to operate a racing meeting with a permit issued under this chapter unless **he THE PERSON, ASSOCIATION OR CORPORATION** is an owner or the lessee of the track named in the permit. A permit shall not be issued to any corporation or association unless the corporation or association in its application for the permit has specifically named the manager who will operate the racing meeting, has supplied the department with all relevant information concerning this manager including **his THEIR** relationship with the corporation or association, any previous experience in the racing field, and any other relevant and material information the commission may have requested, and has obtained the commission's approval of the manager so named in the application.

5-108.03. Restrictions on ownership of licenses, permits and tracks; exemptions; sale for fair market value

D. For purposes of determining interest in a permit or permittee, insofar as the determination is based on stock ownership:

2. An individual shall be considered as owning the stock owned, directly or indirectly, by or for **his THE INDIVIDUAL'S** family or by or for **his THE INDIVIDUAL'S** partner. For purposes of this section, the family of an individual includes only **his** brothers and sisters, whether by the whole or half blood, spouse, ancestors and lineal descendants.

5-221. Definitions

10. “Tough **man** contest” means any boxing match consisting of one minute rounds, between two or more persons who use their hands, wearing padded gloves that weigh at least twelve ounces, or their feet, or both, in any manner. Tough **man** contest does not include kickboxing or any recognized martial arts competition.

5-225. Regulation of boxing contests, tough **man contests and mixed martial arts**

B. All tough **man** contests, including amateur tough **man** contests, are subject to the provisions of this chapter. Every contestant in a tough **man** contest shall wear headgear approved by the commission.

5-229. Promoters; licenses; bond; proof of financial responsibility

A. The commission may in its discretion withhold the granting of a license to a promoter until the applicant furnishes proof of **his THE PROMOTER’S** financial responsibility to promote contests in accordance with section 5-226, subsection B and the rules adopted by the director. The commission may issue a license to conduct, hold or give boxing contests to any qualified person or to a corporation duly authorized to do business under the laws of this state.

5-235.01. Disciplinary action; grounds; civil penalty; emergency suspension; injunction

D. In case of emergency, a member of the commission, on **his THE MEMBER’S** own motion or on the verified complaint of any person charging a violation of this chapter or of the rules promulgated by the commission, may suspend for a period of not to exceed ten days any license until final determination by the commission, if in **his THE MEMBER’S** opinion the action is necessary to protect the public welfare and the best interests of boxing.



5-371. Boat liveries; requirements

A. The owner of a boat livery shall keep or cause to be kept a record of the name and address of the person or persons hiring any watercraft which is designed or permitted by **him THE OWNER** to be operated as a watercraft, the identification number thereof, the departure date and time and the expected and actual time of return. Such record shall be preserved for at least three months.

B. Neither the owner of a boat livery nor **his ANY** agent or employee shall permit any watercraft to be operated from **his THE OWNER'S** premises unless it shall have been provided, either by the owner or renter, with the equipment required by this chapter.

C. The certificate of number for a watercraft less than twenty-six feet in length that is leased or rented to a person for noncommercial use of less than twenty-four hours may be retained on shore by the owner or **his THE** representative at the place from which the watercraft departs or returns to the possession of the owner or **his THE** representative. A watercraft which does not have the certificate of number on board shall be identified while in use as may be prescribed by the regulations of the commission.

5-552. Arizona state lottery commission; membership; appointment; term; **chairman CHAIR; removal; reimbursement of expenses**

A. There is established the Arizona state lottery commission consisting of five members who shall be citizens and residents of this state and appointed by the governor pursuant to section 38-211. No more than three members may be from the same political party. The term of members appointed to the commission is five years. The commission members shall annually elect one of the members to serve as **chairman CHAIR** of the commission.

5-553. Executive director; appointment

B. The director shall devote **his** **THE DIRECTOR'S** entire time and attention to the administration of the state lottery and shall not be engaged in any other profession or occupation. The director is eligible to receive compensation pursuant to section 38-611.

5-804. Administrative powers and duties

B. The board of directors shall:

1. Appoint from among its members a **chairman** **CHAIR**, a secretary and such other officers as may be necessary to conduct its business.

TITLE 6 – Banks and Financial Institutions

All revisions are necessary due to exclusionary use of male pronouns.

6-129.01 Enterprise documents open to public inspection

All papers, documents, reports and other written instruments filed with the superintendent pursuant to the requirements of this title by an enterprise shall be open to public inspection, except that the superintendent may withhold from public inspection for such time as **he THE SUPERINTENDENT** considers necessary any information which in **his THE SUPERINTENDENT'S** judgment the public welfare or the welfare of the financial enterprise requires to be so withheld.

6-131.01. Appointment of superintendent as receiver; award of property, fees and costs

A. The superintendent may be appointed as a receiver of a financial institution or enterprise under **his THE SUPERINTENDENT'S** supervision. No bond is required of the superintendent for acting as a receiver.

C. The superintendent shall maintain a complete accounting of each receivership in which **he THE SUPERINTENDENT** is appointed as receiver.

6-147. Denial of application; grounds

B. The superintendent may, in approving a proposal to acquire control of a bank, trust company or savings and loan association, impose such conditions as **he THE SUPERINTENDENT** deems reasonable, necessary or advisable in the public interest.

6-150. Appointment of superintendent as agent for service of process; forwarding of process; consent to jurisdiction

2. Appointed the superintendent as **his THE PERSON'S** lawful agent for the purpose of accepting service of process in any action, suit or proceeding that may arise under this article. Copies of all such lawful process accepted by the superintendent as an agent shall be transmitted by the superintendent by registered mail to such person at **his THEIR** last known address.

6-161. Suspension, removal or prohibition; hearing; notice

A. The superintendent, subject to the requirements of this article, may remove or suspend from office or prohibit from participating in any of the affairs of a financial institution or enterprise any director, officer, employee, agent or other person participating in the conduct of the affairs of the financial institution or enterprise if **he THE SUPERINTENDENT** finds that the director, officer, employee, agent or other person participating in the conduct of the affairs of the financial institution or enterprise has engaged in any of the following:

D. Notwithstanding section 6-129, an order issued pursuant to this section which has become final is open to public inspection, except that the superintendent may withhold from public inspection for

such time as **he THE SUPERINTENDENT** considers necessary any information which in **his THEIR** judgment the public welfare or the welfare of the financial institution requires to be so withheld.

6-189. Capital obligations; approval; convertibility

B. No capital obligations shall be incurred without the prior order of approval of the superintendent. Capital obligations authorized by such order may be retired in accordance with the mandatory payment provisions of the obligation without further authorization. No payment shall be made under an optional right of payment reserved to the bank without the separate authorization of the superintendent which may be granted in **his THE SUPERINTENDENT'S** initial order of approval or by subsequent order.



6-190. Bank offices; standards and term of approval; closing; automated teller machines

A. A bank may establish banking offices anywhere in the world with the authorization of the superintendent and upon such conditions as **he THE SUPERINTENDENT** may prescribe. An application for a banking office shall be in writing in such form as the superintendent prescribes supported by such information, data and records as the superintendent may require to make the findings necessary for approval.

6-191. Foreign banking offices; additional powers; separate accounts; additional offices; definition

C. A bank having a foreign banking office may, on thirty days' notice to the superintendent or such shorter notice as may be approved by **him THE SUPERINTENDENT** in individual cases, establish such additional banking office or offices as specified in the notice in the same country without filing an application for approval, unless otherwise ordered by the superintendent.

6-192. Investments in international and foreign banking and financing corporations; limitation; consent; exceptions

C. The consent of the superintendent for any investment under subsection A of this section shall be subject to such conditions as **he THE SUPERINTENDENT** prescribes in **his THE** order of approval and the investment shall be subject to **his** regulations.

6-204. Issuance of banking permit; trust business; conditional approval; hearing; banker's bank; definitions

A. Upon the filing of an application for a banking permit the superintendent shall make or cause to be made an investigation and examination of the facts concerning the applicant. Except as provided in subsection F, the superintendent shall issue the permit if, but only if, **he THE SUPERINTENDENT** finds:

6-205. Term of permit; surrender; revocation

A. A banking permit shall be valid until surrendered to **OR REVOKED BY** the superintendent ~~or revoked by him~~.

6-217. Emergency acquisition of in-state financial institution

B. The superintendent shall make **his A** final determination under this section in writing.

6-242. Preservation of bank records; regulations; disposal

B. In issuing **his THE** regulations under subsection A, the superintendent shall consider:

4. Such other matters as **he THE SUPERINTENDENT** shall deem pertinent in order that **his THE** regulations will require banks to retain records for as short a period of time as is commensurate with the interests of bank customers and shareholders and of the people of this state in having bank records available.

6-395.05. Effect of receivership proceedings on liens and limitations

B. A receiver, upon **his** appointment shall be vested by operation of law with the title to all of the assets of the bank as of the time of filing of the application for the appointment of the receiver; and as to all assets of the bank, whether or not coming into **his THE RECEIVER'S** physical possession, upon which a creditor of the bank could have obtained a lien by legal or equitable proceedings at the time of filing of the application for the appointment of the receiver, the receiver shall be vested as of the time of such filing with all of the rights, remedies and powers of a creditor then holding a lien thereon by such proceedings, whether or not such a creditor actually exists.

6-395.08. Rejection of contracts and leases on liquidation

The receiver may at **his THE RECEIVER'S** election reject any executory contract to which the bank is a party or any obligation of the bank as a lessee of real or personal property. The claim of a lessor for

damages for injury resulting from the rejection of an unexpired lease of real property or for damages or indemnity under a covenant in such lease shall in no event be allowed in any amount exceeding the rent reserved by the lease, without acceleration, for six months after the date of surrender or reentry, plus the amount of the unpaid rent accrued to such date.

6-395.12. Payment of claims and distribution to stockholders on liquidation

From time to time after full provision has been made for the payment of disputed claims and claims having priority, the receiver shall make ratable distribution on all claims that have been proved to **his THE RECEIVER'S** satisfaction or adjudicated in a court of competent jurisdiction. After all claims have been finally settled and paid, the balance of the assets shall be distributed to the stockholders of the bank in proportion to the stock by them respectively held.

6-401. Definitions

12. "Mail" or "mailed" means, with respect to a writing or notice, deposit in a United States post-office mailing facility in this state with postage prepaid and correctly addressed to the proper person at **his SUCH PERSON'S** address stated on the association's records or otherwise agreed upon or if no address has been so established then to the last known address.

6-408. Application for permit to organize

The application for a permit to organize an association shall be addressed to the superintendent in such form as **he THE SUPERINTENDENT** shall provide; shall be in duplicate, personally signed by each applicant and verified under oath by each applicant. The applicants shall submit with their application statements, exhibits, maps, and other data, which data shall be sufficiently detailed and comprehensive to enable the superintendent to pass upon the application.

6-409. Findings and hearings

If the superintendent does not deny the application on the basis of the data submitted by the applicants and any other information in **his THE SUPERINTENDENT'S** possession, the applicants shall publish a notice of intention to organize in such form as the superintendent shall prescribe. The superintendent may hear evidence to determine **his THE SUPERINTENDENT'S** findings at any time prior to the issuance of a permit to organize.

6-410. Superintendent's approval and issuance of permit to organize

The superintendent shall not approve the application and issue a permit to organize unless **he THE SUPERINTENDENT** shall find:

6-412. Completion of organization

A. When the board of directors has organized as provided in this chapter and the report of such organization has been filed with the superintendent, **he THE SUPERINTENDENT** shall make a thorough examination into the affairs of the proposed association, and if **he THE SUPERINTENDENT** approves the articles of incorporation and is satisfied that all the requirements of this chapter have

been complied with, and that no intervening circumstance has occurred to change the superintendent's findings made pursuant to this chapter, upon payment into the superintendent's office of the fees for such examination, **he THE SUPERINTENDENT** shall issue a certificate authorizing the filing of the articles of incorporation with the corporation commission and the taking of the other steps required by title 10, to complete the formation of a corporation. Upon the appointment of a statutory agent and the issuance of a certificate of incorporation by the corporation commission and the payment into escrow with a responsible corporate escrow agent approved by the superintendent of the amount of the initial capital required by this chapter, the superintendent shall issue a permit conditioned upon the association securing within twelve months from the date of such permit insurance of its insurable accounts by an insurance corporation and the rules and regulations of such corporation.



6-414. Members

A. The membership of an association shall consist of:

1. Every holder of an account or one or more shares of guaranty capital issued by the association.
2. Every borrower from the association, as long as **his THE BORROWER'S** loan remains unpaid and **he THE BORROWER** remains liable to the association for the payment thereof, and every obligor of an investment made by the association. Each of such members shall be known as a borrowing member.

6-415. Members' meetings

D. Unless the articles of incorporation provide otherwise, in the determination of all questions requiring ascertainment of the members entitled to vote and of the number of outstanding shares, the following rules shall apply:

3. Each holder of guaranty shares shall have one vote for each guaranty share which **he THE HOLDER** holds.

4. Each borrowing member as such shall have the vote of one share in addition to any vote which **he THE BORROWING MEMBER** may have otherwise.

6-419. Officers

B. The existence of an association shall not terminate by reason of the failure to elect officers at the time mentioned in the by-laws, and each officer shall hold **his** office until **his A** successor is elected and qualified.

6-420. Bonds of officers and employees

A. Every person appointed or elected to any position requiring the receipt, payment, management or use of money belonging to an association, or whose duties permit **him SUCH PERSON** to have access to or custody of any of its money or securities or whose duties permit **him SUCH PERSON** regularly to make entries in the books or other records of the association, before assuming **his THESE** duties, shall become bonded in some fidelity insurance company licensed to do business in this state and approved by the superintendent. Each such bond shall be on a form or forms as the superintendent shall require and in such amount as the board of directors shall fix and approve.

B. Nothing contained herein shall preclude the superintendent from proceeding against an association as provided in this chapter should **he THE SUPERINTENDENT** believe that it is being conducted in an unsafe manner in that the form or amount of bonds so fixed and approved by the board of directors is inadequate to give reasonable protection to the association.

6-421. Access to books and records; communication with members

A. Every member or holder of capital shall have the right to inspect such books and records of the association as pertain to **his THEIR RESPECTIVE** account. Otherwise, the right of inspection and examination of the books and records shall be limited to the superintendent, as provided in this chapter, and to any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association, and no other person shall have access to the books and records or shall be entitled to a list of the members, except upon express authority of the board of directors.

B. If any member desires to communicate with the other members of the association with reference to any question pending or to be presented at a meeting of the members, the association shall give **him SUCH MEMBER** upon request a statement of the approximate number of members entitled to vote at such meeting and an estimate of the cost of preparing and mailing such communication. The requesting member then shall submit the communication to the superintendent who, if **he THE SUPERINTENDENT** finds it to be appropriate and truthful, shall direct that it be prepared and mailed to the members, upon the requesting member's payment or adequate provision for payment of the expenses of such preparation and mailing

6-426. Shares of guaranty capital; rights of existing shareholders

A. The association shall mail notice to each shareholder who was entitled to vote at the meeting at which the amendment was adopted, or, in the case of an association which is authorized by its original articles of incorporation to issue guaranty shares but has not issued any such shares, to each stockholder of the association on the date of the adoption of the resolution of the board of directors proposing to issue such shares, giving ~~him~~ SUCH SHAREHOLDER OR STOCKHOLDER the prior right for at least sixty days after the date of such notice, to subscribe to the initial issue of shares of guaranty capital, in the same proportion which the withdrawal value of such holder's account bears to the aggregate withdrawal value of all accounts in the association. Such rights to subscribe shall be transferable. No fraction of an original share of guaranty capital need be issued, but in such case fractional subscription rights may be combined to authorize the subscription to one or more whole share of guaranty capital. Fractional subscription rights need not be issued for an account the withdrawal value of which is less than ten dollars.

E. If the association liquidates or effects a sale of all or substantially all of its assets within fifteen years from the effective date of the amendment authorizing the initial issuance of shares of guaranty capital, or from the date of the adoption of the resolution in case the original articles of incorporation provide for such shares, and each holder of the account on the day prior to such effective date who has continued to remain such a holder without interruption, or who has transferred ~~his~~ SUCH HOLDER'S account from one type or class of account to another, or whose account has been retired by enforced retirement, shall be entitled to an amount, in addition to the withdrawal value of ~~his~~ SUCH HOLDER'S account, in such proportion of the unused balance of the segregated surplus as ~~he~~ SUCH HOLDER would have been entitled to had the association liquidated on the effective date of such amendment, or the date of the adoption of the resolution, as the case may be.

6-428. Retirement or reduction of shares of guaranty capital

A. The board of directors of an association operating with guaranty capital may propose an amendment to the articles of incorporation providing for the retirement of all of the guaranty capital, and a detailed plan for effectuating such amendment. The resulting capital of the association shall be not less than the minimum initial capital which the association, if it were being organized, would be required to have under the provisions of this chapter concerning applicants and initial capital. The proposal shall be submitted to the superintendent for ~~his~~ approval.

6-429. Issuance, delivery, and transfer of certificates and account books

B. The holder of an account may transfer ~~his~~ THE HOLDER'S rights in the account absolutely or conditionally to any other person eligible to hold the same by written assignment. Notwithstanding the effectiveness of such a transfer between the parties to the transfer, the association may treat the holder of record as the owner of the account for payment, voting and all other purposes until the assignment and any accompanying certificate or account books have been received by the association with a request for the transfer on the association's records.

E. If the holder of an account, or the personal representative of any such person, files with the association an affidavit to the effect that ~~his~~ THE HOLDER'S account book or certificate has been lost or destroyed, and that the account book or certificate has not been pledged or assigned either in whole or in part, then the association may issue a substitute account book or certificate in the name of the holder, with a statement that the account book or certificate is issued in lieu of the one lost or destroyed. The

association is not liable thereafter with respect to the original account book or certificate, but the board of directors may require a bond in sufficient amount to indemnify the association against any loss which might result from the issuance of the substitute account book or certificate.

6-430. Who may hold capital and membership

Accounts, shares of guaranty capital, and membership in an association may be held:

1. By any person in **his THEIR** own right, regardless of **his** age or marital status, or by two or more of such persons.

6-433. Payment on disability or death of holder in **his THEIR own right of account**

A. If the holder in **his THE HOLDER'S** own right of an account becomes a person with a disability and a conservator has been appointed, by a court of competent jurisdiction, and has qualified then the association may pay the value of such account and dividends thereon to the conservator. Until the association has actual knowledge that a conservator has been appointed, it may pay to the protected person personally and **his THE PERSON'S** receipt or acquittance therefor shall be a complete discharge of the association as to the amount so paid.

B. Upon the death of a holder in **his THE HOLDER'S** own right of an account, the association, upon receipt of proper estate tax waivers, may pay the value thereof and dividends thereon:

6-435. Voluntary withdrawal of accounts

B. If the association has insufficient funds in the treasury and from current receipts to pay all matured accounts and applications for withdrawal within thirty days after such accounts mature or payment is requested, then the board of directors shall provide by resolution:

3. For a maximum sum, which shall not exceed one thousand dollars, which may be paid to any one holder at any one time; and if any holder's application for withdrawal or for payment of matured shares exceeds the sum so fixed, then **he THE HOLDER** shall be paid in **his** turn the sum so fixed, and **his THE HOLDER'S** application, reduced by such payment, shall be deemed refiled in its order as if filed on the date of such payment. Such limited payment may be made on a fixed date in each month and such refiling and renumbering, as the case may be, may take place on the same date in each subsequent month as long as any applications remain unpaid.

E. No holder shall have more than one application for withdrawal in effect at any one time; but a holder may cancel **his AN** application or reduce the amount thereof at any time as to any amount not yet paid.

6-436. Maturity of shares

A. When a regular installment or prepaid share reaches maturity value by reason of payments or dividend credits, or both, all payments thereon by the holder shall cease. The association either shall pay to the holder the maturity value of such share, in accordance with the provisions of this article, or shall mail a notice to the holder at **his THE HOLDER'S** last known address as it appears on the association's records, to the effect that **he THE HOLDER** is entitled to receive payment for such share or to transfer the same or such portion thereof, as the directors may specify, into other accounts, and that if **he THE**

HOLDER takes neither action within sixty days after the date on which such notice is mailed, the value of such share may be held in a creditor account without interest or dividends, available for the holder upon **his** application, or the board of directors may transfer such share to another account of equivalent value on which dividends shall accrue as on a new account opened on the transfer date.

6-437. Enforced retirement of accounts

B. Thirty days' prior written notice of such enforced retirement shall be given to the holder of an account to be retired and the holder shall not be entitled to further dividends after the dividend payment date on which such account is to be retired, but such holder shall be paid the full withdrawal value of **his THE** account plus the dividend apportioned thereto as of the date fixed for retirement. All accounts upon which applications for voluntary withdrawal have been received, and all shares which have matured, shall be paid first in accordance with the provisions of this article.

6-439. Accounts subject to liens

Every account shall be subject to a lien for the payment of such charges as lawfully may accrue thereon under the provisions of this chapter, and the by-laws may prescribe the manner of enforcing such lien, but no member shall be responsible for any losses which the then existing assets of the association shall not be sufficient to satisfy, or for any unpaid installment upon **his SUCH MEMBER'S** account which is not yet due under the terms of **his THEIR** subscription.

6-443. Bonus plans

1. The holder shall agree to make regular payments at least monthly, of any predetermined amount, until the payments, together with dividends apportioned thereto, equal two hundred times the agreed monthly payment and without a delay of more than thirty days in any payment, without a prepayment of more than twelve months and without making application for withdrawal of all or any part of the account. At the end of the bonus period, the holder shall receive, in addition to the regular monthly payments and dividends apportioned thereto, a bonus at the rate of one per cent per annum computed on the withdrawal value of the account at each apportionment of profits. If the holder applies for withdrawal of **his THE** account in part or in full or fails to meet any and all the other terms of **his THE HOLDER'S** bonus agreement after such account, including dividends apportioned thereto, has reached:

(a) At least fifty but less than one hundred times the agreed monthly payment upon **his THE** account in accordance with the terms thereof, such holder shall be entitled to receive one-fourth of the bonus allocable to such account.

(b) At least one hundred but less than one hundred fifty times the agreed monthly payment upon **his THE** account in accordance with the terms thereof, such holder shall be entitled to receive one-half of such bonus allocable to such account.

(c) At least one hundred fifty but less than two hundred times the agreed monthly payment upon **his THE** account in accordance with the terms thereof, such holder shall be entitled to receive three-fourths of such bonus allocable to such account.

2. The holder shall subscribe to a long-term investment plan providing that if **he THE HOLDER** maintains in **his THE HOLDER'S** account an agreed minimum balance either:

(a) For a period of four years, ~~he~~ THE HOLDER shall be paid a bonus of one-half of one per cent per annum.

(b) For a period of eight years, ~~he~~ THE HOLDER be paid a bonus of one per cent per annum.

6-460. Procedure to amend articles of incorporation

4. Each adopted amendment shall be subject to the same inquiry by the superintendent as the corresponding provision in the original articles of incorporation, including, but not limited to, the availability of a proposed new name of the association. If the superintendent approves an amendment, ~~he~~ THE SUPERINTENDENT shall issue to the association a certificate setting forth the amendment and ~~his~~ approval thereof, which shall then be filed with the corporation commission and a certified copy thereof recorded in the office of the county recorder of the county where the principal office of the association is located. When so filed and recorded the amendment shall become effective.

6-463. Conversion from federal to state association

2. Such plan and resolution shall be submitted to the superintendent at least fifteen days prior to the members' meeting at which action of the members is to be taken. If the superintendent, after appropriate examination, shall find that the association complies sufficiently with the requirements of this chapter to entitle it to become an association operating under this chapter, ~~he~~ THE SUPERINTENDENT shall approve the plan of conversion. ~~He~~ THE SUPERINTENDENT may prescribe terms and conditions, to be fulfilled either prior to or after the conversion, to cause the association to conform with the requirements of this chapter.

4. If the superintendent finds that such proceedings have been in accordance with the provisions of this section, ~~he~~ THE SUPERINTENDENT shall issue a certificate authorizing the filing of the articles of incorporation with the corporation commission and the taking of the other steps required by title 10, to complete the formation of a corporation. Upon the issuance of a certificate of incorporation by the corporation commission, the superintendent shall issue a certificate of conversion.

6-465. Merger of associations or corporations

A. An association operating under this chapter may merge into or with one or more associations, whether operating under this chapter or otherwise, or into or with any other corporation, except a corporation or association operating an insurance business, other than title insurance, pursuant to title 20. The board of directors of each merging association or corporation, by resolution adopted by a majority vote of all members of such board, must approve the plan of merger, which shall set forth:

7. Such other provisions with respect to the merger as appear necessary or desirable, or as the superintendent may reasonably require to enable ~~him to~~ THE discharge ~~his~~ OF duties with respect to such merger.

B. The plan of merger adopted shall be submitted to the superintendent for approval, together with a certified copy of the authorizing resolution of each board of directors, showing approval by a majority of the entire board of each merging association operating under this chapter and evidence of proper action by the board of any other merging association or corporation. The superintendent may make or cause to be made an examination of the affairs of each of the merging associations or corporations. The

superintendent may approve the plan of merger if, after appropriate inquiry into the affairs of each of the merging associations or corporations, **he THE SUPERINTENDENT** finds that:

C. If the superintendent disapproves the plan of merger, **he THE SUPERINTENDENT** shall state **his ANY** objections in writing and give the merging associations or corporations an opportunity to amend the plan of merger to eliminate such objections.

6-469. Election of liquidators; report; supervision

2. If the superintendent finds that the plan and proceedings are in accordance with this article, that the bonds of the liquidators are sufficient, and that the plan is not unfair to any person affected, **he THE SUPERINTENDENT** shall attach **his THEIR** certificate of approval to the plan and shall forward one copy to the liquidators, and in the case of an insured association, one copy to the insurance corporation.

6-471. Filing and payment of claims

B. Whether a member files or does not file a claim with respect to an interest which **he has THEY HAVE** as such member, the liquidators shall determine from the records of the association the amount of such member's claim. Any such member may examine the association's records pertaining to **his SUCH MEMBER'S** own claim. The records of the association shall be prima facie evidence of each such claim or interest, and no member shall be entitled to a greater claim or proportionate interest in the association unless and until the liquidators shall have agreed to a correction of the records pertaining to such claim or interest, or shall be ordered to correct such records by a court of competent jurisdiction. The liquidators shall require all members to present their certificates or account books for verification and endorsement upon payment of any liquidating dividend or distribution; and upon final distribution, such certificates or account books shall be surrendered to the liquidators.

6-472. Final distribution and dissolution

2. Upon the superintendent's approval of the final report, the liquidators shall publish notice of the proposed final distribution and shall allow any holder of shares of guaranty capital to examine the records of the association to ascertain **his THE HOLDER'S** proper share of such distribution. Any such shareholder who fails to commence, before the date fixed for final distribution, appropriate judicial proceedings to contest such distribution, shall be barred from contesting the same thereafter. The liquidators shall proceed to make final distribution on the date fixed therefor, except that such distribution shall be deferred until final disposition of any pending judicial action affecting the distribution, and payment, of any judgment entered therein.

6-476. Examination

The superintendent shall make a report of each examination to the board of directors of the association examined, and if the affairs of the association are not being conducted in accordance with this chapter, **he THE SUPERINTENDENT** may require the directors, officers, or employees to take any necessary corrective action. In the interests of the members of the association, the superintendent may prepare a statement of the condition of the association, and may mail the same to the members or may require a single publication thereof.

6-479. Information to federal authorities

The superintendent may give copies of reports of **his THE SUPERINTENDENT'S** examinations of an association, and copies of the association's reports to **him THE SUPERINTENDENT**, and any other information which **he THE SUPERINTENDENT** has concerning the association, to the federal home loan bank, or its successor instrumentality, of which the association is a member, or to the insurance corporation which has insured the association's capital. No such action by the superintendent shall relieve the association from compliance with any requirements of such federal instrumentality concerning examinations or reports, or limit the superintendent's powers to examine or to require reports from the association.

6-486. Rehabilitation of associations; definition of plan

C. Without limiting the generality of the foregoing provisions of this article, a plan may provide in respect to all or any part of the business, property or affairs of the association for any one or more of the following:

1. The retention thereof by the superintendent as a conservator, if the business, property or affairs are in **his THE SUPERINTENDENT'S** possession for liquidation.

6-487. Proposal of plan; petition; notice of hearing

E. A copy of the plan shall be kept by the superintendent available for public inspection, and **he THE SUPERINTENDENT** shall take other steps as **he THE SUPERINTENDENT** deems necessary for making the plan and all notices and facts in connection therewith available to the interested parties.

6-491. Effect of approval and consents

B. The superintendent shall supervise and direct, subject to the order of the court, the consummation of the plan. **He THE SUPERINTENDENT** shall have and may exercise the same authority and power with respect to the business, property or affairs of an association retained by or delivered to **him THE SUPERINTENDENT** pursuant to any plan which **he THE SUPERINTENDENT** may have with respect to the business, property and affairs of any association of which **he THE SUPERINTENDENT** has taken possession. The superintendent shall have and may exercise the same authority and power with respect to an association formed pursuant to any plan, or to which the business, property or affairs may be returned or transferred pursuant to any plan, as **he THE SUPERINTENDENT** would have of the association if it had been formed or had acquired its business, property and affairs by means other than a plan.

6-584. Voluntary dissolution

E. After the expiration of two years from the date of final dissolution the superintendent may destroy all books and records of such credit union in **his THE SUPERINTENDENT'S** possession.

6-585. Involuntary dissolution

B. The superintendent upon taking possession and control of the credit union, its business and operation, together with the furniture, fixtures, books, records and assets of every description, shall determine

whether it is practicable and feasible to reorganize the credit union to continue in business or merge the credit union with another operating credit union. If the superintendent determines that the credit union cannot be reorganized, or merged with another operating credit union, **he THE SUPERINTENDENT** may permit the credit union to operate under **his THE SUPERINTENDENT'S** direction and control, or if **he THE SUPERINTENDENT** determines that the credit union should be liquidated through receivership, **he THE SUPERINTENDENT** shall petition the superior court for authority to liquidate such credit union, and the superior court shall immediately appoint the superintendent as the receiver of the credit union without bond, and shall make such other orders, judgments and decrees as is necessary to liquidate such credit union. The receiver shall take possession of and, for the purpose of receivership, title to the books, records and assets of every description of such credit union, shall proceed to collect all debts, dues and claims belonging to it, may sell or compound all bad or doubtful debts and may sell the real and personal property of such credit union, on such terms as the court may direct.

6-587. Merger or consolidation of credit unions

F. The superintendent shall grant final approval of the plan of merger after determining that the requirements of subsection E of this section in the case of each merging credit union have been met and if proof of insurance of accounts, as required by section 6-558, has been furnished. The superintendent shall notify all participating credit unions of **his THE SUPERINTENDENT'S** action on the plan. If approved, the continuing credit union shall file copies of the certificate showing the approval of the superintendent with the corporation commission and a certified copy of the filing under the seal of the commission recorded with the county recorder of the county in which each credit union participating in the merger has its principal place of business with a copy filed with the superintendent. When the copies have been filed the merged credit union terminates as a legal entity, and the continuing credit union remains and continues in operation.

6-701. Definitions

4. "Debt management company" means a corporation, company, firm, partnership, association or society, as well as a natural person, that for compensation engages in the business of receiving money, or evidences thereof, in this state or from a resident of this state as agent of a debtor for the purpose of distributing the same to **his THE DEBTOR'S** creditors in payment or partial payment of **his THEIR** obligations.

6-703. License required

No person shall engage in the business for compensation of receiving money as agent of a debtor for the purpose of distributing the same to **his THE DEBTOR'S** creditors in payment or partial payment of **his THE DEBTOR'S** obligations without first obtaining a license from the superintendent.

6-704. Application for license; bonds; contract

A. An application for a license shall be in writing, under oath and in a form prescribed by the superintendent, and shall contain the name and address, both of the residence and place of business, of the applicant and if the applicant is an association or society, of every member thereof, and if a corporation or partnership, of every officer and director thereof and a copy of the articles of incorporation, and the specific address or addresses at which the business is to be conducted. The

superintendent may require as part of the application a credit report and such other information as **he THE SUPERINTENDENT** deems necessary.

C. Each bond prescribed in subsection B shall be conditioned upon the faithful accounting of all monies collected upon accounts entrusted to such person engaged in debt management, and their employees and agents, and upon the faithful observance of the provisions of this article and the contract between the licensee and the debtor. The bond shall be approved by the superintendent and filed in the office of the superintendent. The bond shall remain in force and effect until the surety is released from liability by the superintendent, or until the surety bond is canceled by the surety. The surety may cancel the surety bond and be relieved of further liability by delivering thirty days' written notice to the superintendent. The cancellation does not affect any liability incurred or accrued prior to the termination of the thirty-day period. Any person who suffers any loss or damage by reason of the neglect or default of a licensee or **his THEIR** employees or agents or by the licensee's violation of any of the provisions of this article or of the contract between **him THE LICENSEE** and the debtor shall have a right of action against the licensee and the sureties on **his THE** bond. No action may be brought on the bond by any person after the expiration of two years from the time when the act or default occurred. When an action is commenced on the bond of a licensee, the superintendent may require the filing of a new bond, and immediately upon the recovery of any action on the bond the licensee shall file a new bond. Failure to file a new bond within ten days of the recovery on a bond, or within ten days after notification that a bond is required, constitutes sufficient grounds for the suspension or revocation of a license.

E. Each applicant for a license shall file with **his THE APPLICANT'S** application a blank copy of the contract intended to be used between the licensee and the debtor and shall file with the superintendent a copy of all changes and amendments thereto.

6-707. Issuance of license; display; cancellation on termination

A. Upon the filing of the application and the payment of the fees and the approval of the bond, or bonds, the superintendent shall investigate the facts, and if **he THE SUPERINTENDENT** finds that the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the community to warrant belief that the business will be operated fairly and honestly and within the purposes of this article, the superintendent shall issue the applicant a license to do business as a debt management company.

6-708. Denial; revocation or suspension of license

A. If the superintendent finds that the applicant fails to meet any of the conditions set forth in this article, **he THE SUPERINTENDENT** shall deny the application for a license. If an application is denied or withdrawn, the superintendent shall retain the investigation fee to cover the costs of investigating the applicant and return the license fee to the applicant.

6-709. Requirements

B. A licensee shall make a written contract between **himself THE LICENSEE** and a debtor and immediately furnish the debtor with a copy of the completed contract. The licensee shall concurrently furnish the debtor with a list of the creditors, as of the time of the signing of the contract, with whom **he THE LICENSEE** agrees to manage the debtor's obligations. All contracts shall contain a provision allowing the termination of the contract by either party at any time. Such termination shall be without

penalty, except that the licensee shall retain the retainer fee if the termination is by the debtor. Termination shall only be upon a five-day notice to the other party.

G. A licensee shall upon request furnish the debtor with a written statement of **his THE DEBTOR'S** account each month or a verbal accounting at any time the debtor may request it during normal business hours.

K. If a licensee desires to change **his THE LICENSEE'S** place of business or the name of the company under which the license is issued, **he THE LICENSEE** shall give written notice of the change within fifteen days to the superintendent and shall submit the license to the superintendent who shall enter an order permitting the change and who shall amend the license accordingly.

6-710. Prohibitions

2. Unless agreed upon by the debtor, attempt to alter any scheduled payment listed on the original application from the debtor to any figure other than the amount agreed upon by the debtor and creditors in those cases when a contractual installment exists. Acceptance of the proposed payment by the creditor shall not alter any rights the creditor has under **his THE CREDITOR'S** original contract with the debtor.

7. Pay any bonus or other consideration to any person for the referral of a debtor to **his THE LICENSEE'S** business, nor accept or receive any bonus, commission or other consideration for referring any debtor to any person for any reason.

8. Advertise **his THE LICENSEE'S** services, display, distribute, broadcast or televise or permit to be displayed, advertised, distributed, broadcasted or televised **his THE LICENSEE'S** services in any manner whatsoever in which any false, misleading or deceptive statement or representation with regard to the services to be performed by the licensee or the charges to be made for those services.

6-814. Procedure for licensing; surety bond

A. Every escrow agent before engaging in the escrow business shall file with the superintendent an application for a license, in writing, verified by oath and in the form prescribed by the superintendent. It shall state the location of the principal office and all branch offices in this state, the name or style of doing business, the names and residence and business addresses of all persons holding an interest in the business as principals, partners, officers, trustees and directors, specifying as to each **his PERSON'S** capacity and title, the general plan and character of operation and the length of time they have been engaged in the escrow business.

C. At the time of filing an application for a license and at all times while holding the license, the applicant shall deposit and maintain with the superintendent a corporate surety bond in the amount of one hundred thousand dollars payable to any person injured by the failure of the licensee to comply with the requirements of this chapter or for the wrongful act, default, fraud or misrepresentation of the licensee or **his THE LICENSEE'S** employees and to this state for the benefit of the person injured and executed by a surety company qualified to do business in this state.

H. The superintendent shall examine the application for a license and if **he THE SUPERINTENDENT** is satisfied that the applicant should not be refused a license under section 6-817, **he THE SUPERINTENDENT** shall issue the license.

6-833. Seizure of property of impaired escrow agent

A. When the superintendent ascertains by examination or otherwise that the assets or capital of any agent are impaired, or that the agent's affairs are in an unsafe condition, **he THE SUPERINTENDENT** may immediately take possession of all the property, business and assets of the agent which are located in this state and retain possession of them pending the further proceedings specified in this section. If the board of directors or any officer or person in charge of the offices of such agent refuses to permit the superintendent to take possession as prescribed by this subsection, the superintendent shall communicate such fact to the attorney general, whereupon the attorney general shall immediately institute such proceedings as may be necessary to place the superintendent in immediate possession of the property of the agent. The superintendent thereupon shall make or have made an inventory of the assets and known liabilities of the agent. The superintendent shall file one copy of the inventory in **his THE SUPERINTENDENT'S** office and one copy in the office of the clerk of the superior court of the county in which the principal office of the agent is located. The clerk of the superior court shall mail one copy to each stockholder of the agent at **his THE STOCKHOLDER'S** last known address, if by the exercise of reasonable diligence it can be determined. The clerk of the court with whom the copy of the inventory is filed shall file it as any other case or proceeding pending in the court.

B. The officers, directors or stockholders of the agent may have sixty days from the date when the superintendent takes possession of the property, business and assets to make good any deficit which may exist or to remedy the unsafe condition of its affairs. At the expiration of this time, if the deficiency in assets or capital has not been made good or the unsafe condition remedied, the superintendent may apply to the court to be appointed receiver and proceed to liquidate the assets of the agent which are located in this state in the same manner as provided by law for liquidation of a private corporation in receivership. The inventory made by the superintendent and all claims filed by creditors shall be open at all reasonable times for inspection and any action taken by the receiver upon any of the claims shall be subject to the approval of the court before whom the cause is pending. The expenses of the receiver and compensation of counsel, as well as expenditures required in the liquidation proceedings, shall be fixed by the superintendent, subject to the approval of the court, and upon certification of the superintendent shall be paid out of the funds in **his THE SUPERINTENDENT'S** hands as such receiver.

6-834. Deposit of monies; definition

D. Not later than three business days after receipt of any escrow monies, the escrow agent shall provide to each depositing buyer or seller, adequate notice of **his THEIR** right to earn interest on all deposited monies. The notice shall accurately set forth the following information with respect to this right:

6-838. Surrender of license

A licensee that desires to surrender its license shall file with the superintendent a certified copy of the resolution of its board of directors or a verified statement of intent signifying this desire, and thereafter shall not accept additional escrow business. Upon receipt of the resolution or statement of intent, the superintendent shall make an investigation, and if **he THE SUPERINTENDENT** determines that the licensee has been discharged from all duties which it has undertaken as an escrow agent, **he THE SUPERINTENDENT** shall issue an order to the licensee certifying that it is no longer authorized to exercise the powers of an escrow agent and the licensee shall immediately surrender its license.

6-840. Prohibitions; definitions

B. For the purpose of this section:

2. “Participant” means the buyer, seller, lender, mortgage broker, mortgage banker, real estate broker or real estate **salesman SALESPERSON** or any person who is a party to the escrow transaction.

6-846.03. Disapproval of escrow filings

B. On written application to the superintendent a person or organization other than the escrow agent who made the filing that is aggrieved with respect to any rate filing that is in effect may request a hearing. The application shall specify in reasonable detail the grounds on which the applicant is relying. If within thirty days after receipt of the application the superintendent finds that the application was made in good faith, that the applicant would be aggrieved if **his THE** grounds are established and that the grounds justify a hearing, the superintendent, not less than twenty days after written notice to the applicant and every escrow agent who made the filing, shall hold a hearing. If after the hearing the superintendent finds that all or part of the filing does not satisfy the provisions of this article, the superintendent shall issue an order that specifies what part of the filing failed and, if the filing has become effective under section 6-846.01, when all or part of the filing will be deemed no longer effective. The superintendent shall send copies of the order to the applicant and to each escrow agent affected. The order does not affect any escrow that was contracted before the expiration of the period set forth in the order.

6-902. Exemptions

A. This article does not apply to:

2. A person who makes a mortgage loan:

(a) With **his THE PERSON’S** own monies.

(b) For **his THE PERSON’S** own investment.

5. A person who is licensed to practice law in this state, but is not actively and principally engaged in the business of negotiating mortgage loans, if this person renders services in the course of **his** practice as an attorney at law.

6-905. Denial, suspension or revocation of licenses

A. The superintendent may deny a license to a person or suspend or revoke a license if the superintendent finds that an applicant or licensee:

6. Has had a final judgment entered against **him THE APPLICANT OR LICENSEE** in a civil action upon grounds of fraud, deceit or misrepresentation and the conduct on which the judgment is based indicates that it would be contrary to the interest of the public to permit such person to be licensed or to control or manage a licensee.

7. Has had an order entered against **him THE APPLICANT OR LICENSEE** involving fraud, deceit or misrepresentation by an administrative agency of this state, the federal government or any other state or

territory of the United States and that the facts relating to the order indicate that it would be contrary to the interest of the public to permit such person to be licensed or to control or manage a licensee.

6-906. Required accounting practices and records; escrow of monies; disclosure

A. Every mortgage broker shall keep and maintain at all times correct and complete records as prescribed by the superintendent which will enable **him THE SUPERINTENDENT** to determine whether the licensee is conducting **his THE** business in accordance with this article. If the mortgage broker operates two or more licensed places of business in this state, after notifying the superintendent, **he THE MORTGAGE BROKER** may maintain such records at **his THE** principal place of business in this state, except that a mortgage broker, with the approval of the superintendent, may maintain the records outside of this state. For records kept outside this state, a mortgage broker shall make the records available to the superintendent in this state not more than three business days after demand and provide for the acceptance of collect calls or provide a toll free telephone number to borrowers to obtain information from the records if the licensed place of business in this state cannot readily provide the information requested by the borrowers. Every mortgage broker shall maintain original documents or clearly legible copies of all mortgage loan transactions for not fewer than five years from the date of the mortgage loan closing.

6-907. Required disclosure to investors

B. After using **his** best efforts to verify all of the information required by this section the licensee shall sign the statement attesting to the validity of the information to the best of **his THE LICENSEE'S** knowledge and belief. The licensee shall maintain a record of acknowledgment from the lender of the receipt of this information for not less than two years from the date of the mortgage loan closing.

6-909. Prohibited acts

I. A mortgage broker shall not collect compensation for rendering services as a real estate broker or real estate **salesman SALESPERSON** unless both of the following apply:

2. The mortgage broker has disclosed to the person from whom the compensation is collected that the mortgage broker is receiving compensation both for mortgage broker services, if applicable, and for real estate broker or real estate **salesman SALESPERSON** services.

M. A mortgage broker shall not fail to truthfully account for the monies belonging to a party to a mortgage loan transaction or fail to disburse monies in accordance with **his THE** agreements.

6-942. Exemptions

A. This article does not apply to:

2. A person who makes a mortgage banking loan or a mortgage loan:

(a) With **his THAT PERSON'S** own monies.

(b) For **his THAT PERSON'S** own investment.

5. A person who is licensed to practice law in this state, but is not actively and principally engaged in the business of negotiating mortgage banking loans or mortgage loans, if this person renders services in the course of **his** practice as an attorney at law.

6-943. Licensing of mortgage bankers required; qualifications; application; bond; fees; renewal

A. A person shall not act as a mortgage banker if **he** **THAT PERSON** is not licensed under this article.

P. The licensee is liable for any damage caused by any of **his** **THE LICENSEE'S** employees while engaged in the business of making mortgage loans or mortgage banking loans.

6-945. Denial, suspension or revocation of licenses

A. The superintendent may deny a license to a person or suspend or revoke a license if the superintendent finds that an applicant or licensee:

2. Has shown that **he** **THE APPLICANT OR LICENSEE** is not a person of honesty, truthfulness and good character.

6-946. Required accounting practices and records; refundable deposits; periodic impoundment payments; disclosure

A. Every mortgage banker shall keep and maintain at all times correct and complete records clearly reflecting the financial condition of the business as prescribed by the superintendent that will enable **him** **THE SUPERINTENDENT** to determine whether the licensee is conducting **his** business in accordance with this article. If the mortgage banker operates two or more licensed places of business in this state, after notifying the superintendent, **he** **THE MORTGAGE BROKER** may maintain the records at **his** **THE** principal place of business in this state, except that a mortgage banker, with the approval of the superintendent, may maintain the records outside of this state. A mortgage banker shall, for records kept outside of this state, make the records available to the superintendent in this state not more than three business days after demand and provide for the acceptance of collect calls or provide a toll free telephone number to borrowers to obtain information from the records if the licensed places of business in this state cannot readily provide the information requested by the borrowers. Every mortgage banker shall maintain original documents, or clearly legible copies, of all mortgage banking loan transactions and mortgage loan transactions, unless the mortgage banking loan or mortgage loan is paid in full or the mortgage banking loan or mortgage loan and its servicing are sold, for not fewer than two years after the date of the mortgage banking loan closing or the date of the last disbursement of monies by the licensee, whichever occurs last. With the approval of the superintendent, a licensee that uses a computer or mechanical record keeping system is not required to keep a written copy of the records if the licensee is able to generate all information required by this section in a timely manner for examination or for other purposes.

6-947. Prohibited acts

I. A mortgage banker shall not collect compensation for rendering services as a real estate broker or real estate **salesman** **SALESPERSON** unless both of the following apply:

2. The mortgage banker has disclosed to the person from whom the compensation is collected that the mortgage banker is receiving compensation both for mortgage banker services, if applicable, and for real estate broker or real estate ~~salesman~~ SALESPERSON services.

M. A mortgage banker shall not fail to truthfully account for the monies belonging to a party to a mortgage loan or mortgage banking loan transaction or fail to disburse monies in accordance with ~~his~~ THE agreements.

6-972. Exemptions

4. A person who is licensed to practice law in this state but is not actively and principally engaged in the business of negotiating commercial mortgage loans, if this person renders services in the course of ~~his~~ practice as an attorney at law.

6-978. Consent of superintendent for transferring, assigning or acquiring control of licensee; definition

A license is not transferable or assignable and control of a licensee may not be acquired through a stock purchase or any other device without the prior written consent of the superintendent. The superintendent shall not give written consent if ~~he~~ THE SUPERINTENDENT finds that any of the grounds for denial, revocation or suspension of a license as set forth in section 6-982 apply to the acquiring person. For the purpose of this section, “control” means the power to vote more than twenty per cent of the outstanding voting shares of a licensed corporation, partnership, association or trust.

6-983. Required accounting practices and records; escrow of monies; disclosure

A. A commercial mortgage banker shall keep and maintain at all times correct and complete records as prescribed by the superintendent that will enable the superintendent to determine whether the licensee is complying with this article. If the commercial mortgage banker operates two or more licensed places of business in this state, after notifying the superintendent, ~~he~~ THE COMMERCIAL MORTGAGE BANKER may maintain such records at ~~his~~ THE principal place of business in this state, except that a commercial mortgage banker, with the approval of the superintendent, may maintain the records outside of this state. For records kept outside this state, a commercial mortgage banker shall make the records available to the superintendent in this state not more than three business days after demand and shall provide for the acceptance of collect calls or provide a toll free telephone number to borrowers to obtain information from the records if the licensed place of business in this state cannot readily provide the information requested by the borrowers. A commercial mortgage banker shall maintain original documents or clearly legible copies of all commercial mortgage loan transactions for at least two years from the date of the commercial mortgage loan closing.

6-1103. Exempt persons and transactions

A. This article does not apply to the following persons or transactions of the type specified:

3. A person who acquires control of a financial institution or controlling person by devise or descent, except that the person shall divest ~~himself~~ THEMSELVES of such control not more than two years after the date of the acquisition unless the acquisition of control is approved by the superintendent pursuant to this article.

6. A person who acquires control of a financial institution or controlling person through the collection of a debt previously contracted in good faith, except that the person shall divest **himself THEMSELVES** of such control not more than two years after the date of the acquisition unless the acquisition of control is approved by the superintendent pursuant to this article.

6-1107. Denial of application; grounds

C. The superintendent may approve an application subject to conditions **he THAT THE SUPERINTENDENT** considers necessary and appropriate to protect the public interest and carry out the purposes of this title. The superintendent shall give the applicant written notification of the approval of an application which is subject to conditions together with a statement in support of the decision.

6-1110. Appointment of superintendent as agent for service of process; forwarding of process; consent to jurisdiction

2. Appointed the superintendent as **his SUCH PERSON'S** lawful agent for the purpose of accepting service of process in any action, suit or proceeding that may arise under this article. The superintendent shall transmit copies of all such lawful process accepted by the superintendent as an agent by certified mail to the person at **his SUCH PERSON'S** last known address.

6-1205. Bond required; conditions; notice; cancellation; substitution

B. The bond shall be conditioned on the faithful compliance of the licensee, including its directors, officers, authorized delegates and employees, with this chapter. The bond shall be payable to any person injured by the wrongful act, default, fraud or misrepresentation of the licensee, **his** authorized delegates or **his** employees or to the state for the benefit of the person injured. Only one bond is required for any licensee irrespective of the number of officers, directors, locations, employees or authorized delegates of that licensee.

D. In lieu of the bond prescribed in this section, an applicant for a license or a licensee may deposit with the superintendent cash or alternatives to cash acceptable to the superintendent in the amount of the required bond. Notwithstanding section 35-155, subsection E, the principal amount of the deposit shall be released only on written authorization of the superintendent or on the order of a court of competent jurisdiction. The principal amount of the deposit shall not be released to the licensee before the expiration of five years from the first occurrence of any of the following:

1. The date of substitution of a bond for a cash alternative unless the superintendent determines in **his THE SUPERINTENDENT'S** discretion that the bond constitutes adequate security for all past, present or future obligations of the licensee. After that determination, the cash alternative may be immediately released.

E. Notwithstanding subsections A through D of this section, if the required amount of the bond is reduced, whether by change in the number of authorized delegates or locations or by legislative action, a cash deposit in lieu of that bond shall not be correspondingly reduced but shall be maintained at the higher amount until the expiration of three years from the effective date of the reduction in the required amount of that bond unless the superintendent in **his THE SUPERINTENDENT'S** discretion determines otherwise.

6-1206. Issuance of license; renewal

A. On the filing of a complete application, the superintendent shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. In ~~his~~ **THE SUPERINTENDENT'S** discretion, the superintendent may conduct an on-site investigation of the applicant, the reasonable cost of which shall be borne by the applicant. The superintendent shall issue a license to an applicant if the superintendent finds that all of the following conditions are met:

6-1213. Records

C. The records of the licensee regarding the business regulated under this chapter shall be maintained at its principal place of business or, with notice to the superintendent, at another location designated by the licensee. If the records are maintained outside this state, the superintendent may require that the licensee make those records available ~~to~~ **AT** the ~~superintendent at his~~ **SUPERINTENDENT'S** office not more than five business days after demand. The superintendent may further require that those records be accompanied by an individual who is available to answer questions regarding those records and the business regulated under this chapter. The superintendent may require the appearance of a specific individual or may request the licensee to designate an individual knowledgeable with regard to the records and the business. The individual appearing with the records shall be available to the superintendent for up to three business days.

6-1216. Acquisition of control

C. The superintendent shall deny the application to acquire control of a licensee if ~~he~~ **THE SUPERINTENDENT** finds that the acquisition of control is contrary to law or determines that disapproval is reasonably necessary to protect the interest of the public. In making that determination, the superintendent shall consider both of the following:

6-1217. Appointment of superintendent as agent for service of process; forwarding of process; consent to jurisdiction

A. A licensee, an authorized delegate or a person who knowingly engages in business activities that are regulated under this chapter with or without filing an application is deemed to have done both of the following:

2. Appointed the superintendent as ~~his~~ **THE** lawful agent for the purpose of accepting service of process in any action, suit or proceeding that may arise under this chapter.

6-1302. Scope of chapter; exemptions

B. This chapter does not apply to:

7. An institutional investor as defined in section 6-971 unless the institutional investor advertises for, solicits or holds ~~himself~~ **THEMSELVES** out as willing to make or procure for an advance fee a loan or extension of credit other than a commercial mortgage loan as defined in section 6-971.

6-1402. Licensure required; contents of application; fees; nontransferable; branch office permit

A. A person shall not engage in the business of a premium finance company in this state without first being licensed as a premium finance company by the superintendent. A person who is not exempt under section 6-1403 and who advertises for, solicits or holds **himself THEMSELVES** out as willing to finance premiums or enter into or acquire premium finance agreements is presumed to be engaged in the business as a premium finance company.

C. An application for a license or branch office permit shall be made in writing, under oath, and in the form prescribed by the superintendent. The superintendent may require as part of an application such other information as **he THE SUPERINTENDENT** deems necessary.

6-1404. Denial, suspension or revocation of licenses and branch office permits

A. The superintendent may deny a license to a person or suspend or revoke a license if the superintendent finds that an applicant or licensee:

2. Has shown that **he THE APPLICANT OR LICENSEE** is not a person of honesty, truthfulness and good character.

5. Has had a final judgment entered against **him SUCH PERSON** in a civil action on grounds of fraud, deceit or misrepresentation and the conduct on which the judgment is based indicates that it would be contrary to the interest of the public to permit that person to be licensed or to control or manage a licensee.

6. Has had an order entered against **him SUCH PERSON** involving fraud, deceit or misrepresentation by any administrative agency of this state, the federal government or any other state or territory of the United States and that the facts relating to the order indicate that it would be contrary to the interest of the public to permit that person to be licensed or to control or manage a licensee.

6-1408. Annual report of licensee; civil penalty for failure to file

B. If a licensee fails to file the annual report, the superintendent or any person designated by **him THE SUPERINTENDENT** may examine the books, accounts and records of the licensee and prepare the annual report and the licensee shall be assessed an examination fee as prescribed in section 6-125.

6-1415. Cancellation of insurance contract upon default

B. The licensee shall mail written notice to the insured at **his THE INSURED'S** last known address as shown on the records of the licensee not less than ten days in advance to notify the insured of its intent to cancel the insurance contract unless the default is cured within the ten day period.

C. After expiration of the ten day period, the licensee may cancel the insurance contract or contracts by mailing a notice of cancellation to the insurer. The insurance contract shall be cancelled as if the notice of cancellation had been submitted **DIRECTLY** by the insured **himself** but without requiring the return of the insurance contract. The licensee shall also mail a notice of cancellation to the insured at **his THE INSURED'S** last known address as shown on the records of the licensee. If the provisions of subsection

D. do not apply to the cancellation of coverage, the effective date of cancellation under this subsection is the date on which the licensee mails a notice of cancellation to the insurer and the insured. The licensee shall maintain a log or any other record that documents compliance with this section.

TITLE 7 Bonds



Revisions are needed because of use of exclusionary male pronouns and in one incident the use of “husband and wife” must be changed to “spouse” in compliance with Obergefell v. Hodges.

7-101. Execution of bond; sureties

When a bond or undertaking is required by law to be given for the faithful performance of a duty or obligation, or required to be given in a judicial proceeding in a court of this state, the bond shall, unless otherwise specified by the law requiring it, be executed by the principal and at least two sureties. The sureties shall be residents and freeholders or householders within this state and, unless acting as surety for state officers, of the county in which the bond is given. Each surety shall justify by affidavit stating that ~~he~~ **THE SURETY** is worth the amount specified in the bond over and above ~~his~~ just debts and liabilities, exclusive of property exempt from execution.

7-102. Qualification of sureties

A bond shall not be approved if executed by individual sureties unless the sureties appear upon the tax roll of the county for an amount at least equal to the penalty of any other judicial bonds upon which they may already be sureties. If a surety is married, the bond shall be signed by both ~~husband and wife~~ **SPOUSES**.

7-104. Bonds payable to state

Any bond or undertaking given by a trustee, receiver, assignee or officer of a court in any action or proceeding for the faithful discharge of ~~his~~ THE duties, where it is not otherwise provided, shall be payable to the state, and upon leave of the court where the action or proceeding is pending, may be prosecuted for the benefit of any and all persons interested therein.

7-106. Deposit in lieu of bond

A. In a civil or criminal matter or proceeding when a bond is required of a party, ~~he~~ THE PARTY may, instead of giving the bond, deposit with the court lawful money of the United States in the sum required in the bond, which shall be accepted in lieu of the bond. If the party has given bond, ~~he~~ THE PARTY may, before its forfeiture, deposit the sum mentioned in the bond, whereupon the bond shall be exonerated. A party having deposited money in lieu of giving bond, may, before its forfeiture, withdraw the money upon the giving and approval of a sufficient bond.

7-107. Sufficiency of bond; objection

In an action or proceeding in a state court, when a bond is required or permitted to be given, the adverse party may object to its sufficiency at any time within three days after receiving notice of giving the bond, by serving the adverse party, or the officer who takes the bond, with a written notice that ~~he does not accept the bond~~ THE BOND IS NOT ACCEPTABLE. A failure to serve the notice shall be deemed an acceptance of the bond, and the officer taking it shall be exonerated from liability.

7-109. Sureties; examination on sufficiency; attorney of party ineligible as surety

Each of the sureties shall attend before the officer at the time and place mentioned in the notice provided for in sections 7-107 and 7-108 and may be examined on oath touching ~~his~~ THE sufficiency in such manner as the officer deems proper. If the officer finds the sureties sufficient ~~he~~ THE OFFICER shall endorse ~~his~~ THE allowance on the bond and cause it to be filed with the clerk or justice. No bond shall be allowed or approved wherein any attorney of record of either party to the action or proceeding is a surety.

7-110. Joint control of assets secured by bond

A. Any party of whom a bond, undertaking or other obligation is required and ~~his~~ THE surety may make an agreement providing for the safekeeping of any monies or assets for which ~~he~~ THE PARTY and ~~his~~ THAT surety are or may be responsible by depositing them with a bank, savings bank, safe-deposit or trust company authorized by law to do business as such or with any other depository approved by the court if the deposit is otherwise proper. The agreement may provide that the withdrawal of the monies or assets or any part thereof may be made only with the written consent of the surety or upon order of court made on such notice to the surety as the court may direct.

7-121. Irresponsible surety; procedure

In all actions or proceedings in which an injunction, attachment or garnishment bond is executed, the defendant may at any time present to the court a statement in writing, under the oath of the defendant or **his** **THE** agent or attorney, that the sureties or a surety on the bond was at the time of becoming a surety, not responsible as such surety, or has become irresponsible since the execution of the bond. Thereupon the court shall cause a notice of the statement to be served upon the plaintiff, and shall cite the plaintiff to appear and show cause within five days after the service of notice why the plaintiff should not be required to execute a new and sufficient bond.

TITLE 8 Child Safety

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption, and can be listed as “parent” on the birth certificate (McLaughlin v. Swanson, No. 2 CA-CV 2019-0210, Oct 5, 2020) and Doherty v. Leon (AZ Ct of Appeals, 2020) that the marital presumption overrides the genetic-testing presumption based on the facts.

8-106. Consent to adoption; waiver; consent to the release of information; notification to potential fathers

A. The court shall not grant an adoption of a child unless consent to adopt has been obtained and filed with the court from the following:

1. The child’s birth or adoptive mother **OR CHILD’S PARENT**, if living.

2. The child’s father if any of the following is true:

(a) The father was married to the child’s mother at the time of conception or at any time between conception and the child’s birth unless his paternity is excluded or another man’s paternity is established pursuant to title 25, chapter 6, article 1.

(b) The father has adopted the child.

(c) The father’s paternity is established under title 25, chapter 6, article 1 or section 36-334

Revisions are necessary due to exclusionary use of male pronouns.

8-129. Health and genetic history; compilation; availability; costs

B. Records containing the information prescribed in subsection A:

3. Shall be available on request throughout the ninety-nine year period, together with any other information described in subsection A which is added, to the following persons only:

(a) The adoptive parents of the child or, if the adoptive parents have died, the child’s guardian.

(b) The adoptee if **he THE ADOPTEE** is eighteen or more years of age.

(c) If the adoptee has died, the adoptee’s spouse if **he THE ADOPTEE** is the legal parent of the adoptee’s child or the guardian of any child of the adoptee.

(d) If the adoptee has died, any progeny of the adoptee who is eighteen or more years of age.

(e) The birth parent of the adoptee or other biological children of the birth parent.

8-141. Definitions; exception

A. In this article, unless the context otherwise requires:

7. “Emotional ties” includes:

- (a) Identification of the child as a member of the foster family.
- (b) Identification by the foster family of the child as belonging to that family.
- (c) The likelihood that the child will not establish significant emotional ties to another family if ~~he~~ **THE CHILD** is denied permanent placement with the foster family.

9. “High risk of severe emotional disturbance if removed from the care of ~~his~~ **THE** foster parents” means the development of significant emotional ties to the foster family as documented by the child’s case manager and as diagnosed by a psychiatrist or psychologist approved by the department.

9. “High risk of severe emotional disturbance if removed from the care of the foster parents” means the development of significant emotional ties to the foster family as documented by the child’s case manager and as diagnosed by a psychiatrist or psychologist approved by the department.

8-237. Statement or conduct of child; hearsay exception

The out of court statements or nonverbal conduct of a minor regarding acts of abuse or neglect perpetrated on ~~him~~ **THE MINOR** are admissible for all purposes in any adoption, dependency or termination of parental rights proceeding under this title if the time, content and circumstances of such a statement or nonverbal conduct provide sufficient indication of its reliability.

Revision is needed because a responsible parent may not be identified as a mother or father under Obergefell v. Hodges. The section needs to be revised because of Obergefell v. Hodges ensuring that persons in a same sex marriage have the same rights and obligations as those of the opposite sex. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption and can be listed as “parent” on the birth certificate (McLaughlin v. Swanson, No. 2 CA-CV 2019-0210, Oct 5, 2020) and Doherty v. Leon (AZ Ct of Appeals, 2020) that the marital presumption overrides the genetic-testing presumption based on the facts.

8-461. Child safety collections; fund; definition

A. If a recipient of public assistance has a person who is legally responsible for that person’s support and who is presently able to reimburse the department for public assistance provided, the department, through the attorney general or county attorney, shall proceed in the following order against:

1. The spouse of a recipient.
2. The former spouse of a recipient.
3. A ~~father or mother~~ **PARENT** not presently receiving public assistance.
4. Any other legally responsible person.



Revision is needed because a “parent” may not be the biological or adoptive parent under Obergefell v. Hodges. The section needs to be revised because of Obergefell v. Hodges ensuring that persons in a same sex marriage have the same rights and obligations as those of the opposite sex. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption and can be listed as “parent” on the birth certificate (McLaughlin v. Swanson, No. 2 CA-CV 2019-0210, Oct 5, 2020) and Doherty v. Leon (AZ Ct of Appeals, 2020) that the marital presumption overrides the genetic-testing presumption based on the facts.

8-514.08. Educational decisions; parent contact information; inability to locate

C. When ~~the biological or adoptive~~ A parent of the child attempts to act as the parent, the biological or adoptive parent is presumed to be the parent for the purposes of this section.

Revisions are necessary due to exclusionary use of male pronouns.

8-515.04. State foster care review board; members; personnel; training programs; compensation

B. The state board shall select a ~~chairman~~ CHAIR and a vice-~~chairman~~ CHAIR and any other officers it deems necessary.

C. The state board shall meet no less than twice annually and more frequently on the call of the ~~chairman~~ CHAIR or as the board determines. The supreme court may adopt reasonable rules relating to the functions and procedures of the local boards and the state board in accordance with the duties of the boards as provided in this article. The state board shall review and coordinate the activities of the local boards.

Revision is necessary because this is not clear regarding the minor child's right to seek an abortion under A.R.S. 36-2152.

8-529. Children in foster care; rights

B. A child in foster care who is at least sixteen years of age has the following rights:

5. To request a court hearing for a court to determine if the child has the capacity to consent to medical care that is directly related to an illness, disease, deformity or other physical malady **INCLUDING BUT NOT LIMITED TO THE RIGHTS OUTLINED IN A.R.S.36-2151.**

Revision is needed because a responsible parent may not be either the natural or adoptive mother or father of a child under Obergefell v. Hodges. The section needs to be revised because of Obergefell v. Hodges ensuring that persons in a same sex marriage have the same rights and obligations as those of the opposite sex. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption and can be listed as "parent" on the birth certificate (McLaughlin v. Swanson, No. 2 CA-CV 2019-0210, Oct 5, 2020) and Doherty v. Leon (AZ Ct of Appeals, 2020) that the marital presumption overrides the genetic-testing presumption based on the facts.

8-531. Definitions

In this article, unless the context otherwise requires:

10. "Parent" means the natural or adoptive mother or father of a child **OR A PARENT WHO WAS MARRIED TO THE MOTHER DURING THE BIRTH OF THE CHILD OR FOR TEN MONTHS THEREAFTER.**

Revision is needed because a parent who has or had a relationship with the siblings may not be either the natural or adoptive mother or father of a child under Obergefell v. Hodges.

8-543. Sibling information exchange program; definition

A. The administrative office of the courts shall establish a sibling information exchange program to facilitate contact between a former dependent child and the child's sibling or siblings.

B. The following persons may participate in the program:

1. An adult who is a former dependent child.

2. A juvenile who is a former dependent child, through any of the following:

(a) The juvenile's adoptive parent.

(b) The juvenile's guardian.

(c) The juvenile's biological parent **OR OTHER PARENT** if that person has legal custody of the child and is not a party to a pending dependency proceeding.

3. The adult sibling of a former dependent child.

F. For the purposes of this section, “sibling” includes a person who shares a common biological parent, stepparent, **PARENT**, or adoptive parent.

Revisions are necessary due to exclusionary use of male pronouns.

8-548. Enactment of compact; terms

ARTICLE VI. INSTITUTIONAL CARE OF DELINQUENT CHILDREN

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact, but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to **his THE CHILD** being sent to such other party jurisdiction for institutional care and the court finds that:

ARTICLE VII. COMPACT ADMINISTRATOR

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in **his THE** jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. LIMITATIONS

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by **his THE** parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or **his THE** guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

Revisions are necessary due to exclusionary use of male pronouns and because under Obergefell v. Hodges the husband-wife privilege must be modified.

8-805. Immunity of participants; nonprivileged communications

B. Except as provided in subsection C of this section, the physician-patient privilege, **husband-wife SPOUSAL** privilege, or any privilege except the attorney-client privilege, provided for by professions such as the practice of social work or nursing covered by law or a code of ethics regarding practitioner-client confidences, both as they relate to the competency of the witness and to the exclusion of confidential communications, shall not pertain in any civil or criminal litigation in which a child’s neglect, dependency, abuse or abandonment is in issue nor in any judicial proceeding resulting from a report submitted pursuant to this article.

C. In any civil or criminal litigation in which a child’s neglect, dependency, abuse or abandonment is an issue, a **clergyman CLERGY** or priest shall not, without **his** consent be examined as a witness concerning any confession made to **him-in-his THE CLERGY OR PRIEST IN THE** role as a **clergyman CLERGY** or a priest in the course of the discipline enjoined by the church to which **he THE CLERGY OR PRIEST** belongs.

Revision is necessary because research has made it clear that presence of a dangerous drug, narcotic drug or alcohol in the male during insemination is also harmful for the resulting child.

<https://psychcentral.com/news/2017/02/25/rat-study-finds-sons-of-fathers-who-use-cocaine-at-risk-for-learning-disabilities/116887.html>

Pre conception use of cannabis and cocaine among men with pregnant partners, Elisabeth Lobben Munch, Norwegian University of Science and Technology, Medical Studies, Trondheim, Norway , Svetlana Skurtveit , Norwegian Institute of Public Health, Oslo, Norway

Norwegian Centre for Addiction Research, University of Oslo, Oslo, Norway , Marte Handal , Norwegian Institute of Public Health, Oslo, Norway , Eva Skovlund , Norwegian Institute of Public Health, Oslo, Norway

Department of Public Health and Nursing, NTNU, Norwegian University of Science and Technology, Trondheim, Norway Nordic Studies on Alcohol and Drugs 2020, Vol. 37(1) 43–53 a The Author(s) 2019 Article reuse guidelines: sagepub.com/journals-permissions DOI: 10.1177/1455072519879564 journals.sagepub.com/home/nad

Further use of said drugs at birth or within a year after by a parent not the mother will likely also have negative impacts on the child if said parent is in contact with the child.

8-819. Determination of neglect

In determining if a child is neglected, consideration shall be given to:

1. The drug or alcohol abuse of the child's parent, guardian or custodian.
2. The use by ~~the mother~~ A PARENT of a dangerous drug, a narcotic drug or alcohol during pregnancy if the child, at birth or within a year after birth, is demonstrably adversely affected by this use. For the purposes of this paragraph, "dangerous drug" and "narcotic drug" have the same meaning prescribed in section 13-3401.

TITLE 9 Cities and Towns



Revisions are necessary due to exclusionary use of male pronouns.

9-204. Officers in cities and towns of six hundred to eight hundred fifty voters; terms of office; elections; removal

B. The term of office of each officer, except council~~men~~ MEMBERS, is two years. Each council~~man~~ MEMBER shall hold office for a term of four years. The recorder shall be elected as other city or town officers.

9-232.01. Salaries

The common council may by ordinance or resolution prescribe a daily compensation or salary to be paid the mayor, council~~men~~ MEMBERS and administrative board members for the performance of official duties.

9-232.02. Permitting town council~~men~~ MEMBERS to hold office for four-year staggered terms

The common council may, by majority vote of the qualified electors of the town voting thereon, provide for four-year staggered terms for members of the town council in the manner provided in section 9-272, with respect to cities. In the event the common council consists of five members only, the first class shall consist of two council~~men~~ MEMBERS and the second class shall consist of three council~~men~~ MEMBERS.

9-233. Council meetings; quorum; adjournment

The common council shall, by ordinance, fix the time and place of holding stated meetings, and the council may be convened at any time by the mayor. A majority of the councilmen MEMBERS shall constitute a quorum for transacting business but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalty as the council may, by ordinance, have previously prescribed. No such adjournment shall be to a day beyond the next stated meeting of the council.

9-238. Duties of appointive officers

B. In towns of less than three thousand inhabitants the town marshal, in addition to his THEIR duties as town marshal, may act as town engineer.

9-240. General powers of common council

B. The common council shall also have power within the limits of the town:

12. To establish and regulate the police of the town, to appoint watchmen SECURITY GUARDS and policemen OFFICERS, and to remove them, and to prescribe their powers and duties.

9-252. Acknowledgment and filing of maps

The maps required by section 9-251 shall be acknowledged by the proprietor, or some person for him THE PROPRIETOR duly authorized by deed, and a copy thereof, so acknowledged, shall be filed in the office of the county recorder, and also in the office of the clerk of the town.

9-253. Recording of maps and plats; preservation of originals

A. The county recorder shall record the plats in a book to be kept for that purpose, and, when necessary, may reduce the scale of the plat, and upon each record in the book, shall endorse his THE COUNTY RECORDER'S certificate that the plat is recorded from the original plat filed in his THE COUNTY RECORDER'S office.

9-255. Unlawful act of officer; liability of council

A member of the common council of a town incorporated under the provisions of this article shall not be personally liable in damages or otherwise for an unlawful act of an officer or employee of the town, unless the act is committed by the authority of the member, or he THE MEMBER has notice or knowledge thereof, or unless the act is committed under circumstances which would cause, or would have caused, a reasonable or prudent person to have knowledge of the act.

9-271. Procedure for change; city officers

B. Upon making the change from a town to a city organization the officers of the city shall consist of:

1. Seven councilmen MEMBERS elected at large by the qualified electors residing in the city at the regular election which would have been held had the change not been made.

9-272. Classification of councilmen MEMBERS for purposes of election; terms of office

A. The common council may, by a majority vote of the qualified electors of the city voting thereon, provide by ordinance or resolution, that the members of the council be divided by lot into two classes. The first class shall consist of three councilmen MEMBERS and the second class of four. Those of the first class shall hold office until the next regular election, and those of the second class until the second regular election. At the first regular election held after the change, three councilmen MEMBERS shall be elected, and at the second regular election four councilmen MEMBERS shall be elected.

B. Thereafter councilmen MEMBERS shall be elected in classes of three and four at successive, regular elections and shall hold their office for terms of four years each and until their successors are elected and qualified.

9-273. District system as alternative organization

A. Upon the change from town to city government, the city, by a majority vote of the qualified electors, may elect to be governed by a district system of municipal government, and in accordance with the election the common council by a majority vote shall adopt such resolution or ordinance, dividing the city into districts, not exceeding six in number, and the councilmen MEMBERS shall thereafter be elected from districts by the residents of the district.

9-274. Powers of council; salaries

A. When the change from town to city government is made, the council of the city may:

2. Fix the salaries of officers, board members and employees, and of the mayor and councilmen MEMBERS.

5. Fill by appointment vacancies in the office of mayor or councilmen MEMBERS and other vacancies occurring in any other city office, board or employment.

B. In fixing salaries the city council may by ordinance or resolution prescribe a daily compensation to be paid to the mayor, councilmen MEMBERS and administrative board members for performance of official duties.

C. The city council may by ordinance or resolution establish or alter salaries or compensation of the mayor and councilmen MEMBERS.

9-276. Additional powers of cities

A. In addition to the powers already vested in cities by their respective charters and by general law, cities and their governing bodies may:

15. Fix and designate by ordinance fire limits within which no buildings having outside wooden walls shall be constructed or repaired so as to increase their value beyond a percentage to be fixed in the

ordinance, and, by ordinance, prescribe special fire limits, within the general fire limits, requiring therein building material to be used and additional precautions to be observed in the construction of new buildings, and in the repairing and maintenance of buildings, as may from time to time be designated, for the prevention of fires and the spread thereof, and provide for the enforcement of the ordinance and for the appointment of a building inspector, his THEIR authority, his term of office and his compensation.

9-301. Terms of office

In incorporated cities and towns which elect a mayor, other than those specifically provided for, councilmen MEMBERS and other officers shall hold their respective offices for two years.

9-302. Bonds of officers

A. Unless bonded pursuant to the provisions of subsection B of this section, every officer of a city or town shall execute and file an official bond, enforceable against the principal and his THEIR sureties, conditioned on the due and faithful performance of his THEIR official duties, payable to the state and to and for the use and benefit of the municipality or any person who may be injured or aggrieved by the wrongful act or default of the officer in his THEIR official capacity. A person injured or aggrieved may bring suit on such bond under the provisions of section 38-260.

9-304. Compensation of aldermanPERSON or councilman MEMBER; failure to comply; classification

A. No mayor, aldermanPERSON or councilman MEMBER of any city or town shall, during the term for which he-has THEY HAVE been elected, knowingly accept, take or receive for his THEIR own use from the city or town, any money or other thing of value other than that which is provided to be paid him TO THEM for his THEIR services as such.

B. A person who violates any provision of this section is guilty of a petty offense, and his THEIR office shall be forfeited.

9-463.01. Authority

C. By ordinance, the legislative body of any municipality shall:

4. Either determine that certain lands may not be subdivided, by reason of adverse topography, periodic inundation, adverse soils, subsidence of the earth's surface, high water table, lack of water or other natural or HUMAN man-made hazard to life or property, or control the lot size, establish special grading and drainage requirements and impose other regulations deemed reasonable and necessary for the public health, safety or general welfare on any lands to be subdivided affected by such characteristic.

9-471.01. Dates of signatures on petition; time limitation for validity of signatures

Each person signing a petition for the annexation of territory to a city or town shall, at the time he THEY signs, write upon the petition the date on which he THEY signed the petition.

9-474. Subdivision plats; projection of street and alley lines; approval; survey

A. When the owner of land, the whole or part of which is in an unincorporated area within three miles from the corporate limits of a city or town having an ordinance establishing minimum subdivision standards and controls, desires to subdivide the land into lots for the purpose of selling it by reference to a map or plat, **he THE OWNER** shall first give written notice to the city or town of **his THEIR** intention to subdivide the land, naming and describing the land so that it may be identified upon the ground, and shall submit to the city or town a tentative plat of the land showing the manner in which **he THE OWNER** desires to subdivide the land.

D. If the report is given to the owner or the lines are so marked and the courses given the owner within thirty days from the date of service of notice of intention to the city or town, then the owner shall cause the land to be subdivided into blocks, lots, streets, alleys, parks and parkways, so as to accurately conform to the report and the projected lines and the courses thereof, and shall prepare in duplicate an accurate map or plat thereof on cloth, drawn and attested by a registered civil engineer or registered land surveyor from **his THEIR** survey of the ground. The engineer or registered land surveyor shall, in making the surveys, leave sufficient permanent monuments so that another surveyor or engineer may retrace **his THE ENGINEER OR REGISTERED LAND SURVEYOR'S** work. The nature and location of the monuments shall be plainly shown on the plat.

9-477. Subdivision name; limitation; title to streets

A. Upon the plat or map shall be endorsed a name, title or designation of the subdivision and the acknowledgment by the owner or some person for **him THE OWNER** duly authorized thereunto by deed.

9-812. Publication of notices and ordinances

B. In cases of laws or ordinances enacted on behalf of a private person, **he THE PRIVATE PERSON** shall pay the expense of publication, and may designate the newspaper.

9-925. Computation of pension upon voluntary retirement or upon mandatory retirement; limitation

A. A member of the police department whose membership began prior to July 1, 1952 and who serves the department twenty years in the aggregate may, upon application, be retired, and shall be paid during **his THE MEMBER'S** lifetime a monthly pension equal to fifty per cent of the average monthly compensation received by **him THE MEMBER** during the period of five years immediately prior to the date of application for retirement. A member of the police department whose membership begins on or after July 1, 1952, and who serves the department twenty-five years in the aggregate may, upon application made after **he THE MEMBER** has reached the age of fifty-five years, be retired, and shall be paid during **his THE MEMBER'S** lifetime a monthly pension equal to fifty per cent of the average monthly compensation received by **him THE MEMBER** during the period of five years immediately prior to the date of application for retirement.

B. In the case of a member of the police department continuing in active service after the date when **he THE MEMBER** is eligible to make application for retirement under the provisions of this section, upon **his THE MEMBER'S** retirement the percentage of **his THE MEMBER'S** average monthly

compensation applicable in computing **his THE MEMBER'S** monthly pension shall be increased by two per cent for each full year of service beyond the date when **he THE MEMBER** was eligible to make application for retirement, but in no case shall the percentage of **his THE MEMBER'S** average monthly compensation applicable in computing **his THE MEMBER'S** monthly pension exceed sixty per cent. In the absence of an application for retirement by a member eligible to make application under the provisions of this section, the board may, when it deems such action to be for the best interests of the department, on its own motion propose any such member for retirement, and upon certification of the city or town physician that the member is physically unfit for further police service **he THE MEMBER** shall be retired, and shall thereafter receive the pension prescribed in this section. Nothing in this section shall prohibit the governing body of a municipality from setting a mandatory retirement age by ordinance to be applicable to persons eligible for pensions under this article.

9-926. Computation of pension upon permanent or temporary retirement for injury or disease

A. Any member who has served in the department an aggregate of five years, and who, within the hours **he THE MEMBER** is required to be on active duty, and while engaged in the performance of **his THE MEMBER'S** duty, contracts a disease or sustains an injury due to **his THE MEMBER'S** occupation, not compensable under the workers' compensation law, and is found, upon physical examination held as provided in section 9-932, to be unfit physically or mentally for police service by reason of the disease or injury, shall, if the disability is permanent, be retired, and shall be paid, during **his THE MEMBER'S** lifetime, a monthly pension equal to fifty per cent of the average monthly compensation received by **him THE MEMBER** during the period of five years immediately prior to the order of retirement.

B. If the disability resulting from the disease or injury is temporary, **he THE MEMBER** shall be temporarily retired, and shall be paid, during the period of retirement, one-half the monthly compensation being received by **him THE MEMBER** at the time of **his** retirement, and **he** shall submit to a physical examination every six months from the date of retirement, or more often if required by the board, in order to be eligible for the temporary pension.

9-927. Benefits to dependents upon death of member

A. If upon the death, from any cause, of a member retired under the provisions of section 9-925, or of a member after ten years' service and while in the service, or if upon the death of a member retired under the provisions of section 9-926 resulting from disease contracted or injury sustained as provided in section 9-926, the member leaves surviving a spouse, a dependent child under the age of eighteen years, or a dependent parent, a monthly pension shall be paid:

2. To the guardian of each dependent child who survives in addition to the surviving spouse, until such child is eighteen years of age, or until **his THE CHILD'S** dependency shall earlier terminate, ten dollars per month, but if the total of the pensions to the surviving spouse and dependent children would exceed the amount of the pension to which deceased, if living and retired, would be entitled, then an amount equal to one third of the amount of the pension shall be prorated among the children.

9-928. Effect of service as public officer upon pension

A. A person who has been retired from service under the provisions of this article and awarded compensation in accordance therewith, and who after retirement receives a salary as an officer or

employee of the municipality from which ~~he was~~ THEY retired shall forfeit and shall not at any time receive compensation for the period during which ~~he~~ THEY receives a salary as such officer or employee, but upon termination of service as such officer or employee all the rights of the pensioner, other than the right to receive compensation for the period after retirement during which ~~he~~ THEY receives a salary as an officer or employee of the municipality from which ~~he was~~ THEY retired, shall be recognized. In no event shall any person ever be entitled to draw a pension from more than one fund provided for under this article.

9-930. Payments from fund

Monies paid from the fund shall be paid by the treasurer only upon warrants signed by the ~~chairman~~ CHAIR and countersigned by the secretary of the board.

9-932. Physical examination of active or temporarily retired member

A member, whether active or temporarily retired, ordered by the board to undergo a physical examination, shall submit ~~himself~~ for examination before the chief medical officer of the municipality, or such other regularly licensed and practicing physician as the board designates, but the member shall have the right to be represented at the examination by a physician of ~~his own~~ THEMSELVES choice, whose fee shall be paid from the fund.

9-933. Effect of military service

A member of a police department who served in the military establishment of the United States during a period of national emergency immediately following service as a member of the police department, shall not be required to contribute to the police pension fund by salary deduction or otherwise for the period covered by ~~his~~ THE MEMBER'S military service, but in computing the length of service of a member of a police department for the purpose of determining eligibility for retirement, the period of military service, as prescribed by this section, shall be included.

9-965. Termination of benefits

If a beneficiary is declared to be an incapacitated person, pursuant to section 14-5101, or disobeys any requirement of this article, the board may order ~~his~~ THE BENEFICIARY'S pension or allowance discontinued. Thereafter ~~his~~ THE BENEFICIARY'S benefit is payable to ~~his~~ THE BENEFICIARY'S immediate dependents or ~~to his~~ guardian.

9-968. Exemption of pension from process; prohibition of assignments; exception

A. No portion of the pension fund or the distributive portions thereof shall be subject to attachment, execution or other judicial process for the satisfaction of a debt or claim against the member or ~~his~~ THE MEMBER'S beneficiaries, and assignments or transfers of any distributive portion shall be void.

9-969. Applicability of workers' compensation law

This article shall be supplemental and in addition to the workers' compensation law, but ~~firemen~~ FIREFIGHTERS and their beneficiaries receiving compensation under those provisions of law shall not

receive the benefits provided by this article during the period they receive such compensation, except in the event such compensation is less than the benefits provided by this article, then the relief and pension fund shall pay the deficiency as determined by the board of trustees.

9-970. Effect of military service

A member of a fire department or district who has served as a member of the military establishment of the United States during a period of national emergency, immediately following service as a member of the fire department or district, shall not be required to contribute to the fire fighters' relief and pension fund by salary deduction or otherwise for the period during which the member was in military service. The period of military service shall be included in computing the length of service of the **firemen** **FIREFIGHTERS** in determining eligibility for retirement.

9-971. Reinstatement after military service

A member of a fire district inducted into the military establishment of the United States for military training shall, upon **his** discharge from such service, be reinstated with **his** **THE MEMBER'S** previous service credits.



9-972. Inapplicability of article

A. Effective from and after June 30, 1968, this article shall be amended as to all full-time paid **firemen** **FIREFIGHTERS**, and employees other than volunteer **firemen** **FIREFIGHTERS** employed after June 30, 1968, shall be covered by the public safety personnel retirement system in those cities that have

established a pension system under this article before July 1, 1968, subject to the right of election provided for in section 38-854. However, those employers presently participating under sections 9-912 through 9-971 shall not come under the social security act as to their employees.

B. Notwithstanding any provision of law to the contrary, effective from and after June 30, 1968, this article shall apply only to volunteer **firemen FIREFIGHTERS** and all amounts accumulated under this article for full-time paid **firemen FIREFIGHTERS**, as determined by actuarial procedures prescribed by the board of trustees of public safety personnel retirement system, shall be transferred to the fund maintained under the public safety personnel retirement system, and accounted for by each employer. Each full-time paid **fireman FIREFIGHTER** employed after June 30, 1968, shall be covered by the public safety personnel retirement system, which continues and amends this fund in regard to full-time paid employees.

9-973. Disability insurance for volunteer fire fighters

In addition to the authority granted pursuant to other provisions of this article, the board of trustees, with the approval of the mayor and council if for a volunteer fire department or the board of trustees with the approval of the board of supervisors if for a volunteer fire district, may purchase disability insurance for the volunteer **firemen FIREFIGHTERS** with funds from the volunteer fire fighters' relief and pension fund.

9-981. Authority to purchase alternative pension and benefit plan

B. The fire insurance premium tax received by the city, town or district under section 9-952, contributions from the city, town or district, and deductions from the salaries or compensation of **firemen FIREFIGHTERS** may be used to purchase a private pension or benefit program for **firemen FIREFIGHTERS**. **Firemen FIREFIGHTERS** not covered under the public safety personnel retirement system may elect to be covered under the provisions of the alternative pension and benefit program upon filing a request in writing with the city, town or district.

C. The terms, conditions, benefits, eligibility requirements and contribution rates of the alternative pension and benefit program shall be established by:

3. For a fire district without a board, by the adoption of a resolution of the board of trustees of the **firemen's FIREFIGHTERS'** relief and pension fund and the approval of the board of supervisors.

9-1102. Trustee's bond; keeping of accounts and records

A. Before entering upon the discharge of **his THEIR** duties, the trustee shall execute a bond to the state, with sureties in the sum of two thousand dollars, which shall be approved by and filed with the board of supervisors of the county, conditioned to account for all money that may come into **his THE TRUSTEE'S** hands and to discharge the **TRUSTEE'S** duties **of his trust** according to the best of **his THE TRUSTEE'S** ability. Action may be brought on the bond by any party aggrieved by the action of the trustee.

B. **He THE TRUSTEE** shall keep a strict account of all money received and disbursed by **him THE TRUSTEE** and shall file and keep all books and papers used by or before **him THE TRUSTEE**, subject to inspection of the inhabitants of the city or town.

9-1104. Notice of entry of land as townsite; statement and filing of claims to land

A. The trustee shall then cause a notice to be published in all the newspapers published in the city or town, or if no newspaper is published therein, then by posting the notice in five public places in the city or town for sixty days successively, giving notice of the entry of the land and requiring every claimant of a lot to file a statement of **his** claim in the office of the trustee on or before ninety days from the first publication. The statement shall be in writing, signed and sworn to by the claimant, or if absent from the county, by **his** **THE CLAIMANT'S** agent, and shall be recorded in a book to be kept for that purpose by the trustee. It shall specify the grounds of the claim, particularly describe the lots claimed, the date and name, as near as possible, of the first actual occupant, what improvements have been made thereon, and that at the time of making the statement the lots are actually possessed and occupied by the claimant, or that the right to possession and occupation is in **him** **THE CLAIMANT**, if then occupied by another.

B. The statement to the trustee shall be accompanied by a fee of twenty cents a folio for filing and recording. The claimant shall within sixty days after expiration of the time for filing claims, make proof of the facts alleged in **his** **THE CLAIMANT'S** statement before the trustee. No proof can be made after that time, unless the claimant has appeared within that time and obtained and had entered in the records an order of continuance by the trustee.

9-1105. Financial statement of trustee; disposition of funds

A. Within sixty days from the first publication provided for by this article, the trustee shall make a full and true statement in writing of all monies expended by **him** **THE TRUSTEE**, and **his** **THE TRUSTEE'S** reasonable charges for time and services in the administration of the trust to that time which shall be and remain a first charge upon the lands in favor of the trustee.

9-1106. Index of claimants and property

The trustee shall keep an index of the name of every person filing a claim or contest in which the name shall be entered at the time of filing the statement or contest. When the statement is recorded, the trustee shall add to the index the number of the page of the record. The trustee shall keep a like index with a description of all property disposed of by **him** **THE TRUSTEE**.

9-1107. Limitations on claims of land

B. When a claimant makes application to enter more than four lots, **he** **THE CLAIMANT** shall specially designate the lots in the statement, particularly describe the nature and value of the improvements on each of the additional lots, and shall at the time of making the proof prove to the satisfaction of the trustee, by one or more reliable witnesses, the facts entitling **him** **THE CLAIMANT** to enter the additional lots.

9-1110. Payment of purchase price by claimants

Each claimant or contestant shall, with **his** **THEIR** statement or contest, pay the trustee the sum of ten dollars for each lot claimed, not exceeding seven thousand square feet per lot, as the purchase price therefor. Such money shall be refunded to the claimant by the trustee if it is finally determined that the party is not entitled to a deed, after first deducting costs or fees that may be due from such party.

9-1111. Trustee as claimant

If the trustee is possessed or entitled to any part of the lands in **his THE TRUSTEE'S** individual right, **he THE TRUSTEE** shall make a verified statement of **his THE TRUSTEE'S** claim and record it, and if no adverse claim thereto is filed within the time allowed, **he THE TRUSTEE** shall be deemed to be possessed and seized of the title thereto in fee simple, but subject to all assessments and taxes thereafter to be levied. If **his THE TRUSTEE'S** claim is in conflict, the conflicting claims shall be transferred to the court and determined as other conflicting claims.

9-1114. Rights of lienholders

No lien against the interests of a claimant shall be affected by the deed of the trustee to the claimant. The holder of a lien or certificate of sale, upon proof by affidavit of such fact, may file a statement in behalf of the claimant or contest claims in conflict with the rights of the claimant, or may intervene and support the rights of the party against whom **he THE LIENHOLDER** holds the liens, the same as such party might do **himself THEMSELVES**. The money thus necessarily expended shall become a part of **his THEIR** claim against **his THEIR** debtor and a part of **his THEIR** lien.

9-1116. Obtaining funds to pay expenses

A. If the money paid to the trustee for the purchase of lots is insufficient to pay expenses, **he THE TRUSTEE** shall sell at public auction so many of the remaining lots, the title to which remains in the trustee and against which no claim or contest is pending, as is necessary to raise the amount required. The trustee shall first give such notice of the sale as the sheriff gives upon the sale of real property on execution. The lots shall be sold separately, no lot shall be sold for less than ten dollars, and the lots shall not exceed seven thousand square feet.

9-1117. Disposal of unclaimed lots

A. The grounds undisposed of within the townsite, the title of which remains in the trustee, may be sold at public auction when **he THE TRUSTEE** deems it advisable. **He THE TRUSTEE** shall appoint three persons to appraise the lots **he THE TRUSTEE** desires to sell, and they shall take oath to faithfully and impartially appraise the value of the lots, and shall each receive five dollars per day for each day actually engaged.

C. Any person who has actually settled and made improvements to the value of not less than one hundred dollars on any lot, may make application to purchase the lot any time before sale, and accompany **his THEIR** application with the amount of the appraised value and five dollars for each lot as compensation for making the deed, which shall be returned by the trustee, if it is finally determined that the party is not entitled to a deed, after first deducting any costs or fees that may be due from the party.

D. The trustee shall hear proof as to the right of preference before executing **his THE TRUSTEE'S** deed. If the application is denied, the applicant may bring an action in the superior court against the trustee and any adverse claimant to determine **his THE APPLICANT'S** right to a deed under the application, and the lot shall not be sold until the action is determined.

E. The trustee shall execute a deed to the purchaser upon payment of the purchase price, and five dollars for each lot sold, to be retained by the trustee as **his** compensation. The fees for the trustee for

applications for preferred right shall be twenty cents per folio for filing and recording. Contests between applicants shall be transferred to the superior court for determination.

9-1118. Accounting by trustee to successor

Upon termination of the trustee's term of office **he THE TRUSTEE** shall deliver to **his THEIR** successor in office all books and papers of **his THE TRUSTEE'S** office, together with all money in **his THEIR** possession as trustee, and shall accompany them with an itemized written statement of all money received and paid out by **him THE TRUSTEE** under **his THEIR** trust. Thereafter the trust shall be discharged by **his THEIR** successor in office.

9-1131. Disposal of unclaimed lots acquired prior to statehood

A. Every trustee of lands acquired prior to February 14, 1912, under the act of Congress entitled "an act for the relief of inhabitants of cities and towns upon the public lands," approved March 2, 1867, or **his THE TRUSTEE'S** successor in office, may sell at public auction to the highest bidder for cash, any parcel of such lands undisposed of within the townsite, the title to which remains in the trustee or **his THE TRUSTEE'S SUCCESSOR** in office, when **he THE TRUSTEE** deems it advisable to sell. **He THE TRUSTEE** shall appoint three disinterested persons to appraise the parcels **he THE TRUSTEE** desires to sell, and they shall faithfully and impartially appraise the value of the parcels and shall certify their appraisal under oath to the trustee. Each of the appraisers shall receive five dollars per day for each day they are actually engaged in making the appraisal.

9-1132. Procedure to establish right of preference

A. Notwithstanding any other provision of law, a person who, together with **his THEIR** predecessors in interest, has, for a period of five years immediately preceding the application provided for in this article, been in actual or constructive possession of and paid taxes on a parcel of land included within a townsite entered prior to February 14, 1912, may purchase the title or claim thereto which the trustee could, at the time of the application assert or convey under any other provision of law by making an application therefor to the trustee.

C. Upon filing the application, the trustee shall conduct a hearing thereon and shall give notice thereof by publication in the same manner as provided in section 9-1131, and upon the hearing the trustee shall take evidence on the applicant's right of preference. If the trustee finds the applicant and **his THE APPLICANT'S** predecessors in interest have held possession of the land for five years immediately prior to filing the application and have paid taxes thereon for a period of five years immediately prior to filing the application, **he THE TRUSTEE** shall execute and deliver **his THE TRUSTEE'S** deed to the applicant, conveying the parcel or parcels described in the application, upon the applicant paying to the trustee **his THE APPLICANT'S** proportionate share of the cost of advertising as determined by the trustee.

D. If the application is denied or if conflicting applications are filed with the trustee on or before the date of the hearing, the trustee shall proceed no further and the applicant may, within ten days after denial or the date set for the hearing, bring an action in the superior court against the trustee and any other applicant to determine **his THE APPLICANT'S** right to a deed. No parcel of land embraced in such action shall be sold until the action is determined.

9-1204. Subsequent changes prohibited; exceptions

2. On findings, by ordinance or resolution, and after notice and a public hearing, that natural or HUMAN-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as approved in the protected development right plan.

3. On findings, by ordinance or resolution, and after notice and a hearing, that the landowner or **his** **THEIR** representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval of the protected development right plan by the city or town.

TITLE 10 Corporations and Associations

All revisions are necessary due to exclusionary use of male pronouns.

10-120. Filing requirements

F. The document shall be executed either:

1. By the **chairman CHAIR** of the board of directors of a domestic or foreign corporation, by its president or by another of its officers.

10-720. Shareholders' list for meeting

B. The shareholders' list shall be available for inspection by any shareholder, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office, the office of the corporation's transfer agent if specified in the meeting notice or at another place identified in the meeting notice in the city where the meeting will be held. A shareholder, its agent or its attorney on written demand may inspect and, subject to the requirements of section 10-1602, subsection C, may copy the list, during regular business hours and at **his THE SHAREHOLDER'S** expense, during the period it is available for inspection.

10-807. Resignation of directors

A. A director may resign at any time by delivering written notice to the board of directors, its **chairman CHAIR** or the corporation.

10-823. Waiver of notice

B. A director's attendance at or participation in a meeting waives any required notice to **him THE DIRECTOR** of the meeting unless the director at the beginning of the meeting or promptly on **his** arrival objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

10-833. Liability for unlawful distributions

B. A director of a corporation who is present at a meeting of its board of directors at which action on any distribution in violation of section 10-640 is taken is presumed to have assented to the action taken unless **his THE DIRECTOR'S** dissent is entered in the minutes of the meeting or unless **he THE DIRECTOR** files **his A** written dissent to the action with the secretary of the meeting before the adjournment of the meeting or forwards the dissent by registered or certified mail to the secretary of the corporation before 5:00 p.m. of the next business day after the adjournment of the meeting. The right to dissent does not apply to a director who voted in favor of the action.

10-1302. Right to dissent; applicability

B. A shareholder entitled to dissent and obtain payment for **his THEIR** shares under this chapter may not challenge the corporate action creating the shareholder's entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

10-1327. After-acquired shares

B. To the extent the corporation elects to withhold payment under subsection A of this section, after taking the proposed corporate action, it shall estimate the fair value of the shares plus accrued interest and shall pay this amount to each dissenter who agrees to accept it in full satisfaction of **his THE DISSENTER'S** demand. The corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated and a statement of the dissenters' right to demand payment under section 10-1328.

10-1330. Court action

E (1). For the amount, if any, by which the court finds the fair value of **his THEIR** shares plus interest exceeds the amount paid by the corporation.

10-1432. Receivership

E. A receiver of a corporation may sue and defend in all courts in **his THE RECEIVER'S** own name as receiver of such corporation.

10-1434. Election to purchase in lieu of dissolution

B. An election to purchase pursuant to this section may be filed with the court at any time within ninety days after the filing of the petition under section 10-1430, subsection B or at a later time as the court may allow. If the election to purchase is filed by one or more shareholders, the corporation, within ten days after the filing, shall give written notice to all shareholders other than the petitioner. The notice shall state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and shall advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders who wish to participate shall file notice of their intention to join in the purchase no later than thirty days after the effective date of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under section 10-1430, subsection B shall not be discontinued or settled, and the petitioning shareholder shall not sell or otherwise dispose of **his SHAREHOLDER'S** shares, unless the court determines that it would be equitable to the corporation and the shareholders other than the petitioner to permit this discontinuance, settlement, sale or other disposition.

10-1623. Statement of bankruptcy or receivership; interrogatories before subsequent incorporation; violation; classification; definitions

1. All officers, directors, trustees and major stockholders of the corporation within one year of filing the petition for bankruptcy or the appointment of a receiver. If a major stockholder is a corporation, the statement shall list the current president, **chairman CHAIR** of the board of directors and major stockholders of such corporate stockholder.

10-1804. Optional provisions of articles of incorporation

4. Any restriction on the power of any investor to sell, to transfer or to create a security interest in **his THE INVESTOR'S** capital units. No restriction on the power to sell, transfer or create a security interest shall be binding except as to persons who have actual knowledge thereof unless such restriction is set forth in the articles of incorporation.

12. Any requirement for bond or other security to be given to the corporation by a manager to secure the faithful performance of **his THE MANAGER'S** duties.

14. Any provision for delegation of **his** authority by a manager.

10-1805. Managers

B. No manager may delegate any of **his THE MANAGER'S** authority to any other agent, employee or representative of a corporation unless authority to do so is contained in the articles of incorporation or is granted by act of the investors.

10-1841. Claim for unclaimed shares or dividends

C. A claim filed under the provisions of this section shall be accompanied by the certificate of stock upon which it is based, together with a statement signed and sworn to by the person having lawful custody of the books of the corporation, stating that the claimant, or **his CLAIMANT'S** predecessor in interest, appears on the books as the rightful owner of the stock. If the claimant is the heir, devisee, successor or assign of the owner shown on the books of the corporation, **he THE HEIR, DEVISEE, SUCCESSOR OR ASSIGN** shall also make satisfactory proof of **his THEIR** claim of ownership.

10-1843. Court action upon refusal to pay claim

In the event the director of the department of administration refuses to approve any claim presented as provided in section 10-1841, the claimant may file a complaint in the superior court in Maricopa county, and shall serve a copy thereof upon the attorney general, alleging the nature of **his THE CLAIMANT'S** claim and praying that the money or securities be paid or delivered to **him THE CLAIMANT**. If the court finds for the plaintiff, judgment shall be entered accordingly, and the court shall certify the judgment to the director of the department of administration, who shall thereupon issue the order or draw the warrant as provided in section 10-1842. Appeal may be taken from the judgment of the superior court as in other cases.

10-2006. Bylaws; renewal upon expiration of contract period

16. The manner of determining the value of a member's interest, and providing for purchase of such interest by the association upon **his A MEMBER'S** death, withdrawal, expulsion or forfeiture of membership, at the option of the association.

10-2009. Membership certificates; voting; liability

If a member of an association established without capital stock has paid **his THE MEMBER'S** membership fee, **he THE MEMBER** may receive a certificate of membership. Members are not liable

for debts of the association above the sum remaining unpaid on their membership fees. No member is entitled to more than one vote unless the bylaws provide otherwise. In no event is a member allowed to have more than five votes which are based on actual patronage, and a member is not allowed more than one vote because of the amount of membership capital **he THE MEMBER** may own.

10-2010. Appraisal of interest and payment upon withdrawal or expulsion of member

If a member withdraws or is expelled, the board of directors shall, within three years after withdrawal or expulsion, equitably appraise **his THE MEMBER'S** property interest in the association and pay **him THE MEMBER** for that interest. The appraisal is conclusive.

10-2016. Marketing contracts; remedies for breach

D. When provided in the bylaws, the marketing contract may fix, as liquidated damages, specific sums to be paid by the members to the association upon the breach by **him THE MEMBER** of any provision of the marketing contract regarding the sale or delivery or withholding of products, and that the member will pay all costs, premiums for bonds, expenses and fees if an action is brought upon the contract by the association, and such provision shall be valid and enforceable in the courts.

10-2017. Pilot agreement; list of other agreements; recording

The association may record one of the executed marketing agreements in the office of the county recorder of the county in which the subscribing member is producing or proposing to produce the products to be marketed for **him THE MEMBER**, and such agreement shall be known as the pilot agreement. After recording the pilot agreement, the association may, from time to time, in lieu of recording other agreements obtained from its members, file with the recorder an affidavit of its secretary stating that the association has executed agreements with other members, giving their names and addresses, a description of the premises owned or leased by each of the members and the date on which the agreements were executed by the members. The affidavit, when so filed, shall be recorded in the book of miscellaneous records, and shall constitute notice of the agreements.

10-2023. Inducing breach of contract; spreading false report; classification

A person knowingly inducing any member of an association to breach **his THE MEMBER'S** marketing contract with the association, or who knowingly spreads false reports concerning the finances or management thereof, is guilty of a class 2 misdemeanor, and is also liable to the injured association in a civil action in the sum of five hundred dollars.

10-2059. Officers of cooperative

The officers of a cooperative shall consist of a president, vice-president, secretary and treasurer, who shall be elected annually by and from the board of directors. If stated in the bylaws, the officers of the cooperative do not have to be directors. Unless the bylaws provide otherwise, if a person holding any office ceases to be a director the person shall cease to hold the office. The offices of secretary and treasurer may be held by the same person. The board of directors may also elect or appoint all other officers, agents or employees it deems necessary or advisable and shall prescribe their powers and duties. An officer may be removed from office and **his THE OFFICER'S** successor may be elected in the manner prescribed in the bylaws.

10-2063. Waiver of notice of meeting

A person entitled to notice of a meeting may waive notice in writing either before or after the meeting. If the person attends the meeting, **his THE PERSON'S** attendance constitutes a waiver of notice of the meeting, unless **he THE PERSON** participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

10-2129. Annual and special meetings of members; notice; quorum

B. Except as otherwise provided in this article, written or printed notice stating the time and place of each meeting of the members and, in the case of a special meeting, the purpose for which the meeting is called shall be given to each member, either personally or by mail, not less than ten nor more than twenty-five days before the date of the meeting. If mailed, the notice is deemed to be given when deposited in the United States mail with postage prepaid addressed to the member at **his THE MEMBER'S** address appearing on the records of the generation and transmission cooperative.

D. A member entitled to notice of a meeting may waive notice in writing either before or after the meeting. If any voting delegate of a member attends the meeting, **his THE DELEGATE'S** attendance constitutes a waiver of notice of the meeting, unless **he THE DELEGATE** participates solely to object to the transaction of any business because the meeting has not been legally called or convened.



10-2258. Board of directors

B. At the first meeting of the shareholders and members of a corporation and at each annual meeting thereafter, six directors shall be elected by the shareholders and nine directors shall be elected by the members. Each member shall have one vote for each one thousand dollars of the member's outstanding

loans to the corporation and the uncalled balance of the member's loan agreement with the corporation. A member shall be entitled to cast **his THE MEMBER'S** votes for directors on a cumulative basis.

10-2260. Approval of articles of incorporation; incorporation

B. If the superintendent disapproves the articles, the superintendent shall promptly give notice of the disapproval to the incorporators, stating in detail the reason for **his THE SUPERINTENDENT'S** action. Upon remedying the defect or defects, the incorporators may, in the same manner, refile the articles.

10-3833. Liability for unlawful distributions

B. A director of a corporation who is present at a meeting of its board of directors at which action on any distribution in violation of section 10-11301 is taken is presumed to have assented to the action taken unless **his THE DIRECTOR'S** dissent is entered in the minutes of the meeting or unless **he THE DIRECTOR** files **his A** written dissent to the action with the secretary of the meeting before the adjournment of the meeting or forwards the dissent by registered or certified mail to the secretary of the corporation before 5:00 p.m. of the next business day after the adjournment of the meeting. The right to dissent does not apply to a director who voted in favor of the action.

10-3863. Members' action; definition

D. If a member's vote does not comply with subsection A of this section solely because of a failure of a director to comply with subsection C of this section and if the director establishes that **his THE DIRECTOR'S** failure did not determine and was not intended by **him THE DIRECTOR** to influence the outcome of the vote, the court, with or without further proceedings respecting section 10-3861, subsection B, paragraph 3, may take such action, respecting the transaction and the director and give such effect, if any, to the members' vote, as it considers appropriate in the circumstances.

10-11432. Receivership

E. A receiver of a corporation may sue and defend in all courts in **his THE RECEIVER'S** own name as receiver of such corporation.

10-11903. Articles of incorporation; amendment

B. The corporation may amend its articles. The amendment shall be executed by the same person who executed the original articles, or by **his THAT PERSON'S** successor in office, and shall be filed and recorded as required for the original articles.

10-11904. Powers of corporation sole

Upon executing and filing for record articles of incorporation as provided in this article, the person subscribing thereto and **his THE PERSON'S** successor in office by the name or title specified in the articles, shall thereafter be deemed a corporation sole with perpetual succession, and may acquire and possess, by gift, bequest, devise or purchase, and hold property, sell, rent or otherwise dispose of such property, borrow money and give written security therefor, and secure payment thereof by mortgage or other lien.

10-11906. Succession of title and authority

In the event of the death, resignation or removal of the person who is a corporation sole, **his** **THE** successor in office shall be vested with title to all property held by **his** **THE** predecessor as such corporation sole, with like power and authority over the property, and subject to all the liabilities and obligations with reference thereto. The successor shall file in the office of the corporation commission, and shall record in the office of the county recorder of each county in which any of the real property is situated, a certified copy of the commission, certificate or letter of election or appointment.

10-11907. Succession of title to religious property held by person not incorporated as corporation sole

In case of the death, resignation or removal of a person who, at the time of **his** death, resignation or removal, was holding the title to property for the use or benefit of any church or religious society not incorporated as a corporation sole, the title to such property held by **him** **THE PERSON** shall not revert to the donor, nor vest in the heirs of the deceased person, but shall be deemed to be in abeyance after the death, resignation or removal until **his** **A** successor is duly appointed to fill the vacancy. Upon appointment of a successor, the title to all property held by **his** **THE** predecessor shall at once, without any other act or deed, vest in the person appointed to fill the vacancy.

TITLE 11 Counties

All revisions are necessary due to exclusionary use of male pronouns.

11-133. Petition; contents

B. The petition must be signed by qualified electors who are equal in number to at least twenty per cent of the number of registered voters of each affected county as of January 1 following the last general election. Each petitioner shall include **his THEIR** printed name, **his THEIR** address and the date of signing.

11-135. Filing of petition; review; certification of results

C. On receipt of a petition which meets the requirements of subsection B, the secretary of state shall immediately transmit a copy to the county recorder of each affected county with an order to examine the signatures from **his THE RECORDER'S** respective county within twenty days. The recorder shall compare the names of a random sampling of at least five per cent of the persons from **his THE RECORDER'S RESPECTIVE** county signing the petition with the county registration records and certify the results to the secretary of state.

D. After the secretary of state receives the results from all affected county recorders, **he THE SECRETARY OF STATE** shall determine whether the petition is sufficient. If the petition is insufficient, the secretary of state shall immediately notify by certified mail the person or organization proposing the formation of the new counties and the clerk of the board of supervisors of each affected county stating the reason for the insufficiency and file the petition as a public record without prejudice to the filing of a new petition. If the petition is sufficient, the secretary of state shall immediately transmit copies of **his THEIR** certification to the person or organization proposing the new counties, the clerk of the board of supervisors of each affected county, the president of the senate, the speaker of the house of representatives, each legislator whose district is in an affected county, the attorney general and the governor.

11-136. County formation commission

A. Within fifteen days of receipt of certification of the petition pursuant to 11-135, subsection D, the governor shall appoint a county formation commission of three members, none of whom may reside in an affected county and no more than two of whom may be members of the same political party. At least one of the appointees must be a member of the state bar of Arizona, at least one of the appointees must be a certified public accountant and at least one of the appointees must have experience in property valuation and appraisal procedures. The governor shall designate one member to act as **chairman CHAIR**. Members of the commission are entitled to receive compensation of one hundred dollars for each day engaged in the service of the commission plus reimbursement for travel and subsistence expenses pursuant to title 38, chapter 4, article 2.1 The commission may employ or contract for such clerical and professional staff services as may be necessary to perform its functions. The initial meeting of the commission shall be held at the call of the **chairman CHAIR** within ten days after notice and acceptance of the members' appointment. No member, employee, agent or representative of the commission may use or promise to use any official authority or influence for the purpose of influencing the outcome of the proposed formation of new counties.



11-137. Election on formation of new counties

E. The ballot shall state “Shall new counties be established from existing _____ (county or counties) as prescribed in the report of the county formation commission, including the establishment of a distribution board to estimate taxes to be levied for the distribution of county assets, liabilities and records?” followed by spaces designated “yes” and “no” in which the voter may indicate **his THEIR** vote for or against the proposition. Except as otherwise provided and as far as practicable, the secretary of state shall conduct the election and canvass the returns in the same manner as general elections. If there is only one affected county and as is otherwise practicable, the secretary of state may delegate election responsibilities under this section as **he THE SECRETARY OF STATE** deems appropriate to the board of supervisors.

11-140. Election of county officers

B.1. If there is only one affected county, delegate the election responsibilities under this section as **he THE SECRETARY OF STATE** deems appropriate to its board of supervisors.

11-143. Distribution board

A. After the new county or counties are organized a special district governed by a distribution board is established consisting of the territory of the formerly existing affected county or counties. The function of the distribution board is to determine and accomplish the division, transfer and distribution of and payment for the property, assets, liabilities and records of the affected county or counties. The distribution board consists of two members elected at large from each new county plus the **chairman**

CHAIR of the county formation commission who shall act ex officio as the **chairman CHAIR** of the board with the power to vote. The elective members shall be elected by nonpartisan ballot at the general election for the election of county officers pursuant to 11-140. The names of candidates shall be placed on the general election ballot by petition pursuant to 16-341 as it applies to county officers. The two candidates receiving the most votes in each new county are elected. If for any reason two members are not elected from a new county, the board of supervisors of the new county shall appoint a member or members as necessary so that the new county has two representatives on the distribution board. Elective members of the distribution board are entitled to compensation for their services determined pursuant to 38-611. The **chairman CHAIR** of the distribution board is entitled to compensation for services determined pursuant to 11-136, subsection A. The distribution board is established and exists for two years beginning January 1 following the election of county officers pursuant to 11-140 and terminating for all purposes from and after December 31 of the second calendar year following that election. The term of office for elective members and the **chairman CHAIR** is for the duration of the distribution board's existence. A vacancy on the distribution board shall be filled by appointment by the respective county board of supervisors or by the governor in the case of the **chairman CHAIR**. Elective county officers of the new counties shall provide the distribution board with necessary information and assistance to enable the distribution board to carry out its responsibilities under this section.

11-174. Form of ballot

The ballot shall submit the question: "Shall the county seat be changed," "yes" followed by a square and "no" followed by a square, and shall also submit the place or places to which the county seat is proposed to be moved, with a square following each place entitled to be printed on the ballot for the voter to indicate **his THEIR** choice.

11-213. Election; vacancies

A. At the general election for state and county officers, one supervisor shall be elected from each district from among those nominated at the preceding primary election. They shall be nominated and elected by the qualified electors of their respective districts. If a supervisor moves from the district from which **he THE SUPERVISOR** was elected **his THE SUPERVISOR'S** office shall at once become vacant.

11-214. Regular and special meetings

Regular meetings of the board shall be held in the county on a working day or days of each month designated by the board. The board shall notify the public of the location and the day or days designated. Special meetings may be called by a majority of the board, or by the **chairman CHAIR**. At least five days' notice of the special meeting shall be given to any member not joining in the call.

11-216. **Chairman CHAIR; quorum; public sessions**

A. The supervisors shall elect a **chairman CHAIR**, who, in addition to **his THEIR** other duties, shall sign all orders and warrants of the board.

11-218. Subpoena of witnesses; production of books and papers

The board may, by its **chairman CHAIR**, issue subpoenas to compel attendance of any person and the production of any records relating to the affairs of the county for examination upon any matter within

the board's jurisdiction. A witness is bound to attend, when served, and to answer all questions which the witness would be bound to answer in the matter before a court. Obedience to the subpoena, or to an order to attend or to testify, may be enforced by the board, and for that purpose the board has all the powers conferred by law upon courts of record.

11-221. Custody and inspection of records

The books, records and accounts of the board shall be kept at the office of the clerk of the board, and in **his THE CLERK'S** care, and shall be open to public inspection.

11-222. Pecuniary interest as bar to vote of supervisor

A supervisor shall not vote upon any measure in which **he THE SUPERVISOR**, any member of **his THE SUPERVISOR'S** family or **his THE SUPERVISOR'S** partner, is pecuniarily interested.

11-223. Misconduct by supervisor; penalty

A supervisor who neglects or refuses to perform any duty imposed on **him THEM** without just cause, or who wilfully violates any law provided for or relating to the office of supervisor, or fraudulently or corruptly performs any duty imposed upon **him THEM** by law, or wilfully, fraudulently or corruptly attempts to perform an act as supervisor unauthorized by law, in addition to other penalties or punishment prescribed, shall forfeit to the county five hundred dollars for every such act, which may be recovered on **his THEIR** official bond, and is further liable on **his THEIR** official bond to any person injured thereby for all damages sustained.

11-251.04. Authority to set rates for private towing carrier; definition; violation; classification

C. It is unlawful for a private towing carrier to tow or transport a motor vehicle from private property without the permission of the owner or operator of the motor vehicle unless such private towing carrier receives a request from a law enforcement agency or the express written permission from the owner or the agent of the owner of the property. The owner or **his THE OWNER'S** agent shall either sign each towing order or authorize the tow by a written contract which is valid for a specific length of time. The private towing carrier may not act as the agent of the owner.

11-253. Reports and bonds of county officers

A. The board may require any county officer to make reports under oath on any matter connected with the duties of **his THEIR** office, and may require the officer to give such bonds or further bonds as may be necessary for the faithful performance of **his THEIR** respective duties. An officer who neglects or refuses to make the report, or to give the bond within ten days after being so required, may be removed from office by the board and the office declared vacant. The board may then fill the vacancy.

11-264.01. Additional bonding authority; security for payment; definition

C.7. Be executed by the **chairman CHAIR** of the board of supervisors and in such manner, and contain provisions not inconsistent with this section, as provided in the proceedings of the board of supervisors in which the bonds are authorized to be issued.

11-268. Removal of rubbish, trash, weeds, filth, debris and dilapidated buildings; removal by county; costs assessed; collection; priority of lien; definitions

A.1. Reasonable written notice to the owner, any lienholder, the occupant or the lessee. The notice shall be given at least thirty days before the day set for compliance and shall include the estimated cost to the county for the removal if the owner, occupant or lessee does not comply. The notice shall be either personally served or mailed by certified mail to the owner, occupant or lessee at **his THEIR** last known address, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner’s last known address.

11-272. Bonds; interest limitation; form

A. The bonds authorized to be issued by 11-271 shall bear interest at a rate or rates set forth in the accepted bid, payable semiannually, and shall be issued in such denominations, not less than one hundred dollars each, as the board may direct. The bonds shall be signed by the **chairman CHAIR** and attested by the clerk of the board, and shall be in substantially the following form:

“No. _____ The county of _____ in the state of Arizona, for value received, promises to pay to _____ or order, at the office of the treasurer of said county in _____, on the first day of _____, or at any time before that date, at the pleasure of the county, the sum of _____ dollars, with interest at the rate of _____ per cent, per annum, payable at the office of said treasurer semiannually on the first days of _____ and _____ in each year on presentation and surrender of the interest coupons hereto attached. This bond is issued by the board of supervisors under the provisions of sections _____ to _____, inclusive, revised statutes of Arizona, 19____, and in conformity with a resolution of said board, dated _____ day of _____, 19____ (Seal.)

In testimony whereof the said county, by its board of supervisors has caused this bond to be signed by the **chairman CHAIR** of the board and attested by the clerk of the board, with the county seal attached, this _____ day of _____, 19____.”

B. The interest coupons shall be in the following form:

“\$ _____ The treasurer of _____ county, Arizona, will pay to the holder hereof, on the _____ day of _____, 19____, at **his THEIR** office _____, _____ dollars for interest on county bond no. _____.”

11-273. Sale of bonds; disposition of proceeds

A. When the bonds are executed, numbered consecutively and sealed, they shall be delivered to the county treasurer, and **his THE COUNTY TREASURER’S** receipt taken therefor, and **he THE COUNTY TREASURER** shall stand charged with all **DELIVERED** bonds **delivered to him** and the proceeds thereof.

11-274. Bond register

B. When a bond is sold by a holder, the purchaser shall notify the treasurer of the purchase, giving the number of the bond and ~~his~~ **THE PURCHASER'S** address, and every transfer shall be noted on the register.

11-275. Tax levy to pay bonds and interest; debt service fund; security

B. The money raised by the levy shall be known as the debt service fund and shall be used only for payment of bonds and interest coupons. The treasurer shall keep ~~in his books~~ a separate account ~~thereof~~, which shall at all times show the exact condition of the debt service fund.

11-276. Redemption of bonds; notice; effect of failure to present bonds

When, after setting aside the amount required to pay the interest maturing before the next levy, the debt service fund is sufficient to redeem one or more bonds, the treasurer shall notify the bond owners in writing that ~~he~~ **THE TREASURER** is prepared to pay them, with the accrued interest, and that if not presented for payment or redemption within forty days after the date of the service or mailing of the notice, the interest on the bond shall cease. If the bonds are not so presented, interest shall cease and the amount due shall be set aside for its payment when presented. Payment of bonds shall be made in the order of their issuance, beginning at the lowest number. The notice required by this section shall be directed to the address of the owner as shown by the record.

11-283. Industrial plant employees; salaries

A. The board may employ engineers and other employees to assist the board and to draft the plans and specifications. The board shall employ a manager to have charge of the operation and maintenance of the plant who shall be skilled in ~~the line of his duties~~ **SUCH WORK** and required to give bond for the faithful performance of ~~his duties~~ **SUCH WORK** in such amount as the board requires.

11-296. Record of indigent care

B. A verified statement containing the information required by subsection A of this section, shall be filed by the contractor quarterly with the board, and ~~he~~ **THE CONTRACTOR** shall not be paid for any services until ~~he~~ **THE CONTRACTOR** has complied with this section.

11-301. Discharge of patient capable of self-support; violation; classification

A. A person admitted to the hospital shall be permitted to remain there so long as ~~he~~ **THE PERSON** is sick or has a disability or unable to earn a livelihood, and no longer. The contractor or superintendent shall discharge from the hospital every person as soon as ~~he~~ **THE PERSON** is restored to health and strength sufficient **TO BE CAPABLE OF SELF-support** ~~himself~~.

B. A contractor or person having charge of the hospital who knowingly permits a person to remain in the hospital at the expense of the county after ~~he~~ **THE PERSON** is restored to health and strength is guilty of a class 2 misdemeanor.

11-302. County tuberculosis sanitarium; admission of patients

B. A tubercular person of the county in need of hospital care or medical attention, whether indigent or able to pay in whole or in part, may be admitted to the sanitarium, or selected hospital, under rules and regulations prescribed by the board. A person not an indigent who receives such care or attention shall pay for such services so far as **he THE PERSON** is able to do so.

11-374. Ballots

At the election the ballot shall contain the words “for the bonds” and “against the bonds” and to the right of and opposite each thereof shall be placed a square approximately the size of the squares placed opposite the names of candidates on ballots. The voter shall indicate **his THEIR** vote “for the bonds” or “against the bonds” by inserting the mark “x” in the square opposite such words. No other question, word or figure need be printed on any ballot. The ballot shall not be of any particular size, and sample ballots may or may not be printed, posted or distributed. A number of ballots exceeding by not less than ten per cent the number of registered voters whose names appear on the precinct register prepared for the precinct shall be printed for and furnished to each polling place.

11-402. Qualifications

A person shall not be eligible for a county office, whether elective or appointive, nor shall a certificate of election or commission issue to any person, unless **he THE PERSON** is, at the time of **his THEIR** election or appointment, eighteen years of age or over, a resident of the state, an elector of the county or precinct in which the duties of the office are to be exercised and able to read and write the English language. The board of supervisors shall be the sole judge of such qualifications, subject to review by certiorari in the superior court.

11-403. Practice of law prohibited to certain officers; exceptions

B. In a county of the first class having a population of sixty thousand or over, as determined by the official census of the United States, the county attorney or **his THE COUNTY ATTORNEY’S** deputies shall not engage in the private practice of law, except:

11-405. Limitations on absence of officer from state

A county officer shall not **BE** absent **himself** from the state for more than thirty days without the consent of the board of supervisors.

11-407. Duties of successors to office

A. When the term of office for which an officer has been elected or appointed is terminated by operation of law, death, resignation or removal, leaving unperformed any duty imposed by law, the successor in office shall perform all acts and complete all unfinished official business commenced by **his THE OFFICER’S** predecessor.

B. The incoming sheriff shall execute certificates of sale or deeds of sales made by **his THE OFFICER’S** predecessor.

11-422. Salary of clerk of the board

A. The board of supervisors in each county shall appoint a clerk and determine ~~his~~ **THE CLERK'S** salary.

B. A clerk of a board of supervisors shall not be paid compensation other than the salary determined by the board but the clerk may be reimbursed for ~~his~~ **THE CLERK'S** actual necessary expenses incurred in the performance of ~~his~~ **THE CLERK'S** duties.

11-424.02. Receipt of salary by justices of the peace; affidavit; pending and undetermined causes; violation; classification

A. A justice of the peace or a justice of the peace *pro tempore* shall not receive ~~his~~ **A** salary unless such justice either certifies that no cause before such justice remains pending and undetermined for sixty days after it has been submitted for decision or there is submitted by the chief justice of the Arizona supreme court a certification that such justice of the peace has had a physical disability during the preceding sixty days or that good and sufficient cause exists to excuse the application of this section to particularly identified litigation then pending.

C. Any person who issues or causes to be issued any check, warrant or payment to a justice of the peace or a justice of the peace *pro tempore* knowing that, pursuant to this section, such justice should not receive ~~his~~ **A** salary is guilty of a class 3 misdemeanor.

11-442. Ranger deputies; appointment and compensation

By and with the advice and consent of the board of supervisors, the sheriff may appoint ranger deputies whose compensation shall be fixed by the board, not to exceed one hundred twenty-five dollars per month for each deputy for salary and expenses incurred. ~~Every Ranger deputy~~ **RANGER DEPUTIES** shall provide and keep at ~~his~~ **THEIR** own expense a means of travel to be used by ~~him~~ **THEM** in the discharge of ~~his~~ **THEIR** duty.

11-448. Duty to show process

The officer executing process shall then, and so long as ~~he~~ **THE OFFICER** retains it, upon request, show a conformed copy of the process, with all papers attached, to any interested person.

11-449. Liability relating to writs, levies or sales

If a sheriff neglects to make due return of a writ or paper delivered to ~~him~~ **THE SHERIFF** to be served or executed, or is guilty of any misconduct in the service or execution thereof, ~~he~~ **THE SHERIFF** is liable to the party aggrieved for damages sustained, and, in addition, for a penalty of two hundred dollars. If the sheriff to whom a writ of execution is delivered neglects or refuses, after demand by the creditor, to levy upon or sell property of the party named in the writ which is subject to levy or execution, ~~he~~ **THE SHERIFF** is liable to the creditor for the value of the property.

11-450. Effect of directions of party upon liability of sheriff in execution of process

No direction or authority by a party to a sheriff in respect to the execution of process or return thereof, or

to any act or omission relating thereto, shall discharge or excuse the sheriff from liability for neglect or misconduct, unless in writing and signed by the party or **his THE PARTY'S** attorney.

11-452. Survival of action against deceased sheriff

Any action for the malfeasance, misfeasance or nonfeasance of a sheriff or **his THE SHERIFF'S** deputies may be prosecuted against the personal representative of the sheriff in like manner as if the cause of action survived at common law.

11-454. Service on sheriff

Service of a paper, other than process, upon the sheriff may be made by delivering it to **him THE SHERIFF** or to one of **his THE SHERIFF'S** deputies, or to a person in charge of the office during office hours. When the sheriff is a party to an action or proceeding, the process and orders therein, which it would otherwise be the duty of the sheriff to execute, shall be executed by a constable, or a person appointed by the court.

11-455. Employment of prisoners; work projects

The sheriff may employ prisoners, inside or outside the county jail, who have been sentenced to imprisonment in the county jail to such labor or occupation as **he THE SHERIFF** deems necessary, including, but not limited to, agricultural work projects or the production of articles needed for construction, operation, maintenance or use of a county department, office, institution or agency.

11-456. Delivery of property and papers to successor; return of executed process

A. The sheriff shall deliver to **his THE SHERIFF'S** successor in office:

A.3. All process, commitments or other papers or documents in **his THE SHERIFF'S** custody authorizing or relating to the confinement of the prisoners, and if any process has been returned, a statement in writing of the contents thereof and when returned.

A.4. All writs and other original process, and all documents for the summoning of a grand or petit jury, **then in his hands** which have not been fully executed **by him**.

A.5. All executions, attachments and final process, and all property in **his hands or THE SHERIFF'S** possession by virtue of the levy of any writ.

C. The former sheriff shall return in **his THE SHERIFF'S** own name all original process, attachments and executions which **he THE SHERIFF** has fully executed.

11-457. Refusal to deliver property or papers to successor

If a former sheriff neglects or refuses to deliver to **his THE SHERIFF'S** successor the jail, process, documents and prisoners in **his THE SHERIFF'S** charge, as required by 11-456, the successor may take possession of the jail, take custody of the prisoners therein confined, and may compel the delivery of the process and documents in the manner provided by law.

11-459. Prisoner work, community restitution work and home detention program; eligibility; monitoring; procedures; continuous alcohol monitoring program; home detention for persons sentenced for driving under the influence of alcohol or drugs; community restitution work committee; members; duties

B.1. After independent review and determination of the jail's classification program, the prisoner is found by the sheriff to constitute a risk to either **himself THEMSELVES** or other members of the community.

H. The community restitution work committee is established in each county and is composed of two designees of the sheriff, a representative of the county attorney's office selected by the county attorney, a representative of a local police agency selected by the police chief of the largest city in the county and three persons selected by the county board of supervisors from the private sector. A sheriff's designee shall serve as committee **chairman CHAIR** and schedule all meetings. The committee shall meet as often as necessary, but no less than once every three months, for the purpose of considering and recommending appropriate community restitution work projects for home detention prisoners. The committee shall make its recommendations to the sheriff. Members are not eligible to receive compensation.

11-462. Enumeration of indices

B. The recorder may elect to keep some or all of the indices by categories according to the type of instrument. In this case, **he THE RECORDER** must establish at least the following categories in which each instrument shall be indexed both by the grantor or the equivalent and by the grantee or the equivalent: conveyances of real property, mortgages, releases of mortgages, miscellaneous, leases, secured transactions, assignments of mortgages and leases, governmental liens, nongovernmental liens, attachments, judgments, and agreements. In addition the recorder, under this option, shall maintain at least the following additional categories: powers of attorney, official bonds, executions, lis pendens, mine location notices and partnerships.

11-464. Master forms

C. Any instrument which references a recorded master form shall contain an acknowledgment by the person executing the instrument that **he THE PERSON** has received a copy of the recorded master form or applicable portion of it as part of the instrument which **he THE PERSON** is executing.

11-469. Time instrument deemed recorded; certificate; copies

B. The recorder upon demand shall make and deliver certified copies of instruments recorded in **his THE RECORDER'S** office.

11-471. Manner of recording

The recorder shall, without delay, record each instrument authorized to be recorded which is deposited **with him** for record, except where otherwise provided, with the acknowledgments, proofs, affidavits and certificates thereon, and other papers thereto annexed, in the order and as of the time when they are deposited for record, by entering them for record word for word and letter for letter, and the hour, day, month and year when the instrument recorded was deposited **in his office** for record.

11-473. Inspection of records

All books of record and indices in the recorder's office, and all instruments and papers on file therein, shall during office hours be open for inspection by any person, and may be inspected without charge. The recorder shall arrange the books of record and indices, or copies of the books and indices, in **his THE RECORDER'S** office in suitable places to facilitate their inspection.

11-474. Copies of records; certification

A. The recorder shall, upon the application and payment of the fees provided therefor, make copies of instruments recorded or filed in **his THE RECORDER'S** office and furnish a certificate stating:

11-477. Liability for neglect or misfeasance

If an instrument, proved or acknowledged according to law, or a paper or notice which may by law be recorded, is delivered to the recorder for record, and **he THE RECORDER** neglects or refuses to perform the duties required of **him THE RECORDER** by law relating to recording or filing instruments and papers, or if **he THE RECORDER** neglects or refuses to make the searches and to give the certificate as required by this article, or if such searches or certificate are incomplete and defective in any important particular, or if **he THE RECORDER** alters, changes or obliterates any record deposited in **his THE RECORDER'S** office, or inserts any new matter therein, **he THE RECORDER** is liable to the party aggrieved for three times the amount of the damages which may be occasioned by the neglect or refusal, or by the incompleteness or defect in the searches and certificate.

11-478. Reproduction and microphotography of records

The county recorder may cause any or all files or records in **his THE RECORDER'S** official custody to be microphotographed or otherwise reproduced on film as in the case of original filings or recordings or both. Every such reproduction shall be deemed and considered an original, and a transcript, exemplification or reproduction thereof may be certified to by the recorder in like manner as the original.

11-491. Custodian of public monies

The treasurer shall keep all money belonging to the state, or to the county, in **his THE TREASURER'S** possession until disbursed according to law. **He THE TREASURER** shall not place it in the possession of any person to be used for any purpose, or lend, or in any manner use, or permit any person to use, such money except as provided by law.

11-493. Duties

4 (a) By county warrant that is issued by the board of supervisors and that is signed by the **chairman CHAIR** and the clerk of the board.

11-501. Monthly and annual reports to the board

A. The treasurer shall report accounts of collection, custody and disbursement of public revenue to the board of supervisors on the fifteenth day of each month for the preceding month. For that purpose **he**

THE TREASURER shall prepare a statement, under oath, of the amount of money or other property received, the sources from which derived, the amount of payments or disbursements and to whom, with the amount remaining on hand.

11-503. Failure to make settlement or report; penalty

If the treasurer neglects or refuses to settle or report as required by law, he THE TREASURER shall forfeit and pay to the county the sum of five hundred dollars for each act of neglect or refusal, and the board of supervisors shall institute action for the recovery thereof.

11-504. Correction of errors

When an error appearing in the accounts of the county treasurer, excepting the tax rolls, comes to the notice of the treasurer he, THE TREASURER shall, if the error was made not more than fifteen years prior thereto, immediately correct it, and place on the margin of the book in which the original entry of the error appears and opposite the correction thereof, a notation of the date of such correction and the reason therefor. If the correction depletes or creates a deficit in any fund or account, the treasurer shall show the fund overdrawn, and shall refuse to pay warrants or other evidences of indebtedness issued against it until the fund is replenished.

11-531. Qualifications

A. No person shall be eligible for the office of county attorney unless he THE PERSON is an attorney at law, licensed and in good standing in this state.

11-533. Statement of court and county attorney in connection with sentence

When a defendant is sentenced the trial court and county attorney shall attach to the certified copy of the sentence a statement of the facts and circumstances constituting the crime upon which the defendant was convicted, together with all other information accessible in regard to the career of the defendant prior to the commission of the crime of which he THE DEFENDANT was convicted, relative to the habits, associates, disposition, reputation, and any other facts and circumstances which may aid the board of executive clemency and warden in determining the capability of such prisoner to become a law-abiding citizen.

11-534. Effect of failure of county attorney to attend court

If the county attorney fails to attend in person, or by deputy, any session of the superior court at which a criminal action is to be tried, the court may designate some other person to perform the duties of county attorney during his THE COUNTY ATTORNEY'S absence from court. The person so designated shall receive a reasonable compensation, to be fixed by the court and paid by the county treasurer, and the amount thereof shall be deducted from the salary of the county attorney.

11-535. Claims of county attorney against county

The county attorney, except for his THE COUNTY ATTORNEY'S own services, shall not present a demand for allowance against the county, or advocate the demand by another.

11-543. Liability for taxes on property unassessed through negligence

The assessor and **his THE ASSESSOR'S** sureties shall be liable for all taxes on taxable property within the county which, through the neglect of the assessor, remains unassessed. The county attorney of the county shall, in such instances, sue the assessor and **his THE ASSESSOR'S** sureties therefor, but not until after the assessment roll is completed.

11-563. Private work prohibited

The county engineer shall not during **his THE COUNTY ENGINEER'S** term of office engage in private engineering or surveying, except by permission of the board of supervisors, or be a member of a firm so engaged.

11-582. Qualifications; salary

A. No person shall be eligible for the office of public defender or deputy public defender unless **he THE PERSON** is an attorney at law, licensed and in good standing in this state.

11-583. Private practice of civil and criminal law prohibited; exception; limitation

A. The public defender and **his THE PUBLIC DEFENDER'S** full-time deputies shall not engage in the private practice of law, except:

1. Such prohibition shall not apply to part-time deputies, except that in no instance shall part-time deputies engage in any private litigation in which the county or an officer thereof in **his THEIR** official capacity is a party.

B. The public defender shall not during **his THE PUBLIC DEFENDER'S** incumbency defend or assist in the defense of, or act as counsel for, any person accused of any crime in any county except as provided in this article unless authorized by the board of supervisors to enter into an intergovernmental agreement with another county pursuant to chapter 7, article 3 of this title.

11-585. Provision for office and supplies; reimbursement from other agencies

A. In each county where the office of public defender is established, the board of supervisors shall provide suitable rooms, office furniture and supplies with which to properly conduct the business of **his THE PUBLIC DEFENDER'S** office.

11-586. Provision for deputies, assistants and employees

C. Wherever possible, part-time deputies shall be appointed at minimal salaries to supplement the regular staff of the office of the public defender. When these deputies are appointed, the public defender shall make every effort, which does not interfere with the faithful performance of **his THE PUBLIC DEFENDER'S** duties, to acquaint them fully with all phases of the activities of **his THE PUBLIC DEFENDER'S** office.

11-628. Allowance of demands; limitation; hearing

A. A demand shall not be allowed by the board in favor of a person indebted to the county without first deducting such indebtedness, or in favor of an officer whose accounts have not been rendered and approved, or who has neglected or refused to make **his THE OFFICER'S** official returns or report in writing, as required by law, or in favor of any officer who wilfully neglects or refuses to perform the duties of **his THE** office. The board may examine the claimant on oath, or any other person, to determine the justness of the demand.

11-630. Action upon rejected or partially allowed demand

A. A claimant dissatisfied with the rejection of **his CLAIMANT'S** demand, or with the amount allowed thereon, may sue the county therefor at any time within six months after final action of the board, but not afterward. If in the action judgment is recovered for more than the board allowed, the board shall allow and pay the judgment, together with the costs adjudged, but if no more is recovered than was originally allowed by the board, the board shall pay the claimant only such amount.

B. A claimant may accept the amount allowed and sue for the balance of **his CLAIMANT'S** demand, and this action shall not be barred by the acceptance of the amount allowed.

11-631. Warrants; record

A. Warrants on the county treasury shall be drawn and signed by the **chairman CHAIR** and either the clerk of the board or the finance director in favor of the persons entitled to the warrants and shall distinctly specify the liability for which they are drawn.

11-633. Warrants receivable for debt or taxes due county

Warrants issued by the board shall be receivable in payment of debts to the county, and taxes assessed against property in the county. Upon tender of a warrant in payment of a debt or tax, the county treasurer shall, if the warrant is less than the amount of the debt or tax, and is accompanied by sufficient money to make up the full amount of the debt or tax, credit the amount of the warrant upon the debt or tax. If the amount of the warrant is greater than the amount of the debt or tax, **he THE COUNTY TREASURER** shall mark the debt or tax paid, and endorse the amount thereof upon the back of the warrant as a partial payment thereof. Only the person named as payee in the warrant may use it in payment of a debt or tax.

11-643. Nonliability of dissenting supervisor

A supervisor may relieve **himself THEMSELVES** from liability under 11-641 and 11-642 by dissenting from the order, and having **his THE** dissent entered on the minutes of the board at the time.

11-663. Annual statements to state treasurer

B. One of the statements shall be filed with the board at the opening of the January meeting, and the other forwarded immediately to the state treasurer, who shall include in **his THE STATE TREASURER'S** report to the governor a digest and synopsis, in tabular form, of the reports received by **him THE STATE TREASURER'S** naming therein the counties failing to make such reports.

11-665. Vacancy in treasurer’s office; duty of board

Upon the death or absconding of a county treasurer, the board shall follow the proceedings in regard to the monies and effects of **his** THE TREASURER’S office, and the statement and inventory thereof, as provided in 11-664, and shall retain possession until a successor of the treasurer is elected or appointed. Upon the qualifying of such treasurer, the monies, books and effects shall be delivered to **him** THE TREASURER.

11-702. Board of directors; conflict of interest prohibited; violation; classification; powers and duties

D.1 Appoint from among its members a **chairman** CHAIR, secretary and treasurer and such other officers as may be necessary to conduct its business.

11-704. County sports authority fund

D. The board of directors shall cause an annual audit to be conducted of the fund by an independent certified public accountant within thirty days after the end of the fiscal year. The board shall immediately file a certified copy of the audit with the auditor general. The auditor general may make such further audits and examinations as **he** THE AUDITOR GENERAL deems necessary, but if **he** THE AUDITOR GENERAL takes no official action within thirty days after the audit is filed, the audit is deemed sufficient. The board of directors shall pay all fees and costs of the certified public accountant and auditor general under this subsection from the fund.

11-723. Certification of bonds by county attorney

The board shall submit any bonds issued under this article to the county attorney after all proceedings for their authorization have been completed. On submission the county attorney shall examine and pass on the validity of the bonds and the regularity of the proceedings. If the proceedings comply with this article, and if **he** THE COUNTY ATTORNEY determines that, when delivered and paid for, the bonds will constitute binding and legal obligations of the board, the county attorney shall certify on the back of each bond, in substance, that it is issued according to the constitution and laws of this state.

11-811. Zoning ordinance; zoning districts; definitions

14. “Nude”, “nudity” or “state of nudity” means any of the following:

(a) The appearance of a human anus, genitals or a **female** breast below a point immediately above the top of the areola.

(b) A state of dress that fails to opaquely cover a human anus, genitals or a **female** breast below a point immediately above the top of the areola.

16. “Seminude” means a state of dress in which clothing covers no more than the genitals, pubic region and **female** breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.

17. “Specific anatomical areas” means any of the following:

(a) A human anus, genitals, the pubic region or a **female** breast below a point immediately above the top of the areola that is less than completely and opaquely covered.

18. “Specific sexual activities” means any of the following:

(c) Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or **female** breast.



11-906. Board of library examiners; membership; compensation; powers and duties

A. The board of library examiners shall consist of the director of the Arizona state library, archives and public records, who shall be ex officio **chairman CHAIR**, the librarian of the university of Arizona, the librarian of the Phoenix public library and two county librarians appointed by the director of the Arizona state library, archives and public records. The county librarian members shall serve one year terms, and the director shall appoint the county librarian members on a rotating basis to represent each county free library.

11-908. County librarian; certificate

B. No person shall be eligible for appointment to the office of county librarian unless prior to appointment **he THE PERSON** has received from the board of library examiners a certificate of qualification for the office.

11-909. General supervision; branch libraries; employees

D. The county librarian may accept as apprentices, without compensation, persons possessing personal qualifications satisfactory to **him THE COUNTY LIBRARIAN** and may dismiss them at any time if in **his THE COUNTY LIBRARIAN’S** judgment their work is not satisfactory.

11-913. County free library district fund; custody

Funds of the county free library district, whether derived from taxation or otherwise, shall be deposited with the county treasurer. They shall constitute a separate fund, called the county free library district fund, and shall be used for the county free library. Each claim against the county free library district fund shall be authorized and approved by the county librarian or, in his THE COUNTY LIBRARIAN'S absence from the county, by his THE COUNTY LIBRARIAN'S assistant. Claims shall be approved and paid in the same manner as other claims against the county.

11-934. Parks and recreation commission; appointment; meetings

C. The commission shall meet at least two times annually, and additional meetings may be held at any time or place within the county. Meetings may be held at the call of the chairman CHAIR or a majority of the commission members. A majority of the commission shall constitute a quorum to transact business.

11-938. Agreement to appear in court

County parks rangers are authorized to take any person before a magistrate within the county in which the offense is committed for a violation of any of the rules and regulations passed pursuant to this article, but any person apprehended for violating any of the rules or regulations passed pursuant to this article punishable as a misdemeanor may be issued a notice to appear before such magistrate bearing the date, time and place for such appearance, the offense charged, and the location or approximate location where the violation was committed. The notice to appear shall be signed by the person notified to appear, and he THE PERSON shall be given a copy thereof and thereupon released from custody. Failure of such person to appear at the time and place specified shall be cause for issuance of a warrant for his THE PERSON'S arrest.

11-961. Definitions

4.(a) A person who moves from real property or moves his THE PERSON'S personal property from real property either:

4.(b) Solely for the purposes of 11-962 and 11-963, subsections A and B, a person who moves from real property or moves his THE PERSON'S personal property from real property either:

11-963. Payment of moving and related expenses; substitute payments

A.1. Actual reasonable expenses in moving himself THE DISPLACED PERSON and his THE DISPLACED PERSON'S family, business, farm operation or other personal property, as determined by the lead agency.

11-965. Expenses incidental to transfer of property

A. In addition to the payments authorized by 11-963 and 11-964, the acquiring agency as a part of the cost of the project, after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award or compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner to the extent it deems fair and reasonable for expenses **he THE OWNER** necessarily incurred for:

11-967. Application review by the chief executive officer of the acquiring agency

Any displaced person aggrieved by a determination as to eligibility for a payment authorized by this article, or the amount of a payment, may have **his THEIR** application reviewed by the chief executive officer of the acquiring agency whose decision shall be final.

11-973. Buildings, structures and improvements

B. For the purpose of determining the just compensation to be paid for any building, structure or other improvement required to be acquired by subsection A, such building, structure or other improvement shall be deemed to be a part of the real property to be acquired, notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure or improvement at the expiration of **his THE TENANT'S** term, and the fair market value which such building, structure or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement, for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

C. Payment under this section shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer and release to the acquiring agency all **his THE TENANT'S** right, title and interest in and to such improvements. Nothing in this section shall be construed to deprive the tenant of any rights to reject payment under this section and to obtain payment for such property interests in accordance with applicable law, other than this section.

11-1001. Definitions

5. "County pound" means any establishment authorized by the county board of supervisors for the confinement, maintenance, safekeeping and control of dogs and other animals that come into the custody of the county enforcement agent in the performance of **his THE COUNTY ENFORCEMENT AGENT'S** official duties.

11-1006. Hearing officer; hearing on civil violations; additional remedies

A. A county board of supervisors that establishes a civil penalty for violating an animal statute or ordinance may appoint one or more hearing officers to hear and determine such cases. The board may appoint a county employee to serve as hearing officer in addition to **his THE COUNTY EMPLOYEE'S** other work.

C. At the hearing the county enforcement agent shall present evidence of the violation and the defendant, or ~~his~~ **THE DEFENDANT'S** attorney or other designated representative, shall have an opportunity to present evidence. The county attorney may represent and present evidence for the county enforcement agent.

11-1015. Unlawful interference with county enforcement agent

It is unlawful for any person to interfere with the county enforcement agent in the performance of ~~his~~ **THE COUNTY ENFORCEMENT'S** duties.

11-1026. Lawful presence on private property defined

A person is lawfully in or on the private property of the owner of a dog within the meaning of this article when an invitee or guest, or when in the performance of a duty imposed upon ~~him~~ **THE PERSON** by law of the state or United States, or by ordinances of a municipality in which such property is located.

11-1134. Exemptions

Revision is necessary because Obergefell v. Hodges ensuring that persons in a same sex marriage have the same rights and obligations as those of the opposite sex.

B.3.(a) ~~Husband and wife or ancestor of the husband and wife.~~ **EITHER SPOUSE OR ANCESTOR OF EITHER SPOUSE.**

B.10 ~~From a husband and wife or one of them to both husband and wife.~~ **FROM EITHER SPOUSE TO ONE OR BOTH OF THE OTHER** to create an estate in community property with right of survivorship.

11-1204. Subsequent changes prohibited; exceptions

A.2 On findings, by ordinance or resolution and after notice and a public hearing, that natural or ~~man~~ **HUMAN**-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as approved in the protected development right plan.

A.3 On findings, by ordinance or resolution and after notice and a hearing, that the landowner or ~~his~~ **THE LANDOWNER'S** representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval of the protected development right plan by the county.

TITLE 12 Courts and Civil Proceedings



Revisions are necessary due to exclusionary use of male pronouns.

12-120.04. Chief judge; duties

A. The chief judge of each division shall be elected annually by the members of the division. The chief judge may be a member of any department of the division. The chief judge shall serve in such capacity until **his THEIR** successor has been elected as provided by this section.

B. The chief judge shall exercise administrative supervision over the division in which **he THEY** serves, shall have such other duties as may be provided by rules of the supreme court and shall apportion the business to the departments in such manner as to equalize the distribution of business among them.

D. In the absence of the chief judge from the place at which the court is held, or **his THEIR** inability to act, the other judges shall select one of their own number to perform the duties and exercise the powers of the chief judge during such absence or inability to act.

12-120.07. Opinions; publication

A. The chief judge shall assign three of the judges to each department, and such assignment may be changed by **him THE CHIEF JUDGE** from time to time. Each of the departments shall have the power to hear and determine causes and all questions arising therein. The presence of three judges shall be necessary to transact any business in either of the departments; except such as may be done in chambers

and except as may be otherwise permitted by law. The opinions of a division or of a department of the court of appeals shall be in writing, the grounds stated, and shall be concurred in by a majority of a department if heard by a department or of the division if heard by the division. An opinion of a division or a department of a division shall be the opinion of the court of appeals.

12-120.08. Appointment of clerk; oath; compensation

B. The clerk of each division shall, before entering on the duties of **his THEIR** office, take the oath of office.

12-120.24. Rehearing review by supreme court; issuance of mandate

A party against whom a decision has been rendered or against whom a motion for dismissal of the action has been granted in the court of appeals may file in such court a motion for rehearing after the rendition of the decision or order of dismissal, setting forth with particularity the reasons why **he THE PARTY** believes the decision or order of dismissal erroneous. The opposite party **OR PARTIES** may file **his THEIR** response to such motion. If the motion is denied, and the party against whom the decision or order has been rendered desires a further review by the supreme court, **he THE PARTY** shall serve upon the opposite party and file with the clerk of the division a statement that **he THE PARTY** desires such review. The clerk of the division shall thereupon transmit the record in the case to the clerk of the supreme court. The supreme court shall either grant or deny the request for review. No further briefs or oral argument shall be filed or had unless the supreme court so directs. If no request for review by the supreme court has been filed, or upon the receipt from the clerk of the supreme court of notification that the request for review has been denied, the clerk of the division shall, if the matter has been decided by formal opinion, issue the mandate of the court of appeals, if no written formal opinion has been rendered then by certified copy of the order of the court.

12-142. Qualifications of judge *pro tempore*; residence; salary; exclusion from retirement provisions

A. A judge *pro tempore* of the superior court shall be:

3. Admitted to the practice of law in this state for not less than five years next preceding **his THE** appointment.

4. A resident of this state for not less than five years next preceding **his THE** appointment.

B. A judge *pro tempore* may be appointed to serve in the county of **his THEIR** residence or in a county of which **he-is THEY ARE** not a resident.

C. The salary of a judge *pro tempore* shall be paid for the period of the appointment based on an annual salary equal to that of a superior court judge. A judge *pro tempore* may agree in advance to donate any or all of **his THEIR** services.

12-146. Qualifications of court of appeals judge *pro tempore*; residence; salary; exclusion from retirement provisions

A. A judge *pro tempore* of the court of appeals shall be:

3. Admitted to the practice of law in this state for not less than five years next preceding **his** **THE** appointment.

4. A resident of this state for not less than five years next preceding **his** **THE** appointment.

B. A judge *pro tempore* may be appointed to serve in the division of **his** **THEIR** residence or in a division of which **he-is** **THEY ARE** not a resident.

C. The salary of a judge *pro tempore* shall be paid for the period of **his** appointment based on an annual salary equal to that of a judge of the court of appeals. A judge *pro tempore* may agree in advance to donate any or all of **his** **THEIR** services.

12-147. Limitations; term; reappointment; extension of duties; powers and duties

C. The judicial powers and duties of a judge *pro tempore* shall extend beyond the period of **his** **THEIR** appointment for the purpose of hearing and determining any proceeding necessary to a final determination of a cause heard by **him** **THE JUDGE PRO TEMPORE** in whole or in part during the period of **his** **THEIR** appointment.

12-211. Appointment; qualifications and residence

B. To be eligible to serve as a court commissioner a person shall be a United States citizen and a resident of the county in which appointed. **He** **THE COURT COMMISSIONER** shall reside at the county seat or at such other city or town within the jurisdiction of the judge making the appointment as may be designated by the judge.

12-212. Powers; compensation

A. The court commissioner may:

1. In the absence or inability to act of the judge appointing **him** **THE COURT COMMISSIONER**, hear and determine *ex parte* motions for orders and writs, except orders for injunctions.

2. Take proof and report **his** **THE COURT COMMISSIONER'S** conclusions upon any matter of fact, other than an issue of fact raised by the pleadings, on which information is required by the court. Either party may object to the report within five days after receiving written notice that it has been filed.

B. When the court commissioner performs services in place of the judge of the superior court **he** **THE COURT COMMISSIONER** shall be paid such amount as the court determines to be reasonable, considering the services performed. The state and county shall each pay one-half of the amount.

12-213. Commissioners in certain counties; appointment; powers and duties; salary

A. In counties having three or more superior court judges, the presiding judge may appoint court commissioners to serve at **his THE PRESIDING JUDGE'S** pleasure who shall have such powers and duties as shall be provided by statute or by rule of the supreme court, save and except such commissioners are expressly prohibited, except in default hearings, from making any *ex parte* orders which would deprive any person or persons from custody of their child or children, or change of counsel of attorneys, or deprive any person of the person's liberty, or deprive any person or entity from the person's or entity's property or the use thereof, or any injunctive relief.

12-223. Attendance at and report of proceedings; sale of transcripts

A. The court reporter shall attend court during the hearing of all matters before it unless excused by the judge. **He THE COURT REPORTER** shall make stenographic notes of all oral proceedings before the court, but unless requested by court or counsel, **he THE COURT REPORTER** need not make stenographic notes of arguments of counsel to a jury, nor of argument of counsel to the court in the absence of a jury.

B. Upon payment or tender of the fees therefor, **he THE COURT REPORTER** shall furnish to any person a typewritten transcript of all or any part of the proceedings reported by **him THE COURT REPORTER**, and upon request, certify that such transcript is a correct and complete statement of such proceedings.

12-225. Appointment of deputies; compensation

A. The court reporter may employ deputies who shall be compensated by **him THE REPORTER**.

B. When the reporter is prevented from performing **his THE REPORTER'S** duties because of absence on public business, or when more than one judge is holding court at the same time in the county or any division thereof, the reporter may appoint a deputy to perform the services of reporter during the period and at the compensation the judge provides by order. Such compensation shall be a county charge.

12-313. Probate conservatorship, guardianship and fiduciary fees

B. If the same person petitions for special letters as well as for general letters in a single estate, **he THE PETITIONER** shall pay only one fee. If in a single estate the same person files an application or petition under title 14, chapter 3 and a subsequent petition under the same chapter a fee established pursuant to section 12-284 shall be paid for each such filing. If a petition to appoint a guardian also requests appointment of a conservator or other protective order, only one fee shall be due for the filing. If the public fiduciary is the petitioner, the fee shall not be required to be paid on filing any of the petitions or applications for a protective order, except that such fee shall be paid by the public fiduciary out of any assets of each such estate prior to **his THE PUBLIC FIDUCIARY'S** discharge at the termination of such estate.

C. Any person opposing a petition in a testacy or appointment proceeding or appointment of a guardian or conservator shall pay a fee established pursuant to section 12-284 to the clerk. Every person opposing

such contest, unless **he THE PERSON** has previously paid a clerk's fee in the matter, shall pay a fee established pursuant to section 12-284 to the clerk. The provisions of sections 12-311 and 12-312 in relation to several persons appearing by the same attorney are applicable to this section.

12-342. Costs on appeal

A. On an appeal by the party against whom judgment was given in the court below, if the judgment of the appellate court is against **him THAT PARTY**, but for a lesser amount, **he THE PARTY** shall recover costs in the appellate court, but shall be adjudged to pay costs in the court below. If the judgment of the appellate court is against **him THAT PARTY** for the same or a greater amount than in the court below, the adverse party shall recover costs in both courts.

B. On an appeal by the party in whose favor judgment was given in the court below, if the judgment of the appellate court is in **his THAT PARTY'S** favor for a greater amount, **he THE PARTY** shall recover costs in both courts. If judgment of the appellate court is in **his THAT PARTY'S** favor but for the same or less amount than in the court below, **he THE PARTY** shall recover costs in the court below and pay costs in the court above.

12-344. Costs upon splitting of action

Where a plaintiff brings in the same court several actions against the same defendant for claims which should have been joined, **he THE PARTY** shall recover the costs of one action only, and the costs of the other actions shall be adjudged against **him THAT PARTY** unless sufficient reasons appear to the court for instituting several actions.

12-347. Inclusion of costs and interest in judgment

The clerk of the court shall include in the judgment entered by **him THE CLERK'S OFFICE** the costs and interest on the verdict from the time it was rendered.

12-404. Action brought in wrong county; jurisdiction; application for transfer; hearing

A. If an action is not brought in the proper county, the court shall nevertheless have jurisdiction and may hear and determine the action unless the defendant, before expiration of the time allowed to answer, files with the clerk of the court in which the action is brought an affidavit of the defendant, **his THE DEFENDANT'S** agent or attorney, stating that the county in which the action is brought is not the proper county and stating the county of the defendant's residence, and praying that the action be transferred to the proper county.

12-409. Change of judge; grounds; affidavit

B. Grounds which may be alleged as provided in subsection A for change of judge are:

5. That the party filing the affidavit has cause to believe and does believe that on account of the bias, prejudice, or interest of the judge **he THE PARTY** cannot obtain a fair and impartial trial.

12-501. Effect of absence from state

When a person against whom there is a cause of action is without the state at the time the cause of action accrues or at any time during which the action might have been maintained, such action may be brought against the person after **his THEIR** return to the state. The time of such person's absence shall not be counted or taken as a part of the time limited by the provisions of this chapter.

12-504. Saving of action timely commenced; defense or counterclaim; improper plaintiff; applicability

C. If a new action on the same cause of action is commenced by the plaintiff, **his THEIR** successor or **his THEIR** personal representative, the assertion of any cause of action or defense by the defendant in the new action is timely if it was or could have been timely asserted in the prior action.

12-506. Action barred by foreign statute of limitation, bankruptcy or insolvency

A. No action shall be maintained against a person removing to this state from another state or foreign country to recover upon an action which was barred by the law of limitations of the state or country from which **he THEY** migrated.

B. No action shall be brought to recover money from an immigrant who was released from its payment by the bankruptcy or insolvency laws of the state or country from which **he THEY** migrated.

12-507. Action against person removing to this state

No demand against a person who removes to this state, incurred prior to **his THEIR** removal, shall be barred by the statute of limitation until **he-has THEY HAVE** resided in this state one year, unless barred at the time of **his** removal to this state by the laws of the state or country from which **he THEY** migrated.

12-509. Presumption of death from five year absence; restoration of estate recovered upon presumption

A. A person absenting **himself THEMSELVES** from the place of **his THEIR** last domicile for five years successively shall be presumed dead in any action wherein **his THEIR** death comes in question, unless proof is made that **he-was THEY WERE** alive within that time.

B. Except as otherwise provided in section 14-3412, if in a subsequent action the person presumed, under subsection A, to be dead is proved to be living, the estate shall be restored to **him THEM** and **he THEY** may moreover demand and recover the rents and profits of the estate during the time that **he-has THEY HAVE** been deprived thereof, with interest.

12-522. Real property claimed only by right of possession; two year limitation

When a party in possession claims real property by right of possession only, actions to recover possession from **him THEM** shall be commenced within two years after the cause of action accrues and not afterward. In such actions defendant is not required to show title or color of title from and under the sovereignty of the soil as against the plaintiff who shows no better right.

12-523. Real property in adverse possession under title or color of title; three year limitation

B. "Title" means a regular chain of transfer from or under sovereignty of the soil. "Color of title" means a consecutive chain of such transfer down to the person in possession without being regular, as if one or more of the memorials or muniments is not recorded or not duly recorded or is only in writing, or such like defect as does not extend to or include the want of intrinsic fairness and honesty, or when the party in possession holds the real property by a land warrant or land scrip, with a chain of transfer down to ~~him~~ THE PARTY in possession.

12-524. City lot claimed under recorded deed; five year limitation

An action to recover a lot located in a city or town from a person having a recorded deed therefor, who claims ownership and has paid the taxes thereon, shall be brought within five years after the cause of action accrues, and not afterward, provided that the person against whom the action is brought, by ~~himself~~ THE PERSON or ~~his~~ THEIR grantors, has claimed ownership thereof and has paid the taxes thereon for at least five consecutive years next preceding the commencement of such action.

12-544. Bond to convey realty; partnership account; account between merchants; judgment or instrument given or made without the state; four year limitation

There shall be commenced and prosecuted within four years after the cause of action accrues, and not afterward, the following actions:

2. By one partner against ~~his-copartner~~ ANOTHER PARTNER for a settlement of the partnership account, or upon mutual and current accounts concerning the trade of merchandise between merchant and merchant, their factors or agents, and the cause of action shall be considered as having accrued upon a cessation of the dealings in which they were interested together.

12-547. Failure to make return on execution; five year limitation

When execution has issued and no return is made thereon, the party in whose favor the execution was issued may proceed against the sheriff or other officer and ~~his~~ THE SHERIFF'S OR OTHER OFFICER'S sureties for not making return within five years from the day on which it was returnable, and not afterward.

12-563. Necessary elements of proof

Both of the following shall be necessary elements of proof that injury resulted from the failure of a health care provider to follow the accepted standard of care:

1. The health care provider failed to exercise that degree of care, skill and learning expected of a reasonable, prudent health care provider in the profession or class to which ~~he~~ THE PROVIDER belongs within the state acting in the same or similar circumstances.

12-565. Health care actions; collateral source evidence

A. In any medical malpractice action against a licensed health care provider, the defendant may introduce evidence of any amount or other benefit which is or will be payable as a benefit to the plaintiff as a result of the injury or death pursuant to the United States social security act, any state or federal workers' compensation act, any disability, health, sickness, life, income-disability or accident insurance that provides health benefits or income-disability coverage and any other contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of income-disability or medical, hospital, dental or other health care services to establish that any cost, expense, or loss claimed by the plaintiff as a result of the injury or death is subject to reimbursement or indemnification from such collateral sources. Where the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount which the plaintiff has paid or contributed to secure **his THE PLAINTIFF'S** right to any such benefits or that recovery from the defendant is subject to a lien or that a provider of such collateral benefits has a statutory right of recovery against the plaintiff as reimbursement for such benefits or that the provider of such benefits has a right of subrogation to the rights of the plaintiff in the medical malpractice action.

12-621. Procedure to establish identity of persons

A. When a person desires to establish **his THEIR** identity or fix **his THEIR** birthright and parentage, or both, **he THEY** may file in the superior court in the county where **his THEIR** residence is maintained an application setting forth **his** reasons for desiring to establish **his THEIR** identity, birthright or parentage. The court may, after hearing the application, enter judgment establishing identity or birthright and parentage, or both, of such person.

12-653.01. Definitions

In this article, unless the context otherwise requires:

5. "Special damages" means all damages which the plaintiff alleges and proves **he THE PLAINTIFF** has suffered in respect only to **his THE PLAINTIFF'S** property, business, trade, profession or occupation.

12-653.03. Failure to publish or broadcast correction; recovery of special and exemplary damages; malice

If a correction is demanded within the period prescribed by section 12-653.02, and is not published or broadcast in substantially as conspicuous a manner in the newspaper or magazine, or on the radio or television broadcasting station, as the statements claimed to be libelous, in a regular issue thereof published or broadcast within three weeks after service, plaintiff, if **he THE PLAINTIFF** pleads and proves the notice, demand and failure to correct, and if **his THE PLAINTIFF'S** cause of action is maintained, may recover general, special and exemplary damages subject to applicable rules of law governing such damages in this jurisdiction, but no exemplary damages may be recovered unless the plaintiff proves that defendant made the publication or broadcast with actual malice and then only in the discretion of the court or jury.

12-661. Liabilities of parents or legal guardians for malicious or wilful misconduct of minors

C. Notwithstanding any law to the contrary, nothing in this section limits the right of an insurer to exclude coverage for the acts of a minor imputed to **his THE MINOR'S** parent or legal guardian pursuant to this section.

12-671. Drawing check or draft on no account or insufficient account with intent to defraud; civil action; definition of credit; prima facie evidence

A. A person who, for **himself THEMSELVES** or for another, with intent to defraud, makes, draws, utters or delivers to another person or persons a check or draft on a bank or depository for payment of money, knowing at the time of such making, drawing, uttering or delivery, that **he THE PERSON** or **his THEIR** principal does not have an account or does not have sufficient funds in, or credit with, such bank or depository to meet the check or draft in full upon presentation, shall be liable to the holder of such check or draft for twice the amount of such check or draft or fifty dollars, whichever is greater, together with costs and reasonable attorney's fees as allowed by the court on the basis of time and effort expended by such attorney on behalf of plaintiff.

C. Proof that, at the time of presentment, the maker, issuer or drawer did not have sufficient funds with the bank or depository, and that **he THE PERSON** failed within twelve days after receiving notice of nonpayment or dishonor to pay the check or draft is *prima facie* evidence of intent to defraud.

12-808. Release of property; bond and conditions; exception

A. If the owner of the building or place has not been guilty of contempt of court in the proceedings, and appears and pays all costs, fees and allowances, which are a lien on the building or place, and files a bond in the full value of the property as ascertained by the court, with sureties to be approved by the court or judge, conditioned that **he THE OWNER** will immediately abate any such nuisance that may exist at the building or place and prevent the nuisance from being established or kept at the building or place within a period of one year thereafter, the court or judge may, if satisfied of the owner's good faith, order the premises closed under the order of abatement to be delivered to the owner, and the order of abatement cancelled so far as it relates to the property.

12-862. Order to show cause; service; return; attachment of person or sequestration of property

A. When it appears to the superior court by the return of a proper officer on lawful process, or upon affidavit of some credible person, or by information filed by the county attorney, that there is reasonable ground to believe that a person is guilty of the disobedience described in section 12-861, the court may order the person so charged to show cause at the time and place the court directs why **he THE PERSON** should not be punished for such disobedience.

B. The order, with a copy of the affidavit or information, shall be served upon the person charged within sufficient time to enable **him THE PERSON** to prepare and make return to the order, and if by the return the alleged contempt is not purged, a trial shall be directed at a time fixed by the court.

C. If the person allegedly in contempt fails or refuses to make return to the order, a warrant of arrest

may issue directing the sheriff or any constable of the county where the person charged resides or may be found, to arrest **him THE PERSON** and bring **him THE PERSON** before the court at a time and place directed by the court, and such person may be required to give bail for **his THE PERSON'S** attendance at the trial and **his THEIR** submission to final judgment of the court.

12-881. Conditions under which property escheats

If the owner of property, without devise thereof and having no heirs, is absent from **his THE OWNER'S** domicile for five years successively and is not known to exist, the estate shall escheat to and vest in the state.

12-882. Duty of department of revenue regarding escheats; complaint and parties

A. When the director of the department of revenue has reason to believe that property or estate has escheated to the state, **he THE DIRECTOR** shall file a complaint in behalf of the state in the superior court of the county where such property or some part thereof is situated, setting forth:

12-886. Claim by heir, devisee or owner of proceeds from sale of escheated property

If a person appears and claims any of the proceeds from the sale of escheated property as an heir or devisee, or as the owner who was absent for five years, **he THE PERSON** may file a claim to the proceeds with the department of revenue on a form prescribed by the department. A person has seven years from the time of sale of the escheated property to file a claim with the department of revenue for the proceeds.

12-1103. Disclaimer of interest and recovery of costs; request for quit claim deed; disclaimer of interest by state

A. If defendant, other than the state, appears and disclaims all right and title adverse to plaintiff, **he THE PLAINTIFF** shall recover **his** costs.

B. If a party, twenty days prior to bringing the action to quiet title to real property, requests the person, other than the state, holding an apparent adverse interest or right therein to execute a quit claim deed thereto, and also tenders to **him THE PARTY** five dollars for execution and delivery of the deed, and if such person refuses or neglects to comply, the filing of a disclaimer of interest or right shall not avoid the costs and the court may allow plaintiff, in addition to the ordinary costs, an attorney's fee to be fixed by the court.

C. If, after appropriate investigation, it appears to the attorney general that the state claims no right or title to the property adverse to plaintiff, **he THE ATTORNEY GENERAL** may file a disclaimer of right and title.

12-1120. Right to defend action

All persons occupying, or having or claiming an interest in any of the property described in the complaint, or in the damages for the taking thereof, though not named, may appear, plead and defend in respect to **his THEIR** property or interest, or that claimed by **him THE PERSON**, as if named in the complaint.

12-1125. Payment of damages in proceedings by railroad

A. If the property sought to be condemned is for a railroad, plaintiff shall, within thirty days after final judgment, pay the sum assessed, but may, before payment, elect to build fences and cattle guards. If plaintiff so elects, **he THE PLAINTIFF** shall execute and deliver to defendant a bond, with sureties to be approved by the court, in double the assessed cost thereof conditioned that plaintiff will build the fences and cattle guards within eighteen months from the time the railroad is built on the land taken, and if bond is given, plaintiff shall not be required to pay the cost of the fences and cattle guards to defendant.

12-1127. Possession by plaintiff after judgment or pending appeal; receipt of payment as abandonment; custody of money paid into court; costs of new trial

B. The defendant or defendants who are entitled to the money paid into court upon any judgment may demand and receive the money at any time thereafter upon an order of the court. The court shall, upon application, order the money so paid into court delivered to the party entitled thereto upon **his THE DEFENDANT** filing either a satisfaction of the judgment or a receipt for the money, and an abandonment of all defenses to the action or proceeding except as to the amount of damages to which **he THE DEFENDANT** may be entitled if a new trial is granted. Such payment shall be deemed an abandonment of all defenses, except the party's claim for greater compensation.

D. When a new trial is granted upon application of a defendant, and **he THE DEFENDANT** fails upon the trial to obtain greater compensation than was allowed upon the first trial, the costs of the new trial shall be taxed against **him THE DEFENDANT**.

12-1147. Special master; duties; qualifications; compensation; oath; limitation upon powers

C. The special master immediately after appointment shall subscribe to an oath that to the best of **his THEIR** ability **he THE SPECIAL MASTER** will truly find and return the compensation for the taking and condemnation of the property and the persons entitled thereto.

12-1153. Final judgment; hearing objections to findings or report; proceedings upon rejection of report; vesting of property

B. If the special master's report is rejected in its entirety, the court shall at once appoint another special master in the same manner the first special master was appointed, and **he THE NEW SPECIAL MASTER** shall have the same powers and duties as the special master first appointed, except that notice of the time for filing claims and the hearing thereon may be given by registered mail to all persons who have appeared in the proceedings, or their attorneys of record, at their last known addresses, and no other notice shall be necessary.

12-1159. Action to recover award paid to wrong person

If an award is paid to a person not entitled thereto, the sole recourse of the person entitled to the award is against the person to whom it has been paid. In such event, the person entitled to the award may bring an action to recover the award, with interest and costs, ~~as money had and received to his use by~~ **FROM** the person to whom the award was paid.

12-1161. Costs

If plaintiff, prior to making the award, has tendered to an interested person for **his THE PLAINTIFF'S** real property, or deposited in court for the property, an amount which the interested person refused to accept or agree to as just compensation, all costs shall be assessed against such person if the amount tendered or deposited is equal to or in excess of the award fixed or confirmed by the court with respect to such parcel of real property.

12-1171. Acts which constitute forcible entry or detainer

A person is guilty of forcible entry and detainer, or of forcible detainer, as the case may be, if **he THE PERSON**:

3. Wilfully and without force holds over any lands, tenements or other real property after termination of the time for which such lands, tenements or other real property were let to **him THEM** or to the person under whom **he THEY** claims, after demand made in writing for the possession thereof by the person entitled to such possession.

12-1172. Definition of forcible entry

A “forcible entry,” or an entry where entry is not given by law within the meaning of this article, is:

2. As to a landlord, an entry upon the possession of **his THE LANDLORD'S** tenant at will or by sufferance, whether with or without the tenant's consent.

12-1173. Definition of forcible detainer; substitution of parties

There is a forcible detainer if:

1. A tenant at will or by sufferance or a tenant from month to month or a lesser period whose tenancy has been terminated retains possession after **his THEIR** tenancy has been terminated or after **he THEY** receives written demand of possession by the landlord.

12-1173.01. Additional definition of forcible detainer

A. In addition to other persons enumerated in this article, a person in any of the following cases who retains possession of any land, tenements or other real property after **he THEY** receives written demand of possession may be removed through an action for forcible detainer filed with the clerk of the superior court in accordance with this article:

12-1174. Immateriality of time possession obtained by tenant

It is not material whether a tenant received possession from **his THEIR** landlord or became **his THE LANDLORD'S** tenant after obtaining possession.

12-1181. Trial and judgment on appeal; writ of restitution

A. On trial of the action in the superior court, appellee, if out of possession and the right of possession is adjudged to **him** THE APPELLEE, shall be entitled to damages for withholding possession of the premises during pendency of the appeal and the court shall also render judgment in favor of appellee and against appellant and the sureties on **his** THE bond for damages proved and costs.

12-1211. Compelling partition; complaint

The owner or claimant of real property or any interest therein may compel a partition of the property between **him** THE OWNER and other owners or claimants by filing a complaint in the superior court of the county in which the property, or a portion thereof, is situated.

12-1214. Abstract of title; inspection; cost

A. If it is necessary to have an abstract of title of the property to be partitioned, plaintiff may procure one before commencing the action and may in **his** THE PLAINTIFF'S complaint state that **he** THE PLAINTIFF has done so and that the abstract is subject to inspection and use of all parties to the action, and designate a place where it will be kept for inspection. Otherwise the court may, upon application of any one of the parties, authorize such party to procure an abstract which when made shall be kept at some place designated by the court for inspection and use of all parties, any of whom may make a copy thereof.

12-1218. Report of commissioners when property incapable of fair division; sale; distribution of proceeds

D. The purchaser shall, on production of **his** THE PURCHASER'S deed, be entitled to a writ of assistance to be issued by the clerk, commanding the sheriff or a constable of the county to put **him** THE PURCHASER in possession.

12-1255. Verdict

A. The verdict may specify the extent and quantity of plaintiff's estate and the premises to which **he** THE PLAINTIFF is entitled by metes and bounds or other sufficient description.

12-1256. Damages; limitation; set-off

A. If the interest of plaintiff expires before the time in which **he** THE PLAINTIFF may be put in possession, **he** THE PLAINTIFF shall obtain judgment for damages only.

12-1257. Liability of tenant

A tenant in possession in good faith, under a lease or license from another, is not liable beyond the rent in arrears at the time the action is brought, and that which afterward accrues during continuance of **his** THE TENANT'S possession.

12-1258. Allegation of growing crops; stay of execution; bond and conditions

If defendant alleges that **he THE DEFENDANT** has a crop sowed, planted or growing on the premises, the judge or jury, finding for plaintiff, and also finding that fact, shall further find the value of the premises from the date of the trial until February 1 next succeeding. No execution for possession shall be issued until that time if the defendant executes, with surety to be approved by the clerk of the court, a bond in double such amount to plaintiff, conditioned to pay at such date the sum so assessed, and if not paid at maturity the court shall enter judgment upon the bond.

12-1259. Judgment for plaintiff for rental value from time of judgment to delivery of possession

A. When plaintiffS shows **himself THEMSELVES** entitled to immediate possession of the premises, judgment shall be entered accordingly.

12-1271. Action to recover rent or to recover for use of real property

A person entitled thereto may bring an action for and recover rent, or a fair and reasonable satisfaction for the use and occupation of real property in the following cases:

4. When land is sold under a judgment of court and deed is issued, if the party to such judgment or a person under **him THE PARTY** wrongfully refuses or neglects to surrender possession of the land after demand by the person entitled to possession.

12-1281. Parties entitled to redeem property

Property sold subject to redemption, or any part sold separately, may be redeemed by the following persons or their successors in interest:

1. The judgment debtor or **his THEIR** successor in interest in the whole or any part of the property.

12-1282. Time for redemption

A. The judgment debtor or **his THEIR** successors in interest may redeem at any time within thirty days after the date of the sale if the court determined as part of the judgment under which the sale was made that the property was both abandoned and not used primarily for agricultural or grazing purposes.

B. The judgment debtor or **his THEIR** successor in interest may redeem at any time within six months after the date of the sale except when the court has made the determinations as provided in subsection A.

C. If the redemption as provided in subsection A or B is not made, the senior creditor having a lien, legal or equitable, upon the premises sold, or any part thereof, subsequent to the judgment under which the sale was made, may redeem within five days after expiration of the applicable period provided in subsection A or B, and each subsequent creditor having a lien in succession, according to priority of liens, within five days after the time allowed the prior lienholder, respectively, may redeem by paying the amount for which the property was sold and all liens prior to **his THEIR** own held by the person from whom redemption is made, together with the eight per cent added to the amount as provided in section 12-1285.

12-1284. Notice of redemption by subsequent lienholder

To entitle a subsequent lienholder to redeem, **he THE SUBSEQUENT LIENHOLDER** shall, within the applicable period of redemption as provided in section 12-1282, file with the county recorder of the county in which the sale is made a notice in writing stating that **he THE SUBSEQUENT LIENHOLDER** intends to redeem and specifying **his THE** lien and the amount thereof and its order of priority, and shall deliver a copy thereof to the sheriff of the county.

12-1287. Delivery and service of papers by redeeming creditor

A. A redeeming creditor shall deliver to the officer or person from whom **he THE CREDITOR** seeks to redeem and serve with **his THE CREDITOR'S** notice to the sheriff:

1. A copy of the docket of the judgment under which **he THE CREDITOR** claims the right to redeem, certified by the clerk of the court where the judgment is docketed, or if **he THE CREDITOR** redeems a mortgage or other lien, a copy of the record thereof, certified by the recorder.
2. A copy of any assignment necessary to establish **his THE CREDITOR'S** claim verified by the **CREDITOR'S** affidavit **of himself** or a subscribing witness thereto.

12-1289. Restraint of waste during redemption period; acts not constituting waste

B. It is not waste:

2. For the person in possession of the property, while **he THE PERSON** occupies the property to make necessary repairs on the buildings thereon and to use wood and timber on the property for such repairs or for fuel for domestic purposes.

12-1301. Affidavit to obtain possession

If a plaintiff claims in **his THE** complaint the possession of specific personal property, **he THE PLAINTIFF** may at any time after complying with the provisions of chapter 14 of this title and before rendition of judgment file an affidavit showing:

1. That **he THE PLAINTIFF** is the owner of the property claimed, sufficiently describing it, or is lawfully entitled to its possession.

12-1303. Bond; amount and conditions

The officer shall not take the property until plaintiff executes and delivers to **him THE OFFICER** a bond payable to the defendant, in an amount not less than double the value of the property as stated in the affidavit, conditioned that plaintiff will prosecute the action to effect and without delay, and for the return of the property to defendant if return thereof is adjudged, and in default of such delivery that plaintiff will pay the assessed value of the property and all damages for its taking and detention, and costs in the action, including reasonable attorney's fees.

12-1304. Execution of order for delivery to claimant; redelivery bond

The officer, after RECEIVING delivery to him of the bond provided in section 12-1303, shall take the property and deliver it to plaintiff unless the defendant, within two days after the taking, executes and delivers to the officer a bond payable to plaintiff in an amount not less than double the value of the property as stated in the affidavit of plaintiff, conditioned that defendant will deliver such property to plaintiff if delivery is adjudged, and in default of delivery will pay the assessed value of the property and all damage for injuries to the property and for its taking or detention, and costs in the action and reasonable attorney's fees.



12-1307. Verdicts in actions to recover specific personal property

In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff, or if the defendant by his answer claims ANSWERS CLAIMING a return thereof, the jury, if its verdict is in favor of the plaintiff, or if its verdict is in favor of the defendant and it also finds that defendant is entitled to have the property returned to him, it shall determine the value of the property and may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the taking or detention of such property.

12-1308. Finding for defendant; judgment; election to take value or property

A. If the defendant alleges that he is TO BE the owner of the property, is entitled to its possession and demands its return, and if on the trial it is found that he THE DEFENDANT is its owner and that he THE DEFENDANT was at the time the action was brought entitled to its possession, then on the trial the value of the property replevied shall be found, together with any damage the defendant has suffered

for the wrongful seizure of the property, and judgment shall be against the plaintiff claimant and the sureties on the replevin bond for the value of the property, the damages and costs of the action and reasonable attorney's fees. The judgment shall also be for the return of the property to the adverse party at a time and place specified.

The defendant shall elect whether **he will TO** take the property itself or the amount found as the value of the property. The election shall be made in order to permit the plaintiff a reasonable time before the time specified in the judgment for delivery of the property. The election may be made in open court, or by an instrument in writing filed in the action.

12-1310. Finding for plaintiff; property in possession of defendant; election to take value or property

If judgment is against the defendant and at the time thereof **he THE DEFENDANT** is in possession of the property by reason of the redelivery bond, the judgment shall be against the defendant and the sureties on **his THE DEFENDANT'S** bond for the value of the property, the damages for its detention and costs, and for the return of the property to the plaintiff at a time and place therein named, and upon the same terms and conditions the plaintiff shall be given the same election as is given heretofore in this article to a prevailing defendant.

12-1311. Failure to deliver property; election by prevailing party

If the party adjudged to return the property fails so to do at the time and place adjudged, unless by the election **he THE PARTY** is allowed to retain it, then the party in default shall be adjudged in contempt of the court and shall continue in contempt until **he THE PARTY** delivers the property as adjudged if the property is in **his THEIR** possession or under **his THEIR** control. The party entitled to the property may at **his THEIR** option abandon the property and collect the assessed value thereof.

12-1313. Exoneration and liability of officer on bonds

B. If the officer fails to take or return a bond as required by law, or if the bond taken is adjudged insufficient after it is taken and is not made sufficient, **he and his THE OFFICER AND THE OFFICER'S** sureties shall be liable to the party injured for all damages sustained by the injured party.

12-1314. Execution issuable for delivery of property; procedure

A. An execution may issue for the delivery of personal property to the sheriff or any constable of the county where the property is located and shall require **him THE SHERIFF OR CONSTABLE** to deliver possession of the property, sufficiently describing it, to the party entitled thereto.

12-1332. Conditions of bond

The bond shall be conditioned that if the person making the claim fails to establish **his THEIR** right to the property, **he THEY** will return it to the officer in as good condition as **he THEY** received it and will pay the reasonable value of the use, hire, increase and profits thereof from the date of the bond, or, if **he THEY** fails so to return the property and pay for its use, **he THEY** will pay the plaintiff in the writ the value of the property with legal interest thereon from the date of the bond and will also pay all damages and costs that are awarded against **him THEM**.

12-1333. Delivery of property to claimant; return of claim and bond

B. If the writ under which the levy is made is issued by a justice of the peace or court of the county where the levy is made, the officer shall endorse on the writ that the claim has been made and bond given, stating by whom, and shall endorse on the bond the value of the property as assessed by ~~him~~ THE JUSTICE OR COURT and forthwith return the claim and bond to the justice or court having jurisdiction to try the claim.

C. If the writ is issued by a justice of the peace or court of a county other than that in which the levy is made, the officer shall endorse on the bond the value of the property as assessed by ~~him~~ THE JUSTICE OF THE PEACE OR COURT, and forthwith return the claim and bond, with a copy of the writ, to the justice or court of the county in which the levy is made having jurisdiction according to the value of the property as assessed by the officer.

12-1334. Endorsement on writ and return

The officer taking the bond shall endorse on the original writ that the claim has been made and bond given, stating by whom, the names of the sureties and to what justice or court the bond has been returned, and ~~he~~ THEY shall forthwith return the original writ to the justice or court from which it issued.

12-1339. Judgment: limitation on time for issuance of execution

A. If claimant fails to establish ~~his~~ THE CLAIMANT'S right, judgment shall be given against ~~him~~ CLAIMANT and ~~his~~ CLAIMANT'S sureties for the value of the property, with legal interest thereon from the date of the bond and for ten per cent damages. When the value is greater than the amount claimed under the writ by virtue of which the property was levied upon, the damages shall be on the amount due under the writ.

12-1340. Satisfaction of judgment by claimant

If within ten days from the giving of judgment against claimant, ~~he~~ CLAIMANT returns the property in as good condition as ~~he~~ CLAIMANT received it, and pays interest, damages and costs, such delivery and payment shall operate as satisfaction of the judgment.

12-1509. Change of award by arbitrators

On application of a party or, if an application to the court is pending under sections 12-1511, 12-1512, or 12-1513, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in paragraphs 1 and 3 of subsection A of section 12-1513, or for the purpose of clarifying the award. The application shall be made within twenty days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating ~~he~~ THE PARTY must serve ~~his~~ THEIR objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of sections 12-1511, 12-1512 and 12-1513.

12-1523. Issuance of writ for debt or demand not due; affidavit; trial; judgment

B. To obtain an attachment for a debt or demand not due, the plaintiff may file with the clerk or justice of the peace a complaint and shall file an affidavit showing:

6. That the defendant is about to remove permanently from the state and has refused to secure the debt, or that **he THE DEFENDANT** has secreted **his THEIR** property for the purpose of defrauding **his THEIR** creditors, or that **he THE DEFENDANT** is about to remove **his THEIR** property from the state without leaving sufficient property remaining for payment of **his THEIR** debts, or that **he THE DEFENDANT** has disposed of **his THEIR** property wholly or in part with intent to defraud **his THEIR** creditors, or that **he THE DEFENDANT** is about to dispose of **his THEIR** property with intent to defraud **his THEIR** creditors.

C. The affidavit shall further state that the attachment is not sued out for the purpose of injuring or harassing the defendant and that the plaintiff will probably lose **his THEIR** debt unless the attachment is issued.

12-1524. Attachment bond of plaintiff

Before issuance of a writ of attachment, plaintiff shall execute and file a bond payable to defendant in an amount not less than the amount for which action is brought, to be approved by the officer issuing the writ, conditioned that plaintiff will prosecute **his THE** action to effect and will pay all damages and costs as may be sustained by defendant by reason of the wrongful obtaining of the attachment.

12-1526. Issuance of writ; contents

After compliance with the provisions of chapter 14 of this title and upon the execution and filing of the affidavit and bond, the superior court judge or justice of the peace shall immediately issue a writ of attachment directed to the sheriff or any constable of any county where property of defendant is supposed to be, commanding **him THE SHERIFF OR CONSTABLE** to attach so much of the property as will be sufficient to satisfy the demand of plaintiff and the probable costs of the action.

12-1528. Issuance of writ to several counties; form of writ; delivery for service

C. The writ shall be dated and attested as other writs, and may be delivered by the issuing officer to the sheriff or a constable, or **he THEY** may deliver it to the plaintiff for that purpose.

12-1529. Execution of writ; indemnity bond for attaching officer

B. The officer shall levy the writ at **his THE OFFICER'S** own risk, but **he THE OFFICER** may require the plaintiff in attachment to execute and deliver to **him THE OFFICER** a bond of indemnity to secure **him THE OFFICER** if it should afterward appear that the property levied upon does not belong to defendant.

12-1530. Levy of writ; attachment of real or personal property

B. When real property is attached the officer shall also serve a copy of the writ upon the defendant whose property is attached as a summons is served in a civil action, and make return thereof. If the officer is unable to serve the writ upon defendant, **he THE OFFICER** shall post the writ in a conspicuous place upon the property and so make **his THE OFFICER'S** return.

C. When personal property is attached the property shall remain in the custody of the officer until final judgment, unless taken from **his THE OFFICER'S** custody as provided by law.

12-1531. Return of writ; duties of officer; further return

A. An officer executing a writ of attachment shall return the writ with **his THE OFFICER'S** action endorsed thereon or attached thereto and signed by **him THE OFFICER**, to the court from which it issued within thirty days after date of the levy.

B. The return shall describe the property attached with sufficient certainty to identify it and shall state when it was attached and whether any personal property attached still remains in **his THE OFFICER'S** custody, and if not, the disposition made of the property.

12-1538. Judgment where personal property replevied

When personal property under attachment has been replevied, the judgment shall also be against defendant and the sureties on **his THE DEFENDANT'S** replevin bond for the amount of the judgment, interest and costs, or for the value of the property replevied and interest according to the terms of the bond.

12-1553. General execution

A general execution shall state the amount of the judgment and costs and the amount due thereon, and shall require the officer:

1. If the execution is against the property of the judgment debtor, to satisfy the judgment, with interest, out of the personal property of the debtor, and if sufficient personal property cannot be found, then out of **his THE DEBTOR'S** real property.

12-1560. New trial after service by publication; superseding judgment

B. Execution of the judgment shall not be stayed unless defendant gives bond, approved by the clerk of the superior court, in double the amount of the judgment or value of the property adjudged, payable to plaintiff in the judgment, conditioned that the party will prosecute the application for new trial to effect, and will satisfy such judgment as may be rendered by the court against **him THE DEFENDANT**.

12-1562. Duties of officer in execution; disposition of proceeds; rights of judgment debtor

A. An officer shall execute a general execution against the property of a judgment debtor by levying on a sufficient amount of property, if there is a sufficient amount of such property, and collecting or selling the things in action and selling the other property and paying to the judgment creditor or **his THEIR** attorney so much of the proceeds as will satisfy the judgment. Any excess in the proceeds over the judgment and costs shall be returned to the judgment debtor unless otherwise directed by an order of the court.

B. A judgment debtor may point out to the levying officer the property **he THEY** desires to be levied on, and if the officer deems it sufficient to satisfy the execution, **he THEY** shall make levy on no other property.

12-1564. Indemnification of officer for levy; recovery of costs

If there is a reasonable doubt about the equity interest of a judgment debtor in any property or the liability for the seizure of the property on execution, the officer may require sufficient security from the judgment creditor to indemnify the officer. If security is not provided, the officer is not liable for failing to levy on the property. If the judgment creditor deposits sufficient security to indemnify the officer taking the property, **he THEY** shall recover from the judgment debtor, together with the costs of the execution, the reasonable costs of the indemnity deposited.

12-1565. Storage of levied property; costs

A. After the officer has completed **his THE** levy on the personal property of the judgment debtor, the officer shall secure the property until it is sold. The officer may store the property in a facility operated by the county for this purpose or in a private facility selected by the judgment creditor or the officer or both.

12-1570. Definitions

4. "Judgment creditor" means a person or entity that has a money judgment or an order for support of a person that is due and unpaid or an order pursuant to chapter 14 of this title allowing **him THEM** to garnish monies, personal property or shares of stock before final judgment on the underlying action.

12-1573. Bond amount and conditions

If a garnishment is requested and no judgment has been entered, a writ shall not be issued until the judgment creditor executes and delivers to the court a bond payable to the judgment debtor in the amount of the debt claimed therein, conditioned that the judgment creditor will prosecute the action to effect and if return of the property is ordered **he THEY** will, without delay, return the property together with reasonable interest, damages resulting from its taking and detention, costs and reasonable attorney fees in the action to the judgment debtor.

12-1578. Limitations on transfers by garnishee after service; replevin by judgment debtor

A. From and after the service of all of the documents required to be served pursuant to section 12-1574 the garnishee shall not pay to the judgment debtor any monies or deliver to **him THEM** any personal

property which is not exempt, and the garnishee, if a corporation in which the judgment debtor is alleged to be the owner of shares or to have an interest, shall not permit or recognize any sale or transfer of the judgment debtor's shares or interest, if it is within the legal power of the garnishee to do so. Any such payment, delivery, sale or transfer is void and of no effect as to so much of the monies, personal property, shares or interest as is necessary to satisfy the judgment creditor's demand, except that this provision shall not void or impair the rights of a bona fide transferee, for value and without notice of the garnishment, of negotiable instruments, documents of title, corporate stock or securities, or other documents or instruments which embody legal rights transferable only by transfer of the documents or instruments themselves, unless the document or instrument is held by the garnishee at the time of service of the writ of garnishment.

12-1579. Answer of garnishee

A. The answer of the garnishee shall be under oath, in writing and signed by **him THE GARNISHEE**, and shall make true answers to the writ. If a partnership is the judgment debtor, or if there are more judgment debtors than one, the garnishee shall answer as to the partnership and as to each judgment debtor named in the writ.

12-1581. Discharge of garnishee

A. If it appears from the answer of the garnishee that **he THEY** did not owe nonexempt monies to the judgment debtor when the writ was served on **him THEM** or that **he THEY** did not have in **his THEIR** possession any nonexempt personal property of the judgment debtor when the writ was served, and if no written objection to the answer is timely filed, the court shall enter judgment discharging the garnishee.

12-1583. Judgment by default against garnishee

If a garnishee fails to answer within the time specified in the writ, the judgment creditor for whom the writ has been issued may petition the court for the issuance of an order requiring the garnishee to appear before the court at a time and place specified in the order to answer the writ or to file and serve a copy of the answer on the judgment creditor for whom the writ has been issued, or on **his THE GARNISHEE'S** attorney if the party is represented by counsel, at least five days before the appearance date. If the garnishee fails to appear or file and serve the answer after the service of the order requiring the appearance in person or answer upon the garnishee, the court may, after judgment has been rendered against the judgment debtor, render judgment by default against the garnishee for the full amount of the judgment against the judgment debtor. The court may award a reasonable attorney's fee to the judgment creditor for whom the writ was issued and against the garnishee if the writ was not answered within the time specified in the writ and a petition requiring the garnishee to appear or answer was filed as provided in this section.

12-1591. Taxing costs

A. When the garnishee is discharged upon **his THE** answer, the cost of the proceeding, including reasonable compensation to the garnishee, shall be taxed against the judgment creditor.

B. When there is no written objection to the answer of the garnishee and the garnishee is held on **his THE** answer, the costs as provided in subsection A shall be taxed against the judgment debtor.

12-1592. Obedience of garnishee to judgment as bar

It shall be a sufficient answer to any claim of the judgment debtor against the garnishee founded on any indebtedness of the garnishee, or on the possession by **him** **THE GARNISHEE** of any property, or if the garnishee is a corporation in which the judgment debtor was the owner of shares of stock or other interest in the corporation, for the garnishee to show that the indebtedness has been paid, that the property has been delivered or that the shares of stock or other interest has been sold under judgment of the court in accordance with the provisions of this article.

12-1593. Contempt proceedings

A. If the judgment creditor fails to comply with any duty imposed upon **him** **THE JUDGMENT CREDITOR** by this article, the court shall, upon petition of any party to the proceedings affected by such failure and after notice, hold a hearing to determine whether such failure to comply, if any, was occasioned by mistake, inadvertence or excusable neglect. If the court determines that any failure to comply was not the result of mistake, inadvertence or excusable neglect, the court shall find the judgment creditor in contempt and shall award the petitioner all of the following:

12-1595. Garnishment of bank account in names of two or more persons; bond of judgment creditor

B. The answering garnishee shall, upon service of the writ, impound all funds then present in the bank account, and shall promptly notify each person who appears from the business records of the garnishee to have an interest in such bank account in addition to the judgment debtor that such account has been impounded, the name of the judgment creditor and judgment debtor and the court in which the action is pending as stated on the writ. The notice may be made personally or by registered mail, postage prepaid, addressed to each such person at **his** **THE PERSON'S** last known address as reflected by the business records of the garnishee.

12-1596. Forms

C. The notice to judgment debtor and request for hearing form prescribed by the supreme court shall be in substantially the following form:

Notice to judgment debtor or defendant

(Non-earnings)

Within ten days after being served with the writ of garnishment the garnishee who is holding your money or personal property is required to mail or deliver to you **his** **THEIR** answer stating what money or personal property **he is** **THEY ARE** withholding from you for the judgment creditor pursuant to the writ.

You may object to the garnishment or file a claim of exemption by requesting a hearing with this court, if you believe any of the following is true:

If you request a hearing it will be held no later than five days, not including weekends and holidays, after your request is received by the court. If appropriate, you may request a hearing before the garnishee files **his THEIR** answer.

D. At the top of the first page of the notice to judgment debtor and request for hearing form described in subsections B and C of this section, a Spanish translation shall be printed of the following language:

The court has issued an order requiring the garnishee to deliver money or property it owes you to the judgment creditor because of the judgment **he THE JUDGMENT CREDITOR** has against you. In some circumstances your money or property is protected by law from being taken. This is explained in the notice. A Spanish translation of that notice can be obtained from the court.

12-1598.03. Application for writ of garnishment for earnings

A writ of garnishment shall be issued pursuant to this article after the judgment creditor or a person in **his THEIR** behalf makes an application in writing. The application shall state the following:

1. That **he-is THEY ARE** a party in an action to whom a money judgment has been awarded.
2. That **he-has THEY HAVE** made demand on the judgment debtor for payment of the amount adjudged due, but the judgment debtor has not paid that amount and **he-has THEY HAVE** not agreed and continued to pay the nonexempt portion of **his THEIR** wages until the judgment is satisfied.
5. The name and address of the garnishee or **his THEIR** authorized agent.
6. That **he-has THEY HAVE** not received notice of the judgment debtor's intent to enter into an agreement for debt scheduling with a qualified debt counseling organization or, if such notice has been received, that **he THEY** timely objected, in writing, to the judgment debtor's participation in such an agreement or that **he-has THEY HAVE** been notified that the agreement is no longer effective.

12-1598.04. Issuance of writ of garnishment for earnings; service and return of writ; lien on nonexempt earnings

A. If a party in an action has been awarded a money judgment and has submitted the application provided for in section 12-1598.03, the clerk, justice of the peace or city or town magistrate shall immediately issue a writ and summons of garnishment directed to the sheriff, the constable or any officer authorized by law to serve process in the county where the garnishee is alleged to be which commands **him THE GARNISHEE** to immediately summon the garnishee to appear before the court out of which the writ issued within the time specified in the writ to answer the writ.

12-1598.07. Objection to garnishment, answer or nonexempt earnings statement; hearing

C. A party requesting a hearing pursuant to this section is required to state the grounds for **his THE PARTY'S** objection in writing, but the objecting party is not limited to those written objections at the hearing conducted pursuant to this section.

12-1598.08. Answer of garnishee to writ of garnishment of earnings; filing; delivery; notice

A. The answer of the garnishee shall be under oath, in writing and signed by **him** THE GARNISHEE and shall make true answers to the writ. If there are more judgment debtors than one, the garnishee shall answer as to each judgment debtor named in the writ. The answer of any garnishee, including a corporate garnishee, may be filed by the garnishee without representation of an attorney.

12-1598.09. Discharge of garnishee

If it appears from the answer of the garnishee that **he** THEY did not employ the judgment debtor at the time the writ was served, would not owe earnings to the judgment debtor within sixty days after service of the writ on the garnishee or the garnishee was unable to determine the identity of the judgment debtor after making a good faith effort to do so, and if no written objection is timely filed, the court shall enter judgment discharging the garnishee.

12-1598.12. Reporting by judgment creditor

D. It is the obligation of the judgment creditor to take reasonable action to assure that the garnishee does not withhold more nonexempt earnings of the judgment debtor than are necessary to satisfy the underlying judgment. Reasonable action includes at least written notice directed to the garnishee or **his** THE GARNISHEE'S authorized representative if the balance due on the judgment is less than double the amount of nonexempt earnings received in the preceding two pay periods. The judgment creditor shall instruct the garnishee to cease withholding earnings after the full amount of the judgment has been paid to the judgment creditor or when the judgment creditor has been notified that sufficient monies have been withheld to satisfy the underlying judgment.

12-1598.13. Contempt proceedings; default of garnishee

A. If the judgment creditor fails to comply with any duty imposed **upon him** by this article, the court shall, upon petition of any party to the proceedings affected by such failure and after notice, hold a hearing to determine whether such failure to comply, if any, was occasioned by mistake, inadvertence or excusable neglect. If the court determines that any failure to comply was not the result of mistake, inadvertence or excusable neglect, the court shall find the judgment creditor in contempt and shall award the petitioner all of the following:

12-1598.15. Taxing costs

A. If the garnishee is discharged on **his** THE answer, the cost of the proceeding, including reasonable compensation to the garnishee, shall be taxed against the judgment creditor.

B. If there is no written objection to the answer of the garnishee and the garnishee is held on **his** THE answer, the costs as provided in subsection A shall be taxed against the judgment debtor.

12-1598.16. Forms

C. The initial notice to judgment debtor and request for hearing form prescribed by the supreme court shall be in substantially the following form:

Initial notice to judgment debtor

To collect **his THEIR** judgment against you the judgment creditor has asked this court to issue a writ of garnishment (see copy of writ attached). Information about the judgment and the name and address of the judgment creditor and garnishee are stated in the writ and the copy of the judgment, which is attached.

Within ten days after the date the garnishee was served with the writ of garnishment, **he THE GARNISHEE** is required to deliver to you the following documents:

3. Request for hearing form, which you can use to request a hearing if you believe that the amount withheld from your earnings is greater than the law allows or that the garnishment is invalid.

To request a hearing for the reasons described above, fill out the attached request for hearing form and deliver it to this court's clerk's office. At the same time you must deliver a copy (photocopy or handwritten) of the request for hearing to the garnishee and to the judgment creditor, or **his THEIR** attorney, at the address stated on the writ of garnishment.

4. The judgment creditor's debt is subject to an effective agreement for debt scheduling between you and a qualified debt counseling organization.

To request a hearing, deliver the request for hearing form appearing below, or a substantially similar form, to the clerk of this court or the justice of the peace. You must mail or deliver a copy of the request for hearing to the garnishee and to the judgment creditor or **his THEIR** attorney at the address on the writ of garnishment.

12-1604. Liability of officer for failure to perform duties

An officer whose duties are prescribed in this article shall be liable on **his THE OFFICER'S** official bond to a party aggrieved for failure to perform the duties prescribed by this article.

12-1622. Procedure in selling property under execution

F. When the sale is of property too bulky to be taken into immediate possession, or of livestock running at large on a range, it is not necessary that such property or any part thereof be present at the place of sale, and the purchaser at the sale may take the property or gather and pen the stock and select therefrom the number purchased by **him THEM**.

12-1624. Liability of bidder for failure to pay; resale and recovery of loss and costs

If the purchaser at the sale under execution does not pay the full bid price and statutory fees within five working days after the sale, the officer shall immediately offer the property to the second highest bidder who may, at **his THEIR** option, purchase the property at **his THEIR** bid. If the second highest bidder does not pay the full bid price, as bid by that bidder, and statutory fees within five working days after the property has been offered to **him THE SECOND HIGHEST BIDDER** by the officer, or if there is no second bidder, the property may be resold by a new execution sale. If the second highest bidder elects not to purchase the property, or if there is no second bidder, the original purchaser shall be liable to any person who suffers loss or expenses, including attorney's fees, occasioned by **his THE ORIGINAL PURCHASER'S** failure to pay the bid price. The five-day deadline set forth herein may be extended if agreed upon in writing by the officer conducting the sale.

12-1631. Order for appearance of debtor; limitation

A. When a judgment has been entered and docketed, the judgment creditor, at any time may:

1. Have an order from the court requiring the judgment debtor to appear and answer concerning **his THE** property before the court or a referee, at a time and place specified in the order.
2. Have a subpoena issued compelling the judgment debtor to appear for deposition upon oral examination and answer concerning **his THE** property at a time and place specified in the subpoena.

B. No judgment debtor shall be required to attend out of the county in which **he resides THEY RESIDE**.

12-1632. Disclosure of property; execution

A. After issuing an execution and upon proof by affidavit or otherwise, if it appears to the court that a judgment debtor has property which **he THE JUDGMENT DEBTOR** unjustly refuses to apply toward satisfaction of the judgment, the court may order the judgment debtor to appear at a specified time and place before the court or a referee, to answer concerning the failure to apply such property to satisfy the judgment.

12-1633. Payment to officer by third party; discharge; citation to third party

A. After issuance of an execution, any person indebted to the judgment debtor may pay to the officer holding the writ the amount of **his THE PERSON'S** debt or so much thereof as is necessary to satisfy the execution. The officer's receipt shall be a sufficient discharge for the amount so paid.

B. If it appears to the court, by affidavit or otherwise, that any person has property of the judgment debtor or is indebted to **him THE JUDGMENT DEBTOR** in an amount exceeding fifty dollars, the court may order such person to appear at a specified time and place, before it or a referee, and answer concerning such indebtedness.

12-1635. Action by judgment creditors

A. If it appears that a person alleged to have property of the judgment debtor or to be indebted to **him THE JUDGMENT DEBTOR** claims an interest in the property adverse to the judgment debtor or denies

the debt, the court may order the judgment creditor to institute an action for recovery of such interest or debt and forbid any disposition of the interest or debt until an action can be commenced and prosecuted to judgment.

12-1644. Issuance of execution for repayment and contribution

If there is more than one surety and one or more of them has failed to pay **his THAT PERSON'S** proportionate part of the judgment, execution may issue, as provided in section 12-1643, against the principal for the use of the surety who has paid more than **his THAT PERSON'S** proportionate part for the whole amount paid by **him THAT PERSON**, and interest thereon, and also against **his THEIR** cosureties for their proportionate parts of the excess paid by **him THEM**, and interest thereon.

12-1706. Other rights of enforcement

The right of a judgment creditor to bring an action to enforce **his THE** judgment instead of proceeding under this article remains unimpaired.

12-1803. Times at which injunction may be granted; verified complaint required; service of copy of complaint or affidavits

B. An injunction shall not be granted on the complaint unless it is verified by the oath of the plaintiff that **he THE PLAINTIFF** has read the complaint, or heard the complaint read, knows the contents thereof, and that it is true of **his THEIR** own knowledge, except the matters stated therein on information and belief, and that as to those matters, **he THE PLAINTIFF** believes the complaint to be true.

12-1805. Limitations on injunction to stay judgment or proceedings at law

An injunction shall not be granted to stay any judgment or proceedings at law, except so much of the recovery or cause of action as plaintiff in the complaint shows **himself** equitably entitled to be relieved against, and so much as will cover the costs.

12-2021. Issuance of writ

A writ of mandamus may be issued by the supreme or superior court to any person, inferior tribunal, corporation or board, though the governor or other state officer is a member thereof, on the verified complaint of the party beneficially interested, to compel, when there is not a plain, adequate and speedy remedy at law, performance of an act which the law specially imposes as a duty resulting from an office, trust or station, or to compel the admission of a party to the use and enjoyment of a right or office to which **he-is THE PARTY IS** entitled and from which **he-is THE PARTY IS** unlawfully precluded by such inferior tribunal, corporation, board or person.

12-2022. Alternative or peremptory writ

B. The alternative writ shall state generally the allegations of the complaint against the party to whom it is directed, and command such party, immediately after receipt of the writ, or at some other specified time, to do the act required to be performed, or to show cause before the court at a specified time and place why **he THE PARTY** has not done so.

C. The peremptory writ shall be in form similar to the alternative writ, except that the words requiring the party to show cause why **he THE PARTY** has not done as commanded shall be omitted.

12-2041. Action by attorney general; venue

A. An action may be brought in the supreme court by the attorney general in the name of the state upon **his THEIR** relation, upon **his THEIR** own information or upon the verified complaint of any person, in cases where the supreme court has jurisdiction, or otherwise in the superior court of the county which has jurisdiction, against any person who usurps, intrudes into or unlawfully holds or exercises any public office or any franchise within this state.

B. The attorney general shall bring the action when **he-has THEY HAVE** reason to believe that any such office or franchise is being usurped, intruded into or unlawfully held or exercised.

12-2042. Action by county attorney

An action may be brought in the superior court by the county attorney in the name of the state upon **his THEIR** own information or upon the verified complaint of any person, against any person who usurps, intrudes into or who unlawfully holds or exercises any public office or any franchise within **his THEIR** county. The county attorney shall bring the action when **he-has THEY HAVE** reason to believe that any such office or franchise is being usurped, intruded into or unlawfully held or exercised.

12-2044. Adjudication of office; damages; several claimants

A. When the action involves the right to an office, the complaint shall show the one who is entitled to the office, and the issues made thereon shall be tried. The judgment given shall adjudge who is entitled to the office. If judgment is given awarding the right to the office to the person alleged to be entitled thereto, **he THE PERSON** may recover the damages which **he THE PERSON** has sustained by reason of the usurpation of the office by defendant.

12-2201. Persons who may be witnesses

B. A person shall not be incompetent to testify because **he-is THEY ARE** a party to an action or proceeding or interested in the issue tried, or because **he-has THEY HAVE** been indicted, accused or convicted of a crime, or because of **his THEIR** religious opinions, or because **he THEY does** not have any religious belief.

12-2211. Attendance of witnesses; punishment for failure to appear or testify

A. A witness summoned in an action shall attend the court from day to day until discharged by the court or, with the court's permission, by the party summoning **him THE WITNESS**.

B. A witness summoned who fails to appear may be punished for contempt of court, and a warrant for the arrest of such witness may be issued to compel **his THE WITNESS'S** attendance.

C. A witness summoned or otherwise in attendance who refuses to testify may be committed to the county jail until ~~he~~ **THE WITNESS** consents to testify or until discharged as provided by law.

D. No punishment for contempt shall be imposed upon a witness, nor shall a warrant for ~~his~~ **THE WITNESS'S** arrest be issued until it appears that the lawful fees have been paid or tendered to the witness.

12-2212. Subpoena by public officer; contempt

A. When a public officer is authorized by law to take evidence, ~~he~~ **THE OFFICER** may issue subpoenas, compel attendance of witnesses and production of documentary evidence, administer oaths to witnesses, and cause depositions to be taken, in like manner as in civil actions in the superior court.

12-2213. Privilege from arrest; exceptions

A witness shall be privileged from arrest, except for treason, felony and breach of the peace, during ~~his~~ **THE WITNESS'S** attendance at court, and in going to and returning therefrom, allowing one day for each twenty-five miles from ~~his~~ **THE WITNESS'S** place of abode.

12-2214. Requirements for subpoena of media witnesses

A. A subpoena for the attendance of a witness or for production of documentary evidence issued in a civil or criminal proceeding and directed to a person engaged in gathering, reporting, writing, editing, publishing or broadcasting news to the public, and which relates to matters within these news activities, shall have attached to it an affidavit of a person with a direct interest in the matters sought which states all of the following:

2. That the affiant or ~~his~~ **THE AFFIANT'S** representative has attempted to obtain each item of information from all other available sources, specifying which items the affiant has been unable to obtain.

3. The identity of the other sources from which the affiant or ~~his~~ **THE AFFIANT'S** representative has attempted to obtain the information.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

12-2231. ~~Husband and wife~~ Spouses; anti-marital fact

In a civil action ~~a husband~~ **ONE SPOUSE** shall not be examined for or against ~~his wife~~ **THE OTHER SPOUSE** without ~~her~~ **THEIR** consent, ~~nor a wife for or against her husband without his consent~~, except as provided in section 12-2232.

12-2232. Husband and wife Spouses; privileged communications; permissible examination

A. ~~A husband or wife~~ ONE SPOUSE IN A MARRIAGE, during the marriage or afterward, without the consent of the other, shall not be examined as to any communications made by one to the other during the marriage, except:

3. In an action for damages against another person for adultery committed by either ~~husband or wife~~ SPOUSE.

In a hearing conducted pursuant to title 36, chapter 5, ~~a husband or wife~~ ONE SPOUSE IN A MARRIAGE, during the marriage or afterward, without the consent of the other, may be examined as to any communications, physical acts or behaviors made by one to the other during the marriage that relate to the matters at issue in the hearing.

Revisions are necessary due to exclusionary use of male pronouns.

12-2233. Clergyman MEMBER OF THE CLERGY or priest and penitent

In a civil action a ~~clergyman~~ MEMBER OF THE CLERGY or priest shall not, without the consent of the person making a confession, be examined as to any confession made to ~~him~~ THEM in ~~his~~ THEIR character as clergyman or priest in the course of discipline enjoined by the church to which ~~he~~ THEY belongs.

12-2234. Attorney and client

A. In a civil action an attorney shall not, without the consent of ~~his~~ THEIR client, be examined as to any communication made by the client to ~~him~~ THEM, or ~~his~~ THEIR advice given thereon in the course of professional employment. An attorney's paralegal, assistant, secretary, stenographer or clerk shall not, without the consent of ~~his~~ THEIR employer, be examined concerning any fact the knowledge of which was acquired in such capacity.

12-2235. Doctor and patient

In a civil action a physician or surgeon shall not, without the consent of ~~his~~ THEIR patient, or the conservator or guardian of the patient, be examined as to any communication made by ~~his~~ THEIR patient with reference to any physical or mental disease or disorder or supposed physical or mental disease or disorder or as to any such knowledge obtained by personal examination of the patient.

12-2236. Waiver of privilege as to attorney or doctor

A person who offers ~~himself~~ THEMSELVES as a witness and voluntarily testifies with reference to the communications referred to in sections 12-2234 and 12-2235 thereby consents to the examination of such attorney, physician or surgeon.

12-2237. Reporter and informant

A person engaged in newspaper, radio, television or reportorial work, or connected with or employed by a newspaper, radio or television station, shall not be compelled to testify or disclose in a legal

proceeding or trial or any proceeding whatever, or before any jury, inquisitorial body or commission, or before a committee of the legislature, or elsewhere, the source of information procured or obtained by **him THEM** for publication in a newspaper or for broadcasting over a radio or television station with which **he was THEY WERE** associated or by which **he is THEY ARE** employed.

12-2302. Admissibility of evidence of advance payment

B. If judgment is entered against a defendant by whom or on whose behalf an advance payment has been made and in favor of a plaintiff to whom or for whose benefit an advance payment has been made, such defendant shall be entitled to a reduction of the amount of damages awarded to such plaintiff equal to the amount or value of such advance payments as may be found by the court to have been made. However, in no event shall a person who has made such advance payments be entitled to reimbursement for amount paid in excess of the damages awarded to such plaintiff or in the event such plaintiff fails to recover judgment in **his THE PLAINTIFF'S** favor.

12-2501. Right to contribution; definition

B. The right of contribution exists only in favor of a tortfeasor who has paid more than **his THE TORTFEASOR'S** *pro rata* share of the common liability, and **his THE TORTFEASOR'S** total recovery is limited to the amount paid **by him** in excess of **his THE TORTFEASOR'S** *pro rata* share. No tortfeasor is compelled to make contribution beyond **his THE TORTFEASOR'S** own *pro rata* share of the entire liability.

F. This section and sections 12-2502, 12-2503, 12-2504, 12-2508 and 12-2509 do not:

Impair any right of indemnity under existing law. If one tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from any obligee for any portion of **his ITS** indemnity obligation.

12-2503. Enforcement

C. If there is a judgment for the injury or wrongful death against the tortfeasor seeking contribution, any separate action by **him THE TORTFEASOR** to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.

D. If there is no judgment for the injury or wrongful death against the tortfeasor seeking contribution, **his THE TORTFEASOR'S** right of contribution is barred unless **he THE TORTFEASOR** has either:

1. Discharged by payment the common liability within the statute of limitations period applicable to the claimant's right of action against **him THE TORTFEASOR** and has commenced **his THE TORTFEASOR'S** action for contribution within one year after payment.

2. Agreed while action is pending against **him THE TORTFEASOR** to discharge the common liability and has within one year after the agreement paid the liability and commenced **his THE TORTFEASOR'S** action for contribution.

12-2701. Definitions

3. “Unauthorized practice of immigration and nationality law” means:

(b) The study of the facts of a case and the applicable laws, coupled with giving advice and auxiliary activities, including the incidental preparation of papers, without authorization under this chapter, but does not include the lawful functions of a notary public, nonprofit organization or service consisting solely of assistance in the completion of blank spaces on printed immigration and naturalization service forms by a person whose remuneration, if any, is nominal and who does not hold **himself THEMSELVES** out as qualified in legal matters or in immigration and naturalization procedure.

12-2702. Representation; definition

3. Any reputable person of good moral character, if all of the following apply:

(c) The person has a preexisting relationship or connection with the person entitled to representation including a relative, neighbor, clergy**man**, business associate or personal friend, except that this requirement may be waived, as a matter of administrative discretion, in cases in which adequate representation would not otherwise be available.

(d) If the person is appearing on behalf of a client, the person’s appearance is permitted by the official before whom the person wishes to appear including an immigration judge, an immigration district director, an immigration officer-in-charge, a regional immigration commissioner, the United States commissioner of immigration and naturalization or the immigration board, except that this permission shall not be granted with respect to any person who regularly engages in immigration and nationality practice or preparation or holds **himself THEMSELVES** out to the public as qualified to do so.

TITLE 13 Criminal Code

Revisions are necessary due to exclusionary use of male pronouns.

13-108. Territorial applicability

A. This state has jurisdiction over an offense that a person commits by **his THE PERSON'S OWN** conduct or the conduct of another for which such person is legally accountable if:

13-111. Former jeopardy or acquittal as bar to same or lesser offenses

When the defendant is convicted or acquitted, or has once been placed in jeopardy upon an indictment or information, the conviction, acquittal or jeopardy is a bar to another indictment or information for the offense charged in either, or for an attempt to commit the offense, or for any offense necessarily included therein, of which **he THE DEFENDANT** might have been convicted under the indictment or information.

13-114. Speedy trial; counsel; witnesses and confrontation

3. To produce witnesses on **his THE DEFENDANT'S** behalf, and to be confronted with the witnesses against **him THE DEFENDANT** in the presence of the court, except that the testimony or deposition of a witness may be received in evidence at the trial as by law prescribed.

13-115. Presumption of innocence and benefit of doubt; degrees of guilt

A. A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether **his THE DEFENDANT'S** guilt is satisfactorily shown, **he THE DEFENDANT** is entitled to be acquitted.

B. When it appears that a defendant has committed a crime or public offense, and there is reasonable ground of doubt in which of two or more degrees **he THE DEFENDANT** is guilty, **he THE DEFENDANT** may be convicted of the lowest of such degrees only.

13-117. Defendant as witness; no comment on failure to testify

A defendant in a criminal action or proceeding shall not be compelled to be a witness against **himself THEMSELVES**, but may be a witness in **his THE DEFENDANT'S** own behalf. If **he THE DEFENDANT** offers **himself THEMSELVES** as a witness in **his THE DEFENDANT'S** own behalf, **he THE DEFENDANT** may be cross-examined to the same extent and subject to the same rules as any other witness.

The defendant's neglect or refusal to be a witness in **his THE DEFENDANT'S** own behalf shall not in any manner prejudice **him THE DEFENDANT**, or be used against **him THE DEFENDANT** on the trial or proceedings.

13-301. Definition of accomplice

In this title, unless the context otherwise requires, “accomplice” means a person, other than a peace officer acting in **his THE OFFICER’S** official capacity within the scope of **his THE OFFICER’S** authority and in the line of duty, who with the intent to promote or facilitate the commission of an offense:

13-403. Justification; use of physical force

3. A person responsible for the maintenance of order in a place where others are assembled or on a common motor carrier of passengers, or a person acting under **his THE RESPONSIBLE PERSON’S** direction, may use physical force if and to the extent that a reasonable person would believe it necessary to maintain order, but such person may use deadly physical force only if reasonably necessary to prevent death or serious physical injury.

4. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon **himself THEMSELVES** may use physical force upon that person to the extent reasonably necessary to thwart the result.

5. A duly licensed physician or a registered nurse or a person acting under **his THE PHYSICIAN’S OR NURSE’S** direction, or any other person who renders emergency care at the scene of an emergency occurrence, may use reasonable physical force for the purpose of administering a recognized and lawful form of treatment which is reasonably adapted to promoting the physical or mental health of the patient if:

(a) The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of **his THE MINOR OR INCOMPETENT PERSON’S** parent, guardian or other person entrusted with **his THE MINOR OR INCOMPETENT PERSON’S** care and supervision except as otherwise provided by law; or

13-404. Justification; self-defense

A. Except as provided in subsection B of this section, a person is justified in threatening or using physical force against another when and to the extent a reasonable person would believe that physical force is immediately necessary to protect **himself THEMSELVES** against the other’s use or attempted use of unlawful physical force.

B. The threat or use of physical force against another is not justified:

2. To resist an arrest that the person knows or should know is being made by a peace officer or by a person acting in a peace officer’s presence and at **his THE PEACE OFFICER’S** direction, whether the arrest is lawful or unlawful, unless the physical force used by the peace officer exceeds that allowed by law; or

3. If the person provoked the other’s use or attempted use of unlawful physical force, unless:

(a) The person withdraws from the encounter or clearly communicates to the other **his THE PERSON’S** intent to do so reasonably believing **he THE PERSON** cannot safely withdraw from the encounter; and

13-405. Justification; use of deadly physical force

2. When and to the degree a reasonable person would believe that deadly physical force is immediately necessary to protect **himself THEMSELVES** against the other's use or attempted use of unlawful deadly physical force.

13-406. Justification; defense of a third person

A person is justified in threatening or using physical force or deadly physical force against another to protect a third person if, under the circumstances as a reasonable person would believe them to be, such person would be justified under section 13-404 or 13-405 in threatening or using physical force or deadly physical force to protect **himself THEMSELVES** against the unlawful physical force or deadly physical force a reasonable person would believe is threatening the third person **he-seeks THEY SEEK** to protect.

13-407. Justification; use of physical force in defense of premises

A. A person or **his THE PERSON'S** agent in lawful possession or control of premises is justified in threatening to use deadly physical force or in threatening or using physical force against another when and to the extent that a reasonable person would believe it immediately necessary to prevent or terminate the commission or attempted commission of a criminal trespass by the other person in or upon the premises.

B. A person may use deadly physical force under subsection A only in the defense of **himself THEMSELVES** or third persons as described in sections 13-405 and 13-406.

13-408. Justification; use of physical force in defense of property

A person is justified in using physical force against another when and to the extent that a reasonable person would believe it necessary to prevent what a reasonable person would believe is an attempt or commission by the other person of theft or criminal damage involving tangible movable property under **his THE PERSON'S** possession or control, but such person may use deadly physical force under these circumstances as provided in sections 13-405, 13-406 and 13-411.

13-410. Justification; use of deadly physical force in law enforcement

C. The use of deadly force by a peace officer against another is justified pursuant to section 13-409 only when the peace officer reasonably believes that it is necessary:

1. To defend **himself THE PEACE OFFICER** or a third person from what the peace officer reasonably believes to be the use or imminent use of deadly physical force.

D. Notwithstanding any other provisions of this chapter, a peace officer is justified in threatening to use deadly physical force when and to the extent a reasonable officer believes it necessary to protect **himself THE PEACE OFFICER** against another's potential use of physical force or deadly physical force.

13-412. Duress

A. Conduct which would otherwise constitute an offense is justified if a reasonable person would believe that ~~he was~~ **THEY WERE** compelled to engage in the proscribed conduct by the threat or use of immediate physical force against ~~his~~ **THEMSELVES** or the person of another which resulted or could result in serious physical injury which a reasonable person in the situation would not have resisted.

B. The defense provided by subsection A is unavailable if the person intentionally, knowingly or recklessly placed ~~himself~~ **THEMSELVES** in a situation in which it was probable that ~~he~~ **THE PERSON** would be subjected to duress.

13-418. Justification; use of force in defense of residential structure or occupied vehicles; definitions

A. Notwithstanding any other provision of this chapter, a person is justified in threatening to use or using physical force or deadly physical force against another person if the person reasonably believes ~~himself~~ **THEMSELVES** or another person to be in imminent peril of death or serious physical injury and the person against whom the physical force or deadly physical force is threatened or used was in the process of unlawfully or forcefully entering, or had unlawfully or forcefully entered, a residential structure or occupied vehicle, or had removed or was attempting to remove another person against the other person's will from the residential structure or occupied vehicle.

13-421. Justification; defensive display of a firearm; definition

A. The defensive display of a firearm by a person against another is justified when and to the extent a reasonable person would believe that physical force is immediately necessary to protect ~~himself~~ **THEMSELVES** against the use or attempted use of unlawful physical force or deadly physical force.

Revisions necessary to be consistent with A.R.S. §13-1102-1105.

13-751. Sentence of death or life imprisonment; aggravating and mitigating circumstances; definition

A. If the state has filed a notice of intent to seek the death penalty and the defendant is:

2. Convicted of first degree murder pursuant to section 13-1105 and was under eighteen years of age at the time of the commission of the offense, the defendant shall be sentenced to imprisonment in the custody of the state department of corrections for life or natural life, as determined and in accordance with the procedures provided in section 13-752. A defendant who is sentenced to natural life is not eligible for commutation, parole, work furlough, work release or release from confinement on any basis. If the defendant is sentenced to life, the defendant shall not be released on any basis until the completion of the service of twenty-five calendar years if the murdered person was fifteen or more years of age and thirty-five years if the murdered person was under fifteen years of age or was an unborn child.

3. Convicted of first degree murder pursuant to section 13-1105, subsection A, paragraph 2, the defendant shall be sentenced to death or imprisonment in the custody of the state department of corrections for life or natural life as determined and in accordance with the procedures provided in section 13-752. A defendant who is sentenced to natural life is not eligible for commutation, parole, work furlough, work release or release from confinement on any basis. If the defendant is sentenced

to life, the defendant shall not be released on any basis until the completion of the service of twenty-five calendar years if the murdered person was fifteen or more years of age and thirty-five years if the murdered person was under fifteen years of age or was an unborn child.

7. The defendant was an adult at the time the offense was committed or was tried as an adult and the murdered person was under fifteen years of age, was an unborn child in the womb at any stage of its development or was seventy years of age or older

G. The trier of fact shall consider as mitigating circumstances any factors proffered by the defendant or the state that are relevant in determining whether to impose a sentence less than death, including any aspect of the defendant's character, propensities or record and any of the circumstances of the offense, including but not limited to the following:

1. The defendant's capacity to appreciate the wrongfulness of **his THE DEFENDANT'S** conduct or to conform **his THE DEFENDANT'S** conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.
2. The defendant was under unusual and substantial duress, although not such as to constitute a defense to prosecution.
3. The defendant was legally accountable for the conduct of another under section 13-303, but **his THE DEFENDANT'S** participation was relatively minor, although not so minor as to constitute a defense to prosecution.
4. The defendant could not reasonably have foreseen that **his THE DEFENDANT'S** conduct in the course of the commission of the offense for which the defendant was convicted would cause, or would create a grave risk of causing, death to another person.
5. The defendant's age.

H. For the purposes of determining whether a conviction of any dangerous crime against children is a serious offense pursuant to this section, an unborn child shall be treated like a minor who is under twelve years of age.

I. In this section, for purposes of punishment an unborn child shall be treated like a minor who is under twelve years of age.

J. A PERSON MAY NOT BE PROSECUTED UNDER THIS SECTION IF ANY OF THE FOLLOWING APPLIES:

- 1. THE PERSON WAS PERFORMING AN ABORTION FOR WHICH THE CONSENT OF THE PREGNANT WOMAN, OR A PERSON AUTHORIZED BY LAW TO ACT ON THE PREGNANT WOMAN'S BEHALF, HAS BEEN OBTAINED OR FOR WHICH THE CONSENT WAS IMPLIED OR AUTHORIZED BY LAW.**
- 2. THE PERSON WAS PERFORMING MEDICAL TREATMENT ON THE PREGNANT WOMAN OR THE PREGNANT WOMAN'S UNBORN CHILD.**
- 3. THE PERSON WAS THE UNBORN CHILD'S MOTHER.**

Revisions are necessary due to exclusionary use of male pronouns.

13-1002. Solicitation; classifications

A. A person, other than a peace officer acting in **his** THE PEACE OFFICER'S official capacity within the scope of **his** THE PEACE OFFICER'S authority and in the line of duty, commits solicitation if, with the intent to promote or facilitate the commission of a felony or misdemeanor, such person commands, encourages, requests or solicits another person to engage in specific conduct which would constitute the felony or misdemeanor or which would establish the other's complicity in its commission.



13-1303. Unlawful imprisonment; classification; definition

B. In any prosecution for unlawful imprisonment, it is a defense that:

1. The restraint was accomplished by a peace officer or detention officer acting in good faith in the lawful performance of **his** THE PEACE OFFICER'S duty; or

13-1902. Robbery; classification

A. A person commits robbery if in the course of taking any property of another from **his** THEIR person or immediate presence and against **his** THEIR will, such person threatens or uses force against any person with intent either to coerce surrender of property or to prevent resistance to such person taking or retaining property.

13-2309. Bribery of participants in professional or amateur games, sports, horse races, dog races, contests; classification

Whoever knowingly gives, promises or offers to any professional or amateur baseball, football, hockey, polo, tennis, horse race, dog race or basketball player or boxer or any player or referee or other

official who participates or expects to participate in any professional or amateur game or sport, or to any manager, coach or trainer of any team or participant or prospective participant in any such game, contest or sport, any benefit with intent to influence **him THAT PERSON** to lose or try to lose or cause to be lost or to limit **his THAT PERSON'S** or **his THAT PERSON'S** team's margin of victory or defeat, or in the case of a referee or other official to affect **his THE REFEREE'S OR OTHER OFFICIAL'S** decisions or the performance of **his THE REFEREE'S OR OTHER OFFICIAL'S** duties in any way, in a baseball, football, hockey or basketball game, boxing, tennis, horse race, dog race, or polo match, or any professional or amateur sport, or game, in which such player or participant or referee or other official is taking part or expects to take part, or has any duty or connection therewith, is guilty of a class 4 felony.

13-2314. Racketeering; civil remedies by this state; definitions

A. The attorney general or a county attorney may file an action in superior court on behalf of a person who sustains injury to **his THEIR PERSON, THEIR** business or property by racketeering as defined by section 13-2301, subsection D, paragraph 4 or by a violation of section 13-2312 for the recovery of treble damages and the costs of the suit, including reasonable attorney fees, or to prevent, restrain or remedy racketeering as defined by section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312. If the person against whom a racketeering claim has been asserted, including a forfeiture action or lien, prevails on that claim, the person may be awarded costs and reasonable attorney fees incurred in defense of that claim. In actions filed by the state or a county, awards of costs and reasonable attorney fees are to be assessed against and paid from monies acquired pursuant to sections 13-2314.01 and 13-2314.03.

B. The superior court has jurisdiction to prevent, restrain and remedy racketeering as defined by section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312 after making provision for the rights of any person who sustained injury to **his THE PERSON'S** business or property by the racketeering conduct and after a hearing or trial, as appropriate, by issuing appropriate orders.

D. Following a determination of liability the orders may include:

1. Ordering any person to divest **himself THEMSELVES** of any interest, direct or indirect, in any enterprise.

6. In personam forfeiture pursuant to chapter 39 of this title to the general fund of the state or county, as appropriate, to the extent that forfeiture is not inconsistent with protecting the rights of any person who sustained injury to **his THAT PERSON'S** person, business or property by the racketeering conduct, of the interest of a person in:

N. For the purposes of this section and section 13-2312:

1. "Acquire" means for a person to do any of the following:

(a) Possess.

(b) Act so as to exclude other persons from using their property except on **his A PERSON'S** own terms.

13-2314.04. Racketeering; unlawful activity; civil remedies by private cause of action; definitions

A. A person who sustains reasonably foreseeable injury to **his THEIR** person, business or property by a pattern of racketeering activity, or by a violation of section 13-2312 involving a pattern of racketeering activity, may file an action in superior court for the recovery of up to treble damages and the costs of the suit, including reasonable attorney fees for trial and appellate representation. If the person against whom a racketeering claim has been asserted, including a lien, prevails on that claim, the person may be awarded costs and reasonable attorney fees incurred in defense of that claim. No person may rely on any conduct that would have been actionable as fraud in the purchase or sale of securities to establish an action under this section except an action against a person who is convicted of a crime in connection with the fraud, in which case the period to initiate a civil action starts to run on the date on which the conviction becomes final.

13-2402. Obstructing governmental operations; classification

A. A person commits obstructing governmental operations if, by using or threatening to use violence or physical force, such person knowingly obstructs, impairs or hinders:

1. The performance of a governmental function by a public servant acting under color of **his THEIR** official authority; or
2. The enforcement of the penal law or the preservation of the peace by a peace officer acting under color of **his THEIR** official authority.

13-2403. Refusing to aid a peace officer; classification

B. A person who complies with this section by aiding a peace officer shall not be held liable to any person for damages resulting therefrom, provided such person acted reasonably under the circumstances known to **him THE PERSON** at the time.

13-2404. Refusing to assist in fire control; classification

A. A person commits refusing to assist in fire control if:

1. Upon a reasonable command by a person reasonably known to be a **fireman FIREFIGHTER**, such person knowingly refuses to aid in extinguishing a fire or in protecting property at the scene of a fire; or
2. Upon command by a person reasonably known to be a **fireman FIREFIGHTER** or peace officer, such person knowingly disobeys an order or regulation relating to the conduct of persons in the vicinity of a fire.

B. In this section, “**fireman FIREFIGHTER**” means any officer of the fire department, the state forester or **his THEIR** deputies or any other person vested by law with the duty to extinguish fires.

C. A person who complies with this section by assisting in fire control shall not be held liable to any person for damages resulting therefrom, if such person acted reasonably under the circumstances known to **him THE PERSON** at the time.

13-2406. Impersonating a public servant; classification; definition

A. A person commits impersonating a public servant if such person pretends to be a public servant and engages in any conduct with the intent to induce another to submit to **his THE PERSON'S** pretended official authority or to rely on **his THE PERSON'S** pretended official acts.

13-2409. Obstructing criminal investigations or prosecutions; classification

A person who knowingly attempts by means of bribery, misrepresentation, intimidation or force or threats of force to obstruct, delay or prevent the communication of information or testimony relating to a violation of any criminal statute to a peace officer, magistrate, prosecutor or grand jury or who knowingly injures another in **his THEIR** person or property on account of the giving by the latter or by any other person of any such information or testimony to a peace officer, magistrate, prosecutor or grand jury is guilty of a class 5 felony, except that it is a class 3 felony if the person commits the offense with the intent to promote, further or assist a criminal street gang.

13-2505. Promoting prison contraband; exceptions; x-radiation; body scans; classification

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

1. A prisoner who possesses or carries any tool, instrument or implement used by **him THE PRISONER** at the direction or with the permission of prison officials.

13-2508. Resisting arrest; classification; definition

A. A person commits resisting arrest by intentionally preventing or attempting to prevent a person reasonably known to **him THE PERSON** to be a peace officer, acting under color of such peace officer's official authority, from effecting an arrest by:

13-2509. Resisting an order directing, regulating or controlling motor vehicle; classification

A. A person commits resisting an order directing, regulating or controlling a motor vehicle by knowingly failing to obey an order of a person reasonably known to **him THEM** to be a peace officer, acting under color of such officer's official authority, directing, regulating or controlling **his THEIR** vehicle.

13-2602. Bribery of a public servant or party officer; classification

A. A person commits bribery of a public servant or party officer if with corrupt intent:

1. Such person offers, confers or agrees to confer any benefit upon a public servant or party officer with the intent to influence the public servant's or party officer's vote, opinion, judgment, exercise of discretion or other action in **his THEIR** official capacity as a public servant or party officer; or

2. While a public servant or party officer, such person solicits, accepts or agrees to accept any benefit upon an agreement or understanding that **his THEIR** vote, opinion, judgment, exercise of discretion or other action as a public servant or party officer may thereby be influenced.

13-2603. Trading in public office; classification

A. A person commits trading in public office if with corrupt intent:

1. Such person offers, confers or agrees to confer any benefit upon a public servant or party officer upon an agreement or understanding that **he THEY** will or may be appointed to a public office or designated or nominated as a candidate for public office; or

13-2604. Forfeiture and disqualification from office

Notwithstanding sections 13-904 and 13-907, a person who is convicted of violating section 13-2602 or 13-2603 shall forever be disqualified from becoming a public servant and, if such person is a public servant at the time of **his THEIR** conviction, shall forfeit **his THEIR** office.

13-2605. Commercial bribery; classification; exception

A. A person commits commercial bribery if:

2. While an employee of an employer such employee accepts any benefit from another person, corruptly intending that such benefit will influence **his THE EMPLOYEE'S** conduct in relation to the employer's commercial affairs, and such conduct causes economic loss to the employer or principal.

C. This section shall not be construed to prohibit a person from recruiting an employee of another employer unless, pursuant to an agreement between such person and the employee that such employee engage in conduct which will cause economic loss to **his THEIR** employer, such employee engages in conduct while an employee of **his THEIR** original employer and such conduct causes economic loss to the employer.

13-2606. Offer to exert improper influence on public officer or employee for consideration; classification

A person who intentionally or knowingly obtains or seeks to obtain any benefit from another person upon a claim or representation that **he THEY** can or will improperly influence the action of a public servant is guilty of a class 4 felony.

13-2704. Unsworn falsification; classification

A. A person commits unsworn falsification by knowingly:

1. Making any statement that **he THE PERSON** believes to be false, in regard to a material issue, to a public servant in connection with an application for any benefit, privilege or license.

2. Making any statement that **he THE PERSON** believes to be false in regard to a material issue to a public servant in connection with any official proceeding as defined in section 13-2801.

13-2706. Limitation on defenses

B. The provisions of law which declare that evidence obtained upon examination of a person as a witness cannot be received against **him** **THE PERSON** in a criminal proceeding do not forbid giving such evidence against the person upon any proceedings founded upon a charge of perjury committed in such examination.

13-2802. Influencing a witness; classification

A. A person commits influencing a witness if such person threatens a witness or offers, confers or agrees to confer any benefit upon a witness in any official proceeding or a person **he believes** **THEY BELIEVE** may be called as a witness with intent to:

1. Influence the testimony of that person; or
2. Induce that person to avoid legal process summoning **him** **THEM** to testify; or
3. Induce that person to absent **himself** **THEMSELVES** from any official proceeding to which **he has** **THEY HAVE** been legally summoned.

13-2803. Receiving a bribe by a witness; classification

A. A witness in an official proceeding or a person who believes **he** **THEY** may be called as a witness commits receiving a bribe by a witness if such person knowingly solicits, accepts or agrees to accept any benefit upon an agreement or understanding that:

1. **His** **THE WITNESS'S** testimony will thereby be influenced; or
2. **He** **THE WITNESS** will attempt to avoid legal process summoning **him** **THE WITNESS** to testify; or
3. **He** **THE WITNESS** will absent **himself** **THEMSELVES** from any official proceeding to which **he** **THE WITNESS** has been legally summoned.

13-2804. Tampering with a witness; classification

A. A person commits tampering with a witness if the person knowingly communicates, directly or indirectly, with a witness in any official proceeding or a person **he believes** **THEY BELIEVE** may be called as a witness to do any of the following:

3. Absent **himself** **THEMSELVES** from any official proceeding to which **he has** **THEY HAVE** been legally summoned.

13-2806. Receiving a bribe by a juror; classification

A. A juror commits receiving a bribe by a juror if such person knowingly solicits, accepts or agrees to accept any benefit upon an agreement or understanding that **his** **SUCH PERSON'S** vote, opinion, decision or other action as a juror may be influenced.

13-2808. Misconduct by a juror; classification

A. A juror commits misconduct by a juror if, in relation to an action or proceeding pending or about to be brought before **him** **THE JUROR**, such person knowingly:

1. Allows an unauthorized communication to be made to **him** **THEM**; or

13-2810. Interfering with judicial proceedings; classification

A. A person commits interfering with judicial proceedings if such person knowingly:

6. Fails inexcusably to attend a trial at which **he** **THE PERSON** has been chosen to serve as a juror.

13-2918. Interference with emergency transmission on citizens' band radio frequency; presumption; definition; classification

B. A person is presumed to have acted recklessly if **he** **THE PERSON** interrupts, impedes or interferes with the transmission of a communication on a channel dedicated to use for emergency communications.

13-3003. Opening, reading or publishing sealed letter of another without authority; classification

A person who knowingly opens or reads or causes to be read a sealed letter **not** addressed to **himself** **ANOTHER**, without being authorized so to do either by the writer of such letter, or by the person to whom it is addressed, or a person who, without like authority, publishes the contents of such letter, knowing it to have been unlawfully opened, is guilty of a class 2 misdemeanor.

13-3004. Sending threatening or anonymous letter; classification

A person who knowingly sends or delivers to another **PERSON** a letter or writing, whether subscribed or not, threatening to accuse **him** **THAT PERSON** or another of a crime, or to expose or publish **his** **THE PERSON'S** failings or infirmities, and a writer or sender of an anonymous letter or writing calculated to create distrust of another **PERSON** or tending to impute dishonesty, want of chastity, drunkenness or any crime or infirmity to the receiver of the letter or to any other person, is guilty of a class 2 misdemeanor.

13-3005. Interception of wire, electronic and oral communications; installation of pen register or trap and trace device; classification; exceptions

A. Except as provided in this section and section 13-3012, a person is guilty of a class 5 felony who either:

1. Intentionally intercepts a wire or electronic communication to which **he** **THE PERSON** is not a party, or aids, authorizes, employs, procures or permits another to so do, without the consent of either a sender or receiver thereof.

2. Intentionally intercepts a conversation or discussion at which **he THE PERSON** is not present, or aids, authorizes, employs, procures or permits another to so do, without the consent of a party to such conversation or discussion.

13-3008. Possession of interception devices; classification

A. It is unlawful for a person to have in **his THEIR** possession or control any device, contrivance, machine or apparatus designed or primarily useful for the interception of wire, electronic or oral communications as defined in section 13-3001 with the intent to unlawfully use or employ or allow the device, contrivance, machine or apparatus to be used or employed for the interception, or having reason to know the device, contrivance, machine or apparatus is intended to be so used.

13-3102. Misconduct involving weapons; defenses; classification; definitions

A. A person commits misconduct involving weapons by knowingly:

1. Carrying a deadly weapon except a pocket knife concealed on **his THEIR** person or within **his THEIR** immediate control in or on a means of transportation:

2. Carrying a deadly weapon except a pocket knife concealed on **his THEIR** person or concealed within **his THEIR** immediate control in or on a means of transportation if the person is under twenty-one years of age; or

10. Unless specifically authorized by law, entering any public establishment or attending any public event and carrying a deadly weapon on **his THEIR** person after a reasonable request by the operator of the establishment or the sponsor of the event or the sponsor's agent to remove **his THEIR** weapon and place it in the custody of the operator of the establishment or the sponsor of the event for temporary and secure storage of the weapon pursuant to section 13-3102.01; or

13. Unless specifically authorized by law, entering a nuclear or hydroelectric generating station carrying a deadly weapon on **his THEIR** person or within the immediate control of any person; or

B. Subsection A, paragraph 2 of this section shall not apply to:

1. A person in **his THEIR** dwelling, on **his THEIR** business premises or on real property owned or leased by that person or that person's parent, grandparent or legal guardian.

13-3111. Minors prohibited from carrying or possessing firearms; exceptions; seizure and forfeiture; penalties; classification

A. Except as provided in subsection B, an unemancipated person who is under eighteen years of age and who is unaccompanied by a parent, grandparent or guardian, or a certified hunter safety instructor or certified firearms safety instructor acting with the consent of the unemancipated person's parent or guardian, shall not knowingly carry or possess on **his THEIR** person, within **his THEIR** immediate control, or in or on a means of transportation a firearm in any place that is open to the public or on any street or highway or on any private property except private property owned or leased by the minor or the minor's parent, grandparent or guardian.

13-3113. Adjudicated delinquents; firearm possession; classification

A person who was previously adjudicated delinquent for an offense that would be a felony if committed by an adult and who possesses, uses or carries a firearm within ten years from the date of ~~his~~ **THE PERSON'S** adjudication or ~~his~~ release or escape from custody is guilty of a class 5 felony for a first offense and a class 4 felony for a second or subsequent offense if the person was previously adjudicated for an offense that if committed as an adult would constitute:

13-3205. Causing spouse to become prostitute; classification

A person who knowingly by force, fraud, intimidation or threats, causes ~~his or her~~ **THEIR** spouse to live in a house of prostitution or to lead a life of prostitution, is guilty of a class 5 felony.

The revision is necessary because of the treatment of the female breast as a sex object differently than a male breast.

Revision expands definitions to include males.

13-3211. Definitions

In this chapter, unless the context otherwise requires:

9. "Sexual contact" means any direct or indirect fondling or manipulating of any part of the genitals, anus or ~~female~~ **BREAST**.

Revisions are necessary due to exclusionary use of male pronouns.

13-3303. Promotion of gambling; classification

A. Except for amusement, regulated or social gambling, a person commits promotion of gambling if ~~he~~ **THE PERSON** knowingly does either of the following for a benefit:

13-3304. Benefiting from gambling; classification

A. Except for amusement or regulated gambling, a person commits benefiting from gambling if ~~he~~ **THE PERSON** knowingly obtains any benefit from gambling.

13-3307. Possession of gambling records; classification

A. A person commits possession of gambling records if ~~he~~ **THE PERSON** knowingly possesses any book, writing, paper, instrument, article, electronically-produced data, computer software and programs, discs, tapes or other tangible or intangible method of recording information knowing or having reason to know that it arises out of, or was made in connection with, gambling in violation of this chapter.

13-3401. Definitions

In this chapter, unless the context otherwise requires:

40. “Wholesaler” means a person who in the usual course of business lawfully supplies narcotic drugs, dangerous drugs, precursor chemicals or regulated chemicals that **he himself** **THE PERSON** has not produced or prepared, but not to a person for the purpose of consumption by the person, whether or not the wholesaler has a permit that is issued pursuant to title 32, chapter 18. Wholesaler includes a person who sells, delivers or dispenses a precursor chemical in an amount or under circumstances that would require registration as a distributor of precursor chemicals under the federal act.

13-3403. Possession and sale of a vapor-releasing substance containing a toxic substance; regulation of sale; exceptions; classification

E. This section is not applicable to the transfer of a vapor-releasing substance containing a toxic substance from a parent or guardian to **his** **THEIR** child or ward, or the sale or transfer made for manufacturing or industrial purposes.

13-3412. Exceptions and exemptions; burden of proof; privileged communications

A. The provisions of sections 13-3402 and 13-3403, section 13-3404.01, subsection A, paragraph 1 and sections 13-3405 through 13-3409 do not apply to:

5. An employee or agent of a person described in paragraphs 1 through 4 of this subsection, and a registered nurse or medical technician under the supervision of a medical practitioner, while such employee, agent, nurse or technician is acting in the course of professional practice or employment, and not on **his** **THEIR** own account.

13-3415. Possession, manufacture, delivery and advertisement of drug paraphernalia; definitions; violation; classification; civil forfeiture; factors

E. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom **he** **THE OWNER OR ANYONE IN CONTROL OF THE OBJECT** knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter.

13-3461. Placebos; exemption from coverage

Notwithstanding any contrary statute, the manufacture, distribution, possession, possession with intent to distribute or possession with intent to use placebos in this state by the following persons is not unlawful:

5. An employee or agent of a person described in paragraphs 1 through 4 of this subsection or a registered nurse or medical technician under the supervision of a medical practitioner while the employee, agent, nurse or technician is acting in the course of **his** **THEIR** professional practice or employment and not on **his** **THEIR** own account.

6. A common or contract carrier or ~~warehouseman~~ WAREHOUSE WORKER or an employee of such a carrier or ~~warehouseman~~ WAREHOUSE WORKER whose possession of placebos is in the usual course of business or employment.

Revisions made to include protection for males.

13-3501. Definitions

The rationale for the change is that female bodies are sexualized in a way that male bodies are not in the statute but in real life, the same problems arise and both sexes should be protected.

In this chapter, unless the context otherwise requires:

4. “Nudity” means the showing of the human male or female genitals, pubic area, BREAST or buttocks with less than a full opaque covering, ~~or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple~~, or the depiction of covered male genitals in a discernibly turgid state.

7. “Sexual conduct” means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks or, ~~if such person is a female~~, BREAST.

Revisions are necessary due to exclusionary use of male pronouns.

13-3502. Production, publication, sale, possession and presentation of obscene items; classification

A person is guilty of a class 5 felony who, with knowledge of the character of the item involved, knowingly:

3. Has in ~~his~~ THEIR possession with intent to sell, rent, lend, transport, or commercially distribute any obscene item.

13-3503. Seizure of obscene things; disposition

An obscene or indecent writing, paper, book, picture, print or figure found in possession, or under control of a person arrested therefor, shall be delivered to the magistrate before whom the person arrested is required to be taken, and if the magistrate finds it is obscene or indecent, ~~he~~ THE MAGISTRATE shall deliver one copy to the county attorney of the county in which the accused is liable to prosecution, and at once destroy all other copies. The copy delivered to the county attorney shall be destroyed upon conviction of the accused.

13-3505. Obscene prints and articles; jurisdiction

B. The county attorney of any county or the city attorney of any city in which a person, firm, association or corporation publishes, sells or distributes or is about to sell or distribute or has in ~~his~~ THEIR possession with intent to sell or distribute or is about to acquire possession with intent to sell or distribute any book, magazine, pamphlet, comic book, story paper, writing, paper, picture, drawing,

photograph, figure, image or any written or printed matter of an indecent character, which is obscene, lewd, lascivious, filthy, indecent or disgusting, or which contains an article or instrument of indecent or immoral use or purports to be for indecent or immoral use or purpose, or in any other respect defined in section 13-3501, may maintain an action on behalf of such county or city for an injunction against such person, firm, association or corporation in the superior court to prevent the sale or further sale or the distribution or further distribution of the acquisition, publication or possession within the state of any book, magazine, pamphlet, comic book, story paper, writing, paper, picture, drawing, photographed figure or image or any written or printed matter of an indecent character, described in this subsection or in section 13-3501.

G. Every person, firm, association or corporation who sells, distributes, or acquires possession with intent to sell or distribute any of the matter described in subsection B of this section, after the service upon ~~him~~ THEM of a summons and complaint in an action brought pursuant to this section is chargeable with knowledge of the contents thereof.

13-3507. Public display of explicit sexual materials; classification; definitions

A. It is unlawful for any person knowingly to place explicit sexual material upon public display, or knowingly to fail to take prompt action to remove such a display from property in ~~his~~ THE PERSON'S possession or under ~~his~~ THEIR control after learning of its existence.

Revisions made to include protections for minor males as victims

13-3552. Commercial sexual exploitation of a minor; classification

A. A person commits commercial sexual exploitation of a minor by knowingly:

2. Using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals or anus or the areola or nipple of the ~~female~~ breast for financial or commercial gain.

13-3558. Admitting minors to public displays of sexual conduct; constructive knowledge of age; classification

A. It is unlawful for an owner, operator or employee to admit a person under the age of eighteen into any business establishment where persons, in the course of their employment expose their genitals or anus or the areola or nipple of the ~~female~~ breast.

Revisions are necessary due to exclusionary use of male pronouns.

13-3601. Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure

13-3601(A)(4): The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, ~~brother or sister~~ SIBLING or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, ~~brother-in-law or sister-in-law~~ SIBLING-IN-LAW.

This section was removed due to being unconstitutional as noted in Arizona appellate courts as well as the Supreme Court of the United States. See State v. New Times, Inc., 20 Ariz. App. 183, 511 P.2d 196 (App. 1973), Nelson v. Planned Parenthood Center of Tucson, Inc., 19 Ariz. App. 142, 505 P.2d 580 (App. 1973), State v. Wahlrab, 19 Ariz. App. 552, 509 P.2d 245 (App. 1973), Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973).

13-3603. Definition; punishment

~~A person who provides, supplies or administers to a pregnant woman, or procures such woman to take any medicine, drugs or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless it is necessary to save her life, shall be punished by imprisonment in the state prison for not less than two years nor more than five years.~~

This section was removed due to being unconstitutional as noted in Arizona appellate courts as well as the Supreme Court of the United States. See State v. New Times, Inc., 20 Ariz. App. 183, 511 P.2d 196 (App. 1973), Nelson v. Planned Parenthood Center of Tucson, Inc., 19 Ariz. App. 142, 505 P.2d 580 (App. 1973), State v. Wahlrab, 19 Ariz. App. 552, 509 P.2d 245 (App. 1973), Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973).

13-3604. Soliciting abortion; punishment; exception

~~A woman who solicits from any person any medicine, drug or substance whatever, and takes it, or who submits to an operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, unless it is necessary to preserve her life, shall be punished by imprisonment in the state prison for not less than one nor more than five years.~~

This section was removed due to being unconstitutional as noted in Arizona appellate courts as well as the Supreme Court of the United States. See State v. New Times, Inc., 20 Ariz. App. 183, 511 P.2d 196 (App. 1973), Nelson v. Planned Parenthood Center of Tucson, Inc., 19 Ariz. App. 142, 505 P.2d 580 (App. 1973), State v. Wahlrab, 19 Ariz. App. 552, 509 P.2d 245 (App. 1973), Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973).

13-3605. Advertising to produce abortion or prevent conception; punishment

~~A person who wilfully writes, composes or publishes a notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for prevention of conception, or who offers his services by a notice, advertisement or otherwise, to assist in the accomplishment of any such purposes, is guilty of a misdemeanor.~~

Revisions are necessary due to exclusionary use of male pronouns.

13-3610. Abandonment of spouse; classification

A married person, having sufficient ability to provide **SUPPORT** for ~~his or her~~ **THE MARRIED PERSON'S** spouse's support or who is able to earn the means of such spouse's support, who knowingly abandons and leaves such spouse in a destitute condition, is guilty of a class 1 misdemeanor.

13-3611. Refusal or neglect to provide for spouse; classification

A married person, having sufficient ability to provide for ~~his or her~~ THE MARRIED PERSON'S spouse's support or who is able to earn the means of such spouse's support, who knowingly fails or refuses to provide the spouse with necessary food, clothing, shelter or medical attendance, unless by such spouse's misconduct ~~he or she~~ THE MARRIED PERSON was justified in so doing, is guilty of a class 1 misdemeanor.

13-3612. Definitions; contributing to dependency or delinquency

3. "Dependent person" means a person under the age of eighteen years:

(m) Whose ~~father or mother~~ PARENT is dead, or has abandoned the family, or is an habitual drunkard, or whose ~~father or mother~~ PARENT does not provide for the person, and it appears that the person is destitute of a suitable home or adequate means of obtaining an honest living, or who is in danger of being brought up to lead an idle, dissolute and immoral life, or when both parents are dead, or the ~~father or mother~~ PARENT, if living, is unable to provide proper support and care of the person.

13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a Christian Science practitioner or a priest shall not, without ~~his~~ consent OF THE CLERGY MEMBER, CHRISTIAN SCIENCE PRACTITIONER OR PRIEST, be examined as a witness concerning any confession made to ~~him~~ SUCH PERSON in ~~his~~ SUCH PERSON'S role as a member of the clergy, a Christian Science practitioner or a priest in the course of the discipline enjoined by the church to which ~~he~~ SUCH PERSON belongs. This subsection does not discharge a member of the clergy, a Christian Science practitioner or a priest from the duty to report pursuant to subsection A of this section.

13-3621. Hire or use of child under sixteen for public vocation; classification

A person having ~~in his~~ care, custody or control, in any capacity, OF a child under the age of sixteen years, who knowingly sells, apprentices or otherwise disposes of such child to any person under any name, title or pretense for the purpose of giving a performance, begging or peddling, in a public street or highway, or in any mendicant or wandering business whatsoever, or a person who receives, uses or has ~~in his~~ custody, OF a child for such purpose, is guilty of a class 2 misdemeanor.

13-3622. Furnishing of tobacco product, vapor product or tobacco or shisha instruments or paraphernalia to minor; minor accepting or receiving tobacco product, vapor product or tobacco or shisha instruments or paraphernalia; illegally obtaining tobacco product, vapor product or tobacco or shisha instruments or paraphernalia by underage person; classification; definitions

B. A minor who buys; or ~~has in his possession~~ POSSESSES, or knowingly accepts or receives from any person, a tobacco product, a vapor product or any instrument or paraphernalia that is solely designed

for the smoking or ingestion of tobacco or shisha, including a hookah or waterpipe, is guilty of a petty offense, and if the offense involves any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, shall pay a fine of not less than one hundred dollars or perform not less than thirty hours of community restitution.

13-3715. Unauthorized manufacture, duplication, use or possession of key to a public building; classification

A. A person who knowingly causes to be manufactured or duplicated or who possesses or uses a key to any building or other area owned, operated or controlled by this state or any agency, board, commission, institution or political subdivision of this state without authorization from the person, or **his THE PERSON'S** designated representative, in charge of such building or area is guilty of a class 3 misdemeanor.

B. A person who manufactures or duplicates a key for **himself THEMSELVES** or another to any building or other area owned, operated or controlled by this state or any agency, board, commission, institution or political subdivision of this state, with knowledge that **he THEY** or the person requesting the manufacturing or duplication of such key does not have authorization from the person or **his THE PERSON'S** designated representative in charge of such building or area, is guilty of a class 3 misdemeanor.

13-3729. Unlawful operation of model or **unmanned CREWLESS aircraft; state preemption; classification; definitions**

A. It is unlawful for a person to operate a model aircraft or a civil **unmanned CREWLESS** aircraft if the operation:

1. Is prohibited by a federal law or regulation that governs aeronautics, including federal aviation administration regulations.
2. Interferes with a law enforcement, firefighter or emergency services operation.

B. It is unlawful for a person to operate or use **an unmanned CREWLESS** aircraft or **unmanned CREWLESS** aircraft system to intentionally photograph or loiter over or near a critical facility in the furtherance of any criminal offense.

C. Except as authorized by law, a city, town or county may not enact or adopt any ordinance, policy or rule that relates to the ownership or operation of **an unmanned CREWLESS** aircraft or **unmanned CREWLESS** aircraft system or otherwise engage in the regulation of the ownership or operation of **an unmanned CREWLESS** aircraft or **an unmanned CREWLESS** aircraft system. Any ordinance, policy or rule that violates this subsection, whether enacted or adopted by the city, town or county before or after August 6, 2016, is void.

D. This section does not:

1. Apply to a person or entity that is authorized or allowed by the federal aviation administration to operate or use an **unmanned CREWLESS** aircraft system if the person's or entity's operation or use complies with the authorization granted to the person or entity or with federal aviation administration rules.
2. Prohibit a city, town or county from enacting or adopting ordinances or rules on the operation or use of a public **unmanned CREWLESS** aircraft that is owned by the city, town or county.
3. Prohibit a city, town or county from enacting or adopting ordinances or rules that regulate the takeoff or landing of a model aircraft in a park or preserve owned by the city, town or county if:
 - (a) There are other parks or preserves that are within the city, town or county and that are available for model aircraft operation.
 - (b) The city, town or county only has one park or preserve that is within the city, town or county.
4. Apply to the operation of an **unmanned CREWLESS** aircraft, including a public unmanned aircraft, by a first responder as defined in section 36-661 while acting in the first responder's official capacity or an emergency worker while engaged in or supporting authorized emergency management activities or performing emergency functions pursuant to title 26, chapter 2.

E. A violation of subsection B of this section is a class 6 felony, except that a second or subsequent violation is a class 5 felony. A violation of subsection A of this section is a class 1 misdemeanor.

F. For the purposes of this section:

1. "Civil **unmanned CREWLESS** aircraft" means an **unmanned CREWLESS** aircraft or **unmanned CREWLESS** aircraft system that is operated by a person for any purpose other than strictly for hobby or recreational purposes, including commercial purposes, or in furtherance of or incidental to any business or media service or agency.
2. "Commercial purposes" means the use of an **unmanned CREWLESS** aircraft in return for financial compensation and includes aerial photography, aerial mapping or geospatial imaging.
6. "Public **unmanned CREWLESS** aircraft" means an **unmanned CREWLESS** aircraft or **unmanned CREWLESS** aircraft system that is operated by a public agency for a government-related purpose.
7. "**unmanned CREWLESS** aircraft" means an aircraft, including an aircraft commonly known as a drone, that is operated without the possibility of direct human intervention from within or on the aircraft.
8. "**unmanned CREWLESS** aircraft system" means an **unmanned CREWLESS** aircraft and associated elements, including any communication links and components that control the **unmanned** aircraft.

13-3804. Duty of officers to disperse unlawful assembly

A. Where any number of persons, whether armed or not, are unlawfully or riotously assembled, the sheriff and **his THE SHERIFF'S** deputies, officials governing the city or town, peace officers or justices of the peace and constables, or any of them, shall go among the persons assembled, or as near to them as possible, and command them, in the name of the state, immediately to disperse.

13-3812. Examination of complainant; issuance of summons or warrant of arrest

When the complaint is laid before the magistrate, **he THE MAGISTRATE** shall examine, on oath, the complainant and any witness **he** produce**Ds**, and if there is just reason to believe that the commission of the offense threatened by the person complained of is imminent, the magistrate shall issue a summons, or warrant of arrest, reciting the substance of the complaint. If a warrant of arrest is issued, it shall command the officer to forthwith arrest the person complained of, and bring **him SUCH PERSON** before the magistrate.

13-3832. Authority of peace officer entering state in close pursuit

A member of a duly organized state, county or municipal law enforcement agency of another state who enters this state in close pursuit, and continues within this state in close pursuit of a person in order to arrest **him SUCH PERSON** on the ground that **he THE PERSON** is believed to have committed a felony in such other state, shall have the same authority to arrest and hold the person in custody as has a member of any duly organized state, county or municipal law enforcement agency of this state to arrest and hold in custody a person on the ground that **he THE PERSON** is believed to have committed a felony in this state.

13-3833. Arrest and hearing; duty of officer and magistrate

If an arrest is made in this state by an officer of another state in accordance with the provisions of section 13-3832, **he THE OFFICER** shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful **he THE MAGISTRATE** shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state. If the magistrate determines that the arrest was unlawful **he THE MAGISTRATE** shall discharge the person arrested.

13-3844. Governor may investigate case

When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to **him THE GOVERNOR** the situation and circumstances of the person so demanded, and whether **he THE PERSON** ought to be surrendered.

13-3845. Extradition documents; contents

A. A warrant of extradition shall not be issued unless the documents presented by the executive authority making the demand show that:

3. The accused is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that **he THE PERSON** has been convicted of a crime in that state and has escaped from confinement or broken **his THE PERSON'S** parole.

13-3847. Issue of governor's warrant of arrest; its recital

If the governor decides that the demand should be complied with, **he THE GOVERNOR** shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom **he THE GOVERNOR** may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

13-3848. Manner and place of execution

Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where **he THE ACCUSED** may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this article, to the duly authorized agent of the demanding state.



13-3850. Duty of arresting officer; application for writ of habeas corpus; notice

A. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding **him THE PRISONER** shall have appointed to receive **him SUCH PERSON** unless **he THE PRISONER** has been informed of the demand made for **his THE PRISONER'S** surrender and of the crime with which **he THE PRISONER** is charged, and that **he THE PRISONER** has the right to

demand legal counsel; and if the prisoner, **his THE PRISONER'S** friends, or counsel shall state that **he THE PRISONER** or they desire to test the legality of **his THE PRISONER'S** arrest, the prisoner shall be taken forthwith before a judge of a court of record, who shall fix a reasonable time to be allowed **him THE PRISONER** within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the public prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

13-3851. Noncompliance with preceding section; classification

Any officer who shall deliver to the agent for extradition of the demanding state a person in **his THE OFFICER'S** custody under the governor's warrant in disobedience to section 13-3850, shall be guilty of a class 2 misdemeanor.

13-3852. Confinement in jail when necessary

The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which **he THE OFFICER** may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of **him THE PRISONER** is ready to proceed on **his THE OFFICER'S** route, such officer or person being chargeable with the expense of keeping.

13-3853. Arrest prior to requisition

When any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state, and, except in cases arising under section 13-3846, with having fled from justice, or whenever complaint shall have been made before any judge or magistrate of this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 13-3846, has fled therefrom and is believed to be in this state, the judge or magistrate shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing **him THE SHERIFF** to apprehend the person charged, wherever **he THE PERSON** may be found in this state, and bring **him THE PERSON** before the same or any other judge, magistrate, or court who or which may be convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

13-3854. Arrest without a warrant

The arrest of a person may be lawfully made also by any peace officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against **him THE ACCUSED** under oath setting forth the ground for the arrest as in section 13-3853, and thereafter **his THE ACCUSED'S** answer shall be heard as if **he THE ACCUSED** had been arrested on a warrant.

13-3855. Commitment to await requisition; bail

If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and that **he THE PERSON** probably committed the crime and, except in cases arising under section 13-3846, that **he THE PERSON** has fled from justice, the judge or magistrate must commit **him THE PERSON** to jail by a complaint reciting the accusation for such a time specified in the complaint, not exceeding thirty days, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused gives bail as provided in section 13-3856 or until **he THE PERSON** is legally discharged.

13-3857. If no arrest made on governor's warrant before the time specified

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the complaint, bond or undertaking, the judge or magistrate may discharge **him THE ACCUSED** or may recommit **him THE ACCUSED** to a further day, not to exceed sixty days, or may again take bail for **his THE ACCUSED'S** appearance and surrender as provided in section 13-3856, and at the expiration of the second period of commitment, or if **he THE ACCUSED** has been bailed and appeared according to the terms of **his THE ACCUSED'S** bond or undertaking, the judge or magistrate may either discharge **him THE ACCUSED**, or may require **him THE ACCUSED** to enter into a new bond or undertaking, to appear and surrender **himself** at another day.

13-3858. Forfeiture of bail

If the prisoner is admitted to bail, and fails to appear and surrender **himself** according to the conditions of **his THE PRISONER'S** bond, the court, by proper order, shall declare the bond forfeited; and recovery may be had thereon in the name of the state as in the case of other bonds or undertaking given by the accused in criminal proceedings within this state.

13-3860. Guilt or innocence of accused; when inquired into

The guilt or innocence of the accused as to the crime of which **he THE ACCUSED** is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as provided by this article shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

13-3861. Governor may recall warrant or issue alias

The governor may recall **his THE GOVERNOR'S** warrant of arrest, or may issue another warrant whenever **he THE GOVERNOR** deems proper.

13-3862. Fugitives from this state; duty of governors

Whenever the governor of this state shall demand a person charged with crime in this state, from the executive authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, **he THE GOVERNOR** shall issue a warrant under the seal of this state, to some agent, commanding **him**

SUCH AGENT to receive the person so charged if delivered to him THE AGENT and convey him THE PERSON to the proper officer of the state attorney general or of the county in this state in which the offense was committed.

13-3863. Application for issuance of requisition; by whom made; contents

When the return to this state of a person charged with crime in this state is required, the attorney general or county attorney of the county in which the offense is committed shall present to the governor his A written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him THE PERSON, and the state in which he SUCH PERSON is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the attorney general or county attorney, the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged. The attorney general or county attorney may also attach such further affidavits and other documents in duplicate as he THE ATTORNEY GENERAL OR COUNTY ATTORNEY shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information and affidavits shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

13-3864. Payment of account of agent; method as exclusive; classification

A. When the governor of this state, in the exercise of the authority conferred by law, demands from the executive authority of any other state or foreign country the surrender to the authorities of this state of a fugitive from justice, the accounts of the persons employed by him THE GOVERNOR for that purpose shall be paid by the state upon presentation to the department of administration or the county in which the offense was committed upon presentation of the account to the board of supervisors. If the state or the board of supervisors neglects to pay the claim within thirty days after its presentation, the superior court may, upon petition filed in such court, order the payment of the claim.

B. No compensation, fee or reward shall be paid to or received by a public officer of this state, or other person, for a service rendered in procuring from the governor the demand, the surrender of the fugitive, conveying the fugitive to this state, or detaining him THE FUGITIVE therein, except as provided in this section, and any person receiving or accepting such compensation, fee or reward in violation of the provisions of this section is guilty of a class 2 misdemeanor.

13-3865. Exemption from civil process

A person brought into this state on extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he THE PERSON is returned, until he THE PERSON has been convicted in the criminal proceeding, or, if acquitted, until he THE PERSON has had ample opportunity to return to the state from which he THE PERSON was extradited.

13-3865.01. Written waiver of extradition proceedings; prior waiver

A. Any person who is arrested in this state and who is charged with having committed a crime in another state or alleged to have escaped from confinement or broken the terms of **his THE PERSON'S** bail, probation or parole may waive the issuance and service of the warrant provided for in sections 13-3847 and 13-3848 and all other procedures incidental to extradition proceedings by executing or subscribing in the presence of a judge of a court of record within this state a writing which states that **he THE PERSON** consents to return to the demanding state, except that before the waiver is executed or subscribed to by the person it is the duty of the judge to inform the person of **his THE PERSON'S** right to the issuance or service of a warrant of extradition, the right to contest extradition by habeas corpus as provided in section 13-3850 and the right to bail as provided in section 13-3856.

C. Notwithstanding subsection A of this section, a law enforcement agency holding a person who is alleged to have broken the terms of **his THE PERSON'S** probation, parole, bail or other release shall immediately deliver the person to the duly authorized agent of the demanding state without the requirement of a governor's warrant if all of the following apply:

1. The person has signed a prior waiver of extradition as a term of **his THE PERSON'S** current probation, parole, bail or other release in the demanding state.

13-3866. No right of asylum

After a person has been brought back to this state upon extradition proceedings, **he THE PERSON** may be tried in this state for other crimes which **he THE PERSON** may be charged with having committed here as well as that specified in the requisition for **his THE PERSON'S** extradition.

13-3870. Executive agreements

A. If this state wishes to obtain custody of a person charged in this state with a criminal offense and the person was convicted or is imprisoned or held under criminal proceedings then pending against **him THE PERSON** in another state, the governor of this state and the executive authority of the other state may agree on the extradition of the person before the criminal proceedings against the person have terminated or the person's sentence has been served in the other state.

13-3870.01. Use of facsimile signature

For the purposes of this article, a facsimile of the signature of the governor that is applied at **his THE GOVERNOR'S** direction and under **his THE GOVERNOR'S** supervision is deemed to be the authorized signature of the governor.

13-3871. Authority of peace officers

The authority of a peace officer may extend in any of the following circumstances to any place within the state:

1. Where **he THE PEACE OFFICER** has the prior consent of the chief of police, marshal, sheriff, or other department or agency head with peace officer jurisdiction, or **his THE** duly authorized representative **OF SUCH CHIEF OF POLICE, MARSHAL, SHERIFF OR OTHER DEPARTMENT**

OR AGENCY HEAD WITH PEACE OFFICER JURISDICTION, having the primary responsibility for law enforcement within the jurisdiction or territory.

13-3872. Mutual aid agreements

Any two or more public agencies as defined by section 11-951 having and maintaining peace officers may, by action of their respective legislative or other governing body, enter into mutual aid agreements with respect to law enforcement provided mutual aid agreements entered into on the part of the state of Arizona shall be approved by the agency involved and the governor. A peace officer acting within the jurisdiction of any other public agency pursuant to a mutual aid agreement shall have full authority to act as a peace officer to the same extent as if **he THE PEACE OFFICER** were a duly appointed, qualified and acting peace officer of such public agency as herein defined. Mutual aid agreements provided for in this section shall be entered into pursuant to the provisions of title 11, chapter 7, article 3.

13-3874. Indian police; powers; qualifications

A. While engaged in the conduct of **his THE OFFICER'S** employment any Indian police officer who is appointed by the bureau of Indian affairs or the governing body of an Indian tribe as a law enforcement officer and who meets the qualifications and training standards adopted pursuant to section 41-1822 shall possess and exercise all law enforcement powers of peace officers in this state.

B. Each agency appointing any Indian police officer pursuant to this section shall be liable for any and all acts of such officer acting within the scope of **his THE OFFICER'S** employment or authority. Neither the state nor any political subdivision shall be liable for any acts or failure to act by any such Indian police officer.

13-3881. Arrest; how made; force and restraint

A. An arrest is made by an actual restraint of the person to be arrested, or by **his THE PERSON'S** submission to the custody of the person making the arrest.

B. No unnecessary or unreasonable force shall be used in making an arrest, and the person arrested shall not be subjected to any greater restraint than necessary for **his THE PERSON'S** detention.

13-3884. Arrest by private person

A private person may make an arrest:

1. When the person to be arrested has in **his THE PRIVATE PERSON'S** presence committed a misdemeanor amounting to a breach of the peace, or a felony.

13-3886. Arrest by telephone or telegram; filing copy of warrant

A. Any magistrate may, by an endorsement under **his THE MAGISTRATE'S** hand upon a warrant of arrest, authorize the service of the warrant by telegraph or telephone, and thereafter a telegraphic or telephonic copy of such warrant may be sent by telegraph or telephone to one or more peace officers. The copy shall be as effectual in the hands of any officer, and **he THEY** shall proceed in the same manner under it, as though **he THEY** held an original warrant issued by the magistrate making the endorsement.

13-3887. Method of arrest by officer by virtue of warrant

When making an arrest by virtue of a warrant the officer shall inform the person to be arrested of the cause of the arrest and of the fact that a warrant has been issued for **his THE PERSON'S** arrest, except when **he THE PERSON** flees or forcibly resists before the officer has opportunity so to inform **him THE PERSON**, or when the giving of such information will imperil the arrest. The officer need not have the warrant in **his THE OFFICER'S** possession at the time of the arrest, but after the arrest, if the person arrested so requires, the warrant shall be shown to **him THE PERSON** as soon as practicable.

13-3888. Method of arrest by officer without warrant

When making an arrest without a warrant, the officer shall inform the person to be arrested of **his THE OFFICER'S** authority and the cause of the arrest, unless the person to be arrested is then engaged in the commission of an offense, or is pursued immediately after its commission or after an escape, or flees or forcibly resists before the officer has opportunity so to inform **him THE PERSON**, or when the giving of such information will imperil the arrest.

13-3889. Method of arrest by private person

A private person when making an arrest shall inform the person to be arrested of the intention to arrest **him THE PERSON** and the cause of the arrest, unless **he THE PERSON TO BE ARRESTED** is then engaged in the commission of an offense, or is pursued immediately after its commission or after an escape, or flees or forcibly resists before the person making the arrest has opportunity so to inform **him THE PERSON TO BE ARRESTED**, or when the giving of such information will imperil the arrest.

13-3891. Right of officer to break into building

An officer, in order to make an arrest either by virtue of a warrant, or when authorized to make such arrest for a felony without a warrant, as provided in section 13-3883, may break open a door or window of any building in which the person to be arrested is or is reasonably believed to be, if the officer is refused admittance after **he THE OFFICER** has announced **his THE OFFICER'S** authority and purpose.

13-3892. Right of private person to break into building

A private person, in order to make an arrest where a felony was committed in **his THE PRIVATE PERSON'S** presence, as authorized in section 13-3884, may break open a door or window of any building in which the person to be arrested is or is reasonably believed to be, if **he THE PRIVATE PERSON** is refused admittance after **he THE PRIVATE PERSON** has announced **his THEIR** purpose.

13-3893. Right to break door or window to effect release

When an officer or private person has entered a building in accordance with the provisions of section 13-3891 or 13-3892, **he THE OFFICER OR PRIVATE PERSON** may break open a door or window of the building, if detained therein, when necessary for the purpose of liberating **himself THE OFFICER OR PRIVATE PERSON**.

13-3895. Weapons to be taken from person arrested

Any person making a lawful arrest may take from the person arrested all weapons which **he THE PERSON ARRESTED** may have about **his THE ARRESTED PERSONS'** person and shall deliver them to the magistrate before whom **he THE PERSON ARRESTED** is taken.

13-3896. Arrest after escape or rescue; method of recapture

A. If a person lawfully arrested escapes or is rescued, the person from whose custody **he THE ARRESTED PERSON** escaped or was rescued may immediately pursue and retake **him THE ARRESTED PERSON** without a warrant at any time and in any place within the state.

B. To retake the person escaping or rescued the person from whose custody **he THE ARRESTED PERSON** escaped who is lawfully pursuing may use the same means as are authorized for an arrest.

13-3900. Duty of private person after making arrest

A private person who has made an arrest shall without unnecessary delay take the person arrested before the nearest or most accessible magistrate in the county in which the arrest was made, or deliver **him THE PERSON ARRESTED** to a peace officer, who shall without unnecessary delay take **him THE PERSON ARRESTED** before such magistrate. The private person or officer so taking the person arrested before the magistrate shall make before the magistrate a complaint, which shall set forth the facts showing the offense for which the person was arrested. If, however, the officer cannot make the complaint, the private person who delivered the person arrested to the officer shall accompany the officer before the magistrate and shall make to the magistrate the complaint against the person arrested.

13-3901. Right of attorney to visit person arrested

Any attorney at law entitled to practice in the courts of this state shall, at the request of the person arrested or of some one acting in **his SUCH PERSON'S** behalf, be permitted, under reasonable regulations, to visit the person arrested.

13-3903. Notice to appear and complaint

D. In any case in which a person is arrested for a misdemeanor offense or a petty offense, the arresting officer may prepare in quadruplicate a written notice to appear and complaint, containing the name and address of the person, the offense charged, and the time and place where and when the person shall appear in court, provided:

3. The arrested person, in order to secure release as provided in this section, shall give **his THEIR** written promise so to appear in court by signing at least one copy of the written notice and complaint prepared by the arresting officer. The officer shall deliver a copy of the notice and complaint to the person promising to appear. Thereupon, the officer shall forthwith release the person arrested from custody.

F. If a person gives **his THEIR** written promise to appear in court on a designated date pursuant to this section, and thereafter fails to appear, personally or by counsel, on or before that date, the court clerk or other court staff shall file a complaint, in writing, under oath, charging the defendant with a violation of section 13-2506, subsection A, paragraph 2 and issue a warrant for the defendant's arrest.

H. This section does not affect a peace officer's authority to conduct an otherwise lawful search incident to **his** arrest even though the arrested person is released before being taken to the police station or before a magistrate pursuant to this section.

13-3911. Definition

A search warrant is an order in writing issued in the name of the state of Arizona, signed by a magistrate, directed to a peace officer, commanding **him THE OFFICER** to search for personal property, persons or items described in section 13-3912.

13-3914. Examination on oath; affidavits

A. Before issuing a warrant, the magistrate may examine on oath the person or persons seeking the warrant, and any witnesses produced, and must take **his THE PERSON'S** affidavit, or their affidavits, in writing and cause the affidavit to be subscribed by the party or parties making the affidavit. Before issuing the warrant, the magistrate may also examine any other sworn affidavit submitted to **him THE MAGISTRATE** which sets forth facts tending to establish probable cause for the issuance of the warrant.

13-3917. Time of service; exception

Upon a showing of good cause therefor, the magistrate may, in **his THE MAGISTRATE'S** discretion insert a direction in the warrant that it may be served at any time of the day or night. In the absence of such a direction, the warrant may be served only in the daytime. For the purposes of this section night is defined as the period from ten p.m. to six-thirty a.m.

13-3920. Retention of property

All property or things taken on a warrant shall be retained in the custody of the seizing officer or agency which **he THE OFFICER** represents, subject to the order of the court in which the warrant was issued, or any other court in which such property or things is sought to be used as evidence.

13-3921. Return of warrant and inventory; copy of inventory

A. The officer shall return the warrant to the magistrate and at the same time deliver to **him THE MAGISTRATE** a written inventory of the property taken. The inventory shall be made publicly, or in the presence of the person from whose possession it was taken, and of the applicant for the warrant, if they are present. The inventory shall be verified by the affidavit of the officer which shall be taken by the magistrate at the time it is delivered to the magistrate. The affidavit shall recite that the inventory contains a true and detailed account of all the property taken.

13-3923. Filing and transmittal of papers

The magistrate shall annex the affidavits, the search warrant and return, and the inventory, and if **he THE MAGISTRATE** does not have jurisdiction to inquire into the offense in respect to which the warrant was issued, **he THE MAGISTRATE** shall at once file the warrant, and return the affidavits and inventory to the court having jurisdiction to inquire into the offense.

13-3931. Search of accused by magistrate

When a person charged with felony is believed by the magistrate before whom **he THE PERSON** is brought to have on **his THE ACCUSED'S** person a dangerous weapon, or anything which may be used as evidence of the commission of the offense, the magistrate may direct that the accused be searched in **his THE MAGISTRATE'S** presence, and that the weapon or other thing be retained subject to **his THE MAGISTRATE'S** order, or to the order of the court in which defendant may be tried.

13-3941. Disposition and return of stolen or embezzled property

A. When property alleged to have been stolen or embezzled comes into the custody of a peace officer or of a magistrate, **he THE PEACE OFFICER OR MAGISTRATE** shall hold it subject to the order of the magistrate before whom the complaint is laid or who examines the charge against the person accused of stealing or embezzling such property.

13-3951. Order of commitment; duty of officer

If the magistrate orders the defendant committed upon the preliminary examination, **he THE MAGISTRATE** shall prepare a commitment signed by **him THE MAGISTRATE** with **his THE MAGISTRATE'S** name of office, and deliver it with the defendant to the officer to whom **he THE DEFENDANT** is committed, or, if that officer is not present, to a peace officer, who shall deliver the defendant to the officer to whom **he THE DEFENDANT** is committed, together with the commitment.

13-3952. Compensation of court reporter appearing at preliminary hearing; fees for transcribing notes

When a regularly appointed court reporter appears and takes testimony at a preliminary hearing in a criminal proceeding, the reporter's compensation shall be fixed by the magistrate before whom the examination is had. Such compensation shall not exceed the amount of fifteen dollars per day for each preliminary hearing actually attended upon such examination, and two dollars fifty cents per page for transcribing **his THE REPORTER'S** notes, to be allowed and paid as other county charges. The reporter, when requested, shall furnish at county expense to the county attorney or the attorney general a copy of the transcript of testimony of any proceedings held in the justice court when the state or an instrumentality thereof is ordered to provide such transcripts by a federal court in a habeas corpus proceeding in the federal courts or when ordered by the Arizona supreme court to provide such transcripts in a habeas corpus proceeding in state court.

13-3962. Admission to bail in certain non-bailable offenses

A person in custody for the commission of a non-bailable offense described in section 13-3961, where the proof is not evident or the presumption not great that **he THE PERSON** is guilty of the offense, shall before conviction be admitted to bail by a court having jurisdiction of the offense.

13-3963. Admission to bail when arrest occurs in another county

When an arrest by virtue of a warrant occurs in a county other than that in which the alleged offense was committed and the warrant issued, if the person arrested is bailable as of right in respect of the offense set forth in the warrant, the officer making the arrest shall, upon being so required by the person arrested, take **him THE PERSON** before a magistrate or other official of such county having authority to admit to bail for such offense, who shall admit **him THE PERSON** to bail for **his THE PERSON'S** appearance before the magistrate who issued the warrant or, if **he THE MAGISTRATE** is absent or unable to act, before the nearest or most accessible magistrate in the same county.

13-3964. Bail when warrant issued in other county

If the person arrested is bailable as of right in respect of the offense set forth in the warrant, the officer making the arrest shall, upon being so required by the person arrested, take **him THE PERSON** before a magistrate or other official, having authority to admit to bail for such offense, of the county in which the arrest is made, who shall admit **him THE PERSON** to bail for **his THE PERSON'S** appearance before the magistrate named or otherwise designated in the warrant or, if **he THE MAGISTRATE** is absent or unable to act, before the nearest or most accessible magistrate in such county.

13-3965. Procedure when bail not given

If the person arrested is not bailable as of right in respect of the offense set forth in the warrant, or if, on the admission to bail of the person arrested as provided in section 13-3963, bail is not forthwith given, the officer who made the arrest shall take the person arrested before the magistrate who issued the warrant or, if **he THE MAGISTRATE** is absent or unable to act, before the nearest or most accessible magistrate in the same county.

13-3967. Release on bailable offenses before trial; definition

A. At **his AN ACCUSED'S** appearance before a judicial officer, any person who is charged with a public offense that is bailable as a matter of right shall be ordered released pending trial on **his THE PERSON'S** own recognizance or on the execution of bail in an amount specified by the judicial officer.

C. If a judicial officer orders the release of a defendant who is charged with a felony either on **his THE DEFENDANT'S** own recognizance or on bail, the judicial officer shall condition the defendant's release on the defendant's good behavior while so released. On a showing of probable cause that the defendant committed any offense during the period of release, a judicial officer may revoke the defendant's release pursuant to section 13-3968.

D. After providing notice to the victim pursuant to section 13-4406, a judicial officer may impose any of the following conditions on a person who is released on **his THEIR** own recognizance or on bail:

1. Place the person in the custody of a designated person or organization agreeing to supervise **him** **THE PERSON**.

F. The judicial officer who authorizes the release of the person charged on **his** **THE PERSON'S** own recognizance or on bail shall do all of the following:

3. Advise the person that a warrant for **his** **THE PERSON'S** arrest may be issued immediately on any violation of the conditions of release, including the failure to submit to deoxyribonucleic acid testing ordered pursuant to paragraph 4 of this subsection.

13-3968. Violation of conditions of release; hearing

A. Upon a verified application by the prosecuting attorney alleging that a defendant charged with a felony has wilfully violated the conditions of **his** **DEFENDANT'S** release, a judicial officer may issue a warrant directing that the defendant be arrested and taken forthwith before a superior court for hearing.

B. After a hearing and upon a finding that the defendant has wilfully violated the conditions of **his** **DEFENDANT'S** release, the court may impose different or additional conditions upon the defendant's release. Upon a finding of probable cause that the defendant committed a felony during the period of release, the defendant's release may be revoked.

13-3969. Bail bond agent lists; prohibition; rotation; acceptance of bonds

A. The sheriff or keeper of a county or city jail shall provide to a person charged with a bailable offense in **his** **THE SHERIFF'S OR KEEPER'S** custody a list containing the names and telephone numbers of those persons authorized to post bail bonds in the county. Persons authorized to post bail bonds in the county may be listed under their own name or a trade name if the trade name is registered with the secretary of state. The list shall be updated monthly. Each month the clerk of the court shall transmit the list electronically to county and city jails and shall rotate the order of the names and telephone numbers on the list.

13-3971. Bail after examination

When defendant has been held to answer upon examination for a crime or public offense, admission to bail may be by the magistrate by whom **he** **DEFENDANT** is held, or by any magistrate who has the power to issue a writ of habeas corpus.

13-3972. Restraint before conviction

A person charged with a crime or public offense shall not, before conviction, be subject to more restraint than is necessary for **his** **THE PERSON'S** detention to answer the charge.

13-3981. Compromise of misdemeanors and petty offenses; domestic violence; effect of order of dismissal; exceptions and limitations

A. When a defendant is accused of a misdemeanor or petty offense for which the person injured by the act constituting the offense has a remedy by a civil action, the offense may be compromised as provided in this section, except:

1. When the offense is committed by or upon any officer of justice while in the execution of the duties of ~~his~~ THE OFFICER'S office.

C. If the party injured appears before the court in which the action is pending at any time before trial, and THE INJURED PARTY acknowledges ~~that he has received~~ RECEIPT OF satisfaction for the injury, the court may, on payment of the costs incurred, order the prosecution dismissed, and the defendant discharged. The reasons for the order shall be set forth and entered of record on the minutes and the order shall be a bar to another prosecution for the same offense.

13-3984. Procedure where proof shows higher offense; effect

A. If upon the trial of any action it appears to the court by the testimony that the facts proved constitute an offense of a higher nature than that charged, the court may direct that the jury be discharged and all proceedings on the indictment or information suspended, and may order the commitment of the defendant, and if the offense is bailable, direct in the order that the defendant may be admitted to bail in the amount fixed, which shall be specified in the order, to answer any indictment which may be returned, or any information which may be filed against ~~him~~ THE DEFENDANT following a preliminary hearing, within thirty days after such suspension of proceedings by the court.

B. If the defendant is committed or admitted to bail in order to hold ~~him~~ THE DEFENDANT for a higher offense, as provided in subsection A, it is not an acquittal of the offense in which proceedings were suspended, and no plea of former jeopardy or former acquittal shall be sustained by reason thereof.

13-3985. Effect of acquittal on merits

If a defendant in a criminal action is acquitted on the merits, ~~he~~ THE DEFENDANT is acquitted of the same offense notwithstanding any defect in form or substance in the indictment or information on which the trial was had.

13-3988. Admissibility of confessions

B. The trial judge in determining the issue of voluntariness shall take into consideration all the circumstances surrounding the giving of the confession, including but not limited to the following:

2. Whether such defendant knew the nature of the offense with which ~~he~~ THE DEFENDANT was charged or of which ~~he~~ THE DEFENDANT was suspected at the time of making the confession.

3. Whether or not such defendant was advised or knew that ~~he~~ THE DEFENDANT was not required to make any statement and that any such statement could be used against ~~him~~ THE DEFENDANT.

13-3989. Admissibility in evidence of eye witness testimony

The testimony of a witness that ~~he~~ THE WITNESS saw the accused commit or participate in the commission of the crime for which the accused is being tried shall be admissible in evidence in a criminal prosecution in any trial court of this state.

13-3991. Detention of defendant during insanity; restoration to sanity

If a defendant is committed to the state hospital for the reason that ~~he~~ THE DEFENDANT is insane or mentally defective to the extent that ~~he~~ THE DEFENDANT is unable to understand the proceedings against ~~him~~ THE DEFENDANT or to assist in ~~his~~ THE DEFENDANT'S defense, if charged with a crime, or for the reason that ~~he~~ THE DEFENDANT is found insane after conviction and prior to pronouncing sentence, ~~he~~ THE DEFENDANT shall be detained in the state hospital until ~~he~~ THE DEFENDANT becomes sane. When the defendant becomes sane, the superintendent of the state hospital shall give notice of that fact to the sheriff and county attorney of the county. The sheriff shall thereupon, without delay, bring the defendant from the state hospital and place ~~him~~ THE DEFENDANT in proper custody, until ~~he~~ THE DEFENDANT is brought to trial or sentenced, or is legally discharged.

13-3992. Expenses of maintenance of insane defendant as county charge

When a defendant in a criminal action, any time prior to pronouncement of sentence, is committed to the state hospital, the expenses of transporting ~~him~~ THE DEFENDANT to and from the hospital and of maintaining ~~him~~ THE DEFENDANT while confined therein shall be a charge against the county in which the indictment was found or information filed, but the county may recover such expenses from the estate of the defendant or from a relative, town, city or county required by law to provide for and maintain the defendant.

13-4021. Competency to be executed; definition

A. A person who is sentenced to death shall not be executed as long as ~~he is~~ THEY ARE mentally incompetent to be executed.

B. As used in this article, "mentally incompetent to be executed" means that due to a mental disease or defect a person who is sentenced to death is presently unaware that ~~he is~~ THEY ARE to be punished for the crime of murder or that ~~he is~~ THEY ARE unaware that the impending punishment for that crime is death.

13-4025. Procedure upon discovery that prisoner under death sentence may be pregnant; examination

If, after delivery to the superintendent of the state prison of a ~~female~~ prisoner under a sentence of death, there is reason at any time prior to execution of such sentence to believe that ~~she~~ THE PRISONER is pregnant, the superintendent shall give notice of such fact to the county attorney of the county in which the prison is located, who shall immediately file in the superior court of such county a petition, setting forth the conviction and sentence and the fact that the prisoner is believed to be pregnant, and requesting that the question of pregnancy be determined. The court shall immediately summon three disinterested physicians to inquire into the alleged pregnancy and to report thereon. If the court, after hearing the report of the physicians, decides that the defendant is pregnant, it shall make a written finding thereof and enter it upon the minutes.

13-4026. Proceedings subsequent to examination for pregnancy

- A. If it is determined that the **female** prisoner is not pregnant, the superintendent shall execute the sentence.
- B. If it is determined that **she** **THE PRISONER** is pregnant, the superintendent shall suspend the execution of the sentence and transmit a certified copy of the finding to the governor.
- C. When the governor receives from the superintendent a certificate that the defendant is no longer pregnant, **he** **THE GOVERNOR** shall issue to the superintendent **his** **A** warrant, appointing a day for the execution of the sentence.

Changes in this section are necessitated by the legalization of same-sex marriage and Arizona Courts have recognized that same-sex married couples are “constitutionally entitled to the constellation of benefits the State have linked to marriage,” *McLaughlin v. Jones in & for County of Pima*, 243 Ariz. 29, 31, ¶ 1, 401 P.3d 492, 494 (2017) (citing *Obergefell v. Hodges*, 576 U.S. 644, 135 S. Ct. 2584 (2015)).

13-4062. Anti-marital fact privilege; other privileged communications

A person shall not be examined as a witness in the following cases:

1. A **husband** **PERSON** for or against **his-wife** **THE PERSON’S SPOUSE** without **her** **THAT SPOUSE’S** consent, ~~nor a wife for or against her husband without his consent~~, as to events occurring during the marriage, nor can either, during the marriage or afterwards, without consent of the other, be examined as to any communication made by one to the other during the marriage. These exceptions do not apply in a criminal action or proceeding for a crime committed by ~~the husband~~ **ONE SPOUSE** against the **wife** **THE OTHER**, ~~or by the wife against the husband~~, nor in a criminal action or proceeding against ~~the husband~~ **A SPOUSE** for abandonment, failure to support or provide for or failure or neglect to furnish the necessities of life to ~~the wife~~ **THE OTHER SPOUSE** or the minor children. Either spouse may be examined as a witness for or against the other in a prosecution for an offense listed in section 13-706, subsection F, paragraph 1, for bigamy or adultery, committed by either spouse, or for sexual assault committed by ~~the husband~~ **A SPOUSE** if either of the following occurs:

Revisions in this section are necessitated by the use of sex specific roles and pronouns and reference to crimes no longer outlined in Title 13.

13-4063. Competency of **female **VICTIM** **concerned** in certain offenses; effect of marriage to accused**

In a prosecution for **rape** **ANY OFFENSE LISTED IN CHAPTER 14, UNLAWFUL IMPRISONMENT PURSUANT TO SECTION 13-1303, KIDNAPPING PURSUANT TO SECTION 13-1304, OR SEX TRAFFICKING PURSUANT TO SECTION 13-1307**, ~~abduction, seduction, pandering, receiving-earnings of a prostitute, transporting a female for immoral purposes, forcing a woman to marry, defiling a woman, inveigling or enticing a female into a house of ill-fame or to have illicit carnal relation with a man~~, the **female** **VICTIM** concerned in the offense is a competent witness to testify to any and all matters, including conversations with the accused, or by **him** **THE ACCUSED** with third persons in **her** **THE VICTIM’S** presence, notwithstanding **her** **THE VICTIM** having married the accused either before or after the commission of the offense charged.

Revisions are necessary due to exclusionary use of male pronouns.

13-4064. Order compelling person to testify or produce evidence; immunity from use of such evidence; contempt

In any criminal proceeding before a court or grand jury, if a person refuses to answer a question or produce evidence of any other kind on the ground that **he THE PERSON** may be incriminated thereby and if the prosecuting attorney, in writing, requests the court to order that person to answer the question or produce the evidence, the court may so order and that person shall comply with the order. When the court denies such a request, the court shall state its reasons for denial in writing. After complying, such testimony or evidence, or any information directly or indirectly derived from such testimony or evidence, shall not be used against the person in any proceeding or prosecution for a crime or offense concerning which **he THE PERSON** gave answer or produced evidence under court order. However, **he THE PERSON** may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing, or failing to produce, evidence in accordance with the order. If a person refuses to testify after being granted immunity and after being ordered to testify as aforesaid, **he THE PERSON** may be adjudged in contempt and committed to the county jail. If the grand jury before which **he THE PERSON** was ordered to testify has been dissolved, **he THE PERSON** may then purge **himself THEMSELVES** by testifying before the court.

13-4071. Subpoena; issuance; duty of clerk

C. The clerk of the court or the clerk's designee, on request of the county attorney or attorney general, shall issue a subpoena for witnesses to appear before the grand jury, without prior authorization by a grand jury, if all of the following occur:

3. The county attorney or attorney general reports to the **foreman FOREPERSON** of the grand jury, or in the **foreman's FOREPERSON'S** absence the acting **foreman FOREPERSON**, the fact of the issuance of the subpoena within ten days following its issuance or, if the grand jury is in recess, at the first succeeding session of the grand jury after the expiration of the ten day period.

13-4072. Service of subpoena

C. Personal service of a subpoena is made by showing the original to the witness personally, informing **him THE WITNESS** of its contents and delivering a copy of the subpoena to such witness. Written return of service of a subpoena must be made without delay, stating the time and place of service.

D. Subpoenas may be served by certified mail for delivery to addressee only. The subpoena shall be registered and mailed, postage and registry fee prepaid, to the addressee with a request endorsed on the envelope in the usual form for the return of the letter to the sender if not delivered within five days. The receipt of such certified letter by the addressee is deemed valid service upon **him THE ADDRESSEE** and the returned receipt signed by the addressee named in the subpoena is *prima facie* evidence of notification.

E. Subpoenas may be served by first class mail if the addressee is supplied with a certificate of service and return card. The return of such card signifies and states that the addressee has received official notice to appear in court, that **he THE ADDRESSEE** waives all further service of subpoena and that **he THE**

ADDRESSEE submits to the jurisdiction of the court for the purposes set forth in the subpoena. The return of the signed card is *prima facie* evidence of notification.

F. A peace officer shall serve in **his THE PEACE OFFICER'S** county any subpoena delivered to **him THE PEACE OFFICER** for service, either on behalf of this state or the defendant.

13-4075. Removal of prisoner to attend as witness; procedure; duty of sheriff

B. The order provided in subsection A of this section shall be executed by the sheriff of the county in which it is made, who shall bring the prisoner before the court, safely keep **him THE PRISONER** and, when **he THE PRISONER** is no longer required as a witness, return **him THE PRISONER** to the prison or jail from which **he THE PRISONER** was taken.

13-4092. Summoning witness in this state to testify in another state

A. If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that **his THE PERSON'S** presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for a hearing.

B. If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, will give to **him THE WITNESS** protection from arrest and the service of civil and criminal process, **he THE JUDGE** shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be *prima facie* evidence of all the facts stated therein.

C. If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure **his THE WITNESS'S** attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before **him THE JUDGE** for the hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be *prima facie* proof of such desirability may, in lieu of issuing subpoena or summons, order that the witness be forthwith taken into custody and delivered to an officer of the requesting state.

D. If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each day that **he THE WITNESS** is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, **he THE WITNESS** shall be punished in the manner provided for the punishment of a witness who disobeys a summons issued from a court of record in this state.

13-4093. Witness from another state summoned to testify in this state

B. If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of this state to assure **his THE WITNESS'S** attendance in this state, such judge may direct that the witness be forthwith brought before **him THE JUDGE**; and the judge being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be *prima facie* proof, may order that the witness be forthwith taken into custody and delivered to an officer of this state, which order shall be sufficient authority to the officer to take the witness into custody and hold **him THE WITNESS** unless and until **he THE WITNESS** may be released by bail, recognizance or order of the judge issuing the certificate.

C. If the witness is summoned to attend and testify in this state **he THE WITNESS** shall be tendered the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each day that **he THE WITNESS** is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, **he THE WITNESS** shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

13-4094. Exemption from arrest and service of process

A. If a person comes into this state in obedience to a summons directing **him THE PERSON** to attend and testify in this state **he THEY** shall not while in this state pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before **his THE PERSON'S** entrance into this state under the summons.

B. If a person passes through this state while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, **he THE PERSON** shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before **his THE PERSON'S** entrance into this state under the summons.

13-4101. Witness for defendant

When a defendant has been held to answer for a public offense, **he THE DEFENDANT** or the state may, either before or after an indictment or information has been filed, have witnesses examined conditionally on **his THE DEFENDANT'S** behalf, as prescribed in this article.

13-4102. Grounds for examination; application

A. When a material witness for defendant or the state is about to leave the state, or is so sick or infirm as to afford reasonable grounds to believe that **he THE MATERIAL WITNESS** will be unable to attend the trial, defendant or the state may apply to the court for an order that the witness be examined conditionally.

B. The application shall be made upon affidavit stating:

1. The nature of the offense charged.
2. The name and residence of the witness.
3. That **his** **THE WITNESS'S** testimony is material to the defense or prosecution of the action.
4. That the witness is about to leave the state or is so sick or infirm as to afford reasonable grounds to believe that **he** **THE WITNESS** will not be able to attend the trial.

13-4111. Witness for defendant; grounds; application; issuance of commission; stay of trial

A. When an issue of fact is joined upon an indictment or information, the defendant may have any material witness residing without the state examined in **his** **THE DEFENDANT'S** behalf, as prescribed in this article, upon application to the court in which the action is pending, supported by an affidavit showing:

13-4112. Interrogatories and cross-interrogatories; notice; service; duty of court; execution of commission

A. When the commission is ordered, the defendant shall serve upon the county attorney, without delay, a copy of the commission and interrogatories, with two days notice of the time when they will be presented to the court. **The** **IF THE** county attorney **if he** desires to present cross-interrogatories, **THE COUNTY ATTORNEY** shall forthwith serve upon defendant or **his** **THE DEFENDANT'S** counsel the cross-interrogatories, which shall be annexed to the commission.

B. When the interrogatories and cross-interrogatories are presented to the court, the court shall reframe the questions to conform them to the rules of evidence, and shall endorse upon them **his** **THE COURT'S** allowance and annex them to the commission.

13-4113. Duty of commissioner in executing commission; attachment of section to commission

A. The commissioner, unless otherwise specially directed, shall execute the commission as follows:

1. Publicly administer an oath to the witness that **his** **THE WITNESS'S** answers given to the interrogatories shall be the truth, the whole truth, and nothing but the truth.
2. Cause the examination of the witness to be reduced to writing, and subscribed by **him** **THE WITNESS**.
3. Write the answers of the witness as nearly as possible in the language in which **he** **THE WITNESS** gives them, and read to **him** **THE WITNESS** each answer as it is taken down, and correct or add to it until it conforms to what **he** **THE WITNESS** declares is the truth.

B. If the witness declines to answer a question, that fact, with the reason assigned by **him** **THE WITNESS** for declining, shall be stated. If any papers or documents are produced before **him** **THE WITNESS** and proved by the witness, they, or copies of them, shall be annexed to the deposition subscribed by the witness and certified by the commissioner.

C. The commissioner shall subscribe **his THE COMMISSIONER'S** name to each sheet of the deposition, and annex the deposition, with the papers and documents proved by the witness, or copies thereof, to the commission, enclose it in an envelope under seal and address it as directed by the endorsement thereon. If there is a direction on the commission to return it by mail, the commissioner shall immediately deposit it in the nearest post office. If any other direction is made by written consent of the parties, or by the court on the commission, as to its return, **he THE COMMISSIONER** shall comply with the directions.

13-4114. Receipt and filing of commission; inspection

C. The commission and return shall at all times be open to inspection of the parties, who shall be furnished by the clerk with copies of it or any part thereof on payment of **his THE CLERK'S** fees.

13-4116. Delivery of commission by agent; inability of agent to deliver

B. If the agent is dead, or from sickness or other casualty, is unable personally to deliver the commission and return, it may be received by the clerk or judge from any other person, upon such person making an affidavit that:

1. **He THE PERSON** received it from the agent, that the agent is dead or from sickness or other casualty unable to deliver it.
3. **He THE PERSON** believes it has not been opened or altered since it came from the commissioner.

13-4121. Prosecution of writ

A person unlawfully committed, detained, confined or restrained of **his THE PERSON'S** liberty, under any pretense whatever, may petition for and prosecute a writ of habeas corpus to inquire into the cause of such imprisonment or restraint.

13-4122. Application for writ

Application for the writ shall be made by verified petition, signed either by the party for whose relief it is intended or by some person in **his THE APPLICANT'S** behalf, and shall state that the person in whose behalf the writ is applied for is imprisoned or restrained of **his THE PERSON'S** liberty, the place where, and the officer or person by whom **he THE PERSON** is so confined or restrained, naming all the parties, if they are known, or describing them if they are not known. If the imprisonment is alleged to be illegal, the petition shall also state the particulars of the alleged illegality.

13-4123. Granting of writ; remand of prisoner

B. If the writ is granted by a superior court or judge, and after hearing thereof the prisoner has been remanded, **he THE PRISONER** shall not be discharged from custody by the same or any other superior court or judge, unless upon some ground not existing at the time of issuing the prior writ, or unless upon some point of law not raised at the hearing upon the return of the prior writ.

13-4124. Granting writ; time; bail

B. If the person by or upon whose behalf the application for the writ is made is detained upon a criminal charge, the court or judge may admit **him THE PERSON** to bail if the offense is bailable, pending determination of the proceeding.

13-4125. Direction of writ

The writ shall be directed to the person having custody of or restraining the person on whose behalf the petition is made, and shall command **him THE PERSON HAVING CUSTODY** to have the body of such person before the court or judge before whom the writ is returnable, at a time and place therein specified.

13-4126. Delivery and service of writ

A. If the writ is directed to the sheriff or other officer of the court out of which the writ is issued, it shall be delivered by the clerk to such officer without delay, as other writs are delivered for service. If the writ is directed to any other officer or person, the writ shall be delivered to the sheriff, and shall be by **him THE SHERIFF** served upon such officer or person by delivering the writ to **him THE SHERIFF** without delay.

B. If the officer or person to whom the writ is directed cannot be found, or refuses admittance of the officer or person serving or delivering the writ, the writ may be served or delivered by leaving it at the residence of the officer or person to whom it is directed, or by affixing it on some conspicuous place on the outside either of **his THE OFFICER'S** dwelling house or of the place where the party is confined or under restraint.

13-4127. Compelling obedience to writ

If the officer or person to whom the writ is directed refuses, after service thereof, to obey it, the court or judge shall, upon affidavit, issue an attachment against such person, directed to the sheriff, commanding **him THE SHERIFF** forthwith to apprehend the person, and bring **him THE PERSON** immediately before such court or judge. Upon being brought before the court or judge, such officer or person shall be committed to jail until **he THE PERSON** makes due return to the writ, or is otherwise legally discharged.

13-4128. Return to writ

A. The person upon whom the writ is served shall state in **his THE PERSON'S** return, plainly and unequivocally whether or not **he THE PERSON** has the party in **his THE PERSON'S** custody or under **his THE PERSON'S** power or restraint and if so, by what authority, and the cause of such imprisonment or restraint, setting forth such authority and cause in detail.

C. If the person upon whom the writ is served has had the party in **his THE PERSON'S** custody or under **his THE PERSON'S** power or restraint any time prior or subsequent to the date of the writ of habeas corpus, but has transferred the custody or restraint to another, the return shall state particularly at what time and place, for what reason and by what authority the transfer was made.

D. The return shall be signed by the person making it, and, except when such person is a public officer who has taken the oath of office and makes the return in **his THE OFFICER'S** official capacity, it shall be verified by **his THEIR** oath or affirmation.

13-4129. Production of prisoner; exception

A. The person upon whom the writ is served shall bring the body of the party in **his THE PERSON'S** custody or under **his THE PERSON'S** restraint before the court or judge according to the command of the writ.

B. When from sickness or infirmity of the person directed to be produced, the person cannot without danger be brought before the court or judge, the person in whose custody or power **he THE PERSON** is may state that fact in **his THEIR** return to the writ. If the court or judge is satisfied of the truth of the allegations of sickness or infirmity, and the return to the writ is otherwise sufficient the court or judge may decide the matter on such return and dispose of the matter as if the party had been produced on the writ, or the hearing thereof may be adjourned until the party can be produced.

13-4130. Hearing on return

B. The petitioner may controvert the return, or object to the sufficiency thereof, or allege any fact to show either that **his THE PETITIONER'S** imprisonment or detention is unlawful or that **he THE PETITIONER** is entitled to discharge. The court or judge shall thereupon hear the evidence, and in a summary manner dispose of the party as justice may require.

13-4131. Discharge of prisoner

B. If the time during which the party may be legally detained in custody has not expired and **he THE PERSON** is detained in custody by virtue of process issued by any court, judge or agency of the United States, in an action where such court, judge or agency has exclusive jurisdiction, or by virtue of the final judgment or decree of any court of competent jurisdiction, or of any process issued upon such judgment or decree, the person shall not be discharged.

13-4132. Discharge of prisoner held on process

If it appears, on the return of the writ, that the prisoner is in custody by virtue of process from any court of this state, or judge or officer thereof, the prisoner shall be discharged in any one of the following cases subject to the restrictions of section 13-4131:

5. When the person having custody of the prisoner is not the person authorized by law to detain **him THE PRISONER**.

13-4134. Defective process or commitment; re-examination

If it appears to the court or judge that the party is guilty of a criminal offense, or should not be discharged, the court or judge, although the charge is defectively set forth in the process or warrant of commitment, shall cause the witnesses to be subpoenaed to attend at the time ordered to testify before such court or judge. Upon the examination, the court shall discharge the prisoner, admit **him THE PRISONER** to bail, if the offense is bailable, or recommit **him THE PRISONER** to custody.

13-4135. Writ to admit to bail

When a person is imprisoned or detained in custody on any criminal charge for want of bail, such person shall be entitled to a writ of habeas corpus for the purpose of giving bail, upon averring that fact in **his THE PERSON'S** petition and without alleging that **he THE PERSON** is illegally confined. The court or judge may take a recognizance from such person as in other cases and file the recognizance in the proper court without delay.

13-4136. Remand of prisoner

A. If a party brought before the court or judge on the return of the writ, is not entitled to discharge or to bail, the court or judge shall remand **him THE PERSON** to the custody or restraint from which **he THE PERSON** is taken, if the person under whose custody or restraint **he THE PERSON** was is legally entitled thereto.

B. Where the party is held under illegal restraint or custody, but any other person is entitled to the restraint or custody of such party, **he THE PERSON** may be committed to the restraint or custody of the person who is by law entitled thereto.

13-4137. Custody pending judgment

Until judgment is given on the return, the court or judge may commit the party to the custody of the sheriff of the county or place **him THE PERSON** in such care, or under such custody, as **his THE PERSON'S** age or circumstances may require.

13-4138. Disobedience of writ for defect of form

No writ of habeas corpus shall be disobeyed for defect of form, if it sufficiently appears therefrom who has custody of, or who restrains the party imprisoned or restrained, the officer or person detaining **him THE PERSON**, and the court or judge before whom **he THE PERSON** is to be brought.

13-4139. Finality of discharge; exceptions

A person who has been discharged by order of the court or judge upon habeas corpus shall not be again imprisoned, restrained or kept in custody for the same cause, except:

1. If **he THE PERSON** was discharged from custody on a criminal charge, and is afterwards committed for the same offense by legal order or process.

13-4140. Warrant for immediate production of person restrained or restraining; grounds

A. When it appears from a petition, supported by satisfactory proof or affidavit, presented to a court or judge authorized to grant a writ of habeas corpus, that a person is illegally held in custody, confinement or restraint, and that there is good reason to believe that such person will be taken from the jurisdiction of the court or judge to whom the petition is made, or that the person will suffer some irreparable injury before compliance with a writ of habeas corpus can be enforced, the court or judge may cause a warrant

to be issued reciting the facts, and directed to the sheriff or any constable of the county, commanding such officer to take the person thus held in custody, confinement or restraint, and forthwith bring **him THE PERSON** before the court or judge to be dealt with according to law.

13-4142. Issuance, service and return of writ or process; time; manner; duty of clerk

B. The writs, processes, warrants and subpoenas shall be issued by the clerk of the court, and, except subpoenas, sealed with the seal of such court, and shall be served and returned forthwith unless the court or judge specifies a particular time for the return. When the writs or processes are made returnable before a judge, they shall be returned before **him THE JUDGE** at the county seat and there heard and determined.

13-4147. Avoidance of command of writ; classification

A person having in **his THEIR** custody, or under **his THE PERSON'S** restraint or power, any person for whom a writ of habeas corpus has been issued, who, with intent to elude the service of such writ, or to avoid the effect thereof, transfers such person to the custody of another, or places **him THE PERSON** under the power or control of another, or conceals or changes the place of **his THE PERSON'S** confinement or restraint or removes **him THE PERSON** without the jurisdiction of the court or judge issuing the writ, is guilty of a class 1 misdemeanor.

13-4231. Scope of post-conviction relief

Subject to the limitations of section 13-4232, any person who has been convicted of or sentenced for a criminal offense may, without payment of any fee, institute a proceeding to secure appropriate relief on any of the following grounds:

4. The person is being held in custody after **his THE PERSON'S** sentence has expired.
6. The defendant's failure to appeal from the judgment or sentence, or both, within the prescribed time was without fault on **his THE DEFENDANT'S** part.

13-4233. Nature of proceeding and relation to other remedies

A proceeding pursuant to this article is a part of the original criminal action and not a separate action. It displaces and incorporates all trial court post-trial remedies except post-trial motions and habeas corpus. If a defendant applies for a writ of habeas corpus in a court having jurisdiction of **his DEFENDANT'S** person attacking the validity of **his THEIR** conviction or sentence, that court pursuant to this article shall transfer the cause to the court where the defendant was convicted or sentenced and that court shall treat it as a petition for relief under this article and the procedures of this article apply.

13-4253. Out of court testimony; televised; recorded

A. The court, on motion of the prosecution, may order that the testimony of the minor be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment and any person whose presence would contribute to the welfare and well-being of the minor may be present in the room with the minor during **his THE**

MINOR'S testimony. Only the attorneys may question the minor. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the minor during **his THE MINOR'S** testimony but does not permit the minor to see or hear them. The court shall permit the defendant to observe and hear the testimony of the minor in person but shall ensure that the minor cannot hear or see the defendant.

13-4301. Definitions

In this chapter, unless the context otherwise requires:

3. “Injured person” means a person who has sustained economic loss, including medical loss, as a result of injury to **his THE INJURED'S** person, business or property by the conduct giving rise to the forfeiture of property, and who is not an owner of or an interest holder in the property. Injured person does not include a person who is responsible for the conduct giving rise to forfeiture or a person whose interest would not be exempt from forfeiture if the person were an owner of or interest holder in the property.

5. “Owner” means a person who is not a secured party within the meaning of section 47-9102 and who has an interest in property, whether legal or equitable. A person who holds property for the benefit of or as agent or nominee for another is not an owner. A purported interest which is not in compliance with any statute requiring its recordation or reflection in public records in order to perfect the interest against a bona fide purchaser for value shall not be recognized as an interest against this state in an action pursuant to this chapter. An owner with power to convey property binds other owners, and a spouse binds **his THE OTHER** spouse, by **his THE SPOUSE'S** act or omission.

6. “Person known to have an interest” means a person whose interest in property is reflected in the public records in which **his THE PERSON'S** interest is required by law to be recorded or reflected in order to perfect **his THE PERSON'S** interest. If a person's interest in property is not required by law to be reflected in public records in order to perfect **his THE PERSON'S** interest in the property, a person shall be known to have an interest only if **his THE PERSON'S** interest can be readily ascertained at the time of the commencement of the forfeiture action pursuant to this chapter.

8. “Seizing agency” means any department or agency of this state or its political subdivisions which regularly employs peace officers, and which employs the peace officer who seizes property for forfeiture, or such other agency as the seizing agency may designate in a particular case by its chief executive officer or **his THE CHIEF EXECUTIVE OFFICER'S** designee.

13-4304. Property subject to forfeiture; exemptions

4. No owner's or interest holder's interest may be forfeited under this chapter if the owner or interest holder establishes all of the following:

(a) **He THE OWNER OR INTEREST HOLDER** acquired the interest before or during the conduct giving rise to forfeiture.

(b) **He THE OWNER OR INTEREST HOLDER** did not empower any person whose act or omission gives rise to forfeiture with legal or equitable power to convey the interest, as to a bona fide purchaser for value, and **he THE OWNER OR INTEREST HOLDER** was not married to any such person or if married to such person, held the property as separate property.

(c) He THE OWNER OR INTEREST HOLDER did not know and could not reasonably have known of the act or omission or that it was likely to occur.

5. No owner's or interest holder's interest may be forfeited under this chapter if the owner or interest holder establishes all of the following:

(a) He THE OWNER OR INTEREST HOLDER acquired the interest after the conduct giving rise to forfeiture.

(b) He THE OWNER OR INTEREST HOLDER is a bona fide purchaser for value not knowingly taking part in an illegal transaction.

(c) He THE OWNER OR INTEREST HOLDER was at the time of purchase and at all times after the purchase and before the filing of a racketeering lien notice or the provision of notice of pending forfeiture or the filing and notice of a civil or criminal proceeding under this title relating to the property, whichever is earlier, reasonably without notice of the act or omission giving rise to forfeiture and reasonably without cause to believe that the property was subject to forfeiture.

13-4308. Commencement of proceedings

A. The attorney for the state shall determine whether it is probable that the property is subject to forfeiture and, if so, may cause the initiation of uncontested or judicial proceedings against the property. If, on inquiry and examination, the attorney determines that the proceedings probably cannot be sustained or that justice does not require the institution of such proceedings, he THE ATTORNEY shall notify the seizing agency and immediately authorize the release of the seizure for forfeiture on the property or on any specified interest in it.

13-4309. Uncontested forfeiture

1. If the attorney for the state in his THEIR discretion makes uncontested forfeiture available, he THE ATTORNEY shall provide notice of pending forfeiture by giving notice within thirty days after seizure for forfeiture as provided in section 13-4307 to all persons known to have an interest who have not previously received the notice.

13-4310. Judicial forfeiture proceedings; general

C. A defendant convicted in any criminal proceeding shall be precluded from subsequently denying the essential allegations of the criminal offense of which he THE DEFENDANT was convicted in any proceeding pursuant to this chapter. For the purposes of this chapter, a conviction may result from a verdict or plea including a no contest plea.

D. In any judicial forfeiture hearing, determination or other proceeding pursuant to this chapter, the applicant, petitioner or claimant must establish by a preponderance of the evidence that he THE APPLICANT, PETITIONER OR CLAIMANT is an owner of or interest holder in the property seized for forfeiture before other evidence is taken. The burden of proving the standing of the claimant and the existence of the exemption is on the claimant or party raising the claim, and it is not necessary to negate the standing of any claimant or the existence of any exemption in any notice, application, complaint, information or indictment.

13-4311. Judicial in rem forfeiture proceedings

D. An owner of or interest holder in the property may file a claim against the property, within thirty days after the notice, for a hearing to adjudicate the validity of **his THE OWNER'S OR INTEREST HOLDER'S** claimed interest in the property. The court shall hold the hearing without a jury. An owner or interest holder may not be charged a filing fee or any other charge for filing the claim.

13-4312. Judicial in personam forfeiture proceedings

H. Procedures subsequent to the verdict or finding of liability and order of forfeiture shall be as follows:

2. An owner of or interest holder in property that has been ordered forfeited pursuant to such action whose claim is not precluded may file a claim as described in section 13-4311, subsections E and F in the court for a hearing to adjudicate the validity of **his THE OWNER'S OR INTEREST HOLDER'S** claimed interest in the property within thirty days after initial notice of pending forfeiture or after notice under paragraph 1 of this subsection, whichever is earlier.

13-4314. Disposition by court

C. If, in **his THE** discretion **OF THE ATTORNEY FOR THE STATE**, the attorney for the state has entered into a stipulation with an interest holder that the interest holder has an interest that is exempted from forfeiture, the court, on application of the attorney for the state, may release or convey forfeited personal property to the interest holder if all of the following are true:

13-4413. Notice of prisoner's status

A. If the victim has made a request for post-conviction notice, the director of the state department of corrections shall mail to the victim the following information about a prisoner in the custody of the department of corrections:

1. Within thirty days after the request, notice of the earliest release date of the prisoner if **his THE PRISONER'S** sentence exceeds six months.

Revisions in this section are necessary to ensure access to treatment is not denied based on sex or gender.

13-4512. Competency restoration treatment; order; commitment; costs

J. The Arizona state hospital shall collect census data for adult restoration to competency treatment programs to establish maximum capacity and the allocation formula required pursuant to section 36-206, subsection D. The Arizona state hospital or the department of health services is not required to provide restoration to competency treatment that exceeds the funded capacity. If the Arizona state hospital reaches its funded capacity in **either or both the adult male or adult female** restoration to competency treatment programs, the superintendent of the state hospital shall establish a waiting list for admission based on the date of the court order issued pursuant to this section.

TITLE 14 Trusts, Estates and Protective Proceedings

Revisions are necessary due to exclusionary use of male pronouns.

14-1102. Purposes; rule of construction

B. The underlying purposes and policies of this title are:

2. To discover and make effective the intent of a decedent in distribution of ~~his~~ **THE DECEDENT'S** property.
3. To promote a speedy and efficient system for liquidating the estate of the decedent and making distribution to ~~his~~ **THE DECEDENT'S** successors.

14-1106. Effect of fraud and evasion

If fraud has been perpetrated in connection with any proceeding or in any statement filed under this title or if fraud is used to avoid or circumvent the provisions or purposes of this title, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud or restitution from any person, other than a bona fide purchaser, benefiting from the fraud, whether innocent or not. Any proceeding must be commenced within two years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than five years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent during ~~his~~ **THE DECEDENT'S** lifetime which affects the succession of ~~his~~ **THE DECEDENT'S** estate.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

14-1201. Definitions

In this title, unless the context otherwise requires:

9. "Community property" means that property of ~~a husband and wife~~ **SPOUSES** that is acquired during the marriage and that is community property as prescribed in section 25-211.

Revisions are necessary due to exclusionary use of male pronouns.

14-1401. Notice; method and time of giving

A. If notice of a hearing on any petition is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or ~~he~~ **THE INTERESTED PARTY'S** attorney if ~~he~~ **THE INTERESTED PERSON** has appeared by attorney or requested that notice be sent to ~~his~~ **THE** attorney. Notice shall be given either:

1. By mailing a copy thereof at least fourteen days before the time set for the hearing by certified, registered or ordinary first class mail addressed to the person being notified at the post office address given in ~~his~~ **THE PERSON'S** demand for notice, if any, or at ~~his~~ **THE PERSON'S** office or place of residence, if known.

14-1402. Notice; waiver

A person, including a guardian ad litem, conservator or other fiduciary, may waive notice by a writing signed by ~~him~~ **THE PERSON** or ~~his~~ **THE PERSON'S** attorney and filed in the proceeding.

14-2603. Substitute gifts; class gifts; definitions

C. For the purposes of section 14-2601, words of survivorship, such as in a devise to an individual “if ~~he~~ **THE PERSON** survives me”, or in a devise to “my surviving children”, are, in the absence of clear and convincing evidence to the contrary, a sufficient indication of an intent contrary to the application of this section.

14-2706. Failure of beneficiary to survive decedent; effect; protection from liability; third parties; definitions

A. If a beneficiary fails to survive the decedent and is a grandparent, a descendant of a grandparent or a stepchild of the decedent, the following apply:

3. Words of survivorship, such as in a beneficiary designation to an individual “if ~~he~~ **THE PERSON** survives me” or in a beneficiary designation to “my surviving children” are, in the absence of clear and convincing evidence to the contrary, a sufficient indication of an intent contrary to the application of this section.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

14-2802. Effect of divorce, annulment and decree of separation

A. A person who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, that person is married to the decedent at the time of death. A decree of separation that does not terminate the status of ~~husband and wife~~ **A SPOUSE** is not a divorce for purposes of this section.

B. For the purposes of this section, “surviving spouse” does not include:

1. A person who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of the marriage if that decree or judgment is not recognized as valid in this state, unless they subsequently participate in a marriage ceremony purporting to marry each to the other or live together as ~~husband and wife~~ **SPOUSES**.

14-2804. Termination of marriage; effect; revocation of probate and nonprobate transfers; federal law; definitions

I. For the purpose of this section:

2. “Divorce or annulment” means any divorce or annulment or any dissolution or declaration of invalidity of a marriage that would exclude the spouse as a surviving spouse within the meaning of section 14-2802 but does not include a decree of separation that does not terminate the status of ~~husband and wife~~ **A SPOUSE**.

14-3101. Devolution of estate at death; administration on deaths of ~~husband and wife~~ SPOUSES

A. The power of a person to leave property by will, and the rights of creditors, devisees and heirs to ~~his~~ **THE PERSON’S** property are subject to the restrictions and limitations contained in this title to facilitate the prompt settlement of estates. Upon the death of a person, ~~his~~ **THE PERSON’S** separate property and ~~his~~ **THE PERSON’S** share of community property devolves to the persons to whom the property is devised by ~~his~~ **THE PERSON’S** last will, or to those indicated as substitutes for them in cases involving lapse, renunciation or other circumstances affecting the devolution of testate estates, or in the absence of testamentary disposition to ~~his~~ **THE PERSON’S** heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting the devolution of intestate estates. The devolution of separate property and decedent’s share of community property is subject to rights to the allowance in lieu of homestead, exempt property and family allowance, to rights of creditors and to administration as provided in this title. In addition, the surviving spouse’s share of the community property is subject to administration until the time for presentation of claims has expired, and thereafter only to the extent necessary to pay community claims.

B. If ~~a husband and wife both~~ **BOTH SPOUSES** die, and the administration of one of their estates is not completed prior to commencement of administration of the other, their estates may be combined in a single administration with the same personal representative, if feasible. A single application or petition may be made to obtain appointment of a personal representative and to determine testacy. If their estates devolve as if each spouse survived the other because of application of section 14-2702, and their estates are not combined, half of their community property is subject to administration in each estate and community claims will be charged ratably to each half of the community property.

Revisions are necessary due to exclusionary use of male pronouns.

14-3102. Necessity of statement or order of probate for will; exception

Except as provided in section 14-3971, to be effective to prove the transfer of any property or to nominate an executor, a will must be declared to be valid by a statement of informal probate by the registrar, or an adjudication of probate by the court, except that a duly executed and unrevoked will which has not been probated may be admitted as evidence of a devise if both:

2. Either the devisee or ~~his~~ **THE DEVISEE’S** successors and assigns possessed the property devised in accordance with the provisions of the will, or the property devised was not possessed or claimed by anyone by virtue of the decedent’s title during the time period for testacy proceedings.

14-3104. Claims against decedent; necessity of administration

No proceeding to enforce a claim against the estate of a decedent or **his THE DECEDENT'S** successors may be revived or commenced before the appointment of a personal representative. After the appointment and until distribution, all proceedings and actions to enforce a claim against the estate are governed by the procedure prescribed by this chapter. After distribution a creditor whose claim has not been barred may recover from the distributees as provided in section 14-3934 or from a former personal representative individually liable as provided in section 14-3935. This section has no application to a proceeding by a secured creditor of the decedent to enforce **his THE CREDITOR'S** right to **his THE CREDITOR'S** security except as to any deficiency judgment which might be sought therein.

14-3109. Statutes of limitation on decedent's cause of action

Upon the death of a person in whose favor there is a cause of action which has not been barred as of the date of **his THE** death, the limitation of the action ceases to run until a personal representative is appointed or until twelve months after the death, whichever first occurs, but shall not bar such action sooner than four months after death even if a personal representative is appointed earlier.

14-3201. Venue for first and subsequent estate proceedings; location of property

A. Venue for the first informal or formal testacy or appointment proceedings after a decedent's death is:

1. In the county where the decedent had **his** domicile at the time of **his** death.
2. If the decedent was not domiciled in this state, in any county where property of the decedent was located at the time of **his** death.

14-3204. Demand for notice of order or filing concerning decedent's estate

Any person desiring notice of any order or filing pertaining to a decedent's estate in which **he THE PERSON** has a financial or property interest may file a demand for notice with the court at any time after the death of the decedent stating the name of the decedent, the nature of **his THE DEMANDANT'S** interest in the estate and the demandant's address or that of **his THE DEMANDANT'S** attorney. The demandant shall mail a copy of the demand to the personal representative if one has been appointed. After filing of a demand, no order or filing to which the demand relates shall be made or accepted without notice as prescribed in section 14-1401 to the demandant or **his THE DEMANDANT'S** attorney. The validity of an order which is issued or filing which is accepted without compliance with this requirement shall not be affected by the error, but the petitioner receiving the order or the person making the filing may be liable for any damage caused by the absence of notice. The requirement of notice arising from a demand under this provision may be waived in writing by the demandant and shall cease upon the termination of **his THE DEMANDANT'S** interest in the estate.

14-3303. Informal probate; proof and findings required

A. In an informal proceeding for original probate of a will, the registrar shall determine whether:

2. The applicant has made oath or affirmation that the statements contained in the application are true to the best of **his THE APPLICANT'S** knowledge and belief.

C. A will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under chapter 2, article 5 of this title have been met shall be probated without further proof. In other cases, the registrar may assume execution if the will appears to have been properly executed, or **he THE REGISTRAR** may accept a sworn statement or affidavit of any person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.

14-3305. Informal probate; registrar not satisfied

If the registrar is not satisfied that a will is entitled to be probated in informal proceedings because of failure to meet the requirements of sections 14-3303 and 14-3304 or any other reason, **he THE REGISTRAR** may decline the application. A declination of informal probate is not an adjudication and does not preclude formal probate proceedings.

14-3307. Informal appointment proceedings; delay in order; duty of registrar; effect of appointment

A. Upon receipt of an application for informal appointment of a personal representative other than a special administrator as provided in section 14-3614, if at least one hundred twenty hours have elapsed since the decedent's death, the registrar, after making the findings required by section 14-3308, shall appoint the applicant subject to qualification and acceptance, except that if the decedent was a nonresident the registrar shall delay the order of appointment until thirty days have elapsed since death unless the personal representative appointed at the decedent's domicile is the applicant or the decedent's will directs that **his THE DECEDENT'S** estate be subject to the laws of this state.

14-3308. Informal appointment proceedings; proof and findings required

A. In informal appointment proceedings, the registrar must determine whether:

2. The applicant has made oath or affirmation that the statements contained in the application are true to the best of **his THE APPLICANT'S** knowledge and belief.

7. From the statements in the application, the person whose appointment is sought has priority entitling **him THE PERSON** to the appointment.

B. Unless section 14-3612 controls, the application must be denied if it indicates any of the following:

2. The decedent was not domiciled in this state, a personal representative whose appointment has not been terminated has been appointed by a court in the state of domicile and the applicant is not the domiciliary personal representative or **his THE DOMICILIARY PERSONAL REPRESENTATIVE'S** nominee.

14-3310. Informal appointment proceedings; notice requirements

The moving party must give notice as described by section 14-1401 of **his THE PARTY'S** intention to seek an appointment informally:

14-3401. Formal testacy proceedings; nature; when commenced

A. A formal testacy proceeding is litigation to determine whether a decedent left a valid will. A formal testacy proceeding may be commenced by an interested person filing a petition as described in section 14-3402, subsection A in which **he THE INTERESTED PERSON** requests that the court, after notice and hearing, enter an order probating a will, or a petition to set aside an informal probate of a will or to prevent informal probate of a will which is the subject of a pending application, or a petition in accordance with section 14-3402, subsection B for an order that the decedent died intestate.

D. Unless a petition in a formal testacy proceeding also requests confirmation of the previous informal appointment, a previously appointed personal representative, after receipt of notice of the commencement of a formal probate proceeding, must refrain from exercising **his THE** power to make any further distribution of the estate during the pendency of the formal proceeding. A petitioner who seeks the appointment of a different personal representative in a formal proceeding also may request an order restraining the acting personal representative from exercising any of the powers of **his THE** office and requesting the appointment of a special administrator. In the absence of a request or if the request is denied, the commencement of a formal proceeding has no effect on the powers and duties of a previously appointed personal representative other than those relating to distribution.

14-3404. Formal testacy proceedings; written objections to probate

Any party to a formal proceeding who opposes the probate of a will for any reason shall state in **his** pleadings **his THE** objections to probate of the will.

14-3408. Formal testacy proceedings; will construction; effect of final order in another jurisdiction

A final order of a court of another state determining testacy, the validity or construction of a will, made in a proceeding involving notice to and an opportunity for contest by all interested persons must be accepted as determinative by the courts of this state if it includes, or is based upon, a finding that the decedent was domiciled at **his** death in the state where the order was made.

14-3409. Formal testacy proceedings; order; foreign will

After the time required for any notice has expired, upon proof of notice, and after any hearing that may be necessary, if the court finds that the testator is dead, venue is proper and that the proceeding was commenced within the limitation prescribed by section 14-3108, it shall determine the decedent's domicile at death, **his THE** heirs and **his THE** state of testacy. Any will found to be valid and unrevoked shall be formally probated. Termination of any previous informal appointment of a personal representative, which may be appropriate in view of the relief requested and findings, is governed by section 14-3612. The petition shall be dismissed or appropriate amendment allowed if the court is not satisfied that the alleged decedent is dead. A will from a place which does not provide for probate of a will after death, may be proved for probate in this state by a duly authenticated certificate of its legal custodian that the copy introduced is a true copy and that the will has become effective under the law of the other place.

14-3412. Formal testacy proceedings; effect of order; vacation

A. Subject to appeal and subject to vacation as provided in this section and in section 14-3413, a formal testacy order under sections 14-3409 through 14-3411, including an order that the decedent left no valid will and determining heirs, is final as to all persons with respect to all issues concerning the decedent's estate that the court considered or might have considered incident to its rendition relevant to the question of whether the decedent left a valid will, and to the determination of heirs, except that:

3. If intestacy of all or part of the estate has been ordered, the determination of heirs of the decedent may be reconsidered if it is shown that one or more persons were omitted from the determination and it is also shown that the persons were unaware of their relationship to the decedent, were unaware of **his THE** death or were given no notice of any proceeding concerning **his THE DECEDENT'S** estate, except by publication.

6. The finding of the fact of death is conclusive as to the alleged decedent only if notice of the hearing on the petition in the formal testacy proceeding was sent by registered or certified mail addressed to the alleged decedent at **his THE DECEDENT'S** last known address and the court finds that a search under section 14-3403, subsection B was made.

B. If the alleged decedent is not dead, even if notice was sent and search was made, **he THE ALLEGED DECEDENT** may recover estate assets in the hands of the personal representative. In addition to any remedies available to the alleged decedent by reason of any fraud or intentional wrongdoing, the alleged decedent may recover any estate or its proceeds from distributees that is in their hands, or the value of distributions received by them, to the extent that any recovery from distributees is equitable in view of the circumstances.

14-3503. Supervised administration; effect on other proceedings

C. After **he A PERSONAL REPRESENTATIVE** has received notice of the filing of a petition for supervised administration, a personal representative who has been appointed previously shall not exercise **his THE** power to distribute any estate. The filing of the petition does not affect **his THE PERSONAL REPRESENTATIVE'S** other powers and duties unless the court restricts the exercise of any of them pending full hearing on the petition.

14-3504. Supervised administration; powers of personal representative

Unless restricted by the court, a supervised personal representative has, without interim orders approving exercise of a power, all powers of personal representatives under this title, but all sales of real property shall be subject to court confirmation and the personal representative shall not exercise **his THE** power to make any distribution of the estate without prior order of the court. Any other restriction on the power of a personal representative which may be ordered by the court must be endorsed on **his THE** letters of appointment and, unless so endorsed, is ineffective as to persons dealing in good faith with the personal representative.

14-3505. Supervised administration; interim orders; distribution and closing orders; annual accounts; accounting on closing

B. A supervised personal representative shall file an account with the court not less than annually during **his THE PERSONAL REPRESENTATIVE'S** administration, and on closing shall file a final account to be approved under section 14-3931. **He THE PERSONAL REPRESENTATIVE** shall also account to the court on resignation or removal. Subject to appeal or vacation within the time permitted, an order made on notice and hearing allowing an intermediate account of a personal representative adjudicates **his THE PERSONAL REPRESENTATIVE'S** liabilities concerning matters considered in connection therewith. A copy of the intermediate account must be sent to all interested parties along with notice of hearing on the account. In connection with any account, the court may require the personal representative to submit to physical check of the estate in **his THE PERSONAL REPRESENTATIVE'S** control, to be made in any manner the court may specify.

14-3602. Acceptance of appointment; consent to jurisdiction

By accepting appointment, a personal representative submits personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person. Notice of any proceeding shall be delivered to the personal representative, or mailed to **him THE PERSONAL REPRESENTATIVE** by ordinary first class mail at **his THE PERSONAL REPRESENTATIVE'S** address as listed in the application or petition for appointment or as thereafter reported to the court and to **his THE PERSONAL REPRESENTATIVE'S** address as then known to the petitioner.

14-3604. Bond amount; security; procedure; reduction

A. If bond is required and the provisions of the will or order do not specify the amount, unless stated in **his THE** application or petition, the person qualifying shall file a statement under oath with the registrar indicating **his THE PERSON'S** best estimate of the value of the personal estate of the decedent, real estate, less encumbrances thereon and of the income expected from the personal and real estate during the next year, and **he THE QUALIFYING PERSON** shall execute and file a bond with the registrar, or give other suitable security, in an amount not less than the estimate provided, however, that said bond may be reduced by the amount of any real estate, less encumbrances thereon, if the letters issued to the personal representative contain the restriction that sales of real property by the personal representative are subject to court confirmation. The registrar shall determine that the bond is duly executed by a corporate surety, or one or more individual sureties whose performance is secured by pledge of personal property, mortgage on real property or other adequate security. The registrar may permit the amount of the bond to be reduced by the value of assets of the estate deposited with the clerk of the court or a domestic financial institution, as defined in section 14-6101, in a manner that prevents their unauthorized disposition. On petition of the personal representative or another interested person the court may excuse a requirement of bond, increase or reduce the amount of the bond, release sureties, or permit the substitution of another bond with the same or different sureties.

B. When a surety of a personal representative desires to be released from responsibility for future acts, **he THE SURETY** may apply to the court for a release. The court shall cause a citation to be issued to the

personal representative, requiring **him THE PERSONAL REPRESENTATIVE** to appear at a time and place therein specified, and to give other security. Notice shall be given to the personal representative as provided in section 14-3602. If new security is given and approved by the judge, **he THE JUDGE** may thereupon order that the surety who applied for release shall not be liable on **his THE SURETY'S** bond for any subsequent act, default or misconduct of the personal representative. If the personal representative neglects or refuses to give new and sufficient security on the return of the citation, or within such reasonable time as the judge allows, unless the surety making the application consents to an extension of time, the court shall revoke the letters.

14-3606. Terms and conditions of bonds

A. The following requirements and provisions apply to any bond required by this article:

3. By executing an approved bond of a personal representative, the surety consents to the jurisdiction of the court which issued letters to the primary obligor in any proceedings pertaining to the fiduciary duties of the personal representative and naming the surety as a party. Notice of any proceeding shall be delivered to the surety or mailed to **him THE SURETY** by registered or certified mail at **his THE SURETY'S** address as listed with the court where the bond is filed and to **his THE SURETY'S** address as then known to the petitioner.

14-3607. Order restraining personal representative

A. On petition of any person who appears to have an interest in the estate, the court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement or distribution, or may exercise any powers or discharge any duties of **his THE PERSONAL REPRESENTATIVE'S** office, or may make any other order to secure proper performance of **his THE PERSONAL REPRESENTATIVE'S** duty, if it appears to the court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest of the applicant or of some other interested person. Persons with whom the personal representative may transact business may be made parties.

B. The matter shall be set for hearing within ten days unless the parties otherwise agree. Notice as the court directs shall be given to the personal representative and **his THE PERSONAL REPRESENTATIVE'S** attorney of record, if any, and to any other parties named defendant in the petition.

14-3608. Termination of appointment; general

Termination of appointment of a personal representative occurs as indicated in sections 14-3609 through 14-3612. Termination ends the right and power pertaining to the office of personal representative as conferred by this title or any will, except that a personal representative, at any time prior to distribution or until restrained or enjoined by court order, may perform acts necessary to protect the estate and may deliver the assets to a successor representative. Termination does not discharge a personal representative from liability for transactions or omissions occurring before termination, or relieve **him A PERSONAL REPRESENTATIVE** of the duty to preserve assets subject to **his THE PERSONAL REPRESENTATIVE'S** control, to account therefor and to deliver the assets. Termination does not affect the jurisdiction of the court over the personal representative, but terminates **his THE PERSONAL REPRESENTATIVE'S** authority to represent the estate in any pending or future proceeding.

14-3609. Termination of appointment; death or disability

The death of a personal representative or the appointment of a conservator for the estate of a personal representative, terminates **his THE PERSONAL REPRESENTATIVE'S** appointment. Until appointment and qualification of a successor or special representative to replace the deceased or protected representative, the representative of the estate of the deceased or protected personal representative, if any, has the duty to protect the estate possessed and being administered by **his THE** decedent or ward at the time **his THE PERSONAL REPRESENTATIVE'S** appointment terminates, has the power to perform acts necessary for protection and shall account for and deliver the estate assets to a successor or special personal representative upon **his THE PERSONAL REPRESENTATIVE'S** appointment and qualification.

14-3610. Termination of appointment; voluntary

C. A personal representative may resign **his THE** position by filing a written statement of resignation with the registrar after **he THE PERSONAL REPRESENTATIVE** has given at least fifteen days written notice to the persons known to be interested in the estate. If no one applies or petitions for appointment of a successor representative within the time indicated in the notice, the filed statement of resignation is ineffective as a termination of appointment and in any event is effective only upon the appointment and qualification of a successor representative and delivery of the assets to **him THE SUCCESSOR REPRESENTATIVE**.

14-3611. Termination of appointment by removal; cause; procedure

C. Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing appointment **of himself OF THE PERSONAL REPRESENTATIVE** or **his THE PERSONAL REPRESENTATIVE'S** nominee as ancillary personal representative, may obtain removal of another who was appointed personal representative in this state to administer local assets.

14-3612. Termination of appointment; change of testacy status

Except as otherwise ordered in formal proceedings, the probate of a will subsequent to the appointment of a personal representative in intestacy or under a will which is superseded by formal probate of another will, or the vacation of an informal probate of a will subsequent to the appointment of the personal representative thereunder, does not terminate the appointment of the personal representative although **his THE** powers may be reduced as provided in section 14-3401. Termination occurs upon appointment in informal or formal appointment proceedings of a person entitled to appointment under the later assumption concerning testacy. If no request for new appointment is made within thirty days after expiration of time for appeal from the order in formal testacy proceedings, or from the informal probate, changing the assumption concerning testacy, the previously appointed personal representative upon request may be appointed personal representative under the subsequently probated will, or as in intestacy as the case may be.

14-3613. Successor personal representative

Articles 3 and 4 of this chapter govern proceedings for appointment of a personal representative to succeed one whose appointment has been terminated. After appointment and qualification, a successor personal representative may be substituted in all actions and proceedings to which the former personal

representative was a party, and no notice, process or claim which was given or served upon the former personal representative need be given to or served upon the successor in order to preserve any position or right the person giving the notice or filing the claim may thereby have obtained or preserved with reference to the former personal representative. Except as otherwise ordered by the court, the successor personal representative has the powers and duties in respect to the continued administration which the former personal representative would have had if **his THE** appointment had not been terminated.

14-3616. Special administrator; appointed informally; powers and duties

A special administrator appointed by the registrar in informal proceedings pursuant to section 14-3614, paragraph 1 has the duty to collect and manage the assets of the estate, to preserve them, to account therefor and to deliver them to the general personal representative upon **his THE SPECIAL ADMINISTRATOR'S** qualification. The special administrator has the power of a personal representative under this title necessary to perform **his THE SPECIAL ADMINISTRATOR'S** duties.

14-3702. Priority among different letters

A person to whom general letters are issued first has exclusive authority under the letters until **his THE** appointment is terminated or modified. If, through error, general letters are afterwards issued to another, the first appointed representative may recover any property of the estate in the hands of the representative subsequently appointed, but the acts of the latter done in good faith before notice of the first letters are not void for want of validity of appointment.



14-3706. Duty of personal representative; inventory and appraisalment

A. Within ninety days after **his THE** appointment, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare an inventory of property owned by the decedent at the time of **his THE DECEDENT'S** death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, its nature as community or separate property and the type and amount of any encumbrance that may exist with reference to any item.

B. The personal representative may file the original of the inventory with the court and send a copy of the inventory only to interested persons who request it; or, if **he THE PERSONAL REPRESENTATIVE** elects not to file the inventory with the court, **he THE PERSONAL REPRESENTATIVE** must deliver or mail a copy of the inventory to each of the heirs in an intestate estate, or to each of the devisees if a will has been probated, and to any other interested persons who request it.

14-3707. Employment of appraisers

The personal representative may employ a qualified and disinterested appraiser to assist **him** in ascertaining the fair market value as of the date of the decedent's death of any asset the value of which may be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any appraiser shall be indicated on the inventory with the item or items **he THE APPRAISER** appraised.

14-3708. Duty of personal representative; supplementary inventory

If any property not included in the original inventory comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the original inventory for any item is erroneous or misleading, **he THE PERSONAL REPRESENTATIVE** shall make a supplementary inventory or appraisalment showing the market value as of the date of the decedent's death of the new item or the revised market value or descriptions, and the appraisers or other data relied upon, if any, and file it with the court if the original inventory was filed, or furnish copies thereof or information thereof to persons interested in the new information.

14-3710. Power to avoid transfers; action to set aside fraudulent conveyances

A. The property liable for the payment of unsecured debts of a decedent includes all property transferred by **him THE DECEDENT** by any means which is in law void or voidable as against **his THE DECEDENT'S** creditors and subject to prior liens. The right to recover this property, so far as necessary for the payment of unsecured debts of the decedent, is exclusively in the personal representative.

B. When there is a deficiency of assets in custody of a personal representative, and decedent in **his THE DECEDENT'S** lifetime has conveyed or transferred property, or any rights or interests therein, with intent to defraud creditors, or to avoid a right, debt or duty of any person, or has conveyed or transferred the property so that the conveyance or transfer by law is void or voidable as against creditors, the personal representative shall commence and prosecute an action for the recovery of the property for the benefit of the creditors, and shall recover property which has been so conveyed or transferred, whatever may have been the manner of the conveyance or transfer.

14-3711. Powers of personal representatives; in general

Until termination of **his THE** appointment a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate. This power may be exercised without notice, hearing or order of court.

14-3712. Improper exercise of power; breach of fiduciary duty

If the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of **his THE PERSONAL REPRESENTATIVE'S** fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a personal representative shall be determined as provided in sections 14-3713 and 14-3714.

14-3713. Sale, encumbrance or transaction involving conflict of interest; voidable; exceptions

Any sale or encumbrance to the personal representative, **his THE PERSONAL REPRESENTATIVE'S** spouse, agent or attorney, or any corporation or trust in which **he THE PERSONAL REPRESENTATIVE** has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest on the part of the personal representative, is voidable by any person interested in the estate except one who has consented after fair disclosure, unless either:

14-3714. Persons dealing with personal representative; protection

A person who in good faith either assists or deals with another person acting as a personal representative, on the basis of a copy of letters certified by or under the direction of the court or an officer thereof within sixty days of the transaction, is protected as if the personal representative properly exercised **his THE PERSONAL REPRESENTATIVE'S** power and even though the authority of that person as personal representative has been terminated. The fact that a person knowingly deals with one who purports to act as a personal representative does not alone require the person to inquire into the existence of a power, the propriety of its exercise, or the current authority of the purported personal representative. Except for restrictions on powers of supervised personal representatives which are endorsed on letters as provided in section 14-3504, no provision in any will or order of court purporting to limit the power of a personal representative is effective except as to persons with actual knowledge thereof. A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is not by substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries. If property is wrongfully transferred by a person acting as a personal representative to a person who is not in good faith, any person who subsequently purchases the property in good faith is protected as if the original transferee dealt in good faith.

14-3715. Transactions authorized for personal representatives; exceptions

Except as restricted or otherwise provided by the will or by an order in a formal proceeding and subject to the priorities stated in section 14-3902, a personal representative, acting reasonably for the benefit of the interested persons, may properly:

3. Perform, compromise or refuse performance of the decedent's contracts that continue as obligations of the estate, as **he THE PERSONAL REPRESENTATIVE** may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may either:

15. Insure the assets of the estate against damage, loss and liability and **himself THE PERSONAL REPRESENTATIVE** against liability as to third persons.

17. Effect a fair and reasonable compromise with any debtor or obligor, or extend, renew or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge or other lien upon property of another person, **he THE PERSONAL REPRESENTATIVE** may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien.

21. Employ persons, including attorneys, auditors, investment advisors or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of **his THE PERSONAL REPRESENTATIVE'S** administrative duties, act without independent investigation upon their recommendations and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary.

22. Prosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of **his THE PERSONAL REPRESENTATIVE'S** duties.

24. Continue any unincorporated business or venture in which the decedent was engaged at the time of **his** death:

25. Incorporate, or create a limited liability company to hold, any business or venture in which the decedent was engaged at the time of **his** death.

14-3716. Powers and duties of successor personal representative

A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate, as expeditiously as possible, but **he THE SUCCESSOR REPRESENTATIVE** shall not exercise any power expressly made personal to the executor named in the will.

14-3717. Co-representatives; when joint action required

If two or more persons are appointed co-representatives and unless the will provides otherwise, the concurrence of all is required on all acts connected with the administration and distribution of the estate. This restriction does not apply when any co-representative receives and receipts for property due the estate, when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, or when a co-representative has been delegated to act for the others. Persons dealing with a co-representative if actually unaware that another has been appointed to serve with **him** **THE CO-REPRESENTATIVE** or if advised by the personal representative with whom they deal that **he** **THE CO-REPRESENTATIVE** has authority to act alone for any of the reasons mentioned herein, are as fully protected as if the person with whom they dealt had been the sole personal representative.

14-3719. Compensation of personal representative

A personal representative is entitled to reasonable compensation for **his** **THE PERSONAL REPRESENTATIVE'S** services. If a will provides for compensation of the personal representative and there is no contract with the decedent regarding compensation, **he** **THE PERSONAL REPRESENTATIVE** may renounce the provision before qualifying and be entitled to reasonable compensation. A personal representative also may renounce **his** **THE** right to all or any part of the compensation. A written renunciation of fee may be filed with the court.

14-3720. Expenses in estate litigation

If any personal representative or person nominated as personal representative defends or prosecutes any proceeding in good faith, whether successful or not **he** **THE PERSONAL REPRESENTATIVE** is entitled to receive from the estate **his** **THE** necessary expenses and disbursements including reasonable attorneys' fees incurred.

14-3721. Proceedings for review of employment of agents and compensation of personal representatives and employees of estate

After notice to all interested persons, on petition of an interested person, including any person employed by the personal representative, or on appropriate motion if administration is supervised, the court may review the propriety of employment of any person by the personal representative, the reasonableness of the compensation of any person so employed, or the reasonableness of the compensation determined by the personal representative for **his-own** **THE PERSONAL REPRESENTATIVE'S** services. Any person who has received excessive compensation from an estate for services rendered may be ordered to make appropriate refund.

14-3803. Limitations on presentation of claims

D. This section does not affect or prevent any of the following:

2. To the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which **he** **THE DECEDENT OR PERSONAL REPRESENTATIVE** is protected by liability insurance.

14-3804. Manner of presentation of claims

Claims against a decedent's estate may be presented as follows:

2. The claimant may commence a proceeding against the personal representative in any court where the personal representative may be subjected to jurisdiction, to obtain payment of **his** **THE** claim against the estate, but the commencement of the proceeding must occur within the time limited for presenting the claim. No presentation of claim is required in regard to matters claimed in proceedings against the decedent which were pending at the time of **his** death.

14-3805. Priority of claims

A. If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

4. Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending **him** **THE DECEDENT**.

14-3806. Allowance of claims

A. As to claims presented in the manner described in section 14-3804 within the time limit prescribed in section 14-3803, the personal representative may mail a notice to any claimant stating that the claim has been disallowed. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than sixty days after the mailing of the notice of disallowance or partial allowance. Failure of the personal representative to mail notice to a claimant of action on **his** **THE** claim for sixty days after the time for original presentation of the claim has expired has the effect of a notice of allowance. The personal representative of the estate of a deceased spouse may classify a claim as a community claim payable out of community property, or as a separate claim payable out of separate property and the balance of the decedent's half of community property. Either classification constitutes a disallowance in part; failure to give notice of the classification to the claimant as provided in this subsection, or failure to classify an allowed claim, has the effect of allowing the claim as payable out of either separate or community property, whichever is more beneficial to the claimant.

14-3808. Individual liability of personal representative

A. Unless otherwise provided in the contract, a personal representative is not individually liable on a contract properly entered into in **his** **THE PERSONAL REPRESENTATIVE'S** fiduciary capacity in the course of administration of the estate unless **he** **THE PERSONAL REPRESENTATIVE** fails to reveal **his** **THE** representative'S capacity and identify the estate in the contract.

B. A personal representative is individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of administration of the estate only if **he** **THE PERSONAL REPRESENTATIVE** is personally at fault.

C. Claims based on contracts entered into by a personal representative in **his** **THE PERSONAL REPRESENTATIVE'S** fiduciary capacity, on obligations arising from ownership or control of the estate, or on torts committed in the course of estate administration may be asserted against the estate by

proceeding against the personal representative in **his THE PERSONAL REPRESENTATIVE'S** fiduciary capacity, whether or not the personal representative is individually liable therefor.

14-3809. Secured claims

Payment of a secured claim is upon the basis of the amount allowed if the creditor surrenders **his THE CREDITOR'S** security, otherwise payment is upon the basis of one of the following:

1. If the creditor exhausts **his THE CREDITOR'S** security before receiving payment, unless precluded by other law, upon the amount of the claim allowed less the fair value of the security.
2. If the creditor does not have the right to exhaust **his THE CREDITOR'S** security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting it into money according to the terms of the agreement pursuant to which the security was delivered to the creditor, or by the creditor and personal representative by agreement, arbitration, compromise or litigation.

14-3810. Claims not due and contingent or unliquidated claims

B. In other cases the personal representative or, on petition of the personal representative or the claimant in a special proceeding for the purpose, the court may provide for payment as follows:

1. If the claimant consents, **he THE CLAIMANT** may be paid the present or agreed value of the claim, taking any uncertainty into account.

14-3814. Encumbered assets

If any assets of the estate are encumbered by mortgage, pledge, lien or other security interest, the personal representative may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of **his THE CREDITOR'S** lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.

14-3815. Administration in more than one state; duty of personal representative

B. If the estate either in this state or as a whole is insufficient to cover all family exemptions and allowances determined by the law of the decedent's domicile, prior charges and claims, after satisfaction of the exemptions, allowances and charges, each claimant whose claim has been allowed either in this state or in another jurisdiction in administrations of which the personal representative is aware, is entitled to receive payment of an equal proportion of **his THE** claim. If a preference or security in regard to a claim is allowed in another jurisdiction but not in this state, the creditor so benefited is to receive dividends from local assets only upon the balance of **his THE CREDITOR'S** claim after deducting the amount of the benefit.

14-3901. Successors' rights if no administration

In the absence of administration, the heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. Devisees may establish title by the probated will to devised property. Persons entitled to property by allowance in lieu of homestead, exemption or intestacy may establish title thereto by proof of the decedent's ownership, his death, and their relationship to the decedent. Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement and ademption.

14-3903. Right of retainer

The amount of a noncontingent indebtedness of a successor to the estate if due, or its present value if not due, shall be offset against the successor's interest, but the successor has the benefit of any defense which would be available to him THE SUCCESSOR in a direct proceeding for recovery of the debt.

14-3906. Distribution in kind; valuation; method

A. Unless a contrary intention is indicated by the will, the distributable assets of a decedent's estate shall be distributed in kind to the extent possible through application of the following provisions:

1. A specific devisee is entitled to distribution of the thing devised to him THE DEVISEE, and a spouse or child who has selected particular assets of an estate as provided in section 14-2403 shall receive the items selected.

14-3909. Improper distribution; liability of distributee

Unless the distribution or payment no longer can be questioned because of adjudication, estoppel or limitation, a distributee of property or money improperly distributed or paid, or a claimant who was improperly paid, is liable to return the property improperly received and its income since distribution if he THE DISTRIBUTEE OR CLAIMANT has the property. If such a distributee does not have the property, he THE DISTRIBUTEE is liable to return the value as of the date of disposition of the property improperly received and its income and gain received by him THE DISTRIBUTEE.

14-3910. Purchasers from distributees or transferees protected

If property distributed in kind or a security interest therein is acquired for value by a purchaser from or lender to a distributee who has received an instrument or deed of distribution from the personal representative, or is so acquired by a purchaser from or lender to a transferee from such distributee, the purchaser or lender takes title free of rights of any person interested in the estate and incurs no personal liability to the estate, whether or not the distribution was proper or supported by court order and whether or not the authority of the personal representative was terminated prior to execution of the instrument or deed. This section protects a purchaser from or lender to a distributee who as personal representative has executed a deed of distribution to himself BENEFIT THE DISTRIBUTEE, as well as from any other distributee or his A DISTRIBUTEE'S transferee. To be protected under this provision, a purchaser or lender need not inquire whether a personal representative acted properly in making the distribution in kind, even if the personal representative and the distributee are the same person, or whether the authority of the personal representative had terminated prior to the distribution.

14-3912. Private agreements among successors to decedent binding on personal representative

Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to **his THE PERSONAL REPRESENTATIVE'S** obligation to administer the estate for the benefit of creditors, to pay all taxes and expenses of administration, and to carry out the responsibilities of **his THE** office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedents' estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. This section does not relieve trustees of any duties owed to beneficiaries of trusts.

14-3914. Disposition of unclaimed assets

A. If an heir, devisee or claimant cannot be found, the personal representative shall distribute the share of the missing person to **his THE PERSON'S** conservator, if any, otherwise in cash to the department of revenue for deposit, pursuant to sections 35-146 and 35-147, in the permanent school fund.

B. If a person later appears and claims as the missing person, **he THE PERSON** shall proceed in the same manner as an heir, devisee or legatee claiming escheated property under sections 12-886 and 12-887.

14-3915. Distribution to person under disability

A personal representative may discharge **his THE REPRESENTATIVE'S** obligation to distribute to any person under legal disability by distributing to **his THE PERSON'S** conservator, or any other person authorized by this title or otherwise to give a valid receipt and discharge for the distribution.

14-3932. Formal proceedings terminating testate administration; order construing will without adjudicating testacy

A personal representative administering an estate under an informally probated will or any devisee under an informally probated will may petition for an order of settlement of the estate which will not adjudicate the testacy status of the decedent. The personal representative may petition at any time, and a devisee may petition after one year from the appointment of the original personal representative, except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to consider the final account or compel or approve an accounting and distribution, to construe the will and adjudicate final settlement and distribution of the estate. After notice to all devisees and the personal representative and hearing, the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate under the will, and, as circumstances require, approving settlement and directing, approving or decreeing distribution of the estate and discharging the personal representative from further claim or demand of any devisee who is a party to the proceeding and those **he represents BEING REPRESENTED BY THE DEVISEE**. If it appears that a part of the estate is intestate, the proceedings shall be dismissed or amendments made to meet the provisions of section 14-3931.

14-3934. Liability of distributees to claimants

After assets of an estate have been distributed and subject to section 14-3936, an undischarged claim not barred may be prosecuted in a proceeding against one or more distributees. No distributee shall be liable to claimants for amounts received as exempt property, allowance in lieu of homestead or family allowance, or for amounts in excess of the value of **his THE DISTRIBUTEES'S** distribution as of the time of distribution. As between distributees, each shall bear the cost of satisfaction of unbarred claims as if the claim had been satisfied in the course of administration. Any distributee who shall have failed to notify other distributees of the demand made upon **him THE DISTRIBUTEES** by the claimant in sufficient time to permit them to join in any proceeding in which the claim was asserted against **him THE DISTRIBUTEES** loses **his THAT DISTRIBUTEES'S** right of contribution against other distributees.

14-3937. Certificate discharging liens securing fiduciary performance

After **his THE** appointment has terminated, the personal representative, **his THE PERSONAL REPRESENTATIVE'S** sureties or any successor of either, upon the filing of a verified application showing, so far as is known by the applicant, that no action concerning the estate is pending in any court, is entitled to receive a certificate from the registrar that the personal representative appears to have fully administered the estate in question. The certificate evidences discharge of any lien on any property given to secure the obligation of the personal representative in lieu of bond or any surety, but does not preclude action against the personal representative or the surety.

14-3972. Effect of affidavit

A. The person paying, delivering, transferring or issuing personal property or the evidence thereof pursuant to affidavit is discharged and released to the same extent as if **he THE PERSON** dealt with a personal representative of the decedent. **He THE PERSON** is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

14-3974. Small estates; closing by sworn statement of personal representative

A. Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of section 14-3973 by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

3. The personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom **he THE PERSONAL REPRESENTATIVE** is aware whose claims are neither paid nor barred and has furnished a full account in writing of **his THE** administration to the distributees whose interests are affected.

14-4201. Payment of debt and delivery of property to domiciliary foreign personal representative without local administration

At any time after the expiration of sixty days from the death of a nonresident decedent, any person indebted to the estate of the nonresident decedent or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate of the nonresident decedent may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation, stock or chose in action, to the domiciliary foreign personal representative of the nonresident decedent upon being presented with proof of **his THE FOREIGN PERSONAL REPRESENTATIVE'S** appointment and an affidavit made by or on behalf of the representative stating:

14-4206. Power of representatives in transition

The power of a domiciliary foreign personal representative under section 14-4201 or section 14-4205 shall be exercised only if there is no administration or application therefor pending in this state. An application or petition for local administration of the estate terminates the power of the foreign personal representative to act under section 14-4205, but the local court may allow the foreign personal representative to exercise limited powers to preserve the estate. No person who, before receiving actual notice of a pending local administration, has changed **his THE PERSON'S** position in reliance upon the powers of a foreign personal representative shall be prejudiced by reason of the application or petition for, or grant of, local administration. The local personal representative is subject to all duties and obligations which have accrued by virtue of the exercise of the powers by the foreign personal representative and may be substituted for **him THE FOREIGN PERSONAL REPRESENTATIVE** in any action or proceedings in this state.

14-4301. Jurisdiction by act of foreign personal representative

A. A foreign personal representative submits personally to the jurisdiction of the courts of this state, in any proceeding relating to the estate, by any of the following:

1. Filing certified copies of appointment as provided in section 14-4204.
2. Receiving payment of money or taking delivery of personal property under section 14-4201.
3. Doing any act as a personal representative in this state which would have given the state jurisdiction over **him THE FOREIGN PERSONAL REPRESENTATIVE** as an individual.

14-4302. Jurisdiction by act of decedent

In addition to jurisdiction conferred by section 14-4301, a foreign personal representative is subject to the jurisdiction of the courts of this state to the same extent that **his THE FOREIGN PERSONAL REPRESENTATIVE'S** decedent was subject to jurisdiction immediately prior to death.

14-4303. Service on foreign personal representative

A. Service of process may be made upon the foreign personal representative by registered or certified mail, addressed to **his THE** last reasonably ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first class mail is sufficient if registered or certified mail service to

the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or **his THE FOREIGN PERSONAL REPRESENTATIVE'S** decedent immediately prior to death.

B. If service is made upon a foreign personal representative as provided in subsection A, **he THE FOREIGN PERSONAL REPRESENTATIVE** shall be allowed at least thirty days within which to appear or respond.

14-4401. Effect of adjudication for or against personal representative

An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if **he THE PERSONAL REPRESENTATIVE** were a party to the adjudication.

14-5101. Definitions

In this title, unless the context otherwise requires:

3. "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that **he THE PERSON** lacks sufficient understanding or capacity to make or communicate responsible decisions concerning **his THE** person. In cases of limited guardianship only, a person is not deemed an incapacitated person for purposes of voting if the person files a petition and has a hearing and the judge determines by clear and convincing evidence that the person retains sufficient understanding to exercise the right to vote pursuant to section 14-5304.02.

11. "Protective proceeding" means a proceeding under section 14-5401 to determine that a person cannot effectively manage or apply **his THE PERSON'S** estate to necessary ends, either because **he THE PERSON** lacks the ability or is otherwise inconvenienced, or because **he THE PERSON** is a minor, and to secure administration of **his THE PERSON'S** estate by a conservator or other appropriate relief.

14-5104. Delegation of powers by parent or guardian

A parent or a guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding six months, any powers **he A PARENT OR A GUARDIAN** may have regarding care, custody or property of the minor child or ward, except power to consent to marriage or adoption of the minor.

14-5202. Testamentary appointment of guardian of minor

The parent of a minor may appoint by will a guardian of an unmarried minor. Subject to the right of the minor under section 14-5203, a testamentary appointment becomes effective upon filing the guardian's acceptance in the court in which the will is probated, if before acceptance, both parents are dead or the surviving parent is adjudged incapacitated. If both parents are dead, an effective appointment by the parent who died later has priority. This state recognizes a testamentary appointment effected by filing the guardian's acceptance under a will probated in another state which is the testator's domicile. Upon acceptance of appointment, written notice of acceptance must be given by the guardian to the minor and also to either the person having **his THE MINOR'S** care or **his THE MINOR'S** nearest adult relation.

14-5203. Objection by minor of fourteen or older to testamentary appointment

A minor of fourteen or more years may prevent an appointment of **his THE MINOR'S** testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within thirty days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee or any other suitable person.

14-5208. Consent to service by acceptance of appointment; notice

By accepting a testamentary or court appointment as guardian a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person. Notice of any proceeding shall be delivered to the guardian, or mailed to **him THE GUARDIAN** by ordinary mail at **his THE GUARDIAN'S** address as listed in the court records and to **his THE GUARDIAN'S** address as then known to the petitioner. Letters of guardianship must indicate whether the guardian was appointed by will or by court order.

14-5209. Powers and duties of guardian of minor

A. A guardian of a minor has the powers and responsibilities of a custodial parent regarding the ward's support, care and education. A guardian is not personally liable for the ward's expenses and is not liable to third persons by reason of the relationship for acts of the ward.

5. Report the condition of the ward and of the ward's estate which has been subject to **his THE GUARDIAN'S** possession or control, as ordered by the court on petition of any person interested in the ward's welfare or as required by court rule.

14-5305. Acceptance of appointment; consent to jurisdiction

By accepting appointment, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person. Notice of any proceeding shall be delivered to the guardian or mailed to **him THE GUARDIAN** by ordinary mail at **his THE GUARDIAN'S** address as listed in the court records and to **his THE GUARDIAN'S** address as then known to the petitioner.

14-5310.01. Adult protective services workers; special visitation warrants

A. Adult protective services workers of the department of economic security charged with responsibilities involving protection of incapacitated and abused, exploited or neglected adults may present themselves before the court to apply for and obtain special visitation warrants. The court shall limit such visitations to the residence of the adult believed to be incapacitated and abused, exploited or neglected. Nothing in this act shall be construed to mean that an adult is abused or neglected or in need of protective services for the sole reason that **he AN ADULT** relies on treatment from a recognized religious method of healing in lieu of medical treatment.

14-5312. General powers and duties of guardian

A. A guardian of an incapacitated person has the same powers, rights and duties respecting the guardian's ward that a parent has respecting the parent's unemancipated minor child, except that a guardian is not liable to third persons for acts of the ward solely by reason of the guardianship. In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court:

4. If no conservator for the estate of the ward has been appointed, the guardian may:

(b) Receive money and tangible property deliverable to the ward and apply the money and property for support, care and education of the ward, but the guardian may not use funds from **his THE** ward's estate for room and board the guardian or the guardian's spouse, parent or child has furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the ward, if notice is possible. **He THE GUARDIAN** must exercise care to conserve any excess for the ward's needs.

10. A guardian shall make reasonable efforts to secure appropriate training, education and social and vocational opportunities for **his THE** ward in order to maximize the ward's potential for independence.

11. In making decisions concerning **his THE** ward, a guardian shall take into consideration the ward's values and wishes.

14-5403. Venue

Venue for proceedings under this article is:

2. If the person to be protected does not reside in this state, in any county where **he THE PERSON** has property.

14-5408. Permissible court orders

A. The court has the following powers which may be exercised directly or through a conservator in respect to the estate and affairs of protected persons:

3. After a hearing and upon determining that a basis for an appointment or any other protective order exists with respect to a person for reasons other than minority, the court has, for the benefit of the protected person and members of that person's household, all the powers over **his THE** estate and affairs which the protected person could exercise if present and not under disability, except the power to make a will or to make gifts other than those authorized by this section.

14-5413. Acceptance of appointment; consent to jurisdiction

By accepting appointment, a conservator submits personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person. Notice of any proceeding shall be delivered to the conservator, or mailed to **him THE CONSERVATOR** by registered or certified mail at **his THE CONSERVATOR'S** address as listed in the petition for appointment or as thereafter reported to the court and to **his THE CONSERVATOR'S** address as then known to the petitioner.

14-5422. Sale, encumbrance or transaction involving conflict of interest; voidable; exceptions

Any sale or encumbrance to a conservator, ~~his~~ THE CONSERVATOR'S spouse, agent or attorney, or any corporation or trust in which ~~he~~ THE CONSERVATOR has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest is voidable unless the transaction is approved by the court after notice to interested persons and others as directed by the court.

14-5426. Enlargement or limitation of powers of conservator

A. Subject to the restrictions in section 14-5408, subsection A, paragraph 4, the court may confer on a conservator at the time of appointment or later, in addition to the powers conferred on ~~him~~ THE CONSERVATOR by sections 14-5424 and 14-5425, any power which the court itself could exercise under section 14-5408, subsection A, paragraphs 2 and 3. The court may, at the time of appointment or later, limit the powers of a conservator otherwise conferred by sections 14-5424 and 14-5425, or previously conferred by the court, and may at any time relieve ~~him~~ THE CONSERVATOR of any limitation. If the court limits any power conferred on the conservator by section 14-5424 or 14-5425, the limitation shall be endorsed upon ~~his~~ THE CONSERVATOR'S letters of appointment.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

B. Upon appointment of a conservator for a protected spouse, the court may determine whether the spouse's share of community property shall be managed by the conservator or by the other spouse. If the court determines that the community property shall be managed by the other spouse, ~~and if the protected spouse is the husband, the wife~~ EITHER SPOUSE may become the manager of the community property during the conservatorship OF THE PROTECTED SPOUSE and may dispose of community personal property in the interests of the community.

Revisions are necessary due to exclusionary use of male pronouns.

14-5428. Claims against protected person; enforcement

B. A claimant whose claim has not been paid may petition the court for determination of ~~his~~ THE claim at any time before it is barred by the applicable statute of limitation and, upon due proof, procure an order for its allowance and payment from the estate. If a proceeding is pending against a protected person at the time of appointment of a conservator or is initiated against the protected person thereafter, the moving party must give notice of the proceeding to the conservator if the outcome is to constitute a claim against the estate.

C. If it appears that the estate in conservatorship is likely to be exhausted before all existing claims are paid, preference is to be given to prior claims for the care, maintenance and education of the protected person or ~~his~~ THE PROTECTED PERSON'S dependents and existing claims for expenses of administration.

14-5431. Payment of debt and delivery of property to foreign conservator without local proceedings

Any person indebted to a protected person, or having possession of property or of an instrument evidencing a debt, stock or chose in action belonging to a protected person may pay or deliver to a conservator, guardian of the estate or other like fiduciary appointed by a court of the state of residence of the protected person, upon being presented with proof of **his THE CONSERVATOR'S, GUARDIAN'S OR OTHER FIDUCIARY'S** appointment and an affidavit made by **him THE CONSERVATOR, GUARDING OR OTHER FIDUCIARY** or on **his THE PROTECTED PERSON'S** behalf stating both:

14-5432. Domiciliary foreign conservator; powers of local conservator

If no local conservator has been appointed and no petition in a protective proceeding is pending in this state, a domiciliary foreign conservator may file with a court in this state in a county in which property belonging to the protected person is located certified copies of **his THE FOREIGN CONSERVATOR'S** appointment and of any official bond **he THE FOREIGN CONSERVATOR** has given. Thereafter, **he THE FOREIGN CONSERVATOR** may exercise as to assets in this state all powers of a local conservator and may maintain actions and proceedings in this state subject to any conditions imposed upon non-resident parties generally.

14-5605. Letter testamentary or of administration not required; statement to be filed; powers and duties

D. On filing the statement of administration, the public fiduciary may:

6. Pursuant to section 14-5103, for the use and benefit of a minor heir or devisee who has no guardian, pay the share of an intestate estate or a devise due **him THE MINOR HEIR OR DEVISEE** if it does not exceed five thousand dollars.

14-5606. Additional powers and duties of the public fiduciary

A. If the gross assets of the estate exceed twenty thousand dollars, the public fiduciary may file with the court a verified petition to preserve and protect estate property if action is needed to protect an estate but no probate proceedings have been filed and no affidavit of collection has been tendered pursuant to section 14-3971. The petition shall include the following:

6. A declaration that there is no person eligible to act as personal representative or that the personal representative named in the will has refused or neglected to act, is dead or **his THE PERSON'S** whereabouts are unknown or is not eligible to receive letters testamentary at the present time.

14-7503. Transfer of negotiable instrument by fiduciary

If any negotiable instrument payable or endorsed to a fiduciary as such is endorsed by the fiduciary, or if any negotiable instrument payable or endorsed to **his THE FIDUCIARY'S** principal is endorsed by a fiduciary empowered to endorse such instrument on behalf of **his THE** principal, the endorsee is not bound to inquire whether the fiduciary is committing a breach of **his THE FIDUCIARY'S** obligation as fiduciary in endorsing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of **his THE FIDUCIARY'S** obligation as fiduciary unless **he THE ENDORSEE**

takes the instrument with actual knowledge of such breach or with knowledge of such facts that **his THE ENDORSEE'S** action in taking the instrument amounts to bad faith. If, however, such instrument is transferred by the fiduciary in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor or is transferred in any transaction known by the transferee to be for the personal benefit of the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary in fact commits a breach of **his THE FIDUCIARY'S** obligation as fiduciary in transferring the instrument.

14-7504. Check drawn by fiduciary payable to third person

If a check or other bill of exchange is drawn by a fiduciary as such, or in the name of **his THE FIDUCIARY'S** principal by a fiduciary empowered to draw such instrument in the name of **his THE FIDUCIARY'S** principal, the payee is not bound to inquire whether the fiduciary is committing a breach of **his THE FIDUCIARY'S** obligation as a fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of **his THE FIDUCIARY'S** obligation as fiduciary unless **he THE PAYEE** takes the instrument with actual knowledge of such breach or with knowledge of such facts that **his THE PAYEE'S** action in taking the instrument amounts to bad faith. If, however, such instrument is payable to a personal creditor of the fiduciary and delivered to the creditor in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor or is drawn and delivered in any transaction known by the payee to be for the personal benefit of the fiduciary, the creditor or other payee is liable to the principal if the fiduciary in fact commits a breach of **his THE FIDUCIARY'S** obligation as fiduciary in drawing or delivering the instrument.

14-7505. Check drawn by and payable to fiduciary

If a check or other bill of exchange is drawn by a fiduciary as such or in the name of **his THE FIDUCIARY'S** principal by a fiduciary empowered to draw such instrument in the name of **his THE FIDUCIARY'S** principal, payable to the fiduciary personally, or payable to a third person and by **him THE THIRD PARTY** transferred to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of **his THE FIDUCIARY'S** obligation as fiduciary in transferring the instrument, and is not chargeable with notice that the fiduciary is committing a breach of **his THE FIDUCIARY'S** obligation as fiduciary unless **he THE TRANSFEREE** takes the instrument with actual knowledge of such breach or with knowledge of such facts that **his THE TRANSFEREE'S** action in taking the instrument amounts to bad faith.

14-7506. Deposit in name of fiduciary as such

If a deposit is made in a bank to the credit of a fiduciary as such, the bank is authorized to pay the amount of the deposit or any part thereof upon the check of the fiduciary, signed with the name in which such deposit is entered, without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of **his THE FIDUCIARY'S** obligation as fiduciary in drawing the check or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of **his THE FIDUCIARY'S** obligation as fiduciary in drawing or delivering the check.

14-7507. Deposit in name of principal

If a check is drawn upon the account of **his THE** principal in a bank by a fiduciary who is empowered to draw checks upon **his THE** principal's account, the bank is authorized to pay such check without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of **his THE FIDUCIARY'S** obligation as fiduciary in drawing such check, or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of **his THE FIDUCIARY'S** obligation as fiduciary in drawing or delivering the check.

14-7508. Deposit in fiduciary's personal account

If a fiduciary makes a deposit in a bank to **his THE FIDUCIARY'S** personal credit of checks drawn by **him THE FIDUCIARY** upon an account in **his THE FIDUCIARY'S** own name as fiduciary, or of checks payable to **him THE FIDUCIARY** as fiduciary, or of checks drawn by **him THE FIDUCIARY** upon an account in the name of **his THE FIDUCIARY'S** principal if **he THE FIDUCIARY** is empowered to draw checks thereon, or of checks payable to **his THE FIDUCIARY'S** principal and endorsed by **him THE FIDUCIARY**, if **he THE FIDUCIARY** is empowered to endorse such checks, or if **he THE FIDUCIARY** otherwise makes a deposit of funds held by **him THE FIDUCIARY** as fiduciary, the bank receiving such deposit is not bound to inquire whether the fiduciary is committing thereby a breach of **his THE FIDUCIARY'S** obligation as fiduciary; and the bank is authorized to pay the amount of the deposit or any part thereof upon the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of **his THE FIDUCIARY'S** obligation as fiduciary in making such deposit or in drawing such check, or with knowledge of such facts that its action in receiving the deposit or paying the check amounts to bad faith.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

14-9106. Multiple beneficiaries; separate custodial trusts; survivorship

A. Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate custodial trusts of equal undivided interests for each beneficiary. Except in a transfer or declaration for use and benefit of **husband and wife A SPOUSE**, for whom survivorship is presumed, a right of survivorship does not exist unless the instrument creating the custodial trust specifically provides for survivorship or survivorship is required as to community or marital property.

TITLE 15 Education



Revisions to include non-discrimination on the basis of sex and to remove provision allowing for single sex charter schools.

15-184. Charter schools; admissions requirements

F. Except as provided in subsections A through D of this section, a charter school shall not limit admission based on ethnicity, national origin, **SEX**, gender, income level, disabling condition, proficiency in the English language or athletic ability.

~~H. A charter school may provide instruction to pupils of a single gender with the approval of the sponsor of the charter school. An existing charter school may amend its charter to provide instruction to pupils of a single gender, and if approved by the sponsor of the charter school, may provide instruction to pupils of a single gender at the beginning of the next school year.~~

~~H.~~ A charter school may refuse to admit any pupil who has been expelled from another educational institution or who is in the process of being expelled from another educational institution.

Revisions are necessary due to exclusionary use of male pronouns.

15-201. State board of education; members; appointment; terms

A. The state board of education shall be composed of the superintendent of public instruction, the president of a state university or a state college, four lay members, a president or chancellor of a community college district, a person who is an owner or administrator of a charter school, a superintendent of a high school district, a classroom teacher and a county school. A member who is a president of a state university or a state college shall not **SERVE MORE THAN ONE CONSECUTIVE TERM.** ~~succeed himself.~~

15-210. Unlawful expenditure of federal monies

If a school district expends or attempts to expend monies received pursuant to section 15-207 in a manner other than as directed by the state board of education or as provided by the federal grant, the state board of education shall immediately deliver to the county treasurer of the county in which such district is located written notice directing the **COUNTY TREASURER** ~~him~~ to refuse to pay further warrants drawn against monies so provided in the fund prescribed in section 15-209. Copies of the notice shall be served upon the governing board of the school district and the county school superintendent. No further expenditures shall be made by the school district from such monies, and no further monies shall be apportioned or paid to the district until it has complied with the federal regulations and directions of the state board of education. Upon compliance to the satisfaction of the

state board of education, the state board shall deliver written notice to the county treasurer and the county school superintendent and thereafter the monies may be expended as provided in section 15-206.

Revisions to include non-discrimination on the basis of sex.

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that “sex” included “gender” but that does not mean that “gender” includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that “sex” discrimination includes “gender” but “gender” does not include “sex” under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove “sex.”

15-232. Division of adult education; duties

B. The department of education shall provide classes under this section only to adults who are citizens or legal residents of the United States or are otherwise lawfully present in the United States. This subsection shall be enforced without regard to race, religion, **SEX**, gender, ethnicity or national origin.

Revisions are necessary due to exclusionary use of male pronouns.

15-235. Division of special education; director; duties; qualifications; advisory committee; members

H. The advisory committee annually shall elect its own **chairman CHAIR** and **vice-chairman VICE-CHAIR**. The state board of education shall regularly submit, as part of its budget request, any item or items sufficient to cover expenses of the operation of the advisory committee, and of its members in connection with their attendance at meetings of the advisory committee and other advisory committee activities.

15-253. Legal opinions relating to school matters

A. The superintendent of public instruction shall:

1. Furnish copies of the attorney general opinions, including opinions of the county attorneys which have been submitted to the attorney general for review as provided in subsection B, relating to school matters to all county attorneys, county school superintendents and to other interested persons who request copies.

2. Require each county school superintendent to furnish copies of all attorney general opinions relating to school matters to all school districts in **his THE** county.

B. For the purposes set forth in subsection A, the attorney general shall promptly furnish copies of opinions relating to school matters to the superintendent of public instruction. Each county attorney shall promptly transmit a copy of **his THE COUNTY ATTORNEY’S** opinion relating to school matters to the attorney general who shall concur, revise or decline to review the opinion of the county attorney. If the attorney general does not concur, revise or decline to review the county attorney’s opinion within sixty days from its receipt, the opinion shall be deemed affirmed. The opinion of the attorney general shall prevail.

15-303. Apportionment of Funds

The county school superintendent shall apportion the school monies to each school district of the county. He **THE COUNTY SCHOOL SUPERINTENDENT** shall give written notification to the county treasurer of the amount apportioned to each school district and to the governing board of the school district of the amount apportioned to the district.

15-327. Advisory meetings of school district electors; notice; procedure; effect

D. A school district meeting shall be called to order and presided over by the president of the governing board or, in his **THE PRESIDENT'S** absence, by an elector chosen by the electors present. At the meetings all voting shall be by ballot of the qualified school electors. In all matters the meeting may exercise advisory power only.

15-343. Employment of professional help

E. If an attorney is employed without the consent of the county attorney, the county attorney shall not have the duty to represent the district with regard to any matter for which such attorney was employed and shall not be responsible to the district for any exercise of, or failure to exercise, professional judgment by such attorney in his **THE ATTORNEY'S** representation of the district.

15-351. School councils; duties; membership

F. The principal shall serve as **chairman CHAIR** of the school council unless another person is elected by a majority of the school council members.

15-361. Establishment of evening and night schools; admission of students; tuition

The governing board of a school district may establish an evening or night school when in its judgment the school is necessary or convenient. The school shall be open for admission of children between the ages of fourteen and twenty-one years, but this shall not be construed as a requirement for a full course of study therein nor as requiring the admission of a person to a class beyond his **THE PERSON'S** educational attainments. The schools shall be open to persons over twenty-one years of age only upon payment of tuition as provided by law.

15-393. Career technical education district governing board; report; definitions

J. One member of the career technical education board shall be selected **chairman CHAIR**. The **chairman CHAIR** shall be selected annually on a rotation basis from among the participating school districts. The **chairman CHAIR** of the career technical education board shall be a voting member.

15-401. Qualifications of school electors; school district registers; challenge; tally lists

A. A person who is a qualified elector of this state under section 16-121 in the boundaries of the school district twenty-nine days immediately preceding the election is qualified to vote at an election of the school district in the precinct in which he **THE PERSON** is registered. For the purposes of this title,

the term “qualified school elector”, “qualified elector”, “school elector” or “elector” shall have the qualifications prescribed in this subsection.

C. The forms for the tally list shall be furnished by the county board of supervisors, and the tally lists must be completed and returned to the county school superintendent and shall be kept by **him THE SUPERINTENDENT** for not less than five years.

15-426. Tally and canvass of votes; certificate of election; oath of office

B. The county school superintendent and the **chairman CHAIR** of the board of supervisors shall meet within thirty days, unless otherwise specified in this title, following the date of any school election and canvass the returns in accordance with procedures for the canvass of returns in a general election. The county school superintendent shall declare the results of the election, shall declare elected the person receiving the highest number of votes for each office to be filled, and shall issue to **him THAT PERSON** a certificate of election.

15-428. Election of governing board members of a union high school district

B. Election officers shall certify the returns to the county school superintendent who shall meet with the **chairman CHAIR** of the board of supervisors within thirty days following the date of the election and canvass the returns and issue certificates of election, as provided in section 15-426.

15-444. Formation of union high school district; petition for establishment; election; notice

D. The election shall be conducted as nearly as practicable in the manner prescribed in section 15-459. The ballots shall contain the words “union high school district, yes” and “union high school district, no”, and the voter shall signify **his THE VOTER’S** desired choice.

15-449. Formation of unified school district by common school district; petition for establishment; election; notice

D. The election shall be conducted as nearly as practicable in the manner prescribed in section 15-459. The ballots shall contain the words “unified school district, yes” and “unified school district, no”, and the voter shall signify **his THE VOTER’S** desired choice.

15-449. (version 2) Formation of unified school district by common school district; petition for establishment; election; notice

D. The election shall be conducted as nearly as practicable in the manner prescribed in section 15-459. The ballots shall contain the words “unified school district, yes” and “unified school district, no”, and the voter shall signify **his THE VOTER’S** desired choice.

15-450. Formation of a new joint unified school district; petition; report; election; notice; ballots; canvass of votes; appointment of governing board

C. Each county school superintendent with whom petitions for the formation of a joint unified school district are filed shall examine the petitions within fifteen days of the date of receipt to determine

their sufficiency, including the adequacy of the signatures from the portion of the proposed district within **his THE SUPERINTENDENT'S** county. If the petitions are found sufficient, the county school superintendent shall transmit the petitions to the state board of education.

E. On approval from the state board of education, the county school superintendent of each county whose territory or a portion of whose territory will be included in the proposed joint unified school district shall submit the question of the formation of the proposed joint unified school district to the voters at a general election or at a special election to be held for that purpose. If no general election is scheduled to be held within sixty days after the date the county school superintendent receives the approved petitions from the state board of education, **he THE COUNTY SCHOOL SUPERINTENDENT** shall promptly call a special election to be held within sixty days after receipt of the approved petitions. Notice of the election shall be given by the county school superintendent to the boards of supervisors. At least ten days before the election, the county school superintendent shall cause notice of the proposed election to be posted in not less than three public places in the proposed district and to be published at least once in a newspaper of general circulation in the proposed district. The notice shall state the following:

F. Within ten days after the election, the county school superintendent and the **chairman CHAIR** of the board of supervisors of each county shall canvass the vote. If a majority of the votes cast in each county of persons who reside within the proposed district favors formation of the proposed joint unified school district, the boards of supervisors shall jointly declare the election and the joint unified school district shall become operative from and after June 30 next following the election.

15-455. Formation of joint common school district; petition; election; notice; canvass

B. Each county school superintendent with whom a petition for the creation of a joint common school district is filed shall, within fifteen days of the date of receipt, examine the petition to determine its sufficiency including the adequacy of the signatures from the portion of the proposed district within **his THE COUNTY SCHOOL SUPERINTENDENT'S** county. If the petition is found sufficient, the county school superintendent shall transmit the petition to the state board of education.

E. Upon receipt of the approved petitions the county school superintendent of each county whose territory, or a portion thereof, will be included in the proposed joint common school district shall submit the question of the formation of the proposed joint common school district at a general election, or at a special election to be held for that purpose. If no general election will be held within sixty days after the date the county school superintendent receives the approved petition from the state board of education, **he THE COUNTY SCHOOL SUPERINTENDENT** shall promptly call a special election to be held within forty-five days after receipt of the approved petition. Notice of such election shall be given by the county school superintendent to the boards of supervisors.

G. On the fifth day after the election the county school superintendent and the **chairman CHAIR** of the board of supervisors of each county shall canvass the vote. If a majority of the votes cast in each county of persons who reside within each of the affected districts is in favor of creation of the proposed joint common school district, the boards of supervisors shall jointly declare the election and the joint common school district is established. For the purpose of this subsection a majority of the votes cast in each

county of persons who reside within each of the affected districts means a majority vote of the qualified electors voting in each county in each part of an affected existing school district or affected area to be included in the proposed joint common school district and a majority vote of the qualified electors voting in each county in each part, if any, of an affected school district not to be included in the proposed joint common school district.

15-459. Consolidation of districts; petition; election; notice; report; ballots; canvass of votes; governing board

G. The county school superintendent and the **chairman CHAIR** of the board of supervisors, on the seventh day after the election, shall canvass the vote. If a majority of the votes cast in each district approved the consolidation, the districts are consolidated and become one district from and after June 30 next following the election. If parts of two or more school districts are proposed to be consolidated, a majority of the voters in the part of a school district or districts not affected by the proposed consolidation and a majority of the voters in the part of the school district or districts proposed for consolidation must approve the consolidation.

15-459. (version 2) Consolidation of districts; petition; election; notice; report; ballots; canvass of votes; governing board

J. The county school superintendent and the **chairman CHAIR** of the board of supervisors, on the seventh day after the election, shall canvass the vote. If a majority of the votes cast in each district approved the consolidation, the districts are consolidated and become one district from and after June 30 next following the election. If parts of two or more school districts are proposed to be consolidated, a majority of the voters in the part of a school district or districts not included in the proposed consolidation and a majority of the voters in the part of the school district or districts proposed for consolidation must approve the consolidation.

15-469. Lapsing of common school district; conditions; procedure; disposition of property and monies

B. The county school superintendent may provide the common school district additional time to recruit more pupils. If the common school district has a student count of less than eight pupils at the end of the additional time, the board of supervisors may declare the common school district lapsed and attach the territory to one or more of the adjoining school districts, dispose of the property of the lapsed common school district and apply the proceeds to the credit of the lapsed common school district. The county school superintendent shall determine all unbonded indebtedness of the lapsed common school district and draw **his THE COUNTY SCHOOL SUPERINTENDENT'S** warrant, on proper vouchers, on the county treasurer in payment of the unbonded indebtedness. Any balance remaining after such a payment shall be transferred to the county school fund.

15-502. Employment of school district personnel; payment of wages of discharged employee

A. The governing board at any time may employ and fix the salaries and benefits of employees necessary for the succeeding year. The contracts of all certificated employees shall be in writing, and all employees

shall be employed subject to section 38-481. The governing board may transmit and receive contracts of certificated employees in an electronic format and may accept electronic signatures on those contracts. If a contract has not been transmitted to the certificated employee by the end of the current school year, the transmittal of an electronic contract to that certificated employee prior to the start of the next school year shall be submitted to both the certificated employee's school district e-mail as well as the certificated employee's personal e-mail in order to notify them of the offer of contract. Each certificated employee shall be responsible for submitting ~~his or her~~ **THE CERTIFICATED EMPLOYEE'S** personal e-mail to human resources personnel at the school district for this purpose. Documents transmitted in an electronic format pursuant to this subsection shall be considered written documents for the purposes of sections 15-536 and 15-538.01. The governing board may adopt requirements that require electronic signatures to be followed by original signatures within a specified time period. A governing board that accepts an electronic signature for a certificated employee's contract shall provide validation to the certificated employee that the contract has been transmitted. The governing board may obtain the services of any employee, including teachers, substitute teachers and administrators, by contracting with a private entity that employs personnel required by the school district.

15-507. Abuse of teacher or school employee in school; classification

A person who knowingly abuses a teacher or other school employee on school grounds or while the teacher or employee is engaged in the performance of ~~his~~ **THE TEACHER'S OR EMPLOYEE'S** duties is guilty of a class 3 misdemeanor.

15-508. Dismissal for failure to comply with certain laws

Wilful neglect or failure on the part of a school superintendent, principal, teacher or other officer of a school to observe and carry out the requirements of sections 15-532 and 15-710 is sufficient cause for dismissal or removal of such person from ~~his~~ **THE PERSON'S** position, and the superintendent of public instruction shall make necessary arrangements for carrying out the provisions of this section.

15-510. Authorization of leaves of absence; application; preservation of rights

3. The governing board may authorize a salary to be paid to the person to whom sabbatical leave is granted of not to exceed one-half of the salary then received by ~~him~~ **THE PERSON**.

4. The salary shall be paid to such person upon the condition that ~~he~~ **THE PERSON** shall return not later than one year after commencement of the sabbatical leave for renewal of employment for at least one school year, and unless ~~he~~ **THE PERSON** returns within such period, ~~he~~ **THE PERSON** shall repay to the school district the amount paid to ~~him~~ **THE PERSON** during the leave period, and, unless such amount is so paid, the governing board shall direct the county attorney to institute suit against such person to collect such amount.

15-535. Sectarian instruction prohibited

A teacher who uses sectarian or denominational books or teaches any sectarian doctrine or conducts any religious exercises in school is guilty of unprofessional conduct and ~~his~~ **THE TEACHER'S** certificate shall be revoked. This section shall not be construed to prohibit a teacher from teaching the elective course permitted by section 15-717.01.

15-540. Suspension prior to dismissal of a certificated teacher; written charges; salary

A. Upon a written statement of charges adopted by the governing board charging a certificated teacher of the school district with cause for suspension without pay or dismissal, the governing board may immediately place the teacher on administrative leave of absence and give **him** **THE TEACHER** notice of the administrative leave of absence.

B. The notice of administrative leave of absence shall be in writing and be served upon the teacher personally or by United States registered mail addressed to the teacher at **his** **THE TEACHER'S** last known address.

15-542. Hearing costs; counsel; limitations on evidence; reinstatement

C. If a certificated teacher who has been employed by the school district for more than the major portion of three consecutive school years is placed on administrative leave of absence pending the hearing, **he** **THE TEACHER** shall be reinstated within five days after the governing board renders a decision not to suspend **him** **THE TEACHER** without pay or dismiss **him** **THE TEACHER**.

15-543. Appeal from decision of board

A. The decision of the governing board is final unless the certificated teacher files, within thirty days after the date of the decision, an appeal with the superior court in the county within which **he** **THE TEACHER** was employed.

15-545. Resignation restrictions; unprofessional act; penalty

A certificated teacher shall not resign after signing and returning **his** **THE TEACHER'S** contract, unless the resignation is first approved by the governing board. A teacher who resigns contrary to this section shall be deemed to commit an unprofessional act and, upon request of the governing board, shall be subject to such disciplinary action, including suspension or revocation of certificate, as the state board of education deems appropriate.

15-753. Parental waivers

B. The circumstances in which a parental exception waiver may be applied for under this section are as follows:

1. Children who already know English: the child already possesses good English language skills, as measured by oral evaluation or standardized tests of English vocabulary comprehension, reading, and writing, in which the child scores approximately at or above the state average for **his** **THE CHILD'S** grade level or at or above the 5th grade average, whichever is lower; or

15-804. Attendance officer; appointment; salary

B. If in the opinion of the governing boards of two or more school districts one officer will adequately serve such districts, such officer may be appointed by the districts jointly. **His** **THE OFFICER'S** salary may be apportioned as the governing boards provide and shall be paid from the funds of the school districts.

15-823. Admission; residents of other school districts; nonresidents of this state; tuition

C. The governing board shall admit children who are residents of the United States but who are nonresidents of this state without payment of tuition if evidence indicates that the child's physical, mental, moral or emotional health is best served by placement with a grandparent, ~~brother, sister, stepbrother, stepsister, aunt or uncle~~ SIBLING, STEP-SIBLING OR A PARENT'S SIBLING who is a resident within the school district, unless the governing board determines that the placement is solely for the purpose of obtaining an education in this state without payment of tuition.



15-826. Education of children to whom school inaccessible

The county school superintendent, with the consent of the board of supervisors, may allow on ~~his~~ THE COUNTY SCHOOL SUPERINTENDENT'S warrant an amount not to exceed ten dollars per school month per pupil toward the education of children of compulsory school age living at such a distance or inaccessible place that compulsory attendance is impracticable. The monies may be used by the county school superintendent as ~~he~~ THE COUNTY SCHOOL SUPERINTENDENT deems best for the interest of the pupil and shall be paid from the reserve fund of the county.

15-911. Aggregate expenditure limitation; aggregate expenditures of local revenues; adjustments

B. On or before November 1 of each year the state board of education shall determine and report to the president of the senate, the speaker of the house of representatives and the **chairman CHAIR** of the joint legislative budget committee the aggregate expenditures of local revenues as defined in article IX, section 21, subsection (4), Constitution of Arizona, for all school districts for the current year.

15-998. Liability of treasurer for failure to keep separate account or give notice; enforcement

If the county treasurer fails to keep a separate account for each school district and for the special county school reserve fund or give the notice required by section 15-996, **he THE COUNTY TREASURER** is liable to the county in the amount of five hundred dollars, and the county attorney shall, upon direction of the board of supervisors, bring an action in the name of the county against the treasurer for the recovery of the five hundred dollars. Monies collected are payable into the county school fund.

15-1029. Rights of bondholder; additional state tax

A. If the board of supervisors fails to make the levy necessary to pay school district bonds or interest coupons at maturity and such bonds or coupons are presented to the county treasurer and payment is refused, the owner may file the bond, together with all unpaid coupons, with the department of administration, taking **his THE OWNER'S** receipt therefor. Such bonds and coupons shall be registered with the department of administration.

15-1173. Use of funds

A. Except as provided in subsection C of this section, monies in the Arizona youth farm loan fund may be used only for such of the rural rehabilitation purposes as are permissible under the Arizona rural rehabilitation corporation's charter as it appeared during the calendar year 1960 and as may from time to time be agreed upon by the state board of education and the secretary of agriculture of the United States or **his THE SECRETARY OF AGRICULTURE'S** delegate, including but not limited to furnishing financial assistance to deserving young persons under twenty-five years of age who are students or former students of vocational agriculture or young farmers in organized vocational agriculture classes in becoming satisfactorily established in farming through guaranteed loans, if they cannot obtain needed financing elsewhere on reasonable rates and terms.

Revisions to prohibit discrimination on the basis of sex and gender.

15-1184. Vouchers; requirements; budgets; prohibited uses

G. Any residential special education placement or residential education voucher issued pursuant to this article shall not be used in any private residential facility that discriminates on the basis of race, religion, **SEX, GENDER**, creed, color, national origin or disability. **FOR PURPOSES OF THIS SECTION, DISCRIMINATION ON THE BASIS OF SEX OR GENDER DOES NOT INCLUDE THE PROVISION OF RESIDENTIAL FACILITIES THAT ARE SEGREGATED BY SEX.**

15-1204. Voucher; application; approval; requirements; budgets; prohibited uses; advances

I. Any special education institutional voucher issued pursuant to this article shall not be used in any school or institution that discriminates on the basis of race, **SEX**, **GENDER**, religion, creed, color or national origin.

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that “sex” included “gender” but that does not mean that “gender” includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that “sex” discrimination includes “gender” but “gender” does not include “sex” under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove “sex.”

15-1241. Academic contests fund; state board of education powers and duties; distribution of monies

C. The criteria on which the state board shall base its rules for the distribution of fund monies shall include at least the following:

3. Contests must be open to all pupils, regardless of race, creed, **SEX**, gender or national origin, except that a contest may separate pupils by age or grade level.

Revisions are necessary due to exclusionary use of male pronouns.

15-1342. Admissions

G. A complete record of every person admitted shall be kept from the date of **his** **THE PERSON’S** admission to the date of **his** **THE PERSON’S** discharge or death. The records shall be accessible to the board or a legislative committee or upon order of a judge of a court of record.

15-1343. Persons entitled to education

A. A person is entitled to an education in the schools for the deaf and the blind without charge if the person is a resident of this state, age three through twenty-one years and sensory impaired to an extent that **he** **THE PERSON** cannot acquire an appropriate education in the school district of residence.

15-1441. Selection of precincts; district board members; terms; qualifications; vacancies

G. A county officer as provided in section 11-401 is not eligible to serve as a member of a community college district governing board during **his** **THE COUNTY OFFICER’S** term of office.

15-1442. Nominating petitions; election; returns; results; certificate of election; statement of contributions and expenditures

D. The county school superintendent and the **chairman** **CHAIR** of the board of supervisors shall meet on the seventh day following the election to canvass the returns in accordance with procedures for the

canvass of returns in a general election. The county school superintendent shall declare the results of the election, declare elected the person receiving the highest number of votes for each office to be filled and issue to that person a certificate of election.

15-1448. Employment of legal counsel; opinions of counsel

E. If a district board employs an attorney without the consent of the county attorney, the county attorney has no duty to represent the district with regard to any matter for which the attorney was employed and is not responsible to the district for any exercise of, or failure to exercise, professional judgment by the attorney in **his THE ATTORNEY'S** representation of the district.

15-1461. District budget; annual estimate; computation; notice; hearing; adoption

J. Immediately following the public hearing the **chairman CHAIR** shall call to order the special board meeting for the purpose of adopting the budget. The governing board shall adopt the budget making deductions from the budget as it sees fit but making no additions to the budget and shall enter the budget as adopted in its minutes. The governing board shall not adopt the budget if the property tax requirements of the budget, excluding amounts budgeted and levied for secondary property taxes, exceed the amounts authorized pursuant to title 42, chapter 17, article 2.

15-1489. Certification of bonds by attorney general

The board may submit to the attorney general of the state of Arizona any bonds to be issued under this article after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the attorney general, it shall be **his THE ATTORNEY GENERAL'S** duty to examine into and pass upon the validity of the bonds and the regularity of all proceedings in connection therewith. If such proceedings conform to the provisions of this article, and if the bonds when delivered and paid for will constitute binding and legal obligations authorized by the board for and on behalf of the institution, enforceable according to the terms thereof, the attorney general shall certify in substance upon the back of each of said bonds that it is issued in accordance with the constitution and laws of the state of Arizona.

15-1627. Control of vehicles and nonpedestrian devices on university property; sanctions; compliance with emissions inspection; definition

B. The rules adopted by each university pursuant to subsection A of this section shall be enforced administratively by each university. As to students, faculty and staff, these procedures may, but need not, involve both student and faculty adjudicating bodies, as long as all procedures give the individual notice and an opportunity to be heard concerning the alleged infractions and any sanction to be imposed upon **him THE INDIVIDUAL**.

E. Any person who has received a final administrative ruling concerning a sanction imposed upon **him THE PERSON** as a result of a violation of a rule pursuant to subsection A of this section shall have the right to have that ruling reviewed by the superior court in the county in which the institution involved is situated, in accordance with the provisions of the administrative review act, title 12, chapter 7, article 6.

15-1635. University research development purposes; product development; corporations

C. Before organizing such a corporation, the board shall develop a procedure for applications for financial aid to be forwarded, together with an application fee prescribed by the board, to the board. The board shall investigate and prepare a report concerning the advisability of approving the proposed financial aid for such person and concerning any other factors deemed relevant. The investigation and report shall include such facts about the person under consideration as **his** **THE PERSON'S** history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro forma income statements, present and future markets and prospects and integrity of management as well as the feasibility of the proposed project to be granted financial aid, including the state of development of the product as well as the likelihood of its commercial feasibility. After receipt and consideration of the report and after other action as is deemed appropriate, the board shall approve or deny the application. The board shall promptly notify the applicant of such action. Approval shall be conditioned on payment to the board, within such reasonable time after notification of approval as the board may specify, of a commitment fee prescribed by the board.

15-1722. Board of medical student loans; members; terms; officers; compensation

C. The board shall select a **chairman** **CHAIR** and **vice-chairman** **VICE-CHAIR** and such other officers as it deems necessary.

Revision necessary to ensure non discrimination on the basis of sex.

15-1742. Authority of governor to enter compact; terms of compact

ARTICLE VI

The commission shall elect from its number a **chairman** **CHAIR** and a **vice-chairman** **VICE-CHAIR**, and may appoint, and at its pleasure dismiss or remove, such officers, agents and employees as may be required to carry out the purpose of this compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

ARTICLE VII

The commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The commission may elect such committees as it deems necessary for the carrying out of its functions.

The commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The **chairman** **CHAIR** may call such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or territories shall call additional meetings.

The commission shall submit a budget to the governor of each compacting state and territory at such time and for such period as may be required.

The commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the region.

On or before the fifteenth day of January of each year, the commission shall submit to the governors and legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the governor of any compacting state or territory or **his THE GOVERNOR'S** designated representative. The commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The commission shall provide for an independent annual audit.

15-1745. Contract with student certified by board

A. Before certifying a student to the commission the board, on behalf of this state, shall enter into a written contract with the student. The contract shall set forth the methods and terms of repayment by the student to this state and shall be on terms and conditions and in a form provided by the board. The contract shall provide:

1. That the student shall within one year after completing **his THE STUDENT'S** professional education and internship begin the practice of **his THE STUDENT'S** profession within Arizona. If the student engages in postgraduate studies and does so without a lapse of more than one year following the completion of **his THE STUDENT'S** professional course, **he THE STUDENT** shall begin practice within this state within one year after completing the graduate studies. If the student is involuntarily inducted into military service, or for other cause beyond **his THE STUDENT'S** control deemed sufficient by the board is unable to begin the practice of **his THE** profession within one year after completing **his THE STUDENT'S** professional education, internship and any graduate studies, **he THE STUDENT** shall begin practice within this state within one year after completing **his THE STUDENT'S** required military service or the termination of such other cause.

2. That if the student engages in the practice of **his THE** profession within this state or while completing military service resulting from involuntary induction, **his THE STUDENT'S** indebtedness to this state may be discharged in one of the following ways:

(b) For each year of practice or internship within this state or in military service there shall be discharged **his THE STUDENT'S** obligation for one academic year of study for which a portion of the cost was paid by this state, except that each six months of practice shall discharge **his THE STUDENT'S** obligation for one academic year of study if such practice is confined to a locality within the state where there is an exceptional need for **his THE STUDENT'S** professional services as determined and certified by the Arizona medical board or licensing board of **his THE STUDENT'S** profession.

3. That if the student fails to complete the required course of professional study, or if the course of study is interrupted by one school year or more for a cause or causes not resulting from involuntary induction into military service or other cause beyond **his THE STUDENT'S** control deemed sufficient by the board, or if the student fails to practice **his THE STUDENT'S** profession within the state for such continuous time as completely discharges **his THE STUDENT'S** obligation, except for delays resulting

from an excusable cause as prescribed in this section, the entire sum paid for or on behalf of the student by this state and not repaid or discharged as herein provided shall be due and payable forthwith with interest at the rate prescribed in subsection B of this section. The board may extend the time of payment over a period not exceeding fifteen years and shall not require payment of interest during the existence of any excusable cause as prescribed in this section.

4. That if the student does not begin practice in this state within the time prescribed in this section but shall have repaid an agreed part of the sum expended by this state in ~~his~~ THE STUDENT'S behalf, the board may permit ~~him~~ THE STUDENT to discharge the balance of ~~his~~ THE STUDENT'S obligation by subsequent practice within this state.

5. That in the event of the death of the student during the period of ~~his~~ THE STUDENT'S education, internship or practice, ~~his~~ THE STUDENT'S obligation to this state under this article shall cease except as to any portion that is then due.

15-1771. Notice to educational institution

B. Within seventy-two hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled that ~~he or she~~ THE STUDENT ATHLETE has entered into an agency contract.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

15-1801. Definitions

In this article, unless the context otherwise requires:

3. "Domicile" means a person's true, fixed and permanent home and place of habitation. It is the place where ~~he~~ THE PERSON intends to remain and to which ~~he~~ THE PERSON expects to return when ~~he~~ THE PERSON leaves without intending to establish a new domicile elsewhere.

4. "Emancipated person" means a person who is neither under a legal duty of service to ~~his~~ THE PERSON'S parent nor entitled to the support of such parent under the laws of this state.

5. "Parent" means a person's father or mother OR LEGAL PARENT, or if one parent has custody, that parent, or if there is no surviving parent or the whereabouts of the parents are unknown, then a guardian of an unemancipated person if there are not circumstances indicating that such guardianship was created primarily for the purpose of conferring the status of an in-state student on such unemancipated person.

15-1807. Concurrent enrollment; nonresident tuition

B. Any nonresident student desiring to enroll concurrently in two or more public institutions of higher education in this state including any university or community college for a combined total of more than six semester hours who is not subject to nonresident tuition at any of such institutions shall pay the nonresident tuition at the institution of ~~his~~ THE NONRESIDENT STUDENT'S choice in an amount

equivalent to nonresident tuition at such institution for the combined total of semester hours for which the nonresident student is concurrently enrolled.

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that “sex” included “gender” but that does not mean that “gender” includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that “sex” discrimination includes “gender” but “gender” does not include “sex” under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove “sex.”

15-1825. Prohibited financial assistance; report

C. This section shall be enforced without regard to race, religion, **SEX**, gender, ethnicity or national origin.

Revisions are necessary due to exclusionary use of male pronouns.

15-1851. Commission for postsecondary education; purpose; report; members; terms; powers and duties; compensation; quorum; immunity; definition

G. The governor shall appoint a **chairman CHAIR** from among the members of the commission who shall serve a one-year term that begins on the third Monday in January.

15-1869. Information on free expression; freshman orientation programs

Each university and community college shall include in its **freshman FIRST-YEAR STUDENT** orientation program information describing the policies and rules regarding free expression in a manner that is consistent with this article.

15-1901. Authority of governor to enter compact; terms of compact for education; termination of state’s participation

ARTICLE III-THE COMMISSION

Section D. The commission shall elect annually, from among its members, a **chairman CHAIR**, who shall be a governor, a **vice-chairman VICE-CHAIR** and a treasurer. The commission shall provide for the appointment of an executive director. The executive director shall serve at the pleasure of the commission and, together with the treasurer and such other personnel as the commission may deem appropriate, shall be bonded in such amount as the commission shall determine. The executive director shall be the secretary.

ARTICLE VI-COMMITTEES

Section A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee shall consist of governors, one-fourth shall consist of legislators and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with

the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: sixteen for one year and sixteen for two years. The ~~chairman~~ CHAIR, ~~vice-chairman~~ VICE-CHAIR and treasurer of the commission shall be members of the steering committee and, anything in this section to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee, provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

TITLE 16 Elections



Revisions are necessary due to exclusionary use of male pronouns.

16-101. Qualifications of registrant; definition

- A. Every resident of the state is qualified to register to vote if ~~he~~ **THE RESIDENT**:
2. Will be eighteen years of age or more on or before the date of the regular general election next following ~~his~~ registration.
4. Is able to write ~~his~~ **THE PERSON'S** name or make ~~his~~ **THE PERSON'S MARK**, unless prevented from so doing by physical disability.

16-121. Qualified elector; definition

A. A person who is qualified to register to vote pursuant to section 16-101 and who is properly registered to vote shall, if ~~he~~ **THE PERSON** is at least eighteen years of age on or before the date of the election, be deemed a qualified elector for any purpose for which such qualification is required by law, except as provided in section 16-126. A person continues to be a qualified elector until that person's registration is canceled pursuant to section 16-165 or until that person does not qualify as a resident as prescribed by section 16-101, subsection B.

16-124. Public officer residing in county of post of duty

Any public officer of the state, including a judge of the court of appeals, whose post of duty is located in a county other than in the county from which elected or appointed, and who is physically residing where **his THE** post of duty is located, shall be deemed a qualified elector and resident of the county from which elected or appointed if **he THE PERSON** registers, or remains registered, to vote in a precinct in such county. This section shall also apply to the spouse and any dependents of such public officer if otherwise qualified to vote and actually residing with the public officer.

16-126. Authority to vote in presidential election after moving from state

A. Each person who is properly registered as an elector in any precinct in this state and who has begun residence in another state after the thirtieth day immediately preceding an election in which presidential electors are chosen shall retain **his THE** right to vote for presidential electors to be elected, but for no other offices in such election. Such vote may be cast by early ballot in the precinct from which **he THE PERSON** has removed, in person at the office of the county recorder or by mail.

16-135. Change of residence from one address to another

B. An elector who moves from the address at which **he THE ELECTOR** is registered to another address within the same county and who fails to notify the county recorder of the change of address before the date of an election shall be permitted to correct the voter registration records at the appropriate polling place for the voter's new address. The voter shall present a form of identification that includes the voter's given name and surname and the voter's complete residence address that is located within the precinct for the voter's new residence address. The voter shall affirm in writing the new residence address and shall be permitted to vote a provisional ballot.

16-136. Change of political party

An elector desiring to state a preference for a political party or organization other than the one indicated by the record of **his THE ELECTOR'S** registration shall reregister.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

16-152. Registration form

(Caution: 1998 Prop. 105 applies)

A. The form used for the registration of electors shall contain:

11. The ~~registrant's father's name or mother's maiden~~ name **OF ONE OF THE REGISTRANT'S PARENTS.**

16-165. Causes for cancellation

C. When proceedings in the superior court or the United States district court result in a person being declared incapable of taking care of **himself THEMSELVES** and managing **his THEIR** property, and

for whom a guardian of the person and estate is appointed, result in such person being committed as an insane person or result in a person being convicted of a felony, the clerk of the superior court in the county in which those proceedings occurred shall file with the secretary of state an official notice of that fact. The secretary of state shall notify the appropriate county recorder and the recorder shall cancel the name of the person on the register. Such notice shall name the person covered, shall give the person's date and place of birth if available, the person's social security number, if available, the person's usual place of residence, the person's address and the date of the notice, and shall be filed with the recorder of the county where the person last resided.

D. Each month the department of health services shall transmit to the secretary of state without charge a record of the death of every resident of the state reported to the department within the preceding month. This record shall include only the name of the decedent, the decedent's date of birth, the decedent's date of death, the decedent's social security number, if available, the decedent's usual legal residence at the time of death and, if available, the decedent's father's name or mother's maiden name. The secretary of state shall use the record for the sole purpose of canceling the names of deceased persons from the statewide voter registration database. In addition, the department of health services shall annually provide to the secretary of state from the statewide electronic death registration system without charge a record of all deaths of residents of this state that are reported to the department of health services. The records transmitted by the department of health services shall include only the name of the decedent, the decedent's date of birth, the decedent's social security number, if available, the decedent's usual legal residence at the time of death and, if available, the decedent's ~~father's name or mother's maiden~~ PARENT'S name. The secretary of state may compare the records of deaths with the statewide voter registration database. Public access to the records is prohibited. Use of information from the records for purposes other than those required by this section is prohibited. The name of each deceased person shall promptly be canceled from the statewide voter registration database and the secretary of state shall notify the appropriate county recorder and the recorder shall cancel the name of the person from the register.

16-168. Precinct registers; date of preparation; contents; copies; reports; statewide database; violation; classification

C. For the purposes of transmitting voter registration information as prescribed by this subsection, electronic media shall be the principal media. A county or state ~~chairman~~ CHAIR who is eligible to receive copies of precinct lists as prescribed by this subsection may request that the recorder provide a paper copy of the precinct lists. In addition to preparing the official precinct lists, the county recorder shall provide a means for electronically reproducing the precinct lists. Unless otherwise agreed, the county recorder shall deliver one electronic media copy of each precinct list in the county without charge and on the same day within eight days after the close of registration for the primary and general elections to the county ~~chairman~~ CHAIR and one electronic media copy to the state ~~chairman~~ CHAIR of each party that has at least four candidates other than presidential electors appearing on the ballot in that county at the current election. The secretary of state shall establish a single format that prescribes the manner and template in which all county recorders provide this data to the secretary of state to ensure that the submissions are uniform from all counties in this state, that all submissions are identical in format, including the level of detail for voting history, and that information may readily be combined from two or more counties. The electronic media copies of the precinct lists that are delivered to the party ~~chairmen~~ CHAIRS shall include for each elector the following information:

D. The names on the precinct lists shall be in alphabetical order and the precinct lists in their entirety, unless otherwise agreed, shall be delivered to each county ~~chairman~~ CHAIR and each state ~~chairman~~

CHAIR within ten business days of the close of each date for counting registered voters prescribed by subsection G of this section other than the primary and general election registered voter counts in the same format and media as prescribed by subsection C of this section. During the thirty-three days immediately preceding an election and on request from a county or state **chairman**, **CHAIR** the county recorder shall provide at no cost a daily list of persons who have requested an early ballot and shall provide at no cost a weekly listing of persons who have returned their early ballots. The recorder shall provide the daily and weekly information through the Friday preceding the election. On request from a county **chairman** **CHAIR** or state **chairman**, **CHAIR** the county recorder of a county with a population of more than eight hundred thousand persons shall provide at no cost a daily listing of persons who have returned their early ballots. The daily listing shall be provided Mondays through Fridays, beginning with the first Monday following the start of early voting and ending on the Monday before the election.

F. Any person in possession of a precinct register or list, in whole or part, or any reproduction of a precinct register or list, shall not permit the register or list to be used, bought, sold or otherwise transferred for any purpose except for uses otherwise authorized by this section. A person in possession of information derived from voter registration forms or precinct registers shall not distribute, post or otherwise provide access to any portion of that information through the internet except as authorized by subsection I of this section. Nothing in this section shall preclude public inspection of voter registration records at the office of the county recorder for the purposes prescribed by this section, except that the month and day of birth date, the social security number or any portion thereof, the driver license number or nonoperating identification license number, the Indian census number, ~~the father's name or mother's maiden~~ A parent's name, the state or country of birth and the records containing a voter's signature and a voter's e-mail address shall not be accessible or reproduced by any person other than the voter, by an authorized government official in the scope of the official's duties, for any purpose by an entity designated by the secretary of state as a voter registration agency pursuant to the national voter registration act of 1993 (P.L. 103-31; 107 Stat. 77), for signature verification on petitions and candidate filings, for election purposes and for news gathering purposes by a person engaged in newspaper, radio, television or reportorial work, or connected with or employed by a newspaper, radio or television station or pursuant to a court order. Notwithstanding any other law, a voter's e-mail address may not be released for any purpose. A person who violates this subsection or subsection E of this section is guilty of a class 6 felony.

M. For municipal registration information in those municipalities in which the county administers the municipal elections, county and state party **chairmen** **CHAIRS** shall request and obtain voter registration information and precinct lists from the city or town clerk during the time periods prescribed in subsection C or D of this section. If the city or town clerk does not provide that information within the same time prescribed for county recorders pursuant to subsection C or D of this section, the county or state party **chairman** **CHAIR** may request and obtain the information from the county recorder. The county recorder shall provide the municipal voter registration and precinct lists within the time prescribed in subsection C or D of this section.

16-170. Transmittal of signature roster to county recorder; comparison of names by recorder

Upon return of the signature rosters to the board of supervisors after the election, the board shall immediately return them to the county recorder, who may compare the names and signatures with the names and signatures in corresponding precincts in the general county register, and if the recorder discovers that any person has voted in violation of any provision of this title ~~he~~ **THE RECORDER** shall report the violation to the county attorney.

16-182. False registration; classification; cancellation of registration

A. A person who knowingly causes, procures or allows **himself THEMSELVES** to be registered as an elector of any county, city, town, district or precinct, knowing that **he THE PERSON** is not entitled to such registration, or a person who knowingly causes or procures another person to be registered as an elector of any county, city, town, district or precinct, knowing that such other person is not entitled to such registration, or an officer who knowingly enters the name of any person not entitled to registration upon the register or roll of electors, is guilty of a class 6 felony.

B. If on the trial of a person charged with an offense under this section, it appears that the accused is registered as an elector of any county, city, town or precinct, without being qualified for such registration, the court shall order **his THE** registration canceled.

16-183. Violations; classification

A county recorder, justice of the peace or other person who is authorized to accept registration forms and who knowingly disregards any provision of this chapter, or a person who knowingly registers more than once, or registers under any name other than **his THAT PERSON'S** true name, or attempts to vote by personating another who is registered, or knowingly registers in a precinct where **he THE PERSON** is not a resident at the time of the registration is guilty of a class 6 felony unless another classification is specifically prescribed in this chapter.

16-184. Additional violations; classification

B. An officer of an election who knowingly fails or refuses to perform any duty required **of him** under this chapter is guilty of a class 2 misdemeanor unless another classification is specifically prescribed in this chapter.

16-245. Form and content of ballot

C. The officer in charge of elections shall provide a sample ballot proof to the state committee **chairman CHAIR** of each qualified candidate's state committee no later than five days after receipt of the certification from the secretary of state.

16-249. Certification of election to parties; automatic recount inapplicable; tabulation

A. The secretary of state shall certify the election results to the state party committee **chairmen CHAIRS** of the parties that have candidates on the presidential preference ballot on or before the second Monday following the election.

16-311. Nomination papers; statement of interest; filing; definitions

G. The nomination paper shall include the exact manner in which the candidate desires to have the person's name printed on the official ballot and shall be limited to the candidate's surname and given name or names, an abbreviated version of such names or appropriate initials such as "Bob" for "Robert"; **"Jim" for "James", "BETH" FOR "ELIZABETH", "Wm." for "William" or "R." FOR "ROBERTA" or "S." for "Samuel"**. Nicknames are permissible, but in no event shall nicknames, abbreviated versions or initials of given names suggest reference to professional, fraternal, religious or military titles. No

other descriptive name or names shall be printed on the official ballot, except as provided in this section. Candidates' abbreviated names or nicknames may be printed within quotation marks. The candidate's surname shall be printed first, followed by the given name or names.

H. Not later than the date of the first petition signature on a nomination petition, a person who may be a candidate for office pursuant to this section shall file a statement of interest with the appropriate filing officer for that office. The statement of interest shall contain the name of the person, the political party, if any, and the name of the office that may be sought. Any nomination petition signatures collected before the date the statement of interest is filed are invalid and subject to challenge. This subsection does not apply to:

2. Candidates for precinct **committeeman COMMITTEEPERSON**.

16-317. Secure online signature collection; municipal, county and precinct **committeeman COMMITTEEPERSON offices**

A. Notwithstanding any other statute in this title, the secretary of state shall provide a system for qualified electors to sign a nomination petition for candidates for city or town office, county office and the office of precinct **committeeman COMMITTEEPERSON** by way of a secure internet portal. The system shall allow only those qualified electors who are eligible to sign a petition for a particular candidate to sign the petition, shall provide a method for the qualified elector's identity to be properly verified and shall provide for the secretary of state to transmit those filings or a facsimile of those filings to the officer in charge of elections for the appropriate office. A candidate may choose to collect up to the minimum number of required nomination petition signatures by use of the online signature collection system prescribed by this section.

B. This section applies only to candidates for city or town elected office, county office and the office of precinct **committeeman COMMITTEEPERSON**.

16-321. Signing and certification of nomination petition; definition

D. The person before whom the signatures were written on the signature sheet is not required to be a resident of this state but otherwise shall be qualified to register to vote in this state pursuant to section 16-101 and, if not a resident of this state, shall register as a circulator with the secretary of state. A circulator shall verify that each of the names on the petition was signed in **his THE CIRCULATOR'S** presence on the date indicated, and that in **his THE CIRCULATOR'S** belief each signer was a qualified elector who resides at the address given as the signer's residence on the date indicated and, if for a partisan election, that each signer is a qualified signer. The way the name appears on the petition shall be the name used in determining the validity of the name for any legal purpose pursuant to the election laws of this state. Signature and handwriting comparisons may be made.

16-322. Number of signatures required on nomination petitions

A. Nomination petitions shall be signed by a number of qualified signers equal to:

6. If for a candidate for county precinct **committeeman COMMITTEEPERSON**, at least two percent but not more than ten percent of the party voter registration in the precinct or ten signatures, whichever is less.

16-341. Nomination petition; method and time of filing; form; qualifications and number of petitioners required; statement of interest

I. Not later than the date of the first petition signature on a nomination petition, a person who may be a candidate for office pursuant to this section shall file a statement of interest with the appropriate filing officer for that office. The statement of interest shall contain the name of the person, the political party, if any, and the name of the office that may be sought. Any nomination petition signatures collected before the date the statement of interest is filed are invalid and subject to challenge. This subsection does not apply to:

2. Candidates for precinct **committeeman COMMITTEEPERSON**.

16-343. Filling vacancy caused by death or incapacity or withdrawal of candidate

A. A vacancy occurring due to death, mental incapacity or voluntary withdrawal of a candidate after the close of petition filing but before a primary or general election shall be filled by the political party with which the candidate was affiliated as follows:

2. In the case of a vacancy for the office of United States representative or the legislature, the party precinct **committeemen COMMITTEEPERSONS** of that congressional or legislative district shall nominate a candidate of the party's choice and shall file a nomination paper and declaration complying with the requirements of section 16-311.

3. In the case of a vacancy for a county or precinct office, the party county committee of counties with a population of less than two hundred fifty thousand persons according to the most recent United States decennial census and, in counties with a population of two hundred fifty thousand persons or more according to the most recent United States decennial census the county officers of the party together with the **chairman CHAIR** of the party precinct **committeemen COMMITTEEPERSONS** in each legislative district of the county, shall nominate a candidate of the party's choice and shall file a nomination paper and declaration complying with the requirements of section 16-311 to fill such vacancy.

C. Any meetings for the purpose of filing a nomination paper and declaration provided for in this section shall be called by the **chairman CHAIR** of such committee or legislative district, except that in the case of multicounty legislative or congressional districts the party county **chairman CHAIR** of the county having the largest geographic area within such district shall call such meeting. The **chairman CHAIR** or in **his** absence the vice **chairman CHAIR** calling such meeting shall preside. The call to such meeting shall be mailed or given in person to each person entitled to participate no later than one day before such meeting. A majority of those present and voting shall be required to fill a vacancy pursuant to this section.

16-344. Office of presidential elector; appointment by state committee **chairman CHAIR**

A. The **chairman CHAIR** of the state committee of a political party that is qualified for representation on an official party ballot at the primary election and accorded a column on the general election ballot shall appoint candidates for the office of presidential elector equal to the number of United States senators and representatives in Congress from this state and shall file for each candidate with the secretary of state, not more than ten days after the primary election, by 5:00 p.m. on the last day for filing:

16-402. Absence from employment for purpose of voting; application therefor; violation; classification

A. A person entitled to vote at a primary or general election held within this state may, on the day of election, BE absent himself for the purpose of voting from the service or employment at which he THE PERSON is employed if there are less than three consecutive hours between the opening of the polls and the beginning of his THE regular workshift or between the end of his THE regular workshift and the closing of the polls. In such event, THE PERSON he may BE absent himself for such length of time at the beginning or end of his THE workshift that, when added to the time difference between workshift hours and opening or closing of the polls, will provide a total of three consecutive hours. He THE PERSON shall not, because of such absence, be liable for any penalty, nor shall any deduction be made therefor from his THE PERSON'S usual salary or wages. Application shall be made for such absence prior to the day of election, and the employer may specify the hours during which the employee may BE absent himself.

16-404. Preparation of polling place; voting booths; ballot boxes for paper ballots

Each polling place shall be provided by the board of supervisors with a sufficient number of voting booths on which voters may conveniently mark their ballots screened from the observation of others. Each booth shall be at least three square feet in size. Each booth shall be supplied with such conveniences as will enable the voter to prepare his THE ballot for voting. The board of supervisors shall also furnish each polling place with ballot boxes, equipped with locks, large enough to properly receive and hold the ballots cast.

16-447. Voting devices; inspection; specifications and number of booths

B. Before any election at which electronic voting devices are used, the board of supervisors or other authority in charge of elections shall have the voting devices prepared for the election and shall mail a notice to the chairmen CHAIR of the county committees of the different political parties, stating when and where the voting devices may be inspected before they are sealed and delivered to the polling places.

16-461. Sample primary election ballots; submission to party chairmen CHAIRS for examination; preparation, printing and distribution of ballot

A. At least forty-five days before a primary election, the officer in charge of that election shall:

2. Submit the sample ballot proof of each party to the county chairman CHAIR or in city or town primaries to the city or town chairman CHAIR.

B. Within five days after receipt of the sample ballot, the county chairman CHAIR of each political party shall suggest to the election officer any change the chairman CHAIR considers should be made in the chairman's CHAIR'S party ballot, and if upon examination the election officer finds an error or omission in the ballot the officer shall correct it. The election officer shall cause the sample ballots to be printed and distributed as required by law, shall maintain a copy of each sample ballot and shall post a notice indicating that sample ballots are available on request. The official sample ballot shall be printed on colored paper or white paper with a different colored stripe for each party that is represented on that ballot. For voters who are not registered with a party that is entitled to continued representation on

the ballot pursuant to section 16-804, the election officer may print and distribute the required sample ballots in an alternative format, including a reduced size format.

C. Not later than forty days before a primary election, the county ~~chairman~~ CHAIR of a political party may request one sample primary election ballot of the ~~chairman's~~ CHAIR'S party for each election precinct.

16-464. Rotation of names on ballots

A. When there are two or more candidates for a nomination, except in the case of precinct ~~committeemen~~ COMMITTEEPERSONS, the names of all candidates for the nomination shall be so alternated upon the ballots used in each election precinct that the name of each candidate shall appear substantially an equal number of times at the top, at the bottom and in each intermediate place of the list or group of candidates in which they belong. When there are fewer than or the same number of candidates seeking office as the number to be elected, rotation of names is not required and the names shall be placed in alphabetical order.

B. The position of the names of candidates for precinct ~~committeemen~~ COMMITTEEPERSONS shall be drawn by lot for appearance on the ballot when there are more candidates than positions available. Such drawing shall take place at a public meeting called by the board of supervisors for that purpose.

16-465. Arrangement of candidates' names at primary election

A. When there are two or more candidates of the same political party on the ballot, the names of such candidates, except in the case of precinct ~~committeemen~~ COMMITTEEPERSONS, shall be so alternated on the ballots used in each election precinct that the name of each candidate shall appear substantially an equal number of times in each possible location. When there are fewer than or the same number of candidates seeking office as the number to be elected, rotation of names is not required and the names shall be placed in alphabetical order.

B. In a primary election where voting machines are used, names of candidates for precinct ~~committeemen~~ COMMITTEEPERSONS shall appear on the voting machine in alphabetical order according to the first letter of the surnames of the candidates.

16-467. Method of voting on ballot

D. For any political party that is entitled to continued representation on the ballot, section 16-822 applies to the election of precinct ~~committeemen~~ COMMITTEEPERSONS.

16-501. Compliance with primary election law as prerequisite to printing name on ballot

Except as provided in chapter 3, article 5 of this title, no person shall have ~~his~~ THE PERSON'S name printed on the official ballot as a candidate in a general election unless ~~he~~ FULL COMPLIANCE HAS BEEN MADE ~~has-complied-fully~~ with the provisions of law applicable to primary elections, which, for a candidate who appeared on the primary election ballot as a write-in candidate, shall include compliance with the primary election provisions of section 16-312.

16-502. Form and contents of ballot

G. In each column at the right or left of the name of each candidate and on the same line there shall be a place for the voter to put a mark. Below the name of the last named candidate for each office there shall be as many blank lines as there are offices of the same title to be filled, with a place for the voter to put a mark. On the blank line the voter may write the name of any person for whom the voter desires to vote whose name is not printed, and next to the name so written the voter shall designate **his** **THE VOTER’S** choice by a mark as in the case of printed names.

16-515. “Seventy-five foot limit” notices; posting; violation; classification

A. Except as prescribed in this section and section 16-580, a person shall not be allowed to remain inside the seventy-five foot limit while the polls are open, except for the purpose of voting, and except the election officials, one representative at any one time of each political party represented on the ballot who has been appointed by the county **chairman** **CHAIR** of that political party and the challengers allowed by law, and no electioneering may occur within the seventy-five foot limit. Voters having cast their ballots shall promptly move outside the seventy-five foot limit.

B. The board of supervisors shall furnish, with the ballots for each polling place, three notices, printed in letters not less than two inches high, with the heading: “Seventy-five foot limit” and underneath that heading the following:

No person shall be allowed to remain inside these limits while the polls are open, except for the purpose of voting, and except the election officials, one representative at any one time of each political party represented on the ballot who has been appointed by the county **chairman** **CHAIR** of such political party, and the challengers allowed by law. Voters having cast their ballots shall at once retire without the seventy-five foot limit. A person violating any provision of this notice is guilty of a class 2 misdemeanor.

F. Notwithstanding any other law, an election official, a representative of a political party who has been appointed by the county **chairman** **CHAIR** of that political party or a challenger who is authorized by law to be within the seventy-five foot limit as prescribed by this section shall not wear, carry or display materials that identify or express support for or opposition to a candidate, a political party or organization, a ballot question or any other political issue and shall not electioneer within the seventy-five foot limit of a polling place.

16-517. Form of tally list

The tally list shall be in the following form:

We hereby certify the following to be a true tally of the votes for the candidates and offices shown herein cast at the election held on the day of , 20 in election precinct, county, Arizona:

Names of offices Tally of votes

and candidates: (to be tallied in blocks Total vote

of five as:) (as:)

For

representative

in Congress:

John **OR JANE** Doe //// Ninety-nine

We further certify that the total vote set opposite the name of each candidate is the total number of votes received by that candidate in the precinct of election.

(Leaving lines with designation, for signatures of clerks and board of election or tally board.)

16-531. Appointment of election boards; qualifications

A. When an election is ordered, and not less than twenty days before a general or primary election, the board of supervisors shall appoint for each election precinct one inspector, one marshal, two judges and as many clerks of election as deemed necessary. The inspector, marshal, judges and clerks shall be qualified voters of the precinct for which appointed, unless there is not a sufficient number of persons available to provide the number of appointments required. The inspector, marshal and judges shall not have changed their political party affiliation or their no party preference affiliation since the last preceding general election, and if they are members of the two political parties that cast the highest number of votes in the state at the last preceding general election, they shall be divided equally between these two parties. There shall be an equal number of inspectors in the various precincts in the county who are members of the two largest political parties. In each precinct where the inspector is a member of one of the two largest political parties, the marshal in that precinct shall be a member of the other of the two largest political parties. Whenever possible, any person appointed as an inspector shall have had previous experience as an inspector, judge, marshal or clerk of elections. If there is no qualified person in a given precinct, the appointment of an inspector may be made from names provided by the county party **chairman CHAIR**. If not less than ninety days before the election the **chairman CHAIR** of the county committee of either of the parties designates qualified voters of the precinct, or of another precinct if there are not sufficient members of **his THEIR** party available in the precinct to provide the necessary representation on the election board as judge, such designated qualified voters shall be appointed. The judges, together with the inspector, shall constitute the board of elections. Any registered voter in the election precinct, or in another election precinct if there are not sufficient persons available in the election precinct for which the clerks are being appointed, may be appointed as clerk.

B. If the election precinct consists of fewer than three hundred qualified electors, the board of supervisors may appoint not fewer than one inspector and two judges. The board of supervisors shall give notice of election precincts consisting of fewer than three hundred qualified electors to the county **chairmen CHAIRS** of the two largest political parties not later than thirty days before the election. The inspector and judges shall be appointed in the same manner by party as provided in subsection A of this section.

D. For election boards established pursuant to subsection B of this section, the inspector and two judges shall be appointed to provide as equal as practicable representation of members of the two largest political parties on the board in the same manner as provided for the election boards prescribed by subsection A of this section. Any registered voter in the election precinct, or in another election precinct if there are not sufficient persons available in the election precinct for which the clerks are being

appointed, may be appointed as clerk. No United States, state, county or precinct officer, nor a candidate for office at the election, other than a precinct **committeeman COMMITTEEPERSON** or a candidate for the office of precinct **committeeman COMMITTEEPERSON**, is qualified to act as judge, inspector, marshal or clerk.

16-533. Filling vacancy in election board by electors

If the board of supervisors fails to appoint the board of election, or if all members appointed do not attend at the opening of the polls on the morning of the election, the members of the election board of the precinct present at that hour may fill the board or supply the place of an absent member thereof from the list of alternate election board members supplied by the county **chairman CHAIR** of the political party from which another election board member is needed to maintain a political party balance. Such alternate board member is not required to be a qualified elector in the precinct for which the election board is serving.

16-534. Inspector as **chairman CHAIR of board; powers; power of board and clerks to administer oaths; oath of members**

A. The inspector shall be **chairman CHAIR** of the election board and may appoint judges, clerks and a marshal if during the election a judge, clerk or marshal fails to act, or has not been appointed, and if the list of alternate board members as specified in section 16-533 is not available.

16-549. Special election boards; expenses; voting procedure for ill electors or electors with disabilities

A. The county recorder or other officer in charge of elections, for the purpose of making it possible for qualified electors who are ill or have a disability to vote, may appoint such number of special election boards as needed. In a partisan election, each such board shall consist of two members, one from each of the two political parties that cast the highest number of votes in the state in the last preceding general election. The county **chairman CHAIR** of each such party shall furnish, within sixty days before the election day, the county recorder or other officer in charge of elections with a list of names of qualified electors within the **chairman's CHAIR'S** political party, and such additional lists as may be required, from which the county recorder or other officer in charge of elections shall appoint members to such special election boards. The county recorder or other officer in charge of elections may refuse for cause to appoint or may for cause remove a member of this board. A person who is a candidate for an office other than precinct **committeeman COMMITTEEPERSON** is not eligible to serve on the special election board for that election.



16-552. Early ballots; processing; challenges

C. The county **chairman CHAIR** of each political party represented on the ballot, by written appointment addressed to the early election board, may designate party representatives and alternates to act as early ballot challengers for the party. No party may have more than the number of such representatives or alternates that were mutually agreed on by each political party to be present at one time. If such agreement cannot be reached, the number of representatives shall be limited to one for each political party.

E. Within twenty-four hours of receipt of a challenge, the early election board or other officer in charge of early ballot processing shall mail, by first class mail, a notice of the challenge including a copy of the written challenge, and also including the time and place at which the voter may appear to defend the challenge, to the voter at the mailing address shown on the request for an early ballot or, if none was provided, to the mailing address shown on the registration rolls. Notice shall also be mailed to the challenger at the address listed on the written challenge and provided to the county **chairman CHAIR** of each political party represented on the ballot. The board shall meet to determine the challenge at the time specified by the notice but, in any event, not earlier than ninety-six hours after the notice is mailed, or forty-eight hours if the notifying party chooses to deliver the notice by overnight or hand delivery, and not later than 5:00 p.m. on the Monday following the election. The board shall provide the voter with an informal opportunity to make, or to submit, brief statements regarding the challenge. The board may decline to permit comments, either in person or in writing, by anyone other than the voter, the challenger and the party representatives. The burden of proof is on the challenger to show why the voter should not be permitted to vote. The fact that the voter fails to appear shall not be deemed to be an admission of the validity of the challenge. The early election board or other officer in charge of early ballot processing is not required to provide the notices described in this subsection if the written challenge fails to set forth at least one of the grounds listed in section 16-591 as a basis for the challenge. In that event, the challenge will be summarily rejected at the meeting of the board. Except for election contests pursuant to section 16-672, the board's decision is final and may not be appealed.

16-590. Appointment of challengers and party representatives

A. The county ~~chairman~~ CHAIR of each party may, for each precinct, by written appointment addressed to the election board, designate a party agent or representative and alternates for a polling place in the precinct who may act as challengers for the party which appointed ~~him~~ THEM.

B. At each voting place, one challenger for each political party may be present and act, but no challenger may enter a voting booth except to mark ~~his~~ THAT PERSON'S OWN ballot.

16-593. Rules determining residence of voter upon challenge; reading of rules upon request

A. The election board, in determining the place of residence of a person, shall be governed by the following rules, so far as applicable:

1. The residence of a person is that place in which ~~his~~ habitation is fixed and to which ~~he~~ THE PERSON has the intention of returning when absent.

2. A person does not gain or lose ~~his~~ residence by reason of ~~his~~ presence at or absence from a place while employed in the service of the United States or of this state, or while engaged in navigation, or while a student at an institution of learning or while kept in an almshouse, asylum or prison.

3. A person does not lose ~~his~~ residence by leaving ~~his~~ home to go to another county, state or foreign country for merely temporary purposes, with the intention of returning.

4. A person does not gain a residence in any county into which ~~he~~ THE PERSON comes for merely temporary purposes, without the intention of making that county ~~his~~ home.

5. If a person removes to another state with the intention of making it ~~his~~ THAT PERSON'S residence, ~~he~~ THE PERSON loses ~~his~~ residence in this state.

6. If a person removes to another state with the intention of remaining there for an indefinite time, and of making the place ~~his~~ THAT PERSON'S present residence, ~~he~~ THE PERSON loses ~~his~~ residence in this state, even though ~~he~~ THE PERSON has an intention of returning at some future period.

7. The place where a person's family permanently resides is ~~his~~ THE PERSON'S residence, unless ~~he~~ THE PERSON is separated from ~~his~~ THE family, but if it is a place of temporary establishment for ~~his~~ THE family, or for transient purposes, it is otherwise.

8. If a person has a family residing in one place and ~~he~~ THE PERSON does business in another, the former is ~~his~~ THE PERSON'S place of residence, but a person having a family who has taken up ~~his~~ THAT PERSON'S abode with the intention of remaining and whose family does not so reside with ~~him~~ THE PERSON shall be regarded as a resident where ~~THE~~ ~~his~~ abode has been taken.

C. Before administering an oath to a person touching ~~his~~ residence, the inspector, if requested by any person, shall read to the person challenged the rules set forth in subsection A of this section.

16-602. Removal of ballots from ballot boxes; disposition of ballots folded together or excessive ballots; designated margin; hand counts; vote count verification committee

B. For each countywide primary, special, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at one or more secure facilities. The hand count shall be conducted as prescribed by this section and in accordance with hand count procedures established by the secretary of state in the official instructions and procedures manual adopted pursuant to section 16-452. The hand count is not subject to the live video requirements of section 16-621, subsection D, but the party representatives who are observing the hand count may bring their own video cameras in order to record the hand count. The recording shall not interfere with the conduct of the hand count and the officer in charge of the election may prohibit from recording or remove from the facility persons who are taking actions to disrupt the count. The sole act of recording the hand count does not constitute sufficient grounds for the officer in charge of the election to prohibit observers from recording or to remove them from the facility. The hand count shall be conducted in the following order:

1. At least two percent of the precincts in that county, or two precincts, whichever is greater, shall be selected at random from a pool consisting of every precinct in that county. The county political party **chairman CHAIR** for each political party that is entitled to continued representation on the state ballot or the **chairman's CHAIR'S** designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party **chairmen CHAIRS** shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the officer in charge of elections for purposes of a separate manual audit pursuant to subsection F of this section.

6. Each county **chairman CHAIR** of a political party that is entitled to continued representation on the state ballot or the **chairman's CHAIR'S** designee shall select by lot the individual races to be hand counted pursuant to this section.

7. The county **chairman CHAIR** of each political party shall designate and provide the number of election board members as designated by the county officer in charge of elections who shall perform the hand count under the supervision of the county officer in charge of elections. For each precinct that is to be audited, the county **chairmen CHAIRS** shall designate at least two board workers who are registered members of any or no political party to assist with the audit. Any qualified elector from this state may be a board worker without regard to party designation. The county election officer shall provide for compensation for those board workers, not to include travel, meal or lodging expenses. If there are less than two persons for each audited precinct available to participate on behalf of each recognized political party, the recorder or officer in charge of elections, with the approval of at least two county party **chairpersons CHAIRS** in the county in which the shortfall occurs, shall substitute additional individual electors who are provided by any political party from anywhere in the state without regard to party designation to conduct the hand count. A county party **chairman CHAIR** shall approve only those substitute electors who are provided by the county **chairman's CHAIR'S** political party. The political parties shall provide to the recorder or officer in charge of elections in writing the names of those persons intending to participate in the hand count at the audited precincts not later than 5:00 p.m. on the Tuesday preceding the election. If the total number of board workers provided by all parties is

less than four times the number of precincts to be audited, the recorder or officer in charge of elections shall notify the parties of the shortage by 9:00 a.m. on the Wednesday preceding the election. The hand count shall not proceed unless the political parties provide the recorder or officer in charge of elections, in writing, a sufficient number of persons by 5:00 p.m. on the Thursday preceding the election and a sufficient number of persons, pursuant to this paragraph, arrive to perform the hand count. The recorder or officer in charge of elections may prohibit persons from participating in the hand count if they are taking actions to disrupt the count or are unable to perform the duties as assigned. For the hand count to proceed, not more than seventy-five percent of the persons performing the hand count shall be from the same political party.

8. If a political party is not represented by a designated **chairperson CHAIR** within a county, the state **chairperson CHAIR** for that political party, or a person designated by the state **chairperson CHAIR**, may perform the actions required by the county **chairperson CHAIR** as specified in this section.

F. After the electronic tabulation of early ballots and at one or more times selected by the **chairman CHAIR** of the political parties entitled to continued representation on the ballot or the **chairman's CHAIR'S** designee, the **chairmen CHAIRS** or the **chairmen's CHAIRS'** designees shall randomly select one or more batches of early ballots that have been tabulated to include at least one batch from each machine used for tabulating early ballots and those ballots shall be securely sequestered by the county recorder or officer in charge of elections along with their unofficial tally reports for a postelection manual audit. The **chairmen CHAIRS** or the **chairmen's CHAIRS'** designees shall randomly select from those sequestered early ballots a number equal to one percent of the total number of early ballots cast or five thousand early ballots, whichever is less. From those randomly selected early ballots, the county officer in charge of elections shall conduct a manual audit of the same races that are being hand counted pursuant to subsection B of this section. If the manual audit of the early ballots results in a difference in any race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be repeated for those same early ballots. If the second manual audit results in a difference in that race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be expanded only for that race to a number of additional early ballots equal to one percent of the total early ballots cast or an additional five thousand ballots, whichever is less, to be randomly selected from the batch or batches of sequestered early ballots. If the expanded early ballot manual audit results in a difference for that race that is equal to or greater than the designated margin when compared to any of the earlier manual counts for that race, the manual counts shall be repeated for that race until a manual count results in a difference in that race that is less than the designated margin. If at any point in the manual audit of early ballots the difference between any manual count of early ballots is less than the designated margin when compared to the electronic tabulation of those ballots, the electronic tabulation shall be included in the canvass and no further manual audit of the early ballots shall be conducted.

16-608. Delivery of ballots; electronic voting system

B. The **chairman CHAIR** of the county committee of each political party represented on the ballot may designate a member of **his THAT** party to accompany the ballots from each polling place to the central counting place. Such party representative shall serve without compensation.

16-611. Certain defects invalidating vote for particular office

If the voter marks more names than there are persons to be elected to an office, or if from the ballot it is impossible to determine the voter's choice for an office, **his THAT** ballot shall not be counted for that office.

16-612. Determination of write-in choice of voter

C. If an elector writes on **his THE** ballot the name of any person who is a candidate for any office on some other ballot than that on which **his THE** name is so written, such elector shall thereby invalidate **his THE** vote for that particular office, but the vote on the remainder of the ballot shall be counted.

16-615. Delivery of returns

B. The envelope containing the poll list shall constitute the official returns of the election and, together with the envelope containing the voted ballots, shall be delivered to one of the members of the election board, previously determined by lot, unless otherwise agreed on, and such member **ALONE shall by himself**, or by an agent agreed on by the board and sworn by a member thereof, in the presence of the board to faithfully perform the duties of election messenger, without delay, and by the most expeditious means and route, deliver the packages and envelopes, without opening them, to the officer in charge of the election at **his THE OFFICER'S** office, or to the nearest **OFFICIAL IN CHARGE OF THE POST OFFICE postmaster** or sworn express agent, who shall endorse on the packages and envelopes the name of the person delivering them, and the hour and date of the delivery, and forward the packages and envelopes by the first mail or express to the officer in charge of the election at the county seat.

16-624. Disposition of official returns and ballots

A. After the canvass has been completed, the officer in charge of elections shall deposit the package or envelope containing the ballots in a secure facility managed by the county treasurer, who shall keep it unopened and unaltered for twenty-four months for elections for a federal office or for six months for all other elections, at which time **he THE OFFICER IN CHARGE** shall destroy it without opening or examining the contents.

16-663. Recount of votes; method

B. When the court orders a recount of votes which were cast and tabulated on electronic voting equipment, such recount shall be pursuant to section 16-664. On completion of the recount, and for legislative, statewide and federal candidate races only, the county **chairmen CHAIRS** of the political parties entitled to continued representation on the ballot or the **chairman's CHAIR'S** designee shall select at random without the use of a computer five per cent of the precincts for the recounted race for a hand count, and if the results of that hand count when compared to the electronic tabulation of that same race are less than the designated margins calculated pursuant to section 16-602, the recount is complete and the electronic tabulation is the official result. If the hand count results in a difference that is equal to or greater than the designated margin for that race, the procedure established in section 16-602, subsections C, D, E and F applies.

16-672. Contest of state election; grounds; venue

A. Any elector of the state may contest the election of any person declared elected to a state office, or declared nominated to a state office at a primary election, or the declared result of an initiated or referred measure, or a proposal to amend the Constitution of Arizona, or other question or proposal submitted to vote of the people, upon any of the following grounds:

3. That the person whose right is contested, or any person acting for ~~him~~ THAT PERSON, has given to an elector, inspector, judge or clerk of election, a bribe or reward, or has offered such bribe or reward for the purpose of procuring ~~his~~ THE PERSON'S election, or has committed any other offense against the elective franchise.

16-675. Summons; form; answer

B. If the election of a person declared elected is contested, the summons shall be in substantially the following form:

In the superior court of the state of Arizona in and for the county of

—

Contestant.

vs.

Contestee.

Summons.

To the above named contestee;

You are hereby notified that a resident of county, state of Arizona, has on this day filed in this court a statement of contest wherein ~~he~~ THE RESIDENT contests your election to the office of at the election held on the day of , 20 , a copy of which statement accompanies this summons.

You are therefore required to file your answer to said statement with the clerk of this court within five days after the service of this summons on you exclusive of the day of service or the court will proceed with the hearing of such contest ex parte.

Given under my hand and the seal of said court this day of , 20.

Clerk of said court.

C. If the contest is on an initiative or referred measure, a proposed constitutional amendment, or other proposition or question submitted, which has been declared carried, the summons shall be in substantially the following form:

In the superior court of the state of Arizona in and for the county of.

In the matter of the contest of a certain constitutional amendment (or proposition, describing it briefly, as the case may be.)

To the honorable , governor, and the honorable , attorney general of the state of Arizona:

You are hereby notified that residing at in the county of , state of Arizona, has this day filed with the clerk of this court a statement wherein **he A PERSON** contests the election by which the constitutional amendment (or proposition briefly describing it) was declared to have been carried. A copy of this statement is attached and served on you. You are further notified that unless an answer to this statement is filed within five days after the service of this summons on you the court will proceed with the hearing of this contest *ex parte*.

Given under my hand and the seal of said court this day of , 20.

Clerk of said court.

16-677. Inspection of ballots before trial; petition; bond; appointment of inspectors

B. The party applying for the inspection of ballots shall file with the clerk of the court a verified petition stating that **he THE PARTY** cannot properly prepare for trial without an inspection of the ballots and shall file with the petition a bond, approved by the clerk, with two sureties, in the principal amount of three hundred dollars, conditioned that **he THE PARTY** will pay the costs and expenses of the inspection if **he THE PARTY** fails to maintain the contest. Thereupon the court shall appoint three persons, one selected by each of the parties and one by the court, by whom the inspection shall be made. If either party fails to name a person to act in making the inspection, the court shall make the appointment.

16-703. Qualifications of candidates for delegate; nominations

C. Nominations shall be without party or political designation, but the nominating petitions shall contain a statement by the candidate to the effect **that he THE CANDIDATE** favors ratification, or **that he** opposes ratification, and nominating petitions shall not be accepted unless the statement is contained therein.

16-704. Ballots; form

B. The voter shall indicate **his THE VOTER'S** choice by making one or more marks as defined in section 16-400 in the appropriate spaces provided on the ballot. The ballot shall be so arranged that the voter may, by making a single mark as defined in section 16-400, vote for the entire group of nominees whose names are comprised in any column.

C. The ballot shall be in substantially the following form:

Proposed amendment to the Constitution

of the United States.

The Congress has proposed an amendment to the Constitution of the United States which provides (insert here the substance of the proposed amendment).

The Congress has also proposed that the said amendment shall be ratified by conventions in the states.

Instructions to voters

Do not vote for more than fifteen (15) candidates.

To vote for all candidates who favor ratification, or for all candidates who oppose ratification, make a mark in the circle at the head of the list of candidates for whom you wish to vote. If you do this, make no other mark.

To vote for an individual candidate make a mark in the square at the left of the name.

Favors Opposes

Ratification Ratification

() ()

[] John Doe [] ~~Charles Coe~~ JANE COE

[] ~~Richard Roe~~ REBECCA ROE [] Michael Moe

[] []

16-705. Determination of delegates; vacancies; delegate bound to vote in accordance with pre-election statement; classification

C. Delegates elected upon a platform or nomination petition statement as favoring or opposing ratification shall vote at the convention in accordance with that platform or nomination petition statement, and upon an intentional failure to do so any such delegate is guilty of a class 2 misdemeanor, ~~his~~ THE DELEGATES vote shall not be considered, and ~~his~~ THE DELEGATES office shall be deemed vacant to be filled as provided by this article for filling vacancies.

16-821. County committee; vacancy in office of precinct ~~committeeman~~ COMMITTEEPERSON

A. At the primary election the members of a political party entitled to representation pursuant to section 16-804 residing in each precinct shall choose one of their number as a county precinct ~~committeeman~~ COMMITTEEPERSON, and the members shall choose one additional precinct ~~committeeman~~ COMMITTEEPERSON for each one hundred twenty-five voters or major fraction thereof registered in the party in the precinct as reported pursuant to section 16-168, subsection G on January 2 of the year in which the general election is held. The whole number of precinct ~~committeemen~~ COMMITTEEPERSONS of a political party shall constitute the county committee of the party.

B. The board of supervisors upon the recommendation of the county ~~chairman~~ CHAIR, or the recommendation of a committee designated in the bylaws of the county committee for that purpose, shall determine when a vacancy exists in the office of precinct ~~committeeman~~ COMMITTEEPERSON. If a vacancy exists, the vacancy shall be filled by the board of supervisors from a list of names submitted

by the county **chairman CHAIR** of the appropriate political party. Only a precinct **committeeman COMMITTEEPERSON** elected at the primary election prior to the date of a state or county committee organizing meeting shall be permitted to vote at such meeting. The criteria used to establish when a vacancy exists in the office of precinct **committeeman COMMITTEEPERSON** shall be as established in section 38-291.

16-822. Precinct **committeemen COMMITTEEPERSONS; eligibility; vacancy; duties; term**

A. Any member of a recognized political party who is a registered voter in the precinct is eligible to seek the office of precinct **committeeman COMMITTEEPERSON** of that party in that precinct.

B. If the number of persons who file nominating petitions for an election to fill precinct **committeeman COMMITTEEPERSON** positions is less than or equal to the number of precinct **committeeman COMMITTEEPERSON** positions, the county board of supervisors may cancel the election for those positions not sooner than seventy-five days before the election and appoint the person who filed the nominating petition to fill the position. If no person has filed a nominating petition to fill a position, the position is deemed vacant and shall be filled as otherwise provided by law. A precinct **committeeman COMMITTEEPERSON** who is appointed pursuant to this subsection after filing a nominating petition shall be deemed an elected precinct **committeeman COMMITTEEPERSON**.

C. If the number of persons who file nominating petitions for an election to fill precinct **committeeman COMMITTEEPERSON** positions is more than the number of precinct **committeeman COMMITTEEPERSON** positions for a recognized political party in a precinct, a separate ballot shall be prepared for the election of precinct **committeemen COMMITTEEPERSONS** for the political party in that precinct. The ballot shall conform as nearly as practicable to ballot requirements in this title, and to the official ballot prepared for that party in the primary election, but shall be designated as the “official ballot for electing precinct **committeemen COMMITTEEPERSONS** of the _____ party, primary election (date), _____ precinct, _____ county, state of Arizona.” Only persons who are registered as members of that political party in that precinct may vote that precinct **committeeman COMMITTEEPERSON** ballot. The election board or official shall provide the partisan precinct **committeeman COMMITTEEPERSON** ballot to voters who are registered with that party in addition to the official ballot prepared for that party in the primary election.

D. In addition to other provisions of law regarding removal from office, a vacancy shall exist in the office of precinct **committeeman COMMITTEEPERSON** when the precinct **committeeman COMMITTEEPERSON** moves from the precinct from which elected or changes political party from the party in which the precinct **committeeman COMMITTEEPERSON** was elected.

E. The minimum duties of a precinct **committeeman COMMITTEEPERSON** shall be to assist the precinct **committeeman’s COMMITTEEPERSON’S** political party in voter registration and to assist the voters of that political party to vote on election days. Additional duties shall be as provided for in the state committee bylaws of the precinct **committeeman’s COMMITTEEPERSON’S** political party.

F. The term of office of a precinct **committeeman COMMITTEEPERSON** is two years and begins on October 1 after the primary election at which the precinct **committeeman COMMITTEEPERSON** was a candidate and continues until October 1 after the following primary election at which a precinct **committeeman COMMITTEEPERSON** is elected.

16-823. Legislative district committee; organization; boundary change; reorganization

B. A district party committee established pursuant to subsection A of this section shall consist of the precinct **committeemen COMMITTEEPERSONS** residing in the district and elected pursuant to section 16-821.

C. Each district party committee established pursuant to subsection A of this section shall meet no earlier than the second Saturday after the general election provided for in section 16-211 and no later than the first Saturday in the following December and organize by electing from its membership a **chairman CHAIR**, two **vice-chairmen VICE-CHAIRS**, a secretary and a treasurer. The latter two offices may be filled by the same person. In addition, the district party committee shall elect state **committeemen COMMITTEEPERSONS** as prescribed by section 16-825. The **chairman CHAIR** of the district committee is ex officio a member of the county committee of the county in which a plurality of the district's registered voters resides.

D. Each district party committee established pursuant to subsection A of this section shall meet after the effective date of reapportionment legislation that realigns or changes legislative district boundaries and organize according to the new boundaries, electing from its membership a **chairman CHAIR**, two **vice-chairmen VICE-CHAIRS**, a secretary and a treasurer. The latter two offices may be filled by the same person. In addition, the district party committee shall elect state **committeemen COMMITTEEPERSONS** as prescribed by section 16-825. The **chairman CHAIR** of the district committee is ex officio a member of the county committee of the county in which a plurality of the district's registered voters resides. The effective date for reapportionment legislation as provided in this subsection shall be as provided in article IV, part 1, section 1, Constitution of Arizona.

G. For the purposes of the election prescribed in subsection D of this section the district committee shall consist of all precinct **committeemen COMMITTEEPERSONS** residing in the district who were serving in that position at least thirty days before the enactment of reapportionment legislation.

H. The **chairman CHAIR** of the legislative district committee shall give notice of the time and place of the meetings prescribed by this section by United States mail to each precinct **committeeman COMMITTEEPERSON** at least ten days before the date of the meeting. If the precinct **committeeman COMMITTEEPERSON** has provided a valid e-mail address and has authorized the **chairman CHAIR** to give notice to the precinct **committeeman COMMITTEEPERSON** by e-mail instead of by United States mail, the **chairman CHAIR** of the legislative district committee shall provide notice of the meeting by e-mail at least ten days before the date of the meeting.

16-825. State committee

The state committee of each party shall consist, in addition to the **chairman CHAIR** of the several county committees, of one member of the county committee for every three members of the county committee elected pursuant to section 16-821. The state **committeemen COMMITTEEPERSONS** shall be chosen at the first meeting of the legislative district committee as prescribed by section 16-823 or, if there is no legislative district committee, at the first meeting of the county committee from the committee's elected membership.

16-825.01. State committee; vacancy; filling of vacancy

B. In the event of a vacancy in the office of state ~~committeeman~~, COMMITTEEPERSON in counties with populations of less than five hundred thousand persons, such vacancy shall be filled by appointment made by the state ~~chairman~~ CHAIR with the advice and consent of the county ~~chairman~~ CHAIR of the county in which the vacancy occurred. In counties with populations of five hundred thousand or more persons, such vacancy shall be filled by appointment made by the state ~~chairman~~ CHAIR with the advice and consent of the county ~~chairman~~ CHAIR of the county in which the vacancy occurred and the district ~~chairman~~ CHAIR of the district in which the vacancy occurred, and shall be filled by a person who resides in the same district in which the vacancy occurred.

16-826. Meeting, organization and officers of state committee

A. The state committee shall meet no earlier than ten days after the last county meeting of the party and in any event no later than the fourth Saturday in January following a general election and organize by electing from its membership a ~~chairman~~ CHAIR, a secretary and a treasurer.

B. The ~~chairman~~ CHAIR of the state committee shall cause notice of the time and place of the meeting to be mailed by United States mail to each state ~~committeeman~~ COMMITTEEPERSON at least ten days before the date of the meeting. If the state ~~committeeman~~ COMMITTEEPERSON has provided a valid e-mail address and has authorized the ~~chairman~~ CHAIR to give notice to the precinct ~~committeeman~~ COMMITTEEPERSON by e-mail instead of by United States mail, the ~~chairman~~ CHAIR of the state committee shall provide notice of the meeting by e-mail at least ten days before the date of the meeting.

16-827. Executive committee of state committee

The executive committee of the state committee shall consist of the elected officers of the state committee, the national ~~committeeman~~ COMMITTEEPERSON and ~~committeewoman~~, the county ~~chairman~~ CHAIR and first and second county ~~vice-chairmen~~ VICE-CHAIRS from each county, and three members at large from each congressional district. State committee bylaws may provide for additional voting or ex officio members of the executive committee of the state committee. The ~~chairman~~ CHAIR of the state committee shall be ex officio ~~chairman~~ CHAIR of the executive committee.

16-1006. Changing vote of elector by corrupt means or inducement; classification

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting ~~his~~ A vote or to deter ~~him~~ THE ELECTOR from casting ~~his~~ A vote.

3. To defraud an elector by deceiving and causing ~~him~~ THE ELECTOR to vote for a different person for an office or for a different measure than ~~he~~ THE ELECTOR intended or desired to vote for.

16-1010. Refusal by election officer to perform duty; violation of election law; classification

A person charged with performance of any duty under any law relating to elections who knowingly refuses to perform such duty, or who, in **his AN** official capacity, knowingly acts in violation of any provision of such law, is guilty of a class 6 felony unless a different punishment for such act or omission is prescribed by law.

16-1012. Intimidation of elector by employer; classification

A. It is unlawful for an employer knowingly:

2. Within ninety days of an election provided by law, to put up or otherwise exhibit in any place where **his** employees are working or are present in the course of employment a handbill, notice or placard containing a threat, notice or information that if any particular ticket or candidate is elected or defeated work in **his THE** place or establishment will cease in whole or in part, or **his THE** establishment will be closed, or the wages of **his THE workmen WORKERS** will be reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of **his** employees.

B. An employer, whether acting in **his AN** individual capacity or as an officer or agent of a corporation, who violates a provision of this section is guilty of a class 1 misdemeanor.

16-1013. Coercion or intimidation of elector; classification

A. It is unlawful for a person knowingly:

1. Directly or indirectly, to make use of force, violence or restraint, or to inflict or threaten infliction, by **himself BY THAT PERSON** or through any other person, of any injury, damage, harm or loss, or in any manner to practice intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting for a particular person or measure at any election provided by law, or on account of such person having voted or refrained from voting at an election.

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever, to impede, prevent or otherwise interfere with the free exercise of the elective franchise of any voter, or to compel, induce or to prevail upon a voter either to cast or refrain from casting **his A** vote at an election, or to cast or refrain from casting **his A** vote for any particular person or measure at an election.

B. A person, whether acting in **his AN** individual capacity or as an officer or agent of a corporation, who violates a provision of this section is guilty of a class 1 misdemeanor.

16-1014. Corruption of electors; classification

A. It is unlawful for a person, directly or indirectly, by **himself THAT PERSON** or through any other person knowingly:

3. To receive, agree or contract for, before, during or after an election provided by law, money, gifts, loans or other valuable consideration, office, place or employment for **himself THAT PERSON** or other

person, for voting or agreeing to vote, or for going or agreeing to go to the polls, or for refraining or agreeing to refrain from voting for a particular person or measure, or for inducing any person to vote or refrain from voting, or to vote or refrain from voting for a particular person or measure at an election.

16-1020. Signing of petitions; violation; classification

A person knowingly signing any name other than **his THE PERSON'S** own to a nomination petition or a petition for formation, alteration or dissolution of a special district, except in a circumstance where **he THE PERSON** signs for a person, in the presence of and at the specific request of such person who is incapable of signing **his THAT PERSON'S** own name because of physical infirmity, or knowingly signing **his THE PERSON'S** name more than once to a nomination petition or a petition for formation, alteration or dissolution of a special district, or who is not at the time of signing a qualified elector entitled to vote at the election initiated by the petition, is guilty of a class 1 misdemeanor.

TITLE 17 Game and Fish

All revisions are made because of the exclusionary masculine pronouns.

17-105. Immunity of witnesses

No person called upon by the state to testify as a witness in any action brought under this title shall be excused or exempted from so testifying or from producing documentary evidence on the ground that the testimony or evidence might incriminate **him THAT PERSON**, but the person shall not thereafter be prosecuted for an offense concerning which **he THAT PERSON** is called upon to give such testimony or evidence.



17-202. Arizona game and fish commission appointment recommendation board

A. The Arizona game and fish commission appointment recommendation board is established consisting of members appointed by the governor pursuant to this section and section 38-211. The board shall consist of one person who has been a resident of this state for at least five years from each of the following qualifying groups:

1. One member designated by the board of directors of an organization that is qualified pursuant to section 501(c)(3) or 501(c)(4) of the internal revenue code, whose membership consists of a significant cross-section of wildlife conservation and **sportsman's SPORTS** organizations from throughout the state, that does not have an affiliation or charter with a national wildlife conservation or **sportsman's SPORTS** organization and that has been in existence for at least five years.

3. One member designated by the board of directors of an organization that is qualified pursuant to section 501(c)(3) or 501(c)(4) of the internal revenue code whose articles of incorporation or bylaws define it as a **sportsman's SPORTS** organization whose membership is primarily confined to a specific geographic area or region of the state or an organization described in paragraph 2 of this subsection or is a chapter or affiliate of a national **sportsman's SPORTS** conservation or shooting organization and that has been in existence for at least five years.

4. One member designated by the board of directors of an organization that is qualified pursuant to section 501(c)(3) or 501(c)(4) of the internal revenue code that is statewide, whose membership is comprised of **cattlemen CATTLE OWNERS** or ranchers and that has been in existence for at least five years.

17-294. Annual audit of funds

B. The auditor general may, if **he deems IT IS DEEMED** advisable, make such further audits and examinations as **he deems DEEMED** necessary and take appropriate action in relation thereto as provided by title 41, chapter 7, article 10.1. Unless the auditor general takes official action within thirty days after filing of the audit, the audit shall be deemed sufficient.

17-298. Expenditures from fund; purpose and amounts; annual report

C. On or before December 31, the commission shall submit its annual report to the president of the senate, the speaker of the house of representatives and the **chairmen CHAIRS** of the senate and house of representatives committees on natural resources and agriculture, or their successor committees, and shall provide a copy of this report to the secretary of state. The annual report shall include information on:

17-298.01. Decennial performance audit

Beginning in 2001 and every tenth succeeding year thereafter, the auditor general shall conduct a performance audit, as defined in section 41-1278, of the programs and expenditures of the Arizona game and fish commission heritage fund pursuant to this article. The auditor general shall submit copies of the performance audit to the president of the senate, the speaker of the house of representatives and the **chairmen CHAIRS** of the senate and house of representatives committees on natural resources and agriculture, or their successor committees.



17-302. Taking of bear or mountain lion for protection of property; report

A. Other provisions of this title notwithstanding, a landowner or lessee, who is a livestock operator and who has recently had livestock attacked or killed by bear or mountain lion, may, if ~~he~~ **THE OPERATOR** complies with subsection B, lawfully exercise such measures as necessary to prevent further damage from the offending bear or lion, including the taking of such bear or mountain lion in the following manner:

17-307. Possession, storage, sale and gift of the carcass or parts thereof of wildlife

D. A person may make a gift of the carcass or parts thereof of ~~his~~ **THE** lawfully obtained wildlife, or ~~he~~ may have it prepared in a public eating place and served to ~~himself and his~~ **THE PERSON AND THAT PERSON'S** guests.

17-310. Agreement to appear in court

Game rangers, wildlife managers, and other peace officers may take any person before a magistrate within the county in which an offense is committed for a violation of any provision of this title, but any person apprehended for violating any provision of this title punishable as a misdemeanor may be issued a notice to appear before such magistrate bearing the date, time and place for such appearance, the offense charged, and the location or approximate location where the violation was committed. The notice shall be signed by the person notified to appear, and ~~he~~ **THE PERSON** shall be given a copy thereof and thereupon may be released from custody. Failure of such person to appear at the time and place specified shall be cause for issuance of a warrant for ~~his~~ **AN** arrest for failure to appear.

17-311. Duty to report shooting accident resulting in injury or death; duty to give assistance; authority of officers

A. Any person who, while taking wildlife, is involved in a shooting accident resulting in injury to another person shall render every possible assistance to the injured person, and if the accident is fatal, **he THE PERSON** shall immediately report the accident to the nearest law enforcement officer available and render such assistance as may be required.

17-342. Colorado river special use permit

A. A person taking fish or amphibians for purposes other than for profit from or while on a boat or other floating device on all waters of the Colorado river south of the Nevada-Arizona boundary shall have in **his** possession a valid angling or fishing license issued by either the state of Arizona or the state of California. In addition to one of the above described licenses, such person shall have in **his** possession a valid California or Arizona-Colorado river special use permit, as provided by sections 17-343 and 17-344, which shall be obtained on payment of a fee to be fixed by the commission at not to exceed four dollars. Such a permit shall not be required to take fish or amphibians from canals, drains or ditches used to carry water from the Colorado river for irrigation or domestic purposes.

B. A person having in **his** possession a valid Arizona fishing license must have a California-Colorado river special use permit to legally fish the waters described in subsection A of this section. A person having in **his** possession a valid California angling license must have an Arizona-Colorado river special use permit to legally fish the waters described in subsection A of this section. Such special use permit when accompanied by the proper license will allow the holder to fish in any portion of such waters and permit **him THE HOLDER** to enter the waters from any point.

C. Shore line fishing does not require a Colorado river special use permit as long as the **fisherman FISHER** remains on the shore of the state from which **he THAT PERSON** holds a valid license and does not embark on the water.

17-371. Transportation, possession and sale of wildlife and wildlife parts

A. A person may transport in **his THEIR** possession **his THEIR** legally taken wildlife, or may authorize the transportation of **his THEIR** legally taken big game, provided such big game or any part thereof has attached thereto a valid transportation permit issued by the department. Such wildlife shall be transported in such manner that it may be inspected by authorized persons upon demand until the wildlife is packaged or stored. Species of wildlife, other than game species, may be transported in any manner unless otherwise specified by the commission. A person possessing a valid license may transport lawfully taken wildlife other than big game given to **him THAT PERSON** but in no event shall any person possess more than one bag or possession limit.

17-502. Adoption and text of compact

The wildlife violator compact is adopted and enacted into law as follows:

Article 1

Findings, declaration of policy and purpose

(a) The participating states find that:

(7) In some states, a person who is cited for a wildlife violation in a state other than ~~his~~ THAT PERSON'S home state:

(8) The purpose of the enforcement practices set forth in paragraph (7) of this article is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on ~~his~~ THAT PERSON'S way after receiving the citation, could return to ~~his~~ THAT PERSON'S home state and disregard ~~his~~ THE duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in ~~his~~ THAT PERSON'S home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on ~~his~~ THAT PERSON'S way after agreeing or being instructed to comply with the terms of the citation.

(b) It is the policy of the participating states to:

(3) Allow a violator, except as provided in paragraph (b) of article III, to accept a wildlife citation and, without delay, proceed on ~~his~~ THAT PERSON'S way, whether or not a resident of the state in which the citation was issued, provided that the violator's home state is party to this compact.

Article III

Procedures for issuing state

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require such person to post collateral to secure appearance, subject to the exception noted in paragraph (b) of this article, if the officer receives the recognizance of such person that ~~he~~ THE PERSON will comply with the terms of the citation.

Article VII

Compact administrator procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the participating states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be subject to removal in accordance with the laws of the state ~~he~~ THEY represents. A compact administrator may provide for the discharge of ~~his~~ THE duties and the performance of ~~his~~ THE functionS as a board member by an alternate. An alternate shall not be entitled to serve unless written notification of ~~his~~ THE ALTERNATIVE'S identity has been given to the board.

(c) The board shall elect annually from its membership a ~~chairman and vice-chairman~~ CHAIR AND VICE-CHAIR.

Article VIII

Entry into compact and withdrawal

(b) (1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the **chairman CHAIR** of the board.

(3) The effective date of entry shall be specified by the applying state but shall not be less than sixty days after notice has been given (a) by the **chairman CHAIR** of the board of the compact administrators or (b) by the secretary of the board to each participating state that the resolution from the applying state has been received.

Article IX

Amendments to the compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the **chairman CHAIR** of the board of compact administrators and shall be initiated by one or more participating states.

17-503. Administration; expenses

B. The compact administrator from this state is not entitled to any additional compensation for **his THEIR** service as such but is eligible for reimbursement for expenses incurred in connection with **his THE** responsibilities as administrator in the same manner as expenses incurred in connection with other responsibilities of **his THE** office or employment.

TITLE 18 Information Technology



All revisions are necessary due to exclusionary use of male pronouns.

18-444. Duty to file financial disclosure statement; contents; exceptions

A. In addition to other statements and reports required by law, every public officer, as a matter of public record, shall file with the secretary of state on a form prescribed by the secretary of state a verified financial disclosure statement covering the preceding calendar year. The statement shall disclose:

2. The name and address of each employer and of each other source of compensation other than gifts amounting to more than one thousand dollars received during the preceding calendar year by the public officer and members of **his THE PUBLIC OFFICER'S** household in their own names, or by any other person for the use or benefit of the public officer or members of **his THE PUBLIC OFFICER'S** household, a description of the services for which the compensation was received and the nature of the employer's business. This paragraph shall not be construed to require the disclosure of individual items of compensation that constituted a portion of the gross income of the business from which the public officer or members of **his THE PUBLIC OFFICER'S** household derived compensation.

4. The names and addresses of all businesses and trusts in which the public officer or members of **his THE PUBLIC OFFICER'S** household, or any other person for the use or benefit of the public officer or members of **his THE PUBLIC OFFICER'S** household, had an ownership or beneficial interest of over one thousand dollars at any time during the preceding calendar year, and the names and addresses of all businesses and trusts in which the public officer or any member of **his THE PUBLIC OFFICER'S** household held any office or had a fiduciary relationship at any time during the preceding calendar year, together with the amount or value of the interest and a description of the interest, office or relationship.

5. All Arizona real property interests and real property improvements, including specific location and approximate size, in which the public officer, any member of **his THE PUBLIC OFFICER'S** household or a controlled or dependent business held legal title or a beneficial interest at any time during the preceding calendar year, and the value of any such interest, except that this paragraph does not apply to a real property interest and improvements thereon used as the primary personal residence or for the personal recreational use of the public officer. If a public officer, any member of **his THE PUBLIC OFFICER'S** household or a controlled or dependent business acquired or divested any such interest during the preceding calendar year, **he THE PUBLIC OFFICER'S** shall also disclose that the transaction was made and the date it occurred. If the controlled or dependent business is in the business of dealing in real property interests or improvements, disclosure need not include individual parcels or transactions as long as the aggregate value of all parcels of such property is reported.

6. The names and addresses of all creditors to whom the public officer or members of **his THE PUBLIC OFFICER'S** household, in their own names or in the name of any other person, owed a debt of more than one thousand dollars or to whom a controlled business or a dependent business owed a debt of more than ten thousand dollars which was also more than thirty percent of the total business indebtedness at any time during the preceding calendar year, listing each such creditor. This paragraph shall not be construed to require the disclosure of debts owed by the public officer or any member of **his THE PUBLIC OFFICER'S** household resulting from the ordinary conduct of a business other than a controlled or dependent business nor shall disclosure be required of credit card transactions, retail installment contracts, debts on residences or recreational property exempt from disclosure under paragraph 5 of this subsection, debts on motor vehicles not used for commercial purposes, debts secured by cash values on life insurance or debts owed to relatives. It is sufficient disclosure of a creditor if the name and address of a person to whom payments are made is disclosed. If the public officer, any member of **his THE PUBLIC OFFICER'S** household or a controlled or dependent business incurred or discharged a debt which is reportable under this subsection during the preceding calendar year, the report shall disclose that the transaction was made and the date it occurred.

7. The identification and amount of each debt exceeding one thousand dollars owed at any time during the preceding calendar year to the public officer and members of **his THE PUBLIC OFFICER'S** household in their own names, or to any other person for the use or benefit of the public officer or any member of his household. The disclosure shall include the identification and amount of each debt exceeding ten thousand dollars to a controlled business or dependent business which was also more than thirty percent of the total indebtedness to the business at any time during the preceding calendar year. This paragraph shall not be construed to require the disclosure of debts from the ordinary conduct of a business other than a controlled or dependent business. If the public officer, any member of **his THE PUBLIC OFFICER'S** household or a controlled or dependent business incurred or discharged a debt which is reportable under this subsection during the preceding year, the report shall disclose that the transaction was made and the date it occurred.

8. The name of each source of any gift, or accumulated gifts from a single source, of more than five hundred dollars received by the public officer and members of **his THE PUBLIC OFFICER'S** household in their own names during the preceding calendar year, or by any other person for the use or benefit of the public officer or any member of **his THEIR** household except gifts received by will or by virtue of intestate succession, or received by way of distribution from any *inter vivos* or testamentary trust established by a spouse or by an ancestor, or gifts received from any other member of the household or relatives to the second degree of consanguinity.

9. A list of all business licenses issued to, held by or in which the public officer or any member of **his THE PUBLIC OFFICER'S** household had an interest at any time during the preceding calendar year, including the name in which the license was issued, the type of business and its location.

10. A list of all bonds, together with their value, issued by this state or any political subdivision of this state and held at any time during the preceding calendar year by the public officer or any member of **his THE PUBLIC OFFICER'S** household, which bonds issued by a single entity had a value in excess of one thousand dollars. If the public officer or any member of **his THE PUBLIC OFFICER'S** household acquired or divested any bonds during the preceding calendar year which are reportable under this paragraph, the fact that the transaction occurred and the date shall also be shown.

D. The statement required to be filed pursuant to subsection A shall be filed by all persons who qualified as public officers at any time during the preceding calendar year on or before January 31 of each year with the exceptions that a public officer appointed to fill a vacancy shall, within sixty days following **his THE PUBLIC OFFICER'S** taking of such office, file a financial disclosure statement covering as **his THE PUBLIC OFFICER'S** annual period the twelve month period ending with the last full month prior to the date of **his THE PUBLIC OFFICER'S** taking office, and a public officer whose final term expires less than thirty-one days into the immediately following calendar year may file the public officer's final financial disclosure at the same time as the disclosure for the last immediately preceding year.

TITLE 19 Initiative, Referendum and Recall

All revisions are necessary due to exclusionary use of male pronouns.

19-102. Initiative petition; circulators

A. The form of petition for a law or amendment to the constitution of this state or county legislative measure, or city or town ordinance, or amendment to a city or town charter proposed by the initiative to be submitted directly to the electors, shall be substantially in the form prescribed in section 19-101, except that the title and body of such petition shall read:

Initiative Measure to be Submitted Directly to Electors

We, the undersigned, citizens and qualified electors of the state of Arizona, respectfully demand that the following proposed law (or amendment to the constitution, or other initiative measure), shall be submitted to the qualified electors of the state of Arizona (county, city or town of _____) for their approval or rejection at the next regular general election (or county, city or town election) and each for **himself THEMSELVES** says: (terminate form same as a referendum petition.)

D. A circulator of an initiative petition shall state whether **he THE PERSON** is a paid circulator or volunteer by checking the appropriate line on the petition form before circulating the petition for signatures.

19-112. Signatures and verification; attachment

A. Every qualified elector signing a petition shall do so in the presence of the person who is circulating the petition and who is to execute the affidavit of verification. At the time of signing, the qualified elector shall sign **his THEIR OWN** first and last names in the spaces provided and the elector so signing shall print **his THEIR OWN** first and last names and write, in the appropriate spaces following the signature, the signer's residence address, giving street name and number, and if **he THE PERSON** has no street address, a description of **his THEIR** residence location. The elector so signing shall write, in the appropriate spaces following the elector's address, the date on which the elector signed the petition.

B. The signature sheets shall be attached at all times during circulation to a full and correct copy of the title and text of the measure or constitutional amendment proposed or referred by the petition. The title and text shall be in at least eight-point type and shall include both the original and the amended text. The text shall indicate material deleted, if any, by printing the material with a line drawn through the center of the letters of the material and shall indicate material added or new material by printing the letters of the material in capital letters. For the purposes of a referendum, the secretary of state's time-and-date-marked copy of the measure with its proposed text set out in full or for any local matter, the copy of the measure signed or enacted into law by the mayor, or **chairman CHAIR** of the board of supervisors, as appropriate, with its proposed text set out in full and including the original and any amended text constitutes the full and correct copy of the title and text of the measure for circulation for signatures. For any local matter enacted without an ordinance or resolution, the official minutes approved by the governing body and signed by the clerk of the governing body constitute the full and correct copy of the title and text of the measure. Referendum signatures that are collected with any copy of the measure that is not a facsimile of the time-and-date-marked copy for statewide measures or the full and correct copy of a local measure as prescribed by this subsection are invalid.

C. The person before whom the signatures, names and addresses were written on the signature sheet, on the affidavit form pursuant to this section, shall subscribe and swear before a notary public that each of the names on the sheet was signed and the name and address were printed by the elector and the circulator on the date indicated, that in **his THE PERSON'S** belief each signer was a qualified elector of a certain county of the state, or, in the case of a city, town or county measure, of the city, town or county affected by the measure on the date indicated, and that at all times during circulation of the signature sheet a copy of the title and text was attached to the signature sheet. All signatures of petitioners on a signature sheet shall be those of qualified electors who are registered to vote in the same county. However, if signatures from more than one county appear on the same signature sheet, only the valid signatures from the same county that are most numerous on the signature sheet shall be counted.

19-115. Unlawful acts; violations; classification

A. Every qualified elector of the state may sign a referendum or initiative petition upon any measure which **he THE ELECTOR** is legally entitled to vote upon.

B. A person who knowingly signs any name other than **his THE PERSON'S** own to a petition, except in a circumstance where **he THE PERSON** signs for a person in the presence of and at the specific request of such a person who is incapable of signing **his THAT PERSON'S** own name or printing **his THAT PERSON'S** own name and address because of physical infirmity, who knowingly signs **his THE PERSON'S** name more than once for the same measure or proposed constitutional amendment at one election, who is not at the time of signing a qualified elector of this state or who knowingly fills out the name and address portion of the petition with the intent to commit fraud, or any officer or person who knowingly violates any provision of this chapter, is guilty of a class 1 misdemeanor unless another classification is specifically prescribed in this title.

19-116. Signing petitions; coercion; intimidation; false description; classification

A. A person who knowingly coerces any other person by menace or threat, or threatens any other person to the effect that the other person will or may be injured in **his** business, or discharged from employment, or **that he** will not be employed, to sign or subscribe, or to refrain from signing or subscribing, **his THAT PERSON'S** name to an initiative or referendum petition, or, after signing or subscribing **his THAT PERSON'S** name, to have **his THAT PERSON'S** name taken therefrom, is guilty of a class 1 misdemeanor.

19-121.05. Special fund for reimbursement of county recorders

A. The secretary of state shall establish a separate fund from which **he THE SECRETARY** shall reimburse a county recorder for actual expenses incurred by the county recorder for performance of **his THE RECORDER'S** duties under the provisions of section 19-121.02, but not to exceed the rate of fifty cents per signature.

19-204. Form of petition

A. The caption and body of a recall petition shall be substantially as follows:

Recall Petition

We, the qualified electors of the electoral district from which _____
_____ (name and title of office) was elected, demand **his** recall

The grounds of this demand for recall are as follows:

(State in two hundred words or less the grounds of the demand)

D. A circulator of a recall petition shall state whether **he** **THE CIRCULATOR** is a paid circulator or volunteer by checking the appropriate line on the petition form before circulating the petition for signatures.



19-205. Signatures and verification

A. Every qualified elector signing a petition for a recall election shall do so in the presence of the person who is circulating the petition and who is to execute the affidavit of verification on the reverse side of the signature sheet. At the time of signing, the qualified elector shall sign and print **his** **THE ELECTOR'S** first and last name and the elector so signing shall write, in the appropriate spaces following the signature, **his** **THE ELECTOR'S** residence address, giving street and number or, if the elector has no street address, a description of **his** **THE ELECTOR'S** residence location, and the date on which **he** **THE ELECTOR** signed the petition.

B. The person before whom the signatures were written on the signature sheet shall in an affidavit subscribed and sworn to by **him** **THAT PERSON** before a notary public verify that each of the names on the sheet was signed in **his** **THE NOTARY'S** presence on the date indicated, and that in **his** **THE PERSON'S** belief each signer was a qualified elector of the election district on the date indicated in which such recall election will be conducted. All signatures of petitioners on a signature sheet shall be those of qualified electors who are registered to vote in the same county. However, if signatures from

more than one county appear on the same signature sheet, only the valid signatures from the same county which are most numerous on the signature sheet shall be counted. In the absence of a legible signature, the name as it is printed shall be the name used to determine the validity of the signature.

19-206. Coercion or other unlawful acts; classification

A. A person who knowingly induces or compels any other person, either directly or indirectly or by menace or threat that **he THE OTHER PERSON** will or may be injured in **his THAT PERSON'S** business, or discharged from employment, or that **he THE PERSON** will not be employed, to sign or subscribe, or to refrain from signing or subscribing, **his THAT PERSON'S** name to a recall petition, or, after signing or subscribing **his THE** name, to have **his THAT** name taken therefrom, is guilty of a class 1 misdemeanor.

B. A person knowingly signing any name other than **his THAT PERSON'S** own to a petition, except in a circumstance where **he A PERSON** signs for a person, in the presence of and at the specific request of such person, who is incapable of signing **his THE OTHER PERSON'S** own name, because of physical infirmity or knowingly signing **his THAT PERSON'S** name more than once for the same recall issue, at one election, or who knowingly is not at the time of signing a qualified elector of this state is guilty of a class 1 misdemeanor.

19-208.01. Certification of number of signatures

A. Within ten days after submission of a recall petition for verification of signatures pursuant to section 19-203, the receiving officer shall perform the steps prescribed in section 19-121.01, subsection A. If the total number of signatures eligible for verification equals or exceeds the minimum number required by the Arizona Constitution the receiving officer shall reproduce a facsimile of the front of each signature sheet on which any signature eligible for verification appears. The receiving officer shall transmit promptly to each county recorder facsimile sheets on which a signature of any individual claiming to be a qualified elector of that county appears. The receiving officer shall also certify the number of sheets and signatures on the sheets that are being transmitted and retain a record of such certification in **his THE** office. Such receiving officer shall obtain a dated, signed receipt from the county recorder for copies of the original signature sheets transmitted under this section.

B. If the number of signatures on the sheets submitted to the receiving officer does not equal the minimum number required by the constitution, **he THE OFFICER** shall so notify the person or organization submitting them and shall return the sheets to the persons or organization.

19-208.03. Disposition of petition; date of filing

A. Within five days, excluding Saturday, Sunday and legal holidays, after the county recorders have certified the number of qualified signatures to a petition, or sooner if a sufficient number of signatures have been certified to qualify for placement of the recall on the ballot, the receiving officer shall total the number of signatures certified, and:

1. If the number equals or exceeds the minimum number required by the Constitution, **he THE COUNTY RECORDER** shall forthwith officially file the petition, notify the governor and each county recorder affected, stating that no more signatures need be checked, and the recall shall be placed on the ballot in the manner provided by law.

19-212. Nomination petition; form; filing

E. To each nomination petition shall be appended a certificate by a person who is qualified to register to vote pursuant to section 16-101 stating that to the best of **his THAT PERSON'S** knowledge and belief all the signers of the nomination petition are qualified electors of the precinct which they give as their residence.

19-213. Form and contents of ballot

On the ballots for the election shall be printed the reasons as set forth in the petition for demanding the officer's recall, and, in not more than two hundred words, the officer's justification of **his THAT PERSON'S** conduct in office. There shall be no party designation upon the recall ballot. The form of the ballot shall conform as nearly as practicable to the ballot prescribed for general elections.

19-216. Election results

A. The candidate receiving the largest number of votes shall be declared elected for the remainder of the term and shall begin serving the remainder of the term on **his THE CANDIDATE'S** qualification for the office and on completion of the canvass. Unless the incumbent receives the largest number of votes **he THE CANDIDATE** shall be deemed removed from office upon qualification of **his THE INCUMBENT'S** successor. If the incumbent's successor does not qualify within five days after the results of the election have been declared, the office shall be vacant, and may be filled as provided by law.

B. The incumbent shall continue to perform the duties of **his THE** office until the completion of the canvass of the election returns.

19-222. Pledge to resign subject to recall

A. A United States senator or representative in Congress who has pledged **himself THEMSELVES** to the people and under obligation to them to resign immediately if not re-elected upon a recall vote shall be subject to the laws of the state relating to recall of public officers, and may be recalled and **his A** successor elected in like manner as a state officer.

19-231. Petition for election to request resignation of district judges

When there is filed with the secretary of state a petition signed by fifteen per cent of the electors of the judicial district as determined by the total number of votes cast for governor at the preceding election in the district, requesting the resignation of a United States district judge for the district of Arizona, the secretary of state shall submit to the electors at the next ensuing general election occurring not less than sixty days after the petition is filed, the question whether the electors request the resignation of the judge. The petition shall contain a statement of not more than two hundred words setting forth the reasons for the request. The judge against whom the petition is filed shall be immediately notified by the secretary of state of the filing, and there shall be printed upon the ballot the statement in the petition, and, at the request of the judge, a statement by **him THE JUDGE** of not more than two hundred words.

TITLE 20 Insurance

Revisions are necessary due to exclusionary use of male pronouns.

20-107. Limitation on transaction of insurance; exception

B. No provision of this title shall be deemed to require any license or other authority, or impose any penalty or requirement except as provided by section 20-421, of or upon any person for negotiation or procurement of insurance by **him THAT PERSON** upon **his THAT PERSON'S** own insurable interests, with or from an insurer not authorized to transact insurance in this state.

20-123. Guaranteed availability; preexisting condition exclusions prohibited; open enrollment periods; rules; definitions

D. This section does not apply to:

1. **Grandfathered PREEXISTING** health plan coverage.
2. Limited benefit coverage.

E. For the purposes of this section:

1. “**Grandfathered PREEXISTING** health plan coverage” means coverage provided by either:

(a) A health care insurer under a health plan in which an individual was enrolled on March 23, 2010 and has maintained **grandfathered PREEXISTING** status since that date.

20-145. Evidentiary effect of certificate of authority

When required, the director shall furnish **his A** certificate as to the authority of any person to transact insurance, and such certificate shall be evidence of the facts set forth therein.

20-150. Delegation of director's authority

A. Any power, duty or function, whether ministerial or discretionary, vested by this title in the director may be exercised or discharged by any deputy, assistant or examiner or by any other person designated by the director pursuant to section 20-148 acting in the director's name and by **his THE DIRECTOR'S** delegated authority.

B. The director shall be responsible for the official acts of **his THE DIRECTOR'S** deputy, assistant, examiner or employee or any other person designated by the director pursuant to section 20-148 acting in the director's name and by **his THE DIRECTOR'S** authority.

20-151. Issuance of orders and notices by director

A. Orders and notices of the director shall not be effective unless in writing signed by **him THE DIRECTOR** or by **his THE DIRECTOR'S** authority.

C. An order or notice may be given by delivery to the person to be ordered or notified or by mailing it, postage prepaid, addressed to **him THE PERSON** at **his THE PERSON'S** principal place of business as last of record in the director's office.

20-152. Enforcement

A. If the director has cause to believe that a person has violated any penal provision of this title or other laws relating to insurance, and that prosecution of the person is advisable, **he THE DIRECTOR** shall certify the facts of such violation to the attorney general, who shall bring and prosecute such action as may be required for the purpose of punishing the violation.

B. If the director has cause to believe that any person is violating or is about to violate any provision of this title or any lawful order of the director, **he THE DIRECTOR** may certify the facts thereof to the attorney general, who shall bring and prosecute such action as may be required for the purpose of enjoining the violation.

20-155. Expenses of administration

All salaries, compensation and other expenses involved in the operation of the office of the director shall not exceed the amount from time to time appropriated or otherwise made available therefor by the legislature, including travel expense incurred by the director, **his THE DIRECTOR'S** deputies and assistants within or outside this state in connection with official duties, dues assessed by the national association of insurance commissioners and travel expense incurred by the director and any one or more deputies or assistants designated by **him THE DIRECTOR** in attendance upon meetings or committee meetings of such association.

20-165. Order on hearing

B. Within thirty days after termination of the hearing or of any rehearing thereof or reargument thereon, the director shall make **his AN** order on the hearing, covering matters involved in such hearing and in any rehearing or reargument thereof, and shall give a copy of such order to the same persons given notice of the hearing.

C. The order shall contain a concise statement of the facts as found by the director, a concise statement of **his THE** conclusions therefrom, and the effective date of the order.

20-168. Preparation and sale of publications

To the extent **he THE DIRECTOR** reasonably shall deem desirable and in the public interest, the director may prepare or have prepared books, pamphlets and other publications relating to insurance and sell or resell same in such manner and at such prices not less than cost as **he THE DIRECTOR** shall determine. All monies received by the director from any such sale or resale shall revert to the general fund.

20-170. Prohibited acts during sixty day period of supervision

During the period of supervision, the director may appoint a supervisor to supervise such insurance company and may provide that the insurance company may not do any of the following things, during the period of supervision, without the prior approval of the director or **his** supervisor:

20-171. Conservatorship; liquidation

A. If, after notice, and after hearing, at the conclusion of the sixty day period, it is determined that such insurance company has failed to comply with the lawful requirements of the director or upon consent by an insurance company, the director may appoint a conservator, who shall immediately take charge of such insurance company and all of the property, books, records, and effects thereof, and conduct the business thereof, and take such steps toward the removal of the causes and conditions, which have necessitated such order, as the director may direct. During the pendency of conservatorship, the conservator shall make such reports to the director from time to time as may be required by the director and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such insurance company, including claims or causes of action belonging to or which may be asserted by such insurance company, and to deal with the same **in his own name** as conservator, and shall be empowered to file, prosecute, and defend any suit or suits which have been filed or which may thereafter be filed by or against such insurance company which are deemed by the conservator to be necessary to protect all of the interested parties or any property affected thereby. If at the time of appointment of a conservator or at any time during the pendency of such conservatorship it appears that the interest of the policyholders or certificate holders of such insurance company can best be protected by reinsuring the same, the conservator may, with the approval of or at the direction of the director:

B. If the director is satisfied that such insurance company is not in condition to continue business in the interest of its policy or certificate holders, under the conservator as above provided, the director shall give notice to the attorney general who shall thereupon apply to any court in Arizona having jurisdiction thereof for leave to file a suit in the nature of quo warranto to forfeit the certificate of authority of such insurance company or to require it to comply with the law or to satisfy the director as to its solvency, and to satisfy the requirement that its condition is such as to render the continuance of its business not hazardous to the public or to the holders of its policies or certificates of insurance. It shall be in the discretion of the director to determine whether or not **he THE DIRECTOR** will operate the insurance company through a conservator, or report it to the attorney general. When all the policies of an insurance company are reinsured or terminated, and all of its affairs concluded, the director shall report the same to the attorney general, who shall take such action as may be necessary to effect the forfeiture or cancellation of the certificate of authority of the insurance company so reinsured and liquidated. Where the director lends **his** approval to the merger, consolidation or reinsurance of all the policies of one insurance company with that of another, the same shall be reported to the attorney general who shall proceed to effect the forfeiture or cancellation of the certificate of authority of the insurance company from which the policies were merged, consolidated or reinsured, in the same manner as is provided for the charters of companies totally reinsured or liquidated.

20-222. Service of process; time to answer

A. Duplicate copies of legal process against an insurer for whom the director is attorney shall be served upon **him-THE DIRECTOR**. At the time of service the plaintiff shall pay to the director five dollars, taxable as costs in the action. Upon receiving such service the director shall promptly forward a copy thereof by registered mail to the person last so designated by the insurer to receive process.

20-235. Insurers; financial disclosure; requirements

A. The director shall adopt rules which require each insurer licensed to write property or casualty insurance in this state to report its loss and expense experience, investment income, administrative expenses and other data, as **he THE DIRECTOR** may require, for classes of risks which **he THE DIRECTOR** may designate. Such reports shall be in addition to the annual statement required by section 20-223.

20-358. Disapproval of rates

A. If at any time the director finds that a filing does not meet the standards set forth in section 20-356, **he THE DIRECTOR** shall, after a hearing held upon not less than ten days' written notice, in which **he THE DIRECTOR** shall specify the matters to be considered at such hearing, to every insurer and rating organization which made the filing, issue an order specifying in what respects **he THE DIRECTOR** finds that the filing fails to meet the requirements of the rate regulatory provisions of this article, and stating when, within a reasonable period thereafter, the filing or rating system shall be deemed no longer effective. Copies of the order shall be sent to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth therein.

B. Any person or organization aggrieved with respect to any filing or rating system which is in effect may make written application to the director for a hearing thereon, but the insurer or rating organization which made the filing or uses the rating system shall not be authorized to proceed under this subsection. The application shall specify the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, that the applicant would be so aggrieved if **his THE APPLICANT'S** grounds are established and that the grounds otherwise justify holding such a hearing, **he THE DIRECTOR** shall within thirty days after receipt of the application hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing or uses such rating system. If, after the hearing, the director finds that the filing or rating system does not meet the requirements of the rate regulatory provisions of this article, **he THE DIRECTOR** shall issue an order specifying in what respects **he THE DIRECTOR** finds that it fails to meet such requirements and stating when, within a reasonable period thereafter, it shall be deemed no longer effective. Copies of the order shall be sent to the applicant and to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth therein.

20-366. Appeal by member or subscriber from action relating to filings

A. Any member of or subscriber to a rating organization may appeal to the director from the action or decision of the rating organization in approving or rejecting any proposed change in or addition to the filings of the rating organization, and the director shall, after a hearing held upon not less than ten days' written notice to the applicant and to the rating organization, issue an order approving the action or decision of the rating organization or directing it to give further consideration to the proposal, or if the appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, the director may, in the event that **he THE DIRECTOR** shall find that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the findings of the director, within a reasonable time after the issuance of the order.

B. In the case of insurance to which this article applies, if the appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system

of expense provisions which differs from the system of expense provisions included in a filing made by the rating organization, the director shall, if ~~he grants~~ GRANTING the appeal, order the rating organization to make the requested filing for use by the applicant. In deciding the appeal the director shall apply the standards set forth in section 20-356.

C. In the case of title insurance, if the appeal is from the action or decision of the rating organization with regard to a rate or a proposed change in or addition to its filings relating to the character and extent of coverage, the director may, in the event that ~~he~~ THE DIRECTOR shall find that such action or decision was unreasonable, issue an order directing the rating organization to proceed in a manner consistent with ~~his~~ THE findings, within a reasonable time after the issuance of the order. The failure of a title insurance rating organization to take action or make a decision within thirty days after submission to it of a proposal under this article shall constitute a rejection of such proposal within the meaning of this section. If such appeal is based upon the failure of the rating organization to make a filing on behalf of such members or subscriber which is based on a system of expense allocation which differs from the system of expense allocation included in a filing made by the rating organization, the director shall, if ~~he grants~~ GRANTING the appeal, order the rating organization to make the requested filing for use by the applicant. In deciding such appeal, the director shall apply the standards set forth in section 20-375.

20-374. Revocation and suspension of licenses

The director may suspend the license of any rating organization or the certificate of authority of any insurer which fails to comply with an order of the director made pursuant to this article within the time limited by the order, or any extension thereof which may be granted by the director. The director shall not suspend the license of any rating organization or the certificate of authority of any insurer for failure to comply with an order until the time prescribed for a review thereof has expired, or if a review has been sought, until the order has been affirmed. The director may determine when a suspension of license or certificate shall become effective, and it shall remain in effect for the period fixed by ~~him~~ THE DIRECTOR, unless ~~he~~ THE DIRECTOR modifies or rescinds the suspension, or until the order upon which suspension is based is modified, rescinded or reversed. No license or certificate shall be suspended or revoked except upon the written order of the director stating ~~his~~ THE DIRECTOR'S findings, made after a hearing held upon not less than ten days written notice to such person or organization, specifying the alleged violation.

20-378. Disapproval of title insurance filings

A. Before issuing an order of disapproval of a title insurance filing, the director shall hold a hearing upon not less than ten days' written notice, specifying in reasonable detail the matters to be considered at such hearing. Such notice shall be sent to every title insurer, title insurance agent and title insurance rating organization which made such filing. If, after such hearing, the director finds that such filing or a part thereof does not meet the requirements of this article, ~~he~~ THE DIRECTOR shall issue an order specifying in what respects ~~he~~ THE DIRECTOR finds that it so fails, and stating when, within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective if the filing or a part thereof has become effective under the provisions of section 20-376. A title insurer, title insurance agent or title insurance rating organization shall have the right at any time to withdraw a filing or a part thereof. Copies of every such order shall be sent to every title insurer, title insurance agent and title insurance rating organization affected. Such an order shall not affect any contract or preliminary report, commitment, binder or title insurance policy made or issued prior to the expiration of the period set forth therein.

B. Any person or organization aggrieved with respect to any filing which is in effect may make written application to the director for a hearing thereon, but the title insurer, title insurance agent or title insurance rating organization which made the filing shall not be authorized to proceed under this subsection. Such an application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, that the applicant would be so aggrieved if **his THE APPLICANT'S** grounds are established, and that such grounds otherwise justify holding such a hearing, **he THE DIRECTOR** shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every title insurer, title insurance agent and title insurance rating organization which made such a filing. If, after such hearing, the director finds that the filing or a part thereof does not meet the requirements of this article, **he THE DIRECTOR** shall issue an order specifying in what respects **he THE DIRECTOR** finds that such filing or a part thereof fails to meet the requirements of this article and stating when within a reasonable period thereafter such filing or a part thereof shall be deemed no longer effective. Copies of such an order shall be sent to the applicant and to every such title insurer, title insurance agent and title insurance rating organization that made the filing. Such an order shall not affect any contract or policy made or issued prior to the expiration of the period set forth therein.



20-383. Rate standards

B. Rates are excessive if they are likely to produce an underwriting profit that is unreasonably high for the class of business or if expenses are unreasonably high in relation to established services rendered. Rates are presumed not to be excessive if a reasonable degree of price competition exists at the consumer level with respect to a particular class of business. A competitive market is presumed to exist unless the director, after a hearing, determines that a reasonable degree of price competition does not exist in the market and issues an order pursuant to section 20-388 to that effect. The order expires no later than one year after its effective date unless the director finds, after a hearing, that there is a continuing lack of reasonable competition in the market. If the director finds, after a hearing, that a reasonable degree of price competition among insurers writing a particular line, subline or class of business does not exist, **he THE DIRECTOR** may prescribe an allowable percentage of increase in a proposed rate level for such line, subline or class of business. Any insurer making a rate filing exceeding the allowable percentage of increase shall, prior to the effective date of such proposed rate

increase, provide the director with sufficient actuarial data to support such increase. The director's order establishing allowable percentages of increase for a particular line, subline or class of business shall expire no later than one year after its effective date. In determining whether a reasonable degree of price competition exists, the director shall consider relevant tests of competition pertaining to market structure, market performance and market conduct, including:

Revision necessary to ensure non discrimination on the basis of sex.

20-384. Rating criteria

C. Risks may be classified in any reasonable way for the establishment of rates and minimum premiums. Classifications shall not be based on race, color, **SEX**, creed or national origin. Rates produced may be modified for individual risks in accordance with rating plans or schedules that establish reasonable standards for measuring probable variations in hazards or expenses, or both.

Revisions are necessary due to exclusionary use of male pronouns.

20-443.02. Stranger originated life insurance

A. Intentionally practicing or planning to initiate a life insurance policy for the benefit of a person or entity that lacks an insurable interest and that, at the time of policy origination, has no insurable interest in the insured is a violation of section 20-1104. Stranger originated life insurance practices include situations in which life insurance is purchased with resources or guarantees from or through a person or entity that, at the time of policy inception, could not lawfully initiate the policy **himself** or itself, and if, at the time of policy inception, there is an agreement to directly or indirectly transfer the ownership of the policy or the policy benefits to a person or entity that lacks an insurable interest. Trusts that are created to give the appearance of insurable interest and that are used to initiate policies for the benefit of investors with no insurable interest violate section 20-1104 and the prohibition against wagering on life. Intentionally practicing or planning does not include a policy owner's lawful assignment of the policy owner's life insurance policy.

20-448.01. Required insurance procedures relating to HIV information; confidentiality; violations; penalties; definitions

H. The person making a disclosure in accordance with subsection C, paragraphs 3, 4 and 5, and subsection G of this section shall keep a record of all disclosures for the time period prescribed by the director. On request, a protected person or **his** **THAT PERSON'S** legal representative shall have access to the record.

20-452.02. Exceptions

Section 20-452.01 shall not prevent:

1. The exercise by any person engaged in such business of **his** **A** right to approve or disapprove of the insurer selected to underwrite the insurance, nor of **his** **A** right to furnish such insurance or to renew any insurance required by the contract of sale or trust deed or other loan agreement if the borrower or purchaser shall have failed to furnish the insurance or renewal thereof within such reasonable time or form as may be specified in the sale or loan agreement.

3. The free choice of insurer or person transacting insurance by any borrower or purchaser at any time, and **he ANY PERSON** may revoke any designation of insurer or person transacting insurance at any time, irrespective of the provisions of any loan or purchase agreement or trust deed.

20-452.03. Evidence of nonviolation

In any trial, hearing or proceeding to determine a violation of section 20-452.01, a written statement or authorization signed by the person for whom any purchase is financed, to whom any money is loaned or for whom any extension, renewal or other act in connection with a loan is to be granted or performed, declaring that such person voluntarily chooses the insurer or person transacting insurance through whom the insurance or its renewal was transacted, and that the choice of such insurer or person transacting insurance was not made a condition precedent to such purchase, loan, extension, renewal or other act, shall be *prima facie* evidence that no violation of section 20-452.01 has occurred, if the borrower or purchaser in **his THEIR** own handwriting shall have written the name of **his THEIR** chosen insurer or person transacting insurance on a written statement or authorization of such insurer or person transacting insurance.

20-481.03. Contents of statement

A. The statement to be filed with the director as provided in section 20-481.02 shall be made under oath or affirmation and shall contain the following:

2. If the acquiring party is an individual, **his THAT PERSON'S** principal occupation and all offices and positions held during the past five years and any convictions of crimes other than minor traffic violations during the past ten years.

20-481.26. Penalties; cease and desist order; violation; classification

D. A knowing violation of this article is a class 1 misdemeanor. Notwithstanding any other law, an insurer that wilfully violates this article may be fined not more than fifty thousand dollars or an individual who wilfully violates this article may be fined in **his THAT PERSON'S** individual capacity not more than ten thousand dollars.

E. An officer, director or employee of an insurance holding company system who wilfully and knowingly subscribes to or makes or causes to be made any false statements, reports or filings with the intent to deceive the director in the performance of **his THE DIRECTOR'S** duties under this article is guilty of a class 6 felony. No insurance holding company system shall pay a fine on behalf of an officer, director or employee found guilty under this subsection.

20-486.07. Prohibited acts; reinsurance intermediary managers

The reinsurance intermediary manager shall not:

3. Appoint a producer without assuring that the producer is lawfully licensed to transact the type of reinsurance for which **he IT** is appointed.

20-487.03. Disclosure

Before the effective date of the policy, the controlling producer shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer, except that if the business is placed through a subproducer who is not a controlling producer the controlling producer shall retain in ~~his~~ **THE** records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has or will notify the insured.

20-502. Assets as deductions from liabilities

Assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to such insurer as prescribed by the director, or otherwise in ~~his~~ **THE DIRECTOR'S** discretion.

20-504. Reporting assets not allowed

All assets not allowed and all other assets of doubtful value or character included as assets in any statement by an insurer to the director, or in any examiner's report to ~~him~~ **THE DIRECTOR**, shall also be reported, to the extent of the value disallowed, as deductions from the gross assets of the insurer except where the director permits a reserve to be carried among the liabilities of the insurer in lieu of any such deduction.

20-585. Responsibility of state for safekeeping of deposits

The state shall be responsible for the safekeeping and return of all funds and securities deposited pursuant to this title with the state treasurer or in any depository so designated **BY THE STATE TREASURER** ~~by him~~.

20-588. Release of deposits

B. No release of deposited funds shall be made except upon application to and the written order of the director. The director shall have no personal liability for any such release of any such deposit or part thereof so made ~~by him~~ **BY THE DIRECTOR** in good faith.

20-616. Grounds for liquidation

The director may apply to the court for an order appointing ~~him~~ **THE DIRECTOR** as receiver, if ~~his~~ **THE** appointment as receiver is not then in effect, and directing ~~him~~ **THE DIRECTOR** to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this state, regardless of whether or not there has been a prior order directing ~~him~~ **THE DIRECTOR** to rehabilitate such insurer, upon any of the grounds specified in section 20-615, or if such insurer:

20-618. Grounds for conservation of alien insurers

The director may apply to the court for an order appointing **him THE DIRECTOR** as receiver or ancillary receiver, and directing **him THE DIRECTOR** to conserve the assets within this state, of any alien insurer upon any of the following grounds:

1. Upon any of the grounds specified in sections 20-615 or 20-616.
2. Upon the ground that the insurer has failed to comply, within the time designated by the director, with an order made by **him THE DIRECTOR** to make good an impairment of its trusteed funds.

20-627. Claims against foreign insurers

B. Controverted claims belonging to claimants residing in this state may either be proved in the domiciliary state as provided by the law of that state, or if ancillary proceedings have been commenced in this state, be proved in those proceedings. In the event that any such claimant elects to prove **his THEIR** claim in this state, **he THE CLAIMANT** shall file **his THEIR** claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least forty days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver within thirty days after the giving of such notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of **his AN** intention to contest such claim, **he THE RECEIVER** shall be entitled to appear or to be represented in any proceeding in this state involving adjudication of the claim. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this state.

20-628. Proof of claims; notice; hearing

A. All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable detail the amount of the claim, or the basis upon which such amount can be ascertained, the facts upon which the claim is based and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant, or someone authorized to act on **his THE CLAIMANT'S** behalf and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

C. Within ninety days after the claims bar date, or within such further period as the court may, for good cause shown, fix, the receiver shall report the claim to the court, specifying in the report **his A** recommendation with respect to the action to be taken thereon. Upon receipt of the report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court specifies, shall give such notice as the court determines to such persons as appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

20-645. Judgment upon assessment

A. Upon the return day of the order to show cause provided for in section 20-643, if the member or subscriber does not appear and serve duly verified objections upon the receiver, the court shall make an order adjudging that the member or subscriber is liable for the amount of the assessment against ~~him~~, **THE MEMBER OR SUBSCRIBER**, together with costs, and that the receiver may have judgment against the member or subscriber therefor.

20-670. Meetings; information; subpoena power; confidentiality

B. At such meeting, the director may divulge to the board any information in ~~his~~ **THE DIRECTOR'S** possession and any records of ~~his~~ **THE DIRECTOR'S** office, including examination reports or preliminary reports from examiners relating to such insurer.

20-728. Impairment of capital or assets

C. If the deficiency is not made good and proof thereof filed with the director within the ninety day period, the insurer shall be deemed insolvent and the director shall institute delinquency proceedings against it as authorized by this title. If the deficiency exists because of increased loss reserves required by the director, or because of disallowance by the director of certain assets or reduction of the value at which carried in the insurer's accounts, the director may in ~~his~~ **THE DIRECTOR'S** discretion and upon application and good cause shown, extend for not more than an additional ninety days the period within which the deficiency may be so made good and proof thereof so filed.

20-785. Time limit for assessment

Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay ~~his~~ **THAT SUBSCRIBER'S** share of any assessment, as computed and limited in accordance with this article, if:

1. While ~~his~~ **THE** policy is in force or within one year after its termination, ~~he~~ **THE SUBSCRIBER** is notified by either the attorney or the director of ~~his~~ **THE DIRECTOR'S** intentions to levy such assessment.

2. An order to show cause why a receiver, conservator, rehabilitator or liquidator of the insurer should not be appointed is issued while ~~his~~ **THE** policy is in force or within one year after its termination.

20-787. Nonassessable policies

A. If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital stock generally required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee the director shall issue ~~his~~ **A** certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for so long as all such surplus remains unimpaired.

20-867. Exemption from liability

B. A society may indemnify and reimburse any person who is or was a director, officer, employee or agent of a society or who is or was serving at the request of the society as a director, officer, employee or agent of any other firm, corporation or organization for expenses reasonably incurred by and liabilities imposed on the person in connection with or arising out of any action, suit or proceeding or the threat of an action, suit or proceeding in which the person may be involved. In a civil action a person shall not be indemnified or reimbursed if a court of competent jurisdiction finds that the person breached a duty owed as a director, officer, employee or agent of the society or the matter is the subject of a settlement, unless the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society. In a criminal action a person shall not be indemnified or reimbursed if the person negotiates a plea bargain or is found guilty in a court of competent jurisdiction of an offense relating to **his THAT PERSON'S** position of director, officer, employee or agent of the society unless the person had no reasonable cause to believe that **his THE** conduct was unlawful. The supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to the action, suit or proceeding or a court of competent jurisdiction shall determine if the person acted in good faith. The termination of an action, suit or proceeding or a plea of no contest does not create a conclusive presumption that the person failed to act in good faith. The right of indemnification and reimbursement does not abrogate any other right to which the person is entitled as a matter of law and inures to the benefit of the heirs, executors and administrators of the person.

C. A society may purchase and maintain insurance on behalf of a person who is or was a director, officer, employee or agent of the society or who is or was serving at the request of the society as a director, officer, employee or agent of any other firm, corporation or organization against any liability that is asserted against the person and that the person incurred in **his THE PERSON'S** capacity as a director, officer, employee or agent. A society may purchase and maintain insurance pursuant to this subsection regardless of the society's ability to indemnify the person.

D. A director, officer, employee, member or volunteer of a society who serves without compensation is not personally liable and no action may be maintained against **him THE PERSON** in **his THE PERSON'S** individual capacity for damages resulting from an act or omission within the scope of **his THE PERSON'S** duties and responsibilities unless the act or omission was caused by wanton or wilful misconduct.

20-1029. Division of profits

No profits shall accrue to an underwriter, except upon the basis of **his THAT UNDERWRITER'S** actual investment in cash or securities, disregarding any obligation or subscription to pay in additional cash or securities at a later date.

20-1096.09. Cease and desist order; violation of article

If a hearing is held pursuant to the provisions of this title, and if the director determines that the provisions of this article have been violated, the director shall, in addition to the authority to revoke or suspend a certificate of authority, issue an order requiring the person violating the provisions of this article to cease and desist from such method, act or practice. The director shall make a written record of **his** findings.

20-1097.08. Advertising and solicitation of legal services

The director may require that any advertising or sales material for use in the sale or the presentation for sale of any legal insurance contract be approved by ~~him~~ **THE DIRECTOR**. Ten days after written demand from the director, the corporation shall provide the advertising or sales material to the department. The director shall disapprove the material should ~~he~~ **THEY** determine that it is in whole or in part false, deceptive or misleading and shall notify the corporation of ~~his~~ **THEIR** disapproval within thirty days of receipt of the material.

20-1104. Insurable interest with respect to personal insurance; definition

A. Any individual of competent legal capacity may procure or effect an insurance contract on ~~his~~ **THAT PERSON'S** own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract on the life or body of another individual unless the benefits under such contract are payable to the individual insured or ~~his~~ **THE PERSON'S** personal representatives, or to a person having, at the time when the contract was made, an insurable interest in the individual insured.

B. If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing on the death, disablement or injury of the individual insured, the individual insured or ~~his~~ **THE INDIVIDUAL'S** executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

20-1106. Capacity to contract for insurance; minors

D. A minor described in subsection B or C of this section, notwithstanding the minor's minority, shall be deemed competent to exercise all rights and powers with respect to or under any contract of life or disability insurance on the minor's own life or body or contract of motor vehicle liability insurance pursuant to this section, as though of full legal age, and may surrender the minor's interest in the contract and give a valid discharge for any benefit accruing or money payable under the contract. The minor, by reason of ~~his~~ **THE PERSON'S** minority, may not rescind, avoid or repudiate the contract, nor rescind, avoid or repudiate any exercise of a right or privilege under the contract, except that the minor, not otherwise emancipated, may not be bound by any unperformed agreement to pay, by promissory note or otherwise, any premium on such an insurance contract.

20-1123.01. Motor vehicle liability insurance; primary and excess coverage

A. If two or more policies affording valid and collectible automobile liability insurance apply to the same motor vehicle in an occurrence out of which a liability loss shall arise, and one of such policies affords coverage to a named insured engaged in the business of selling, repairing, servicing, delivering, testing, road testing, parking or storing motor vehicles, both of the following shall be conclusively presumed:

1. If, at the time of loss, the motor vehicle is being operated by any person engaged in any of such businesses, or by ~~his~~ **THE PERSON'S** employee or agent, the insurance afforded by the policy issued to the person engaged in such business shall be primary, and the insurance afforded by any other policy shall be excess.

20-1125. Discharge of payor by payment of benefits under employee benefit plan or life insurance policy

Notwithstanding the provisions of section 25-211, when payment or refund is made to an employee, former employee or **his THAT PERSON'S** beneficiary or estate pursuant to a written retirement, death or other employee benefit plan or savings plan, or when the proceeds of, or payments under, a policy or contract issued by a life insurance company becomes payable, and the company makes payment in accordance with the terms thereof, or in accordance with the terms of a written assignment thereof if the policy or contract has been assigned, the payment or refund shall fully discharge the employer and any trustee or insurance company making the payment or refund from all adverse claims thereto unless, before payment or refund is made, the employer or former employer, where the payment is made by the employer or former employer, has received at its principal place of business within this state, written notice by or on behalf of some other person that such other person claims to be entitled to the payment or refund or some part thereof, or where a trustee or insurance company is making the payment, the notice has been received by the trustee or insurance company at its home office. Nothing in this section shall affect a claim or right to the payment or refund or part thereof as between all persons other than the employer and the trustee or insurance company making such payment or refund.

20-1128. Rights of spouse in life or disability policy

C. In any life or disability insurance policy issued upon the life of a spouse, the designation made by such spouse of a beneficiary in accordance with the terms of the policy shall create a presumption that the beneficiary was so designated with the consent of the other spouse, but only as to any beneficiary who is the child, grandchild, parent, **brother or sister SIBLINGS** of either of the spouses. The insurer may in good faith rely upon the representations made by the insured as to the relationship to **him THE INSURED** of any such beneficiary.

20-1132. Exemption of group life insurance proceeds from creditors; exception

A. A policy of group life insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any liability of any person having a right under the policy. The proceeds thereof, when not made payable to a named beneficiary or to a third person pursuant to a facility-of-payment clause, shall not constitute a part of the estate of the individual insured for the payment of **his** debts.

20-1260. Incontestability

In group life policies there shall be a provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue, and that no statement made by any person insured under the policy relating to **his THAT PERSON'S** insurability shall be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force prior to the contest for a period of two years during the person's lifetime nor unless it is contained in a written instrument signed by **THAT PERSON him**.

20-1261. Attachment of application to policy; statements of persons insured as representations

In group life policies there shall be a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to **his THAT PERSON'S** beneficiary.

20-1262. Right to require evidence of individual insurability

In group life policies there shall be a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of **his THAT PERSON'S** coverage.

20-1266. Conversion on termination of eligibility

In group life policies there shall be a provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to **him SUCH PERSON** by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided that application for the individual policy has been made, and the first premium paid to the insurer, within thirty-one days after the termination, and provided further that:

3. The premium on the individual policy is at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which the person then belongs, and to **his THE PERSON'S** age attained on the effective date of the individual policy.

20-1267. Conversion on termination of policy

In group life policies there shall be a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, each person insured thereunder at the date of termination whose insurance terminates and who has been so insured for at least five years prior to the termination date shall be entitled to have issued to **him TO THE INSURED PERSON** by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 20-1266, except that the group policy may provide that the amount of the individual policy shall not exceed the smaller of the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which **he THE PERSON** is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one days after such termination, and two thousand dollars.

20-1268. Death pending conversion

In group life policies there shall be a provision that if a person insured under the group policy dies during the period within which **he THE PERSON** would have been entitled to have an individual policy issued to **him THAT PERSON** in accordance with sections 20-1266 or 20-1267 and before such an

individual policy becomes effective, the amount of life insurance which **he THAT PERSON** would have been entitled to have issued to **him THEM** under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

20-1269. Notice of conversion right

If any individual insured under a group life insurance policy delivered after January 1, 1955 in this state becomes entitled under the terms of the policy to have an individual policy of life insurance issued to **him THE INDIVIDUAL** without evidence of insurability, subject to the making of application and payment of the first premium within a period specified in the policy, and if the individual is not given notice of the existence of such right at least fifteen days prior to the expiration date of such period, then notwithstanding the terms of the policy the individual shall have an additional period within which to exercise the right. The additional period shall expire fifteen days next after the individual is given such notice, but in no event shall the additional period extend beyond sixty days next after the expiration date of the period provided in the policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section, and nothing contained in this section shall be construed to continue any insurance beyond the period provided in the policy.

20-1275. Group annuity contract certificates

In group annuity contracts there shall be a provision that the insurer will issue to the holder of the contract for delivery to each annuitant who contributes thereunder an individual certificate setting forth a statement in substance of the benefits to which **he EACH ANNUITANT** is entitled under the contract.

20-1276. "Employee life insurance" defined

B. Premiums for such policies shall be paid by the employer or the trustee of a fund established by the employer either from the employer's funds or funds contributed by **him THE EMPLOYER**, or from funds contributed by the insured employees, or from both.

20-1277. Assignability of group life insurance

Nothing in this title or in any other title shall be construed to prohibit any person insured under a group life insurance policy from making an assignment of all or any part of **his THAT PERSON'S** incidents of ownership under such policy including but not limited to the privilege to have issued to **him THAT PERSON** an individual policy of life insurance pursuant and subject to the provisions of sections 20-1266 through 20-1269, inclusive, and the right to name a beneficiary. Subject to the terms of the policy or agreement between the insured, the group policyholder and the insurer relating to assignment of incidents of ownership thereunder, such an assignment by an insured, made either before or after the effective date of this act, is valid for the purpose of vesting in the assignee, in accordance with any provisions included therein as to the time at which it is to be effective, all of such incidents of ownership so assigned, but without prejudice to the insurer on account of any payment it may make or individual policy it may issue in accordance with sections 20-1266 through 20-1269, inclusive, prior to receipt of notice of the assignment.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

20-1342. Scope and format of policy; definitions

A. A policy of disability insurance shall not be delivered or issued for delivery to any person in this state unless it otherwise complies with this title and complies with the following:

3. It shall purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, on the application of the policyholder or the policyholder's spouse, any two or more eligible members of that family, including ~~husband, wife~~, SPOUSE, dependent children or any children under a specified age that does not exceed nineteen years and any other person dependent upon the policyholder. Any policy, except accidental death and dismemberment, applied for that provides family coverage shall, as to such coverage of family members, shall also provide that the benefits applicable for children shall be payable with respect to a newly born child of the insured from the instant of such child's birth, to a child adopted by the insured, regardless of the age at which the child was adopted, and to a child who has been placed for adoption with the insured and for whom the application and approval procedures for adoption pursuant to section 8-105 or 8-108 have been completed to the same extent that such coverage applies to other members of the family. The coverage for newly born or adopted children or children placed for adoption shall include coverage of injury or sickness including necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for a child, the policy may require that notification of birth, adoption or adoption placement of the child and payment of the required premium must be furnished to the insurer within thirty-one days after the date of birth, adoption or adoption placement in order to have the coverage continue beyond the thirty-one day period.

20-1358. Change of occupation

There may be a provision as follows: "Change of occupation: If the insured be injured or contract sickness after having changed ~~his~~ THE INSURED'S occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes ~~his~~ THE INSURED'S occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

20-1360. Other insurance in this insurer

A. There may be a provision as follows:

“Other insurance in this insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for _____ (insert type of coverage or coverages) in excess of \$ _____ (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to **his THE INSURED’S** estate.”

B. The following provision may be inserted in lieu of the provision set forth in subsection A of this section: “Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, **his THE INSURED’S** beneficiary or **his THE INSURED’S** estate, as the case may be, and the insurer will return all premiums paid for all other such policies.”

20-1363. Relation of earnings to insurance

A. There may be a provision as follows: “Relation of earnings to insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or **his THE INSURED’S** average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.”

20-1365. Cancellation

There may be a provision as follows: “Cancellation: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to **his THE INSURED’S** last address as shown by the records of the insurer, stating when, not less than thirty days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.”

20-1578. Purchase or acquisition of controlling stock

A. In the event any person or persons propose to purchase or acquire the controlling capital stock of any domestic title insurer, such person or persons shall first make application to the director for approval of such purchase or acquisition. The application shall contain the name and address of the proposed new owner or owners of the controlling stock, and the director shall approve the proposed purchase or acquisition only after ~~he~~ **THE DIRECTOR** has become satisfied that such purchase or acquisition will not result in violation of the anti-rebate provisions or controlled business provisions of this article, that the proposed new owner or owners of the controlling stock are qualified by character, experience and financial responsibility to control and operate the title insurer in a lawful and proper manner, and that the interests of the stockholders and policyholders of the title insurer and the interests of the public generally will not be jeopardized by the proposed change in ownership and management. If the director does not, by affirmative action, approve or disapprove the proposed purchase or acquisition within thirty days after the date on which such application was so filed ~~with him~~, the proposed purchase or acquisition shall be deemed to be approved at the expiration of such thirty-day period.

C. In the event the director disapproves the proposed purchase or acquisition, ~~he~~ **THE DIRECTOR** shall give written notice thereof to the person or persons so applying for approval, setting forth in detail the reasons for disapproval.

20-1731. Immunity for serving on or furnishing information to insurance review committees

A person who without malice and in good faith makes a decision or recommendation or takes any action within the scope of ~~his~~ **THAT PERSON'S** duties as a member, agent or employee of an insurance review committee established by or at the request of an insurer for the purpose of reviewing or evaluating applications for insurance, or for performing such other underwriting or claim evaluation functions as are requested by the insurer, shall not be subject to liability for civil damages therefor or any legal action in consequence thereof, nor shall any person who without malice and in good faith furnishes any records, information or assistance to such a committee be liable for civil damages therefor or any legal action in consequence thereof.

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that "sex" included "gender" but that does not mean that "gender" includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that "sex" discrimination includes "gender" but "gender" does not include "sex" under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove "sex."

20-2110. Reasons for adverse underwriting decisions

F. An insurer shall not use the following types of credit history to calculate an insurance score to determine property or casualty premiums for insurance transactions that are subject to this article and shall not knowingly use an insurance score developed by a third party if the score is calculated using any of the following types of credit history:

6. An insurance score that is calculated using the income, **SEX**, gender, address, zip code, ethnic group, religion, marital status or nationality of the consumer as a factor. This paragraph does not prohibit an insurer from using zip code, address, gender and marital status information for underwriting purposes.

TITLE 21 Juries



Revisions are necessary due to exclusionary use of male pronouns.

21-221. Fees and mileage

A. Each juror shall be paid by the county:

1. For each day's attendance upon the superior court or justice court, twelve dollars.
2. For each mile necessarily traveled from **his A JUROR'S** residence to the court and back to **his THAT JUROR'S** residence, an amount equal to the amount paid to state officers and employees pursuant to 38-623, subsection A. Reimbursement shall be at the computed mileage rate regardless of whether the travel is accomplished by private, rented or chartered motor vehicle. When a juror necessarily returns to **his THAT JUROR'S** residence and travels back to court during the period of service because of a recess ordered by the court, **he THAT JUROR** shall be paid on the same basis for such travel.

21-233. Misconduct of challenged grand juror; classification

A grand juror who, with knowledge that a challenge interposed against **him SUCH GRAND JUROR** by a defendant has been allowed, is present at, or who takes part in the consideration of the charge against the defendant who interposed the challenge, or the deliberations of the grand jury thereon, is guilty of a class 2 misdemeanor.

21-235. Recording, listening to, observing proceedings unlawful; classification

A. A person who knowingly, by any means whatsoever, records all or part of the proceedings of any grand jury while it is in session or listens to or observes the proceedings of any grand jury of which **he THAT PERSON** is not a member while such jury is in session is guilty of a class 2 misdemeanor.

B. This section does not prohibit:

1. The prescribed activities of the court, the prosecuting officer, a court reporter designated by the court, or an interpreter designated by the court.

2. The taking of notes by a grand juror in connection with and solely for the purpose of assisting **him THAT JUROR** in the performance of **his** duties as such juror.

3. The appearance, for the purposes of giving the testimony, of a witness.

4. The appearance, for the purpose of presenting evidence when permitted pursuant to 21-412, of a person being investigated and **his THAT PERSON'S** counsel.

21-407. Duties of grand jurors

B. If a grand juror knows of or has reason to believe that an offense which may be tried within the county has been committed **he THAT GRAND JUROR** shall report such knowledge or belief to the county attorney or to the presiding judge of the superior court. If an investigation of such alleged offense is undertaken under a charge to the grand jury as provided in subsection B of 21-409, the grand juror may be sworn as a witness.

21-408. Attendance of prosecuting attorney

A. The county attorney or other prosecuting officer shall attend the grand jurors when requested by them, and may do so although not requested for the purpose of examining witnesses, in their presence, or of giving the grand jurors legal advice regarding any matter cognizable by them. **He THE COUNTY ATTORNEY OR OTHER PROSECUTING OFFICER** shall also, when requested by them, draft indictments and cause process to issue for the attendance of witnesses and other evidence.

21-409. Duties of court; examination; charge; advice; appointment of foreman FOREPERSON

D. When the grand jury is sworn and impanelled, the court shall appoint one of the jurors to be **foreman FOREPERSON**, and another juror to act as **foreman FOREPERSON** in the absence of such **foreman FOREPERSON**.

21-410. Swearing of witness

A. The **foreman FOREPERSON** or acting **foreman FOREPERSON** shall administer an oath or affirmation in the manner prescribed by law to any witness called to testify before the grand jury.

21-411. Appointment of reporter; transcript

B. The reporter and typists who transcribe the reporter's notes of grand jury proceedings shall be sworn by the **foreman FOREPERSON** or acting **foreman FOREPERSON** not to disclose any testimony or the name of any witness except to the county attorney or other prosecuting officer or when testifying in court.

21-412. Evidence on behalf of person under investigation

The grand jurors are under no duty to hear evidence at the request of the person under investigation, but may do so. The person under investigation shall have the right to advice of counsel during **THAT PERSON'S** the giving of any testimony **by him** before the grand jury, provided that such counsel may not communicate with anyone other than **his SUCH COUNSEL'S** client. If such counsel communicates with anyone other than **his SUCH COUNSEL'S** client **he COUNSEL** may be summarily expelled by the court from the grand jury chambers. The grand jurors shall weigh all the evidence received by them and when they have reasonable ground to believe that other evidence, which is available, will explain away the contemplated charge, they may require the evidence to be produced.

21-414. Number of grand jurors necessary to indict

A. An indictment shall not be returned without concurrence of at least nine grand jurors. When an indictment is returned, the **foreman FOREPERSON** or acting **foreman FOREPERSON** shall endorse it a "true bill" and sign it.

21-415. Presentation of indictment

The indictment shall be presented by the **foreman FOREPERSON** or acting **foreman FOREPERSON** to the court in the presence of the grand jury.

21-416. Failure to indict person in custody or on bail

If the defendant is in custody or has given bail on a charge investigated by the grand jury and nine jurors do not concur in finding an indictment, the **foreman FOREPERSON** or acting **foreman FOREPERSON** shall so report to the court in writing forthwith.

21-421. State grand juries; impaneling; term

B. Whenever the attorney general determines it to be in the best interest to convene additional state grand juries, **he THE ATTORNEY GENERAL** may apply in writing to the chief justice of the Arizona supreme court for the designation of an additional assignment judge and the chief justice shall designate an additional assignment judge in accordance with the provisions of this article. Such assignment judge shall serve at the pleasure of the chief justice. Such assignment judge may, for good cause shown, impanel an additional state grand jury in accordance with the application, in which event such state grand jury shall have statewide jurisdiction. In making **he THE** determination as to the need for impaneling an additional state grand jury, the assignment judge may require a showing that the matter cannot be effectively handled by a county grand jury or an existing state grand jury. At no one time shall more than three state grand juries be impaneled.

21-424. Presentation of evidence to state grand jury

Presentation of evidence shall be made to a state grand jury by the attorney general or **his** THE ATTORNEY GENERAL'S designee.

21-427. Attendance of prosecuting attorney; prosecution of indictments; issuance of subpoenas

A. The attorney general or **his** THE ATTORNEY GENERAL'S designee shall attend the state grand jury in the manner prescribed by 21-408.

B. The attorney general or **his** THE ATTORNEY GENERAL'S designee shall prosecute all indictments returned by a state grand jury. The attorney general, at **his** THE ATTORNEY GENERAL'S discretion, may commence a prosecution by way of a complaint for any offense within the jurisdiction of the state grand jury.

C. The attorney general or **his** THE ATTORNEY GENERAL'S designee shall have authority to issue subpoenas in furtherance of matters cognizable by a state grand jury in accordance with the provisions of title 13, chapter 38, article 21,1 and for trials and other proceedings involving any and all indictments returned by a state grand jury.

TITLE 22 – Justice and Municipal Courts

All revisions are necessary due to exclusionary use of male pronouns.

22-111. Election; term of office

In each justice precinct there shall be elected by the qualified electors of the precinct, at the general election, one justice of the peace, who shall hold office for a term of four years from January 1 following ~~his~~ THE election, and who may continue in office during ~~his~~ THE candidacy for another judicial office of the state and, if elected, until ~~he~~ THE JUSTICE OF THE PEACE assumes the duties of the other judicial office.

22-115. Jurisdiction of successor in office

A justice of the peace elected or appointed as the successor of a previous justice of the peace has jurisdiction of the actions or proceedings brought or pending before ~~his~~ THEIR predecessor in office, and may proceed therein as if they had been brought before ~~him~~ THEIR SUCCESSOR.

22-122. Qualifications of justices of the peace pro tempore; residence; compensation

2. A qualified elector and resident of this state for not less than one year next preceding ~~his~~ THEIR appointment.

22-135. Forfeiture of and disqualification from office on conviction of certain crimes

In addition to the punishment prescribed by the crime, a constable who is convicted of any of the following crimes shall forfeit the office and is forever disqualified from holding office in this state:

1. Asking, receiving or agreeing to receive a bribe on an agreement or understanding that ~~his~~ THE CONSTABLE'S vote, opinion or decision on any matter or question that is or may be brought before ~~him~~ THE CONSTABLE for decision shall be influenced thereby.

22-217. Subpoena for attendance of witnesses; issuance; service

A. A justice of the peace shall at the request of a party to an action pending in ~~his~~ THEIR court issue a subpoena for any witness represented to reside within the county or to be found therein at the time of trial

22-246. Levy upon real property; limitation and procedure

No real property or any interest therein shall be levied upon or sold by virtue of any judgment given by a justice of the peace unless a certified transcript of the judgment is first filed in the office of the clerk of the superior court of the county where the judgment was given and entered by the clerk on the appropriate book kept by ~~him~~ THE CLERK. Execution on the judgment shall be issued by the clerk of the superior court.



22-304. Transmittal of papers upon change of venue; trial

When a change of the place of trial is ordered, the justice of the peace shall transmit to the justice of the peace before whom the trial is to be had all original papers in the proceeding or action, with a certified copy of the minutes of ~~his~~ THEIR proceedings. Upon receipt thereof, the justice of the peace to whom they are delivered shall proceed with the trial as if the proceeding or action had been originally commenced in ~~his~~ THEIR court.

22-327. Acquittal; discharge of defendant; payment of costs by complainant when prosecution malicious

A. When defendant is acquitted either by the court or the jury, ~~he~~ THEY shall be immediately discharged.

B. If the court certifies in the minutes that the prosecution was malicious or without probable cause, it may order the complainant to pay the costs of the action, or to give satisfactory security by a written undertaking, with one or more sureties, to pay the costs within thirty days after the trial. If the complainant does not pay the costs or give the security, the court may enter judgment against ~~him~~ THE DEFENDANT for the amount thereof, which may be enforced as a judgment in a civil action.

22-353. Sentence of fine only; discharge of defendant

If the sentence imposes a fine only, without imprisonment for nonpayment, and the defendant is not detained for any other legal cause, ~~he~~ THE DEFENDANT shall be discharged as soon as the sentence is pronounced.

22-354. Sentence to pay fine; custody and release of defendant

A. When a sentence is pronounced imposing a fine and ordering defendant imprisoned until the fine is paid, ~~he~~ THEY shall be held in custody during the time specified in the sentence unless the fine is sooner paid.

B. Upon payment of the fine or completion of the time specified in the sentence of imprisonment, the officer having custody of defendant shall discharge ~~him~~ THE DEFENDANT if ~~he~~ THE DEFENDANT is not detained for any other legal cause.

22-374. Superior court trial or determination of appeal

B. 2. Acquit and discharge the defendant and exonerate ~~his~~ THEIR bail.

C. 2. Reverse the court of origin and direct a verdict of acquittal, discharge the defendant and exonerate ~~his~~ THEIR bail.

22-403. Presiding officer of municipal court; appointment; compensation; justice of the peace as magistrate

B. A justice of the peace in the city or town shall be eligible to the office of magistrate without thereby forfeiting ~~his~~ THEIR office as justice of the peace.

22-421. Commencement of action; arrest or summons; examination of witnesses

B. If the magistrate is satisfied that the offense complained of has been committed by the person charged, ~~he~~ THE MAGISTRATE shall issue a summons or a warrant of arrest. Before issuing a summons or warrant of arrest on a complaint, the magistrate may subpoena and examine witnesses as to the truth of the complaint.

22-427. Authority of city or town magistrate

Notwithstanding any other provision of the law to the contrary, a city or town magistrate may perform ~~his~~ THEIR duties as authorized by law without the corporate limits of the city or town of which ~~he is~~ THEY ARE the magistrate pursuant to an intergovernmental agreement authorized by title 11, chapter 7, article 3 or of the political subdivision in which a regional jail facility is located, provided that any such regional jail facility shall be created pursuant to a joint exercise of powers agreement authorized by title 11, chapter 7, article 3, in which the city or town is a participant.

22-503. Jurisdiction; exceptions

9. Actions against this state, its political subdivisions or an officer or employee of the state or its political subdivisions in ~~his~~ ITS official capacity.

22-506. Hearing officers

C. A hearing officer may serve in any justice of the peace precinct within the county in which ~~he is~~ THEY ARE a resident.

22-512. Parties; representation

1. An individual shall represent ~~himself~~ THEMSELVES.

TITLE 23 Labor



All revisions are necessary due to exclusionary use of male pronouns.

23-101. Industrial commission; members; qualifications; appointment; terms; compensation; removal

A. There shall be an industrial commission of Arizona.

B. The commission shall be composed of five members appointed by the governor pursuant to 38-211. Each member shall be appointed for a term of five years. Members' terms expire on the third Monday in January of the appropriate year. Not more than three members of the commission shall belong to the same political party. The **chairman CHAIR** of the commission shall be appointed by and serve at the pleasure of the governor. The members of the commission shall have been residents of the state for at least five years immediately preceding their original appointment.

23-201. Obtaining labor by false pretenses; civil liability; classification

A. A person who employs for wages any person in any occupation, and who at the time of employing **him SUCH PERSON** does not have sufficient assets within the county in which the work or labor is to be performed over and above all exemptions allowed by law to cover the amount of wages accruing to the employee for the term of two weeks, and who makes false representations or pretenses as to having such assets, and after labor has been done by the employee under such employment, fails, upon the

employee's discharge or resignation, or for a period of five days after the wages are payable, to pay the employee, on demand, the wages due, is guilty of obtaining labor under false pretenses.

23-202. Exaction of fee or gratuity as condition of employment prohibited; classification

It is unlawful for a person charged or entrusted by another with the employment or continuance in employment of any **workmen WORKERS** or laborers to demand or receive, either directly or indirectly, from a **workman WORKER** or laborer employed or continued in employment through **his SUCH PERSON'S** agency or under **his SUCH PERSON'S** direction or control, a fee, commission or gratuity of any kind as the price or condition of the employment of the **workman WORKER** or laborer, or as the price or condition of **his SUCH PERSON'S** continuance in such employment. Any person charged or entrusted with employment of laborers or **workmen WORKERS** for **his SUCH PERSON'S** principal, or under whose direction or control the **workmen WORKERS** and laborers are engaged in work and labor for the principal, who violates a provision of this section is guilty of a class 2 misdemeanor.

23-282. Underground mine employees and hoisting engineers; twelve hour day; exceptions; violation; classification

C. Any person violating any provision of this section, and any person who, as **foreman FOREPERSON**, manager, superintendent, director, or officer of a corporation, or as employer or superior officer of any person, knowingly commands, persuades, or allows any person to violate any provision of this section is guilty of a class 2 misdemeanor.

23-287. Requiring railroad employee to work longer than sixteen consecutive hours; classification

A company operating a railroad in whole or in part within the state which requires a conductor, engineer, **fireman FIREFIGHTER**, **brakeman BRAKE OPERATOR**, telegraph operator or any employee who has worked in **his SUCH EMPLOYEE'S** respective capacity for sixteen consecutive hours, except in case of casualty, or actual necessity, to go on duty again, or to perform any work until **he SUCH EMPLOYEE** has at least nine hours rest, or an officer or agent of such company who violates or permits to be violated any provision of this section, is guilty of a petty offense.

23-312. Powers and duties of commission

The commission or any authorized representative may:

3. Require from the employer full and correct written statements of the wages paid to all minors in **his EMPLOYER'S** employment when the commission or any authorized representative thereof deems necessary.

23-314. Wage board; membership; organization; quorum; compensation

A. A wage board shall be composed of three representatives of the employees in any occupation, trade or industry and an equal number of representatives chosen from among the employers in the occupation, trade or industry, and one industrial commissioner who shall be **chairman CHAIR**.

23-318. Power of wage board to administer oaths, issue subpoenas and take depositions

A. The ~~chairman~~ CHAIR of a wage board may administer oaths and require by subpoena the attendance and testimony of witnesses, the production of all books, records, and other evidence relative to matters under investigation. The subpoenas shall be signed and issued by the ~~chairman~~ CHAIR of the wage board, and shall be served and shall have the same effect as if issued from superior courts.

23-329. Violations; classification

A. An employer or ~~his~~ THE EMPLOYER'S agent, or the officer or agent of a corporation, who knowingly discharges, or in any other manner discriminates against an employee, because the employee has served, or is about to serve, on a wage board, or has testified, or is about to testify before a wage board, or in any other investigation or proceeding under or related to this article, or because the employer believes that the employee may serve on a wage board, or may testify before a wage board or in an investigation or proceeding under this article, or who deducts any part of any wages or compensation, other than as prescribed by law, when due a minor, is guilty of a petty offense.

B. An employer or ~~his~~ THE EMPLOYER'S agent, or the officer or agent of a corporation, who knowingly pays or agrees to pay to a minor employee less than the wage rates applicable to the minor under a mandatory minimum fair wage order is guilty of a class 3 misdemeanor.

C. An employer or ~~his~~ THE EMPLOYER'S agent, or the officer or agent of a corporation, who fails to keep the records required by this article or to furnish the records to the commission or an authorized representative of the commission upon request is guilty of a petty offense.

23-340. Definitions

In this article, unless the context otherwise requires:

2. "Employee" means every ~~woman or man~~ PERSON in receipt of or entitled to compensation for labor performed for any employer.

3. "Employer" means this state and any political subdivision of this state which receives state tax monies and every person, firm, corporation, agent, manager, representative, contractor, subcontractor, principal or other person having control or direction of any ~~woman or man~~ PERSON employed at any labor, or responsible directly or indirectly for the wages of another.

23-341. Equal wage rates; variations; penalties; enforcement

A. Notwithstanding the other provisions of this chapter, no employer shall pay any person in ~~his~~ THAT EMPLOYER'S employ at wage rates less than the rates paid to employees of the opposite sex in the same establishment for the same quantity and quality of the same classification of work, provided, that nothing herein shall prohibit a variation of rates of pay for male and female employees engaged in the same classification of work based upon a difference in seniority, length of service, ability, skill, difference in duties or services performed, whether regularly or occasionally, difference in the shift or time of day worked, hours of work, or restrictions or prohibitions on lifting or moving objects in excess of specified weight, or other reasonable differentiation, factor or factors other than sex, when exercised in good faith.

23-353. Payment of wages of discharged employee; violation; classification

A. When an employee is discharged from the service of an employer, **he** SUCH EMPLOYEE shall be paid wages due **him** within seven working days or the end of the next regular pay period, whichever is sooner.

B. When an employee quits the service of an employer **he** SUCH EMPLOYEE shall be paid in the usual manner all wages due **him** no later than the regular payday for the pay period during which the termination occurred. If requested by the employee, such wages shall be paid by mail.

23-403. Employer's duty

A. Each employer shall furnish to each of **his** ITS employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to **his** ITS employees.

23-404. Employee's duty

Each employee shall comply with occupational safety and health standards and all rules, regulations and orders issued pursuant to this article which are applicable to **his** SUCH EMPLOYEE'S own actions and conduct.

23-406. Division of occupational safety and health; director; appointment; qualifications; compensation

C. The director shall be:

1. A person who has been employed in the safety or health profession a minimum of ten years in the aggregate and is currently engaged in the broad practice of safety or health or one of its relevant specialties or holds a degree from an accredited college or university appropriate to the field of safety and health and has a minimum of five years' experience in the broad practice of safety or one of its relevant specialties, and has been registered or licensed by a state agency as a professional appropriate to **his** SUCH PERSON'S field of safety and health or has been certified as competent within the broad practice of safety or health or one of its relevant specialties by an organization recognized as qualified by the American society of safety engineers or American industrial hygiene association.

23-410. Development of standards and rules

C. Any standards or rules promulgated under this section shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all recognized hazards to which they are exposed, relevant symptoms and appropriate emergency treatment and proper conditions and precautions of safe use or exposure. Where appropriate such standards or rules shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standards or rules shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at **his** ITS cost, to employees exposed to such hazards in order to most effectively determine whether the health of such

employees is adversely affected by such exposure. Any standards or rules promulgated pursuant to this section shall assure, as far as possible, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of **his SUCH EMPLOYEE'S** working life.

E. Any person who may be adversely affected by a standard or rule issued under this article may at any time prior to the sixtieth day after such standard or rule is promulgated file a complaint challenging the validity of such standard or rule with the superior court in the county in which the person resides or has **his A** principal place of business, for a judicial review of such standard or rule. The filing of such a complaint shall not, unless otherwise ordered by the court, operate as a stay of the standard or rule. The determinations of the commission shall be conclusive if supported by substantial evidence in the record considered as a whole.

23-411. Temporary and experimental variances

B. Such temporary order shall be granted only if the employer files an application which meets the requirements of subsection C of this section and establishes all of the following:

1. **He IT** is unable to comply with a standard or regulation by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or regulation or because necessary construction or alteration of facilities cannot be completed by the effective date.

2. **He IT** is taking all available steps to safeguard **his ITS** employees against the hazards covered by the standard or regulation.

3. **He IT** has an effective program for coming into compliance with the standard or regulation as quickly as practicable. Any temporary order issued under this section shall prescribe the practices, means, methods, operations and processes which the employer must adopt and use while the order is in effect and state in detail **his ITS** program for coming into compliance with the standard or regulation. Such a temporary order may be granted only after notice to employees and an opportunity for a hearing before the commission. A hearing must be requested within twenty days of such notice to employees. The commission may issue one interim order to be effective until a decision is made on the basis of the hearing. No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or regulation or six months, whichever is shorter, except that such an order may be renewed not more than once so long as the requirements of this section are met and if an application for renewal is filed at least sixty days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than one hundred eighty days.

C. An application for a temporary order under this section shall contain all of the following:

1. A specification of the standard or regulation or portion thereof from which the employer seeks a variance.

2. A representation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that **he IT** is unable to comply with the standard or regulation or portion thereof and a detailed statement of the reasons therefor.

3. A statement of the steps **he IT** has taken and will take with specific dates to protect employees against the hazard covered by the standard or regulation.
4. A statement of when **he IT** expects to be able to comply with the standard or regulation and what steps **he IT** has taken and what steps **he IT** will take with dates specified to come into compliance with the standard or regulation.
5. A certification that **he IT** has informed **his ITS** employees of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted and by other appropriate means. A description of how employees have been informed shall be contained in the certification. The information to employees shall also inform them of their right to petition the commission for a hearing.

23-412. Permanent variances

Any affected employer may apply to the commission for a rule or order for a variance from a standard or regulation promulgated under this article. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The commission shall issue such rule or order if it determines on the record, after opportunity for an inspection where appropriate and a hearing before the commission that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide employment and places of employment to **his ITS** employees which are as safe and healthful as those which would prevail if **he IT** complied with the standard or regulation. The rule or order so issued shall prescribe the conditions the employer must maintain, the practices, means, methods, operations and processes which **he IT** must adopt and utilize to the extent they differ from the standard or regulation in question. Such a rule or order may be modified or revoked upon application by an employer, employees or by the commission on its own motion, in the manner prescribed for its issuance under this section at any time after six months from its issuance.

23-415. Citations

A. If the director, following an inspection or investigation determines that there is reasonable cause to believe that violation exists **he THE DIRECTOR** shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall contain the following:

3. A notice that the employer may request a hearing pursuant to 23-420 if **he IT** is aggrieved by the citation.

23-417. Enforcement procedure

A. If the director, following an inspection or investigation, issues a citation pursuant to 23-415 **he THE DIRECTOR** shall, within a reasonable time after termination of the inspection or investigation, notify the employer by mail of any penalty proposed to be assessed pursuant to 23-418 and that the employer has fifteen working days within which to notify the director in writing if **he THE EMPLOYER** wishes to contest the citation or proposed assessment of penalty. If the employer fails to notify the director in writing within fifteen working days of receipt of the notice that **he THE EMPLOYER** intends to contest the citation or penalty and no notice is filed by any employee or representative of employees pursuant

to subsection D of this section within such time, the citation and the assessment, as proposed, shall be a final order of the commission and not subject to review by any court or agency.

B. The period permitted for correction of a violation shall not begin to run until the entry of a final order in the case of any review proceedings pursuant to this section initiated by the employer in good faith and not solely for delay or avoidance of penalties. If the division has reason to believe an employer has failed to correct a violation for which a citation has been issued within the period permitted, the director shall notify the employer by mail of such failure, of the penalty proposed to be assessed pursuant to 23-418 and that the employer has fifteen working days within which to notify the director in writing if **he THE EMPLOYER** wishes to contest the notification or proposed assessment of penalty. If the employer fails to notify the director in writing within fifteen working days of receipt of the notice that **he THE EMPLOYER** intends to contest the notice or penalty, the notice and assessment, as proposed, shall be deemed a final order of the commission and not subject to review by any court or agency.

D. Any affected employee or employee representative may request a hearing to appeal the period allowed an employer to abate a particular violation pursuant to 23-420 if **he THE EMPLOYER** files such appeal with the director within the abatement period allowed in the citation or within fifteen days from the date of receipt of the citation, whichever is shorter.

23-422. Review board

A. A review board is established within the commission to hear and rule on appeals of administrative law judge decisions generated in this article. The board shall consist of five members who are appointed by the governor and who by reason of training, education or experience are qualified to carry out the powers and duties of the board. The board shall elect a **chairman CHAIR** from the board's membership.

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

23-425. Employee discharge or discrimination

A. No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this article or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of **himself SUCH EMPLOYEE** or others of any right afforded by this article.

B. Any employee who believes that **he SUCH EMPLOYEE** has been discharged or otherwise discriminated against by any person in violation of this section may within thirty days after such violation occurs, file a complaint with the commission alleging such discrimination. Upon receipt of such complaint, the commission shall cause such investigation to be made as it deems appropriate. If upon such investigation, the commission determines that the provisions of this section have been violated, it shall bring an action in any appropriate superior court against such person. In any such action the superior court shall have jurisdiction for cause shown to restrain violations of subsection A and order

all appropriate relief including rehiring or reinstatement of the employee to **his THE EMPLOYEE'S** former position with back pay.

23-427. Employer recordkeeping

A. Each employer shall make, keep and preserve, and make available to the commission such records regarding **his ITS** activities relating to this article as the commission may prescribe by regulations as necessary or appropriate for the enforcement of this article or for developing information regarding the causes and prevention of occupational accidents and illnesses. In order to carry out the provisions of this subsection such regulations may include provisions requiring employers to conduct periodic inspections. The commission shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under this article including the provisions of applicable standards.

C. The commission shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under 23-410. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring and to have access to the records thereof. Such regulations shall also make appropriate provision for each employee or former employee to have access to such records as will indicate **his SUCH EMPLOYEE OR FORMER EMPLOYEE'S** own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated under 23-410 and shall inform any employee who is being thus exposed of the corrective action being taken.

23-428. State legal representation

A. The office of the chief counsel of the industrial commission of Arizona may appear for and represent the commission or the director or **his THE DIRECTOR'S** authorized representative in any civil litigation brought under this article.

23-433. Consulting program

B. If, after evaluating such request, the director determines an alternative means of providing consultation is more appropriate and equally effective, **he THE DIRECTOR** may provide such alternative means rather than consultation at the workplace.

23-479. Hearing rights and procedures

J. Grounds which may be alleged for change of administrative law judge are that:

5. The party filing the affidavit has cause to believe and does believe that on account of the bias, prejudice or interest of the administrative law judge **he SUCH PARTY** cannot obtain a fair and impartial hearing.

23-480. Decisions of administrative law judge; contents; disposition and effect

A. Upon the conclusion of any hearing, or prior to the conclusion with concurrence of the parties, the administrative law judge shall, not later than thirty days after the matter is submitted for decision, determine the matter and make a decision in accordance with **his THE ADMINISTRATIVE LAW JUDGE'S** determination.

23-491.10. Hearing rights and procedures

H. Upon the filing of a request for hearing, any interested party or **his SUCH PARTY'S** authorized agent is entitled to inspect the file of the commission provided the authorized agent has filed the authorization to inspect with the commission.

J. Grounds which may be alleged for change of administrative law judge are that:

5. The party filing the affidavit has cause to believe and does believe, that on account of the bias, prejudice or interest of the administrative law judge, **he SUCH PARTY** cannot obtain a fair and impartial hearing.

23-601. Declaration of policy

As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and **his THE UNEMPLOYED WORKER'S** family. The achievement of social security requires protection against this greatest hazard of economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The legislature, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

23-605. Base period

“Base period” means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year, except that the base period of an individual whose new benefit year overlaps **his THE INDIVIDUAL'S** last preceding benefit year shall consist of those four completed calendar quarters immediately following **his THE INDIVIDUAL'S** previous base period.

23-607. Base-period wages

“Base-period wages” means the wages paid to an individual during **his THE INDIVIDUAL'S** base period for insured work.

23-608. Benefits

“Benefits” means the money payments payable to an individual as provided in this chapter, with respect to **his** **THE INDIVIDUAL’S** unemployment.

23-609. Benefit year

“Benefit year” with respect to an individual means the one-year period beginning with the first day of the first week of unemployment with respect to which the individual first files a claim in accordance with 23-772 and thereafter the one-year period beginning with the first day of the first week of unemployment with respect to which the individual next files a claim after the termination of **his** **THE INDIVIDUAL’S** last preceding benefit year, provided that at the time of filing the claim the individual has been paid the wages for insured work required under 23-771. For the purposes of this section a week with respect to which an individual files a valid claim establishing a benefit year shall be deemed to be in that benefit year which includes the greater part of such week.

23-612.01. Crew leader

A. “Crew leader” means an individual who does all of the following:

2. Pays (either **on his behalf** **PERSONALLY** or on behalf of such other person or employing unit) the individuals furnished by **him** **SUCH INDIVIDUAL** for the agricultural labor performed by them.

C. In the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person or employing unit and who is not treated as an employee of such crew leader under subsection B both of the following apply:

2. Such other person or employing unit shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either **on his behalf** **PERSONALLY** or on behalf of such other person or employing unit) for the agricultural labor performed for such other person or employing unit.

23-615. Employment; definition

B. For purposes of subsection A, paragraphs 6, 7 and 8, the term “employment” does not apply to service performed for any of the following:

2. By a duly ordained, commissioned or licensed minister of a church in the exercise of **his** ministry or by a member of a religious order in the exercise of duties required by the order.

23-619.01. Misconduct connected with the employment; wilful misconduct; evaluation

C. Upon notification from an interested party, if a claimant has been subsequently convicted or acquitted of a felony with respect to the act for which **he** **SUCH CLAIMANT** was separated, **his** **THE** claim shall be reconsidered after a tribunal hearing based on the newly available evidence.

23-622. Wages

B. “Wages” shall not include:

1. For the purpose of 23-604, 23-726, 23-728 and 23-730.01, that part of the remuneration (other than remuneration referred to in succeeding paragraphs of this subsection) in excess of seven thousand dollars paid in 1983 or in a calendar year thereafter to an individual by an employer or **his ITS** predecessor with respect to employment during the calendar year, unless that part of the above specified excess remuneration is subject to a tax, under federal law, against which credit may be taken for contributions required to be paid into a state unemployment fund by employers subject to the federal law. For the purposes of this paragraph, the remuneration paid to an individual by an employer with respect to employment in another state or states, upon which contributions were required of and paid by such employer under an unemployment compensation law of such other state or states, shall be included as part of remuneration equal to the above specified amounts.

2. The amount of any payment, including monies paid by an employer for insurance or annuities or into a fund to provide payments for insurance or annuities, made to or on behalf of an employee or any of **his SUCH EMPLOYEE’S** dependents under a plan or system established by an employer which makes provision for **his ITS** employees generally, for **his ITS** employees generally and their dependents, for a class of **his ITS** employees or for a class of **his ITS** employees and their dependents, on account of any of the following:

(a) Sickness or accident disability, except that in the case of payments made to an employee or any of **his SUCH EMPLOYEE’S** dependents, this subdivision excludes from wages only payments which are received under a workers’ compensation law.

5. Any payment made to, or on behalf of, an employee or **his SUCH EMPLOYEE’S** beneficiary:

11. Any contribution, payment or service provided by an employer which may be excluded from the gross income of any employee, **his THE EMPLOYEE’S** spouse or **his THE EMPLOYEE’S** dependents under the provisions of 120 of the internal revenue code¹³ relating to amounts received under qualified group legal services plans.

23-626. Eligibility period

“Eligibility period” of an individual means the period consisting of the weeks in **his THE INDIVIDUAL’S** benefit year under this chapter which begin in an extended benefit period; and if **his THE INDIVIDUAL’S** benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

23-627. Exhaustee

A. “Exhaustee” means an individual who, with respect to any week of unemployment in **his SUCH INDIVIDUAL’S** eligibility period:

1. Has received prior to such week, all of the regular benefits that were available to **him SUCH INDIVIDUAL** in **his THE INDIVIDUAL’S** current benefit year that includes such week; or **his THE**

INDIVIDUAL'S benefit year having expired prior to such week, has no, or insufficient wages on the basis of which he THE INDIVIDUAL could establish a new benefit year that would include such week; and

2. Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act,¹ the trade expansion act of 1962,² the automotive products trade act of 1965,³ and such other federal laws as are specified in regulations issued by the United States secretary of labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if he THE INDIVIDUAL is seeking such benefits and the appropriate agency finally determines that he THE INDIVIDUAL is not entitled to benefits under such law he THE INDIVIDUAL is considered an exhaustee.

B. For the purposes of paragraph 1 of subsection A, an individual shall be deemed to have received all of the regular benefits that were available to him SUCH INDIVIDUAL although as a result of a pending protest or appeal with respect to wages that were not included in the original monetary determination in his THE INDIVIDUAL'S benefit year, he THE INDIVIDUAL may subsequently be determined to be entitled to added regular benefits.

23-629. Extended benefits

“Extended benefits” means benefits, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85,¹ payable to an individual under the provisions of this article for weeks of unemployment in his THE INDIVIDUAL'S eligibility period.

23-634. Eligibility requirements for extended benefits

A. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his THE INDIVIDUAL'S eligibility period only if the department finds that with respect to such week:

1. He THE INDIVIDUAL is an exhaustee as defined in 23-627, and
2. He THE INDIVIDUAL has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.
3. He THE INDIVIDUAL has, in the base period of his THE INDIVIDUAL'S claim for regular benefits, total wages of at least one and one-half times the wages in his THE INDIVIDUAL'S highest quarter, or total wages that exceed forty times his THE INDIVIDUAL'S most recent weekly benefit amount established pursuant to this chapter.

B. Extended benefits are not payable pursuant to an interstate claim filed under the interstate benefit payment plan unless an extended benefit period is in effect in the state of filing for the week for which the claim is filed, except that an individual who is otherwise eligible may receive extended benefits for not more than two weeks of unemployment during his THE INDIVIDUAL'S eligibility period pursuant to interstate claims filed in an area where an extended benefit period is not in effect.

23-634.01. Denial of benefits for failure to accept suitable work or actively seek work; definition

A. Notwithstanding 23-776, an individual who is found by the department, with respect to any week in an eligibility period which begins from and after April 4, 1981, to have failed to apply for or accept available suitable work to which **he THE INDIVIDUAL** was referred by the department or to have failed to actively engage in seeking work is disqualified from receiving extended benefits. The disqualification shall begin with the week in which the failure occurred and continue until the individual has been employed in each of four subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than four times **his THE INDIVIDUAL'S** weekly benefit amount.

C. If an individual furnishes evidence satisfactory to the department that prospects for obtaining work in **his THE INDIVIDUAL'S** customary occupation within a reasonably short period are good, the determination of whether any work is suitable with respect to the individual shall be made in accordance with the provisions of 23-776 without reference to the definition contained in this section.

E. For the purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if the department finds from tangible evidence provided by the individual that **he THE INDIVIDUAL** has engaged in a systematic and sustained effort to obtain work during such week.

23-635. Weekly extended benefit amount

The weekly extended benefit amount payable to an individual for a week of total unemployment in **his THE INDIVIDUAL'S** eligibility period is an amount equal to the weekly benefit amount payable to **him SUCH INDIVIDUAL** during **his THE INDIVIDUAL'S** applicable benefit year.

23-636. Total extended benefit amount; certain adjustments

A. Except as provided in subsection D of this section, the total extended benefit amount payable to an eligible individual with respect to **his SUCH INDIVIDUAL'S** applicable benefit year shall be the least of the following amounts:

1. Fifty per cent of the total amount of regular benefits which were payable to **him SUCH INDIVIDUAL** under this chapter in **his SUCH INDIVIDUAL'S** applicable benefit year; or
2. Thirteen times **his SUCH INDIVIDUAL'S** weekly benefit amount which was payable to **him SUCH INDIVIDUAL** under this chapter for a week of total unemployment in the applicable benefit year.

23-638. Credits and charges to employer accounts

Extended benefits paid to an individual shall be charged against the accounts of **his SUCH INDIVIDUAL'S** base-period employers in the same manner and under the same conditions as regular benefits except that:

23-644. Reciprocal arrangements

A. The department may enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

1. Services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed services performed entirely within any one of the states in which any part of the individual's service is performed, or in which the individual has **his SUCH INDIVIDUAL'S** residence, or in which the employing unit maintains a place of business, provided there is in effect, as to such services, an election, approved by the agency charged with the administration of the state's unemployment compensation law, pursuant to which all services performed by the individual for such employing unit are deemed to be performed entirely within such state.

3. The department shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with **his SUCH INDIVIDUAL'S** wages and employment covered under the unemployment compensation laws of other states which are approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining.

23-656. Enforcement of chapter

B. All criminal actions for violation of any provision of this chapter, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the attorney general, or, at **his THE ATTORNEY GENERAL'S** request and under **his THE ATTORNEY GENERAL'S** direction, by the county attorney of the county in which the employer has a place of business or the violator resides.

23-671. Appeal tribunals

A. The department shall establish one or more impartial appeal tribunals to hear and decide disputed claims. Such appeal tribunals shall consist in each case of one member who shall be a salaried examiner selected on a nonpartisan merit basis. A person shall not participate on behalf of the department in any case in which **he SUCH PERSON** is an interested party.

23-672. Appeals board

A. Within the department, an appeals board is established consisting of three members. The director shall appoint the members of the appeals board and shall designate one member to serve as **chairman CHAIR**.

C. In any case in which a petition for review of an appeal tribunal or hearing officer decision has been filed by an interested party, the appeals board may remand the case to any appeal tribunal or hearing officer for further proceedings or may review the matter on the basis of the record in the case, take additional evidence or rehear the matter and affirm, reverse, modify or set aside the decision of the appeal tribunal or hearing officer. On notice to the interested parties, a petition for review may be reviewed by one member of the appeals board designated by the **chairman CHAIR**. If an interested party objects to review by one board member, the matter shall be heard by three members of the appeals board.

23-673. Determination of claim on unemployment due to labor dispute

A. In any case in which the payment or denial of benefits will be determined by 23-777, the deputy shall proceed as provided in 23-773. His THE DEPUTY'S examination of the case may be by investigation or by affording the parties reasonable opportunity for a fair hearing.

C. If the determination appealed from was based on a fair hearing, the hearing officer may make his A recommendation and the appeals board may make its decision on the basis of the evidence previously submitted.

23-674. Procedure in rendering decisions and orders; rights of parties; representation

B. In a hearing conducted pursuant to this section, parties may be represented in the following manner:

1. An individual, either an employee or an employer, may represent himself BE SELF-REPRESENTED or may be represented by a duly authorized agent who is not charging a fee for the representation.

23-676. Failure to obey commission subpoena; classification

Any person who without just cause knowingly fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his SUCH PERSON'S power so to do, in obedience to a subpoena of the commission is guilty of a class 3 misdemeanor. Each day such violation continues shall be a separate offense.

23-677. Contempt by contumacy or refusal to obey subpoena of commission

In case of contumacy or refusal of a person to obey a subpoena issued under this chapter, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found, resides or transacts business, upon application by the commission or its duly authorized representative, shall issue to such person an order requiring him SUCH PERSON to appear before a commissioner, the commission or its duly authorized representative, and to produce evidence if so ordered or give testimony touching upon the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as a contempt thereof.

23-680. Notices of hearings

Notwithstanding 41-1002, subsection B and 41-1061, all notices of hearing required by this chapter shall be given at least ten working days prior to the date set for the hearing, except that any interested party may waive his SUCH PARTY'S right to notice.

23-683. Exemption of claimant from fees; approval required for counsel or agent fee; violation; classification

B. An individual claiming benefits or an employer in a proceeding before the department or a court may be represented by counsel or other duly authorized agent. No such counsel or agent for an individual shall either charge or receive for his THEIR services more than an amount approved by the department.

23-702. Custody of unemployment compensation fund

The state treasurer shall be ex officio the treasurer and custodian of the unemployment compensation fund. He **THE STATE TREASURER** shall administer the fund in accordance with the provisions of this chapter and the direction of the commission, and shall pay all warrants drawn thereon in accordance with such regulations as the commission prescribes. Monies in the fund shall be secured by the depository to the same extent and in the same manner as required by the general depository law of the state.

23-707. Employment security administration fund

E. The state treasurer shall be liable on **his THE STATE TREASURER'S** official bond for the faithful performance of **his THE STATE TREASURER'S** duties in connection with the employment security administration fund provided for under this chapter. Liability on the official bond shall exist in addition to liability upon any separate bond. All sums recovered on a surety bond for losses sustained by the employment security administration fund shall be deposited in the fund.

23-708. Reimbursement of employment security administration fund

B. Such monies shall be replaced within a reasonable time by monies appropriated by the legislature from the general funds of this state to the employment security administration fund for expenditure as provided in 23-707. The commission shall report to the state budget officer in the same manner as is provided generally for the submission of financial requirements, and the governor shall include in **his THE GOVERNOR'S** budget report to the next regular session of the legislature the amount required for replacement.

23-722. Reports of employing unit; information confidential; report of banking institution; disclosure of information; violation; classification

A. The department, the appeals board or an appeal tribunal may require from an employing unit sworn or unsworn reports with respect to persons employed by it which it deems necessary for the effective administration of this chapter. Information thus obtained shall not be published or open to public inspection, other than to public employees in the performance of their duties or to an agent of the department designated as such in writing for the purpose of accomplishing certain of the department's functions, in any manner revealing the employing unit's identity, except that a claimant at a hearing before an appeal tribunal, the appeals board or the department shall be supplied with the information from the records to the extent necessary for the proper presentation of **his SUCH CLAIMANT'S** claim and the employer shall be furnished a complete copy of the case record on request.

23-733. Transfer of employer experience rating accounts to successor employer; liability of successor

A. When any employing unit in any manner succeeds to or acquires the organization, trade or business, or substantially all of the assets thereof, excepting any assets retained by such employer incident to the liquidation of **his ITS** obligations, whether or not such acquiring employing unit was an employer within the meaning of 23-613, prior to such acquisition, and continues such organization, trade or business, the account of the predecessor employer shall be transferred as of the date of acquisition to the successor employer for the purpose of rate determination.

C. If the successor employer was an employer subject to this chapter prior to the date of acquisition of an organization, trade or business, or substantially all of the assets thereof, **his ITS** rate of contributions for the remainder of the calendar year in which the acquisition occurred shall be **his ITS** rate as previously assigned for the calendar year in which the acquisition occurred. If the successor was not an employer prior to the date of acquisition, **his ITS** rate for the remainder of the calendar year beginning on the date of acquisition shall be the rate applicable to the predecessor employer or employers for the calendar year in which the acquisition occurred, if there was only one predecessor or there were only predecessors with identical rates. If the predecessor rates were not identical, the successor's rate for the remainder of the calendar year beginning on the date of acquisition shall be recomputed on the basis of the combined accounts of the predecessors as of the computation date applicable to the calendar year in which the acquisition occurred. When the account for a distinct and severable portion has been transferred to a successor who was not an employer prior to the date of acquisition, the rate of the successor for the remainder of the calendar year beginning on the date of acquisition shall be computed as of the computation date applicable to such calendar year, on the basis of the experience attributable to the acquired portion. If the successor was an employer prior to the date of acquisition, **his ITS** rate for the remainder of the calendar year beginning on the date of acquisition shall be the rate previously assigned to **him IT** for the calendar year in which the acquisition occurred. The rate of the predecessor for the remainder of the calendar year beginning on the date of acquisition shall be the rate previously assigned to **him IT** with respect to the calendar year in which the acquisition occurred.

E. The amount of liability of a successor employer for any contribution, interest and penalties due or accrued and unpaid by **his ITS** predecessor employer shall be a lien against the property or assets so acquired which shall be prior to all other liens except prior recorded realty mortgages, but the lien shall not be valid as against one who acquires from the successor any interest in the property or assets in good faith, for value, and without notice of the lien. On written request, the department shall furnish the successor with a written statement of the amount of contributions, interest and penalties due or accrued and unpaid by the predecessor employer as of the date of such acquisition, and the amount of the liability of the successor or the amount of the lien shall in no event exceed the liability disclosed in such statement. The remedy provided by this section shall be in addition to all other existing remedies against the predecessor employer or **his ITS** successor, and the lien against the successor may be foreclosed as in other civil actions.

23-735. Requiring or accepting payments from wages to finance employer's contribution; waiver of rights of employee; violation; classification

A. No employer shall directly or indirectly make, require or accept a deduction from wages to finance the employer's contributions or payments in lieu of contributions required from **him IT**, or require or accept a waiver of any right under this chapter by any individual in **his ITS** employ.

23-747. Release of lien; bond; foreclosure and judgment against surety

A. The employer may cause **his ITS** property to be released from the lien provided by 23-745 and 23-746, by filing with the commission a bond in double the amount claimed in the lien, executed by a surety licensed to do business in the state, running to the commission and conditioned for the payment of all contributions, interest, penalties, damages, costs, charges and disbursements that may be recovered by the commission against the employer or that may be found to be a lien upon **his ITS** property. Upon filing the bond the commission shall execute and deliver to the employer a release of the lien, but the release shall not operate in any manner to satisfy the indebtedness secured by the lien.

23-748. Effect upon lien of transfer of assets by delinquent

The transfer, through sale, exchange or otherwise, of a major portion of the assets of a delinquent employer shall not defeat or impair the lien in favor of the commission, and the person acquiring the assets shall be liable for payment of all delinquent contributions, interest or penalties owed by **his SUCH PERSON'S** predecessor in interest. In an action involving title to real or personal property against which the commission has or may claim a lien, the commission shall be made a party.

23-755. Property exempt from levy

D. The following wages, salary and other income payable to or received by an individual are exempt from levy under subsection A, paragraph 6 of this section:

1. In the case of an individual who is paid or receives all of **his THE INDIVIDUAL'S** wages, salary and other income on a weekly basis, the amount of wages, salary and other income received during the week which is exempt from levy is fifty dollars and fifteen dollars for each individual who is specified in a written statement submitted to the person on whom notice of levy is served and which is verified in such manner as the department prescribes and:

23-756. Notice and sale of seized property

C. The department shall notify the debtor of the date, time and location of the sale of **his THE DEBTOR'S** property or right to property with a description of the property or right to property to be sold. The notice shall be given in person, left at the dwelling or usual place of business of the debtor or sent by first class mail to the debtor's last known address, not less than ten days before the day of the sale. If the property or right to property is perishable, the department shall give notice of the sale to the debtor in the manner and within the time limits which are reasonable considering the character and condition of the property.

23-771.01. Approved training; definitions

B. No payment of benefits under this chapter made possible under this section shall be made to any individual for any week, or part of any week, with respect to which **he SUCH INDIVIDUAL** is entitled to receive any training allowance under any public training or retraining program if such training allowance equals or exceeds the benefits to which the individual would otherwise be entitled. If the training allowance is less than the benefits to which the individual would otherwise be entitled, **his THE INDIVIDUAL'S** benefits shall be computed in accordance with 23-779, subsection C, treating the training allowance in the same manner as wages, and benefits shall be paid accordingly.

23-777. Disqualification from benefits for unemployment resulting from labor dispute; exceptions; effect on contribution rate

A. An individual shall be disqualified for benefits for any week with respect to which the commission finds that **his SUCH INDIVIDUAL'S** total or partial unemployment is due to a labor dispute, strike or lockout which exists at the factory, establishment or other premises at which **he THE INDIVIDUAL** is or was last employed. This provision shall not apply if it is shown to the satisfaction of the commission that the individual is not participating in, financing or directly interested in the labor dispute, strike or lockout or that **he THE INDIVIDUAL** does not belong to a grade or class of workers of which,

immediately before the commencement of the labor dispute, strike or lockout, there were members employed at the premises at which the labor dispute, strike or lockout occurs, any of whom are participating in or financing or directly interested in the dispute, strike or lockout. In the case of separate branches of work commonly conducted as separate businesses in separate premises, each department shall, for the purposes of this section, be deemed to be a separate factory, establishment or other premises.

23-778. Disqualification from benefits for fraud

Any person who, within the twenty-four calendar months immediately preceding a week in which **he SUCH PERSON** files a valid claim for benefits, has made a false statement or representation of a material fact knowing it to be false, or knowingly failed to disclose a material fact with intent to obtain benefits under this chapter, shall be disqualified for the week for which the claim was filed and for not more than the fifty-one weeks immediately following such week as determined by the commission according to the circumstances in each case.

23-780. Duration and amount of benefits

An otherwise eligible individual shall be entitled during a benefit year to a total amount of benefits equal to twenty-six times **his SUCH INDIVIDUAL'S** weekly benefit amount, but shall not receive more than one third of **his SUCH INDIVIDUAL'S** base period earnings in such benefit year.

23-781. Denial of benefits to certain athletes and aliens

B. Benefits shall not be payable for weeks of unemployment beginning on and after January 1, 1978, on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of 203(a)(7)1 or 212(d)(5) of the immigration and nationality act)2. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of **his SUCH INDIVIDUAL'S** alien status shall be made except upon a preponderance of the evidence.

23-784. Agreement for waiver of rights void

No agreement by an individual to waive, release or commute **his SUCH INDIVIDUAL'S** rights to benefits or any other rights under this chapter shall be valid, except an agreement to satisfy child support obligations which is being enforced by the department pursuant to a plan under the child support enforcement act, as amended,1 which has been approved by the secretary of health and human services under part D of title IV of the social security act, as amended,2 or an agreement between the individual and the department specifying an amount to be withheld as repayment towards an uncollected overissuance of food stamp coupons.

23-785. False statement, misrepresentation or nondisclosure of material fact to obtain benefits; classification

Any person who knowingly makes a false statement or representation believing it to be false or who knowingly fails to disclose a material fact in order to obtain or increase a benefit or other payment under this chapter either for **himself SUCH PERSON** or for another person, or under an employment security law of another state, the federal government or a foreign government, is guilty of a class 6 felony. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

23-789. Recovery of child support obligations; definitions

A. When an individual files an initial claim for unemployment compensation, **he SUCH INDIVIDUAL** shall disclose whether **he THE INDIVIDUAL** is liable for child support obligations. Upon a disclosure of liability for child support obligations, and a determination of eligibility for unemployment compensation, the department shall notify the state child support enforcement agency enforcing such obligation that the individual has been determined to be eligible for unemployment compensation.

23-802. Declaration of policy

Labor and services of **workmen WORKERS** at manual and mechanical labor in the employment of a person in an occupation declared by 23-803 to be hazardous is service in a hazardous occupation within the meaning of the terms of 23-801. By reason of the nature and conditions of and the means used and provided for doing the work in a hazardous occupation, such service is especially dangerous and hazardous to the **workmen WORKERS** because of risks and hazards inherent in such occupations and which are unavoidable by the **workmen WORKERS** therein.

23-804. Posting of notices by employer

Every employer employing **workmen WORKERS** in a hazardous occupation shall, by rules, regulations or instructions, inform all employees in such occupations as to the duties and restrictions of their employment for the purpose of protecting the safety of employees in their employment.

23-805. Right of action for damages; two-year limitation

A. When in the course of work in any of the employments or occupations enumerated in 23-803, personal injury or death by an accident arising out of and in the course of such labor, service and employment, and due to a condition or conditions of such occupation or employment, is caused to or suffered by a **workman WORKER** engaged therein, in all cases in which the injury or death of the employee is not caused by the negligence of the employee killed or injured, the employer is liable in damages to the employee injured or, in case death ensues, to the personal representative of the deceased for the benefit of the surviving **widow or husband SPOUSE** and children of the employee or, if none, then to the employee's parents or, if none, then to the next of kin dependent upon the employee or, if none, then to **his EMPLOYEE'S** personal representative for the benefit of the estate of the deceased.

23-807. Agreement exempting employer from liability void; setoffs by employer

A. Any contract, rule, regulation or device whatever, the purpose or intent of which is to enable an employer to exempt ~~himself~~ **ITSELF** from any liability created by this article, is to that extent void.

B. In an action brought under this article the employer may set off any amount ~~he~~ **IT** has contributed or paid for any insurance, relief, benefit or indemnity, or has paid to the injured employee or ~~his~~ **THE EMPLOYEE'S** personal representative on account of the injury or death for which the action is brought.

23-901. Definitions

6. "Employee", ~~"workman"~~, "worker" and "operative" means:

(d) Regular members of volunteer fire departments organized pursuant to title 48, chapter 5, article 1, 1 regular firefighters of any volunteer fire department, including private fire protection service organizations, organized pursuant to title 10, chapters 24 through 40, 2 volunteer firefighters serving as members of a fire department of any incorporated city or town or an unincorporated area without pay or without full pay and on a part-time basis, and voluntary ~~man-policemen~~ **POLICE OFFICERS** and volunteer firefighters serving in any incorporated city, town or unincorporated area without pay or without full pay and on a part-time basis, are deemed to be employees, but for the purposes of this chapter, the basis for computing wages for premium payments and compensation benefits for regular members of volunteer fire departments organized pursuant to title 48, chapter 5, article 1, or organized pursuant to title 10, chapters 24 through 40, regular members of any private fire protection service organization, volunteer firefighters and volunteer ~~policemen~~ **POLICE OFFICERS** of these departments or organizations shall be the salary equal to the beginning salary of the same rank or grade in the full-time service with the city, town, volunteer fire department or private fire protection service organization, provided if there is no full-time equivalent then the salary equivalent shall be as determined by resolution of the governing body of the city, town or volunteer fire department or corporation.

(m) Personnel who participate in a search or rescue operation or a search or rescue training operation that carries a mission identifier assigned by the division of emergency management as provided in 35-192.01 and who serve without compensation as volunteer state employees. The basis for computation of wages for premium purposes and compensation benefits is the total volunteer ~~man-hours~~ **WORK-HOURS** recorded by the division of emergency management in a given quarter multiplied by the amount determined by the appropriate risk management formula.

(n) Personnel who participate in emergency management training, exercises or drills that are duly enrolled or registered with the division of emergency management or any political subdivision as provided in 26-314, subsection C and who serve without compensation as volunteer state employees. The basis for computation of wages for premium purposes and compensation benefits is the total volunteer ~~man-hours~~ **WORK-HOURS** recorded by the division of emergency management or political subdivision during a given training session, exercise or drill multiplied by the amount determined by the appropriate risk management formula.

23-901.04. Compensation precluded by misconduct, self-exposure or disobedience of orders of commission; definition

B. As used in this section the term “wilful self-exposure” includes:

1. Failure or omission on the part of an employee or applicant for employment truthfully to state in writing to the best of **his THE EMPLOYEE OR APPLICANT’S** knowledge in answer to an inquiry made by the employer, the place, duration and nature of previous employment.
2. Failure or omission on the part of an applicant for employment truthfully to state in writing to the best of **his THE APPLICANT’S** knowledge in answer to an inquiry made by the employer, whether or not **he THE APPLICANT** had previously been a person with a disability, laid off or compensated in damages or otherwise because of any physical disability.
3. Failure or omission on the part of an employee or applicant for employment truthfully to give in writing to the best of **his THE EMPLOYEE OR APPLICANT’S** knowledge in answer to an inquiry made by the employer, full information about the previous status of **his THE EMPLOYEE OR APPLICANT’S** health, previous medical and hospital attention and direct and continuous exposure to active pulmonary tuberculosis.

23-905. Minor employees; limitation on payment of lump sum award; additional compensation

A. A minor working at an age and at an occupation legally permitted shall be deemed of the age of majority for the purposes of this chapter, and no other person shall have any claim or right to compensation for an injury to such minor employee, but an award of a lump sum of compensation to the minor employee shall be paid only to **his THE MINOR’S** legally appointed guardian.

23-906. Liability under chapter or under common law of employer securing compensation; carriers; service representatives; right of employee to make election; procedure for making election

B. The employee’s election to reject the provisions of this chapter shall be made by a notice in writing, signed and dated by **him EMPLOYEE** and given to **his EMPLOYEE’S** employer, in duplicate in substantially the following form:

To (name of employer):

You are hereby notified that the undersigned elects to reject the terms, conditions and provisions of the law for the payment of compensation, as provided by the compulsory compensation law of the state of Arizona, and acts amendatory thereto.

C. The notice shall be filed with the employer prior to injuries sustained by the employee, and within five days the employer shall file with **his EMPLOYER’S** insurance carrier the notice so served by the employee. All employees shall be conclusively presumed to have elected to take compensation in accordance with the terms, conditions and provisions of this chapter unless the notice in writing has been served by the employee upon **his EMPLOYEE’S** employer prior to injury.

D. Every employer engaged in the occupations designated in this chapter shall post and keep posted in a conspicuous place upon **his EMPLOYER'S** premises, in English and Spanish and available for inspection by all **workmen WORKERS**, a notice in substantially the following form:

23-907. Liability of employer failing to secure compensation; defenses; presumption; right of employee to compensation under chapter; information exchange; civil penalties; settlement of disputed claim

A. Employers who are subject to and who fail to comply with 23-961 or 23-962 shall not be entitled to the benefits of this chapter during the period of noncompliance, but shall be liable in an action under any other applicable law of the state. In such action the defendant shall not avail **himself ITSELF** of the defenses of assumption of risk or contributory negligence. In all such actions proof of the injury shall constitute prima facie evidence of negligence on the part of the employer and the burden shall be upon the employer to show freedom from negligence resulting in the injury.

23-909. Motion picture exemption

B. All Arizona residents employed by any company fulfilling the exemption requirements of this section shall execute a form rejecting the provisions of the compulsory compensation law of the state of Arizona and accepting the insurance coverage provided in this section. The form shall be in writing, signed and dated by the employee and given to **his EMPLOYEE'S** employer in duplicate in substantially the following form:

23-926. Inspection of employer records; noncompliance by employer; penalty

B. An employer who refuses to submit **his ITS** books, records and payrolls for inspection as provided by this section is liable for a penalty of five hundred dollars for each offense which shall be collected by a civil action in the name of the state, and the recovery shall be paid to the state general fund. The commission may recover reasonable attorney fees incurred pursuant to this section.

23-927. Power to enter places of employment

A commissioner may enter any place of employment to collect facts and statistics, and may bring to the attention of any employer any law or order of the commission and the failure of such employer to comply therewith. No employer shall refuse to admit a commissioner to **his THE EMPLOYER'S** place of employment.

23-928. Investigation by agents

B. In the discharge of **his THE AGENT'S** duties, the agent shall have the inquisitorial powers granted by this chapter to the commission and the same powers with regard to taking testimony as a referee or master appointed by a superior court. The recommendation made by such agent shall be advisory only and shall not preclude taking further evidence or making further investigations.

23-929. Enforcement of chapter

Upon request of the commission the attorney general, or under **his THE ATTORNEY GENERAL'S**

direction the county attorney of the proper county, shall institute and prosecute the necessary actions or proceedings for the enforcement of the provisions of this chapter, or for any penalty provided for in this chapter, and shall prosecute or defend all actions or proceedings brought by or against the commission, or the members thereof in their official capacity. The commission may compromise any action.

23-941. Hearing rights and procedure

D. At least twenty days' prior notice of the time and place of the hearing shall be given to all parties in interest by mail at their last known address. In the case of a hearing concerning suspension of benefits, pursuant to 23-1026, 23-1027 or 23-1071, only ten days' prior notice is required. Hearings shall be held in the county where the ~~workman~~ WORKER resided at the time of the injury or another place selected by the administrative law judge.

23-942. Awards of administrative law judge; contents; disposition and effect

A. Upon the conclusion of any hearing, or prior thereto with concurrence of the parties, the administrative law judge shall promptly and not later than thirty days after the matter is submitted for decision determine the matter and make an award in accordance with ~~his~~ THE ADMINISTRATIVE LAW JUDGE'S determination.

B. In the event of the demise, resignation, retirement, termination of employment, or other incapacitation of the presiding administrative law judge, the award shall be determined by the chief administrative law judge or ~~his~~ THE CHIEF ADMINISTRATIVE LAW JUDGE'S appointee.

23-962. Insurance by governmental units; payment of premiums

C. Each clerk and school superintendent shall thereupon prepare and submit to ~~his~~ THEIR respective governing body for approval a claim for the amount of premiums due the insurance carrier. Such premiums shall be at once paid to the insurance carrier by the proper officer. The department of administration shall draw a warrant for such premiums as are due until June 30, 1983 from the state in favor of the treasurer for the benefit of the insurance carrier and the treasurer shall at once pay the warrant from the general fund and the appropriation made therefor in the general appropriation bill for the insurance carrier.

23-963. Provisions of compensation insurance policy

Every policy of insurance covering the liability of the employer for workers' compensation shall cover the entire liability of the employer to ~~his~~ ITS employees covered by the policy or contract, and be deemed to contain the following provisions:

4. That the insolvency or bankruptcy of the employer and ~~his~~ ITS discharge therein shall not relieve the insurance carrier or workers' compensation pool from payment of compensation for injuries or death sustained by an employee during the life of the policy or contract.

23-964. Posting notice of compliance with compensation law

A. Each employer providing insurance or electing to pay compensation directly as provided in this chapter, shall post in conspicuous places about ~~his~~ ITS place of business typewritten or printed notices

stating that **he IT** has complied with the provisions of this chapter and all rules and regulations of the commission made in pursuance thereof and, if such is the fact, has been authorized by the commission directly to compensate **his ITS** employees or their dependents.

B. The notices when posted shall constitute sufficient notice to the employees of the fact that the employer has complied with the law for securing compensation to **his ITS** employees and their dependents.

23-967. Deduction of premium from employee wage or salary; violation; classification

Any employer who intentionally deducts any portion of the premium, except for accident benefits, which **he IT** is by law required to pay from the wage or salary of an employee is guilty of a class 6 felony.

23-968. Notification to employer by carrier

At the request of an employer the insurance carrier shall notify such employer of monies paid relating to a **workman WORKER** of the employer during the preceding month.



23-1021. Right of employee to compensation

Every employee coming within the provisions of this chapter who is injured, and the dependents of every such employee who is killed by accident arising out of and in the course of **his SUCH EMPLOYEE'S** employment, wherever the injury occurred, unless the injury was purposely self-inflicted, shall be entitled to receive and shall be paid such compensation for loss sustained on account of the injury or death, such medical, nurse and hospital services and medicines, and such amount of funeral expenses in the event of death, as are provided by this chapter.

23-1022. Compensation as exclusive remedy for employees; definition; exceptions; public agency employees

A. The right to recover compensation pursuant to this chapter for injuries sustained by an employee or for the death of an employee is the exclusive remedy against the employer or any co-employee acting in the scope of **his THE EMPLOYEE'S** employment, and against the employer's workers' compensation insurance carrier or administrative service representative, except as provided by 23-906, and except that if the injury is caused by the employer's wilful misconduct, or in the case of a co-employee by the co-employee's wilful misconduct, and the act causing the injury is the personal act of the employer, or in the case of a co-employee the personal act of the co-employee, or if the employer is a partnership, on the part of a partner, or if a corporation, on the part of an elective officer of the corporation, and the act indicates a wilful disregard of the life, limb or bodily safety of employees, the injured employee may either claim compensation or maintain an action at law for damages against the person or entity alleged to have engaged in the wilful misconduct.

23-1024. Choice of remedy as waiver of alternate remedy

A. An employee, or **his THE EMPLOYEE'S** legal representative in event death results, who accepts compensation waives the right to exercise any option to institute proceedings in court against **his THE EMPLOYEE'S** employer or any co-employee acting within the scope of **his THE EMPLOYEE'S** employment, or against the employer's workers' compensation insurance carrier or administrative service representative.

B. An employee, or **his THE EMPLOYEE'S** legal representative in event death results, who exercises any option to institute a proceeding in court against **his THE EMPLOYEE'S** employer waives any right to compensation.

23-1026. Periodic medical examination of employee; effect of refusal or obstruction of examination or treatment

A. An employee who may be entitled to compensation under this chapter shall submit **himself for** to medical examination from time to time at a place reasonably convenient for the employee, if and when requested by the commission, **his EMPLOYEE'S** employer or the insurance carrier. A place is reasonably convenient even if it is not where the employee resides if it is the place where the employee was injured and the employer or the insurance carrier pays in advance the employee's reasonable travel expenses, including the cost of transportation, food, lodging and loss of pay, if applicable.

B. The request for the medical examination shall fix a time and place having regard to the convenience of the employee, **his EMPLOYEE'S** physical condition and **his EMPLOYEE'S** ability to attend. The employee may have a physician present at the examination if procured and paid for by the employee.

C. If the employee refuses to submit to the medical examination or obstructs the examination, **his EMPLOYEE'S** right to compensation shall be suspended until the examination has been made, and no compensation shall be payable during or for such period.

E. On appropriate application and hearing, the commission may reduce or suspend the compensation of an employee who persists in unsanitary or injurious practices tending to imperil or retard **his**

EMPLOYEE'S recovery, or who refuses to submit to medical or surgical treatment reasonably necessary to promote his EMPLOYEE'S recovery.

23-1027. Compensation precluded by neglect or refusal of employee to submit to treatment

No compensation shall be payable for the death or disability of an employee if his THE EMPLOYEE'S death is caused by, or insofar as his THE EMPLOYEE'S disability may be aggravated, caused or continued by an unreasonable refusal or neglect to submit to or follow any competent or reasonable surgical treatment or medical aid.

23-1028. False statements or representations to obtain compensation; forfeiture; violation; classification; sworn statement; definition

A. If in order to obtain any compensation, benefit or payment under this chapter, either for himself PERSONALLY or for another, any person knowingly makes a false statement or representation, the person is guilty of a class 6 felony, and, if the person is a claimant for compensation, the claimant shall also forfeit all right to any future temporary or permanent disability compensation for the claim on which the false statement or representation was made after conviction of the offense. Forfeiture pursuant to this section does not terminate on any subsequent designation of the offense as a misdemeanor.

23-1029. Repeal of chapter; effect on rights of parties

If the provisions of this chapter relative to compensation for injuries to or death of workmen WORKERS are repealed, and the injury or death has not previously been compensated by lump payment or completed monthly payments, the period intervening between the injury or death and the repeal shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death. The action shall be commenced within one year after the repeal and any amount paid as compensation shall be deducted from the right of recovery.

23-1042. Basis for computing average monthly wage of minor permanently incapacitated

If it is established by competent evidence that an injured employee is under eighteen years of age and his THE EMPLOYEE'S incapacity is permanent, his THE EMPLOYEE'S average monthly earning capacity shall be deemed, within the limits fixed by 23-1041 and 23-1046, to be the monthly amount which under ordinary circumstances he THE EMPLOYEE would probably be able to earn at the age of eighteen years in the occupation in which he THE EMPLOYEE was employed at the time of injury, or in any occupation to which he THE EMPLOYEE would reasonably have been promoted if he THE EMPLOYEE had not been injured. If the probable earnings at the age of eighteen years cannot be reasonably determined, his THE EMPLOYEE'S average earnings shall be based upon four dollars per day for a six-day week.

23-1043.02. Human immunodeficiency virus; establishing exposure; definition

B. Notwithstanding any other law, an employee who satisfies the following conditions presents a prima facie claim for a condition, infection, disease or disability involving or related to the human immunodeficiency virus or acquired immune deficiency syndrome if the medical evidence shows to a reasonable degree of medical probability that the employee sustained a significant exposure within the meaning of this section:

2. Within ten calendar days after a possible significant exposure which arises out of and in the course of **his THE EMPLOYEE'S** employment, the employee reports in writing to the employer the details of the exposure. The employer shall notify its insurance carrier or claims processor of the report. Failure of the employer to notify the insurance carrier is not a defense to a claim by the employee.

23-1043.03. Hepatitis C; establishing exposure; definition

B. Notwithstanding any other law, an employee who satisfies the following conditions presents a prima facie claim for a condition, infection, disease or disability involving or related to hepatitis C if the medical evidence shows to a reasonable degree of medical probability that the employee sustained a significant exposure within the meaning of this section:

2. Within ten calendar days after a possible significant exposure that arises out of and in the course of **his THE EMPLOYEE'S** employment, the employee reports in writing to the employer the details of the exposure. The employer shall notify its insurance carrier or claims processor of the report. Failure of the employer to notify the insurance carrier is not a defense to a claim by the employee.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

23-1046. Death benefits

A. In case of an injury causing death, the compensation therefor shall be known as a death benefit and shall be payable in the amount, for the period, and to and for the benefit of the following:

3. To a single surviving child, in the case of the subsequent death or remarriage of a surviving ~~husband-or-wife~~ **SPOUSE**, or if there is no surviving ~~husband-or-wife~~ **SPOUSE**, sixty-six and two-thirds per cent of the average monthly wage of the deceased, or if there is more than one surviving child, sixty-six and two-thirds per cent to be divided equally among the surviving children. Compensation to any such child shall cease upon death, upon marriage or upon reaching the age of eighteen years, except, if over eighteen years and incapable of self-support, when ~~he~~ **THE CHILD** becomes capable of self-support, or if over eighteen years of age and enrolled as a full-time student in any accredited educational institution, when the child reaches age twenty-two.

4. To a parent, if there is no surviving ~~husband,-wife~~ **SPOUSE** or child under the age of eighteen years, if wholly dependent for support upon the deceased employee at the time of **his THE EMPLOYEE'S** death, twenty-five per cent of the average monthly wage of the deceased during dependency, with an added allowance of fifteen per cent if two dependent parents survive, and, if neither parent is wholly dependent, but one or both partly dependent, fifteen per cent divided between them share and share alike.

B. If the deceased employee leaves dependents only partially dependent upon **his THE EMPLOYEE'S** earnings for support at the time of the injury, the monthly compensation shall be equal to such proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the employee to such partial dependents bears to the average wage of the deceased at the time of the injury resulting in **his THE EMPLOYEE'S** death. The duration of compensation to partial dependents shall be fixed by the commission in accordance with the facts shown, and in accordance with the provisions of 23-1047, but shall in no case exceed compensation for one hundred months.

Revisions are necessary due to exclusionary use of male pronouns.

23-1061. Notice of accident; form of notice; claim for compensation; reopening; payment of compensation

E. Within ten days after receiving notice of an accident, the employer shall inform **his EMPLOYER'S** insurance carrier and the commission on such forms as may be prescribed by the commission.

F. Each insurance carrier and self-insuring employer shall report to the commission a notice of the first payment of compensation and shall promptly report to the commission and to the employee by mail at **his EMPLOYEE'S** last known address any denial of a claim, any change in the amount of compensation and the termination thereof, except that claims for medical, surgical and hospital benefits which are not denied shall be reported to the commission in the form and manner determined by the commission. In all cases where compensation is payable, the carrier or self-insuring employer shall promptly determine the average monthly wage pursuant to 23-1041. Within thirty days of the payment of the first installment of compensation, the carrier or self-insuring employer shall notify the employee and commission of the average monthly wage of the claimant as calculated, and the basis for such determination. The commission shall then make its own independent determination of the average monthly wage pursuant to 23-1041. The commission shall within thirty days after receipt of such notice notify the employee, employer and carrier of such determination. The amount determined by the commission shall be payable retroactive to the first date of entitlement. The first payment of compensation shall be accompanied by a notice on a form prescribed by the commission stating the manner in which the amount of compensation was determined.

23-1061.01. Treatment by prayer or spiritual means

Nothing in this chapter shall be construed to prevent a **workman WORKER**, whose injury or disability has been established to the satisfaction of the commission, from relying in good faith on treatment by prayer through spiritual means in accordance with the tenets and practice of a recognized church or religious denomination by a duly accredited practitioner thereof without suffering reduction or suspension of **his THE WORKER'S** compensation benefits under this chapter, provided that nothing in this chapter shall be construed to prevent a **workman WORKER** who desires it from being furnished with such treatment by prayer through spiritual means if the commission does not object thereto.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

23-1064. Presumptions of dependency; determination

A. The following persons are conclusively presumed to be totally dependent for support upon a deceased employee: **A SPOUSE WHOM THE DECEASED EMPLOYEE HAD NOT VOLUNTARILY ABANDONED AT THE TIME OF THE INJURY.**

~~1. A wife upon a husband whom she has not voluntarily abandoned at the time of the injury.~~

~~2. A husband upon a wife whom he has not voluntarily abandoned at the time of the injury.~~

Revisions are necessary due to exclusionary use of male pronouns.

23-1065 Special fund; purposes; investment committee

B. In claims involving an employee who has a preexisting industrially-related permanent physical impairment of the type specified in 23-1044, subsection B and who thereafter suffers an additional permanent physical impairment of the type specified in such subsection, the claim involving the subsequent impairment is eligible for reimbursement, as provided by subsection D of this section, according to the following:

1. The employer in whose employ the subsequent impairment occurred or its insurance carrier is solely responsible for all temporary disability compensation to which the employee is entitled and for an amount equal to the permanent disability compensation provided by 23-1044, subsection B for the subsequent impairment. If the employee is determined to have sustained no loss of earning capacity after the medically stationary date, the employer or carrier shall pay ~~him~~ **THE EMPLOYEE** as a vocational rehabilitation bonus the amount calculated under this paragraph as a lump sum, which shall be a credit against any permanent compensation benefits awarded in any subsequent proceeding. The amount of the vocational rehabilitation bonus for which the employer or carrier is responsible under this paragraph shall be calculated solely on physical, medically rated permanent impairment and not on occupational or other factors.

K. There is established an investment committee consisting of the director and the ~~chairman~~ **CHAIR** of the commission and three persons knowledgeable in investments and economics appointed by the governor. Of the members appointed by the governor, one shall be a professional in the investment business, one shall represent workers' compensation insurers and one shall represent self-insurers. The term of members appointed by the governor is three years, which shall begin on July 1 and end on June 30 three years later. The committee shall prescribe by rule investment policies and supervise the investment activities of the special fund.

23-1066. Minor or incompetent claimant; appointment of guardian ad litem; procedure

A. When it appears to the commission that a claimant for compensation or death benefits is a minor or incompetent person, the commission may, upon motion of any party to the proceedings or upon its own motion, appoint a trustee or guardian ad litem to appear for and represent the minor or incompetent person, upon such terms and conditions as it deems proper under this chapter or under the rules of the commission made pursuant thereto. If required by the commission, the trustee or guardian shall give bond in the form and character required by law from a guardian appointed by a superior court, and in such amount as the commission determines. The bond shall be approved by the commission, and the trustee or guardian shall not be discharged from liability until ~~he~~ **SUCH TRUSTEE OR GUARDIAN** files an account with the commission or with the superior court in the county in which the minor or incompetent person resides, and until the account, after due notice, is approved.

B. The trustee or guardian shall receive such compensation for ~~his~~ services as is fixed and allowed by the commission or by a superior court.

23-1070. Medical, surgical and hospital benefits provided by employer: pilot program

A. An employer, other than this state or a political subdivision of this state, who secures compensation to **his ITS** employees in the manner provided in 23-961, subsection A, paragraph 1 or 2, alone or jointly with other employers, in lieu of making premium payments for medical, surgical and hospital benefits, may provide such benefits to injured employees and may collect one-half of the cost thereof from **his ITS** employees, not to exceed one dollar per month from any employee, which may be deducted from the wages of the employee.

B. An employer electing to provide such benefits shall notify **his ITS** insurance carrier and the commission of the election and render a detailed statement of the arrangements made therefor to the commission.

C. An employer who maintains a hospital for **his ITS** employees or who contracts with a physician for the hospital care of injured employees, on or before January 30 each year, shall make a verified written report to the commission for the preceding year showing the total amount of hospital fees collected and showing separately the amount contributed by the employees and the amount contributed by the employers. The report shall also contain an itemized account of the expenditures, investments or other disposition of the fees, and a statement showing the balance remaining.

D. An employer who fails to notify **his ITS** insurance carrier and the commission of **his ITS** election to provide such benefits, or who maintains a hospital or contracts for hospital service as provided in subsection C of this section, and fails to make the financial report required therein, is liable for such benefits as provided in 23-1062.

23-1304. Prohibition of threatened or actual interference with a person, **his THE PERSON'S family or property to compel **him THE PERSON** to join labor organization, strike or leave employment**

It is unlawful for an employee, labor organization, or officer, agent or member thereof, by any threatened or actual interference with the person, **his THE PERSON'S** immediate family or **his THE PERSON'S** property, to compel or attempt to compel such person to join a labor organization, to strike against **his THE PERSON'S** will or to leave **his THE PERSON'S** employment.

23-1305. Prohibition of conspiracy to induce persons to refuse to work with persons not members of labor organization

A combination or conspiracy by two or more persons to cause the discharge of any person or to cause **him SUCH PERSON** to be denied employment because **he SUCH PERSON** is not a member of a labor organization by inducing or attempting to induce any other person to refuse to work with such person, is illegal.

23-1321. Definitions

4. "Secondary boycott" means:

(a) A combination or conspiracy by two or more persons, by a strike, threat to strike, picketing, threat to picket, violence, threat of violence, or by concerted refusal or threat of concerted refusal, to process,

install, service, handle, transport or otherwise deal with specified articles, materials or services, to force or require a person to cease or partially to cease processing, installing, servicing, selling, handling or transporting the products of or selling to or otherwise dealing with any other person for the purpose of forcing or requiring such other person to recognize, bargain with or comply with the demands of a labor organization, or for the reason that such other person has in **his SUCH PERSON'S** employ persons who are not members of a labor organization or is not **himself THEMSELVES** a member of a labor organization, or for the reason that such other person uses goods, materials or services considered objectionable by a labor organization.

(b) An act, combination or agreement which directly or indirectly causes, induces or compels another to strike, threaten to strike, picket, threaten to picket, commit violence, threaten to commit violence, refuse to or threaten to refuse to process, install, service, handle, transport or otherwise deal with specified articles, materials or services, to force or require a person to cease or partially to cease processing, installing, servicing, selling, handling or transporting the products of, or selling to or otherwise dealing with any other person for the purpose of forcing or requiring such other person to recognize, bargain with or comply with the demands of a labor organization, or for the reason that such other person has in **his SUCH PERSON'S** employ persons who are not members of a labor organization, or is not **himself THEMSELVES** a member of a labor organization, or for the reason that such other person uses goods, materials or services considered objectionable by a labor organization.

23-1324. Violations; classification

C. Any fine levied pursuant to this section shall be recovered by the attorney general or under **his THE ATTORNEY GENERAL'S** direction in the name of the state.

23-1341. Invalidity of employment agreement not to join, become or remain member of labor or employers' organization

Every undertaking or promise made, whether written or oral, express or implied, is contrary to public policy and void and shall not afford any reason for granting legal or equitable relief, when constituted or contained in a contract or agreement of hiring or employment between an employer and an employee or prospective employee, whereby:

2. Either party to the contract or agreement undertakes or promises that **he SUCH PARTY** will withdraw from the employment relation in the event **he SUCH PARTY** joins, becomes or remains a member of a labor organization or of an organization of employers.

23-1361. Blacklist; definition; exceptions; privileged communications; immunity

A. "Blacklist" means any understanding or agreement whereby the names of any person or persons, list of names, descriptions or other means of identification shall be spoken, written, printed or implied for the purpose of being communicated or transmitted between two or more employers of labor, or their bosses, **foremen FOREPERSONS**, superintendents, managers, officers or other agents, whereby the laborer is prevented or prohibited from engaging in a useful occupation. Any understanding or agreement between employers, or their bosses, **foremen FOREPERSONS**, superintendents, managers, officers or other agents, whether written or verbal, comes within the meaning of this section and it makes no difference whether the employers, or their bosses, **foremen FOREPERSONS**, superintendents, managers, officers or other agents, act individually or for some company, corporation, syndicate,

partnership or society and it makes no difference whether they are employed or acting as agents for the same or different companies, corporations, syndicates, partnerships or societies.

23-1362. Blacklisting; classification

A. A person commits blacklisting if **he** **SUCH PERSON** knowingly exchanges, solicits or gives out any labor blacklist.

23-1382. Definitions

In this article, unless the context otherwise requires:

1. “Agricultural employee, permanent” means any employee who is over sixteen years of age, who has been employed by a particular agricultural employer for at least six months during the preceding calendar year and who is engaged in the growing or harvesting of agricultural crops or the packing of agricultural crops if packing is accomplished in the field. “Agricultural employee, temporary” means any employee who is over sixteen years of age, who is employed by a particular agricultural employer, who has been so employed during the preceding calendar year and who is engaged in the growing or harvesting of agricultural crops or the packing of agricultural crops if packing is accomplished in the field. If otherwise qualified, a person shall be considered an agricultural employee if an agricultural employer pays the wages of the employee for work performed for the employer’s benefit or on **his** **THE EMPLOYER’S** behalf, even though the supervision of the employee, the bookkeeping and the issuance of payroll checks are by a person other than the employer. In calculating a workday of an agricultural employee, one hour or more of employment in any one day shall be considered a workday. “Agricultural employee” also includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment. “Agricultural employee” does not include any individual who:

(a) Is employed by **his** **EMPLOYEE’S** parent or spouse or by an immediate relative.

6. “Labor dispute” means any controversy between an agricultural employer and **his** **ITS** agricultural employees or their representative concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment.

23-1384. Rights of employer

An agricultural employer has the following management rights:

1. To manage, control and conduct **his** **ITS** operations, including but not limited to the number of farms and their locations, methods of carrying on any operation or practices, kinds of crops, time of work, size and makeup of crews, assignment of work and places of work.

2. To hire, suspend, discharge or transfer employees in accordance with **his** **ITS** judgment of their ability.

4. To work on **his** **ITS** own farm in any capacity at any time.

23-1385. Unfair labor practices; definition

A. It is an unfair labor practice for an agricultural employer:

2. To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it. An agricultural employer shall not be prohibited from permitting employees to confer with **him SUCH EMPLOYER** during working hours without loss of time or pay.

4. To discharge or otherwise discriminate against an agricultural employee because **he THE EMPLOYEE** has filed charges or given testimony under this article.

5. To refuse to bargain collectively with the representatives of **his ITS** employees, subject to 23-1389. Nothing in this article shall be construed as requiring an agricultural employer to bargain collectively until a representative of **his ITS** agricultural employees has been determined by means of a valid secret ballot election.

6. To discharge or otherwise discriminate against any person because **he THE PERSON** has filed charges or given testimony before the board or a court.

B. It is an unfair labor practice for a labor organization or its agents to:

1. Impose any economic sanction, to restrain or coerce agricultural employees in the exercise of their rights or to coerce or intimidate any employee in the enjoyment of **his THE EMPLOYEE'S** legal rights provided by this article, or to intimidate **his THE EMPLOYEE'S** family, picket **his THE EMPLOYEE'S** domicile or injure the person or property of any employee or **his THE EMPLOYEE'S** family. This paragraph does not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership.

3. Restrain, coerce, or threaten or impose any fine or other economic sanction against any person who invokes the processes of the board, or the court, or against an agricultural employer or employee in the selection of **his THE EMPLOYEE'S** representatives for the purposes of collective bargaining or the adjustment of grievances.

4. Refuse to bargain collectively with an agricultural employer, provided it is the majority representative of **his THE EMPLOYER'S** agricultural employees as determined pursuant to 23-1389.

9. Restrain, coerce or threaten an ultimate consumer to prevent **his THE CONSUMER** from purchasing, consuming or using such agricultural product.

12. Picket or cause to be picketed, boycott or cause to be boycotted, or threaten to boycott or picket, or cause to be boycotted or picketed, any agricultural employer if the objective is to induce, encourage, force or require an agricultural employer to recognize or bargain with a labor organization as the representative of **his THE EMPLOYER'S** agricultural employees, or the agricultural employees of an agricultural employer to accept or select such labor organization as their collective bargaining representative unless such labor organization is currently certified as the representative of such employees:

F. The duties imposed on agricultural employers, agricultural employees and labor organizations become inapplicable on an intervening certification of the board, under which the labor organization

or individual that is a party to the contract has been superseded as or ceased to be the representative of the employees subject to 23-1389, and the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any agricultural employee who engages in a strike within the sixty day period specified in this subsection loses ~~his~~ **THE EMPLOYEE'S** status as an agricultural employee of the agricultural employer engaged in the particular labor dispute for the purposes of this section and 23-1389 and 23-1390, but such loss of status for such employee terminates when ~~he~~ **SUCH EMPLOYEE** is reemployed by such employer.

23-1386. Agricultural employment relations board; members; terms; appointment

B. The governor shall appoint the members of the board. Two of the members shall be appointed as representatives of agriculture employers, two of the members appointed shall be representatives of organized agricultural labor and the three additional members, one of whom shall be the ~~chairman~~ **CHAIR** of the board, shall be appointed as representatives of the general public. The term of office of the members is five years. On the initial appointment, one of the labor representatives shall be appointed for a term of one year, one of the representatives of the general public shall be appointed for a term of one year, one of the agricultural representatives shall be appointed for a term of two years, one of the representatives of the general public shall be appointed for a term of two years, one of the agricultural representatives shall be appointed for a term of three years, one of the labor representatives shall be appointed for a term of four years, and one of the public members of the board shall be appointed for a term of five years. Any individual appointed to fill a vacancy of any member shall be appointed only for the unexpired portion of the term of the member ~~he~~ **THE INDIVIDUAL** is succeeding. Members of the board may be removed from office by the governor on notice and a hearing for neglect of duty or malfeasance in office but for no other cause.

C. The governor shall appoint two alternate members. One of the alternates shall be appointed as a representative of organized agricultural labor and the other as a representative of agriculture. Alternates shall be appointed for terms of five years. Any individual appointed to fill a vacancy of any alternate shall be appointed only for the unexpired portion of the term of the alternate ~~he~~ **THE INDIVIDUAL** is succeeding. Alternates may be removed from office by the governor on notice and a hearing for neglect of duty or malfeasance in office, but for no other cause. No alternate may participate in deliberations of the board except in the absence of a board member representing ~~his~~ **THE ALTERNATE'S** area of interest.

H. Meetings of the board may be called by the ~~chairman~~ **CHAIR** or by a majority of the members of the board by giving written notice to the ~~chairman~~ **CHAIR** who shall notify all of the members of the board as to the time and place of the board meeting.

23-1388. Officers and employees of the board

C. No administrative law judge's report may be reviewed, either before or after its publication, by any person other than a member of the board or ~~his~~ **THE ADMINISTRATIVE LAW JUDGE'S** legal assistant, and no administrative law judge may advise or consult with the board with respect to exceptions taken to ~~his~~ **THE ADMINISTRATIVE LAW JUDGE'S** findings, rulings or recommendations.

23-1389. Representatives and elections

C. The board shall investigate any petition and, if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing on due notice, if such petition has been filed in good faith in accordance with the rules that may be prescribed by the board:

2. By an agricultural employer, alleging that one or more individuals or labor organizations have presented to ~~him~~ **IT** a claim to be recognized as the representative or that an individual or labor organization that has previously been certified as the bargaining representative is no longer a representative.

23-1391. Investigatory powers

A. The board, or its duly authorized agent or agencies, shall have access to, at all reasonable times, for the purpose of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. The board or any member of the board on application of any party to such proceedings forthwith shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application. Within five days after the service of a subpoena on any person requiring the production of any evidence in ~~his~~ **SUCH PERSON'S** possession or ~~under his~~ control, such person may petition the board to revoke, and the board shall revoke, the subpoena if in its opinion the evidence whose production is required does not relate to any matter under investigation, or any matter in question in such proceedings, or if in its opinion such subpoena does not describe with sufficient particularity the evidence whose production is required. Any member of the board, or any agent or agency designated by the board for such purposes, may administer oaths and affirmations, examine witnesses and receive evidence. The attendance of witnesses and the production of the evidence may be required from any place in this state at any designated place of hearing.

23-1393. Court jurisdiction

A. Any person who is aggrieved or is injured in ~~his~~ **SUCH PERSON'S** business or property by reason of any violation of this article, or a violation of an injunction issued as provided in this section, may sue in the superior court in the county having jurisdiction of the parties for recovery of any damages resulting from the unlawful action, regardless of where such unlawful action occurred and regardless of where such damage occurred, including costs of the suit and reasonable attorney fees. On the filing of the suit the court also has jurisdiction to grant injunctive relief or a temporary restraining order as it deems just and proper. Petitions for injunctive relief or temporary restraining orders shall be heard expeditiously. Petitions for temporary restraining orders alleging a violation of 23-1385 shall be heard forthwith and if the petition alleges that substantial and irreparable injury to the petitioner is unavoidable such temporary restraining orders may be issued pursuant to rule 65 of the Arizona rules of civil procedure.

B. In the case of a strike or boycott, or threat of a strike or boycott, against an agricultural employer, the court may grant, and on proper application shall grant as provided in this section, a ten day restraining order enjoining such a strike or boycott, provided that if an agricultural employer invokes the court's jurisdiction to issue the ten day restraining order to enjoin a strike as provided by this subsection, the employer as a condition must agree to submit the dispute to binding arbitration as the means of settling the unresolved issues. If the parties cannot agree on an arbitrator within two days after the court awards a restraining order, the court shall appoint one to decide the unresolved issues. Any agricultural employer is entitled to injunctive relief accorded by rule 65 of the Arizona rules of civil procedure on

the filing of a verified petition showing that **his ITS** agricultural employees are unlawfully on strike or are unlawfully conducting a boycott, or are unlawfully threatening to strike or boycott, and that the resulting cessation of work or conduct of a boycott will result in the prevention of production or the loss, spoilage, deterioration or reduction in grade, quality or marketability of an agricultural commodity or commodities for human consumption in commercial quantities. For the purpose of this subsection, an agricultural commodity or commodities for human consumption with a market value of five thousand dollars or more constitutes commercial quantities.

D. The service of any summons, subpoena or other legal process of the superior court on an officer or agent of a labor organization, in **his THE OFFICER OR AGENT'S** capacity as such, constitutes service on the labor organization.

F. For the purposes of this article, in determining whether any person is acting as an agent of another person in order to make the other person responsible for **his THE PERSON'S** acts, the question of whether the specific acts performed were actually authorized or subsequently ratified is not controlling. Nothing in this section shall be deemed to preclude an agent being sued both in **his THE AGENT'S** capacity as an agent and as an individual.

TITLE 25 Marital and Domestic Relations

The following section requires revision in light of Obergefell v. Hodges, which ensures the legality of same sex marriage.

25-101. Void and prohibited marriages

A. Marriage between parents and children, including grandparents and grandchildren of every degree, between ~~brothers and sisters~~ SIBLINGS of the one-half as well as the whole blood, and between uncles and nieces, aunts and nephews and between first cousins, is prohibited and void.

B. Notwithstanding subsection A, first cousins may marry if both are sixty-five years of age or older or if one or both first cousins are under sixty-five years of age, upon approval of any superior court judge in the state if proof has been presented to the judge that one of the cousins is unable to reproduce.

~~C. Marriage between persons of the same sex is void and prohibited.~~



Revisions are necessary due to exclusionary use of male pronouns.

25-124. Persons authorized to perform marriage ceremony; definition

A. The following are authorized to solemnize marriages between persons who are authorized to marry:

1. Duly licensed or ordained clergy~~men~~.

B. For the purposes of this section, “licensed or ordained clergy~~men~~” includes ministers, elders or

other persons who by the customs, rules and regulations of a religious society or sect are authorized or permitted to solemnize marriages or to officiate at marriage ceremonies.

The following section requires revision in light of Obergefell v. Hodges, which ensures the legality of same sex marriage.

25-125. Marriage ceremony; official; witnesses; marriage license; covenant marriages

A. A valid marriage is contracted by ~~a male~~ TWO personS ~~and a female person~~ with a proper marriage license who participate in a ceremony conducted by and in the presence of a person who is authorized to solemnize marriages and at which at least two witnesses who are at least eighteen years of age participate.

Revisions are necessary due to exclusionary use of male pronouns.

25-128. Unlawful acts of person authorized to solemnize marriages; classification

A. It is unlawful for any person who is authorized to solemnize marriages to:

1. Knowingly participate in or by ~~his~~ THEIR presence sanction the marriage of a person under the age of eighteen years who obtained a marriage license without consent in writing of the parent or guardian lawfully entitled to give consent.

B. A violation of this section is a class 2 misdemeanor.

The following section requires revision in light of Obergefell v. Hodges, which ensures that persons in a same sex marriage have the same rights and obligations as those of the opposite sex.

25-211. Property acquired during marriage as community property; exceptions; effect of service of a petition

A. All property acquired by either ~~husband or wife~~ SPOUSE during the marriage is the community property of the ~~husband and wife~~ SPOUSES except for property that is:

25-218. Surrogate parentage contracts; prohibition; custody; definition

A. No person may enter into, induce, arrange, procure or otherwise assist in the formation of a surrogate parentage contract.

B. A surrogate is the legal mother of a child born as a result of a surrogate parentage contract and is entitled to custody of that child.

C. If the mother of a child born as a result of a surrogate contract is married, ~~her~~ THE MOTHER'S ~~husband~~ SPOUSE is presumed to be the legal ~~father~~ PARENT of the child. This presumption is rebuttable.

Revisions are necessary due to exclusionary use of male pronouns.

25-381.14. Hearing; time; place; notice; citation; witnesses

The judge of the conciliation court shall fix a reasonable time and place for hearing on the petition, said hearing to be held within thirty days of the date of the filing of the petition, unless the court for good cause orders such hearing to be held within forty-five days from the date of filing the petition. The court shall cause notice of the filing of the petition and of the time and place of the hearing as it deems necessary to be given to the respondents. The court may, when it deems it necessary, issue a citation to any respondent requiring **him** **RESPONDENT** to appear at the time and place stated in the citation, and may require the attendance of witnesses as in other civil suits.

25-381.16. Conduct of hearing; recommendations; aid of specialists; expense; confidential communications

D. Hearings or conferences conducted pursuant to this article for the purpose of effecting a reconciliation of the spouses or an amicable adjustment or settlement of issues shall be held in private, and the court shall exclude all persons except the officers of the court, the parties, their counsel and witnesses. Hearings or conferences may be held with each party and **his** counsel **FOR EACH PARTY** separately and, in the discretion of the judge, commissioner or counselor conducting the hearing or conference, counsel for one party may be excluded when the adverse party is present. All communications, verbal or written, from the parties to the judge, commissioner or counselor in a proceeding under this article shall be deemed confidential communications, and shall not be disclosed without the consent of the party making such communication.

The following section requires revision in light of Obergefell v. Hodges, which ensures that persons in a same sex marriage have the same rights and obligations as those of the opposite sex.

25-401. Definitions

In this chapter, unless the context otherwise requires:

4. “Legal parent” means a biological, **LEGALLY MARRIED**, or adoptive parent whose parental rights have not been terminated. Legal parent does not include a person whose paternity has not been established pursuant to section 25-812 or 25-814.

25-511. Failure of parent to provide for child; classification

B. It is an affirmative defense to a charge of a violation of subsection A of this section that the defendant has complied with a valid court order that was in effect for the time period charged and that set forth an amount of support for the minor child or was unable to furnish reasonable support. Inability to furnish reasonable support is not a defense if the defendant voluntarily remained idle, voluntarily decreased **his** income or voluntarily incurred other financial obligations.

The section needs to be revised because of Obergefell v. Hodges ensuring that persons in a same sex marriage have the same rights and obligations as those of the opposite sex. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption and Doherty v. Leon (AZ Ct of Appeals, 2020) that the marital presumption overrides the genetic-testing presumption based on the facts.

25-1271. Establishment of support order

B. The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

8. An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

9. A PARENT OF THE CHILD BECAUSE THE PERSON WAS MARRIED TO THE PARENT DURING THE TIME THE CHILD WAS BORN OR WITHIN TEN MONTHS THEREAFTER.

TITLE 26 Military Affairs and Emergency Management

All revisions are necessary due to exclusionary use of male pronouns.

26-125. Procedure to claim exemption from service; duty of county recorder; review by adjutant general

A. The county recorder shall take under oath the statement of any person claiming exemption from service under the provisions of section 26-121, and shall employ means **he deems** necessary to establish the exemption. The recorder shall, if satisfied the person is exempt, enter **his THE PERSON'S** name on the rolls and opposite the name make the notation "Exempt."

B. Determination of exemption by a county recorder or other enrolling officer is subject to review by the adjutant general, and **his THE ADJUTANT GENERAL'S** decision shall be final.

26-159. Powers of commanding officers; defense of officer to action based on act or omission

A. The commanding officer of troops under arms while in actual service may cause such troops to perform such military duties as **he** requires. **D. He THE COMMANDING OFFICER** may place under arrest an officer or enlisted person who disobeys orders of superior officers, and any person trespassing on parade or camp grounds or interrupting or molesting the orderly discharge of duty of troops under arms. The commanding officer shall use **his THEIR** own discretion with respect to attacking or firing upon a mob or unlawful assembly, and **his THEIR** honest and reasonable judgment in the exercise of **his THEIR** duty shall be a complete defense, both civilly and criminally, for any act done while on such duty.

26-161. Retirement; retention of commission after withdrawal of federal recognition

B. An officer of the national guard whose federal recognition terminates or is withdrawn because of age or physical disability shall retain **his THE** commission and rank for life. **He THE OFFICER** shall be an honorary member of the staff of the adjutant general and shall serve in an advisory capacity, but shall receive no compensation for such service.

26-162. Discharge of officer; grounds and procedure

A commissioned or warrant officer of the national guard may be discharged for any of the following reasons and in the manner prescribed:

1. By voluntary resignation whereby the officer submits to the adjutant general a letter of resignation setting forth **his THE** reasons for separation from the service. The resignation shall not be accepted if separation is not justified by appropriate regulations of the national guard, army or air force of the United States, or if the officer is under arrest or being investigated preparatory to preferring charges against **him THE OFFICER**, or until all property and money of the state or the United States charged to **him THE OFFICER** or in **his THE OFFICER'S** possession or care has been inventoried and an accounting made therefor.

3. By order of the governor upon a finding by a board of officers that the officer to be separated from the service is inefficient and incapable of discharging the duties of a national guard officer in any assignment commensurate with **his THE OFFICER'S** rank and experience, and upon the written request of the immediate superior of the officer to be separated. The board of officers shall be appointed by the adjutant general, and shall consist of officers of equal or senior rank to the officer to be separated.

5. By failure to pass a final type physical examination prescribed for officers of **his THAT** grade and branch.

26-171. National guard training; inspection by department of defense; camp or field duty ordered by governor

A. Each unit of the national guard shall conduct training in accordance with instructions of the adjutant general and shall comply with the approved training schedules and programs prepared by the department of defense of the United States. Each unit or detachment shall assemble for drill and instruction, and shall participate in encampments, maneuvers or other exercises at times and places and under rules and regulations prescribed therefor. In addition thereto the commanding officer of any organization may require the officers and enlisted personnel of **his THAT** command to meet for ceremonies, parade, drill or instruction at times and places **he THE COMMANDING OFFICER** designates.

26-175. Active duty tours for volunteers during peace time

A. The adjutant general may, when **he THE ADJUTANT GENERAL** deems it necessary to the accomplishment of a mission of the national guard, call to active duty in peace time to perform special and designated services any officer or enlisted personnel of the national guard who volunteers for such service.

26-178. Illegal possession of equipment; classification

A. A person having in **his THAT PERSON'S** possession a uniform, arms, equipment, supplies or other military property of the state or United States, who secretes, disposes of, offers for sale or in any manner pledges, retains or refuses to deliver to an officer entitled to demand possession of the property, or who, being a member of the national guard, wears, when not on duty, such uniform or equipment without permission of **his THE PERSON'S** commanding officer, is, if the property is of a value more than fifty dollars, guilty of a class 5 felony, and if the value is less than fifty dollars, guilty of a class 2 misdemeanor.

26-179. Tuition and fees reimbursement; eligibility

A. Any qualified national **guardsman GUARD MEMBER** who has completed a semester as a full-time or part-time graduate or undergraduate student at a public or private postsecondary educational institution for which credit toward a degree or diploma is granted or a certificated vocational technical school in this state may apply for a tuition and fees reimbursement. The adjutant general shall annually adopt procedures to allocate the appropriated monies in a manner consistent with the personnel needs of the Arizona national guard, except that no right to reimbursement exists beyond the amounts appropriated by the legislature.

B. To be eligible for tuition and fees reimbursement, a national **guardsman GUARD MEMBER** shall:

1. Be a bona fide member of an Arizona army national guard unit or Arizona air national guard unit throughout each semester for which **he** **THE GUARD MEMBER** applies for such reimbursement.

26-180. Application for reimbursement; times

B. Within fifteen days after registration for each semester, the **guardsman** **GUARD MEMBER** shall submit an application for reimbursement, a certificate of enrollment, a notarized statement that the certificate of enrollment and copies of receipts for tuition and fees for such semester are the applicant's.

C. Within twenty-five days after completion of the semester, the **guardsman** **GUARD MEMBER** shall submit **his** official grade reports.

26-181. Evaluation of application; payment

B. Such reimbursement is subject to legislative appropriation and shall not exceed:

2. The amount expended by the national **guardsman** **GUARD MEMBER** for in-state tuition and fees.

D. The adjutant general shall report the following information as provided by section 26-102, subsection C, paragraph 10:

1. The total number of national **guardsmen** **GUARD MEMBERS** that received reimbursement payments pursuant to this section during the preceding fiscal year.

2. The number of newly recruited national **guardsmen** **GUARD MEMBERS** that received reimbursement payments pursuant to this section during the preceding fiscal year.

26-206. Charges against members of militia; service of charges and specifications; abatement of action

B. A copy of the charges and specifications shall be delivered to the accused not later than twenty days after arrest, or, if not held in custody for trial, to **his** **THE** last known post office address or place of business, and a military court shall be ordered convened not later than thirty days after receipt of the order by the officer authorized to convene the court.

26-207. Attendance of accused at trial; order to compel attendance; service; trial in absence of accused; apprehension and imprisonment of accused; limitation

A. If an accused member of the militia fails to appear for trial at the time and place appointed, the president of the military court may issue an order to compel **his** **THE ACCUSED MEMBER'S** attendance.

C. Upon presentation of evidence to the military court, noted in or attached to the proceedings, that the accused has been notified of the time and place of trial, the military court may enter a plea of not guilty for the accused and proceed with the trial in **his** **THE ACCUSED MEMBER'S** absence.

D. If any peace officer of this state is notified by the adjutant general that a member of the national guard or state guard has apparently committed an offense against this chapter, or against the uniform

code of military justice of the United States, the peace officer shall seize the accused and cause **him** **THE ACCUSED MEMBER** to be imprisoned and held until further ordered by the adjutant general, but no person so arrested shall be held for a period longer than three days unless formal charges are filed against **him** **THE ACCUSED MEMBER** in a military or civil court.

26-209. Commitment of accused for failure to pay fine; warrant; length of confinement; judgment by justice of the peace based on findings of court-martial; execution; classification

A. If an accused fails or refuses to pay the fine imposed by a military court within the time and manner specified in section 26-208, the president of the military court shall, within ten days after expiration of the time within which the accused may appeal, or, if an appeal is taken, within ten days after final determination thereof, issue a warrant of commitment in the name of the state directed to the sheriff, and commanding **him** **THE SHERIFF** to arrest the accused and take **him** **THE ACCUSED** to the jail of the city, town or county in which **he** **THE ACCUSED** is found. Confinement for refusal to pay a fine shall be one day for each ten dollars or fraction of the fine, penalty and costs. The accused may, by order of the officer ordering the court, be released at any time.

26-311. Local emergency; power of political subdivisions; state agency assistance

A. In addition to the powers granted by other provisions of the law or charter, whenever the mayor of an incorporated city or town or the **chairman** **CHAIR** of the board of supervisors for the unincorporated portion of the county, shall deem that an emergency exists due to fire, conflagration, flood, earthquake, explosion, war, bombing, acts of the enemy or any other natural or man-made calamity or disaster or by reason of threats or occurrences of riots, routs, affrays or other acts of civil disobedience which endanger life or property within the city, or the unincorporated areas of the county, or portion thereof, the mayor or **chairman** **CHAIR** of the board of supervisors, if authorized by ordinance or resolution, may by proclamation declare an emergency or a local emergency to exist.

B. If an emergency is declared pursuant to subsection A, the mayor or the **chairman** **CHAIR** of the board of supervisors shall, during such emergency, govern by proclamation and shall have the authority to impose all necessary regulations to preserve the peace and order of the city, town, or unincorporated areas of the county, including but not limited to:

26-1004. Dismissed officer's right to trial by court-martial

A. If any commissioned officer, dismissed by order of the governor, makes a written application for trial by court-martial setting forth, under oath, that **he** **THE OFFICER** has been wrongfully dismissed, the governor, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which **he** **THE OFFICER** was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and **he** **THE OFFICER** shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which **he** **THE OFFICER** is charged. As part of its sentence, the court-martial may adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

D. If an officer is discharged from the national guard by administrative action or is dropped from the rolls by order of the governor, **he THE OFFICER** has no right to trial under this section.

26-1006. State judge advocate; staff judge advocates

C. The state judge advocate or **his** assistants shall make frequent inspections in the field in supervision of the administration of military justice.

26-1008. Apprehension of deserters

Any officer having authority to apprehend offenders under the laws of this state, the United States or a state, territory, commonwealth or possession or the district of Columbia may summarily apprehend a deserter from the national guard and deliver **him THE PERSON** into the custody of the national guard. If an offender is apprehended outside this state, **his THE PERSON'S** return shall be in accordance with normal extradition procedures or reciprocal agreement.



26-1009. Authority to order arrest

A. An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this chapter. A commanding officer may authorize warrant officers, or noncommissioned officers, to order enlisted members of **his THE OFFICER'S** command or subject to **his THE OFFICER'S** authority into arrest or confinement.

B. A commissioned officer or a warrant officer may be ordered into arrest or confinement only by a commanding officer to whose authority **he THE OFFICER** is subject by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons into arrest or confinement may not be delegated.

26-1010. Restraint of persons charged with offenses

Any person subject to this chapter charged with an offense under this chapter shall be ordered into arrest or confinement. A person charged only with an offense normally tried by a summary court-martial shall not be placed in confinement. If any person subject to this code is placed in arrest or confinement before trial, immediate steps shall be taken to inform **him THE PERSON** of the specific wrong of which **he THE PERSON** is accused and to try **him THE PERSON** or to dismiss the charges and release **him THE PERSON**.

26-1011. Receiving of prisoners at civilian correction facility; statement

A provost marshal, commander of a guard, master-at-arms, warden, keeper or officer of a city or county jail or any other jail, penitentiary or prison shall not refuse to receive or keep any prisoner committed to **his THAT PERSON'S** charge by a commissioned officer of the national guard, if the committing officer furnishes a statement, signed by **him THE COMMITTING OFFICER**, of the offense alleged against the prisoner. The statement shall be on a form prescribed by rule.

26-1013. Punishment before trial; prohibition

A person, while being held for trial, shall not be subjected to punishment or penalty other than arrest or confinement on the charges pending against **him THE PERSON** nor shall the arrest or confinement imposed on **him THE PERSON** be any more rigorous than the circumstances required to ensure **his THE PERSON'S** presence, but **he THE PERSON** may be subjected to minor punishment during that period for infractions of discipline and may be required to perform such labor as may be necessary for the policing and sanitation of **his THE PERSON'S** living quarters and mess facilities and the immediately adjacent area.

26-1014. Delivery of offenders to civil authorities

B. When delivery is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender, after having answered to the civil authorities for **his THE** offense, shall be returned, on request of competent military authority, to military custody for the completion of the sentence.

26-1024. Convening of summary courts-martial

B. If only one commissioned officer is present with a command or detachment **he THE OFFICER** shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought **before him**. Summary courts-martial may be convened in any case by superior competent authority if considered desirable by **him THE OFFICER**.

26-1030. Charges and specifications

A. Charges and specifications shall be signed by a person subject to this chapter under oath before a commissioned officer of the national guard authorized to administer oaths and shall state that the signer has personal knowledge of, or has investigated, the matters set forth and that they are true in fact to the best of **his THE PERSON'S** knowledge and belief.

B. After the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made in the interest of justice and discipline and the accused person shall be informed of the charges **against him** as soon as practicable.

26-1031. Compulsory self-incrimination; prohibition

A. A person subject to this chapter shall not compel any person to incriminate **himself THEMSELVES** or to answer any question if the answer would tend to incriminate **him THE PERSON**.

B. A person subject to this code shall not interrogate, or request any statement from an accused or a person suspected of an offense, without first informing **him THE ACCUSED** of the nature of the accusation and advising **him THE ACCUSED** that **he THEY** does not have to make any statement regarding the offense of which **he is THEY ARE** accused or suspected and that any statement made by **him THE ACCUSED** may be used as evidence against **him THE ACCUSED** in a trial by court-martial.

C. A person subject to this chapter shall not compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade **him THE PERSON**.

D. A statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence or unlawful inducement, shall not be received in evidence against **him THAT PERSON** in a trial by court-martial.

26-1033. Forwarding of charges

If a person is held for trial by general court-martial the commanding officer, within eight days after the accused is ordered into arrest or confinement, if practicable, shall forward the charges, together with the investigation and allied papers, to the officer exercising general court-martial jurisdiction. If that is not practicable, **he THE COMMANDING OFFICER** shall report in writing to that officer the reasons for delay.

26-1034. Advice of staff judge advocate; reference for trial

A. Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the staff judge advocate for consideration and advice. The convening authority shall not refer a specification under a charge to a general court-martial for trial unless **he THE CONVENING AUTHORITY** has been advised of all of the following in writing by the staff judge advocate:

B. The advice of the staff judge advocate under subsection A of this section with respect to a specification under a charge shall include a written and signed statement by the staff judge advocate

expressing **his** conclusions with respect to each matter set forth in subsection A of this section and recommending action that the convening authority take regarding the specification. If the specification is referred for trial, the recommendation of the staff judge advocate shall accompany the specification.

26-1035. Service of charges

The trial counsel to whom court-martial charges are referred for trial shall serve on the accused a copy of the charges on which trial is to be had. In time of peace, a person, against **his** objection, shall not be brought to trial or be required to participate **by himself ALONE** or **BY** counsel in a session called by the military judge under section 26-1039, subsection A, in a general court-martial case within a period of five days after the service of charges **on him** or in a special court-martial within a period of three days after the service of the charges **on him**.

26-1037. Unlawfully influencing action of court

A. An authority convening a general, special or summary court-martial, or any other commanding officer, shall not censure, reprimand or admonish the court or any member, military judge or counsel, with respect to the findings or sentence adjudged by the court, or with respect to any other exercises of its or **his THE PERSON'S** functions in the conduct of the proceedings. A person subject to this chapter shall not attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member of a tribunal in reaching the findings or sentence in any case, or the action of any convening, approving or reviewing authority with respect to judicial acts. This subsection does not apply to general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial or to statements and instructions given in open court by the military judge, president of a special court-martial or counsel.

26-1038. Duties of trial counsel and defense counsel

B. The accused has the right to be represented in **his THE ACCUSED** defense before a general or special court-martial or at an investigation as provided in this section.

C. The accused may be represented by civilian counsel if provided by **him THE ACCUSED**.

D. The accused may be represented by military counsel detailed under section 26-1027 or by military counsel of **his own THE ACCUSED** selection if that counsel is reasonably available.

F. Except as provided by subsection G of this section, if the accused is represented by military counsel of **his THAT PERSON'S** own selection, any military counsel detailed shall be excused.

G. The accused is not entitled to be represented by more than one military counsel. However, the person authorized under rules adopted under section 26-1027 to detail counsel in **his THAT PERSON'S** sole discretion:

2. If the accused is represented by military counsel of **his THAT PERSON'S** own selection, may approve a request from the accused that military counsel detailed act as associate defense counsel.

K. Under the direction of the defense counsel or if **he is** qualified to be the defense counsel, an assistant

defense counsel of a general or special court-martial may perform any duty imposed by law, rule or the custom of the service on counsel for the accused.

26-1043. Statute of limitations

B. Periods in which the accused was absent from territory in which the state has the authority to apprehend **him**, **THE ACCUSED** was in the custody of civil authorities or was in the hands of the enemy shall be excluded in computing the period of limitation prescribed in this section.

26-1044. Former jeopardy

A. No person, without **his** consent, may be tried a second time for the same offense.

26-1045. Pleas of the accused

A. If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that **he** **THE ACCUSED** has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if **he** **THE ACCUSED** fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though **he** **THE ACCUSED** had pleaded not guilty.

26-1051. Voting and rulings

C. Before a vote is taken on the findings, the military judge or the president of a court-martial without a military judge, in the presence of the accused and counsel, shall instruct the members of the court as to the elements of the offense and charge them:

1. That the accused must be presumed to be innocent until **his** guilt is established by legal and competent evidence beyond reasonable doubt.
2. That, in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and **he** **THE ACCUSED** must be acquitted.

26-1054. Record of trial

A. Each general court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of **his** **THE MILITARY JUDGE'S** death, disability or absence, it shall be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it by reason of **his** **THE COUNSEL'S** death, disability or absence. In a court-martial consisting of only a military judge the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this subsection.

26-1055. Sentences; reduction in enlisted grade on approval

B. If the sentence of a member who is reduced in pay grade under subsection A is set aside or disapproved, or as finally approved, does not include any punishment named in subsection A, the rights

and privileges of which **he THE MEMBER** was deprived because of the reduction shall be restored to **him THE MEMBER** and **he THE MEMBER** is entitled to the pay and allowances to which **he THE MEMBER** would have been entitled for the period the reduction was in effect had **he THE MEMBER** not been so reduced.

26-1057. Effective date of sentences

D. On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority, or if the accused is no longer under **his THE CONVENING AUTHORITY'S** jurisdiction, the adjutant general, may in **his THE ADJUTANT GENERAL'S** sole discretion defer service of the sentence to confinement. The deferment terminates when the sentence is ordered executed. The deferment may be rescinded at any time by the officer who granted it, or if the accused is no longer under **his THE OFFICER'S** jurisdiction, by the adjutant general.

26-1060. Action by the convening authority

C. Action on the findings of a court-martial by the convening authority or other person acting on the sentence is not required, but such person, in **his THAT PERSON'S** sole discretion, may dismiss any charge or specification by setting aside a finding of guilty or change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

D. Before acting under this section on any general court-martial case or any special court-martial case that includes a bad conduct discharge, the convening authority or other person taking action under this section shall obtain and consider the written recommendation of the staff judge advocate. The convening authority or other person taking action under this section shall refer the record of trial to **his THE** staff judge advocate, and the staff judge advocate shall use the record in the preparation of **his THE** recommendation. The recommendation of the staff judge advocate or legal officer shall include matters that the governor prescribes by rule and shall be served on the accused, who shall have ten days from the date of receipt in which to submit any matter in response. The convening authority or other person taking action under this section, for good cause, may extend that period for up to an additional twenty days. Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object.

E. The convening authority or other person taking action under this section, in **his** sole discretion, may order a proceeding in revision or a rehearing.

G. A rehearing may be ordered by the convening authority or other person taking action under this section if **he THE CONVENING AUTHORITY** disapproves the findings and sentence and states the reasons for disapproval of the findings. If such person disapproves the findings and sentence and does not order a rehearing, **he THE PERSON** shall dismiss the charges. A rehearing as to the findings may not be ordered if there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other person taking action under this subsection disapproves the sentence.

26-1063. Rehearings

Each rehearing under this chapter shall take place before a court-martial composed of members who are not members of the court-martial which first heard the case. On a rehearing the accused may not be tried for any offense of which **he THE ACCUSED** was found not guilty by the first court-martial, and a sentence in excess of or more severe than the original sentence shall not be imposed, unless the sentence is based on a finding of guilty of an offense not considered on the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory. If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes **his THE** plea with respect to the charges or specifications on which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.

26-1064. Review by judge advocate

A. Each case in which there has been a finding of guilty that is not reviewed under section 26-1067 shall be reviewed by a judge advocate under rules of the adjutant general. A judge advocate shall not review a case under this subsection if **he THE JUDGE ADVOCATE** has acted in the same case as an accuser, investigating officer, member of the court, military judge or counsel or has otherwise acted on behalf of the prosecution or defense. The judge advocate's review shall be in writing and shall contain the following:

D. If a rehearing is ordered but the convening authority finds a rehearing impracticable, **he THE CONVENING AUTHORITY** shall dismiss the charges.

26-1070. Appellate counsel; civilian counsel

B. The accused may be represented by civilian counsel at **his THE ACCUSED'S** own expense. If the defense or trial counsel is unable to perform **his THE** duties because of illness or other disability, the convening authority shall appoint a qualified trial or defense counsel to continue the proceedings.

26-1072. Vacation of suspension

B. The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the officer exercising general court-martial jurisdiction over the probationer. If **he THE OFFICER** vacates the suspension, any unexecuted part of the sentence, except a dismissal, shall be executed. The vacation of the suspension of a dismissal or a dishonorable discharge is not effective until approved by the governor.

26-1075. Restoration

C. If a previously executed sentence of dismissal is not imposed on a new trial, the adjutant general shall substitute a form of discharge authorized for administrative issue, and the commissioned officer dismissed by the sentence may be reappointed by the governor alone to such commissioned grade and with such rank as in the opinion of the governor that former officer would have attained if **he THE OFFICER** had not been dismissed. The reappointment of such a former officer may be made if a position vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

26-1077. Principals

Any person who is punishable under this chapter and commits an offense or who aids, abets, counsels, commands or procures its commission or who causes an act to be done which if directly performed by **him** **THAT PERSON** would be punishable by this chapter is a principal.

26-1078. Accessory after the fact

Any person who is subject to this chapter and who, knowing that an offense punishable by this chapter has been committed, receives, comforts or assists the offender in order to hinder or prevent **his** **THE OFFENDER'S** apprehension, trial or punishment shall be punished as a court-martial may direct.

26-1082. Solicitation

A. Any person who is subject to this chapter and who solicits or advises another or others to desert in violation of section 26-1085 or mutiny in violation of section 26-1094, if the offense solicited or advised is attempted or committed, shall be punished with the punishment provided for the commission of the offense, but if the offense solicited or advised is not committed or attempted, **he** **THE PERSON** shall be punished as a court-martial may direct.

B. Any person who is subject to this chapter and who solicits or advises another or others to commit an act of misbehavior in violation of section 26-1099 or sedition in violation of section 26-1094, if the offense solicited or advised is committed, shall be punished with the punishment provided for the commission of the offense, but if the offense solicited or advised is not committed, **he** **THE PERSON** shall be punished as a court-martial may direct.

26-1083. Fraudulent enlistment, appointment or separation

Any person who procures **his** **THAT PERSON'S** own enlistment or appointment in the national guard by knowingly false representation or deliberate concealment as to **his** qualifications for the enlistment or appointment and receives pay or allowances or procures **his** **THAT PERSON'S** own separation from the national guard by knowingly false representation or deliberate concealment as to **his** eligibility for that separation shall be punished as a court-martial may direct.

26-1084. Unlawful enlistment, appointment or separation

Any person who is subject to this chapter and who effects an enlistment or appointment in or a separation from the national guard of any person who is known to **him** **THE PERSON** to be ineligible for that enlistment, appointment or separation because it is prohibited by law, rule or order shall be punished as a court-martial may direct.

26-1085. Desertion

A. Any member of the national guard who without authority goes or remains absent from **his** **THE ASSIGNED** unit, organization or place of duty with intent to remain away permanently, quits **his** **THE** unit, organization or place of duty with intent to avoid hazardous duty or to shirk important service or without being regularly separated from the national guard enlists or accepts an appointment in the

same or another one of the forces in the national guard without fully disclosing the fact that **he THE MEMBER** has not been regularly separated is guilty of desertion.

B. Any commissioned officer of the national guard who, after tender of **his THE OFFICER'S** resignation and before notice of its acceptance, quits **his THE OFFICER'S** post or proper duties without leave and with intent to remain away permanently is guilty of desertion.

26-1086. Absence without leave

Any member of the national guard who, without authority, fails to go to **his THE MEMBER'S** appointed place of duty at the time prescribed, goes from that place or absents **himself THEMSELVES** or remains absent from **his THE** unit, organization or place of duty at which **THE MEMBER he** is required to be at the time prescribed shall be punished as a court-martial may direct.

26-1087. Missing movement

Any person who is subject to this chapter and who through neglect or design misses the movement of a ship, aircraft or unit with which **he THE MEMBER** is required in the course of duty to move shall be punished as a court-martial may direct.

26-1088. Contempt toward officials

Any commissioned officer who uses contemptuous words against the president of the United States, Congress, the governor or the legislature, or the governor or legislature of any state, territory, commonwealth or possession in which **he THE COMMISSIONED OFFICER** is on duty or present, shall be punished as a court-martial may direct.

26-1089. Disrespect toward superior commissioned officer

Any person who is subject to this chapter and who behaves with disrespect toward **his THAT PERSON'S** superior commissioned officer shall be punished as a court-martial may direct.

26-1090. Assaulting or willfully disobeying superior commissioned officer

Any person who is subject to this chapter and who strikes **his THAT PERSON'S** superior commissioned officer or draws or lifts up any weapon or offers any violence against **him THE SUPERIOR COMMISSIONED OFFICER** while **he-is THEY ARE** in the execution of **his THAT PERSON'S** office or willfully disobeys a lawful command of **his THE** superior commissioned officer shall be punished as a court-martial may direct.

26-1091. Insubordinate conduct toward warrant officer or noncommissioned officer

Any warrant officer or enlisted member who strikes or assaults a warrant officer or noncommissioned officer while that officer is in the execution of **his THE** office, willfully disobeys the lawful order of a warrant officer or noncommissioned officer or treats with contempt or is disrespectful in language or deportment toward a warrant officer or noncommissioned officer while that officer is in the execution of **his THE** office shall be punished as a court-martial may direct.



26-1092. Failure to obey order or rule

Any person who is subject to this chapter and who violates or fails to obey any lawful general order or rule having knowledge of any other lawful order issued by a member of the national guard, which it is **his THE PERSON'S** duty to obey, fails to obey the order or is derelict in the performance of **his THE PERSON'S** duties shall be punished as a court-martial may direct.

26-1094. Mutiny or sedition

A. Any person who is subject to this chapter and who:

1. With intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do **his THE PERSON'S** duty or creates any violence or disturbance is guilty of mutiny.

3. Fails to do **his THE PERSON'S** utmost to prevent and suppress a mutiny or sedition being committed in **his THE PERSON'S** presence, or fails to take all reasonable means to inform **his THE PERSON'S** superior commissioned officer or commanding officer of a mutiny or sedition which **he THE PERSON** knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

26-1099. Misbehavior in time of public danger; definition

A. Any person who is subject to this chapter and who in time of public danger does any of the following shall be punished as a court-martial may direct:

2. Shamefully abandons, surrenders or delivers up any command, unit, place or military property which it is **his THE PERSON'S** duty to defend.
4. Casts away **his THE PERSON'S** arms or ammunition.
6. Quits **his THE PERSON'S** place of duty to plunder or pillage.
8. Willfully fails to do **his THE PERSON'S** utmost to encounter, engage, capture or destroy any enemy troops, combatants, aircraft or other thing, which it is **his THE PERSON'S** duty to so encounter, engage, capture or destroy.

26-1103. Captured or abandoned property

B. Any person who is subject to this chapter and who fails to carry out the duties prescribed in subsection A and who buys, sells, trades or in any way deals in or disposes of captured or abandoned property and **he** receives or expects any profit, benefit or advantage to **himself THE PERSON** or another directly or indirectly connected with **himself THE PERSON** or engages in looting or pillaging shall be punished as a court-martial may direct.

26-1113. Misbehavior of sentinel or lookout

Any sentinel or lookout who is found drunk or sleeping on **his THE PERSON'S** post or who leaves it before **he THE PERSON** is regularly relieved shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the offense is committed at any other time, by such punishment other than death as a court-martial may direct.

26-1121. Larceny and wrongful appropriation

A. Any person who is subject to this chapter and who wrongfully takes, obtains or withholds, by any means, from the possession of the owner or of any other person any money, personal property or article of value of any kind:

1. With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to **his THAT PERSON'S** own use or the use of any person other than the owner, steals that property and is guilty of larceny.
2. With intent to temporarily deprive or defraud another person of the use and benefit of property or to appropriate it to **his THAT PERSON'S** own use or the use of any person other than the owner, is guilty of wrongful appropriation.

26-1123. Forgery

Any person who is subject to this chapter and who, with intent to defraud, falsely makes or alters any signature to, or any part of, any writing which would, if genuine, apparently impose a legal liability on another or change **his THAT PERSON'S** legal right or liability to **his THAT PERSON'S** prejudice or utters, offers, issues or transfers such a writing, known by **him THAT PERSON** to be so made or altered, is guilty of forgery and shall be punished as a court-martial may direct.

26-1124. Making, drawing or uttering check, draft or order without sufficient monies; definition

Any person who is subject to this chapter and who for the procurement of any article or thing of value, with intent to defraud, or for the payment of any past due obligation, or for any other purpose, with intent to deceive, makes, draws, utters or delivers any check, draft or order for the payment of money on any bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient monies in, or credit with, the bank or other depository for the payment of that check, draft or order in full on its presentment, shall be punished as a court-martial may direct. The making, drawing, uttering or delivering by a maker or drawer of a check, draft or order, payment of which is refused by the drawee because of insufficient monies of the maker or drawer in the drawee's possession or control, is *prima facie* evidence of **his** intent to defraud or deceive and of **his** knowledge of insufficient monies in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within five days after receiving notice, orally or in writing, that the check, draft or order was not paid on presentment. In this section, "credit" means an arrangement or understanding, express or implied, with the bank or other depository for the payment of that check, draft or order.

26-1133. Conduct unbecoming an officer ~~and a gentleman~~

Any commissioned officer or candidate who is convicted of conduct unbecoming an officer ~~and a gentleman~~ shall be punished as a court-martial may direct.

26-1137. Articles; explanation

This chapter shall be explained to a member at the time of **his** entrance in the national guard, or within thirty days thereafter. It shall be explained annually to each unit in the national guard. A complete text of this chapter and of the rules adopted by the governor shall be made available to any person in the national guard on **his** request for **his** personal examination.

26-1138. Complaints of wrongs

Any member of the national guard who believes **himself** **THAT MEMBER WAS** wronged by **his** **THEIR** commanding officer, and who, on application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the general officer in command over the officer against whom it is made. The general officer in command shall examine the complaint and take proper measures for redressing the wrong complained of, and **he** **THE GENERAL OFFICER** shall, as soon as possible, send to the adjutant general a true statement of that complaint and the proceedings on the complaint.

26-1139. Redress of injuries to property

A. If a complaint is made to any commanding officer that willful damage has been done to the property of any person or that **his** **THE PERSON'S** property has been wrongfully taken by members of the national guard, under such rules as the adjutant general prescribes, **he** **THE ADJUTANT GENERAL** may convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath, to receive depositions or other documentary evidence and to assess the damages sustained against the responsible parties. The assessment of damages made by

the board is subject to the approval of the commanding officer and in the amount approved by ~~him~~ **THE COMMANDING OFFICER** shall be charged against the pay of the offenders. The order of the commanding officer directing charges authorized in this section is conclusive on any disbursing officer for the payment by ~~him~~ **THE DISBURSING OFFICER** to the injured parties of the damages as assessed and approved.

26-1140. Delegation by the governor

The governor may delegate any authority vested in ~~him~~ **THE GOVERNOR** under this chapter and provide for the subdelegation of any such authority.

TITLE 27 Minerals, Oil and Gas



All revisions are necessary due to exclusionary use of male pronouns.

27-127. Restrictions on divulging information by inspectors and employees; dismissal for violation

A. No inspector, deputy or employee shall make a report with respect to a mining property or prospect, except an official report to **his** THE superior officer or to the governor, nor shall **he** THE INSPECTOR make public or reveal to any other person knowledge or information obtained **by him** in the exercise of **his** official duties concerning ore, ore bodies or values, of any mine or part thereof.

27-128. Inspection of mines; violation; classification

A. The state mine inspector or a deputy inspector shall inspect each mine in the state as frequently as necessary to determine whether any hazardous dust condition exists therein. There shall be a prompt inspection of any mine in which **he** THE INSPECTOR or a deputy inspector has reason to believe a hazardous dust condition exists or with respect to which complaint of a hazardous dust condition has been made as provided in section 27-308. The mine inspector or a deputy inspector shall make recommendations to mine operators as to methods of reducing dust and whenever **he finds** a hazardous dust condition **IS FOUND** **he** THE INSPECTOR shall notify the mine operator thereof. The notice shall be in writing and shall specify a reasonable time within which the dust condition must be remedied. The mine operator shall install within the time specified, and thereafter maintain and operate, dust prevention practices which remedy the hazardous dust condition.

27-201. Location of mining claim upon discovery of mineral in place

Upon discovery of mineral in place on the public domain of the United States the mineral may be located as a lode mining claim by the discoverer for **THE DISCOVERER himself, or for himself and others**; or for others.

27-221. Notice to delinquent co-owner to contribute share of annual labor expense or maintenance fees

A. When a co-owner gives a delinquent co-owner notice in writing or notice by publication to contribute **his THE CO-OWNER'S** proportion of the expense of annual labor or maintenance fees as provided by the laws of the United States, an affidavit of the person giving the notice, stating the time, place, manner of service and by whom and upon whom the service was made, shall be attached to a true copy of the notice, and the notice and affidavit shall be recorded ninety days after giving the notice, or if the notice is given by publication in a newspaper, there shall be attached to a printed copy of the notice an affidavit of the editor or publisher of the paper, stating the date of each insertion of the notice therein, and when and where the newspaper was published during that time, and the affidavit and notice shall be recorded one hundred and eighty days after the first publication.

B. A true copy of the original notice and affidavit of service, or the records thereof, shall be *prima facie* evidence that the delinquent co-owner has failed or refused to contribute **his THE CO-OWNER'S** proportion of the expenditure, and shall be *prima facie* evidence of service or publication of the notice, unless the writing or affidavit provided for in section 27-222 is of record.

27-222. Acknowledgment of contribution by delinquent co-owner

A. If the delinquent co-owner, within the time required by the laws of the United States, contributes **his THE CO-OWNER'S** proportion of the expenditures, the co-owner, who demanded contribution shall sign and deliver to the delinquent co-owner a written statement that the delinquent, naming **him CO-OWNER**, has, within the time required, contributed **his THE CO-OWNER'S** share of the expense for the year upon the claim, and further stating the district, county and state wherein the claim is located and the recording information where the location notice is recorded. The statement shall be recorded.

B. If the co-owner who demanded contribution fails to sign and deliver the statement to the delinquent co-owner within twenty days after contribution is made, **he THE DEMANDING CO-OWNER** shall be liable to the delinquent **CO-OWNER** for a penalty of one hundred dollars. The delinquent, with two disinterested persons having personal knowledge of the contribution, may make an affidavit setting forth the manner, amount, to whom and upon what mining claim or claims the contribution was made. The affidavit may be recorded, and shall be *prima facie* evidence of the contribution.

27-236. Suspension of royalty rights

The commissioner may, if **he THE COMMISSIONER** deems it in the interest of the state, subordinate the royalty rights of the state under this article, or suspend the operation thereof or of any lease executed under the provisions of this article, in favor of the United States or any agency thereof, for the purpose of facilitating extension of financial aid under the laws of the United States in the development or operation of any mine located upon state lands.

27-255. Bonds

A. The commissioner, in **his** **THE COMMISSIONER'S** discretion, may require the applicant for a mineral exploration permit, prior to issuance of such permit, to file with the commissioner a surety bond, in form and amount and with surety approved by the commissioner, conditioned upon the prompt payment to the owner and lessee of the surface of state land to be covered by the permit, or across which the permittee exercises the right of ingress or egress, for any loss to such owner or lessee from damage or destruction caused by the permittee or **his-or** its agents or employees to grasses, forage, crops and improvements upon such state lands.

27-301. Definitions

In this chapter, unless the context otherwise requires:

6. "Inspector" means the state mine inspector and except in article 7 of this chapter **his** **THE** deputies.

27-304. Operator responsibility

A. The operator shall conduct **his** operation**S** with due regard to health and safety. No operator shall fail to provide or use such safety devices and safeguards as are reasonably necessary to protect the life, health and safety of **his** employees.

B. The operator, or some responsible person with authority appointed by **him** **THE OPERATOR**, shall be on duty at all times when employees are working. **He** **THE OPERATOR** shall be responsible for the safe performance of all work **under-him** and for the safety of all employees.

D. The operator and **his** supervisory personnel shall enforce safety regulations and issue such orders as may be necessary to safeguard the life, health and safety of employees.

27-305. Employee responsibility

Each employee shall make full use of all safeguards provided for **his** protection. Except for the purposes of repair, no employee or other person shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished or provided, nor shall **he** **THE EMPLOYEE** interfere with the use thereof. No employee or other person shall interfere with the methods or processes adopted for the protection of employees, nor shall **he** **ANY EMPLOYEE** fail or neglect to do anything reasonably necessary to protect the life, health and safety of **himself** **THEMSELVES** and other employees.

27-309. Reports of fatal accidents to inspector; investigation

A. When a fatal accident occurs in an operation, the operator shall give immediate notice thereof by telephone or facsimile transmission, and after investigation report the facts in writing to the inspector. The inspector, upon receipt of such notice shall instruct the operator as to preserving evidence of the accident. The inspector shall investigate and make a report which shall be filed in **his** **THE INSPECTOR'S** office.

B. If the inspector concludes the facts warrant it, **he** **THE INSPECTOR** shall cause a copy of **his** **THE** report and all papers in **his** **THE INSPECTOR'S** possession relating thereto to be forwarded to the

county attorney of the county in which the fatal accident occurred, with an accompanying statement of the inspector, describing in what particular **he** **THE INSPECTOR** believes the law has been violated.

27-325. Use of tamping bar

No person shall, whether working for **himself** **THEMSELVES** or in the employ of another, while loading or charging a hole with explosives, use or employ a metal tamping bar, nor shall any person allow or permit the use of a metal tamping bar while loading or charging a hole by employees under **his** **THE PERSON'S** management or direction.

27-347. Construction of ladder-ways

B. In a vertical shaft the inspector may, in **his** **THE INSPECTOR'S** discretion, by an order in writing, direct that the ladder be inclined at the most convenient angle which the space where the ladder is fixed allows, and every ladder shall have substantial platforms at intervals of not more than twenty feet. The platform shall be closely covered, with exception of an opening large enough to permit the passage of a human, and shall be arranged so that a person cannot fall from one ladder through the opening to the next ladder.

27-351. Hoists; operator; indicator

C. It is unlawful to hoist or lower persons from or into a mine at a speed greater than fifteen hundred feet per minute, but the inspector may designate a lesser speed than fifteen hundred feet per minute in a shaft, if in **his** **THE INSPECTOR'S** opinion a greater speed is unsafe, or a greater speed if in **his** **THE INSPECTOR'S** opinion particular shafts and hoist conditions so warrant.

27-357. Hoist release signal

A. At a mine where **men** **HUMANS** are hoisted by mechanical means, a **hoistman** **HOISTER** charged with the hoisting shall be kept on duty at the hoist at all times when **men** **HUMANS** are underground, except as provided in subsection B.

B. The requirements of subsection A shall not apply to an automatic hoist equipped with the following devices:

7. An opening or escape hatch in the cage and a shaft **manway** **HUMANWAY** with ladders which may be reached from the cage.

27-359. Signal code

A. The following signal code shall be used in all mines:

3 -1 bells, hoist **men** **HUMANS**.

3 -2 bells, lower **men** **HUMANS**.

4 bells, release cage, skip, or bucket to the **hoistman** **HOISTER**.

5 bells, blasting or ready to shoot.

(a) The signal for blasting or ready to shoot is a caution signal and if the engineer is prepared to accept it **he THE ENGINEER** shall acknowledge by raising the bucket or cage a few feet then lowering it again.

(b) After accepting the signal for blasting or ready to shoot, the engineer shall be prepared to hoist **men HUMANS** away from the blast as soon as any signal is given and shall accept no other signal in the meantime.

D. The engineer shall not move a cage, skip or bucket unless **he THE ENGINEER** understands the signal.



27-363. Danger signals; visitors

B. Visitors shall not be allowed underground unless accompanied by the operator or **his OPERATOR'S** agent.

27-412. Dust control

A. Every operator shall do everything reasonably within **his THE OPERATOR'S** power to encourage good practices in the use of any appliances for allaying dust. Each employee shall use such devices as are furnished by the operator. Employees shall not be allowed to work in hazardous dust or gas concentrations without approved respiratory and eye protection.

27-505. Pooling of interests

A. When two or more separately owned tracts of land are embraced within an established drilling unit, persons owning the drilling rights therein and the right to share in the production therefrom may agree to pool their interests and develop their lands as a drilling unit. If the persons do not agree to pool their interests, the commissioner may, for prevention of waste, for protection of correlative rights, or to avoid drilling of unnecessary wells, enter an order pooling and integrating their interests for the development of their lands as a drilling unit. Orders effectuating such pooling shall be made after notice and hearing, and shall be upon terms and conditions which will afford the owner of each tract the opportunity to recover or receive **his A** just and equitable share of the oil and gas in the pool without unnecessary expense. Operations incident to drilling a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of such operations upon each separately owned tract in the unit by the several owners thereof. The portion of the production allocated to the owner of each tract included in a drilling unit formed by a pooling order shall, when produced, be considered as if it had been produced from the tract by a well drilled thereon. If such pooling is effectuated, the cost of development and operation of the pooled unit chargeable by the operator to other interested owners shall be limited to the actual and reasonable expenditures required for that purpose, including a reasonable charge for supervision. As to owners who refuse to agree upon pooling, the order shall provide for reimbursement for costs chargeable to each such owner out of, and only out of, production from the unit belonging to such owner. In event of dispute relative to such costs, the commissioner shall upon notice to all interested parties and hearing thereon, determine the proper costs. Appeals may be taken from the determination as from any other order of the commissioner. If one or more of the owners drills and operates, or pays the expense of drilling and operating the well for the benefit of others, then, in addition to any other rights conferred by the pooling order, the owner or owners so drilling or operating shall have a lien on the share of production from the unit accruing to the interest of each of the other owners for the payment of **his THE OWNER'S** proportionate share of the expenses. All the oil and gas subject to the lien, or so much thereof as necessary, shall be marketed and sold by the creditor and the proceeds applied in payment of the expenses secured by the lien, with the balance if any payable to the debtor.

B. The commissioner shall, in all instances where a unit has been formed from lands or areas of more than one ownership, require the operator, upon request of an owner, but subject to the right of the operator to market production and collect the proceeds with respect to an owner in default, as provided in subsection A, to deliver to the owner or **his** assigns **his THE OWNER'S** proportionate share of the production from the well common to the drilling unit. The owner receiving **his THE** share shall provide at **his THE OWNER'S** own expense proper receptacles for the receipt and storage thereof.

C. If the persons owning and drilling or exercising other rights in separate tracts embraced within a drilling unit fail to agree upon the pooling of the tracts and drilling of a well on the unit, and if the commissioner is without authority to require pooling as provided by this section, then, subject to all other applicable provisions of this article, the owner of each tract embraced within the drilling unit may drill on **his THE OWNER'S** tract, but the allowable production from the tract shall be the proportion of the allowable production for the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

27-511. Confiscation proceedings

B. If the commissioner believes that illegal oil or gas or illegal product is subject to seizure and sale, **he THE COMMISSIONER** shall, through the attorney general, bring a civil action in rem for that purpose in the superior court of the county in which the commodity is found, or the action may be maintained

in connection with any action or cross action for injunction, or for penalty relating to any prohibited transaction involving illegal oil or gas or illegal product. Any interested person adversely affected by seizure and sale may intervene in the suit to protect **his** **THAT PERSON'S** rights. The action shall proceed in the name of the state as plaintiff against the illegal oil or gas or illegal product as defendant, and no bond shall be required of plaintiff.

C. Upon filing of the complaint, the clerk of the court shall issue a summons directed to the sheriff of the county or to any person the court may authorize to serve process, requiring **him** **THE PROCESS SERVER** to summon all persons interested in the illegal oil or gas or illegal product mentioned in the complaint to appear and answer within thirty days after issuance and service of summons. Such persons need not be named or otherwise identified. The summons shall contain the style and number of the suit and a brief statement of the nature of the action. It shall be served by posting one copy at the courthouse door of the county in which the commodity is alleged to be located and by posting another copy near the place where the commodity is located. Copies of the summons shall be posted not less than five days before the return day stated therein, and posting shall be deemed constructive possession of the commodity by the state. A copy of the summons shall be published once each week for three weeks in a newspaper published in the county where the suit is pending. No judgment shall be pronounced by a court condemning the commodity as contraband until five days from the last publication of the summons. Proof of service by the person authorized by the court to serve process shall be by affidavit of the person making the service and proof of service by the sheriff shall be by return as required by law with respect to service of process in civil actions.

D. When it appears by a verified pleading on the part of the plaintiff, or by affidavit, that grounds for the seizure and sale exist, the clerk, in addition to the summons, shall issue an order of seizure, which shall be signed by the clerk and bear the seal of the court. The order of seizure shall specifically describe the illegal oil or gas or illegal product so that it may be identified with reasonable certainty. It shall direct the sheriff to whom addressed to take into **his** actual or constructive custody the illegal oil or gas or illegal product described in the order, and hold the commodity subject to order of the court. The order of seizure shall be executed as a writ of attachment is executed. No bond shall be required before the issuance of the order of seizure, and the sheriff shall be responsible upon **his** official bond for the proper execution thereof.

E. The sheriff shall receive, for **his** service, a fee as in case of seizure of personal property, to be assessed as other costs in the cause.

27-513.01. Appointment by drilling permittee of attorney upon whom to serve process

A. The acceptance of a permit to drill under section 27-513 shall be deemed to constitute and be the appointment of the commission by the permittee as **his** **A** true and lawful attorney upon whom may be served all legal process in an action against such permittee growing out of or in any way connected with said permittee's use, occupancy, or activities upon the drilling unit or tract of land under single ownership for which **his** **THE** permit shall have issued, including, but not limited to, liabilities to the state, debts contracted by such permittee for labor upon or materials furnished to **his** **THE** drilling site, and violations of the securities act of Arizona.

27-517. Hearings; reporter; fees

A. Any interested person shall, by written request, have the right to have the commissioner call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the commissioner.

Hearings shall be held at the time and place the commissioner directs, and any person having an interest in the subject matter of the hearing may appear and be heard. Upon receipt of the request, the commissioner shall promptly call a hearing, and, not more than thirty days thereafter shall take action with regard to the matter as **he** THE COMMISSIONER deems appropriate. The request for hearing shall be accompanied by a fee of fifty dollars.

27-519. Refusal to obey subpoena

A. If a person fails or refuses to comply with a subpoena issued by the commissioner, or if a witness refuses to testify or answer to a matter regarding which **he** THE PERSON may be lawfully interrogated, the judge of the superior court of the county where such person resides, if a resident of the state, or the judge of the superior court of the county in which the land or any part thereof lies out of which the controversy arises, if the person is not a resident of the state, may, on application of the commissioner, issue an attachment for such person and compel **him** THE PERSON to comply with the subpoena and appear before the commissioner and produce such documents and give testimony upon such matters as required.

27-602. Extension of expiration date

The governor is authorized, for and in the name of the state, to execute agreements for the further extension of the expiration date of the interstate compact to conserve oil and gas, and to determine if and when it is to the best interest of the state to withdraw from the compact following a sixty-day notice as provided by its terms. In the event of withdrawal, the governor may in **his** THE GOVERNOR'S discretion effect the reentry of the state into the compact as provided in this article.

27-666. Pooling

A. When two or more separately owned tracts of land are embraced within an established drilling unit, persons owning the drilling rights therein and the right to share in the production therefrom may agree to pool their interests and develop their lands as a drilling unit. If the persons do not agree to pool their interests, the commission may, upon application of one or more owners within the drilling unit in question and for prevention of waste, for protection of correlative rights, or to avoid drilling of unnecessary wells, enter an order pooling and integrating their interests for the development of their lands as a drilling unit. Orders effectuating such pooling shall be made after notice and hearing, and shall be upon terms and conditions which will afford the owner of each tract the opportunity to recover or receive **his** just and equitable share of the geothermal resources in the pool without unnecessary expense. Operations incident to drilling a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of such operations upon each separately owned tract in the unit by the several owners thereof. The portion of the production allocated to the owner of each tract included in a drilling unit formed by a pooling order shall, when produced, be considered as if it had been produced from the tract by a well drilled thereon. If such pooling is effectuated, the cost of development and operation of the pooled unit chargeable by the operator to other interested owners shall be limited to the actual and reasonable expenditures required for that purpose, including a reasonable charge for supervision. As to owners who refuse to agree upon pooling, the order shall provide for reimbursement for costs chargeable to each such owner out of, and only out of, production from the unit belonging to such owner. In event of dispute relative to such costs, the commission shall, upon notice to all interested parties and hearing thereon, determine the proper costs. Appeals may be taken from the determination as from any other order of the commission. If one or more of the owners drills and

operates, or pays the expense of drilling and operating the well for the benefit of others, then, in addition to any other rights conferred by the pooling order, the owner or owners so drilling or operating shall have a lien on the share of production from the unit accruing to the interest of each of the other owners for the payment of **his THAT PERSON'S** proportionate share of the expenses. All the geothermal production subject to the lien, or so much thereof as necessary, shall be marketed and sold by the creditor and the proceeds applied in payment of the expenses secured by the lien, with the balance if any payable to the debtor.

C. If the persons owning and drilling or exercising other rights in separate tracts embraced within a drilling unit fail to agree upon the pooling of the tracts and drilling of a well on the unit, and if the commission is without authority to require pooling as provided by this section, then, subject to all other applicable provisions of this article, the owner of each tract embraced within the drilling unit may drill on **his THAT PERSON'S** tract, but the allowable production from the tract shall be the proportion of the allowable production for the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

27-930. Public disclosure of information; definition

B. If the inspector, on **his THE INSPECTOR'S** own or following a request for disclosure, disagrees with the trade secret or confidential notice, the inspector may request the attorney general to seek a court order authorizing disclosure. If a court order is sought, the party shall be served with a copy of the court filing and has twenty business days from the date of service to request a hearing on whether a court order should be issued. The hearing shall be conducted in camera, and any order resulting from the hearing is appealable as provided by law. The inspector may not disclose the confidential information until a court order authorizing disclosure has been obtained and becomes final. The court may award costs of litigation including reasonable attorney and expert witness fees to the prevailing party.

TITLE 28 Transportation

All revisions are necessary due to exclusionary use of male pronouns.

28-303. Powers and duties of the board; meetings

- A. The board may meet when necessary at any place in this state. The board shall hold other regular meetings as it determines necessary. The **chairman CHAIR** may call special meetings with the concurrence of at least two members.
- B. The board shall meet for the purpose of organizing on or before the third Monday in January of each year at which time the board shall designate the district member with the shortest period of time remaining to serve a complete term as **chairman CHAIR**. The **chairman CHAIR** shall preside at all sessions. The board shall designate the district member with the next shortest period of time remaining to serve a complete term as vice-**chairman CHAIR**. The vice-**chairman CHAIR** shall preside in the absence of the **chairman CHAIR**. If the district member with the least time to serve does not choose to serve as **chairman CHAIR**, the members shall select a **chairman CHAIR** from the remaining board members.
- C. If the **chairman's CHAIR'S** membership on the board is terminated for any reason, the remaining members of the board shall select another member to serve as **chairman CHAIR** until the regular organizational meeting on or before the third Monday in January of each year.



28-851. Railroad crossing; safety

- A. Except as provided in subsection B of this section, when a person driving a vehicle approaches a railroad grade crossing, the driver of the vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad and may not proceed if any of the following applies:
2. A crossing gate is lowered or a human **flagman FLAGGER** gives or continues to give a signal of the approach or passage of a railroad train.

28-854. Railroad grade crossing; moving heavy equipment; exception; definition

B. A person shall not make a crossing pursuant to this section when a warning is given by automatic signal, crossing gates or a **flagman FLAGGER** or otherwise of the immediate approach of a railroad train or car. If a **flagman FLAGGER** is provided by the railroad, movement over the crossing shall be under the **flagman's FLAGGER'S** direction.

28-1872. Adoption of compact

Article I

Findings, Declaration of Policy and Purpose

(a) The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than **his THE MOTORIST'S** home jurisdiction either:

(2) In some instances, the motorist's driver's license may be deposited as collateral to be returned after **he has-complied COMPLIANCE** with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue **on-his-way** after receiving the traffic citation, could return to **his THE MOTORIST'S** home jurisdiction and disregard **his THE** duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in **his THE MOTORIST'S** home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on **his-way** after promising or being instructed to comply with the terms of the citation.

Article VI

Compact Administrator Procedures

(c) The board shall elect annually, from its membership, a **chairman CHAIR** and **vice-chairman VICE-CHAIR**.

Article VII

Entry into Compact and Withdrawal

(b) (1) Entry into the compact shall be made by a resolution of ratification executed by the authorized officials of the applying jurisdiction and submitted to the **chairman CHAIR** of the board.

Article IX

Amendments to the Compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the **chairman CHAIR** of the board of compact administrators and may be initiated by one or more party jurisdictions.

(b) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective thirty days after the date of the last endorsement.

(c) Failure of a party jurisdiction to respond to the compact **chairman CHAIR** within one hundred twenty days after receipt of the proposed amendments shall constitute endorsement.

28-2431. Gold star family special plates

A. The department shall issue gold star family special plates to a person who submits satisfactory proof to the department that the person is an immediate family member of a person who died while on active duty in the United States military if a charitable organization affiliated with an Arizona professional basketball club donates thirty-two thousand dollars to the veterans' donations fund established by section 41-608 for the purpose of paying the implementation costs of the gold star family special plates. The costs of implementing the gold star family special plates shall be paid by the monies in the veterans' donations fund established by section 41-608 that were donated by the Arizona professional basketball club. The department in cooperation with an organization formed for the support of **mothers PARENTS** who have had children die while on active duty in the United States military shall design the gold star family special plate. The director may allow a request for gold star family special plates to be combined with a request for personalized special plates. If the director allows such a combination, the request shall be in a form prescribed by the director and is subject to the fees for the personalized special plates in addition to the fees required for gold star family special plates.

28-3053. School bus advisory council; council termination

B. The members shall serve staggered three-year terms unless a member vacates the position. Appointment to fill a vacancy resulting other than from expiration of a term is for the unexpired portion of the term only.

C. The school bus advisory council shall:

1. Meet at least annually.
2. Select a **chairman CHAIR** from its members.

Revision is needed because a parent may be a person married to the parent under Obergefell v. Hodges. The section needs to be revised because of Obergefell v. Hodges ensuring that persons in a same sex marriage have the same rights and obligations as those of the opposite sex. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption and Doherty v. Leon (AZ Ct of Appeals, 2020) that the marital presumption overrides the genetic-testing presumption based on the facts.

28-3160. Applications of minors; liability

A. Except as provided in section 28-3161, the following person or persons shall sign and verify before a person authorized to administer oaths the application of a person under eighteen years of age for an instruction permit, a class G or M driver license or an endorsement to a class G or M driver license:

1. If both ~~the father and mother~~ PARENTS of the applicant are living, have custody of the applicant and are married to each other, either ~~the father or the mother~~ PARENT of the applicant.
2. If both ~~the father and mother~~ PARENTS of the applicant are living, have custody of the applicant and are not married to each other, both ~~the father and mother~~ PARENTS of the applicant.

This provision needs to be but cannot be changed until the federal law is changed either by statute or a Supreme Court decision.

28-3168. Driver license and nonoperating identification license applications; selective service registration; reimbursement

When a male person who is under twenty-six years of age applies for a driver license or a nonoperating identification license or for renewal of a driver license, the person consents to register with the selective service system in compliance with section 3 of the military selective service act (50 United States Code appendix section 453).

28-6308. Regional planning agency transportation policy committee; regional transportation plan; plan review process; committee termination

A. The regional planning agency in the county shall establish a transportation policy committee consisting of twenty-three members as follows:

2. Six members who represent regionwide business interests, one of whom must represent transit interests, one of whom must represent freight interests and one of whom must represent construction interests. The president of the senate and the speaker of the house of representatives shall each appoint three members to the committee pursuant to this paragraph. Members who are appointed pursuant to this paragraph serve six-year terms. The ~~chairman~~ CHAIR of the regional planning agency may submit names to the president of the senate and the speaker of the house of representatives for consideration for appointment to the transportation policy committee.

28-8473. Airport zoning regulations; board of adjustment; powers; composition; proceedings

D. The board shall:

1. Adopt regulations in accordance with provisions of the ordinance or resolution by which it is established.
2. Hold meetings at the call of the ~~chairman~~ CHAIR and at other times as the board determines.
3. Have the ~~chairman~~ CHAIR, or in the ~~chairman's~~ CHAIR'S absence, the acting ~~chairman~~ CHAIR, administer oaths and compel the attendance of witnesses.

TITLE 29 Partnerships

All revisions are necessary due to exclusionary use of male pronouns.

29-101. Effect of name of trading firm upon liability of firm property of personal debts

If a person transacts business as a merchant or trader, using the word agent, factor, company, co., or words of like significance or import, and fails to disclose the name of other persons interested in the business by a sign in letters easy to read placed conspicuously at the place where the business is transacted, or if a person transacts business in **his THE PERSON'S** own name, without using the word agent, factor, company, co., or words of like significance or import, all the property, stock, money and choses in action used or acquired in the business, except property which is exempt from execution shall, as to the creditors of such person, be liable for **his THE PERSON'S** debts, and shall in all respects be treated in favor of **his THE** creditors as **his THE PERSON'S** property.

29-104. Service of summons in action against partners; judgment

D. The secretary of state shall keep a permanent record of all processes, notices and demands served on the secretary of state under this section and shall record in the record the time of each service and **his THE SECRETARY'S** action with reference to each service.

29-301. Definitions

2. "Contribution" means any cash, property, services rendered, or promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in **his THE PARTNER'S** capacity as a partner.

29-303. Reservation of name

B. The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, **he THE SECRETARY** shall reserve the name for the exclusive use of the applicant for a period of one hundred twenty days. Once having so reserved a name, the same applicant may not again reserve the same name until more than sixty days after the expiration of the last one hundred twenty day period for which that applicant reserved that name. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

29-313. Filing in office of secretary of state; acceptance

A. Two signed copies of the certificate of limited partnership and of any restated certificate of limited partnership or any certificates of amendment or cancellation or of any judicial decree of amendment or cancellation shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of **his THE PERSON'S** authority as a prerequisite to filing. Unless

the secretary of state finds that any certificate does not conform to the filing provisions of this chapter, upon receipt of all filing fees required by law, **he THE SECRETARY OF STATE** shall:

2. File one duplicate original or a copy of the original in **his THE SECRETARY OF STATE'S** office; and
3. Return the other duplicate original to the person who filed it or **his THE PERSON'S** representative.

29-314. Liability for false statement in certificate

If any certificate of limited partnership or certificate of amendment, restated certificate of limited partnership or certificate of cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

1. Any person who executes the certificate, or causes another to execute it on **his THE PERSON'S** behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and

29-319. Liability to third parties

A. Except as provided in subsection D of this section, a limited partner is not liable for the obligations of a limited partnership unless **he THE LIMITED PARTNER** is also a general partner or, in addition to the exercise of **his THE LIMITED PARTNER'S** rights and powers ~~as a limited partner~~, **he THE LIMITED PARTNER** participates in the control of the business. However, if the limited partner participates in the control of the business, **he THE LIMITED PARTNER** is liable only to persons who transact business with the limited partnership reasonably believing, based on the limited partner's conduct, that the limited partner is a general partner.

C. The enumeration in subsection B of this section does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by **him THE LIMITED PARTNER** in the business of the limited partnership.

29-320. Person erroneously believing **himself THE PERSON AS limited partner**

A. Except as provided in subsection B, a person who makes a contribution to a business enterprise and erroneously but in good faith believes that **he THE PERSON** has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise or exercising any rights of a limited partner if, on ascertaining the mistake, **he THE PERSON**:

B. A person who makes a contribution of the kind described in subsection A is liable as a general partner to any third party who transacts business with the enterprise:

2. Before an appropriate certificate is filed to show that **he THE PERSON** is not a general partner, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

29-323. Events of withdrawal

4. Unless otherwise provided in writing in the partnership agreement, the general partner:

(d) Files a petition or answer seeking for **himself THE GENERAL PARTNER'S SELF** any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation;

(e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against **him THE GENERAL PARTNER** in any proceeding of this nature; or

(f) Seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the general partner or of all or any substantial part of **his THE GENERAL PARTNER'S** properties;

5. Unless otherwise provided in writing in the partnership agreement, one hundred twenty days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without **his THE GENERAL PARTNER'S** consent or acquiescence of a trustee, receiver or liquidator of the general partner or of all or any substantial part of **his THE GENERAL PARTNER'S** properties, the appointment is not vacated or stayed or within ninety days after the expiration of any such stay, the appointment is not vacated;

6. In the case of a general partner who is a natural person;

(a) **His THE GENERAL PARTNER'S** death; or

(b) The entry by a court of competent jurisdiction adjudicating **him THE GENERAL PARTNER** incompetent to manage **his THE GENERAL PARTNER'S** person or **his** estate;



29-325. Contributions by general partner

A general partner of a limited partnership may make contributions to the partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of **his THE GENERAL PARTNER'S** participation in the partnership as a limited partner.

29-328. Liability for contribution

B. Except as provided in the partnership agreement, a partner is obligated to the limited partnership to perform any enforceable promise to contribute cash or property or to perform services, even if **he THE PARTNER** is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution of property or services, **he THE PARTNER** is obligated at the option of the limited partnership to contribute cash equal to that portion of the value as stated in the partnership records required to be kept pursuant to section 29-305 of the stated contribution that has not been made.

29-331. Interim distributions

Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before **his THE PARTNER'S** withdrawal from the limited partnership and before the dissolution and winding up thereof to the extent and at the times or upon the happening of the events specified in the partnership agreement.

29-332. Withdrawal of general partner

A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to **THE GENERAL PARTNER him**. The withdrawal of a general partner who is also a limited partner does not constitute withdrawal of the partner as a limited partner or affect the partner's rights as

29-333. Withdrawal of limited partner

A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in writing in the partnership agreement. If the agreement does not specify in writing the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner at **his THE GENERAL PARTNER'S** address on the books of the limited partnership at its office in this state.

29-334. Distribution on withdrawal

A. On the withdrawal of a limited partner, except as otherwise provided in writing in the partnership agreement, the withdrawn limited partner and **his THE LIMITED PARTNER'S** personal representatives,

successors and assigns do not have the right to receive any distribution by reason of withdrawal, but have only the rights of an assignee of the withdrawn limited partner's interest in the partnership to receive distributions with respect to the limited partner's interest during any continuation and during and on completion of any winding up of the limited partnership, less any damages recoverable against the withdrawn partner if the withdrawal violated the provisions of the partnership agreement.

29-335. Distribution in kind

Except as provided in writing in the partnership agreement, a partner, regardless of the nature of **his THE PARTNER'S** contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in writing in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to **him THE PARTNER** exceeds a percentage of that asset which is equal to the percentage in which **he THE PARTNER** shares in distributions from the limited partnership.

29-336. Right to distribution

At the time a partner becomes entitled to receive a distribution, **he THE PARTNER** has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

29-338. Liability on return of contribution

A. If a partner has received the return of any part of **his THE PARTNER'S** contribution without violation of the partnership agreement or this chapter, **he THE PARTNER** is liable to the limited partnership for a period of one year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

B. If a partner has received the return of any part of **his THE PARTNER'S** contribution in violation of the partnership agreement or this chapter, **he THE PARTNER** is liable to the limited partnership for a period of six years thereafter for the amount of the contribution wrongfully returned.

C. A partner receives a return of **his THE PARTNER'S** contribution to the extent that a distribution to **him THE PARTNER** reduces **his THE PARTNER'S** share of the fair value of the net assets of the limited partnership below the value as set forth in the partnership records required to be kept pursuant to section 29-305 of **his THE PARTNER'S** contribution which has not been distributed to **THE PARTNER him**.

29-340. Assignment of partnership interest

Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a partner ceases to be a partner upon assignment of all **his THE PARTNER'S** partnership interest.

29-341. Rights of judgment creditor

On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partner's partnership interest. This chapter does not deprive any partner of the benefit of any exemption laws applicable to **his THE PARTNER'S** partnership interest. This section provides the exclusive remedy by which a judgment creditor of a partner may satisfy a judgment out of the judgment debtor's interest in the partnership.

29-342. Right of assignee to become limited partner

B. An assignee who has become a limited partner has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of **his THE** assignor to make and return contributions as provided in articles 5 and 6 of this chapter. However, the assignee is not obligated for liabilities unknown to the assignee at the time **he THE ASSIGNEE** became a limited partner.

C. If an assignee of a partnership interest becomes a limited partner, the assignor is not released from **his THE ASSIGNOR'S** liability to the limited partnership under sections 29-314 and 29-328.

29-343. Power of estate of deceased incompetent partner

If a partner who is an individual dies or a court of competent jurisdiction adjudges **him THE PARTNER** to be incompetent to manage **his THE PARTNER'S** person or **his** property the partner's executor, administrator guardian, conservator or other legal representative may exercise all the partner's rights for the purpose of settling **his THE** estate or administering **his THE** property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

29-346. Winding up

Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners may wind up the limited partnership's affairs, but the superior court may wind up the limited partnership's affairs upon application of any partner, **his THE PARTNER'S** legal representative or assignee.

29-350. Issuance of registration

A. If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, **he THE SECRETARY OF STATE** shall:

2. File in **his THE SECRETARY OF STATE'S** office a duplicate original of the application; and

B. The certificate of registration, together with a duplicate original of the application, shall be returned to the person who filed the application or **his THE PERSON'S** representative.

29-357. Proper plaintiff

In a derivative action, the plaintiff shall be a partner at the time of bringing the action and:

1. Shall have been a partner at the time of the transaction of which **he THE PLAINTIFF** complains; or
2. **His THE PLAINTIFF'S** status as a partner shall have devolved upon **him THE PLAINTIFF** by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

29-359. Expenses

If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney fees, and shall direct **him THE PLAINTIFF** to remit to the limited partnership the remainder of those proceeds received **by him**.

29-1104. Designated office and agent for service of process

F. If a statutory agent changes **his THE AGENT'S** business address to another place within this state, **he THE STATUTORY AGENT** shall change **his THE AGENT'S** address for any limited liability partnership or foreign limited liability partnership of which **he THE AGENT** is a statutory agent by filing a notice signed, either manually or in facsimile by the statutory agent, and reciting that a copy of the notice has been mailed to the limited liability partnership at its chief executive office.

TITLE 30 Power



All revisions are necessary due to exclusionary use of male pronouns.

30-106. Organization of commission; compensation; oath

A. The commission shall select a **chairman CHAIR** and a **vice-chairman VICE-CHAIR** from among its membership who shall each hold office for terms of two years, to begin and end on the first Monday in January.

30-108. Powers and duties of commission; annual report

D. The commission shall make and submit to the governor, the president of the senate, the speaker of the house of representatives, the **chairman CHAIR** of the senate natural resources, energy and water committee and the **chairman CHAIR** of the house of representatives energy, environment and natural resources committee, or their successor committees, on or before January 1 each year a report containing a full and complete account of the commission's transactions and proceedings for the preceding fiscal year, together with other facts, suggestions and recommendations deemed of public value.

30-701. Adoption of compact; text of compact

ARTICLE II.

The Board

(a) There is hereby created an agency of the party states to be known as the “western interstate nuclear board”, hereinafter called the board. The board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which ~~he~~ **THE MEMBER** represents and serving and subject to removal in accordance with such law. Any member of the board may provide for the discharge of ~~his~~ **THAT MEMBER’S** duties and the performance of ~~his~~ **THEIR** functions thereon, either for the duration of ~~his~~ **THE MEMBER’S** membership or for any lesser period of time, by a deputy or assistant, if the laws of ~~his~~ **THE MEMBER’S** state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(d) The board shall elect annually, from among its members, a ~~chairman~~ **CHAIR**, a ~~vice-chairman~~ **VICE-CHAIR**, and a treasurer. The board shall appoint and fix the compensation of an executive director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, and such other personnel as the board may direct, shall be bonded in such amounts as the board may require.

TITLE 31 Prisons and Prisoners

Revisions are necessary due to exclusionary use of male pronouns except for A.R.S. §31-474 in which the non-discrimination language does not include sex.

31-105. Designation of jail in contiguous county; revocation of designation

B. A copy of the order, certified by the clerk of the court, shall be served on the sheriff or keeper of the jail designated, who shall receive all prisoners authorized to be confined in such jail, and who shall have the same responsibility for safekeeping the prisoners transferred as ~~if he were~~ THE sheriff of the county for whose use the jail is designated, and with respect to the prisoners so committed, ~~he~~ shall be deemed sheriff of the county from which they were removed.

31-122. Receiving and keeping federal prisoners

A. The sheriff may receive and keep in the county jail any prisoner committed thereto by process or order issued under the authority of the United States until the prisoner is discharged according to law as if ~~he had been~~ committed under process issued under the authority of the state. Provisions shall be made by the United States for the support of such a prisoner.

31-123. Confinement of person committed to jail

A prisoner committed to the county jail for trial or for examination, or upon conviction for a public offense, shall be actually confined in the jail until ~~he is~~ legally discharged. If the prisoner is permitted to go at large, except by lawful order or process, or pursuant to the sheriff's authority to authorize house arrest, it is an escape.

31-125. Duty of sheriff to deliver judicial papers to prisoner

When a paper in a judicial proceeding is directed to a prisoner in the custody of a sheriff and is served upon the sheriff, ~~he~~ IT shall forthwith BE deliverED it to the prisoner with a notation thereon of the time of service. If the sheriff neglects to do so ~~he~~ THE SHERIFF is liable to the prisoner for damages occasioned thereby.

31-127. Abuse of prisoner; classification

A public officer who with criminal negligence is guilty of inhumanity or oppression toward a prisoner under ~~his~~ THE PUBLIC OFFICER'S care or in ~~his~~ THE PUBLIC OFFICER'S custody is guilty of a class 2 misdemeanor.

31-142. Use of prisoners on public works

A. The sheriff may, with the consent of the board of supervisors, require prisoners under ~~his~~ THE SHERIFF'S charge who are capable of hard labor to be employed on the public streets, highways or other public works where they will not compete with free labor in the county.

31-145. Allowance for hard labor in reduction of fine

A. A prisoner sentenced to pay a fine shall be allowed not to exceed fifty dollars per day credited to the fine for each day **he** **THE PRISONER** is employed at hard labor.

31-201.01. Duties of the director; tort actions; medical treatment costs; state immunity; definitions

M. The director shall establish criteria for reasonable deductions from monies credited to the prisoner's spendable account to repay the cost of:

2. Medical treatment for injuries that the inmate inflicts on **himself** **THEMSELVES** or others.



31-251. Hard labor required of prisoners; labor classification; definition

B. The director shall establish a prisoner labor classification system to insure that:

1. A prisoner receives work assignments commensurate and compatible with the condition and limitations of **his** **THE PRISONER'S** physical and mental health.

4. Each prisoner who does not present a risk to the public and who is not limited by **his** physical or mental health may be assigned to a work crew.

C. Each prisoner committed to the department shall be classified pursuant to the prisoner labor classification system established by the director. The director or **his** designee shall review and approve

each classification of a prisoner that results in exempting the prisoner from engaging in the hard labor requirements of subsection A of this section.

31-333. Work furlough

A. A court may direct that a prisoner in a detention facility continue **his** regular employment or obtain new employment during **his ANY** period of incarceration and specify appropriate terms and conditions.

B. Whenever the prisoner is not actually working at **his** employment **he THE PRISONER** shall be confined in the detention facility, unless the court otherwise directs upon recommendation of the work furlough administrator.

C. If the court directs that the prisoner continue **his** regular employment, the work furlough administrator shall make appropriate arrangements as promptly as possible. If the court directs that the prisoner obtain new employment, the work furlough administrator shall give appropriate assistance.

31-335. Time credits

A prisoner shall be eligible for time credits while on work furlough if **he THE PRISONER** would otherwise be eligible.

31-336. Improper conduct

In the event a prisoner violates conditions laid down for **his** conduct or employment, the work furlough administrator shall report such fact to the court and, after a hearing in the presence of the prisoner, the court may order that the balance of the prisoner's sentence or other detention be spent in actual confinement.

31-401. Board of executive clemency; qualifications; appointment; officers; quorum; meeting

C. Each member appointed to the board shall complete a four-week course relating to the duties and activities of the board. The course shall be designed and administered by the **chairman CHAIR** of the board and shall be conducted by the office of the board of executive clemency and the office of the attorney general. The course shall include training in all statutes that pertain to the board and participation in a decision making workshop.

F. The governor shall select a member of the board as **chairman CHAIR**. The **chairman CHAIR** shall select other officers as are advisable. The term of the **chairman CHAIR** is two years, except that the **chairman CHAIR** may be removed as **chairman CHAIR** at the pleasure of the governor. If a board member's term expires while the member is serving as **chairman CHAIR**, the chair shall be deemed vacant and a new **chairman CHAIR** shall be selected.

I. The presence of three members of the board constitutes a quorum, except that the **chairman CHAIR** may designate that the presence of two members of the board constitutes a quorum.

J. If two members of the board constitute a quorum pursuant to subsection I of this section and the two members do not concur on the action under consideration, the **chairman CHAIR** of the board, if

the **chairman CHAIR** is not one of the members who constituted the quorum and after reviewing the information considered by the two members, shall cast the deciding vote. If the **chairman CHAIR** of the board is one of the two members constituting a quorum at a hearing under subsection I of this section, and there is not concurrence on the action under consideration, the action fails.

K. The board shall employ an executive director whose compensation shall be determined pursuant to section 38-611. The executive director serves at the pleasure of the board and reports to the board through the **chairman CHAIR** of the board.

31-402. Powers of board; powers and duties of governor; powers and duties of executive director

B. For all persons who committed felony offenses before January 1, 1994, all applications for reprieves, commutations and pardons made to the governor shall be at once transmitted to the **chairman CHAIR** of the board, and the board shall return the applications with its recommendation to the governor. All applications for reprieves, commutations and pardons made to the governor shall include documentation that the victim or the victim's family was notified pursuant to section 31-411, subsection H.

C. For all persons who committed felony offenses on or after January 1, 1994, in addition to the powers and duties prescribed in subsection A of this section, the board of executive clemency:

5. Shall receive petitions from the state department of corrections alleging that an offender has violated the offender's terms and conditions of community supervision and has lapsed or is probably about to lapse into criminal ways or company. If the board determines that an offender on community supervision has violated the terms and conditions of community supervision the board may do any of the following:

(c) Impose additional terms and conditions on the offender while keeping the offender on community supervision. If there is reasonable cause to believe that an offender who has been kept on community supervision has violated any term or condition of community supervision, any member of the board may petition the board to revoke community supervision. After a petition to revoke has been submitted, the **chairman CHAIR** may issue a summons directing the offender to appear on a specified date for a revocation hearing or may issue a warrant for the offender's arrest. Nothing in this subsection limits the state department of corrections' authority with respect to submitting revocation petitions or issuing revocation warrants.

31-412. Criteria for release on parole; release; custody of parolee; definition

C. A prisoner who is otherwise eligible for parole, who is not on home arrest or work furlough and who is currently serving a sentence for a conviction of a serious offense or conspiracy to commit or attempt to commit a serious offense shall not be granted parole or absolute discharge from imprisonment except by one of the following votes:

3. A unanimous affirmative vote if two members consider the action pursuant to section 31-401, subsection I and the **chairman CHAIR** concurs after reviewing the information considered by the two members.

31-414. Absolute discharge of parolee; effect; notice to victim

A. If, upon application by the state department of corrections on behalf of a prisoner on parole, it appears to the board of executive clemency that there is reasonable probability that the prisoner on parole will live and remain at liberty without violating the law, and that **his** absolute discharge from parole is compatible with the welfare of society and is in the best interest of the state, then the board may authorize the absolute discharge of the prisoner from parole. On notification of the board's decision, the director of the state department of corrections shall issue to the prisoner an absolute discharge from parole which shall be effective to discharge the parolee from the sentence imposed.

B. At least fifteen days before holding a hearing on the absolute discharge from parole of a parolee, the board on request shall notify the victim of the offense for which the parolee was incarcerated and inform the victim of **his** **THE** right to be present and to submit a written report to the board expressing **his** **THE VICTIM'S** opinion concerning the absolute discharge of the parolee. The notice shall state the name of the parolee, the offense for which the parolee was sentenced, the length of the sentence and the date of admission to the custody of the state department of corrections.

31-416. Execution of warrant to take paroled prisoner or offender on community supervision; expenses

A. Any officer of the department of corrections or any officer authorized to serve criminal process within this state, to whom the warrant provided by section 31-415 is delivered, shall execute the warrant by taking the paroled prisoner or offender on community supervision and returning **him** **THE PRISONER OR OFFENDER** to the prison, within the time specified in the warrant.

31-443. Power of governor to grant reprieves, commutations and pardons

The governor, subject to any limitations provided by law, may grant reprieves, commutations and pardons, after conviction, for all offenses, except impeachment, upon conditions, restrictions and limitations **he** **THE GOVERNOR** deems proper.

31-445. Publication of reasons for granting a commutation, pardon, reprieve, stay or suspension of execution

When the governor grants a commutation, pardon, reprieve or stay or suspends execution of sentence in a case where a sentence of death is imposed, **he** **THE GOVERNOR** shall, within ten days after granting the commutation, pardon, reprieve or stay or suspension of execution, cause to be published in bold type, in a newspaper of general circulation, published in the county where the conviction was had, and shall file with the secretary of state for publication in the Arizona administrative register, a statement setting forth **his** **THE GOVERNOR'S** reasons for granting the commutation, pardon, reprieve or for staying or suspending such execution. A further reprieve shall not be granted except upon the same procedure.

31-446. Report to legislature

The governor shall at the beginning of every regular session communicate to the legislature each case of reprieve, commutation or pardon, stating the name of the prisoner, the crime of which **he** **THE**

PRISONER was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve and the reasons for granting it.



31-471. Western interstate corrections compact

The western interstate corrections compact is entered into by this state with any and all other states legally joining therein in a form substantially as follows:

Western Interstate Corrections Compact

ARTICLE IV Procedures and Rights

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or **his THE INMATE'S** status changed on account of any action or proceeding in which **he THE INMATE** could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in **his** exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V Acts Not Reviewable in Receiving State; Extradition

(b) An inmate who escapes from an institution in which **he THE INMATE** is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution

is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

31-474. Contracts implementing state’s participation in compact; prerequisite approval; authorized provisions; determination of suitability of institution and confinement

The director of corrections may enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the western interstate corrections compact pursuant to article III thereof. No such contract shall be of any force or effect until approved by the director of the department of administration. Such contracts may authorize confinement of inmates in, or transfer of inmates from, only such institutions in this state as are under the jurisdiction of the department of corrections. No such contract may authorize the confinement of an inmate, who is in the custody of the director of corrections, in an institution of a state other than a state specifically named in article VII of the western interstate corrections compact. The director of corrections shall determine, on the basis of an inspection made by **his THE DIRECTOR’S** direction or otherwise, that an institution of another state is a suitable place for confinement of prisoners committed to **his THE DIRECTOR’S** custody before entering into a contract permitting such confinement, and shall, at least annually, redetermine the suitability of such confinement. In determining the suitability of such institution of another state, the director shall **assure himself ENSURE** that such institution maintains standards of care and discipline not incompatible with those of the state of Arizona and that all inmates therein are treated equitably, regardless of race, **SEX**, religion, color, creed or national origin.

31-475. Right of transferred prisoner on release from prison outside this state

Every prisoner released from a prison without this state to which **he THE PRISONER** has been committed or transferred from this state pursuant to the compact shall be entitled to the same benefits, including, but not limited to money and tools, as are allowed to a prisoner released from a prison in this state.

31-481. Agreement; authorization; contents

The agreement on detainers is entered into by this state with all other jurisdictions legally joining such agreement in the form substantially as follows:

The Agreement on Detainers

The contracting states solemnly agree that:

Article II

As used in this agreement:

(b) “Sending state” shall mean a state in which a prisoner is incarcerated at the time that **he THE PRISONER** initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

Article III

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment information or complaint on the basis of which a detainer has been lodged against the prisoner, **he THE PRISONER** shall be brought to trial within one hundred eighty days after **he THE PRISONER** shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of **his THE PRISONER'S** imprisonment and **his** request for a final disposition to be made of the indictment, information or complaint: provided that for good cause shown in open court, the prisoner or **his THE PRISONER'S** counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of **him THE PRISONER**, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform **him THE PRISONER** of the source and contents of any detainer lodged against **him THE PRISONER** and shall also inform **him THE PRISONER** of **his THE PRISONER'S** right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

Article IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom **he THE OFFICER** has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V(a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request: and provided further that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon **his THE GOVERNOR'S** own motion or upon motion of the prisoner.

(c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or **his THE PRISONER'S** counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which **he THE PRISONER** may have to contest the legality of **his THE PRISONER'S** delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

Article V

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of **his THE OFFICER'S** authority to act for the state into whose temporary custody the prisoner is to be given.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for **his THE PRISONER'S** attendance at court and while being transported to or from any place at which **his THE PRISONER'S** presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

31-482. Matters pertaining to agreement

B. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainer. Such official shall inform such inmate of **his THE PRISONER'S** rights provided in paragraph (a) of article IV of the agreement on detainers.

31-491. Interstate corrections compact

The interstate corrections compact is entered into by this state with any and all other states legally joining therein in the form substantially as follows:

Interstate Corrections Compact

Article IV

Procedures and Rights

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or **his** status changed on account of any action or proceeding in which **he THE PRISONER** could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in **his** exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

Article V

Acts Not Reviewable in Receiving State; Extradition

(b) An inmate who escapes from an institution in which **he THE INMATE** is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but

nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

31-501. Psychiatric security review board; members; terms; compensation

C. The psychiatric security review board shall select one of its members to serve as the ~~chairman~~ CHAIR for a one year term and one of its members to serve as vice-~~chairman~~ CHAIR for a one year term.

D. The psychiatric security review board shall meet at least twice each month, unless the ~~chairman~~ CHAIR determines that there is not sufficient business before the board to warrant a meeting at the scheduled time. The board shall also meet at the call of the ~~chairman~~ CHAIR or a majority of the board members.

TITLE 32 Professions and Occupations

Revisions are necessary due to exclusionary use of male pronouns.

32-105. Organization

The board shall annually elect from its membership a ~~chairman~~ CHAIR, ~~vice-chairman~~ VICE-CHAIR and secretary. It shall hold at least two regular meetings each year and such special or called meetings as the rules provide.

32-123. Application for registration and certification; denial; hearing

A. A person desiring to practice any board-regulated profession or occupation shall apply for registration or certification on a form prescribed by the board, subscribed under penalty of perjury and accompanied by the appropriate application fee prescribed by the board. If the evidence submitted satisfies the board that the applicant is fully qualified to practice the profession or occupation for which registration or certification is asked, the board or the executive director as authorized by the board shall grant the applicant a certificate of registration or certification, signed by the ~~chairman~~ CHAIR and secretary and attested by the official seal. If the applicant seeks registration as a professional engineer, the certificate of registration shall list the proficiency designation in the branch of engineering in which the applicant has demonstrated proficiency.

32-303. Organization; meetings; compensation

A. The board shall annually elect a ~~chairman~~ CHAIR and ~~vice-chairman~~ VICE-CHAIR from its membership.



32-324. Examinations

G. If an applicant fails an examination ~~he~~ THE APPLICANT is entitled to a reexamination.

H. If an applicant fails either part of the examination ~~he~~ THE APPLICANT shall only retake the part of the examination ~~he~~ THE APPLICANT failed.

32-325. School license; application; qualifications

4. Require that a student pass examinations in all phases of barbering before ~~he~~ THE STUDENT graduates.

32-354. Procedure for disciplinary action; appeal

B. If, after completing its investigation, the board finds that the evidence is not of sufficient seriousness to merit direct action against a license, it may take either of the following actions:

2. File a letter of concern if, in the opinion of the board, while there is insufficient evidence to support direct action against the license there is sufficient evidence for the board to notify the licensee that continuation of the activities which led to the information or report being made to the board may result in action against **his** **THE LICENSEE'S** license.

32-355. Unlawful acts; violation; classification

A. A person shall not:

6. Permit an employee or another person under **his** **THE PERSON'S** supervision or control to practice barbering without a license issued pursuant to this chapter.

7. Practice barbering in any place other than in a shop or salon licensed pursuant to this chapter unless **he** **THE PERSON** is requested by a customer to go to a place other than a shop or salon licensed pursuant to this chapter and is sent to the customer from the shop or salon.

32-503. Organization; meetings; personnel; compensation

A. The board shall annually elect a **chairman** **CHAIR**, **vice-chairman** **VICE-CHAIR** and secretary-treasurer from among its membership.

32-504. Powers and duties

A. The board shall:

5. Evidence its official acts by the signature of the **chairman** **CHAIR** or **vice-chairman** **VICE-CHAIR** of the board or a representative designated by the board.

32-536. Instructor practice; instruction

A. An instructor may practice in the category of practice **he** **THE INSTRUCTOR** is licensed to practice in a salon licensed pursuant to this chapter.

B. An instructor shall teach only in the area **he** **THE INSTRUCTOR** is licensed by the board to teach.

32-564. School license renewal

B. A school owner who fails to renew **his** **THE OWNER'S** school license by June 30 of every year shall apply pursuant to section 32-551 and pay the prescribed fee and delinquent renewal penalty.

32-851. Practicing podiatry without license prohibited

It is unlawful for a person to practice podiatry, or to hold **himself THEMSELVES** out to be or assume or attempt to act as a podiatrist, without a valid unrevoked license to practice podiatry.

32-855. Violations; classification; injunctive relief

A. A person is guilty of a class 2 misdemeanor who:

1. Practices or advertises or holds **himself THEMSELVES** out as practicing or entitled to practice podiatry, or who in a sign or advertisement uses the term chiropodist, foot specialist, podiatrist, practapedist or other term or letter indicating or implying that **he THE PERSON** practices podiatry or foot correction, without having at the time a valid unrevoked license to practice podiatry.

32-902. Organization; meetings

A. The board shall annually elect from its membership a **chairman CHAIR** and **vice-chairman VICE-CHAIR**.

32-927. Violations; classification

A person is guilty of a class 6 felony who:

3. Uses the title chiropractor, D.C., or any other word or title to induce belief that **he THE PERSON** is engaged in the practice of chiropractic, without a license to practice chiropractic.

32-929. Right to examine and copy evidence; summoning witnesses and documents; taking testimony; right to counsel; court aid; process

B. For the purpose of all investigations and proceedings conducted by the board:

1. The board on its own initiative, or upon application of any person involved in the investigation, may issue subpoenas compelling the attendance and testimony of witnesses, or demanding the production for examination or copying of documents or any other physical evidence if such evidence relates to chiropractic competence, unprofessional conduct or the mental or physical ability of a doctor of chiropractic to safely practice chiropractic. Within five days after the service of a subpoena on any person requiring the production of any evidence in **his THE PERSON'S** possession or under **his THE PERSON'S** control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to unlawful practices covered by this chapter, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the physical evidence whose production is required.

C. Patient records, including clinical records, medical reports, laboratory statements and reports, any file, film, any other report or oral statement relating to examinations, findings or treatment of patients, any information from which a patient or **his THE PATIENT'S** family might be identified or information

received and records kept by the board as a result of the investigation procedure outlined in this chapter are not available to the public.

D. Nothing in this section or any other provision of law making communications between a chiropractic physician and **his THE CHIROPRACTIC PHYSICIAN'S** patient a privileged communication applies to investigations or proceedings conducted pursuant to this chapter. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

32-1022. Contents of financial statement; bond provisions

A. The financial statement required by section 32-1021 shall be sworn to by the applicant, if **he THE APPLICANT** is an individual, or by a partner, director, manager or treasurer in its behalf if the applicant is a partnership, corporation or incorporated association. The information in the financial statement shall be confidential and is not a public record.

B. The bond shall run to the people of the state and shall be executed and acknowledged by the applicant as principal and by a corporation, licensed by this state to transact fidelity and surety insurance business, as surety. The bond shall be continuous in form and shall remain in full force and effect at all times while holding a license. The bond shall be conditioned that the applicant, within thirty days from the last day of the month in which a collection is made, shall make an account of and pay to the client the proceeds collected for **him THE CLIENT** by the applicant, less charges for collection in accordance with the agreement between the applicant and client, but when the amount due the client is less than five dollars, payment may be deferred for an additional thirty days.

C. Any surety company intending to withdraw as surety of any licensee shall give sixty days' notice of such intention to the superintendent, which notice shall be by registered mail and shall also give sixty days' notice by registered mail to the licensee addressed to **his THE LICENSEE'S** last known address. When a surety shall for any cause cancel the bond of any licensee, the superintendent shall immediately notify such licensee by registered mail addressed to **his THE LICENSEE'S** last known address as shown by the files of the department. The license of any licensee shall be void unless, prior to the termination, a new bond has been filed with the department. A licensee changing **his THE LICENSEE'S** surety shall file a new bond with the department with a surety on the new bond meeting the qualifications of this section.

32-1026. Issuance of licenses

A. On receipt of an original application accompanied by the fees prescribed in section 6-126 and the financial statement and bond required by this chapter, the superintendent shall investigate the qualifications of the applicant and, if **he THE APPLICANT** meets the qualifications of this chapter, shall approve the application. If the application is approved, the license shall be promptly issued to the applicant.

32-1027. Issuance of provisional license for limited purposes

In the event of the death of an individual licensee, dissolution of a licensee partnership by death or operation of law, or termination of employment of the active manager if the licensee is a firm, partnership, association or corporation, if it is shown that the financial and bonding requirements of this

chapter have been met, the superintendent shall issue without fee a provisional license to the personal representative of the deceased or **his** **THE PERSONAL REPRESENTATIVE'S** appointee, to the surviving partners, or to the firm, association or corporation, as the case may be, which shall be valid for the following purposes only and expire at the following times:

1. A provisional license issued to a personal representative or **his** **THE PERSONAL REPRESENTATIVE'S** appointee shall expire one year from the date of issuance and shall not be subject to renewal. Authority of the provisional licensee shall be limited to those activities deemed necessary to wind up the business of the former licensee.

32-1057. Prosecution of violations; individual liability

A. The prosecuting officer of a county or city shall prosecute all violations of this chapter occurring within **his** **THE PROSECUTING OFFICER'S** jurisdiction.

32-1101. Definitions

A. In this chapter, unless the context otherwise requires:

2. "Commercial contractor" is synonymous with the terms "commercial builder", "industrial builder" and "public works builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that, for compensation, undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, does **himself** **THEMSELVES** or by or through others, or directly or indirectly supervises others, except within residential property lines, to:

3. "Contractor":

(a) Is synonymous with the term "builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that, for compensation, undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, does **himself** **THEMSELVES** or by or through others, or directly or indirectly supervises others to:

4. "Dual licensed contractor" is synonymous with the term "commercial and residential builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that for compensation undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, does **himself** **THEMSELVES** or by or through others, or directly or indirectly supervises others under a single license on commercial or residential property to:

10. "Residential contractor":

(a) Is synonymous with the term "residential builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that for compensation undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, or does **himself** **THEMSELVES** or by or through others, within residential property lines:

32-1106. Enforcement powers

In any investigation, proceeding or hearing **he** THE REGISTRAR, A DEPUTY REGISTRAR, AN ASSISTANT, AN ADMINISTRATIVE LAW JUDGE OR AN INVESTIGATOR is empowered to institute, conduct or hold under this chapter, the registrar, **OR SUCH a** deputy registrar, **an** assistant, **an** administrative law judge or **an** investigator may administer oaths, certify to official acts, issue subpoenas for attendance of witnesses and production of books, papers and records, and exercise the same powers in this regard as conferred upon the corporation commissioners and public officers by the provisions of section 40-244 and section 12-2212. All the provisions of such sections are incorporated into this section with the same force and effect as if herein set forth at length, and wherever in such sections the term “commission” or “commissioners” or similar designation occurs, it shall, for the purpose of this reference mean the “registrar of contractors.”

32-1127. Qualifying party; responsibility

A. While engaged as a qualifying party for a licensee, the qualifying party may not take other employment that would conflict with **his** THE QUALIFYING PARTY’S duties as qualifying party or conflict with **his** THE QUALIFYING PARTY’S ability to adequately supervise the work performed by the licensee. Such person may act in the capacity of the qualifying party for one additional licensee if one of the following conditions exists:

32-1152. Bonds

B. The bonds, or the cash deposit as provided in this section, shall be in the name of the licensee in amounts fixed by the registrar with the following schedules after giving due consideration to the volume of work and the classification contemplated by the applicant:

3. The total amount of the surety bond or cash deposit required of a licensee who holds more than one license under paragraphs 1 and 2 of this subsection is the sum of the surety bond or cash deposit required for each license based on the estimated annual volume of construction work of the applicant allocated to and performed under each license. The applicant at **his** THE APPLICANT’S option may post a single surety bond or cash deposit that is the sum of the bonds

E. The bonds or deposit required by subsection B of this section are for the benefit of and are subject to claims by the registrar of contractors for failure to pay any sum required pursuant to this chapter. The bond or deposit required by subsection B, paragraphs 1, 2 and 3 of this section is for the benefit of and subject to claims by a licensee under this chapter or a lessee, owner or co-owner of nonresidential real property including, but not limited to, a tenant in common or joint tenant, or their successors in interest, who has a direct contract with the licensee against whose bond or deposit the claim is made and who is damaged by the failure of the licensee to build or improve a structure or appurtenance on that real property at the time the work was performed in a manner not in compliance with the requirements of any building or construction code applicable to the construction work under the laws of this state or any political subdivision, or if no such code was applicable, in accordance with the standards of construction work approved by the registrar. The residential bond or deposit required by subsection B, paragraphs 4 through 8 of this section is for the benefit of and subject to claims by any person furnishing labor, materials or construction equipment on a rental basis used in the direct performance of a construction contract involving a residential structure or by claimants as described in section 32-1132. The bond or deposit required by subsection C, paragraph 1 of this section is for the benefit of and is subject to claims only by claimants as described in section 32-1132. The person seeking recovery from the

bond or cash deposit shall maintain an action at law against the contractor if claiming against the cash deposit or against the contractor and surety if claiming against the surety bond. If the person seeking recovery is required to give the notice pursuant to section 33-992.01, **he THE PERSON** is entitled to seek recovery only if **he THE PERSON** has given such notice and has made proof of service. The surety bond or cash deposit is subject to claims until the full amount thereof is exhausted. The court may award reasonable attorney fees in a judgment against a contractor's surety bond or cash deposit. A suit may not be commenced on the bond or for satisfaction from the cash deposit after the expiration of two years following the commission of the act or delivery of goods or rendering of services on which the suit is based, except that time for purposes of claims for fraud is measured as provided in section 12-543. The surety bond or cash deposit shall be continuous in form and conditioned so that the total aggregate liability of the surety or cash deposit for all claims, including reasonable attorney fees, is limited to the face amount of the surety bond or cash deposit irrespective of the number of years the bond or cash deposit is in force. If the corporate surety desires to make payment without awaiting court or registrar action, the amount of any bond filed in compliance with this chapter shall be reduced to the extent of any payment or payments made by the corporate surety in good faith thereunder. Any such payments shall be based on priority of written claims received by the corporate surety before court or registrar action. If more than one cash deposit exists, the judgment against the contractor shall state which cash deposit is used to satisfy the judgment. A certified copy of the judgment shall then be filed with the registrar, and such judgment must specify that it may be satisfied from the contractor's cash deposit. Priority for payment is based on the time of filing with the registrar. On receipt of a certified copy of the judgment or on a final disciplinary order of the registrar, the registrar may authorize payment from the cash deposit of the amount claimed or of whatever lesser amount remains on file. In any action against a cash deposit, the claimant, at the time of filing suit, may notify the registrar in writing of the action against the cash deposit, but may not name as a defendant in the action the registrar, the treasurer or the state. A claimant's failure to notify the registrar at the time of filing suit may result in the cash deposit being withdrawn by the licensee before judgment pursuant to subsection D of this section.

H. In the following instances the registrar, after a hearing, may require, as a condition precedent to issuance, renewal, continuation or removal of suspension of a license, a surety bond or cash deposit in an amount and duration to be fixed by the registrar based on the seriousness of the violations, which may not be more than ten times the amount required by subsection B of this section:

3. The bonds required by this subsection are in addition to any other bond or cash deposit required by this chapter or any other bond required of a contractor by an owner or any other contracting party on any contract undertaken by **him THE CONTRACTOR** pursuant to the authority of such license.

32-1239. Practice under restricted permit

A person to whom a restricted permit is issued shall be entitled to practice dentistry only in the course of **his THE PERSON'S** employment by a recognized charitable dental clinic or organization as approved by the board, on the following conditions:

1. **He THE PERSON** shall file a copy of **his THE PERSON'S** employment contract with the board and such contract shall contain the following provisions:

(a) That applicant understands and acknowledges that if **his THE APPLICANT'S** employment by the charitable dental clinic or organization is terminated prior to the expiration of **his THE APPLICANT'S** restricted permit, **his THE APPLICANT'S** restricted permit will be automatically revoked and **he THE APPLICANT** will voluntarily surrender the permit to the board and will no longer be eligible to

practice unless or until ~~he~~ **THE APPLICANT** has satisfied the requirements of section 32-1237 or has successfully passed the examination as provided in this article.

(b) ~~He~~ **THE PERSON** shall be employed by a dental clinic or organization organized and operated for charitable purposes offering dental services without compensation. The term “employed” as used in this subdivision shall include the performance of dental services without compensation.

(c) ~~He~~ **THE PERSON** shall be subject to all the provisions of this chapter applicable to licensed dentists.

32-1267. Use of fraudulent instruments; classification

A person is guilty of a class 5 felony who:

1. Knowingly presents to or files with the board as ~~his~~ **THE PERSON’S** own a diploma, degree, license, certificate or identification belonging to another, or which is forged or fraudulent.

32-1334. Inactive status

C. A person who holds an inactive license may request that the board reactivate the person’s license. If an inactive licensee desires to reactivate a license, the inactive licensee shall submit a completed application on a form prescribed by the board, the applicable fee pursuant to section 32-1309, a completed fingerprint card and the prescribed fingerprint background check fee. The person shall demonstrate that ~~he~~ **THE PERSON** is of good moral character and shall pass the applicable state laws and rules examination.

32-1402. Board; appointment; qualifications; term; removal; compensation; immunity; report

C. 2. (b) On written resignation submitted to the board ~~chairman~~ **CHAIR** or to the governor.

D. The board shall annually elect, from among its membership, a ~~chairman~~ **CHAIR**, a ~~vice-chairman~~ **VICE-CHAIR** and a secretary, who shall hold their respective offices at the pleasure of the board.

32-1404. Meetings; quorum; committees; rules; posting

A. The board shall hold regular quarterly meetings on a date and at the time and place designated by the ~~chairman~~ **CHAIR**. The board shall hold special meetings, including meetings using communications equipment that allows all members participating in the meeting to hear each other, as the ~~chairman~~ **CHAIR** determines are necessary to carry out the functions of the board. The board shall hold special meetings on any day that the ~~chairman~~ **CHAIR** determines are necessary to carry out the functions of the board. The ~~vice-chairman~~ **VICE-CHAIR** may call meetings and special meetings if the ~~chairman~~ **CHAIR** is not available.

C. The ~~chairman~~ **CHAIR** may establish committees from the membership of the board and define committee duties necessary to carry out the functions of the board.

32-1432.01. Education teaching permit

A. The dean of a board approved school of medicine or the ~~chairman~~ CHAIR of a teaching hospital's accredited graduate medical education program may invite a doctor of medicine who is not licensed in this state to demonstrate and perform medical procedures and surgical techniques for the sole purpose of promoting professional education for students, interns, residents, fellows and doctors of medicine in this state.

B. The ~~chairman~~ CHAIR or dean of the inviting institution shall provide to the board evidence that an applicant for an educational permit has malpractice insurance in an amount that meets the requirements of the institution and that the applicant accepts all responsibility and liability for the procedures ~~he~~ THE APPLICANT performs within the scope of ~~his~~ THE APPLICANT'S permit. In a letter to the board, the ~~chairman~~ CHAIR or the dean of the inviting institution shall outline the procedures and techniques that the doctor of medicine shall perform or demonstrate and the dates that this activity will occur. The letter shall also include a summary of the doctor's of medicine educational and professional background and be accompanied by the fee required pursuant to section 32-1436.

32-1432.03. Training permits; approved schools

The executive director may grant a one year training permit to a person who:

3. Submits a written statement from the dean of the approved school of medicine or from the ~~chairman~~ CHAIR of a teaching hospital's accredited graduate medical education program that:

32-1503. Board organization; meetings; compensation; committees

A. The board shall annually elect, from among its membership, a ~~chairman~~ CHAIR, a ~~vice-chairman~~ VICE-CHAIR and a secretary-treasurer, who shall hold their respective

E. In order to carry out the board's duties and functions, the ~~chairman~~ CHAIR may establish committees from the board membership and define the duties of these committees.

32-1631. Acts and persons not affected by chapter

This chapter does not prohibit:

1. Auxiliary or supportive services by ~~maids~~ HOUSE CLEANERS, porters, messengers, ~~busboys~~ BUSPERSONS, nurses aides or attendants working under competent supervision in a licensed hospital, or gratuitous care by friends or family members of a sick or infirm person or incidental care of the sick by a domestic servant or person employed primarily as a housekeeper, as long as these persons do not practice registered nursing or claim to be licensed practical nurses.

32-1672. Board of dispensing opticians; members; qualifications; terms; removal; immunity

D. The board shall elect from among its membership a ~~chairman~~ CHAIR and such other officers as it deems necessary, who shall hold their offices at the pleasure of the board.

32-1691.01. Investigation and adjudication of complaints

C. After a motion approved by the board or on receipt of a verified complaint, as provided in subsections A and B of this section, the ~~chairman~~ CHAIR of the board or the ~~chairman's~~ CHAIR'S designee shall either initiate an investigation or refer the complaint or motion to investigate to an investigative committee appointed by the board. The committee shall consist of both licensed dispensing opticians and lay persons who need not be members of the board.

D. If an investigation is initiated the ~~chairman~~ CHAIR or the ~~chairman's~~ CHAIR'S designee shall appoint a member of the board to act as the investigative officer. Within ninety days after appointment, the officer shall conclude the investigation and make a written recommendation to the board on whether disciplinary action is appropriate and, if it is appropriate, the type of disciplinary action the board should take.

32-1741. Practicing optometry without a license prohibited

It is unlawful for a person to practice the profession of optometry or to hold ~~himself~~ THEMSELVES out to be or assume or attempt to act as a doctor of optometry without a valid license to practice the profession of optometry.

32-1750. Allegations sufficient to charge violation

In charging a person in a complaint for an injunction or in an affidavit, information or indictment with a violation of this chapter by practicing the profession of optometry without a license, it is sufficient to charge that ~~he~~ THE PERSON did upon a certain day and in a certain county engage in the practice of the profession of optometry, not having a valid license to do so, without averring any more particular facts concerning the act.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

32-1800. Definitions

12. "Immediate family" means the spouse, natural or adopted children, ~~father, mother, brothers and sisters~~ PARENTS, AND SIBLINGS of the physician and the natural and adopted children, ~~father, mother, brothers and sisters~~ PARENTS, AND SIBLINGS of the physician's spouse.

32-1801. Arizona board of osteopathic examiners in medicine and surgery

C. Two members of the board shall be public members who shall not be in any manner connected with, or have an interest in, any school of medicine or any person practicing any form of healing or treatment of bodily or mental ailments and who has demonstrated an interest in the health problems of the state. The other five members of the board shall have engaged in the practice of medicine as an osteopathic physician in this state for at least five years preceding their appointments, hold active licenses in good standing and, at the time of appointment, be practicing medicine with direct patient contact. In making appointments of each professional member of the board, the governor shall consider a list of qualified persons submitted by the Arizona osteopathic medical association and recommendations by any other person. Members of the board shall continue in office until their successors are appointed and

qualified. Each board member, before entering on **his THE BOARD MEMBER'S** duties, shall take an oath prescribed by law and in addition thereto shall make an oath as to **his THE BOARD MEMBER'S** qualifications as prescribed in this section. No board member may serve more than two consecutive five year terms.

32-1828. Education teaching permits

A. The dean of a school of osteopathic medicine approved by the American osteopathic association or the **chairman CHAIR** of a teaching hospital's accredited graduate medical education program may invite a doctor of osteopathy who is not licensed in this state to demonstrate and perform medical procedures and surgical techniques for the sole purpose of promoting professional education for students, interns, residents, fellows and doctors of osteopathy in this state.

B. The **chairman CHAIR** or dean of the inviting institution shall provide to the board evidence that an applicant for an educational permit has malpractice insurance in an amount that meets the requirements of that institution and that the applicant accepts all responsibility and liability for the procedures the applicant performs within the scope of the applicant's permit.

C. In a letter to the board, the **chairman CHAIR** or dean of the inviting institution shall outline the procedures and techniques that the doctor of medicine will perform or demonstrate and the dates that this activity will occur. The letter shall also include a summary of the doctor of osteopathy's education and professional background and shall be accompanied by the fee required pursuant to this chapter.

32-1830. Training permits; approved schools

3. Submits a written statement from the dean of the approved school of osteopathic medicine or from the **chairman CHAIR** of a teaching hospital's accredited graduate medical education program that:

32-1852. Rights and duties of osteopathic physicians and surgeons; scope of practice

A person holding a license under this chapter to practice medicine and surgery as an osteopathic physician and surgeon shall be subject to all state and local laws and regulations pertaining to public health. In diagnosing, prognosticating and treating any human ills **he A PERSON HOLDING A LICENSE UNDER THIS CHAPTER** shall be subjected to all the same duties and obligations and authorized to exercise all the same rights and privileges possessed by physicians and surgeons of other complete schools of medicine in the practice of their profession.

32-1860. Acquired immune deficiency syndrome; disclosure of patient information; immunity; definition

D. If a physician decides to make a disclosure pursuant to this section, **he THE PHYSICIAN** may request that the department of health services make the disclosure on **his THE PHYSICIAN'S** behalf.

32-1963. Liability of manager, proprietor or pharmacist in charge of a pharmacy; variances in quality of drugs or devices prohibited

C. Within four working days of receiving a request, the proprietor, manager or pharmacist in charge shall provide the following documents relating to the acquisition or disposal of prescription-only and controlled substance medication if this information is requested by an authorized board agent in the course of ~~his~~ THEIR official duties:

32-1994. Authorization to embargo adulterated or misbranded drugs or devices; condemnation; destruction; costs

A. When the board or its authorized agent finds or has probable cause to believe that any drug, device, poison, or hazardous substance is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, ~~he~~ THE BOARD OR ITS AUTHORIZED AGENT shall affix to such article an appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons it is unlawful to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the board or the court.

32-2063. Powers and duties

A. The board shall:

8. Annually elect from among its membership a ~~chairman~~ CHAIR a ~~vice-chairman~~ VICE-CHAIR, and a secretary, who serve at the pleasure of the board.

32-2064. Meetings; committees; quorum

A. The board shall hold regular quarterly meetings at a time and place determined by the ~~chairman~~ CHAIR. The board shall hold special meetings the ~~chairman~~ CHAIR determines necessary to carry out the functions of the board.

B. The ~~chairman~~ CHAIR may establish committees from the board membership necessary to carry out the functions of the board. The board may establish committees of licensed psychologists to act as consultants to the board. Members of consultant committees are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

32-2101. Definitions

In this chapter, unless the context otherwise requires:

25. “Fractional interest” means an undivided interest in improved or unimproved land, lots or parcels of any size created for the purpose of sale or lease and evidenced by any receipt, certificate, deed or other document conveying the interest. Undivided interests in land, lots or parcels created in the names of ~~a husband and wife~~ SPOUSES as community property, joint tenants or tenants in common, or in the

names of other persons who, acting together as part of a single transaction, acquire the interests without a purpose to divide the interests for present or future sale or lease shall be deemed to constitute only one fractional interest.

36. “Membership camping broker” means a person, other than a salesperson, who, for compensation:

(d) Advertises or holds ~~himself~~ THEMSELVES out as being engaged in the business of selling, buying, exchanging or leasing membership camping contracts or counseling or advising

43. “Perpetual care” or “endowed care” means the maintenance and care of all places where interments have been made of the trees, shrubs, roads, streets and other improvements and embellishments contained within or forming a part of the cemetery but does not include the maintenance or repair of monuments, tombs, copings or other ~~man-made~~ HUMAN-MADE ornaments as associated with individual burial spaces.

49. “Real estate broker” means a person, other than a salesperson, who, for another and for compensation:

(h) Advertises or holds ~~himself~~ THEMSELVES out as being engaged in the business of buying, selling, exchanging, renting or leasing real estate, businesses and business opportunities or timeshare interests or counseling or advising regarding real estate, businesses and business opportunities or timeshare interests.

Revisions are necessary due to exclusionary use of male pronouns.

32-2111. Attorney general as legal adviser and representative of commissioner

The attorney general shall act for the commissioner in all legal actions or proceedings and shall advise ~~him~~ THE COMMISSIONER upon all questions of law arising out of the administration of this chapter.

32-2127. Licenses for additional places of business; branch office manager; broker’s temporary absence

A. When a broker maintains more than one place of business within the state ~~he~~ THE BROKER shall be required to procure an additional license for each branch office maintained.

D. If a designated broker is unable to act within twenty-four hours, ~~he~~ THE DESIGNATED BROKER may designate a licensee whom ~~he~~ THE DESIGNATED BROKER employs or another designated broker to act in ~~his~~ behalf OF THE DESIGNATED BROKER WHO IS UNABLE TO ACT. The designated broker shall make this designation in writing and shall keep the original designation at ~~his~~ THE DESIGNATED BROKER’S office for one year from its effective date. A copy of this designation must be attached to any hire, sever or renewal form submitted to the department which is signed by the designated broker’s designee. This designation shall not exceed thirty days’ duration and may authorize the designee to perform any and all duties the designated broker may legally perform, except that a salesperson shall not be authorized to hire or sever licensees. A written designation is required for each temporary absence.

32-2173. Property management agreements; contents, termination

A. A property management firm shall write property management agreements in clear, unambiguous language, and the property management agreements:

1. Shall:

(b) Be signed by the property owner or **his THE PROPERTY OWNER'S** agent and the property

32-2182. Examination of subdivision by commissioner; fee; time limit to determine violation

A. The commissioner shall examine any subdivision offered for sale or lease and shall make public **his THE COMMISSIONER'S** findings.

32-2183. Subdivision public reports; denial of issuance; unlawful sales; voidable sale or lease; order prohibiting sale or lease; investigations; hearings; summary orders

E. The commissioner may suspend, revoke or deny issuance of a public report on any of the following grounds:

6. The owner, agent, subdivider, officer, director or partner, subdivider trust beneficiary holding ten per cent or more direct or indirect beneficial interest or, if a corporation, any stockholder owning ten per cent or more of the stock in the corporation has:

(c) Had an administrative order entered against **him IT** by a real estate regulatory agency or security regulatory agency.

(d) Had an adverse decision or judgment entered against **him IT** involving fraud or dishonesty or involving the conduct of any business or transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

32-2184. Change of subdivision plan after approval by commissioner; notice

A. It is unlawful for any subdivider, after submitting to the commissioner the plan under which a subdivision is to be offered for sale or lease, and securing **his THE COMMISSIONER'S** approval, to change the plan materially or to continue to offer lots or parcels within the subdivision for sale or lease after a change has occurred that materially affects the plan without first notifying the commissioner in writing of the intended change. Material changes covered by this section shall be prescribed in the rules of the commissioner. Upon receipt of any notice of a material change, the commissioner may require the amendment of the public report and, if **he THE COMMISSIONER** determines such action to be necessary for the protection of purchasers, suspend **his THE COMMISSIONER'S** approval of sale or lease pending amendment of the public report in accordance with section 32-2157.

32-2185.01. Sale of unimproved lots or parcels; conditions precedent; methods

A. It is unlawful for the owner, agent or subdivider of subdivided lands to sell or offer to sell unimproved lots or parcels within a subdivision unless the sale complies with one of the following:

2. Execution, delivery, recording and depositing in escrow, not later than sixty days after execution by the purchaser, with a person or firm authorized to receive escrows under the laws of this state or the state in which the subdivision is located, of a real estate sales contract pertaining to the property, which contract sets forth the full and correct legal description of the property being sold and the precise terms and conditions under which the property is being sold together with:

(b) An executed deed in good and sufficient form conveying to the purchaser merchantable and marketable title, subject only to such exceptions as may be agreed to in writing by the purchaser which deed, under the terms of the real estate sales contract, is to be delivered to the escrow agent provided for under the contract within sixty days of the purchaser's execution of the contract and is to be recorded within sixty days after purchaser's compliance with the obligations imposed on ~~him~~ **THE PURCHASER** under the contract together with any release or partial release of any blanket encumbrance pertaining to said lot.

3. Execution, delivery and recording of a deed to the real property to a trustee together with a trust agreement and any and all documents necessary to release or extinguish any blanket encumbrance to the extent it applies to property being sold, or a partial release of the lot or parcel being sold from the terms and provisions of such blanket encumbrance. The trust agreement shall provide for conveyance by the trustee to a purchaser, upon purchaser's compliance with the obligations imposed on ~~him~~ **THE PURCHASER** under ~~his~~ **THEIR** real estate sales contract, by a deed in good and sufficient form conveying to the purchaser merchantable and marketable title, subject only to such exceptions as may be agreed to in writing by the purchaser. The real estate sales contract of the lot being sold shall be recorded by the owner, agent or subdivider within sixty days of execution of the real estate sales contract by the purchaser. The trustee shall execute, record and deliver the deed and record the release or partial release required by this subsection within sixty days of the purchaser's fulfillment of the terms of ~~his~~ **THE** real estate sales contract.

E. If a buyer of an unimproved lot or parcel has not inspected the lot or parcel prior to the execution of the purchase agreement, the buyer shall have a six-month period after the execution of the purchase agreement to inspect the lot or parcel and at the time of the inspection have the right to unilaterally rescind the purchase agreement. At the time of inspection the buyer must sign an affidavit stating that ~~he~~ **THE BUYER** has inspected the lot, and at the request of the commissioner, such affidavit may be required to be filed with the department.

32-2193.02. Surety bond requirement; form; cancellation; effective date; certificate of deposit

A. In addition to any other fees assessed under this chapter, the commissioner may require that a real estate or cemetery licensee or person applying for a license or renewal of a license issued to real estate or cemetery brokers or salespersons under this chapter post a surety bond if any of the following apply:

3. The licensee or applicant has had an administrative order entered against ~~him or it~~ **THE LICENSEE OR APPLICANT** by a real estate regulatory agency or security regulatory agency.

32-2194.02. Examination by commissioner; fee

Before cemetery plots are offered for sale the commissioner shall examine the cemetery and shall make public ~~his~~ **THE COMMISSIONER'S** findings. The total cost of travel and subsistence expenses incurred

by the department in the examination, in addition to the initial filing fee provided for in this section, shall be borne by the owner of the cemetery or ~~his~~ **THE OWNER'S** agent, on the basis of actual cost to the department. An initial filing fee of five hundred dollars or such lesser fee as determined by the commissioner shall accompany the written notification required in section 32-2194.01.

32-2194.05. Advertising material; contents; order prohibiting use

D. If it appears to the commissioner that any person is or has engaged in advertising or promotional practices in violation of this article, the commissioner may hold a hearing as a contested case under the provisions of title 41, chapter 6, article 10 and issue such order or orders as ~~he~~ **THE COMMISSIONER** deems necessary to protect the public interest or the commissioner may bring an action in any court of competent jurisdiction against the person to enjoin the person from continuing the violation.

32-2194.10. Change of cemetery plan after approval by commissioner; notice; fee

A. It is unlawful for any owner or agent, after submitting to the commissioner the plan under which cemetery plots are to be offered for sale and securing ~~his~~ **THEIR** approval, to change the plan materially without first notifying the commissioner in writing of the intended change. Material changes covered by this section shall be prescribed in the rules of the commissioner. On receipt of any notice of a material change, the commissioner, if ~~he~~ **THE COMMISSIONER** determines such action to be necessary for the protection of purchasers, may suspend ~~his~~ **THE COMMISSIONER'S** approval of sale pending amendment of the notice as required by section 32-2194.01.

32-2194.19. Investigation of applicant before granting of certificate of authority where needed

Upon receipt of an application for a certificate of authority to operate a cemetery, the commissioner shall cause an investigation to be made of the physical status, plans, specifications and financing of the proposed cemetery, the character of the applicant, including its officers, directors, shareholders or members, and any other qualifications required of the applicant under this article. If the commissioner finds that the applicant has complied with all the provisions of this article and further finds that the area in which the proposed cemetery is to be located is not already adequately served, then ~~he~~ **THE COMMISSIONER** shall grant the certificate of authority.

32-2195.01. Power of commissioner to exempt certain unsubdivided land by special order

A. In ~~his discretion~~ **THE COMMISSIONER'S DISCRETION** the commissioner may exempt by special order from any one or all of the provisions of this article certain unsubdivided land on written petition and on a showing by the petitioner, satisfactory to the commissioner, that compliance with this article is not essential to the public interest or for the protection of buyers by reason of the special characteristics of the unsubdivided land or the limited character and duration of the offer for sale, lease or financing.

32-2195.02. Examination of unsubdivided land by commissioner; fee

The commissioner shall examine any unsubdivided land offered for sale or lease pursuant to this article, and shall make public ~~his~~ **THE COMMISSIONER'S** findings. The total cost of travel and subsistence expenses incurred by the department in the examination, in addition to the initial filing fee provided for

in this section, shall be borne by the owner of the unsubdivided land or **his THE OWNER'S** agent, or the subdivider of the project, on the basis of actual cost to the department. An initial filing fee of five hundred dollars shall accompany the written notification required in sections 32-2195 and 32-2195.10.

32-2195.03. Unsubdivided land reports; denial of issuance; order prohibiting sale or lease; investigations; hearings; summary orders

C. The commissioner may deny issuance of a public report on any of the following grounds:

8. The owner or agent, officer, director or partner or trust beneficiary holding a ten per cent or more beneficial interest, or, if a corporation, any stockholder owning ten per cent or more of the stock in the corporation has:

(c) Had an administrative order entered against **him IT** by a real estate regulatory agency or security regulatory agency.

(d) Had an adverse decision or judgment entered against **him IT** involving fraud or dishonesty or involving the conduct of any business in or a transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

32-2195.04. Sale of lots or parcels of unsubdivided lands; conditions precedent; methods

A. It is unlawful for the owner or agent of unsubdivided lands subject to the provisions of this article to sell or offer to sell lots or parcels of such land unless the sale complies with one of the following:

2. Execution, delivery, recording and depositing in escrow, not later than sixty days after execution by the purchaser, with a person or firm authorized to receive escrows under the laws of this state or the state in which the unsubdivided lands are located, of a real estate sales contract pertaining to the property, which contract sets forth the full and correct legal description of the property being sold and the precise terms and conditions under which the property is being sold together with:

(b) An executed deed in good and sufficient form conveying to the purchaser merchantable and marketable title, subject only to such exceptions as may be agreed to in writing by the purchaser which deed, under the terms of the real estate sales contract, is to be delivered to the escrow agent provided for under the contract within sixty days of the purchaser's execution of the contract and is to be recorded within sixty days after purchaser's compliance with the obligations imposed on **him THE PURCHASER** under the contract together with any release or partial release of any blanket encumbrance pertaining to said real property being sold.

3. Execution, delivery and recording of a deed to the real property to a trustee together with a trust agreement and any and all documents necessary to release or extinguish any blanket encumbrance to the extent it applies to property being sold, or a partial release of the lot or parcel being sold from the terms and provisions of such blanket encumbrance. The trust agreement shall provide for conveyance by the trustee to a purchaser, upon purchaser's compliance with the obligations imposed on **him THE PURCHASER** under **his THE PURCHASER'S** real estate sales contract, by a deed in good and sufficient form conveying to the purchaser merchantable and marketable title, subject only to such exceptions as may be agreed to in writing by the purchaser. The real estate sales contract of the real property being sold shall be recorded by the owner or agent of unsubdivided lands within sixty days of

execution of the real estate sales contract by the purchaser. The trustee shall execute, record and deliver the deed and record the release or partial release required by this subsection within sixty days of the purchaser's fulfillment of the terms of **his THEIR** real estate sales contract.

E. If a buyer of a lot or parcel of unsubdivided land has not inspected the lot or parcel prior to the execution of the purchase agreement, the buyer shall have a six-month period after the execution of the purchase agreement to inspect the lot or parcel and at the time of the inspection have the right to unilaterally rescind the purchase agreement. At the time of inspection, the buyer must sign an affidavit stating that **he THE BUYER** has inspected the real property and at the request of the commissioner such affidavit may be required to be filed with the department.

32-2195.05. Advertising material; contents; order prohibiting use; costs of investigation

D. If it appears to the commissioner that any person is or has engaged in advertising or promotional practices in violation of this article, the commissioner may hold a hearing as a contested case under title 41, chapter 6, article 10 and issue such order or orders as **he THE COMMISSIONER** deems necessary to protect the public interest, or the commission may bring an action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation.

E. The commissioner may adopt such rules and guidelines as **he THE COMMISSIONER** deems necessary to protect the public interest and to assure that all advertising and promotional practices with respect to land subject to the provisions of this article are not false or misleading.

32-2195.10. Change of plan after approval by commissioner; notice

It is unlawful for an owner, agent or subdivider, after submitting to the commissioner a plan under which unsubdivided lands are to be offered for sale or lease and securing **his THE COMMISSIONER'S** approval, to change the plan materially without first notifying the commissioner in writing of the intended change. On receipt of a notice of a change of plan, the commissioner, if **he THE COMMISSIONER** determines such action to be necessary for the protection of purchasers, may suspend **his THE COMMISSIONER'S** approval of the sale or lease pending amendment of the public report

32-2197.04. Notification of material change

B. On receipt of a written notice of a material change, the commissioner, if the commissioner determines such action to be necessary for the protection of purchasers, may suspend **his THE COMMISSIONER'S** approval of the sale or lease pending amendment of the public report. For sales made after the material change and pending amendment of the public report, the commissioner may require the developer to fully disclose the change in a prepared supplement to the public report. The supplement shall be delivered with the previously approved public report to all prospective purchasers until the new public report is issued. The commissioner shall not require the developer to deliver the amended public report to or obtain a receipt from prior purchasers unless the commissioner specifically finds that the developer's disclosure of the changes was not an adequate disclosure.

32-2197.06. Declaration of dedication

The declaration or other documents described in section 32-2197.02, subsection B, paragraph 12 shall include the following general provisions as applicable to the particular timeshare property:

23. Policies and procedures for entry into accommodations of the timeshare plan under authority granted by the association for the purpose of cleaning, **maid HOUSEKEEPING** service, maintenance and repair, including emergency repairs and for the purpose of abating a nuisance or a known or suspected dangerous or unlawful activity.

32-2197.07. Examination of plan by commissioner; fees

A. The commissioner shall examine any timeshare plan offered for sale or lease in this state or located in this state and shall make public **his THE COMMISSIONER'S** findings.

32-2197.08. Issuance of public report and amended public report by commissioner on timeshare plan; denial of issuance; additional information; use of another state's public report

C. In the event of denial, suspension or revocation, grounds shall be set forth in writing at the time of denial, suspension or revocation. The commissioner may deny, suspend or revoke the public report on any of the following grounds:

4. The developer, including if an entity, an officer, director, member, manager, partner, owner, trust beneficiary holding ten per cent or more beneficial interest, stockholder owning ten per cent or more of the stock or other person exercising control of the entity, has:

(c) Had an administrative order entered against **him IT** by a real estate regulatory agency or securities regulatory agency.

(d) Had an adverse decision or judgment entered against **him IT** involving fraud or dishonesty or involving the conduct of any business in or a transaction in real estate, cemetery property, timeshare interests or membership camping campgrounds or contracts.

32-2197.15. Order; appointment of receiver; writ of ne exeat

C. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served upon the person engaged in or engaging in a practice declared to be unlawful under this article by delivering such order to the last address of the person which is on file with the real estate department. The order shall inform the person that **he THE PERSON** has the right to request a hearing within ten days of the date of the order, and if requested, the hearing shall be held within thirty days from the date of the order.

32-2198.04. Examination of project by commissioner

The commissioner, pursuant to an investigation conducted under section 32-2108 or an application for public report pursuant to section 32-2198.01, may examine any membership campground project offered or sold in this state and make **his THE COMMISSIONER'S FINDINGS** public. The total cost of travel and subsistence expenses incurred by the department in the examination shall be borne by the owner of the project on the basis of the actual cost to the department.

32-2198.08. Denial, suspension or revocation of a public report

A. The commissioner may order that a public report be denied, suspended or revoked or an application for a public report be denied if **he** **THE COMMISSIONER** finds that the order is necessary for the protection of purchasers or owners of membership camping contracts and that any of the following is true:

11. The owner, operator, agent, officer, director or partner, trust beneficiary holding ten per cent or more beneficial interest or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has:

(c) Had an administrative order entered against **him** **IT** by a real estate regulatory agency or security regulatory agency.

(d) Had an adverse decision or judgment entered against **him** **IT** involving fraud or dishonesty or involving the conduct of any business in or a transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

C. The commissioner, on **his** **THE COMMISSIONER'S** own motion or if **he** **THE COMMISSIONER** has received a complaint and has satisfactory evidence that grounds exist as provided in subsection A of this section or that any person has deviated from the provisions of the public report, may conduct an investigation of such matter, may issue a summary order as provided in section 32-2157 or may hold a public hearing and, after the hearing, may issue such order or orders as **he** **THE COMMISSIONER** deems necessary to protect the public interest and ensure compliance with the law, the rules or the public report, or the commissioner may bring an action in any court of competent jurisdiction against the person to enjoin the person from continuing the violation, engaging the violation or doing any act in furtherance of the violation. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any monies or property, real or personal, which may have been acquired by means of any practice in this article declared to be unlawful.

F. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served on the person alleged to have engaged or to be engaging in a practice declared to be unlawful under this article by delivering the order to the last address of the person which is on file with the department. The order shall inform the person that **he**-**has** **THEY HAVE** the right to request a hearing within ten days of the date of the order and, if requested, that the hearing shall be held within twenty days from the date of the order.

32-2202. Board; appointment; term; qualifications; officers; compensation

D. The board shall elect a **chairman** **CHAIR** and such other officers as it deems necessary. The term of each officer shall be one year ending June 30, or until the officer's successor is elected and qualifies.

32-2203. Reports

The **chairman** **CHAIR** of the board shall make an annual report to the governor on or before October 1 of each year. The report shall include a summary of licenses or certificates denied, suspended or revoked and licensees censured and placed on probation and a financial statement for the preceding fiscal year.

Any member of the board may submit a separate report to the governor on or before October 1 of each year that includes the member's comments on the board's licensing and disciplinary activities for the preceding fiscal year.

32-2204. Meetings; quorum

A. The board shall hold one annual meeting and other meetings as necessary. Special meetings may be called by the **chairman CHAIR** of the board. The time and place of the annual meeting and the method of giving notice of special meetings shall be fixed by the rules adopted by the board.

32-2209. Substance abuse treatment and rehabilitation plan; private contract; funding

B.2. Pursuant to a written request by the board or its executive director with direction from the **chairman CHAIR**, release all treatment records.

32-2211. Exceptions from application of chapter

2. A person treating an animal belonging to **himself or his THAT PERSON OR THAT PERSON'S** employer while in the regular service of such employer, or the animal of another without compensation therefor. Animals consigned by their legal owner for feeding or care to consignment livestock operations shall be considered to be the property of the consignee.



32-2231. Acts constituting the practice of veterinary medicine; exceptions; definitions

A.1. By advertisement, or by any notice, sign or other indication, or by a statement written, printed or oral, in public or in private, made, done or procured by **himself A PERSON** or any other at **his A PERSON'S** request claims, announces, makes known or pretends ability or willingness to diagnose

any animal condition, disease, deformity, defect, wound or injury or to perform any type of surgical procedure on animals.

32-2249. Disciplinary action; grounds; emergency care by technician; letter of concern

2 (e) Representing **himself THEMSELVES** as a doctor of veterinary medicine.

32-2272. Veterinary premises license; application; nontransferability; expiration; renewal; civil penalty

F. Within ninety days of receipt of an initial application and fee, the board shall issue a license if the application demonstrates compliance with this article or shall notify the applicant at **his THE APPLICANT'S** last address of record if the application is not in conformance with this article. Veterinary medical services may be performed at any premises for which an application fee is submitted pending issuance of the license or notification of a deficiency in the application.

32-2351. Definitions

3. "Instructor" means any person, whether acting **for himself** as an operator of a professional driver training school or for any such school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises the practice of persons learning to operate or drive motor vehicles or preparing to take an examination for a driver license or instruction permit, and any person who supervises the work of any other instructor.

32-2405. Powers and duties of hearing board

A. The board shall:

2. Annually elect from its membership a **chairman CHAIR** and a secretary, who serve at the pleasure of the board.

32-2406. Hearings and special meetings

A. The board shall hold hearings at a time and place determined by the director. The board may hold special meetings the **chairman CHAIR** determines necessary to carry out the functions of the board.

32-2451. Impersonation of a public officer; display of identification

A. No licensee, associate, registrant or employee of a licensee may wear a uniform, use a title, insignia, badge or identification card or make any statement that would lead a person to believe that **he THE WEARER** is connected in any way with the federal government, a state government or any political subdivision of a state government unless **he THE WEARER** is authorized by proper authorities to do so. No badge of any type may be used, shown or offered as identification in conjunction with the identification card or independently.

32-2455. Divulging investigative information; false reports prohibited

A. Except as otherwise provided by this chapter or other law, no licensee, associate, registrant or employee of a licensee may divulge or release to anyone other than ~~his~~ **THEIR** client or employer the contents of an investigative file acquired in the course of licensed investigative activity. However, the department shall have access to investigative files if the client for whom the information was acquired, or ~~his~~ **THE CLIENT'S** lawful representative, alleges a violation of this chapter by the licensee or a registrant, the licensed agency or any employee or if the prior written consent of the client to divulge or release the information has been obtained.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

32-2501. Definitions

7. "Immediate family" means the spouse, natural or adopted children, ~~father, mother~~ **PARENT**, ~~brothers~~ and ~~sisters~~ **SIBLINGS** of the physician assistant and the natural or adopted children, ~~father, mother~~ **PARENT**, ~~brothers~~ and ~~sisters~~ **SIBLINGS** of the physician assistant's spouse.

Revisions are necessary due to exclusionary use of male pronouns.

32-2601. Definitions

23. "Security guard" means any person employed by a private security guard service or proprietary company as a ~~watchman~~, **WATCHPERSON**, ~~patrolman~~, **PATROL OFFICER**, bodyguard, personal protection guard or private security guard or any other person who performs security guard services, but does not include any regularly commissioned police or peace officer or railroad police appointed pursuant to 40-856.

32-2611. Necessity of an agency license

A person shall not engage in a business regulated by this chapter or act, assume to act as or represent ~~himself~~ **THEMSELVES** to be a licensee unless the person is licensed pursuant to this chapter.

32-2621. Necessity of security guard registration

A. No person, except a regularly commissioned peace officer, shall act, attempt to act or represent ~~himself~~ **THEMSELVES** as a security guard unless such person is registered as a guard pursuant to this chapter and acting within the scope of ~~his~~ **THEIR** employment for an agency licensed pursuant to article 2 of this chapter.

32-2638. Disclosure of information to law enforcement officer or county attorney

Any licensee or registrant under this chapter shall, upon demand, divulge to any law enforcement officer or county attorney any information ~~he~~ **THE LICENSEE OR REGISTRANT** may acquire as to any criminal offense.

32-2801. Definitions

23. (b) Using controlled substances as defined in 36-2501, narcotic drugs, dangerous drugs or marijuana as defined in 13-3401 or hypnotic drugs, derivatives or any compounds, mixtures or preparations that may be used for producing hypnotic effects or the use of alcohol to the extent that it affects the ability of the certificate or permit holder to practice **his THEIR** profession.

32-2907. Jurisdiction arbitration panel; members; procedures; duties

B. If the boards disagree and if both boards continue to claim jurisdiction over the dual licensee, an arbitration panel shall decide jurisdiction. The panel shall consist of one member from each board, one legal representative from each board and one attorney who is licensed to practice law in this state, who is selected by the supreme court and who shall serve as **chairman CHAIR**.

C. The **chairman CHAIR** shall fix a date, time and place for a meeting within thirty days after the date the action is referred to the panel.

32-3003. Powers and duties

A. The board shall:

1. Annually select a **chairman CHAIR** from among its members.

32-3052. Types of disciplinary action; definition

D. The **chairman CHAIR** of the board shall appoint a complaint committee consisting of at least three members of the board. The complaint committee is subject to open meeting requirements pursuant to title 38, chapter 3, article 3.1.

32-3252. Board of behavioral health examiners; appointment; qualifications; terms; compensation; immunity; training program

F. The board shall annually elect a **chairman CHAIR** and secretary-treasurer from its membership.

32-3261. Academic review committees; members; appointment; qualifications; terms; compensation; immunity; training

G. An academic review committee shall annually elect a **chairman CHAIR** and secretary from its membership.

32-3503. Meetings; organization; compensation

A. The board shall meet in January of each year to elect a **chairman CHAIR** and other officers. The board shall hold at least one additional meeting before the end of each calendar year. Other meetings may be convened at the call of the **chairman CHAIR** or the written request of any two board members. A majority of the members of the board constitutes a quorum.

32-3522. Application for licensure

C. If an applicant's application is based on a diploma from a foreign respiratory therapy school or a certificate of license issued by another state, **he THE APPLICANT** shall furnish documentary evidence, to the satisfaction of the board, that **he THE APPLICANT** has completed courses of study which are at least equivalent to the minimum standards established by the board in its rules.

32-3551. Use of title; initials; prohibited acts

A.1. The title "licensed respiratory care practitioner" or the initials "R.C.P." which indicate that **he THE PERSON** is a licensed respiratory care practitioner.

B. A person who is licensed pursuant to this chapter shall not use the prefix "Dr.", the word "doctor" or any other prefix, suffix or initials which indicate or imply that **he THE PERSON** is licensed pursuant to any other chapter of this title if **he THE PERSON** is not.

32-3552. Grounds for denial of licenses or disciplinary action; judicial review

A.2. Negligently or knowingly employs an unlicensed person who represents **himself THEMSELVES** as a licensed respiratory care practitioner.

32-3554. Reinstatement of license; modification of probation

A. If the license of a licensed respiratory care practitioner is revoked or probation is imposed **he THE LICENSED RESPIRATORY CARE PRACTITIONER** may apply to the board for reinstatement of **his THE LICENSED RESPIRATORY CARE PRACTITIONER'S** license or modification of the conditions of the probation one year after the date of revocation or imposition of probation.

32-3556. Unlawful acts

1. Engage in the practice of respiratory care unless **he THE PERSON** is licensed or excepted from licensure pursuant to this chapter.

2. Represent **himself THEMSELVES** to be a licensed respiratory care practitioner or an inhalation therapist or use the letters "R.C.P." or "I.T." unless **he THE PERSON** is licensed pursuant to this chapter.

32-3557. Injunctive relief; bond; service of process

C. Service of process may be on the defendant in any county of this state where **he THE DEFENDANT** is found.

Revisions are necessary because of the differing treatment for females and males.

32-4253. Disciplinary action; grounds; definitions

B.1. “Breast” means any portion of the breast below a point immediately above the top of the areola.

B.2.(e) Massaging, touching or applying any instrument or device by a licensee in the course of practicing or engaging in massage therapy to the breasts of a **female** client unless the client requests breast massage and signs a written consent form. If the client is a minor, the consent form must include the signature of the client’s parent or legal guardian authorizing the procedure and outlining the reason for the procedure before the procedure is performed.

B.2.(f) Asking or directing a massage therapy client or prospective client to touch the client’s own anus or genitals or to touch the anus, genitals or **female** breasts of any other person.

B.2.(i) Exposing **her** breasts to a client.

TITLE 33 Property

Revisions are necessary due to exclusionary use of male pronouns.

33-102. Minutes or field notes of survey; requirements; recording

A. The county's land surveyor shall make a certificate of full and correct minutes or field notes of the survey, disclosing the exact bearings and distances from each monument to the monument nearest it on any line in the township, and **he THE SURVEYOR** shall also take bearings and distances from each monument set to those appropriate natural and artificial objects within a reasonable distance.

33-104. Right of person making land survey to enter lands; damages for injury to lands

C. The person entering lands for a land survey as provided by this section may tender to the injured party damages therefor, and if the damages finally assessed do not exceed the amount tendered, **he THE SURVEYOR** shall recover costs. Otherwise the injured party shall recover costs.

33-303. Discrimination by landlord or lessor against tenant with children prohibited; classification; exceptions

B. No person shall rent or lease **his** property to another in violation of a valid restrictive covenant against the sale of such property to persons who have a child or children living with them nor shall a person rent or lease **his** property to persons who have a child or children living with them when **his THE** property lies within a subdivision which subdivision is presently designed, advertised and used as an exclusive adult subdivision. A person who knowingly rents or leases **his** property in violation of the provisions of this subsection is guilty of a petty offense.

33-321. Maintenance of premises

A tenant shall exercise diligence to maintain the premises in as good condition as when **he THE TENANT** took possession, ordinary wear and tear excepted.

33-324. Denial of landlord's title by lessee in possession prohibited

When a person enters into possession of real property under a lease, **he THE PERSON** may not, while in possession, deny the title of **his THE** landlord in an action brought upon the lease by the landlord or a person claiming under **him THE LANDLORD**.

33-362. Landlord's lien for rent

A. The landlord shall have a lien on all property of **his THE** tenant not exempt by law, placed upon or used on the leased premises, until the rent is paid. The lien shall not secure the payment of rent accruing after the death or bankruptcy of the lessee, or after an assignment for the benefit of the lessee's creditors.



B. The landlord may seize for rent any personal property of ~~his~~ **THE** tenant found on the premises, but the property of any other person, although found on the premises, shall not be liable therefor. If the tenant fails to allow the landlord to take possession of such property, the landlord may reduce the property to possession by an action to recover possession, and may hold or sell the property for the payment of the rent.

D. When premises are sublet, or when the lease is assigned, the landlord shall have the same lien against the sublessee or assignee as ~~he~~ **THE LANDLORD** ~~has~~ **HAD** against the tenant and may enforce the lien in like manner.

33-420. False documents; liability; special action; damages; violation; classification

B. The owner or beneficial title holder of the real property may bring an action pursuant to this section in the superior court in the county in which the real property is located for such relief as is required to immediately clear title to the real property as provided for in the rules of procedure for special actions. This special action may be brought based on the ground that the lien is forged, groundless, contains a material misstatement or false claim or is otherwise invalid. The owner or beneficial title holder may bring a separate special action to clear title to the real property or join such action with an action for damages as described in this section. In either case, the owner or beneficial title holder may recover reasonable attorney fees and costs of the action if ~~he~~ **THEY** ~~prevails~~.**PREVAIL**.

C. A person who is named in a document which purports to create an interest in, or a lien or encumbrance against, real property and who knows that the document is forged, groundless, contains a material misstatement or false claim or is otherwise invalid shall be liable to the owner or title holder for the sum of not less than one thousand dollars, or for treble actual damages, whichever is greater, and

reasonable attorney fees and costs as provided in this section, if ~~he~~ **THEY** wilfully ~~refuses~~ **REFUSE** to release or correct such document of record within twenty days from the date of a written request from the owner or beneficial title holder of the real property.

33-435. Covenants implied from word “grant” or “convey”

A. If the word “grant” or the word “convey” is used in a conveyance by which an estate of inheritance or fee simple is to be passed, the following covenants and none other, on the part of the grantor for ~~himself~~ **THEMSELVES** and ~~his~~ **THEIR** heirs, to the grantee and ~~his~~ **THEIR** heirs and assigns, are implied unless restrained by express terms contained in the conveyance:

33-438. Sale of property subject to certain liens and encumbrances

C. The buyer’s right to void such sale may not be exercised if ~~he~~ **THE BUYER** has in fact received title, free of such lien, encumbrance, option, contract or trust. Any action to void such sale shall be commenced either within two years after discovery or after completion of all payments and performance of all terms and provisions required to be made or performed by the buyer, whichever occurs first, and not thereafter.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

33-454. Power of attorney from one spouse to the other to execute instruments relating to property

Either ~~husband or wife~~ **SPOUSE** may authorize the other by power of attorney, executed and acknowledged in the manner conveyances of real property are executed and acknowledged, to execute, acknowledge and deliver, in ~~his or her~~ **THEIR** name and behalf, any conveyance, mortgage or other instrument affecting the separate or community property or any interest therein of the spouse executing the power of attorney.

33-457. Fraudulent representation by married person of ability to convey realty; classification

A married person who falsely and fraudulently represents ~~himself or herself~~ **THEMSELVES** as competent to sell or mortgage real estate, when the validity of the sale or mortgage requires the assent or concurrence of the ~~wife or husband~~ **OTHER SPOUSE**, and, under such representations, knowingly conveys or mortgages the real estate, is guilty of a class 5 felony.

Revisions are necessary due to exclusionary use of male pronouns.

33-502. Authentication of authority of officer

A. If the notarial act is performed by any of the persons described in section 33-501, paragraphs 1 through 4, inclusive, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of ~~his~~ authority is not required.

C. If the notarial act is performed by a person other than one described in subsections A and B, there is sufficient proof of the authority of that person to act if the secretary of state certifies to the official character of that person and to **his THAT PERSON'S** authority to perform the notarial act.

D. The signature and title of the person performing the act are prima facie evidence that **he THE PERSON** is a person with the designated title and that the signature is genuine.

33-503. Certificate of person taking acknowledgment

The person taking an acknowledgment shall certify that:

1. The person acknowledging appeared before **him THE PERSON TAKING THE ACKNOWLEDGEMENT** and acknowledged **he THE PERSON** executed the instrument, and

33-505. Certificate of acknowledgment

The words “acknowledged before me” mean that:

1. The person acknowledging appeared before the person taking the acknowledgment.

2. **he THE PERSON** acknowledged **he THAT THE PERSON** had executed the instrument.

3. In the case of:

(a) A natural person, **he THE PERSON** executed the instrument for the purposes therein stated.

(b) A corporation, the officer or agent acknowledged **he THAT PERSON** held the position or title set forth in the instrument and certificate, **he THAT PERSON** signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated.

(c) A partnership, the partner or agent acknowledged **he THE PERSON** signed the instrument on behalf of the partnership by proper authority and **he THAT PERSON** executed the instrument as the act of the partnership for the purposes therein stated.

(d) A person acknowledging as principal by an attorney in fact, **he THE PERSON** executed the instrument by proper authority as the act of the principal for the purposes therein stated.

(e) A person acknowledging as a public officer, trustee, personal representative, administrator, guardian, conservator or other representative, **he THE PERSON** signed the instrument by proper authority and **he THAT PERSON** executed the instrument in the capacity and for the purposes therein stated.

Repeal is necessary due to sex discrimination inherent in archaic assumption that married women have lesser rights than single women.

~~33-512. Acknowledgment by a married woman~~

~~An acknowledgment of a married woman may be made in the same form as though she were unmarried.~~

Revisions are necessary due to exclusionary use of male pronouns.

33-601. Gifts

A gift of any goods or chattels is not valid unless the gift is in writing, duly acknowledged and recorded, or by will, duly proved and recorded, or unless actual possession of the gift is passed to and remains with the donee or some one claiming under ~~him~~ THE DONEE.

33-707. Acknowledgment of satisfaction; recording

A. If a mortgagee, trustee or person entitled to payment receives full satisfaction of a mortgage or deed of trust, ~~he~~ THE PERSON shall acknowledge satisfaction of the mortgage or deed of trust by delivering to the person making satisfaction or by recording a sufficient release or satisfaction of mortgage or deed of release and reconveyance of the deed of trust, which release, satisfaction of mortgage or deed of release and reconveyance shall contain the docket and page number or recording number of the mortgage or deed of trust. If a mortgagee, trustee or person entitled to payment receives an amount less than full satisfaction of a mortgage or deed of trust, but has agreed in writing to release the mortgage or deed of trust, the mortgagee, trustee or person shall acknowledge release of the mortgage or deed of trust by delivering to the person making payment of the agreed amount that is less than full satisfaction or by recording a sufficient release of the mortgage or release and reconveyance of the deed of trust, which release or release and reconveyance shall contain the docket and page number or recording number of the mortgage or deed of trust. It shall not be necessary for the trustee to join in the acknowledgment or satisfaction, or in the release, satisfaction of mortgage or deed of release and reconveyance. The recorded release or satisfaction of mortgage or deed of release and reconveyance constitutes conclusive evidence of full or partial satisfaction and release of the mortgage or deed of trust in favor of purchasers and encumbrancers for value and without actual notice.

D. If the note secured by a mortgage or deed of trust has been lost or destroyed, the assignee, mortgagee or beneficiary shall, before acknowledging satisfaction, make an affidavit that ~~he is~~ THEY ARE the lawful owner of the note and that it has been paid, but cannot be produced for the reason that it has been lost or destroyed, and the affidavit shall be recorded. If the record of such mortgage or deed of trust has been destroyed and the record thereof reduced to microfilm, such affidavit shall be recorded and indexed as releases, satisfactions of mortgage and deeds of release and reconveyance are recorded and indexed and shall have the same force and effect as a release or satisfaction of a mortgage or deed of release and reconveyance as provided in subsection A of this section.

33-709. Acknowledgment of satisfaction by personal representative of mortgagee to whom indebtedness was paid before death

The executor or administrator of a mortgagee or of the holder or owner of an indebtedness secured by a mortgage or deed of trust shall, if the indebtedness was paid to the decedent in ~~his~~ THE DECEDENT'S lifetime, acknowledge satisfaction thereof by delivering to such person a sufficient release, satisfaction of mortgage or deed of release of the mortgage or deed of trust or acknowledge satisfaction as provided in subsection C of section 33-707. If the executor or administrator, upon proof ~~to him~~ of the payment of the indebtedness to ~~his~~ THE decedent, does not, within thirty days, acknowledge satisfaction by delivering to the person owning the property a sufficient release, satisfaction of mortgage or deed of release, or acknowledge satisfaction as provided in subsection C of section 33-707, ~~he~~ THE

EXECUTOR OR ADMINISTRATOR shall personally forfeit to the party aggrieved one hundred dollars and be personally liable for the damages thereby sustained. The executor or administrator shall not be liable to the estate of which he is THEY ARE executor or administrator for any indebtedness by mortgage or deed of trust released by him THEM in accordance with this section.

33-710. Release by foreign personal representative, administrator, guardian or conservator

When a personal representative or administrator of the estate of a person not a resident of this state at the time of his death has been appointed in another state or foreign country, and no personal representative or administrator has been appointed in this state, or when a guardian or conservator of a minor has been appointed in another state or foreign country, such foreign personal representative, administrator, guardian or conservator, upon recording an authenticated copy of his THE appointment in the recorder's office of the county in which the mortgage held by the estate of the deceased person or minor is recorded, may execute satisfaction or deeds of release of mortgages upon property located in this state in the same manner as personal representatives, administrators, guardians or conservators appointed in this state.

33-712. Liability for failure to acknowledge satisfaction

A. If any person receiving satisfaction of a mortgage or deed of trust shall, within thirty days, fail to record or cause to be recorded, with the recorder of the county in which the mortgage or deed of trust was recorded, a sufficient release, satisfaction of mortgage or deed of release or acknowledge satisfaction as provided in section 33-707, subsection C, he THE PERSON shall be liable to the mortgagor, trustor or current property owner for actual damages occasioned by the neglect or refusal.

B. If, after the expiration of the time provided in subsection A of this section, the person fails to record or cause to be recorded a sufficient release and continues to do so for more than thirty days after receiving a written request which identifies a certain mortgage or deed of trust by certified mail from the mortgagor, trustor, current property owner or his THE agent, he THE PERSON WHO FAILED TO RECORD THE DOCUMENT shall be liable to the mortgagor, trustor or current property owner for one thousand dollars, in addition to any actual damage occasioned by the neglect or refusal.

33-723. Right of junior lien holder upon foreclosure action by senior lien holder

Any time after an action to foreclose a mortgage or deed of trust is brought, and prior to the sale, a person having a junior lien on the property shall be entitled to an assignment of all the interest of the holder of the mortgage or deed of trust by paying him the amount secured, with interest and costs, together with the amount of any other superior liens of the same holder. The assignee may then continue the action in his THE ASSIGNEE'S name.

33-725. Judgment of foreclosure; contents; sale of property; resale

B. Judgments for the foreclosure of mortgages and other liens shall provide that the plaintiff recover his THE PLAINTIFF'S debt, damages and costs, with a foreclosure of the plaintiff's lien on the property subject to the lien, and, except in judgments against executors, administrators and guardians, that a special execution issue to the sheriff or any constable of the county where the property is located, directing him THE SHERIFF OR CONSTABLE to seize and sell the property as under execution,

in satisfaction of the judgment. If the property cannot be found, or if the proceeds of the sale are insufficient to satisfy the judgment, then if so ordered by the court the sheriff shall take the money or any balance thereof remaining unpaid out of any other property of the defendant except as provided in sections 33-729 and 33-730. All execution upon judgments for foreclosure of a mortgage or deed of trust upon real property shall comply with section 12-1566. Any sale of real property to satisfy a judgment under this section or section 33-814 shall be a credit on the judgment in the amount of either the fair market value of the real property or the sale price of the real property at sheriff's sale, whichever is greater, in accordance with section 12-1566.

33-727. Sale under execution; deficiency; order of liens; writ of possession

B. If there are other liens on the property sold, or other payments secured by the same mortgage, they shall be paid in their order, and if the money secured by any such lien is not yet due, a rebate of interest, to be ascertained by the court, shall be made by the holder, or **his THE** lien on such property will be postponed to those of a junior date, and if there are no other liens the balance shall be paid to the mortgagor. If redemption is not made and the mortgagor or **his** assigns refuse, after expiration of the time for redemption, to deliver possession of the foreclosed property, the court shall order a writ of possession issued placing the purchaser or **his THE** assigns in possession. All executions upon judgments for foreclosure of a mortgage or deed of trust upon real property shall comply with section 12-1566. Any sale of real property to satisfy a judgment under section 33-725 or 33-814 shall be a credit on the judgment in the amount of either the fair market value of the real property or the sale price of the real property at sheriff's sale, whichever is greater, in accordance with section 12-1566.

33-728. Recording upon record that mortgage is foreclosed and judgment satisfied; effect

When a mortgage has been foreclosed by action in court, and the judgment has been paid and satisfaction thereof entered upon the docket, the county recorder, upon presentation **to him** of the certificate of the clerk of the court certifying such facts including the docket and page or recording number of the recorded mortgage or deed of trust, shall record the certificate. Such recording shall have the same effect as the record of discharge by the mortgagee.

33-741. Definitions

In this article, unless the context otherwise requires:

3. "Monies due under the contract" means:

(b) Any principal and interest payments which are currently due and payable to other persons who hold existing liens and encumbrances on the property, the unpaid principal portion of which constitutes a portion of the purchase price, as stated in the contract, if the principal and interest payments were paid by the seller pursuant to the terms of the contract and to protect **his THE SELLER'S** interest in the property.

(c) Any delinquent taxes and assessments, including interest and penalty, due and payable to any governmental entity authorized to impose liens on the property which are the purchaser's obligations under the contract, if the taxes and assessments were paid by the seller pursuant to the terms of the contract and to protect **his THE SELLER'S** interest in the property.

(d) Any unpaid premiums for any policy or policies of insurance which are the obligation of the purchaser to maintain under the contract, if the premiums were paid by the seller pursuant to the terms of the contract and to protect **his THE SELLER'S** interest in the property.

7. "Seller" means the person or any successor in interest to the person who has contracted to convey **his THE** title to the property which is the subject of the contract.

33-806.01. Trustor's right to transfer; transfer fee limit; interest rate increase limit

A. Nothing in this article shall be construed to prevent or limit the right of a trustor to transfer **his THE TRUSTOR'S** interest in the trust property, or authorize a beneficiary or trustee to arbitrarily withhold **his** consent to a transfer by the trustor of **his THE** interest in the trust property.

B. When a trustor transfers **his THE TRUSTOR'S** interest in the trust property, no beneficiary or trustee shall charge a fee on the transfer of more than one hundred dollars or one per cent of the balance due on the obligation secured by the trust deed, whichever is greater.

C. When a trustor transfers **his** interest in the trust property, no beneficiary or trustee shall increase the interest rate on the obligation secured by such trust deed unless the transferring trustor is released from all liability thereon and in no event shall the amount of such increase exceed one-half of one percent per annum more than the interest rate paid by the transferring trustor.

33-815. Method of indexing

Every trust deed, substitution of trustee, notice of resignation of trustee, request for notice, assignment of beneficial interest under a trust deed, notice of sale, cancellation of notice of sale or deed of release entitled to recordation under the provisions of this chapter shall be indexed in the same manner as mortgages, with the trustor indexed as mortgagor, and if the name of the beneficiary appears on the instrument being recorded, **his THAT** name or that of **his THE** successor shall be indexed as mortgagee. If the name of the beneficiary does not appear on the instrument being recorded the name of the trustee, or **his THE** successor, shall be indexed as mortgagee.

33-820. Trustee's right to rely; attorney's right to act for trustee and beneficiary

A. In carrying out **his THE** duties under the provisions of this chapter or any deed of trust, a trustee, shall when acting in good faith, have the absolute right to rely upon any written direction or information furnished to **him THE TRUSTEE** by the beneficiary.

33-903. Nonliability of vendee of crops upon lien for farm services; demand of statement from vendor; refusal to make or making of erroneous statement by vendor; classification

If farm products are removed from the premises upon which grown, and sold to a shipper, wholesale dealer or manufacturer upon the open market in the ordinary course of trade before the filing of a lien provided for in this article, the shipper, wholesale dealer or manufacturer shall not be liable for any such lien unless notice has been given **him** of persons claiming the lien. The shipper, wholesale dealer or manufacturer shall demand a written statement, under oath, from the vendor, giving the names of and amounts due to persons entitled to liens under this article. A vendor who knowingly fails to make the statement when demanded or who knowingly makes a false or misleading statement is guilty of a class

2 misdemeanor, and, in addition to the penalty prescribed in section 33-906, shall be liable to any person thus deprived of **his THE** lien for double the full amount thereof, and for reasonable attorney's fees if an action is instituted to recover the amount due.

33-905. Demand by lien holder for enforcement of lien against whole or part of property covered

A person who brings a civil action to enforce a lien provided for in this article, or any person having a lien who is made a party to such civil action, may demand that **his THE** lien be enforced against the whole or any part of the crop.

33-907. Enforcement of judgment

In a civil action filed pursuant to this article, the judgment shall be given in favor of each person having a lien for the amount due **him**. The court shall order any property subject to the lien sold, either before or at the time judgment is given, by the sheriff as personal property is sold on execution, and shall apportion the proceeds of the sale for payment of the pro rata share of each judgment.

33-965. Entry of reversal or remittitur upon judgment docket; affidavit

When a judgment which has been docketed or recorded is reversed on appeal, and the judgment of reversal is filed, or a remittitur is filed, the clerk shall forthwith make entry thereof on the docket. The entry of such reversal or remittitur shall be made by affidavit to be submitted by such judgment creditor or **his** counsel, which shall thereupon be recorded and indexed as releases of judgment are recorded and indexed.

ARTICLE 6 – MECHANICS' AND **MATERIALMEN'S MATERIALS** LIENS

33-981. Lien for labor; professional services or materials used in construction, alteration or repair of structures; preliminary twenty day notice; exceptions

A. Except as provided in sections 33-1002 and 33-1003, every person who labors or furnishes professional services, materials, machinery, fixtures or tools in the construction, alteration or repair of any building, or other structure or improvement, shall have a lien on such building, structure or improvement for the work or labor done or professional services, materials, machinery, fixtures or tools furnished, whether the work was done or the articles were furnished at the instance of the owner of the building, structure or improvement, or **his THE OWNER'S** agent.

B. Every contractor, subcontractor, architect, builder or other person having charge or control of the construction, alteration or repair, either wholly or in part, of any building, structure or improvement is the agent of the owner for the purposes of this article, and the owner shall be liable for the reasonable value of labor or materials furnished to **his THE** agent.

D. A person required to give preliminary twenty day notice pursuant to section 33-992.01 is entitled to enforce the lien rights provided for in this section only if **he THE PERSON** has given such notice and has made proof of service pursuant to section 33-992.02.

33-982. Claim of lien by assignee of contract or account for material furnished or labor performed

An assignee of a contract or account for material furnished or labor performed may verify, file, record and enforce the contract as if **he** THE ASSIGNEE had been the original owner or holder thereof.

33-985. Lien for labor or materials furnished domestic vessel

Persons who furnish supplies or material or do repairs or perform labor for or on account of a domestic vessel owned wholly or in part in this state, shall have a lien on the vessel, **her** THE VESSEL'S tackle, apparel, furniture and freight money for the amount due.

33-989. Lien for labor or material furnished mines and mining claims; priority

B. The lien provided for in subsection A shall attach when the labor was performed or the material or merchandise furnished:

1. Under a contract between the person performing the labor or furnishing the material or merchandise and the owner of the mining claim, or **his** THE contractor.
2. Under a contract between the person performing the labor or furnishing the material or merchandise and the lessee of the mine or mining claim, or **his** THE contractor, where the lease from the owner to the lessee permits the lessee to develop or work the mine or mining claim.

33-992.02. Proof of mailing of preliminary twenty day notice; receipt; affidavit

Proof that the preliminary twenty day notice required by section 33-992.01 was given in accordance with section 33-992.01, subsection F shall be made as follows:

2. If a person to whom the notice is served pursuant to section 33-992.01, subsection F fails to complete the acknowledgment or fails to complete and return the acknowledgment within thirty days from the date of mailing, proof of mailing may be made by affidavit of the person making the mailing, showing the time, place and manner of mailing and facts showing that such service was made in accordance with section 33-992.01. The affidavit shall show the name and address of the person to whom a copy of the preliminary twenty day notice was mailed, and, if appropriate, the title or capacity in which **he** THE PERSON was given the notice. If mailing was made by first class mail sent with a certificate of mailing, the certificate of mailing shall be attached to the affidavit. If the mailing was by certified or registered mail, the receipt of certification or registration shall be attached to the affidavit.

33-993. Procedure to perfect lien; notice and claim of lien; service; recording; definitions

A. In order to impress and secure the lien provided for in this article, every person claiming the benefits of this article, within one hundred twenty days after completion of a building, structure or improvement, or any alteration or repair of such building, structure or improvement, or if a notice of completion has been recorded, within sixty days after recordation of such notice, shall make duplicate copies of a notice and claim of lien and record one copy with the county recorder of the county in which the property or some part of the property is located, and within a reasonable time thereafter serve the remaining copy upon the owner of the building, structure or improvement, if **he** THE OWNER can be found within

the county. The notice and claim of lien shall be made under oath by the claimant or someone with knowledge of the facts and shall contain:

2. The name of the owner or reputed owner of the property concerned, if known, and the name of the person by whom the lienor was employed or to whom **he THE LIENOR** furnished materials.

H. A notice of completion shall be recorded in the office of the county recorder of the county in which the property or some part of the property is located. The county recorder of the county in which the notice of completion is recorded shall index the notice of completion under the index classification in which mechanics' and **materialmen's MATERIALS** liens are recorded.

33-994. Right of owner of property against which lien is claimed to withhold payment to original contractor; procedure

Upon service of the notice and claim of lien, the owner may retain, out of the amount due or to become due the original contractor, the value of the labor or material furnished as shown by the notice and claim of lien. The owner shall furnish the original contractor with a true copy of the notice and claim of lien and if the contractor does not, within ten days after receipt of the copy, give the owner written notice that **he THE CONTRACTOR** intends to dispute the claim, **he THE CONTRACTOR** shall be considered as assenting to the demand, which shall be paid by the owner when it becomes due.

33-995. Duty of contractor to defend action on claim of lien by person other than a contractor; rights of owner against contractor; other rights

B. During pendency of such action the owner may withhold the amount sued for, and if judgment is given upon the lien, **he THE OWNER** may deduct from any amount due or to become due from **him THE OWNER** to the contractor the amount of the judgment and costs.

C. If the owner has settled with the contractor in full, or if such an amount is not owing to the contractor, the owner may recover back from the contractor the amount so paid by **him THE OWNER**, and for which the contractor was the party originally liable.

33-999. Right of lienholder to have land and improvements sold together or separately; right of purchaser to possession

A. The person enforcing a lien granted under the provisions of this article may have the lot or land and improvements sold together, or **he THE PERSON** may have the improvements alone sold when it can be done without material injury to the property beyond the value of the improvements.

33-1000. Priority among mechanic's and **materialman's MATERIALS liens; prorating proceeds of foreclosure sale**

A. Except as otherwise provided in section 33-992, the liens for work and labor done or professional services or material furnished, as provided for in this article, are on an equal footing without reference to the date of recording the notice and claim of lien, and without reference to the time of performing the work and labor or furnishing the professional services or material.

33-1001. Priority of claims for current wages owed by owner of property under levy

A. When a levy is made under execution, attachment or other similar writ, except when the writ is issued in an action under this article, a miner, mechanic, ~~salesman~~ SALESPERSON, servant or laborer who has a claim against the defendant for labor performed may give notice of ~~his~~ THE claim, sworn to and stating the amount thereof, to the creditor, defendant debtor and the officer executing the writ, at any time within three days before sale of the property levied upon. The officer shall file the claim with the clerk of the court issuing the writ, and unless the claim is disputed by the debtor or creditor before sale, the officer shall pay the claimant from the proceeds of the sale the amount claimant is entitled to receive for such services rendered within sixty days next preceding the levy of the writ, not exceeding two hundred dollars to each claimant. Upon failure of the officer to do so, ~~he~~ THE OFFICER shall be liable to the claimant therefor.

33-1002. Definitions; inapplicability of certain liens to owner-occupied dwelling; waiver void

A. In this section:

2. "Owner-occupant" means a natural person who:

(b) Resides or intends to reside in the dwelling at least thirty days during the twelve-month period immediately following completion of the construction, alteration, repair or improvement and does not intend to sell or lease the dwelling to others. Residence in the dwelling or intent to reside in the dwelling may be evidenced by the following or other physical acts:

(i) The placing of ~~his or her~~ personal belongings and furniture in the dwelling, and

(ii) Occupancy either by the person or members of ~~his or her~~ THE family. A single act shall not establish a person as an owner-occupant if such person permits exclusive occupancy by other than members of ~~his or her~~ THE family for other than temporary purposes thereby negating ~~his or her~~ THE intent to reside in the dwelling primarily for use as ~~his or her~~ AN OWNER-OCCUPIED home.

33-1006. Release of mechanic's and ~~materialman's~~ MATERIALS liens; liability

A. When any lien established by the provisions of this article has been satisfied, the lienholder shall, within twenty days after satisfaction, issue a release of the lien.

33-1008. Waiver of lien

A. An owner or contractor by any term of their contract, or otherwise, may not waive or impair the claims or liens of other persons whether with or without notice except by their written consent or as prescribed by section 33-1003. Any term of the contract to that effect shall be void. Any written consent given by any claimant pursuant to this section is unenforceable unless the claimant executes and delivers a waiver and release. This waiver and release is effective to release the property for the benefit of the owner, the construction lender, the contractor and the surety on a payment bond from claims and liens only if the waiver and release follows substantially one of the forms set forth in this section and is signed by the claimant or ~~his~~ THE CLAIMANT'S authorized agent, and, in the case of a conditional release, if there is evidence of payment to the claimant. Evidence of payment may be by the claimant's

endorsement on a single or joint payee check that has been paid by the bank on which it was drawn or by written acknowledgment of payment given by the claimant.

D. The waiver and release given by any claimant is unenforceable unless it follows substantially the following forms in the following circumstances:

1. Where the claimant is required to execute a waiver and release in exchange for or in order to induce the payment of a progress payment and the claimant is not in fact paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall follow substantially the following form:

Conditional waiver and release on progress payment

Project: _____

Job No.: _____

On receipt by the undersigned of a check from _____

(maker of check)

in the sum of \$ _____ payable to _____

(amount of check) (payee or payees of check)

and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien, any state or federal statutory bond right, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position that the undersigned has on the job of _____

(owner)

located at _____ to the following

(job description)

extent. This release covers a progress payment for all labor, services, equipment or materials furnished to the jobsite or to _____,

(person with whom undersigned contracted)

through _____ only and does not cover any retention,

(date)

pending modifications and changes or items furnished after that date. Before any recipient of this document relies on it, that person should verify evidence of payment to the undersigned.

The undersigned warrants that ~~he~~ **THEY** either ~~has~~ **HAVE** already paid or will use the monies ~~he~~ **receives** **THEY RECEIVE** from this progress payment to promptly pay in full all of ~~his~~ **THEIR** laborers, subcontractors, ~~materialmen~~ **MATERIAL PROVIDERS** and suppliers for all work, materials, equipment or services provided for or to the above referenced project up to the date of this waiver.

Date: _____

(Company name)

By: _____

(Signature)

(Title)

2. Where the claimant is required to execute a waiver and release in exchange for or in order to induce the payment of a progress payment and the claimant asserts in the waiver that it has been paid the progress payment, the waiver and release shall follow substantially the following form:

Unconditional waiver and release on progress payment

Project: _____

Job No.: _____

The undersigned has been paid and has received a progress payment in the sum of \$_____ for all labor, services, equipment or material furnished to the jobsite or to _____

(person with whom undersigned contracted)

on the job of _____

(owner)

located at _____

(job description)

and does hereby release any mechanic's lien, any state or federal statutory bond right, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position that the undersigned has on the above referenced project to the following extent. This release covers a progress payment for all labor, services, equipment or materials furnished to the jobsite or to _____

(person with whom undersigned contracted)

through _____ only and does not cover any retention,

(date)

pending modifications and changes or items furnished after that date.

The undersigned warrants that ~~he~~ **THEY** either ~~has~~ **HAVE** already paid or will use the monies ~~he~~ **receives** **THEY RECEIVE** from this progress payment to promptly pay in full all of ~~his~~ **THEIR** laborers, subcontractors, ~~materialmen~~ **MATERIAL PROVIDERS** and suppliers for all work, materials, equipment or services provided for or to the above referenced project up to the date of this waiver.

Dated: _____

(Company name)

By: _____

(Signature)

(Title)

(Each unconditional waiver shall contain the following language, in type at least as large as the largest type otherwise on the document:)

Notice: This document waives rights unconditionally and states that you have been paid for giving up those rights. This document is enforceable against you if you sign it, even if you have not been paid. If you have not been paid, use a conditional release form.

3. Where the claimant is required to execute a waiver and release in exchange for or in order to induce payment of a final payment and the claimant is not paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall follow substantially the following form:

Conditional waiver and release on final payment

Project: _____

Job No.: _____

On receipt by the undersigned of a check from _____

(maker of check)

in the sum of \$ _____ payable to _____

(amount of check) (payee or payees of check)

and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien, any state or federal statutory bond right, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position, the undersigned has on the job of _____ located at _____.

(owner) (job description)

This release covers the final payment to the undersigned for all labor, services, equipment or materials furnished to the jobsite or to _____,

(person with whom undersigned contracted)

except for disputed claims in the amount of \$_____. Before any recipient of this document relies on it, the person should verify evidence of payment to the undersigned.

The undersigned warrants that ~~he~~ **THEY** either ~~has~~ **HAVE** already paid or will use the monies ~~he~~ **receives** **THEY RECEIVE** from this final payment to promptly pay in full all ~~his~~ **THEIR** laborers, subcontractors, ~~materialmen~~ **MATERIAL PROVIDERS** and suppliers for all work, materials, equipment or services provided for or to the above referenced project up to the date of this waiver.

Dated: _____

(Company name)

By: _____

(Signature)

(Title)

4. Where the claimant is required to execute a waiver and release in exchange for or in order to induce payment of a final payment and the claimant asserts in the waiver that it has been paid the final payment, the waiver and release shall follow substantially the following form:

Unconditional waiver and release on final payment

Project: _____

Job No.: _____

The undersigned has been paid in full for all labor, services, equipment or material furnished to the jobsite or to _____,

(person with whom undersigned contracted)

on the job of _____ located at _____

(owner) (job description)

and does hereby waive and release any right to mechanic's lien, any state or federal statutory bond right, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position, except for disputed claims for extra work in the amount of \$ _____.

The undersigned warrants that ~~he~~ **THEY** either ~~has~~ **HAVE** already paid or will use the monies ~~he~~ **receives** **THEY RECEIVE** from this final payment to promptly pay in full all of ~~his~~ **THEIR** laborers, subcontractors, ~~materialmen~~ **MATERIAL PROVIDERS** and suppliers for all work, materials, equipment or services provided for or to the above referenced project.

Dated: _____

(Company name)

By: _____

(Signature)

(Title)

(Each unconditional waiver shall contain the following language in type at least as large as the largest type otherwise on the document:)

Notice:

This document waives rights unconditionally and states that you have been paid for giving up those rights. This document is enforceable against you if you sign it, even if you have not been paid. If you have not been paid, use a conditional release form.

33-1021. Lien for labor or materials furnished on personal property; right to possess property

When an article, implement, utensil or vehicle, except motor vehicles, is repaired or cleaned, glazed or washed, with labor, with or without material, by a carpenter, mechanic, artisan or other ~~workman~~ **WORKER**, such person shall have a lien thereon for the labor or material and may retain possession thereof until the amount due is fully paid.

33-1023. Sale of property; disposal of proceeds

B. Five days' notice of sale shall be given to the owner if ~~he~~ **THE OWNER** can be found, and if not, then by two publications in a newspaper published in the county.

C. If the person legally entitled to receive the balance is not known or has removed from the county, the holder shall pay the balance to the department of revenue. If the party, at any time within two years

from the date of payment to the department of revenue, establishes ~~his~~ **THE** right to the money to the satisfaction of the director of the department of administration, it shall be paid to ~~him~~ **THE PERSON LEGALLY ENTITLED**. After two years, all unclaimed monies shall be deposited in the permanent state school fund.

33-1033. Execution of notices and certificates

Certification of notices of liens, certificates or other notices affecting federal liens by the secretary of the treasury of the United States or ~~his~~ delegate, or by any official or entity of the United States responsible for filing or certifying notice of any other lien, entitles them to be filed or recorded and no other attestation, certification or acknowledgement is necessary.

33-1034. Filing or recording officer; duties

A. If a notice of federal lien, a refiling of a notice of federal lien or a notice of revocation of any certificate described in subsection B of this section is presented to a filing or recording officer who is:

1. The secretary of state, ~~he~~ **THE SECRETARY OF STATE** shall cause the notice to be marked, held and indexed in accordance with title 47, chapter 9, article 5 as if the notice were a financing statement within the meaning of title 47.

2. The county recorder, ~~he~~ **THE COUNTY RECORDER** shall endorse on the notice or refiling ~~his~~ **THE** identification and the date and time of receipt and promptly file or record it and index it pursuant to section 11-462.

B. If a certificate of release, nonattachment, discharge or subordination of any lien is presented to the secretary of state for filing or recording ~~he~~ **THE SECRETARY OF STATE** shall both:

D. On request of any person, the filing or recording officer shall issue ~~his~~ **A** certificate showing whether there is on file or record, on the date and hour stated in the certificate, any notice of lien or certificate or notice affecting any lien filed or recorded under this article, naming a particular person, and if a notice or certificate is on file or record, giving the date and hour of filing or recording of each notice or certificate. On request, the filing or recording officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien.

33-1126. Money benefits or proceeds; exception

A. The following property of a debtor is exempt from execution, attachment or sale on any process issued from any court:

6. The cash surrender value of life insurance policies where for a continuous unexpired period of two years the policies have been owned by a debtor. The policy shall have named as beneficiary the debtor's surviving spouse, child, parent, ~~brother or sister~~ **OR SIBLING**. The policy may have named as beneficiary any other family member who is a dependent, in the proportion that the policy names any such beneficiary, except that, subject to the statute of limitations, the amount of any premium that is recoverable or avoidable by a creditor pursuant to title 44, chapter 8, article 1, with interest thereon, is not exempt. The exemption provided by this paragraph does not apply to a claim for the payment of a debt of the insured or beneficiary that is secured by a pledge or assignment of the cash value of the

insurance policy or the proceeds of the policy. For the purposes of this paragraph, “dependent” means a family member who is dependent on the insured debtor for not less than half support.

7. An annuity contract where for a continuous unexpired period of two years that contract has been owned by a debtor and has named as beneficiary the debtor, the debtor’s surviving spouse, child, parent, ~~brother or sister~~ OR SIBLING, or any other dependent family member, except that, subject to the statute of limitations, the amount of any premium, payment or deposit with respect to that contract is recoverable or avoidable by a creditor pursuant to title 44, chapter 8, article 1 is not exempt. The exemption provided by this paragraph does not apply to a claim for a payment of a debt of the annuitant or beneficiary that is secured by a pledge or assignment of the contract or its proceeds. For the purposes of this paragraph, “dependent” means a family member who is dependent on the debtor for not less than half support.

33-1131. Definition; wages; salary; compensation

A. For the purposes of this section, “disposable earnings” means that remaining portion of a debtor’s wages, salary or compensation for ~~his~~ personal services, including bonuses and commissions, or otherwise, and includes payments pursuant to a pension or retirement program or deferred compensation plan, after deducting from such earnings those amounts required by law to be withheld.

33-1206. Eminent domain

A. If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the unit owner with a remnant which may not practically or lawfully be used for any purpose permitted by the declaration, the award must compensate the unit owner for ~~his~~ THE unit and its interest in the common elements, regardless of whether any common elements are acquired. On acquisition, unless the decree otherwise provides, that unit’s allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection becomes a common element.

33-1216. Leasehold condominiums

B. After the declaration for a leasehold condominium is recorded, neither the lessor nor ~~his~~ THE successor in interest may terminate the leasehold interest of a unit owner who makes timely payment of ~~his~~ THE UNIT HOLDER’S share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. A unit owner’s leasehold interest is not affected by failure of any other person to pay rent or fulfill any other covenant.

33-1221. Alterations of units

Subject to the provisions of the declaration and other provisions of law, a unit owner:

1. May make any improvements or alterations to ~~his~~ THE unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium.

33-1244. Transfer of special declarant rights

D. The liabilities and obligations of a person who succeeds to special declarant rights are as follows:

1. A successor to any special declarant right, other than a successor described in paragraph 2 of this subsection, is subject to all liabilities and obligations imposed by this chapter or the declaration:

(a) On a declarant which relate to **his THE** exercise or nonexercise of special declarant rights.

(b) On **his THE** transferor, other than:

(i) Misrepresentations by any previous declarant.

(ii) Warranty obligations on improvements made by any previous declarant or made before the condominium was created.

(iii) Breach of any fiduciary obligation by any previous declarant or **his** appointees to the board of directors.

(iv) Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

2. A successor to special declarant rights under subsection C is subject to liability only for **his THE SUCCESSOR'S** own acts in the exercise of those special declarant rights.

33-1251. Tort and contract liability

C. A unit owner is not precluded from bringing an action against the association because **he-is THEY ARE** a unit owner or a member or officer of the association.

33-1253. Insurance

D. Insurance policies carried pursuant to subsection A of this section shall provide the following:

1. Each unit owner is an insured person under the policy with respect to liability arising out of **his THE UNIT OWNER'S** interest in the common elements or membership in the association.

2. The insurer waives its right to subrogation under the policy against any unit owner or members of **his THE UNIT OWNER'S** household.

3. No act or omission by any unit owner, unless acting within the scope of **his THE UNIT'S OWNER'S** authority on behalf of the association, will void the policy or be a condition to recovery under the policy.

F. An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for **his THE UNIT OWNER'S** own benefit.

33-1256. Lien for assessments; priority; mechanics' and ~~materialmen's~~ MATERIALS liens; notice; applicability

C. Subsection B of this section does not affect the priority of mechanics' or ~~materialmen's~~ MATERIALS liens or the priority of liens for other assessments made by the association. The lien under this section is not subject to chapter 8 of this title.

33-1257. Other liens affecting the condominium

C. Whether perfected before or after the creation of the condominium, if a lien other than a deed of trust or mortgage becomes effective against two or more units, the unit owner of an affected unit may pay to the lienholder the amount of the lien attributable to ~~his~~ THEIR OWN unit, and the lienholder, on receipt of payment, shall promptly deliver a release of the lien covering that unit. The amount of the payment shall be proportionate to the ratio which that unit owner's common expense liability bears to the common expense liabilities of all unit owners whose units are subject to the lien. After payment, the association shall not assess or have a lien against that unit owner's unit for any portion of the common expenses incurred in connection with that lien.

33-1308. Exclusions from application of chapter

Unless created to avoid the application of this chapter, the following arrangements are not covered by this chapter:

2. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to ~~his~~ THE interest OF THE PURCHASER.

33-1313. Notice

A. A person has notice of a fact if ~~he~~ THE PERSON has actual knowledge of it, has received a notice or notification of it or from all the facts and circumstances known to ~~him~~ THE PERSON at the time in question ~~he~~ THEY has HAVE reason to know that it exists. A person "knows" or "has knowledge" of a fact if ~~he~~ THE PERSON has actual knowledge of it.

B. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when it comes to ~~his~~ THAT PERSON'S attention, or in the case of the landlord, it is delivered in hand or mailed by registered or certified mail to the place of business of the landlord through which the rental agreement was made or at any place held out by ~~him~~ THE LANDLORD as the place for receipt of the communication or delivered to any individual who is designated as an agent by section 33-1322 or, in the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to ~~him~~ THE TENANT at the place held out by ~~him~~ THE TENANT as the place for receipt of the communication or, in the absence of such designation, to ~~his~~ THE TENANT'S last known place of residence. If notice is mailed by registered or certified mail, the tenant or landlord is deemed to have received such notice on the date the notice is actually received by ~~him~~ THE PERSON or five days after the date the notice is mailed, whichever occurs first.

C. "Notice," knowledge or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting the

transaction and in any event from the time it would have been brought to **his THE INDIVIDUALS'** attention if the organization had exercised reasonable diligence.

33-1317. Discrimination by landlord or lessor against tenant with children prohibited; classification; exceptions; civil remedy; applicability

B. No person shall rent or lease **his** property to another in violation of a valid restrictive covenant against the sale of such property to persons who have a child or children living with them.

C. No person shall rent or lease **his** property to persons who have a child or children living with them when **his THE** property meets the definition of housing for older persons in section 41-1491.04.

D. A person who knowingly rents or leases **his** property in violation of the provisions of subsection B or C of this section is guilty of a petty offense.

33-1322. Disclosure and tender of written rental agreement

A. The landlord or any person authorized to enter into a rental agreement on **his THE LANDLORD'S** behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of each of the following:

33-1325. Limitation of liability

A. Unless otherwise agreed, a landlord, who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser, is relieved of liability under the rental agreement and this chapter as to events occurring subsequent to written notice to the tenant of the conveyance. **he THE LANDLORD** remains liable to the tenant for any property and money to which the tenant is entitled under section 33-1321.

B. Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of **his THE** management.

33-1341. Tenant to maintain dwelling unit

The tenant shall:

2. Keep that part of the premises that **he THE TENANT** occupies and uses as clean and safe as the condition of the premises permit.

3. Dispose from **his THE** dwelling unit all ashes, rubbish, garbage and other waste in a clean and safe manner.

7. Conduct **himself THEMSELVES** and require other persons on the premises with **his THE TENANT'S** consent to conduct themselves in a manner that will not disturb **his THE** neighbors' peaceful enjoyment of the premises.

33-1343. Access

A. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, **workmen WORKERS** or contractors.



33-1344. Tenant to use and occupy as a dwelling unit

Unless otherwise agreed, the tenant shall occupy **his THE** dwelling unit only as a dwelling unit.

33-1362. Failure to deliver possession

A. If the landlord fails to deliver physical possession of the dwelling unit to the tenant as provided in section 33-1323, rent abates until possession is delivered and the tenant may do either of the following:

2. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by **him THE TENANT**.

C. If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than two months' periodic rent or twice the actual damages sustained by **him THE AGGRIEVED PERSON**, whichever is greater.

33-1363. Self-help for minor defects

A. If the landlord fails to comply with section 33-1324, and the reasonable cost of compliance is less than three hundred dollars, or an amount equal to one-half of the monthly rent, whichever amount is greater, the tenant may recover damages for the breach under section 33-1361, subsection B, or may notify the landlord of the tenant's intention to correct the condition at the landlord's expense. After being notified by the tenant in writing, if the landlord fails to comply within ten days or as promptly thereafter as conditions require in case of emergency, the tenant may cause the work to be done by a licensed contractor and, after submitting to the landlord an itemized statement and a waiver of lien, deduct from **his** **THE** rent the actual and reasonable cost of the work, not exceeding the amount specified in this subsection.

33-1364. Wrongful failure to supply heat, air conditioning, cooling, water, hot water or essential services

G. If the tenant proceeds under this section, **he** **THE TENANT** may not proceed under section 33-1361 or section 33-1363 as to that breach, except as to damages which occur prior to the tenant proceeding under subsection A or B of this section.

33-1365. Landlord's noncompliance as defense to action for possession or rent; definition

A. In an action for possession based upon nonpayment of the rent or in an action for rent where the tenant is in possession, if the landlord is not in compliance with the rental agreement or this chapter, the tenant may counterclaim for any amount which **he** **THE TENANT** may recover under the rental agreement or this chapter. In that event after notice and hearing the court from time to time may order the tenant to pay into court all or part of the undisputed rent accrued and all periodic rent thereafter accruing and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court and the balance, if any, by the other party. However, if no rent remains due after application of this section, or if the tenant is adjudged to have acted in good faith and satisfies a judgment for rent entered for the landlord, judgment shall be entered for the tenant in the action for possession.

33-1366. Fire or casualty damage

A. If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may do either of the following:

1. Immediately vacate the premises and notify the landlord in writing within fourteen days thereafter of **his** **THE TENANT'S** intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating.

33-1367. Tenant's remedies for landlord's unlawful ouster, exclusion or diminution of services

If the landlord unlawfully removes or excludes the tenant from the premises or wilfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than two months' periodic rent or twice the actual damages sustained

by **him THE TENANT**, whichever is greater. If the rental agreement is terminated the landlord shall return all security recoverable under section 33-1321.

33-1374. Recovery of possession limited

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including forcible removal of the tenant or **his THE TENANT'S** possessions, willful diminution of services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, except in case of abandonment, surrender or as permitted in this chapter.

33-1381. Retaliatory conduct prohibited

C. Notwithstanding subsections A and B of this section, a landlord may bring an action for possession if either of the following occurs:

1. The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in **his THE TENANT'S** household or upon the premises with **his THE TENANT'S** consent.

33-1408. Jurisdiction and service of process; recovery of attorney fees; treble damages

B. If a landlord is not a resident of this state or is a legal entity not authorized to do business in this state and engages in any conduct in this state governed by this chapter, or engages in a transaction subject to this chapter, the landlord shall designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a legal entity authorized to do business in this state. The designation shall be in writing and filed with the secretary of state. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the secretary of state, but the plaintiff or petitioner shall forthwith mail a copy of this process and pleading by certified mail to the defendant or respondent at **his THE DEFENDANT'S OR RESPONDENT'S** last reasonably ascertained address. If there is no last reasonably ascertainable address and if the defendant or respondent has not complied with section 33-1432, subsections A and B, service upon the secretary of state shall be sufficient service of process without the mailing of copies to the defendant or respondent. Service of process shall be deemed complete and the time shall begin to run for the purposes of this section at the time of service upon the secretary of state. The defendant shall appear and answer within thirty days after completion thereof in the manner and under the same penalty as if **he THE DEFENDANT** had been personally served with the summons. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows. Where applicable, the affidavit shall contain a statement that the defendant or respondent has not complied with section 33-1432, subsections A and B or the affiant could not ascertain compliance by inquiry directed to the secretary of state.

33-1412. Notice

A. A person has notice of a fact if **he THE PERSON** has actual knowledge of it, has received a notice or notification of it or from all the facts and circumstances known to **him THE PERSON** at the time in question **he THE PERSON** has reason to know that it exists. A person "knows" or "has knowledge" of a fact if **he THE PERSON** has actual knowledge of it.

B. A person “notifies” or “gives” a notice or notification to another by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person “receives” a notice or notification when it comes to **his THE PERSON’S** attention, or in the case of the landlord, it is delivered in hand or mailed by registered or certified mail to the place of business of the landlord through which the rental agreement was made or at any place held out by **him THE LANDLORD** as the place for receipt of the communication or delivered to any individual who is designated as an agent by section 33-1432 or, in the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to **him THE TENANT** at the place held out by **him THE TENANT** as the place for receipt of the communication or, in the absence of such designation, to **his THE** last known place of residence other than the landlord’s mobile home or space, if known. If notice is mailed by registered or certified mail, the tenant or landlord is deemed to have received such notice on the date the notice is actually received by **him THE TENANT OR LANDLORD** or five days after the date the notice is mailed, whichever occurs first.

C. “Notice” knowledge or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting the transaction and in any event from the time it would have been brought to **his THE INDIVIDUAL’S** attention if the organization had exercised reasonable diligence, but such knowledge shall be subject to proof.

33-1413. Terms and conditions of rental agreement

F. A landlord shall not prohibit a tenant who is a member of the armed forces of the United States from terminating a rental agreement with less than two weeks’ notice to the landlord if **he THE TENANT** receives reassignment orders which do not allow such prior notification.

33-1431. Security deposits

E. This section does not preclude the landlord or tenant from recovering other damages to which **he THE LANDLORD OR TENANT** may be entitled under this chapter.

33-1435. Limitation of liability

A. Unless otherwise agreed, a landlord who conveys premises that include a mobile home space subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this chapter as to events occurring subsequent to written notice to the tenant of the conveyance. **he THE LANDLORD** remains liable to the tenant for any right of possession, property and money to which the tenant is entitled under section 33-1431.

B. Unless otherwise agreed, a manager of premises that include a mobile home space is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of **his THE** management, except such notice shall not terminate any agreement or legal liability.

33-1471. Noncompliance by the landlord

A. Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement, the rules and regulations or statements of policy, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will

terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the landlord with section 33-1434 materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than twenty days after receipt of the notice if the breach is not remedied in ten days. The rental agreement shall terminate and the mobile home space shall be vacated as provided in the notice subject to the following:

2. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of **his THE TENANT'S** family or other person on the premises with **his THE TENANT'S** consent.

33-1472. Failure to deliver possession

A. If the landlord fails to deliver physical possession of the mobile home space to the tenant as provided in section 33-1433, rent abates until possession is delivered and the tenant may do either of the following:

2. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the mobile home space against the landlord or any person wrongfully in possession and recover the damages sustained by **him THE TENANT**.

C. If a person's failure to deliver possession is wilful and not in good faith, an aggrieved person may recover from that person the actual damages sustained by **him THE AGGRIEVED PERSON**, plus any attorney's fees and court costs.

33-1473. Self-help for minor defects

A. If the landlord fails to comply with section 33-1434, the tenant may recover damages for the breach under section 33-1471, subsection B, or may notify the landlord of **his THE TENANT'S** intention to correct the condition at the landlord's expense. After being notified by the tenant in writing, if the landlord fails to comply within twenty days or as promptly thereafter as conditions require in case of emergency, the tenant may cause the work to be done by a licensed contractor and, after submitting to the landlord an itemized statement and a waiver of lien, deduct from **his THE TENANT'S** rent the actual and reasonable cost of the work.

B. A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of **his THE TENANT'S** family or other person on the premises with **his THE TENANT'S** consent.

33-1474. Wrongful failure to supply essential services

B. The rights under this section do not arise until the tenant has given notice to the landlord. Such rights do not arise if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of **his THE TENANT'S** family or other person on the premises with **his THE TENANT'S** consent.

33-1475. Tenant's remedies for landlord's unlawful ouster, exclusion or diminution of services

If the landlord unlawfully removes or excludes the tenant from the premises or wilfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount equal to two months' periodic rent and twice the actual damages sustained by **him THE TENANT**. If the rental agreement is terminated, the landlord shall return all deposits.

33-1478. Remedies for abandonment; required registration

A. If the tenant abandons the mobile home unit on a mobile home space, it is incumbent upon the landlord to locate the legal owner or lienholder of the mobile home unit within ten days and communicate to **him THE LEGAL OWNER his THE** liability for any costs incurred for the mobile home space for such mobile home unit, including rent and utilities due and owing. However, the landlord shall be entitled to a maximum of sixty days' rent due prior to notice to lienholder. Any and all costs shall then become the responsibility of the legal owner or lienholder of the mobile home. The mobile home unit may not be removed from the mobile home space without a signed written agreement from the mobile home park landlord, owner or manager showing clearance for removal, showing all monies due and owing paid in full, or an agreement reached with the legal owner and the landlord.

33-1483. Periodic tenancy; holdover remedies

B. If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is wilful and not in good faith the landlord in addition may recover an amount equal to not more than two months' periodic rent and twice the actual damages sustained by **him THE LANDLORD**.

33-1491. Retaliatory conduct prohibited; eviction

B. If the landlord acts in violation of subsection A of this section, the tenant is entitled to the remedies provided in section 33-1475 and has a defense in action against **him THE LANDLORD** for eviction. In an action by or against the tenant, evidence of a complaint within six months prior to the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of termination of the rental agreement. For the purpose of this subsection, "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

D. Notwithstanding subsections A and B of this section, a landlord may bring an action for eviction if either of the following occurs:

1. The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in **his THE TENANT'S** household or upon the premises with **his THE TENANT'S** consent.

33-1807. Lien for assessments; priority; mechanics' and ~~materialmen's~~ MATERIALS liens; notice

C. Subsection B of this section does not affect the priority of mechanics' or ~~materialmen's~~ MATERIALS liens or the priority of liens for other assessments made by the association. The lien under this section is not subject to chapter 8 of this title.

33-2601. Definitions

In this chapter, unless the context otherwise requires:

1. "Affiliate" means:

(a) With respect to an individual:

(iv) A sibling, aunt, uncle, great aunt, great uncle, first cousin, ~~niece, nephew~~ CHILD OF A SIBLING, ~~grandniece or grandnephew~~ GRANDCHILD OF A SIBLING of the individual, whether related by the whole or the half blood or adoption, or a companion of any of them.

TITLE 34 Public buildings and improvements



All revisions are necessary due to exclusionary use of male pronouns.

34-104. Contract with architect; proprietary specifications; penalty; compensation

C. Persons desiring to submit alternative product proposals for prior approval of the architect shall submit such proposals at least eight days prior to the original deadline for receiving bids. The architect shall consider and either approve or reject all proposals submitted and shall comply with the following requirements:

2. If the architect rejects an alternative product proposal, **he THE ARCHITECT** shall give notice of the rejection to the agent prior to the deadline for receiving bids. Notice shall include a description of the rejected product.

F. If the proposed project is abandoned or suspended for a period of more than one hundred eighty days through no fault of the architect, **he THE ARCHITECT** shall be compensated.

34-604. Procurement of multiple contracts for certain job-order-contracting construction services and certain professional services; definition

C. In a procurement pursuant to this section:

1. The following requirements apply:

(a) The agent and the selection committee shall not request or consider fees, price, ~~man-hours~~ PEOPLE RESOURCES or any other cost information at any point in the selection process under this subsection or under subsection D of this section, including the selection of persons or firms to be interviewed, the selection of persons or firms to be on a final list, in determining the order of preference of persons or firms on a final list or for any other purpose in the selection process.

34-253. Noncollusion affidavits

A governmental agency may require noncollusion affidavits from all bidders. The governmental agency shall specify the requirement for noncollusion affidavits in the call for bids. Failure of any bidder to provide an affidavit to the governmental agency is grounds for disqualification of ~~his~~ THE bid.

TITLE 35 Public Finances

All revisions are necessary due to exclusionary use of male pronouns.

35-113.01. Request for federal funds

B. Every state agency, board, commission or department seeking federal funds for any project or program shall furnish to the department of administration with each copy of application or request a statement of the purposes for which any such project or program is desired or advocated, the source and amount of funds to be granted or provided therefor, and a statement of the conditions, if any, upon which such funds are to be provided. The director ~~may at his discretion~~ HAS DISCRETION TO accept from the state agency, board, commission or department a summary of the information required in this section.

35-118. Transmission of budget report to legislature

The governor shall have the budget report prepared in such number of copies as THE GOVERNOR ~~he~~ deems necessary, and copies thereof shall be transmitted to the legislature not later than five days after the regular session of the legislature convenes.

35-143. Collection through budget units; time for collection; failure to collect; liability

B. Any person or officer who neglects the collection of such fees or monies shall be liable to the state, both personally and on THAT PERSON OR OFFICER'S ~~his~~ bond.

35-147. Treasurer's deposits; preparation and disposition

A. The head of the budget unit or AN ~~his~~ authorized agent in depositing monies with the state treasurer shall use forms authorized by the state treasurer.

35-151. Encumbrance documents; issuance and disposition

A. An encumbrance document shall be processed in the state's accounting system before a budget unit issues a purchase order or encumbrance document against appropriations to cover an obligation, actual or anticipated, except that encumbrance documents are not required for reimbursements to employees for travel or other expenses incurred, gross payrolls and related employee expenses of a budget unit, eligibility payments, required payments that are not discretionary, or, under procedures prescribed in the state accounting manual of the department of administration, for expenditures not exceeding five thousand dollars. Copies of these documents shall be submitted immediately to or entered into the state accounting system of the department of administration. The budget unit shall certify that the proposed expenditure is authorized by appropriation and allotment and that the amount involved does not exceed the unencumbered and unexpended balance of the appropriation as recorded in the state's accounting system. If any proposed certified expenditure is found to exceed the unencumbered and unexpended balance or to be contrary to this chapter or any other law, the head of the budget unit or ~~his~~ designee shall disallow the proposed expenditure. If the encumbrance is found to be in order, it shall be immediately submitted or electronically transmitted to the department of administration central accounting system, which shall not accept an encumbrance in excess of the appropriation. The amount

of the encumbrance shall be set aside to be used exclusively for payment of the claim when presented. If an adequate appropriation balance is not available, the accounting system shall reject the transaction.

35-154. Unauthorized obligations; effect; liability

B. Every person incurring, or ordering or voting for the incurrence of such obligations, and ~~his~~ **THAT PERSON'S** bonds~~men~~**PERSON**, shall be jointly and severally liable therefor. Every payment made in violation of the provisions of this chapter shall be deemed illegal, and every official authorizing or approving such payment, or taking part therein, and every person receiving such payment, or any part thereof, shall be jointly and severally liable to the state for the full amount so paid or received.

35-188. Allowance of set-off against state; audit of claim

In all actions brought on behalf of the state, no debt shall be allowed against the state as a set-off unless it has been exhibited to the director of the department of administration and **THE DIRECTOR OF THE DEPARTMENT ALLOWS OR DISALLOWS THE SET-OFF.** ~~by him allowed or disallowed.~~ A debt may be allowed as a set-off when it is proved to the satisfaction of the court that the defendant, at the time of trial, is in possession of vouchers which **THE DEFENDANT** ~~he~~ could not produce to the department of administration, or that **THE DEFENDANT** ~~he~~ was prevented from exhibiting the claim to the department of administration by absence from the state, sickness or unavoidable accident.



35-196. Illegal withholding or expenditure of state monies; civil liability

Any state officer or employee who illegally withholds, expends or otherwise converts any state money to an unauthorized purpose shall be liable, either individually or on **THAT PERSON'S** ~~his~~ bond, for the amount of such money, plus a penal sum of twenty per cent thereof, and an action may be instituted by the director of the department of administration or the attorney general immediately upon the discovery thereof.

35-317. State treasurer; duties; safekeeping of securities; interest; exemptions; responsibilities

A. The state treasurer is responsible for the safekeeping of all securities acquired ~~by him~~ under this article and those for which **THE STATE TREASURER** ~~he~~ is the lawful custodian. Securities may be deposited for safekeeping with any bank eligible to be the state servicing bank pursuant to section 35-315 or any trust company or trust department of any bank qualified to do business in this state.

C. The state treasurer shall regularly account for, itemize and inventory according to general public fund accounting practices all securities coming lawfully into **THE STATE TREASURER'S his** possession. Such practice shall be audited by the auditor general at the time of the regular audit as prescribed by law.

E. Interest and appreciation realized on any investment authorized by this article shall be collected **AND CREDITED** by the state treasurer ~~and credited by him~~ in accordance with general public fund accounting practices.

35-422. Denominations and terms of bonds

A. The bonds provided for in section 35-421 shall be issued as nearly as practicable in denominations of one thousand dollars, but bonds of a lower denomination not less than one hundred dollars may be issued when necessary. The bonds shall bear interest at a rate fixed by the commissioners, not exceeding nine per cent per annum, payable semiannually at the office of the state treasurer or at some bank or trust company in New York City, New York, at the option of the purchaser of the bonds. The principal shall be payable within twenty-five years after the date of issuance of the bonds, and the state shall reserve the right to redeem at par any bonds in their numerical order at any time after fifteen years from the date thereof. The bonds shall bear the date of their issue, state where and to whom payable, the rate of interest, shall be signed by the loan commissioners with the seal of the state affixed, shall be countersigned by the state treasurer and bear **THE STATE TREASURER'S his** official seal, and shall be registered by the department of administration in a book kept for that purpose which shall disclose the amount the bonds sold for, or if exchanged, for what exchanged.

35-424. Sale of bonds; notice, publication and bids

C. The loan commissioners may reject any and all bids, and may refuse to make an award unless **THE BIDDER FURNISHES** sufficient security **TO INSURE THE BID'S COMPLIANCE**. ~~is furnished by the bidder insuring compliance with his bid.~~

35-425. Delivery of bonds

A. When the sale is awarded, the loan commissioners shall procure the necessary bonds, and, after signing the bonds, deliver them to the state treasurer, taking **THE STATE TREASURER'S his** receipt for the bonds, and charging **THE STATE TREASURER him** therewith. The treasurer shall deliver the bonds to the purchaser for cash, or exchange them for any of the indebtedness for the redemption of which they were issued.

C. The state treasurer shall endorse the time when and the amount for which exchanged upon the face of the paper evidencing the indebtedness **THE STATE TREASURER** received ~~by him~~ in exchange.

35-456. Amount, denomination and form of bonds

B. The bonds shall be signed and attested:

1. When issued by the county, by the ~~chairman~~ **CHAIR** and the clerk of the board of supervisors.

35-459. Redemption of bonds and coupons

C. When any bonds are redeemed, the treasurer or proper fiscal officer shall in like manner mark them “canceled” on the face of the bonds over **THE TREASURER OR PROPER FISCAL OFFICER’S** his signature, and deliver them to the clerk or secretary of the governing body, taking a receipt for the cancelled bonds. The clerk or secretary shall file the bonds in **THE CLERK OR SECRETARY’S** his office and report the redemptions to the governing body.

35-504. Debt oversight commission; membership; compensation; duties; commission termination

B. The commission consists of the director of the department of administration, who serves as **chairman CHAIR**, and four private citizens who are knowledgeable in the area of finance or bond financing, one who is appointed by the governor and three who are appointed jointly by the president of the senate and the speaker of the house of representatives. The terms of appointive members are three years.

F. The commission shall meet at least annually and, in addition, at the call of the **chairman CHAIR**. The commission shall meet at such times and places as convenient or necessary to conduct its affairs and shall render its findings, reports and recommendations in writing to the governor and to the legislature.

TITLE 36 Public Health and Safety

Revisions are necessary due to exclusionary use of male pronouns.

36-110. County or district liaison; duties

C. If the director determines that regional health planning has been established for the state, **he** **THE DIRECTOR** shall establish, in lieu of the county liaison officers prescribed in subsection A, district liaison offices in each of the regions that are established. Such district liaison offices shall carry out the functions prescribed by subsections A and B within such region.

36-114. Limitation upon authority to impose treatment

Nothing in this title shall authorize the department or any of its officers or representatives to impose on any person against **his** **THAT PERSON'S** will any mode of treatment, provided that sanitary or preventive measures and quarantine laws are complied with by the person. Nothing in this title shall authorize the department or any of its officers or representatives to impose on any person contrary to **his** **THAT PERSON'S** religious concepts any mode of treatment, provided that sanitary or preventive measures and quarantine laws are complied with by the person.

36-136.01. Sanitarians council; members; powers; fees; examinations; continuing education; exceptions; renewal; definition

A. The director shall establish a sanitarians council composed of five members. The members shall be the director of the department of health services or the director's representative, two governmental sanitarians, one of whom shall represent the two largest counties and one of whom shall represent the thirteen smaller counties, one industrial sanitarian and one lay person representing the public. The director shall be the council **chairman**. **CHAIR**. Members of the council are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that "sex" included "gender" but that does not mean that "gender" includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that "sex" discrimination includes "gender" but "gender" does not include "sex" under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove "sex."

36-142. Diabetes action plan team; report

B. The team shall compile a report once every two years that includes the following information:

1. The prevalence in this state of:

(b) Diabetes by age, **SEX**, race and gender.

Revisions are necessary due to exclusionary use of male pronouns.

36-183.01. County hospital under board of health or hospital board; powers and duties

A. In any county that maintains a hospital, the board of supervisors may delegate to a county board of health the responsibility to manage and operate the hospital or if the county has a population of more than one million persons according to the most recent United States decennial census, the board of supervisors or in the case of a county with a special health care district that is subject to section 48-5541.01, the board of directors of the district, by majority vote, may appoint a hospital board to perform that function. If the board of supervisors decides to appoint a hospital board, the board shall be composed of the following members:

1. A member of the board of supervisors who is chosen by the board of supervisors. This member shall act as board ~~chairman~~ CHAIR.

5. Each current president or ~~chairman~~ CHAIR of the hospital's medical staff, who is a nonvoting member.

36-187. County treasurer as treasurer of local departments of health; duties; collection of fees

A. In the case of a county health department, the county treasurer, as a part of the official duties as county treasurer, shall serve as treasurer of the department, and the official bond as county treasurer shall extend to and cover ~~his~~ THE duties as treasurer of the department.

36-255. Reports by laboratory chief

A. Whenever the chief of the state laboratory finds that adulterated, mislabeled or misbranded food has been on sale in the state, ~~he~~ THE CHIEF shall forthwith report the facts to the director of the department of health services.

B. The chief of the laboratory shall make an annual report to the director of the department of health services on or before July 1 each year upon adulterated, mislabeled or misbranded foods and liquids, including a list of examinations by ~~him~~ THE CHIEF in which adulterants were found, the articles found mislabeled or misbranded and the names of the manufacturers, producers, jobbers and sellers of such adulterated, mislabeled or misbranded articles.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption, and can be listed as "parent" on the birth certificate (McLaughlin v. Swanson, No. 2 CA-CV 2019-0210, Oct 5, 2020) and Doherty v. Leon (AZ Ct of Appeals, 2020) that the marital presumption overrides the genetic-testing presumption based on the facts.

36-301. Definitions

In this chapter, unless the context otherwise requires:

13. "Family member" means:

(a) A person's spouse, natural or adopted offspring, ~~father, mother~~, PARENT, grandparent, grandchild to any degree, ~~brother, sister~~ SIBLINGS, aunt, uncle or first or second cousin.

(b) The natural or adopted offspring, ~~father, mother~~, PARENT, grandparent, grandchild to any degree, ~~brother, sister~~ SIBLINGS, aunt, uncle or first or second cousin of the person's spouse.

16. "Foundling" means:

(b) A child whose father and mother, OR PARENT cannot be determined.

36-333. Birth certificate registration

C. If a birth does not occur at a hospital one of the following persons shall obtain the information, evidentiary documents, social security numbers and signatures required by rule for a birth certificate, fill out the birth certificate and submit the birth certificate for registration to a local registrar, a deputy local registrar or the state registrar:

2. If a physician, nurse or midwife is not present at the birth or is not willing or able to do so, the child's mother or father OR PARENT or a family member of legal age who is present, willing and able to do so during or immediately after the birth.

3. If the child's father or other family member of legal age is not present or is not willing or able and the child's mother is not willing or able to supply the required information, AND THE CHILD'S PARENT IS NOT PRESENT OR IS NOT WILLING OR ABLE TO SUPPLY THE REQUIRED INFORMATION, any other person who is present during or immediately after the child's birth and who can supply the required information.

36-334. Determining maternity and paternity for birth certificates

C. If a father's name is stated on a birth certificate, the father's name shall be stated on a birth certificate as follows:

1. Except as provided in section 25-814, if the mother is married at the time of birth or was married at any time in the ten months before the birth, the name of the mother's ~~husband~~-SPOUSE.

36-336. Adoption certificate

A. For an adoption of a person born in this state, a state court shall submit to the state registrar an adoption certificate on a form approved by the state registrar or pursuant to a court order that includes:

1. Information required by rule about the adoptive PARENTS ~~father and adoptive mother~~.

Revisions are necessary due to exclusionary use of male pronouns.

36-405.01. Health screening services; violation; classification

A. Health screening services shall be conducted in the following manner:



7. A patient who is in need of medical care shall be informed that ~~he~~ **THE PATIENT** should see a physician without referral to any particular physician.

36-446.03. Powers and duties of the board; rules; fees

M. The board must provide the senate and the house of representatives health committee ~~chairmen~~ **CHAIRS** with copies of all board minutes and executive decisions.

36-447.01. Nursing care institutions; notification of services; screening; annual reviews

A. A nursing care institution, before admitting a patient, shall give the patient and ~~his~~ **ANY** representative a booklet developed by the Arizona health care cost containment system administration pursuant to section 36-2936 that describes in clear and simple language the availability of services and benefits from the Arizona long-term care system pursuant to chapter 29, article 2 of this title. The booklet shall:

36-463.02. Inspections; exemptions; disciplinary action

E. If as a result of an inspection the director determines that a laboratory is not in substantial compliance with this article and rules adopted pursuant to this article, ~~he~~ **THE DIRECTOR** may modify, suspend, revoke or deny renewal of the license. This action shall follow a hearing held pursuant to chapter 41, article 6. If the director believes that the immediate interests of the general public will be best served by allowing the laboratory an opportunity to correct the deficiency, ~~he~~ **THE DIRECTOR** may issue a provisional license for not more than six months. The laboratory shall agree to carry out a plan approved by the department to correct the deficiencies. The laboratory may be relicensed only after the expiration of its provisional license and only if the department determines that the licensee is in substantial compliance with this article and rules adopted pursuant to this article.

36-472. Rebates, fee-splitting and solicitation of referrals prohibited

A. The owner or director of a laboratory shall not personally or through an agent, solicit the referral of specimens to **his THE DIRECTOR'S OR OWNER'S** or any other laboratory in a manner which offers or implies an offer of rebates to persons submitting specimens or other fee-splitting inducements or participate in any fee-splitting arrangement. This applies to contents of fee schedules, billing methods or personal solicitation. The contractual provision of laboratory services for a fixed fee independent of the number of specimens submitted for such services is declared to be a violation of this section.

36-476. License surrender; certification

A. Upon the revocation of **his THE** license, a licensee shall be required to surrender **his THE** license to the department, and upon **his** failure or refusal to do so, the department shall have the right to seize the license.

36-495.11. Violation; classification

A. A person is guilty of a class 3 misdemeanor if **THE PERSON he**:

36-503. Medical director of evaluation agency or mental health treatment agency; deputy

The medical director of an evaluation agency or the medical director of a mental health treatment agency may deputize, in writing, subject to the approval of the governing body of the agency, any qualified psychiatrist or licensed physician on the staff of the agency to do or perform in **his THE DIRECTOR'S** stead any act the medical director is empowered to do or charged with responsibility of doing pursuant to this chapter.

36-513. Seclusion; restraint; treatment

A person undergoing evaluation pursuant to article 4 of this chapter shall not be treated for **his** mental disorder unless **he THE PERSON** consents to such treatment, except that seclusion and mechanical or pharmacological restraints may be employed in the case of emergency for the safety of the person or others. A person undergoing treatment pursuant to article 5 of this chapter shall not be subjected to seclusion or mechanical or pharmacological restraints except in case of emergency for the safety of the person or others or as a part of a written plan for the treatment of the patient, prepared by staff members responsible for **his THE** care and pursuant to regulations promulgated by the department. All instances of seclusion or restraint shall be properly recorded in the patient's medical record and the use shall be governed by written procedures of the agency caring for the patient and are subject to the rules and regulations of the department.

36-514. Visitation; telephone; correspondence; religious freedom

Every person detained for evaluation or treatment pursuant to this chapter shall have the following additional rights:

1. To be visited by the person's personal physician or other health care professional, guardian, agent appointed pursuant to chapter 32 of this title, attorney and ~~clergyman~~ **CLERGY** or any other person, subject to reasonable limitations as the individual in charge of the agency may direct.

36-516. Violation of person's rights

Any knowing violation of a person's rights under this article shall give **him** **THE PERSON** a cause of action for the greater of either one thousand dollars or three times the actual amount of damages. It is not a prerequisite to this action that the plaintiff suffer or be threatened with actual damages.

36-517.01. Review of decisions regarding release of treatment information; notice; appeal; immunity

A. An agency providing evaluation or treatment, on request of a person undergoing evaluation or treatment, a member of **his** **THE PERSON'S** family or **his** **THE PERSON'S** guardian, shall review the treating professional's decision to release or withhold information requested pursuant to section 36-504, subsection B or section 36-509, subsection A, paragraph 7. The agency shall inform a person whose request is denied of **his** **THE PERSON'S** right to a review when it notifies that person of its decision. The agency director or **his** designee shall conduct the review within five business days after the request for review is made. The review shall include an interview of the person undergoing evaluation or treatment. The agency shall make a decision to uphold or reverse the treating professional's decision within five business days after initiating the review. The agency shall bear the costs of conducting the review. Agency review pursuant to this section does not apply to a decision to release or withhold information made by a nonagency treating professional.

36-524. Application for emergency admission for evaluation; requirements

C. The application shall be upon a prescribed form and shall include the following:

1. A statement by the applicant that **he** **THE APPLICANT** believes on the basis of personal observation that the person is, as a result of a mental disorder, a danger to self or others, and that during the time necessary to complete the prepetition screening procedures set forth in sections 36-520 and 36-521 the person is likely without immediate hospitalization to suffer serious physical harm or serious illness or is likely to inflict serious physical harm upon another person.

36-526. Emergency admission; examination; petition for court-ordered evaluation

A. On presentation of the person for emergency admission, an admitting officer of an evaluation agency shall perform an examination of the person's psychiatric and physical condition and may admit the person to the agency as an emergency patient if the admitting officer finds, as a result of the examination and investigation of the application for emergency admission, that there is reasonable cause to believe that the person, as a result of a mental disorder, is a danger to self or others, and that during the time necessary to complete the prepetition screening procedures set forth in sections 36-520 and 36-521 the person is likely without immediate hospitalization to suffer serious physical harm or serious illness or to inflict serious physical harm on another person. If a person is hospitalized pursuant to this section, the admitting officer may notify a screening agency and seek its assistance or guidance in developing alternatives to involuntary confinement and in counseling the person and **his** **ANY** family.

36-527. Discharge and release; relief from civil liability

B. A person admitted for emergency evaluation may be released at any time if, in the opinion of the medical director in charge of the evaluation agency, release is appropriate. The medical director shall

not be held civilly liable for any acts committed by a released patient if the medical director has in good faith followed the requirements of this article. The patient may continue care and treatment in the agency if **he THE PATIENT** signs a voluntary application.

36-528. Emergency patients; duties of agency; notification of family member; right to counsel

A. A person detained under emergency detention shall be offered treatment for **his** mental disorder to which **he THE PERSON** may consent. The person shall not be treated for **his** mental disorder without **his THE PERSON'S** express consent, except that seclusion and mechanical or pharmacological restraints may be employed as emergency measures for the safety of the person or others pursuant to section 36-513.

D. The person detained shall be informed of **his THE PERSON'S** rights as stated in this section and in article 2 of this chapter, including the right to consult an attorney. **He THE PERSON** shall be advised that if **he THE PERSON** cannot employ an attorney, the court will appoint one for **him. THE PERSON.** The person shall be advised that if a petition for evaluation is filed, the court will appoint the person an attorney to consult with and, if **he THE PERSON** cannot employ **his THE PERSON'S** own counsel, to represent **THE PERSON him.**

36-530. Evaluation and treatment

A. A person admitted to an evaluation agency shall receive an evaluation as soon as possible after the court's order for evaluation and, subject to the provisions of sections 36-512 and 36-513 concerning the person's right to refuse treatment, receive care and treatment as required by **his THE PERSON'S** condition for the full period that **he- THE PERSON** is hospitalized. A clinical record shall be kept for each person which details all medical and psychiatric evaluations and all care and treatment received by the person.

36-541. Mandatory local treatment

B. A patient who is ordered by a court to undergo treatment based on a determination that **he THE PATIENT** has a persistent or acute disability shall be treated for at least twenty-five days solely in or by a local mental health treatment agency geographically convenient for the patient unless **he THE PATIENT** is accepted by the superintendent of the state hospital for treatment at the state hospital.

36-553. Developmental disabilities advisory council; membership; duties

D. The council **chairman CHAIR** shall be chosen annually by a majority vote of the council. A majority of voting council members constitutes a quorum.

36-596. Coordination of benefits; third party payments; definition

B. The director of the department of economic security shall require each individual or **his THE PERSON'S** parent or guardian to assign to the department rights that the individual or **his THE PERSON'S** parent or guardian has to first party health insurance medical benefits to which the individual is entitled and which relate to the specific services which the person has received or will receive pursuant to this chapter. The state has a right to subrogation against a provider of first party

health insurance medical benefits to enforce the assignment of first party health insurance medical benefits for services provided under the provisions of this chapter.

36-622. Report by hotel keepers of contagious diseases

The keeper of a private house, boarding house, lodging house, inn or hotel shall report in writing to the local board of health or health department within whose jurisdiction such occurs, each case of contagious, infectious or epidemic disease in **his THE KEEPER'S** establishment. Such report shall be made within twenty-four hours after existence of the disease is known and shall include the name of persons afflicted and the nature of the disease.

36-631. Person with contagious or infectious disease exposing himself THEMSELVES to public; classification; exception

A person who knowingly exposes **himself THEMSELVES** or another afflicted with a contagious or infectious disease in a public place or thoroughfare, except in the necessary removal of such person in a manner least dangerous to the public health, is guilty of a class 2 misdemeanor.

36-668. Private right of action

A protected person may bring an action in superior court for legal and equitable relief on **his THE PROTECTED PERSON'S** own behalf against a person who violates this article.

36-693. Blood tests required; pregnant women; umbilical cord at delivery; definition

B. Any other person permitted by law to attend pregnant women but not permitted to take blood samples shall cause a sample of the blood of each pregnant woman attended by **him THAT PERSON** to be taken under the direction of a duly licensed physician of medicine and surgery as required by subsection A. The physician shall have the sample submitted to an approved laboratory for a standard serological test for syphilis.

36-752. Licensure; exceptions

B. The following persons are exempt from the licensure requirements of this section:

1. A physician licensed pursuant to title 32 who is permitted within **his THAT PHYSICIAN'S** scope of practice to deliver infants.
3. A person acting under the direction and supervision of a physician licensed pursuant to title 32 who is permitted within **his THAT PHYSICIAN'S** scope of practice to deliver infants.
6. A mother or father **OR PARENT** delivering their own infant.

36-756. Grounds for denial of license and disciplinary action; hearing; appeal; civil penalties; injunctions

C. The department shall conduct any hearing to suspend or revoke a license in accordance with the

procedures established pursuant to title 41, chapter 6, article 10. If the director determines at the conclusion of a hearing that grounds exist to suspend or revoke a license, **he THE DIRECTOR** may do so permanently or for any period of time **he THE DIRECTOR** deems appropriate and under any conditions that **he THE DIRECTOR** deems appropriate. An applicant for licensure or a licensee may appeal the final decision of the director.

36-806. Bodies not subject to disposition under this article

A. This article shall not apply:

2. If the deceased person during **his THE DECEASED PERSON'S** last illness, without suggestion or solicitation, requested to be buried or cremated.
3. If within twenty-four hours after death or before actual delivery, whichever is longer, a person claiming to be and satisfying the officer in charge of the body that **he THE PERSON** is of kindred or is related by marriage to the deceased or a duly authorized representative thereof, shall claim the body for burial or cremation or request in writing that it be buried at public expense.
4. If within the time specified in paragraph 3 of this subsection a person claiming to be and satisfying the officer in charge of the body that **he THE PERSON** is a friend of the deceased, arranges to have the body properly buried or cremated without public expense.

36-808. Violation; classification

A person who with criminal negligence refuses or fails to perform a duty imposed upon **him THAT PERSON** by the provisions of this article or by rules and regulations of the director is guilty of a petty offense.

36-831.01. Disposition of remains; duty to comply with decedent's wishes; exemption from liability

A. If the person on whom the duty of burial is imposed pursuant to section 36-831 is aware of the decedent's wishes regarding the disposition of **his THE DECEDENT'S** remains, that person shall comply with those wishes if they are reasonable and do not impose an economic or emotional hardship.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption, and can be listed as "parent" on the birth certificate (McLaughlin v. Swanson, No. 2 CA-CV 2019-0210, Oct 5, 2020) and Doherty v. Leon (AZ Ct of Appeals, 2020) that the marital presumption overrides the genetic-testing presumption based on the facts.

36-832. Authorization for post-mortem examination

A. In addition to the provisions set forth in section 11-597, whichever of the following assumes custody of the body for purposes of burial may give permission to a licensed physician to conduct a post-mortem examination:

1. Father.
2. Mother.
3. PARENT
4. Husband
5. Wife.
6. SPOUSE
7. Adult child.
8. Guardian.
9. Next of kin.

Revisions are necessary due to exclusionary use of male pronouns.

36-901. Definitions

In this article, unless the context otherwise requires:

14. “Special inspection warrant” means an order in writing issued in the name of the state of Arizona, signed by a magistrate and directed to the director or **his** designee, authorizing **him** **THE DIRECTOR OR DESIGNEE** to enter into or upon any public or private property to make an inspection authorized by law.

36-908. Special inspection warrant; violation; classification

A. The director and **his** designees having powers and duties under this article or the rules and regulations adopted pursuant to this article involving inspection of real or personal property, including any factory, warehouse, vehicle or establishment in which foods are manufactured, processed, packed, transported or held for introduction into commerce, for the purpose of pure food control may appear before a magistrate and apply for, obtain and execute special inspection warrants in accordance with the requirements of this section.

B. Upon showing by the affidavit of the director or **his** designee that consent to entry for inspection purposes has been refused or circumstances justify the failure to seek such consent, special inspection warrants may be issued by a magistrate for inspection of any public or private real and personal properties.

D. The warrant may be served by the director or **his** designee mentioned in its directions, but by no other person except in aid of the director or **his** designee on **his** **THE DIRECTOR OR DESIGNEE’S** requiring it, the director or **his** designee being present and acting in its execution.

36-909. Samples or specimens

The director may obtain such samples or specimens as ~~he~~ THE DIRECTOR requires for the purpose of pure food control. The chief of the state laboratory shall make or cause to be made examinations of samples secured to determine whether any provision of this article is being violated.

36-910. Seizure

A. When the director finds or has probable cause to believe that any food is adulterated or misbranded within the meaning of this article as to be dangerous or fraudulent, ~~he~~ THE DIRECTOR shall affix to such food or its container a tag or other appropriate marking, giving notice that such food is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such food by sale or otherwise until permission for removal or disposal is given by the director or the court. It is unlawful for any person to remove or dispose of such detained or embargoed food by sale or otherwise without such permission.

B. When a food detained or embargoed under subsection A has been found by the director to be adulterated or misbranded, ~~he~~ THE DIRECTOR shall, with the assistance of the attorney general or of the county attorney of the county in which such food is found, petition the superior court in the county in which the food is detained or embargoed for an order condemning such food. When the director has found that a food so detained or embargoed is not adulterated or misbranded, ~~he~~ THE DIRECTOR shall remove or cancel the tag or other marking.

D. When the director finds in any room, building, vehicle of transportation or other structure any meat, sea food, poultry, vegetable, fruit or other perishable foods which are unsound or contain any filthy, decomposed or putrid substances, or which may be poisonous or presents an imminent endangerment to health, the director shall forthwith seize them and, unless within five days of such seizure the claimant serves a written protest to such action upon the director, destroy them. If such a written protest is timely served on the director, ~~he~~ THE DIRECTOR may petition the court as in subsection B of this section for an order condemning the food. An action brought under this subsection shall be given a calendar preference by the court.

36-911. Enforcement regulations; decisions; appeal

A. The director may make regulations to enforce the provisions of this article which shall conform insofar as practicable with those promulgated under the federal act. The director may adopt a manual of procedures governing ~~his~~ THE DIRECTOR'S operation.

36-912. Prosecution

The attorney general or the county attorney of the county in which the violation occurs to whom the director reports any violation of this article shall cause appropriate proceedings to be instituted in the proper court. Before any violation of this article is reported to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present ~~his~~ THAT PERSON'S views before the director or ~~his~~ designated agent, either orally or in writing, in person or by attorney, with regard to such contemplated proceeding.

36-914. Violation; classification; guaranty

B. No person shall be subject to the penalties of subsection A of this section for having violated paragraph 1 or 3 of section 36-902 if **he THE PERSON** establishes a guaranty or undertaking, designating this article, and signed by and containing the name and address of the person residing in the state of Arizona, from whom **he THE DIRECTOR** received the article in good faith, to the effect that such article is not adulterated or misbranded within the meaning of this article.

C. No publisher, broadcast or telecast licensee or agency or medium for the dissemination of an advertisement shall be liable under this section by reason of the dissemination **by him** of such false advertisement, unless one or more of the following exists:

1. **He THE PUBLISHER, BROADCAST OR TELECAST LICENSEE OR AGENCY OR MEDIUM FOR DISSEMINATION KNEW** or had reason to know that the advertisement was false.
2. **He THE PUBLISHER, BROADCAST OR TELECAST LICENSEE OR AGENCY OR MEDIUM FOR DISSEMINATION KNEW** is also the manufacturer, packer, distributor or seller of the food to which the false advertisement relates.
3. **He THE PUBLISHER, BROADCAST OR TELECAST LICENSEE OR AGENCY OR MEDIUM FOR DISSEMINATION KNEW** has refused a request of the director to furnish the director the name and post-office address of the manufacturer, packer, distributor, seller or advertising agency who caused **him THE PUBLISHER, BROADCAST OR TELECAST LICENSEE OR AGENCY OR MEDIUM FOR DISSEMINATION KNEW** to disseminate such advertisement.

36-1416. Remedies of obligee

An obligee of a city, town or county, in addition to all other rights which may be conferred on **him, THE OBLIGEE**, and subject only to contractual restrictions binding on that person, may:

36-1476. Slum clearance and redevelopment commission

E. The mayor shall designate a **chairman CHAIR** and **vice-chairman VICE-CHAIR** from among the commissioners. A commission may be authorized by the local governing body to employ an executive director, technical experts and other officers, agents and employees, permanent and temporary, as it requires and to determine their qualifications, duties and compensation. For legal services a commission may, with approval of the mayor, call upon the chief law officer of the municipality or it may be authorized by the local governing body to employ its own counsel and legal staff. A commission shall file a report of its activities with the local governing body periodically as the local governing body requires, but at least once a year, and shall make recommendations regarding additional legislation or other action that may be necessary to enable it to carry out the purposes of this article.

36-1484. Certification of bonds by attorney general

A. Any bonds to be issued under section 36-1481 may be submitted to the attorney general of the state after all proceedings for issuance of the bonds have been taken. Upon submission of the proceedings to the attorney general, **he THE ATTORNEY GENERAL** shall examine into and pass upon the validity of the bonds and the regularity of all proceedings in connection therewith.

36-1934. Denial, revocation or suspension of license; hearings; alternative sanctions

A. The director may deny, revoke or suspend a license issued under this chapter for any of the following reasons:

2. Securing a license under this chapter through fraud or deceit.
3. Unprofessional conduct, or incompetence in the conduct of **his THE LICENSEE'S** practice.
4. Using a false name or alias in the practice of **his THE LICENSEE'S** profession.



36-1942. Commission for the deaf and the hard of hearing

C. The commission shall meet at least four times a year at the call of the **chairman CHAIR**, who shall be selected by the commission from among its membership.

36-2025. Treatment and services for intoxicated persons and persons incapacitated by alcohol

C. A person who is not admitted to an approved local alcoholism reception center and who is not referred to an approved treatment facility or program and who has no funds may be taken to **his THAT PERSON'S** home by personnel at the local alcoholism reception center. If **he THE PERSON** has no home, the approved local alcoholism reception center personnel shall assist **him THE PERSON** in obtaining shelter.

D. If the patient is admitted to an approved local alcoholism reception center for initial evaluation and processing, **his THE PATIENT'S** family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated by alcohol requests that there be no notification, **his THE PATIENT'S** request shall be respected.

36-2027. Evaluation and treatment of persons charged with a crime

A. A court may order an evaluation and treatment at an approved treatment facility of a person who is brought before the court and charged with a crime if:

2. Such person, after being advised of **his** **THE** privilege to undergo evaluation and treatment, chooses the evaluation and treatment procedures. The court shall in no event order the person to undergo treatment and evaluation for in excess of thirty days.

36-2242. Temporary authority to operate in urgent circumstances; application; application to provide permanent service

A. If the director determines that there is an immediate and urgent need for service to one or more points or within an area lacking adequate ambulance service, the director may, at **his** **THE DIRECTOR'S** discretion and without a hearing or other proceeding, grant an ambulance service temporary authority to provide the needed service. The temporary authority is valid for the period specified by the director, not to exceed ninety days, and may not be renewed.

36-2541. Administrative inspections and warrants

A. Issuance and execution of administrative inspection warrants for purposes of this chapter shall be as follows:

1. A judge of a state court of record or any justice of the peace or magistrate within **his** **THE COURT'S** jurisdiction and upon proper oath or affirmation showing probable cause may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules adopted pursuant to this chapter and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter, or rules and regulations adopted pursuant to this chapter, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

36-2804.03. Issuance of registry identification cards

A. Except as provided in subsection B and in section 36-2804.05, the department shall:

2. Issue a registry identification card to a qualifying patient and **his** **THE PATIENT'S** designated caregiver, if any, within five days of approving the application or renewal. A designated caregiver must have a registry identification card for each of **his** **THE CAREGIVER'S** qualifying patients.

36-2808. Notifications to department; civil penalty

A. A registered qualifying patient shall notify the department within ten days of any change in the registered qualifying patient's name, address, designated caregiver or preference regarding who may cultivate marijuana for the registered qualifying patient or if the registered qualifying patient ceases to have **his** **A** debilitating medical condition.

B. A registered designated caregiver or nonprofit medical marijuana dispensary agent shall notify the department within ten days of any change in **his** name or address.

C. When a cardholder notifies the department of any changes listed in subsection A but remains eligible under this chapter, the department shall issue the cardholder a new registry identification card with new random 20-digit alphanumeric identification numbers within ten days of receiving the updated information and a ten-dollar fee. If the person notifying the department is a registered qualifying patient, the department shall also issue **his** **THE QUALIFYING PATIENT'S** registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.

36-2813. Discrimination prohibited

A. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for **his** **THAT PERSON'S** status as a cardholder, unless failing to do so would cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

36-2916. Release of claim by injured person ineffective as to system; action to enforce lien; release of lien

B. If any amount has been or is to be collected by the injured person or **his** legal representative from or on account of the person, firm or corporation, including insurance carriers liable for liability or indemnity damages by reason of a judgment, settlement or compromise, the director may enforce the lien by action against the patient or the person, firm or corporation, including insurance carriers, liable for liability or indemnity damages. Such action shall be commenced and tried in the county in which the lien is filed, unless the court orders that the action be removed to another county for cause. If the director prevails in the action, the court may allow the administration its reasonable attorney fees and disbursements. Such an action shall be commenced within two years after the entry of the judgment or the making of the settlement or compromise.

36-2957. Prohibited acts; penalties

C. The director or **his** designee shall make the determination to assess civil penalties and is responsible for the collection of penalty and assessment amounts. The director shall adopt rules that prescribe procedures for the determination and collection of civil penalties and assessments. Civil penalties and assessments imposed under this section may be compromised by the director or **his** designee in accordance with criteria established in rules. The director or **his** designee may make a determination in the same proceeding to exclude the person from system participation.

D. A person adversely affected by a determination of the director or **his** designee under this section may appeal that decision in accordance with grievance provisions set forth in rule. The final decision is subject to judicial review in accordance with title 12, chapter 7, article 6.

36-2994. Monthly financial report

C. The director shall provide a copy of the monthly report to the **chairmen** **CHAIRS** of the house of representatives and senate standing committees on appropriations and health.

36-3910. Inspection of camps; revocation of license

B. The camp operator shall have a reasonable time after receiving such notice in which to correct such failure and to comply with the standards prescribed by this chapter. In the event the camp operator fails to comply with the requirements of such notice within a reasonable time the department may suspend or revoke **his** **THE CAMP OPERATOR'S** license.

TITLE 37 Public Lands



All revisions are necessary due to exclusionary use of male pronouns.

37-101. Definitions

10. “Improvements” means anything permanent in character which is the result of labor or capital expended by the lessee or **his THE LESSEE’S** predecessors in interest on state land in its reclamation or development, and the appropriation of water thereon, and which has enhanced the value of the land.

37-106. Federal reclamation trust fund

A. There shall be a federal reclamation trust fund of which the state treasurer shall be custodian. Payments made by the state land department for the assessments or charges authorized to be paid by the department under section 37-105, and payments received by **him THE STATE TREASURER** as reimbursements therefor, shall be drawn from and credited to the federal reclamation trust fund.

37-133. Decisions of commissioner; filing; notice to persons in interest

A. Decisions rendered by the commissioner pursuant to the powers and duties conferred upon **him THE COMMISSIONER** by law, whether relating to the administration of state lands or other departments or agencies of state under **his THE COMMISSIONER’S** jurisdiction, shall be in writing and filed of record in **his THE COMMISSIONER’S** office.

37-232. Application to purchase state lands or for reimbursement for improvements; deposit

B. In all cases, the application shall contain the name, age and residence of the applicant and a description of the land sought to be purchased. The application shall also contain the following information, as applicable:

1. If a lessee of school or university lands is the applicant, the application shall contain the date the lease of the land was issued to ~~him~~ THE APPLICANT.
2. If the applicant has or claims the right of possession by instrument in writing from a former lessee, the application shall contain the name of ~~his~~ THE APPLICANT'S assignor or grantor, the date of the original lease and the date of the assignment, and ~~he~~ THE APPLICANT shall attach to ~~his~~ THE application the original instrument of assignment, or if lost, furnish proof of loss.
3. If the applicant claims by judgment of a court or by operation of law, ~~he~~ THE APPLICANT shall attach to the application a certified copy of the instrument giving ~~him~~ THE APPLICANT such right.
4. If the application is by one claiming a right to reimbursement for improvements placed on leased school or university lands, ~~he~~ THE APPLICANT shall set forth in the application a list of improvements made upon the land.

37-243. Payment of rent in arrears; payment for use of land

If the owner of improvements upon leased school or university lands sold as provided by this article is the purchaser of the lands and is in arrears for rent due under a permit or lease, or if ~~he~~ THE PURCHASER has failed to take out a permit or to pay rent, then before a certificate of purchase is issued to ~~him~~~~he~~ THE PURCHASER, THE PURCHASER shall, in addition to the payments required by this article, pay to the department all rent for which ~~he~~ THE PURCHASER is in arrears, and if no rent has been stipulated, ~~he~~ THE PURCHASER shall be charged for the use and occupation of the land. Interest at the rate of five per cent per annum shall be charged on all such amounts, and added to the amount to be paid. A like charge shall be made against the occupant, if some other party is the purchaser of the land and improvements.

37-244. Certificate of purchase; conditions

A. Upon compliance by a purchaser of state lands with the requirements of this article, the department shall make and deliver to the purchaser a certificate of purchase, which shall set forth:

7. An agreement by the purchaser that ~~he~~ THE PURCHASER will pay taxes, water assessments and other charges which may be assessed against the land.

B. Each certificate of purchase shall be signed by the commissioner or ~~his~~ THE COMMISSIONER'S deputy and by the purchaser, and shall contain the following covenants in addition to any others imposed pursuant to section 37-132:

37-245. Rights conferred by certificate of purchase; recording of certificate

A. The certificate of purchase shall entitle the purchaser and **his THE PURCHASER'S** heirs, or in case of an assignment filed with and approved by the department, the assigns of the purchaser, to possession of the lands therein described, to maintain actions for injuries thereto or to recover possession thereof, unless the certificate has become void by forfeiture.

37-246. Sale of natural products of lands by purchaser under certificate of purchase; disposition of proceeds; violation; classification

A. If a purchaser of state land under a certificate of purchase sells or contracts to sell directly or indirectly any sand, gravel, stone or other natural product from the land described in the certificate, **he THE PURCHASER** shall file with the department within ten days after the sale or making the contract, a statement under oath on a form furnished by the department, of the kind and quantity of natural product sold, the terms of the sale, and the amount received or to be received therefor.

37-281. Lease of state lands for certain purposes without advertising; terms and conditions

B. No lease shall be granted as provided by this section without application. All applications for leases shall be made upon forms prepared and furnished by the department, shall be signed and sworn to by the applicant or **his THE APPLICANT'S** authorized agent or attorney and shall be filed with the department. In lieu of signing and swearing to the application before a notary public or other person authorized to take acknowledgments, the applicant may affix **his THE APPLICANT'S** signature to the application, accompanied by a certification, under penalty of perjury, that the information and statements made in the application are to the best of **his THE APPLICANT'S** knowledge and belief true, correct and complete, and the application shall be accepted as duly executed.

C. Any material false statement or concealment of facts made by an applicant, **his THE APPLICANT'S** authorized agent or **his THE APPLICANT'S** attorney in the application to lease, which, if known to the department, would have prevented issuance of the lease in the form or to the person issued, shall be grounds for cancellation of a lease issued upon such application.

D. No lessee shall use lands leased to **him THE APPLICANT** except for the purpose for which the lands are leased.

E. No lessee shall sublease lands leased to **him THE APPLICANT** without written permission of the state land department.

37-283. Subleases by grazing lessee; limitation upon grazing use; sublease surcharge

A. A grazing lessee shall not sublease **his THE LESSEE'S** lease or sell or lease pasturage to lands included in **his THE LESSEE'S** lease, without written permission from the state land department. A grazing lessee, **his THE LESSEE'S** sublessee or users under pasturage agreement shall not graze, without written permission of the department, in excess of the carrying capacity as previously determined by the department, upon state lands under lease or being used by such persons, within the exterior boundaries of any one ranch unit or units in the same general locality jointly operated. If permission is granted for such excess, the department shall assess and collect the rental for the excess on the rental basis provided for in this article.

37-321. Permission required for person other than holder of certificate of purchase to make improvements; forfeiture for failure to obtain permission; report of improvements

A. Except as otherwise provided in section 37-323, if a lessee, a permittee or other person having a legal interest in state lands, other than a holder of a certificate of purchase, desires to construct or make improvements upon the lands, **he SUCH PERSON** shall first file with the department an application for permission to construct or make the improvements unless improvement authorization is contained within the terms of the lease. The application shall be allowed or rejected as the best interest of the state requires as determined by the department. Unless permission is granted by the department, the applicant shall not be entitled to reimbursement or compensation for improvements placed upon the state lands. Upon expiration or cancellation of the lessee's lease or permit, improvements placed on the land without approval shall be forfeited and become the property of the state.

37-322.01. Reimbursement for nonremovable improvements by succeeding lessee of lands not subject to auction; failure to pay; penalty

D. If the improvements are not paid for as agreed in an extended payment schedule, the succeeding lessee shall not be permitted to sell, assign or transfer **his THE** lease nor sell, assign or remove any improvements whatever from the land until the entire amount of the appraised value of the improvements has been paid. Upon default the succeeding lessee shall be subject to the same penalties and liabilities as provided by section 37-288 for failure to pay rents, including a cancellation of the lease.

37-331.01. Designation of state lands as urban lands on request

C. The commissioner shall designate as urban lands those state lands requested pursuant to subsection A of this section unless the commissioner determines that the designation is an inappropriate categorization of the lands. When the commissioner makes a designation, **he THE COMMISSIONER** shall provide notice of the designation of the lands as urban lands to all local governing bodies within three miles of the lands so designated. If the commissioner determines that the designation would be inappropriate, **he THE COMMISSIONER** shall state in writing **his THEIR** reasons, and shall provide a copy of this statement to the requesting local governing body. The local governing body may appeal this decision to the board of appeals as provided in section 37-215.

37-335.01. Compensation and reimbursement of lessee upon cancellation of lease

A. If an existing lease is cancelled due to reclassification under section 37-335, and if the existing lessee either did not utilize **his THE LESSEE'S** preferred right to lease the reclassified land or was unsuccessful in obtaining the reclassified lease, the lessee is entitled to receive reimbursement for non-removable improvements as provided in section 37-322.01, and to receive reasonable compensation as provided in subsection B of this section for damages sustained by reason of the cancellation of the lease.

B. The commissioner shall determine the amount of reasonable compensation for damages sustained by the lessee after consideration of the following factors:

4. The actual amount of economic damage to the production unit caused by cancellation of the lease. In determining the amount of economic damage to the production unit, the commissioner shall not limit the scope of **his THE COMMISSIONER'S** review to only that portion of the lands involved in the reclassification for the purposes of urban lands development, but shall take into consideration the impact

of the loss of these lands upon the overall production unit, including situations where other leased or private lands are necessary and have been leased by the existing lessee for operation as a production unit.

37-335.02. Off-site improvement of urban lands

D. If the commissioner approves the improvement plan or any modification of the plan, **he THE COMMISSIONER** shall enter an order to that effect in **his THE COMMISSIONER'S** official records and cause a copy to be served on the governing body requesting approval, recorded with the county recorder of the county in which the land is located and filed with the secretary of state. Fees shall not be charged for recording or filing.

37-335.06. Agreements to fund, install and reimburse costs of infrastructure on trust lands

B. A party to an agreement under this section may not delegate **his SUCH PARTY'S** obligations under the agreement without written approval of the commissioner. The commissioner may require performance and payment bonds or other sufficient security as a condition for **his THE COMMISSIONER'S** approval.

37-442. Application by department or institution to take over state lands; approval by governor; compensation of lessee for improvements and damages resulting from termination

B. The existence of a permit or lease for the land desired shall not bar the state from taking the land, but the permittee or lessee shall be entitled, in addition to the appraised value of the improvements on the lands, to reasonable compensation for damages **he THE PERMITTEE OR LESSEE** may sustain by reason of the cancellation of the permit or lease prior to its termination. Such damages shall be determined as a part of the appraisal.

C. Upon surrender of the lands to the state, the owner of the improvements shall be paid in the manner provided by law the appraised value thereof and the amount of the damages. The owner of the improvements shall prior to payment file **his A** claim, and certify that the possession of the lands and improvements has been surrendered to the state by all persons having lawful claims thereon.

37-501. Trespass on state lands; classification

A person is guilty of a class 2 misdemeanor who:

1. Knowingly commits a trespass upon state lands, either by cutting down or destroying timber or wood standing or growing thereon, by carrying away timber or wood therefrom, by mowing, cutting, or removing hay or grass thereon or therefrom, or by grazing livestock thereon, unless **he THE PERSON** has a lease or sublease approved by the department for the area being grazed.

37-607. Method of exchange; valuation

C. After completion of the requirements of subsection B of this section, the commissioner shall analyze the long-term potential of all the lands proposed to be exchanged and report **his THE**

COMMISSIONER'S findings to the selection board. The commissioner shall consider at least the following criteria:

3. The impact of paragraphs 1 and 2 on the lands proposed for exchange. Based on this analysis, the commissioner shall recommend approval of the exchange only if **he THE COMMISSIONER** finds that the potential for appreciation in value of the other lands is equal to or greater than the state lands, or that special circumstances make the exchange in the long-term interest of the trust.

37-704. Contract; contents; bond of contractor

B. The contract shall provide that the sale to a settler of a tract of land with a permanent water right shall include an interest in the project and any power plants that may be built equal to the proportion that the tract of land purchased by **him THE SETTLER** bears to the entire tract to be reclaimed by the irrigation project, and that upon full payment of the purchase price of the land, capital stock of the corporation, representing the interest, shall be issued and delivered to the settler by the person constructing the project. The price and terms of water rights, maintenance charges, and land, shall be reasonable.

37-705. Contract provisions as to beginning and completion dates; forfeiture for failure to prosecute work

B. Upon failure of the contractor to comply with any requirement of **his THE** contract, the state land department shall notify the contractor that, unless **he THE CONTRACTOR** complies with such requirements within sixty days from the date of the notice, the bond and contract shall be forfeited to the state, and, if not complied with, the department will advertise for proposals to complete the work, and may contract with the bidder who will pay the original contractor the highest amount for the works partially completed to complete the works as stated in the original contract. If no bid is received the department shall proceed to collect the bond.

37-706. Persons eligible to apply for entry; limitation on area; contents of application; price of lands; disposition of monies received

C. If the contractor fails to furnish water to any settler under the provisions of **his THE** contract, the state shall refund to the settler all payments **he THE SETTLER** has made to the state.

37-707. Procedure upon completion of project by settler; application for federal patent; grant of state patent to settler

Upon completion of the project or any section thereof, the contractor shall notify the state land department that **he THE CONTRACTOR** is prepared to supply water to the land designated in **his THE** application, or any particular tract thereof, whereupon the department shall request the department of the interior that a patent to such land be issued to the state, and notice shall be given to each settler of that fact. Within three years thereafter, each settler shall appear before the state land department and make final proof of reclamation, settlement and occupation, and make final payment for the land entered upon by **him THE SETTLER**. Upon final payment the state, through the state land department, shall issue to the settler a patent for the land entered upon.



37-725. Receipts from grazing district fees; district treasurer; duties

B. The county treasurer of the county in which such public lands are located shall be the ex officio district treasurer of any federal grazing district located wholly or in part within the county, and shall be liable upon his **THE COUNTY TREASURER'S** official bond for the proper care and distribution of the monies. He **THE COUNTY TREASURER** shall collect, receive, receipt and account for all monies from such source, and shall pay it upon the warrant of the grazing district signed by the **chairman CHAIR** of the board of district advisors and countersigned by the **vice-chairman VICE-CHAIR** thereof and the regional grazier in administrative charge of the district.

37-904. Public lands board of review; members; powers and duties; staff and officers; service of process

A. There is established a public lands board of review consisting of the following members:

9. As provided in subsection F, the **chairman CHAIR** of the board of supervisors of a county in which public lands are located.

B. The board shall elect one of its members to serve as **chairman CHAIR**. The **chairman CHAIR** shall call meetings of the board and prescribe the time and place of each meeting.

F. The **chairman CHAIR** of the county board of supervisors of a county in which public lands are located and which are the subject of the board action shall serve as a member of the board for the purposes of the action.

37-905. Appeal of commissioner's decision; board of review; procedures; decision; further appeal

D. At the hearing the commissioner or **his THE COMMISSIONER'S** representative shall present the facts and reasons for reaching the decision being appealed. The person appealing or **his SUCH PERSON'S** representative may present facts and reasons supporting the appeal. If the person appealing or **his SUCH PERSON'S** representative is not present, the board may consider the information set forth in the letter of appeal.

37-1002. Definitions

In this chapter, unless the context otherwise requires:

6. "District cooperator" means any person who has entered into a cooperative agreement with a natural resource conservation district for the purpose of protecting, conserving and practicing wise use of the natural resources under **his SUCH PERSON'S** control.

37-1012. State natural resource conservation commissioner

A. The state land commissioner shall be state natural resource conservation commissioner. **He THE NATURAL RESOURCE CONSERVATION COMMISSIONER** shall serve as such without additional compensation.

37-1034. Referendum; election of supervisors

A. Within a reasonable time after the commissioner has recorded **his THE COMMISSIONER'S** determination that it is in the public interest that a district be organized, and has defined the boundaries thereof, **he THE COMMISSIONER** shall hold a referendum within the proposed district upon the question of the creation of the district, and an election to elect three supervisors. **He THE COMMISSIONER** shall adopt rules for the conduct of such referendum and election and prescribe a procedure for the determination of persons eligible to vote. The referendum and election of supervisors shall be conducted by separate ballots.

C. Only owners of land lying within the boundaries of the territory described shall be eligible to vote on the referendum, but any such owner who is not a qualified elector of the district, or any owner who is a qualified elector but is unable because of illness or absence from the district to appear at the polls, may appoint in writing, on a form prescribed by the commissioner, a qualified elector of the district as **his THE OWNER'S** agent or proxy. The appointment of agent or proxy shall be presented to the board of election, and if it is found to be bona fide and in proper form, the holder thereof shall be allowed to vote in behalf of the owner executing the appointment on the question of creation of the district only. The appointment shall be filed with the ballots and other election returns.

37-1035. Proclamation of result of referendum and election; terms of supervisors

A. If not less than sixty-five per cent of the landowners voting at the referendum and the owners of not less than fifty per cent of the land, other than publicly owned, lying within the proposed district vote in favor of the creation thereof, the commissioner shall declare the district organized. Otherwise **he THE COMMISSIONER** shall declare the proposal defeated.

37-1036. Proceedings to organize district; certificate of organization

A. 2. The application shall be accompanied by a certificate of the commissioner which shall set forth:

(a) The boundaries of the district as determined by ~~him~~ THE COMMISSIONER.

3. The secretary of state shall examine the application and statement and, if ~~he~~ THE SECRETARY OF STATE finds that the name proposed for the district is not identical with or so similar to that of any other district as to lead to confusion, ~~he~~ THE SECRETARY OF STATE shall record them. If the name proposed is identical with or so similar to another district as to lead to confusion, ~~he~~ THE SECRETARY OF STATE shall certify that fact to the commissioner, who shall submit another name. Upon receipt of a new name, free from defects, the secretary of state shall record the application and statement.

D. The commissioner shall appoint two supervisors from a panel of candidates compiled by the elected supervisors and presented by the temporary ~~chairman~~ CHAIR of the elected supervisors. Candidates for the office of appointed supervisors shall be qualified electors of the state. Appointed supervisors shall continue to serve until May 31 of the next even-numbered year or until their successors are otherwise appointed.

37-1040. Change in boundaries; combination or division of districts; change in name of districts

A. Petitions for a change in the boundaries of existing districts, or the combination of two or more existing districts may be filed with the commissioner by a majority of supervisors of the board or boards of supervisors of the district or districts to be affected. In the case of a proposed combination of two or more existing districts, the petition shall state the proposed boundaries of the new combined district, the proposed name, and shall propose a method, which has been mutually agreed upon by all boards of supervisors of affected districts, as to the future terms of office of existing district supervisors, and how such terms will be determined. The commissioner may require such hearings as ~~he~~ THE COMMISSIONER deems appropriate to enable ~~him~~ THE COMMISSIONER to make a determination as to the desirability of the proposed changes. If the commissioner makes a determination in favor of the changes, ~~he~~ THE COMMISSIONER shall certify the fact of such change to the secretary of state and shall notify the board of supervisors of the district, or districts, setting out in such notice the new boundaries and the name of the district and confirmation of terms of the supervisors. The secretary of state shall make and issue a corrected certificate of organization upon receipt of such certification from the commissioner.

B. The board of supervisors of any one or more districts organized under the provisions of this section may submit to the commissioner a petition signed by a majority of the members of the board of supervisors of each district affected requesting a division of a district, a combination of two or more districts, or a transfer of land from one district to another. The commissioner shall make a determination as to the practicability and feasibility of the proposed change, giving due regard to the same considerations as provided in this section for changes in district boundaries by other methods. If the commissioner determines that the proposed change of district boundaries is not administratively practicable and feasible, ~~he~~ THE COMMISSIONER shall record such determination and deny the petition. If the commissioner determines that the proposed change is administratively practicable and feasible, ~~he~~ THE COMMISSIONER shall record such determination and proceed with the reorganization of the district or districts affected in the same manner as provided in this section for changes in district boundaries by other methods.

C. Petitions for a change in the name of a district may be submitted to the commissioner by a majority of supervisors of the board of supervisors of a district. If the commissioner approves the change of name, ~~he~~ **THE COMMISSIONER** shall certify the fact of such change of name to the secretary of state and shall notify the board of supervisors of the district of such change, setting out in such notice the new name of the district. The secretary of state shall make and issue a corrected certificate of organization upon receipt of such certification from the commissioner.

37-1051. District supervisors; term of office; biennial election

B. An election shall be held on the first Saturday in May of each even-numbered year, at which one supervisor of the district shall be elected. Any person desiring to be a candidate shall file with the commissioner a nomination petition in such form as the commissioner prescribes, at least ten days prior to the election, containing the signatures of not less than twenty-five qualified electors of the district. No person shall be eligible to be a candidate for supervisor unless ~~he~~ **THE CANDIDATE** is a qualified elector of the district. The names of candidates shall appear on the ballot in alphabetical order by surnames, with a square after each name and an instruction to mark an X in the square after the name of the voter's choice. The governing body of a district may provide a mail ballot to a qualified district elector for which the district governing body has a first class mailing address. Qualified electors of a district who wish to vote by mail ballot shall file a first class mailing address with the district governing body at least thirty days prior to the date of the election. Qualified district electors who receive ballots in proper form from the district governing body may cast their votes by mail. Mail ballots, to be counted, shall be received at the place designated, and within the time prescribed by the district supervisors and clearly specified in the notice of election. Only qualified electors of the district shall have the right to vote. The district governing body shall provide at least one polling place in the district for qualified voters who wish to vote in person. If two or more candidates receive the same number of votes, the successful candidate shall be determined by lot.

37-1052. Organization of supervisors; vacancies

A. At the first meeting of the supervisors following an election, they shall organize by electing a ~~chairman~~ **CHAIR** and a ~~vice-chairman~~ **VICE-CHAIR** and such other officers as are deemed necessary from among their number to serve for the ensuing two years.

37-1053. Powers and duties of supervisors

B. The supervisors may appoint additional advisory members to the district governing body and delegate to the ~~chairman~~ **CHAIR** or any member, or to any agent or employee, such powers and duties as they deem proper.

37-1055. Limitation of powers

B. No district or public body shall undertake or cooperate in the planning, construction, improvement or maintenance of any structure, dike or channel for the storage, spreading, diversion or conveyance of water resulting in the consumptive use of water, on any watershed or drainage area which supplies or contributes water for the irrigation of lands within any irrigation district or for the irrigation of other lands having established rights in such water, without first submitting the plans therefor to the governing body of such irrigation district or districts. Such governing body shall within forty-five days after receipt of such plans either approve or reject them. The approval may be given for rangeland soil

conservation practices by agreement on an annual or continuing basis between the governing bodies of the affected irrigation districts and the supervisors of such natural resource conservation districts. If the governing body fails to approve or reject the plans within forty-five days, it shall be deemed to have approved them. If the governing body rejects the plans, the district or public body proposing such plans may appeal to the commissioner. The appeal shall be taken within forty-five days after such decision. The commissioner shall review the decision, and may approve the plans only if after an investigation and hearing ~~he~~ **THE COMMISSIONER** finds that the work proposed to be done will not result in the consumptive use of water. An appeal from the decision of the commissioner may be taken by either party pursuant to the provisions of section 37-215. The provisions of this subsection shall not preclude the use of any other legal remedy otherwise available to any person or interested party.

37-1384. Inspection; consent; search warrant

B. In carrying out such inspections or investigations, the assistant director of the office of the state fire marshal, a deputy fire marshal or an assistant fire inspector shall identify ~~himself~~ **THEMSELVES** to the owner or tenant of the building or premises and seek the consent of the owner or tenant to carry out such an inspection. If consent is refused, or if it is not possible to reasonably obtain consent, the assistant director of the office of the state fire marshal, deputy fire marshal or an assistant fire inspector shall obtain a search warrant for the building or property in compliance with title 13, chapter 38, article 8.

TITLE 38 Public Officers and Employees



All revisions are necessary due to exclusionary use of male pronouns.

38-101 Definitions

3. “Officer” or “public officer” means the incumbent of any office, member of any board or commission, or **his THEIR** deputy or assistant exercising the powers and duties of the officer, other than clerks or mere employees of the officer.

38-201. General qualifications

B. No person is eligible to any office, employment or service in any public institution in the state, or in any of the several counties thereof, of any kind or character, whether by election, appointment or contract, unless **he is THEY ARE** a citizen of the United States, but the provisions of this subsection shall not apply to the employment of any teacher, instructor or professor authorized to teach in the United States under the teacher exchange program as provided by federal statutes or the employment of university or college faculty members.

38-211. Nominations by governor; consent of senate; appointment

B. If the term of any state office that is appointive pursuant to this section expires, begins or becomes vacant during a regular legislative session, the governor shall during such session nominate a person who meets the requirements of law for such office and shall promptly transmit the nomination to the

president of the senate. If the incumbent is capable of continuing to serve until **his THEIR** successor has qualified, a nominee to that position shall not assume and discharge the duties of the office, pending senate confirmation. If the incumbent is unable to continue to discharge the duties of office, the nominee shall assume and discharge the duties of the office pending senate confirmation. If the senate consents to the nomination, the governor shall then appoint the nominee to serve for the term or, in the case of a vacancy, for the unexpired term in which the vacancy occurred. If the senate rejects the nomination the nominee shall not be appointed and the governor shall promptly nominate another person who meets the requirements for such office. If the senate takes no formal action on the nomination during such legislative session, or if a nomination other than one that is required to be sent to the senate during the first week of the legislative session is not received during the session, the governor shall after the close of such legislative session appoint the nominee to serve, and the nominee shall discharge the duties of office, subject to confirmation during the next legislative session.

38-234. Usurpation of office; classification

A person who knowingly intrudes **himself THEMSELVES** into a public office to which **he has THEY HAVE** not been elected or appointed, or a person who, having been a public officer, knowingly exercises the functions of **his THEIR** office after **his THEIR** term has expired and a successor has been elected or appointed and has qualified, is guilty of a class 2 misdemeanor.

38-254. Bond premiums as public charge

When a public officer, excepting a notary public, **his THE PUBLIC OFFICER'S** deputy, assistant or employee is required by law or by a board or commission of the respective agencies of the state to give bond for the performance of the duties of **his THEIR** office and the surety of the bond is a corporation, the premiums for the writing of the bonds shall be a public charge of such officer and shall be paid from the expense fund of the agency, or if no expense fund exists, then by the state or county out of the general fund.

38-255. Recording of bond; copies

Every officer with whom bonds are filed shall record them in a book kept **by him** for that purpose, preserve the bond and give certified copies thereof under seal to any person upon demand and payment of the fee for a copy and certificate.

38-256. Form of official bonds

All official bonds shall be joint and several in form and made payable to the state of Arizona. The condition shall be that the principal will well, truly and faithfully perform all official duties required **of him** by law. The bond shall be signed by the principal and at least two sureties or a qualified surety company, and shall comply and be subject to the law governing the bond of such officer.

38-258. Limitation of liability by sureties

When the penal amount of any bond required to be given amounts to more than one thousand dollars, the sureties may become severally liable for portions of not less than five hundred dollars thereof, making in the aggregate at least two sureties for the whole penal sum. If any such bond becomes forfeited, action may be brought thereon against all or any number of the obligors and judgment entered against them,

either jointly or severally as they are liable. The judgment shall not be entered against a surety severally bound for a greater amount than that for which **he THE SURETY** is specifically liable by the terms of the bond. Each surety is liable to contribution of **his THEIR** cosureties in proportion to the amount for which **he THE SURETY** is liable.

38-259. Extent of liability

Every official bond executed by an officer pursuant to law is in force and obligatory upon the principal and sureties therein for any and all breaches of the conditions thereof committed during the time the officer continues to discharge any of the duties of or hold the office, whether the breaches are committed or suffered by the principal officer, **his THEIR** deputy or clerk. When, except in criminal prosecutions, a penalty, forfeiture or liability is imposed on any officer for nonperformance or malperformance of official duty, the liability therefor attaches to the official bond of the officer, and to the principal and sureties thereon. Every such bond is in force and obligatory upon the principal and sureties therein for the faithful discharge of all duties which may be required of the officer by any law enacted subsequently to the execution of the bond, and such condition shall be expressed therein.

38-260. Beneficiaries of bond

Every official bond executed by any officer pursuant to law, is in force and obligatory upon the principal and sureties therein to and for the state and to and for the use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of the officer in **his THEIR** official capacity. Any person so injured or aggrieved may bring an action on the bond in **his THEIR** own name without an assignment thereof.

38-262. Defects in form, approval or filing of bond

When an official bond does not contain the substantial matter or conditions required by law, or when there are any defects in the approval or filing thereof, such defects shall not discharge the officer and **his** sureties, and they are bound to the state, or party injured, according to the conditions and obligations required by law to be inserted therein. The state or the injured party may in an action upon the bond, suggest the defect in the bond, approval or filing, and recover the proper and equitable demand or damages from the officer and the persons who intended to become and were included as sureties in the bond.

38-263. Additional bond; failure to file

A. When a surety on any official bond moves from the state, becomes insolvent or insufficient, or the penalty on the bond becomes insufficient, the person approving the bond shall, of **his ITS** own motion, or on the showing of any person, supported by an affidavit, at once notify any such officer to appear before **him THE OFFICER** at a time stated, not less than three nor more than ten days after the service of the notice, and show cause why **he THEY** should not execute a new or additional bond with good and sufficient sureties.

38-264. Additional bond; terms

The new or additional bond shall be in the penalty directed by the person approving the original bond, in all respects similar to, and approved by and filed with the same officer as the original bond. When so

filed it shall be of like force from the date of its execution and subject the officer and his ITS sureties to the same liabilities as the original bond.

38-265. Liability on original and additional bonds

The original bond is not discharged or affected by the giving of new or additional bond, but remains of like force and obligation as if the new or additional bond had not been given. The officer and his ITS sureties are liable upon either or both bonds, and an action may be brought upon either bond, or separate actions on both bonds, and the same cause of action may be alleged and judgment recovered in each action.

38-266. Judgment on original and additional bonds; contribution of sureties

A. If separate judgments are recovered on the bonds for the same cause of action, the plaintiff is entitled to have execution issued on both judgments, but he THE PLAINTIFF shall only collect by execution or otherwise the amount actually adjudged to him THE PLAINTIFF on the same causes of action, together with the costs of both actions.

38-269. Withdrawal of surety; effect on remaining sureties

A. Any surety on the official bond of any officer may be relieved from liabilities thereon afterwards accruing by complying with the following provisions:

1. The surety shall file with the person authorized by law to approve the official bond, a sworn statement in writing setting forth his THE SURETY'S desire to be relieved from liability thereon afterwards arising, and the reasons therefor.

B. Within ten days after the service of the notice, the person authorized to approve the bond shall make an order declaring such office vacant, and releasing the surety from all liability thereafter to arise on the official bond, and the office thereafter is in law vacant, and shall be immediately filled by election or appointment, as in other cases of vacancy, unless the officer has before that time given good and ample surety for the discharge of all his THEIR official duties as originally required.

38-270. Supplemental bond upon withdrawal of surety; exception

A. When a surety on any official bond gives notice of intention to withdraw therefrom, or is removed or becomes insolvent or becomes otherwise incompetent, the principal shall, within ten days after the notice or disqualification, execute and file, subject to the same conditions as the original, a supplemental bond, in which shall be recited the names of the remaining original sureties, and the name of the new surety, and the amount for which he THEY becomes bound, who is substituted in lieu of the surety released or disqualified.

38-271. Effect of withdrawal on liability of surety

No surety shall be released from liability for acts, omissions or causes existing or which arose before the making of the order discharging him THEM, but legal proceedings may be had therefor in all respects as though no such order had been made.

38-292. Notice of vacancy in office

When an officer is removed, declared insane or convicted of a felony or an offense involving a violation of **his THE OFFICER'S** official duties, or when **his THE OFFICER'S** election or appointment is declared void, the body, judge or officer before whom the proceedings were had shall give notice thereof to the officer empowered to fill the vacancy.

38-296. Limitation on filing for election by incumbent of elective office

A. Except during the final year of the term being served, no incumbent of a salaried elective office, whether holding by election or appointment, may offer **himself THEMSELVES** for nomination or election to any salaried local, state or federal office.

B. An incumbent of a salaried elected office shall be deemed to have offered **himself THEMSELVES** for nomination or election to a salaried local, state or federal office on the filing of a nomination paper pursuant to section 16-311, subsection A. An incumbent of a salaried elected office is not deemed to have offered **himself THEMSELVES** for nomination or election to an office by making a formal declaration of candidacy for the office.

38-298. Restoration to position following military service

An appointive officer or employee of the state or of a political subdivision thereof, including an employee of the educational system, having been inducted or ordered into active service in the armed forces of the United States after August 1, 1939, shall, upon completion of **his** service, be restored to the position held **by him** at the time of induction or of reporting for service, or to a position having similar or other duties which **he is THEY ARE** qualified to discharge, and of like status and pay, if such officer or employee:

38-299. Effect of expiration of term prior to separation from military service

An appointive officer included within the provisions of section 38-298 whose term of office is prescribed by law is not entitled to the protection of sections 38-297 and 38-298 if **his THEIR** term of office expires on or before the date **he is THEY ARE** relieved from military or naval service. If such officer is so relieved prior to expiration of **his THEIR** term, restoration to **his THEIR** office pursuant to section 38-298 shall be for the unexpired portion of the term.

38-313. Impeachment hearing; service on accused

B. The president of the senate shall cause a copy of the articles of impeachment, with a notice to appear and answer them at the time and place appointed, to be served on the accused not less than ten days before the day fixed for the hearing. The service shall be made by the sergeant-at-arms of the senate upon the accused personally, or, if **he THEY** cannot upon diligent inquiry be found within the state, the senate, upon proof of such fact, may order publication of the notice to be made in a manner it deems proper.

38-320. Appearance of accused; plea

B. The accused may, in writing, object to the sufficiency of the articles of impeachment, or **he THE ACCUSED** may answer them by an oral plea of not guilty. The plea of not guilty shall be entered upon the journal and places in issue every material allegation of the articles of impeachment.

C. If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the court who heard the argument, the accused shall be ordered forthwith to answer the articles of impeachment. If the accused then pleads guilty, or refuses to plead, the court shall render judgment of conviction against **him THE ACCUSED**. If the accused pleads not guilty, the court shall at such time as it appoints, try the impeachment.

38-321. Judgment

If the accused is convicted, the court of impeachment shall, at such time as it appoints, pronounce judgment by resolution entered upon the journals of the court, which shall be the judgment of the senate. The judgment of conviction may provide that the accused be removed from office or that **he THE ACCUSED** be removed from office and disqualified to hold any office of honor, trust or profit under the constitution and laws of the state.

38-322. Performance of official duties by accused

When articles of impeachment against any officer subject to impeachment are presented to the senate, such officer shall continue to perform the duties of **his THEIR** office unless and until removed.

38-342. Service on accused; appearance and plea

A. The accusation shall be delivered by the **foreman FOREPERSON** of the grand jury to the county attorney, who shall cause a copy thereof to be served upon the accused, and require by written notice of not less than ten days that **he THEY** appear before the superior court in and for the county and answer the accusation. The original accusation shall then be filed with the clerk of the court.

B. The accused shall appear at the time appointed in the notice and answer the accusation, unless the court assigns another day for that purpose. If the accused does not appear, the court may hear and determine the accusation in **his THE ACCUSED'S** absence.

38-343. Trial; judgment

A. If the accused pleads guilty or refuses to answer the accusation, the court shall render judgment of conviction against **him THE ACCUSED**. If the accused denies the matters charged, the court shall immediately, or at such time as it appoints, try the accusation.

38-361. Powers and duties of successor in office

Any person elected or appointed to fill a vacancy, after filing **his THEIR** official oath and bond, if a bond is required, possesses all the rights and powers and is subject to all the liabilities, duties and obligations of the officer who previously occupied the office.

38-362. Delivery of property and records to successor

Every public officer on vacating an office, or, in case of **his THEIR** death, **his THEIR** legal representative, shall deliver to **his THEIR** successor in office all property, books, papers and documents relating to or connected with the office and the official duties of the office.

38-363. Withholding or destruction of records or property of office by former officer; classification

A public officer whose office is abolished by law, or who, after expiration of the time for which **he-has THEY HAVE** been appointed or elected, or after **he-has THEY HAVE** resigned or been legally removed from office, knowingly and unlawfully withholds or detains from **his THE** successor, or other person entitled thereto, the records, papers, documents or other writings pertaining or belonging to **his THEIR** office, or who knowingly mutilates, destroys or takes away any thereof, or who knowingly and unlawfully withholds or detains from **his THEIR** successor, or other person entitled thereto, any money or property in **his THEIR** custody as such officer, is guilty of a class 4 felony.

38-364. Summary proceedings to obtain property and records of office

If any person refuses or neglects to deliver to the lawful incumbent any property or records pertaining to the office or the duties of the office, the incumbent may apply by petition to the superior court of the county in which the person resides, and the court shall proceed in a summary manner, after notice to the adverse party, to hear the petition and enter judgment thereon. The execution of the judgment and the delivery of the books and papers may be enforced by attachment, and also by a warrant directed to the sheriff or a constable of the county, commanding **him THE SHERIFF OR CONSTABLE** to search for the books and papers, and to take and deliver them to the petitioner.

38-383. Unavailability of governor; appointment of temporary successor

In the event of an attack after which the duly elected governor or **his THE GOVERNOR'S** successors designated by the Constitution of Arizona are unavailable to serve due to death or for other reasons, the state legislature in emergency session shall designate a temporary governor who shall serve until such time as conditions permit compliance with constitutional mandates for filling the vacancy. Such designee shall be of the same political party as the duly elected governor and **he-is ARE** authorized to exercise full powers and duties of the office during **his THE** temporary appointment.

38-384. Unavailability of other elected officers of the state or political subdivisions; appointment of temporary successor

In the event of an attack after which any duly elected officer of the state or of any political subdivision thereof, or **his THEIR** legal successor, if any, are unavailable to serve due to death or for other reasons, the legislating body of the state or the respective political subdivision in emergency session shall designate a temporary successor if required to maintain continuity of its civil government. Such temporary successor shall serve until such time as conditions permit compliance with constitutional mandates for filling vacancies. Such designee shall be of the same political party as the duly elected official and **he-is IS** authorized to exercise full powers and duties of the office during **his THE** temporary appointment.

38-413. Charging excessive fees; classification

A. If an officer demands and receives a higher fee than prescribed by law, or any fee not so allowed, such officer shall be liable to the party aggrieved in an amount four times the fee unlawfully demanded and received **by him**.

38-414. Collection of fees; failure to report amount collected; classification

A public officer who by law is required to make an abstract or statement of the amount of fees, compensation or percentage as earned or collected by **him THE OFFICER** or **his THE OFFICER'S** deputies, or as having been returned to **him THE OFFICER** by any other officer or person, or who is required by law to keep or preserve such abstract or statement or to file it in some designated place, who knowingly fails or refuses to make or file such abstract or statement as required by law, is guilty of a class 2 misdemeanor and shall be removed from office by judgment of the court.

38-421. Stealing, destroying, altering or secreting public record; classification

A. An officer having custody of any record, map or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in **his THEIR** hands for any purpose, who steals, or knowingly and without lawful authority destroys, mutilates, defaces, alters, falsifies, removes or secretes the whole or any part thereof, or who permits any other person so to do, is guilty of a class 4 felony.

38-422. Failure of tax or revenue collector or disburser to permit inspection of books by attorney general or county attorney; classification

An officer charged with the collection, receipt or disbursement of any revenue or tax of the state, or any political subdivision thereof, who upon demand knowingly fails or refuses to permit the attorney general or a county attorney to inspect **his THEIR** books, papers, receipts and records pertaining to **his THEIR** office, is guilty of a class 2 misdemeanor.

38-423. Making or giving false certificate; classification

A public officer authorized by law to make or give any certificate or other writing, who makes and delivers as true such a certificate or writing containing a statement which **he knows THEY KNOW** is false, is guilty of a class 6 felony.

38-441. Discharge of duties of another office; attestation

When an officer discharges ex officio the duties of another office, **his THE OFFICER'S** official signature and the attestation shall be in the name of the office which **he THE OFFICER** discharges.

38-442. Persons acting as public officers without qualifying; classification; effect of acts

B. This section shall not affect the validity of acts done by a person exercising the functions of a public office in fact, where persons other than **himself THEMSELVES** are interested in maintaining the validity of such acts.

38-443. Nonfeasance in public office; classification

A public officer or person holding a position of public trust or employment who knowingly omits to perform any duty the performance of which is required of **him THEM** by law is guilty of a class 2 misdemeanor unless special provision has been made for punishment of such omission.

38-446. Acts based on written opinions; immunity

Notwithstanding any provision of law to the contrary, no public officer or employee is personally liable for acts done in **his THEIR** official capacity in good faith reliance on written opinions of the attorney general issued pursuant to section 41-193, written opinions of a county attorney of the county, written opinions of the city or town attorney of the city or town or written opinions of any authorized private attorney for any independent public retirement trust fund or system for which the officer or employee serves or is employed.

38-463. Liability of officer on bond for acts of deputies and assistants; bond of deputies and assistants; approval

A. Every officer is liable on **his THEIR** official bond for any official negligence or misconduct on the part of **his** deputies, clerks or assistants, and may require an official bond from a deputy appointed by **him THEM**, in an amount not greater than that required of the officer and conditioned as required of the principal officer.

38-465. Purchase of appointment to office; classification

A person who knowingly gives or offers any gratuity or reward in consideration that ~~he~~ **THEY**, or any other person, be appointed to a public office, or permitted to exercise or discharge the duties thereof, is guilty of a class 6 felony.

38-466. Sale of appointment to office; classification

A public officer, who for a gratuity or reward, appoints another person to a public office, or permits another person to exercise or discharge any duties of **his THE** office, is guilty of a class 6 felony and shall forfeit **his THE** office and is forever disqualified from holding any office in this state.

38-481. Employment of relatives; violation; classification; definition

A. It is unlawful, unless otherwise expressly provided by law, for an executive, legislative, ministerial or judicial officer to appoint or vote for appointment of any person related to **him THEM** by affinity or consanguinity within the third degree to any clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages or compensation of such appointee is to be paid from public funds or fees of such office, or to appoint, vote for or agree to appoint, or to work for, suggest, arrange or be a party to the appointment of any person in consideration of the appointment of a person related to **him THEM** within the degree provided by this section.

38-502. Definitions

10. “Remote interest” means:

(e) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to ~~him~~ **THEM** by the corporation do not exceed five percent of ~~his~~ **THEIR** total annual income.

(f) That of a public officer or employee in being reimbursed for ~~his~~ **THEIR** actual and necessary expenses incurred in the performance of official duty.

(g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which ~~he is~~ **THEY ARE** a public officer or employee, on the same terms and conditions as if ~~he were~~ **THEY WERE** not an officer or employee.

38-505. Additional income prohibited for services

A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by ~~him~~ **THEM** personally in any case, proceeding, application, or other matter which is pending before the public agency of which ~~he is~~ **THEY ARE** a public officer or employee.

38-508. Authority of public officers and employees to act

A. If the provisions of section 38-503 prevent an appointed public officer or a public employee from acting as required by law in ~~his~~ **THEIR** official capacity, such public officer or employee shall notify ~~his~~ **THEIR** superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

38-510. Penalties

B. A person found guilty of an offense described in subsection A of this section shall forfeit ~~his~~ **THE** public office or employment if any.

38-532. Prohibited personnel practice; violation; reinstatement; exceptions; civil penalty

E. An employee does not commit a prohibited personnel practice if ~~he~~ **THEY** takes reprisal against an employee if that employee discloses information in a manner prohibited by law or the materials or information are prescribed as confidential by law.

F. This section may not be used as a defense in a disciplinary action where the employee is being disciplined for cause pursuant to section 41-773, except in a hearing on a complaint brought pursuant to this section by an employee or former employee who believes ~~he has~~ **THEY HAVE** been the subject of a prohibited personnel practice as prescribed in this section as the result of a disclosure of information.

H. If an employee or former employee believes that a personnel action taken against **him THEM** is the result of **his THEIR** disclosure of information under this section, **he THEY** may make a complaint to an appropriate independent personnel board, if one is established or authorized pursuant to section 38-534, or to a community college district governing board, school district governing board or city or town council. If an independent personnel board has not been established or authorized, or if a school district governing board, a community college district governing board or a city or town council does not hear and decide personnel matters brought pursuant to this section, the employee or former employee may make a complaint to the state personnel board. A complaint made pursuant to this subsection shall be made within ten days of the effective date of the action taken against **him THEM**. The state personnel board, a school district governing board, a community college district governing board, a city or town council or any other appropriate independent personnel board shall, pursuant to the rules governing appeals under section 41-783, make a determination concerning:

38-541. Definitions

3. “Controlled business” means any business in which the public officer or any member of **his THEIR** household has an ownership or beneficial interest, individually or combined, amounting to more than a fifty percent interest.

4. “Dependent business” means any business in which the public officer or any member of **his THEIR** household has an ownership or beneficial interest, individually or combined, amounting to more than a ten percent interest, and during the preceding calendar year the business received from a single source more than ten thousand dollars and more than fifty percent of its gross income.

38-609. Retention of salary of subordinate; classification

A public officer or employee who accepts, retains or diverts for **his THEIR** own use or the use of any other person any part of the salary or fees allowed by law or usage to **his THEIR** deputy, clerk, other subordinate officer or employee, is guilty of a class 5 felony.

38-621. Persons eligible to receive travel expenses

A. The provisions of this article shall apply to every public officer, deputy or employee of the state, or of any department, institution or agency thereof, and to a member of any board, commission or other agency of the state when traveling on necessary public business away from **his THEIR** designated post of duty and when issued a proper travel order.

38-652. Experience rating dividends and unused claim reserves; deposit; trust account; investment of monies; disposition of trust account funds; audit; report

D. The provisions of subsection C of this section shall not be construed to require that all monies in the trust fund shall be used within any one or more fiscal years. Any person who is no longer an employee of the state or an employee who is no longer a participant in a plan of the insurance carrier from which such monies were derived shall forfeit **his THEIR** right to any such premium reduction or plan improvement.

38-814. Termination of plan; adjustment and refund

A. If the plan terminates, each member's accrued benefits to the date of termination become one hundred percent nonforfeitable to the extent funded. After provision is made for all expenses of the plan, including expenses of liquidation, the assets of the plan shall be allocated by the payment or provision for the payment of benefits in the following order of preference:

1. To pay each elected official and nonretired former elected official an amount equal to **his THEIR** accumulated contributions.

38-844.01. Vested rights to benefits

A member of the system does not have vested rights to benefits under the system, except as provided in section 38-854, until **he THEY** files an application for benefits and is found eligible for those benefits as provided in this article. An eligible claimant's rights to benefits vest on the date of **his THEIR** application for those benefits or **his THE** last day of employment under the system, whichever occurs first.

38-848. Board of trustees; powers and duties; independent trust fund; administrator; agents and employees; advisory committee

U. Neither the board nor any member or employee of the board shall directly or indirectly, for **himself THE INDIVIDUAL** or as an agent, in any manner use the monies or deposits of the fund except to make current and necessary payments, nor shall the board or any member or employee become an endorser or surety or in any manner an obligor for monies loaned by or borrowed from the fund or the assets of any other plans that the board administers.

38-850. Assurances and liabilities; board of trustee discretion; overpayments; underpayments

B. No employee shall have any right to, or interest in, any assets of the fund on termination of **his THEIR** employment or otherwise, except as provided from time to time under the system, and then only to the extent of the benefits payable to such employee out of the assets of the fund. All payments of benefits as provided for in the system shall be made solely out of the assets of the fund, and the employers, the board and any member of the board are not liable for payment of benefits in any manner.

E. The board, in its discretion, may make payment to a person entitled to any payment under the system who is under a legal disability in any one or more of the following ways:

2. To **his THEIR** legal guardian or conservator.

3. To **his THEIR** spouse or to any other person charged with **his THEIR** support to be expended for **his THEIR** benefit.

38-1002. Merit system council for law enforcement officers

C. The term of each member of a council shall be five years, one term to expire December 31 each year, except that a member shall continue to serve until **his THEIR** successor is duly appointed and qualified. Of the members of the council first appointed, one shall be appointed for a term ending December 31, 1970, and one each for terms ending one, two, three and four years thereafter. Upon the expiration of the term of a member a successor shall be appointed for a full term of five years. Appointment to fill a vacancy resulting other than from expiration of term shall be for the unexpired portion of the term only.

D. The council shall hold regular quarterly meetings and in addition, may hold such special meetings as the **chairman CHAIR** of the council deems necessary. A **chairman CHAIR** and **vice-chairman VICE-CHAIR** shall be elected by the members of the council in January of each year and the **chairman CHAIR** shall not be permitted to succeed **himself THEMSELVES**. Meetings of the council shall be open to the public and executive sessions may be held as provided by law.

38-1007. Exemptions

Except as provided by section 38-1004, subsection C, the provisions of this article shall not apply to:

2. A city or town with a population of less than fifteen thousand inhabitants according to the last federal census, or with a full-time police department of less than fifteen **men PERSONS**, unless the city council of such city or town passes an ordinance adopting the provisions of this article.

TITLE 39 Public Records, Printing and Notices



All revisions are necessary due to exclusionary use of male pronouns.

39-121.01. Definitions; maintenance of records; copies, printouts or photographs of public records; examination by mail; index

A. In this article, unless the context otherwise requires:

1. “Officer” means any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or **chairman CHAIR** of any public body.

39-122. Free searches for and copies of public records to be used in claims against United States; liability for noncompliance

C. The services specified in subsections A and B shall be rendered on request of an official of the United States, a claimant, **his** guardian or attorney. For each failure or refusal so to do, the officer so failing shall be liable on **his** **THE OFFICER’S** official bond.

39-161. Presentment of false instrument for filing; classification

A person who acknowledges, certifies, notarizes, procures or offers to be filed, registered or recorded in a public office in this state an instrument **he** **THE PERSON** knows to be false or forged, which, if

genuine, could be filed, registered or recorded under any law of this state or the United States, or in compliance with established procedure is guilty of a class 6 felony. As used in this section “instrument” includes a written instrument as defined in 13-2001.

39-205. Proof of publication; filing

A. An affidavit by the publisher, or **his** **THE PUBLISHER’S** agent **in his** **ON THE PUBLISHER’S** behalf, with a copy of the publication thereto attached, stating the name of the paper in which published, the place of publication, the date of each publication, and that the copy thereto attached is a true copy, shall be sufficient proof of publication and primary evidence of all facts stated therein.

TITLE 40 Public Utilities and Carriers

All revisions are necessary due to exclusionary use of male pronouns.

40-101. Interest of commissioner or employee prohibited in corporation subject to regulation

Notwithstanding any other law, a person in the employ of, or holding an official relation to a corporation or person subject to regulation by the commission, or a person owning stocks or bonds of a corporation subject to regulation, or a person who is pecuniarily interested therein, shall not be elected, appointed to, or hold the office of commissioner or be appointed or employed by the commission. If a commissioner, or appointee or employee of the commission becomes the owner of such stocks or bonds, or becomes pecuniarily interested in such a corporation involuntarily, **he THE COMMISSIONER, OR APPOINTEE OR EMPLOYEE OF THE COMMISSION**, shall within a reasonable time divest **himself of** such stocks, bonds or interest. If **he THE COMMISSIONER, OR APPOINTEE OR EMPLOYEE OF THE COMMISSION**, fails to do so, **he THE COMMISSIONER, OR APPOINTEE OR EMPLOYEE OF THE COMMISSION**, thereby vacates **his THEIR** office or employment.

40-102. Corporation commission organization; meetings; acts of commission by majority or by single commissioner; conflict of interest

A. The corporation commission shall elect from its membership a **chairman CHAIR**.

40-241. Power to examine records and personnel of public service corporations; filing record of examination

B. Any person other than a commissioner or an officer of the commission demanding such inspection shall produce under the hand and seal of the commission **his THE PERSON'S** authority to make the inspection.

40-244. Administration of oaths and certification to official acts by commissioners; taking of depositions; witness fees and mileage

B. Each witness who appears by order of the commission or a commissioner shall receive for **his THE WITNESS'S** attendance the same fees allowed by law to a witness in civil actions, which shall be paid by the party at whose request the witness is subpoenaed. The fees of a witness subpoenaed by the commission shall be paid from the fund appropriated for the use of the commission as other expenses of the commission are paid. Any witness subpoenaed, except one subpoenaed by the commission, may, at the time of service, demand **his THE WITNESS'S** mileage and one days attendance, and if not paid need not attend. A witness furnished free transportation shall not receive mileage.

40-247. Hearing; process to witnesses; report of proceedings; decision; service of order

B. After conclusion of the hearing, the commission shall make and file an order containing its decision. A copy of the order, certified under the seal of the commission, shall be served upon the person complained of, or **his THE PERSON'S** attorney. The order shall become operative twenty days after service thereof, except as otherwise provided, and shall continue in force either for the period designated

therein, or until changed or abrogated by the commission. The commission may on application and for good cause shown extend the time for compliance with the order as recited therein.

40-344. Hearing on petition; notice

A. Upon receipt of a petition to establish an underground conversion service area, the corporation commission, board of supervisors or city or town council shall set a date for a hearing on the petition, which date shall be not later than sixty days nor sooner than thirty days after receipt of such petition. At the hearing all interested property owners owning property within the proposed underground conversion service area may appear and be heard on the matter. Any person owning property within the proposed underground conversion service area and wishing to withdraw such person's signature from the petition of owners referred to in 40-343, subsection A, or object to the establishment of the underground conversion service area or to the underground conversion costs as contained in the joint report pertaining to **his THE PERSON'S** lot or parcel included within the proposed underground conversion service area shall, not later than ten days before the date set for the hearing, file such person's objections with the clerk of the city or town council or the board of supervisors or with the corporation commission, as the case may be.

40-345. Procedure for making and hearing protests and objections and withdrawing signatures

1. Each paper containing signatures shall have attached thereto an affidavit of an owner of real estate within the proposed underground conversion service area, stating that each signature was affixed in **his THE PERSON'S** presence and is the signer's genuine signature.

40-348. Conversion of service lines on owner's property; payment; notice of disconnection to owner

C. Upon completion of the underground system in public places the corporation commission, board of supervisors or city or town council, as the case may be, shall mail a notice to each owner of a lot or parcel located therein advising **him THE OWNER** of the provisions of subsection A and stating that unless such owner complies with the requirements of such subsection within thirty days thereafter, all buildings, structures and improvements located upon the lot or parcel will be subject to disconnection from the electric or communication facilities providing service thereto. Thereafter if the owner of any lot or parcel shall fail to comply within the time specified, the public service corporation or public agency providing electric or communication service shall disconnect and remove all overhead electric or communication facilities providing service to any building, structure or improvement located upon such lot or parcel. Written notice of the proposed disconnection shall be given at least thirty days prior to disconnection by leaving a copy of such notice at the principal building, structure or improvement located upon such lot or parcel.

40-360.01. Organization and membership of the committee

B.5. **Chairman CHAIR** of the Arizona corporation commission or the **chairman's CHAIR'S** designee.

C. The attorney general or the attorney general's designee shall be **chairman CHAIR** of the committee.

40-360.03. Applications prior to construction of facilities

Every utility planning to construct a plant, transmission line or both in this state shall first file with the commission an application for a certificate of environmental compatibility. The application shall be in a form prescribed by the commission and shall be accompanied by information with respect to the proposed type of facilities and description of the site, including the areas of jurisdiction affected and the estimated cost of the proposed facilities and site. Also the application shall be accompanied by a receipt evidencing payment of the appropriate fee required by 40-360.09. The application and accompanying information shall be promptly referred by the commission to the **chairman CHAIR** of the committee for the committee's review and decision.

40-360.04. Hearings; procedures

A. The **chairman CHAIR** of the committee shall, within ten days after receiving an application, provide public notice as to the time and place of a hearing on the application and provide notice by certified mail to the affected areas of jurisdiction at least twenty days prior to a scheduled hearing. If the committee subsequently proposes to condition the certificate on the use of a site other than the site or alternative sites generally described in the notice and considered at the hearing, a further hearing shall be held thereon after public notice. The hearing or hearings shall be held not less than thirty days nor more than sixty days after the date notice is first given and shall be held in the general area within which the proposed plant or transmission line is to be located or at the state capitol at Phoenix as determined by the **chairman CHAIR**, at **his THE CHAIR'S** discretion.

40-360.05. Parties to certification proceedings

A.2. Each county and municipal government and state agency interested in the proposed site that has filed with the **chairman CHAIR** of the committee, not less than ten days before the date set for the hearing, a notice of intent to be a party.

A.3. Any domestic nonprofit corporation or association formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial and industrial groups, or to promote the orderly development of the areas in which the facilities are to be located, that has filed with the **chairman CHAIR** of the committee, not less than ten days before the date set for the hearing, a notice of intent to be a party.

B. Any person may make a limited appearance in the proceeding by filing a statement in writing with the **chairman CHAIR** of the committee not less than five days before the date set for the hearing. A statement filed by a person making a limited appearance shall become part of the record. A person making a limited appearance shall not be a party or have the right to present oral testimony or cross-examine witnesses.

40-360.06. Factors to be considered in issuing a certificate of environmental compatibility

D. Any certificate granted by the committee shall be conditioned on compliance by the applicant with all applicable ordinances, master plans and regulations of the state, a county or an incorporated city or town, except that the committee may grant a certificate notwithstanding any such ordinance, master plan or regulation, exclusive of franchises, if the committee finds as a fact that compliance with such

ordinance, master plan or regulation is unreasonably restrictive and compliance therewith is not feasible in view of technology available. When it becomes apparent to the **chairman CHAIR** of the committee or to the hearing officer that an issue exists with respect to whether such an ordinance, master plan or regulation is unreasonably restrictive and compliance therewith is not feasible in view of technology available, the **chairman CHAIR** or hearing officer shall promptly serve notice of such fact by certified mail on the chief executive officer of the area of jurisdiction affected and, notwithstanding any provision of this article to the contrary, shall make such area of jurisdiction a party to the proceedings on its request and shall give it an opportunity to respond on such issue.



40-360.07. Compliance by utility; commission order

B. The grounds for review shall be stated in a written notice filed with the commission with a copy thereof served on the **chairman CHAIR** of the committee. The committee shall transmit to the commission the complete record, including a certified transcript, and the review shall be conducted on the basis of the record. The commission may, at the request of any party, require written briefs or oral argument and shall within sixty days from the date the notice is filed either confirm, deny or modify any certificate granted by the committee, or in the event the committee refused to grant a certificate, the commission may issue a certificate to the applicant. In arriving at its decision, the commission shall comply with the provisions of 40-360.06 and shall balance, in the broad public interest, the need for an adequate, economical and reliable supply of electric power with the desire to minimize the effect thereof on the environment and ecology of this state.

40-360.10. Expenditure of funds

1. The cost of reporting and transcribing any application hearing, the compensation of the hearing officer at the rate of two hundred dollars for each day and **his THE HEARING OFFICER'S** reimbursable expenses.

40-432. Agent or employee of telegraph or telephone company using information contained in message; classification

An agent, operator or employee of a telegraph or telephone operator who knowingly in any way uses or appropriates information derived by **him THEM** from a private message passing through **his THEIR** hands and addressed to another person, or in any other manner acquired by **him THEM** by reason of **his THEIR** trust, or trades or speculates upon information so obtained, or in any manner uses the information for **his THEIR** own account, profit or advantage, is guilty of a class 1 misdemeanor.

40-464. Powers and duties

A.3. Make and execute contracts and other instruments as necessary to perform **his THEIR** duties.

40-802. Articles of incorporation

6. Signatures of subscribers. Each subscriber to the articles shall personally, or by **his THE SUBSCRIBER'S** attorney in fact, subscribe **his THE SUBSCRIBER'S** name, place of residence and the number of shares of stock subscribed by **him THE SUBSCRIBER** in the corporation.

40-809. Specific powers of railroad corporations

A.9. Expel from its cars, using no more force than necessary, any passenger who upon demand refuses to pay **his THE** fare or who behaves in a rude, riotous or disorderly manner toward other passengers or the employees of the corporation in charge of the cars, or; **upon his attention being called thereto;** persists **AFTER WARNING** in violating the rules of the corporation against gambling on the cars.

40-815. Establishment or maintenance of employee association involving compulsory membership or waiver of rights prohibited

A person operating a railway in this state shall not establish or maintain a relief association or society the rules or by-laws of which require any employee to become a member thereof, or to enter into an agreement or stipulation, directly or indirectly, whereby the employee stipulates or agrees to surrender or waive any right of damage for personal injuries or death, or agrees to surrender or waive, in case **he THE PERSON** asserts such claim for damages, any right whatever. Any such agreement or contract signed or entered into by such person is void.

40-842. Service of complaint; answer; hearing; intervention

When an employee files a complaint with the commission charging violation of regulations of the commission, or the commission upon its own initiative issues a complaint, the person complained of shall be served with a copy thereof and shall, within twenty days, file a written answer with the commission. Within ten days after the answer is filed the commission shall set a date for hearing the complaint at a place convenient to both the complainant and the person complained of. The commission may, in its discretion, permit any interested person or organization to intervene. A party to the hearing may appear and be heard in person or by **his** representative, and may examine or cross-examine witnesses or present other evidence. On motion of a party, the commission may allow a continuance of not to exceed thirty days.

40-843. Order of decision upon hearing; allowance of time for compliance with order; review of order by superior court; appeal

B. Upon petition any order of the commission shall be reviewed by the superior court of the county in which the place of employment is located, and in such action the **chairman CHAIR** of the commission shall be the defendant. The decision of the superior court may be appealed to the supreme court.

40-848. Automatic bell ringer required; violation; classification

A. It is unlawful for any railroad to operate on its tracks within the state an engine not equipped with an automatically operated bell ringer for ringing the bell on the engine, which will cause the bell on the engine to continue to ring after being set in motion by the engineer or **fireman FIREFIGHTER**. The device for starting or stopping the bell ringer shall be placed in a position where it can be operated by the engineer or **fireman FIREFIGHTER** from **his THE** usual position in the cab.

40-855. Violation of duty by railroad officer or employee; classification

An officer, agent or servant of a railroad company who is guilty of any criminally negligent violation or omission of **his THEIR** duty as such officer, agent or servant, whereby human life or safety is endangered, the punishment of which is not otherwise prescribed, is guilty of a class 2 misdemeanor.

40-856. Railroad police; powers; qualifications; liability of company

A. Any railroad company may appoint one or more persons to be designated by such railroad company as railroad police **OFFICERS** to aid and supplement the law enforcement agencies of this state in the protection of railroad property and the protection of the persons and property of railroad passengers and employees. While engaged in the conduct of this employment, each railroad **policeman POLICE OFFICER** so appointed shall possess and exercise all law enforcement powers of peace officers in this state.

B. Any person appointed by a railroad company to act as a railroad **policeman POLICE OFFICER** under the provision of subsection A of this section shall first have the minimum qualifications established for peace officers and police officers pursuant to 41-1822. The railroad company shall file the name of each such railroad **policeman POLICE OFFICER**, on the date of the peace officer's appointment, with the Arizona peace officer standards and training board. If the proposed railroad **policeman POLICE OFFICER** meets the minimum qualifications established under 41-1822, the Arizona peace officer standards and training board shall issue the appointee a certificate of authority to act as a peace officer and may thereafter revoke such certificate for good cause shown.

C. Each railroad company appointing any railroad police **OFFICERS** shall be liable for any and all acts of such railroad police **OFFICERS** within the scope of their employment. Neither the state nor any political subdivision shall be liable for any act or failure to act by any such railroad **policeman POLICE OFFICER**.

40-881. Train crew requirements

A. A passenger, mail or express train composed of less than six cars, when operated outside yard limits shall carry a crew consisting of not less than one engineer, one **fireman FIREFIGHTER**, one conductor and one **flagman FLAGGER**. This subsection shall not apply to gasoline motor cars.

B. A passenger, mail or express train composed of six or more cars, when operated outside yard limits on main line tracks, shall carry a crew consisting of not less than one engineer, one **fireman FIREFIGHTER**, one conductor, one **flagman FLAGGER**, and one **brakeman BRAKEPERSON**. When such train is operated outside yard limits on branch lines (including the use of main lines where necessary to reach initial or final terminals of branch lines) it shall carry a crew consisting of not less than one engineer, one **fireman FIREFIGHTER**, one conductor, and one **brakeman BRAKEPERSON**.

40-882. Train crews; penalty for violation of full crew requirements

C. All actions for penalties to be recovered under this section shall be brought and prosecuted to judgment in the name of the state, as plaintiff, in a court of competent jurisdiction in the county of Maricopa, or in any county in the state into or through which the defendant's railroad line is operated, and the action shall be brought and prosecuted by the attorney general or under **his THE ATTORNEY GENERAL'S** direction, or by the county attorney of any such county.

40-1001. Unclaimed freight or baggage

When any freight or baggage comes into possession of a common carrier, and is unclaimed or cannot be delivered, the carrier shall safely keep it **as a warehouseman** for three months, unless it is perishable or liable to depreciate in value by keeping, and the carrier shall be entitled to a reasonable compensation for storage thereof.

40-1121. Board of directors of authority; qualifications; appointment; terms; oath; meetings; compensation

E. Each director, before entering upon the duties of **his THE DIRECTOR'S** office, shall take the oath of office, a copy of which shall be filed with the secretary of state and a copy thereof with the secretary of the authority.

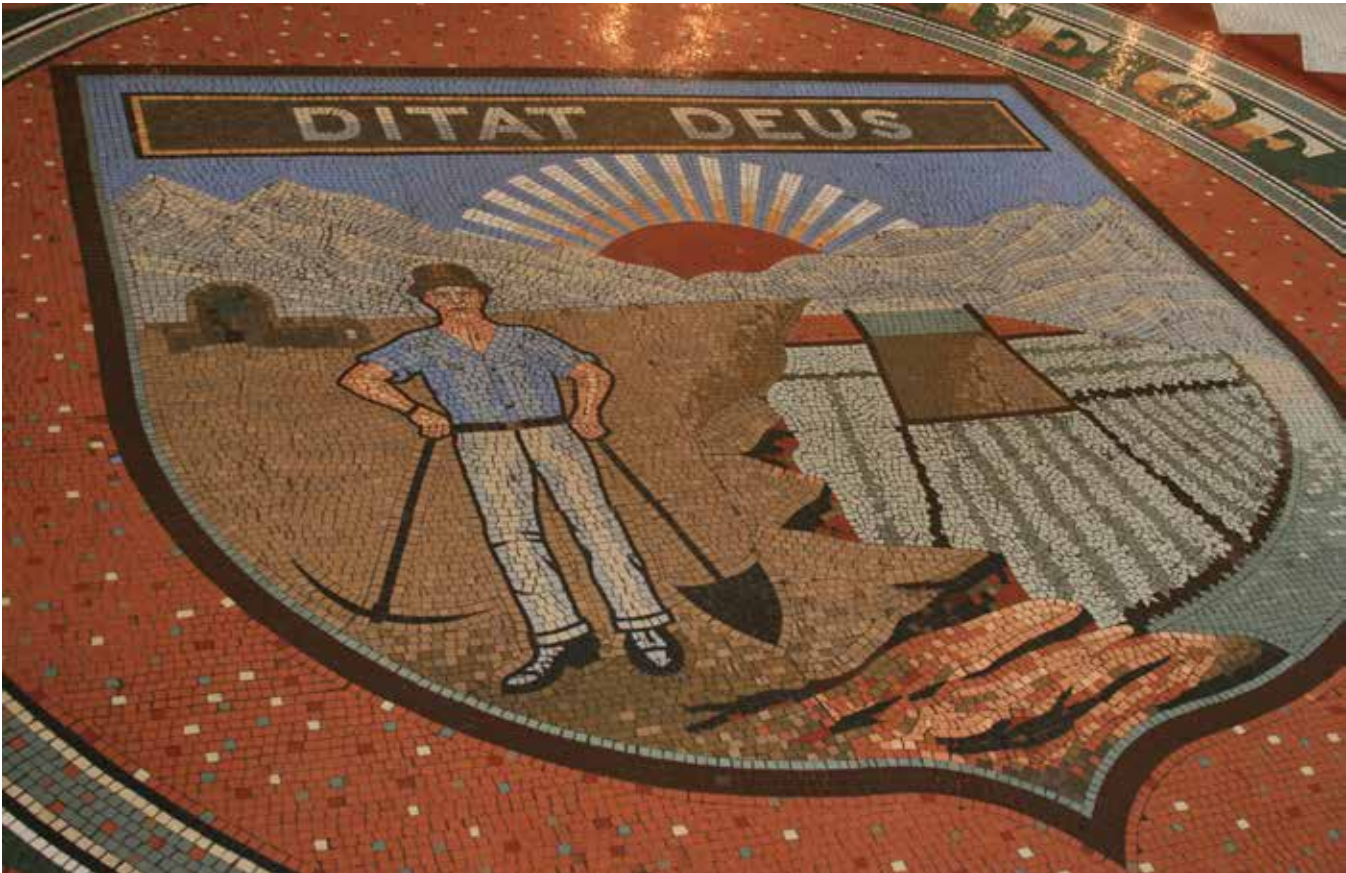
40-1123. Officers and employees of authority

B. The oath of office of all officers appointed by the board of directors or by the general manager of the authority shall be taken, subscribed, and filed with the secretary of the authority any time after the officer has notice of **his** appointment but not later than fifteen days after the commencement of **his THE OFFICER'S** term of office. No other filing shall be required.

D. The general counsel shall be a person admitted to practice law in the state of Arizona and shall have been engaged in the practice of law for not less than seven years next preceding **his THE GENERAL COUNSEL'S** appointment.

E. The person appointed comptroller shall have been actively engaged in the practice of accounting for not less than three years next preceding **his THE COMPTROLLER'S** appointment.

TITLE 41 – State Government



Revisions are necessary due to exclusionary use of male pronouns.

41-101. Powers and duties; attestation of acts of governor; salary

A. The governor has the powers and shall perform the duties as prescribed in this article. The governor:

12. Has such powers and shall perform such other duties as devolve on ~~him~~ THE GOVERNOR by law.

41-102. Record required

A. The governor shall keep the following:

1. A record of ~~his~~ official acts.
2. An account of ~~his~~ official expenses and disbursements, including incidental expenses of ~~his~~ THE department.
3. A register of all appointments made ~~by him~~, with date of commission, names of the appointee and predecessor.

B. All documents received by the governor in ~~his~~ official capacity shall be kept in ~~his~~ THE GOVERNOR'S office.

41-171. Office; absence from state; salary; seal

A. The state treasurer shall keep **his** **THE** office at the capitol and shall not **BE** absent **himself** from this state without first notifying the secretary of state **OF THE ABSENCE. that he is leaving. He** **THE STATE TREASURER** is eligible to receive an annual salary pursuant to section 41-1904.

B. The secretary of state shall procure and deliver to the treasurer a seal of office containing the words “office of the state treasurer, Arizona”, a description of which shall be retained by the secretary of state in **his** **THE** office.

41-191. Attorney general; qualifications; salary; assistants; fees; exceptions; outside counsel

A. The attorney general shall have been for not less than five years immediately preceding the date of taking office a practicing attorney before the supreme court of the state. **He** **THE ATTORNEY GENERAL** is entitled to receive an annual salary pursuant to section 41-1904.

B. The attorney general and **his** **ANY** assistants shall devote full time to the duties of the office and shall not directly or indirectly engage in the private practice of law or in an occupation conflicting with such duties, except:

1. Such prohibition shall not apply to special assistants, except that in no instance shall special assistants engage in any private litigation in which the state or an officer thereof in **his** official capacity is a party.

41-191.10. Misrepresentations by employment agents; definition

C. For the purposes of this section, “employment agent”:

2. Does not mean:

(a) An employer who procures help for **himself** **THAT EMPLOYER** only.

(b) An employee of such an employer who procures help for **him** **THAT EMPLOYER** and does not act in a similar capacity for any other employer.

41-192. Powers and duties of attorney general; restrictions on state agencies as to legal counsel; exceptions; compromise and settlement monies

A. The attorney general shall have charge of and direct the department of law and shall serve as chief legal officer of the state. The attorney general shall:

2. Establish administrative and operational policies and procedures within **his** **THE** department.

B. Except as otherwise provided by law, the attorney general may:

1. Organize the department into such bureaus, subdivisions or units as **he deems** **DEEMED** most efficient and economical, and consolidate or abolish them.

E. If the attorney general determines that **he THE OFFICE** is disqualified from providing judicial or quasi-judicial legal representation or legal services on behalf of any state agency in relation to any matter, the attorney general shall give written notification to the state agency affected. If the agency has received written notification from the attorney general that the attorney general is disqualified from providing judicial or quasi-judicial legal representation or legal services in relation to any particular matter, the state agency is authorized to make expenditures and incur indebtedness to employ attorneys to provide the representation or services.

41-192.02. Legal counsel in certain civil actions; counsel to fire districts

A. The attorney general in **his THE ATTORNEY GENERAL'S** discretion is authorized to represent a current or former officer or employee of this state against whom a civil action is brought in **his THAT EMPLOYEE'S** individual capacity or who is subject to a civil nonparty subpoena until such time as it is established as a matter of law that the alleged activity or events which form the basis of the complaint were not performed, or not directed to be performed, within the scope or course of the officer's or employee's duty or employment.

41-193. Department of law; composition; powers and duties

A. The department of law shall be composed of the attorney general and the subdivisions of the department created as provided in this article. Unless otherwise provided by law the department shall:

1. Prosecute and defend in the supreme court all proceedings in which the state or an officer thereof in **his ITS** official capacity is a party.

41-195. Violation; classification

A person violating any provision of this article or any regulation authorized by this article, is guilty of a class 2 misdemeanor. If the person violating any provision of this article or regulation adopted under the authority of this article is an officer or employee of a state agency, **he THE OFFICER OR EMPLOYEE** shall, in addition to the prescribed penalties, be removed forthwith from such office or employment.

41-196. Witness protection

A. The director of the department of public safety with the concurrence of the attorney general may upon the director's own initiative or at the request of any county attorney or law enforcement agency provide for the security of government witnesses, potential government witnesses and their immediate families in official criminal or civil proceedings instituted or investigations pending against a person alleged to have engaged in a violation of the law. Providing for this security of witnesses may include provision of housing facilities and for the health, safety and welfare of such witnesses and their immediate families, if testimony by such a witness might subject the witness or a member of **his-THE** immediate family to a danger of bodily injury, and may continue so long as such danger exists. The director of the department of public safety with the concurrence of the attorney general may authorize the purchase, rental or modification of protected housing facilities for the purpose of this section. **He THE DIRECTOR OF PUBLIC SAFETY** may also with the concurrence of the attorney general contract with any government or department of government to obtain or to provide the facilities or services to carry out this section. Any appropriation for witness protection shall be made to and administered by the department of public safety.

41-320. Competency of bank and corporation notaries

B. It is unlawful for any notary public to take the acknowledgment of an instrument executed by or to a corporation of which ~~he~~ THE NOTARY is a stockholder, director, officer or employee, where the notary is a party to the instrument, either individually or as a representative of the corporation, or to protest any negotiable instrument owned or held for collection by the corporation, where the notary is individually a party to the instrument.

41-401. Constitutional defense council; members; powers; revolving fund; definitions

A. The constitutional defense council is established consisting of the governor or ~~his~~ designee, a person appointed by the president of the senate, a person appointed by the speaker of the house of representatives, the ~~chairman~~ CHAIR of the house of representatives committee on states' rights and mandates or its successor committee as an advisory member and the ~~chairman~~ CHAIR of the senate committee on government reform or its successor committee as an advisory member.

41-511.01. Compensation and organization of board

B. A majority of the membership of the board shall constitute a quorum for the transaction of business. Members of the board shall select one of themselves its ~~chairman~~ CHAIR for such term as they determine and may appoint from within their membership other officers for such terms as they deem necessary or desirable. The board shall adopt rules for the conduct of its meetings. A record shall be kept of all proceedings and transactions.

41-525.02. Colorado river boundary marker commissioner

B. For the additional duties assigned ~~to him~~ by this article the state land commissioner shall receive additional compensation as determined pursuant to section 38-611.

41-525.03. Duties of commissioner

The Colorado river boundary marker commissioner shall:

3. Report the results of ~~his~~ ANY investigation to the Colorado river boundary commission and make recommendations on the methods of marking said boundary to be used.

41-561. Economic estimates commission; members; vacancies; limitation

A. There shall be an economic estimates commission composed of the following three members:

1. The director of the department of revenue or the director's designee, who shall serve as ~~chairman~~. CHAIR.

41-621. Purchase of insurance; coverage; limitations; exclusions; definitions

B. To the extent it is determined necessary and in the best interests of this state, the department of administration shall obtain insurance or provide for state self-insurance against property damage caused

by clients and liability coverage resulting from the direct or incidental care of clients participating in programs of this state and its departments, agencies, boards or commissions relating to custodial care. The insurable programs shall include foster care, programs for persons with developmental disabilities, an independent living program pursuant to section 8-521 and respite-sitter service programs. The department shall obtain insurance or provide for state self-insurance pursuant to this subsection to protect the clients participating in these programs and individual providers of these program services on behalf of this state and its departments, agencies, boards or commissions. The insurance provided under this subsection does not include medical or workers' compensation coverage for providers. The department may include in its annual budget request pursuant to section 41-622, subsection D a charge for the insurance or self-insurance provided in this subsection. To assist in carrying out this subsection, the department shall establish a seven-member advisory board in accordance with the following provisions:

2. The board shall elect a **chairman CHAIR** from among its members.
3. The board shall hold at least two meetings a year or shall meet at the call of the **chairman CHAIR**.

41-722. Powers and duties relating to finance

A. The department shall assist the governor in **his THE GOVERNOR'S** duties pertaining to the formulation of the budget, and shall correlate and recommend revision of estimates and requests for appropriations of the budget units.

B. The director shall:

1. Make changes or improvements in state accounting practices, systems and procedures as **he deems DEEMED** advisable.
2. Continually evaluate and plan improvements of state fiscal matters and annually submit **his** recommendations to the governor.
3. Recommend to the governor such administrative reorganization and management practices as **he deems DEEMED** necessary for the economical and efficient operation of state government.

41-732. Duties relating to general accounting activities

B. The general accountant shall:

3. Upon approval by the governor, give information in writing to any person authorized by law to examine the general accountant's accounts or papers, when required, upon any subject relating to the fiscal affairs of this state or touching any duty of **his THE** office.



41-733. Examination of witnesses

When it is necessary in the exercise of **his DEPARTMENT** powers and duties, the director or **his** authorized agents may examine the parties and others on oath, touching any material matters, and for that purpose may administer oaths, issue subpoenas and compel witnesses to attend **before him** and give evidence, in the same manner and by the same means allowed by law to courts of record.

41-738. Membership in national organizations; attending conventions

The director or **his** authorized representative is authorized to hold membership in, and to maintain membership by payment of dues to, the national organizations of state officials occupying a like office or performing similar functions, and is authorized to attend annual conventions of such national organizations.

41-739. Drawing illegal warrant; classification

If the director or any employee or officer of the department knowingly issues a warrant upon the treasury not authorized by law, **he THE PERSON** is guilty of a class 6 felony.

41-740. Nonperformance of duty; classification

If the director or any duly appointed officer or supervisor charged with duties and responsibilities under this article knowingly fails or refuses to perform any duty required **of him** by law, **he THE PERSON** is guilty of a class 1 misdemeanor.

41-831. Prescott historical society of Arizona; organization; officers; election by membership; property held in trust; expenditure of legislative appropriations

D. The treasurer shall have custody of the funds of the society other than legislative appropriations. He THE TREASURER shall hold the funds of the Sharlot Hall historical society coming into his THE TREASURER'S hands in trust for the use of the Sharlot Hall historical society and for the benefit of the state and shall disburse them only as prescribed by law and according to the bylaws of the society.

F. All expenditures of legislative appropriations to the society shall be made upon claims duly itemized, verified and approved by the board which shall be presented and filed with the director of the department of administration who shall draw his THE warrant therefor.

41-835.02. State board on geographic and historic names; membership; expenses; quorum; staff support; chairman CHAIR

F. The board shall annually elect a chairman CHAIR and vice-chairman VICE-CHAIR from among its members.

41-842. Permits to explore

C. Permits shall be granted by the director for such periods of time and under such regulations as he THE DIRECTOR may from time to time determine to institutions, organizations or corporations which are qualified to conduct such activities and which shall undertake to propagate the knowledge to be gained and to preserve permanently all objects, photographs and records in public repositories under their own supervision or control, or the supervision or control of other similar institutions, organizations or corporations.

41-923. Admission to home; qualifications required; payment of costs; neglect or refusal to reimburse state

A. A person of good character is eligible to be admitted to the Arizona pioneers' home who:

1. Is and has been for a period of five years prior to his ANY application for admission a citizen or legal resident of the United States.

4. At the time of admission, is ambulatory, has proper bowel and bladder control and is able to bathe, clothe and EAT feed himself without assistance.

D. A person admitted to the Arizona pioneers' home shall pay to this state, to the extent that he THE PERSON is financially able to do so, the cost incurred by this state for his THE PERSON'S care. The cost shall be paid monthly to the superintendent and shall not be in excess of the average monthly per capita cost of operating the home based on the average number of persons then residing at the home during the year. A person who neglects or refuses to reimburse this state as required under this subsection shall not be permitted to reside at the home during the continuance of this neglect or refusal to pay. This subsection applies only to those persons admitted to the home after August 11, 1970.

41-942. Qualifications for admission to hospital; definitions

A. A person, under the order of the governor, shall be admitted to the hospital for miners with disabilities who:

3. Has reached the age of sixty years or more, and is financially unable to support **himself THEMSELVES**, or has suffered incapacitating injuries arising from and in the course of mining.

41-952. Application

Any person desiring to avail **himself THEMSELVES** of the provisions of this article shall make application to the governor, under oath, in such form as the governor prescribes for such pension, and shall submit proof of **his** eligibility therefor.

41-953. Certificate of eligibility

If the governor is satisfied from the proof furnished that the applicant is entitled to a pension, **he THE GOVERNOR** shall issue to the applicant a pension certificate to that effect in a form to be approved by the attorney general and by the department of administration, setting forth the name and address of the pensioner, the date of **his** discharge **OF THE APPLICANT**, the date upon which payment of the pension shall begin, and such other items as the governor deems proper. The certificate shall be delivered to the pensioner, and the allowance thereunder certified to the department of administration.

41-954. Pension roll warrants

The department of administration shall keep a rangers' pension roll on which shall be entered the names of all pensioners certified by the governor, the date of allowance of each pension, and all payments made thereunder. The department of administration shall draw a warrant each month in favor of each such pensioner and mail it to **his THE PENSIONER'S** last known address.

41-983. Acceptance of gifts; special fund; official agency

A. The Arizona commission on the arts may accept and expend public and private grants of funds, gifts, contributions and legacies, and may accept, manage or dispose of property, to effectuate the purposes of this article. Such funds shall be deposited, pursuant to sections 35-146 and 35-147, in a special fund designated "the arts fund" and shall be expended upon warrants drawn by the department of administration upon order of the **chairman CHAIR** of the commission. Any unexpended funds shall not revert to the general fund at the close of the fiscal year.

41-1063. Decisions and orders

Unless otherwise provided by law, any final decision or order adverse to a party in a contested case shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Unless otherwise provided by law, parties shall be notified either personally or by mail to their last known address of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith to each party and to **his THE PARTY'S** attorney of record.

41-1066. Compulsory testimony; privilege against self-incrimination

A. A person may not refuse to attend and testify or produce evidence sought by an agency in an action, proceeding or investigation instituted by or before the agency on the ground that the testimony or evidence, documentary or otherwise, required of **him THE PERSON** may tend to incriminate **him THE PERSON** or subject **him THE PERSON** to a penalty or forfeiture unless it constitutes the compelled testimony or the private papers of the person which would be privileged evidence either pursuant to the fifth amendment of the Constitution of the United States or article II, section 10, Constitution of Arizona, and the person claims the privilege prior to the production of the testimony or papers.

B. If a person asserts **his THE** privilege against self-incrimination and the agency seeks to compel production of the testimony or documents sought, it may, with the prior written approval of the attorney general, issue a written order compelling the testimony or production of documents in proceedings and investigations before the agency or apply to the appropriate court for such an order in other actions or proceedings.

C. Evidence produced pursuant to subsection B is not admissible in evidence or usable in any manner in a criminal prosecution, except for perjury, false swearing, tampering with physical evidence or any other offense committed in connection with the appearance made pursuant to this section against the person testifying or the person producing **his THE PERSON'S** private papers.

41-1154. Disobedience of legislative subpoena or refusal to give testimony or produce papers; classification

A person who, being subpoenaed to attend as a witness before either house of the legislature or any committee thereof, knowingly fails or refuses without lawful excuse to attend pursuant to such subpoena, or being present knowingly refuses to be sworn or to answer any material or proper question, or to produce, upon reasonable notice, any material and relevant books, papers or documents in **his THE PERSON'S** possession or under **his THE PERSON'S** control, is guilty of a class 2 misdemeanor.

41-1155. Offenses punishable by legislature; limitation on imprisonment

A. Each house of the legislature may punish as a contempt, and by imprisonment, a breach of its privileges, or the privileges of its members, but only for one or more of the following offenses:

1. Arresting a member or officer of the house, or procuring such member or officer to be arrested, in violation of **his THE PERSON'S** privilege from arrest.

41-1181. Endorsement and approval of bills

B. The endorsement shall be signed by the secretary to the governor. When the governor approves a bill **he THE GOVERNOR** shall sign **his THE GOVERNOR'S** name thereto, with the date of approval.

41-1202. Vacancy in legislature; precinct ~~committeemen~~ COMMITTEEPERSONS; appointment; definition

A. If a vacancy occurs in the legislature and the vacant seat was represented by a political party that is organized pursuant to title 16, chapter 5, article 2 and that has at least thirty elected **committeemen**

COMMITTEEPERSONS who are from precincts that are in the legislative district and that are in the county in which the vacancy occurred, the following apply:

1. The secretary of state shall immediately notify the state party **chairman CHAIR** of the appropriate political party of the vacancy. Within three business days after notification of the vacancy by the secretary of state, the state party **chairman-CHAIR** of the appropriate political party or the **chairman's CHAIR'S** designee shall give written notice of the meeting to fill the vacancy to all elected precinct **committeemen COMMITTEEPERSONS** of the appropriate political party from precincts that are in the legislative district and that are in the county in which the vacancy occurred.

2. Those elected precinct **committeemen COMMITTEEPERSONS** shall nominate, within twenty-one days after notification of the vacancy by the secretary of state if the legislature is not in regular session or within five days if the legislature is in regular session and by a majority vote, three qualified electors to fill the vacancy who meet the requirements for service in the legislature, who belong to the same political party and who reside at the time of nomination in the same district and county as the person elected to or appointed to the office immediately before the vacancy.

3. The meeting to fill the vacancy is subject to title 38, chapter 3, article 3.1, and the state party **chairman CHAIR** of the appropriate political party shall oversee the nominations. Fifty percent or more of the elected precinct **committeemen COMMITTEEPERSONS** of the district who are in the legislative district and from the county in which the vacancy occurred, or their proxies, meeting together constitutes a quorum for the purposes of this subsection. A precinct **committeeman COMMITTEEPERSON** may choose to permit the use of a proxy that:

(a) Is given by the precinct **committeeman COMMITTEEPERSON** to another elected precinct **committeeman** for the legislative district in which the vacancy occurred for use at the meeting to fill the vacancy.

4. The state party **chairman CHAIR** of the appropriate political party shall immediately forward the names of the three persons named pursuant to paragraph 2 of this subsection to the board of supervisors of the county of residence of the person elected or appointed to the office immediately before the vacancy occurred. The board of supervisors shall appoint a person from the three nominees submitted.

5. If the elected precinct **committeemen COMMITTEEPERSONS** of the appropriate political party fail to fill the vacancy within twenty-one days if the legislature is not in regular session or within five days if the legislature is in regular session, as provided in paragraph 2 of this subsection, the state party **chairman CHAIR** shall immediately notify the board of supervisors of the appropriate county and the board of supervisors shall fill the vacancy as provided in subsection B of this section. The time frame for appointing a citizens panel shall run from receipt of notification from the state party **chairman CHAIR**.

B. If a vacancy occurs in the legislature and the vacant seat was represented by a political party that is organized pursuant to title 16, chapter 5, article 2 and that has fewer than thirty elected **committeemen COMMITTEEPERSONS** who are from precincts that are in the legislative district and that are in the county in which the vacancy occurred or if the vacant seat was not represented by a political party that is organized pursuant to title 16, chapter 5, article 2, the following apply:

41-1232.04. Registration; exceptions

Sections 41-1232, 41-1232.01, 41-1232.02 and 41-1232.03 do not apply to a person if that person is acting in the following capacity:

1. A natural person who merely appears for ~~himself~~ THEMSELVES before a committee of the legislature or before a state officer or employee or a state agency, board, commission or council to lobby in support of or in opposition to legislation or official action.
2. A natural person who, acting in ~~his~~ THAT PERSON'S own behalf, sends a letter to, converses on the telephone with or has a personal conversation with a state officer or employee for the purpose of supporting or opposing any legislation or official action.
3. A duly elected or retained public official, judge or justice, a person duly appointed to an elective public office, or an appointed member of a state, county or local board, advisory committee, commission or council acting in ~~his~~ official capacity on matters pertaining to ~~his~~ THE office, board, advisory committee, commission or council.

41-1251. Joint committee on capital review; members; ~~chairman~~ CHAIR; meetings; committee termination

A. A joint committee on capital review is established which consists of fourteen members, including the ~~chairmen~~ CHAIRS of the senate and house of representatives appropriations committees, the majority and minority leaders of the senate and the house of representatives, four members of the senate appropriations committee appointed by the president of the senate and four members of the house of representatives appropriations committee appointed by the speaker of the house of representatives.

B. The ~~chairman~~ CHAIR of the senate appropriations committee has a term as ~~chairman~~ CHAIR of the joint committee on capital review from the first day of the first regular session to the first day of the second regular session of each legislature, and the ~~chairman~~ CHAIR of the house of representatives appropriations committee has a term from the first day of the second regular session to the first day of the next legislature's first regular session.

41-1271. Joint legislative budget committee; members; ~~chairman~~ CHAIR; meetings

A. There is established a joint legislative budget committee which consists of sixteen members, including the majority leaders of the senate and house of representatives, the ~~chairmen~~ CHAIRS of the senate and house of representatives appropriations committees, the ~~chairman~~ CHAIR of the senate finance committee and the ~~chairman~~ CHAIR of the house ways and means committee, five members of the senate and five members of the house of representatives who are members of their respective appropriations committees. The president of the senate and the speaker of the house of representatives shall each appoint the five members from their appropriations committee to the joint legislative budget committee.

B. The ~~chairman~~ CHAIR of the house of representatives appropriations committee has a term as ~~chairman~~ CHAIR of the joint legislative budget committee from the first day of the first regular session to the first day of the second regular session of each legislature, and the ~~chairman~~ CHAIR of the senate appropriations committee has a term from the first day of the second regular session to the first day of the next legislature's first regular session.

41-1276. Truth in taxation levy for equalization assistance to school districts

A. On or before February 15 of each year, the joint legislative budget committee shall compute and transmit the truth in taxation rates for equalization assistance for school districts for the following fiscal year to:

1. The **chairmen CHAIRS** of the house of representatives ways and means committee and the senate finance committee, or their successor committees.
2. The **chairmen CHAIRS** of the appropriations committees of the senate and the house of representatives, or their successor committees.

41-1281. Definitions

In this article, unless the context otherwise requires:

1. “Bribe” means any money, goods, right in action, property, thing of value or advantage, present or prospective, asked, offered, given, accepted or promised with a corrupt intent to influence, unlawfully, the person to whom it is given in **his THAT PERSON’S** action, vote or opinion, in any official capacity.

41-1401. Civil rights division; advisory board; terms; vacancies; organization; quorum; compensation; definitions

C. The board shall elect from its membership a **chairman CHAIR** and **vice-chairman VICE-CHAIR**. The **vice-chairman VICE-CHAIR** shall act as **chairman CHAIR** in the absence or disability of the **chairman CHAIR**, or in the event of a vacancy in that office.

D. Four members of the board shall constitute a quorum, except that if the **chairman CHAIR** appoints a subcommittee of the board a majority of the members of the subcommittee shall constitute a quorum. The concurrence of four of the members when in session as a board shall be the act of the board.

E. Each member shall receive compensation as determined pursuant to section 38-611 for each day in which **he THE MEMBER** participates in meetings, but not to exceed one thousand dollars in any fiscal year.

41-1464. Other unlawful employment practices; opposition to unlawful practices; filing of charges; participation in proceedings; notices and advertisements for employment

A. It is an unlawful employment practice for an employer to discriminate against any **of his** employees or applicants for employment, for an employment agency or joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, to discriminate against any individual or for a labor organization to discriminate against any member or applicant for membership because the member or applicant has opposed any practice which is an unlawful employment practice under this article or has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under article 6 of this chapter.

41-1482. Recordkeeping; preservation of records; reports to division; furnishing information to other governmental agencies; information confidential; classification

A. Every employer, employment agency and labor organization subject to article 4 of this chapter shall make and keep such records relevant to the determination of whether unlawful employment practices have been or are being committed, preserve such records for such periods and make such reports therefrom as the division shall prescribe by regulation or order, after public hearing, as reasonable, necessary or appropriate for the enforcement of this article and article 4. Compliance with reporting and recordkeeping regulations issued by the United States equal employment opportunity commission shall be compliance with this subsection. Any employer, employment agency, labor organization or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the division for an exemption. If an application for such exemption is denied, a civil action may be brought in the superior court for the county where such records are kept. If the division of the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency or labor organization in question, or in general, would impose an undue hardship, the division or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the superior court for the county in which such person is found, resides or transacts business shall upon application of the division issue to such person an order requiring **him** **THE PERSON** to comply.

41-1484. Rules and regulations; good faith compliance as defense in agency and court proceedings

In any action or proceeding based on an alleged unlawful employment practice, no person shall be subject to liability or punishment for or on account of the commission by such person of an unlawful employment practice if **he** **THE PERSON** pleads and proves that the act or omission complained of was in good faith, in conformity with and in reasonable reliance on any interpretation or opinion of the division or the failure of such person to publish or file any information required by any provision of this article if **he** **THE PERSON** pleads and proves that **he** **THE PERSON** failed to publish or file such information in good faith, in conformity with and in reasonable reliance on any instructions of the division regarding the publishing or filing of such information. Either defense, if established, shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect or after failing to publish or file pursuant to the instructions of the division such instructions are determined by judicial authority not to be in conformity with the requirements of this article.

41-1491. Definitions

In this article, unless the context otherwise requires:

1. “Aggrieved person” includes any person who either:

(b) Believes that **he** **THE PERSON** will be injured by a discriminatory housing practice that is about to occur.

Revisions necessary due to protect women from sex discrimination.

41-1491.03. Religious organization and private club exemption

A. This article does not prohibit a religious organization, association or society or a nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from:

2. Giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, **SEX**, or national origin.

Revisions are necessary due to exclusionary use of male pronouns.

41-1491.18. Prohibition of intimidation

A person may not coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or having exercised or enjoyed, or on account of **his** **THE PERSON** having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section and sections 41-1491.14, 41-1491.15, 41-1491.16, 41-1491.17, 41-1491.19, 41-1491.20 and 41-1491.21.

41-1492.10. Prohibition against retaliation and coercion

B. It is unlawful to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, for having exercised or enjoyed or on account of **his** **THE PERSON** having aided or encouraged any other individual in the exercise or enjoyment of any right granted or protected by this article.

41-1610.01. Authorization to maintain and retake custody of New Mexico prisoners

An officer or employee of the New Mexico department of corrections who has in **his** custody, pursuant to New Mexico law, a ward, offender or prisoner of the state of New Mexico whom **he** **THE OFFICER OR EMPLOYEE** is transporting from a facility in New Mexico to another point in New Mexico via Arizona or to a point in Arizona for a necessary work detail of fire fighting or conservation work shall maintain custody of such ward, offender or prisoner in Arizona. Such officer or employee may, in the event of the escape of such ward, offender or prisoner in Arizona, retake such ward, offender or prisoner in the same manner as if such officer or employee were an Arizona peace officer and such ward, offender or prisoner had been committed to **his** custody under Arizona law.

41-1623. Powers and duties of director

C. The director or **his** designee shall, when necessary, conduct market research, establish marketing procedures and develop product specifications for sale of Arizona correctional industries products to public agencies, the public and private industry.

D. The director or **his** designee, consistent with sound business judgment, may construct, reconstruct or lease one or more buildings or portions of buildings on the grounds of any state correctional institution or location under department control, together with the real estate needed for reasonable access to such buildings, any lease to have a term of not to exceed twenty years, to a private corporation for the

purpose of establishing and operating a factory for the manufacture and processing of products or any other commercial enterprise deemed by the director to provide employment opportunities for inmates in meaningful jobs for wages. Each lease negotiated and concluded pursuant to this section shall include and shall be valid only as long as the lessee adheres to the following provisions:

1. All persons employed in the factory or other commercial enterprise operated in or on the leased property, except the lessee's supervisory employees and necessary training personnel, shall be inmates of the institution where the leased property is located who are approved for such employment by the director or **his** designee.

E. The director or **his** designees may dispose of property that is no longer needed or necessary for use by Arizona correctional industries. The disposition of property is exempt from chapter 23, article 8 of this title. Any monies derived from the disposition of property shall be deposited in the Arizona correctional industries revolving fund.

41-1624.01. Contracts; services to state agencies and others; lease of real property

B. The director or **his** designee may contract with any state agency, political subdivision or state department or any private person, firm, corporation or association to provide services or labor rendered by prisoners.

41-1743.01. Use in emergencies when ordered by governor; assistance to cities and counties

A. When the governor proclaims an emergency wherein **he** **THE GOVERNOR** deems it necessary to protect life or property, **he** **THE GOVERNOR** may order the Arizona highway patrol to provide whatever specific emergency services are necessary. The order directing the superintendent and the Arizona highway patrol shall state the specific purpose or purposes for which it is being utilized and the specific objectives to be accomplished.

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that "sex" included "gender" but that does not mean that "gender" includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that "sex" discrimination includes "gender" but "gender" does not include "sex" under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove "sex."

41-1750. Central state repository; department of public safety; duties; funds; accounts; definitions

A. The department is responsible for the effective operation of the central state repository in order to collect, store and disseminate complete and accurate Arizona criminal history records and related criminal justice information. The department shall:

3. Collect information concerning criminal offenses that manifest evidence of prejudice based on race, color, **SEX**, religion, national origin, sexual orientation, gender or disability.

F. The chief officers of criminal justice agencies of this state or its political subdivisions also shall provide to the department information concerning crimes that manifest evidence of prejudice based on race, color, **SEX**, religion, national origin, sexual orientation, gender or disability.

Revisions are necessary due to exclusionary use of male pronouns.

41-1750.01. National crime prevention and privacy compact

Article VI

C. The ~~chairman~~ CHAIR of the council shall be a member of and elected by the members of the council. The ~~chairman~~ CHAIR shall be a compact officer unless there is no compact officer on the council who is willing to serve, in which case the ~~chairman~~ CHAIR may be an at-large member. The ~~chairman~~ CHAIR shall serve a two-year term and may be reelected to only one additional two-year term.

F. The ~~chairman~~ CHAIR may establish technical or other committees as necessary and may prescribe their membership, responsibilities and duration.

41-1821. Arizona peace officer standards and training board; membership; appointment; term; vacancies; meetings; compensation; acceptance of grants

C. The governor shall appoint a ~~chairman~~ CHAIR from among the members at its first meeting and every year thereafter, except that an ex officio member shall not be appointed ~~chairman~~ CHAIR. The governor shall not appoint more than one member from the same law enforcement agency. No board member who was qualified when appointed becomes disqualified unless the member ceases to hold the office that qualified the member for appointment.

D. Meetings shall be held at least quarterly or on the call of the ~~chairman~~ CHAIR or by the written request of five members of the board or by the governor. A vacancy on the board shall occur when a member except an ex officio member is absent without the permission of the ~~chairman~~ CHAIR from three consecutive meetings. The governor may remove a member except an ex officio member for cause.

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that “sex” included “gender” but that does not mean that “gender” includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that “sex” discrimination includes “gender” but “gender” does not include “sex” under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove “sex.”

41-1822. Powers and duties of board; definition

A. With respect to peace officer training and certification, the board shall:

4. Prescribe minimum courses of training and minimum standards for training facilities for law enforcement officers. Only this state and political subdivisions of this state may conduct basic peace officer training. Basic peace officer academies may admit individuals who are not peace officer cadets only if a cadet meets the minimum qualifications established by paragraph 3 of this subsection. Training shall include:

(a) Courses in responding to and reporting all criminal offenses that are motivated by race, color, **SEX**, religion, national origin, sexual orientation, gender or disability.

Revisions are necessary due to exclusionary use of male pronouns.

41-1823. Adoption of minimum qualifications; certification required

B. Except for agency heads duly elected as required by the constitution and persons given the authority of a peace officer pursuant to section 8-205, 11-572, 12-253, 13-916 or 22-131, no person may exercise the authority or perform the duties of a peace officer unless ~~he~~ THE PERSON is certified by the board pursuant to section 41-1822, subsection A, paragraph 3.

41-1829. Arizona peace officers memorial board; board termination

A. The Arizona peace officers memorial board is established consisting of the following members:

1. The attorney general or the attorney general's designee, who shall serve as permanent ~~chairman~~ CHAIR.

6. As advisory members, the ~~chairmen~~ CHAIRS of the appropriations and judiciary committees of the house of representatives and the senate. For the purposes of this paragraph, "advisory member" means a member who gives advice to the other members of the peace officers memorial board at meetings of the board but who is not eligible to vote and is not a member for purposes of determining whether a quorum is present.

B. The permanent ~~chairman~~ CHAIR shall appoint one private citizen who is knowledgeable in the history of law enforcement in this state, one county sheriff or the county sheriff's designee, one local police chief or the police chief's designee, two members selected from a recognized fraternal organization for law enforcement personnel, two representatives from the business community, two family members of peace officers who have lost their lives in the line of duty and two members from a statewide organization representing law enforcement personnel.

C. The board shall meet at the call of the permanent ~~chairman~~. CHAIR

41-1830. Council; membership; staff

A. There is established the Arizona prosecuting attorneys' advisory council which shall consist of all county attorneys, the attorney general or ~~his~~ designee, the dean of the law school of Arizona state university or the university of Arizona, the chief municipal or city prosecutor of each city that has a population of more than two hundred fifty thousand and one full-time municipal prosecutor from a municipality that has a population of two hundred fifty thousand or less appointed by the governor, and the chief justice of the Arizona supreme court or ~~his~~ designee. Meetings shall be held at least quarterly or upon call of the ~~chairman~~ CHAIR or by the written request of five members of the council or by the governor. The council may employ an executive director and such other staff, including clerical assistants, as are necessary to fulfill the purposes of the council.

B. The term of each regular member shall be three years unless a member vacates the public office which qualified ~~him~~ THE PERSON for this appointment.

E. Membership on the council shall not constitute the holding of an office, and members of the council shall not be required to take and file oaths of office before serving on the council. No member of the

council shall be disqualified from holding any public office or employment, nor shall **he THE PERSON** forfeit any such office or employment by reason of **his THE PERSON'S** appointment, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

41-1830.11. Law enforcement merit system council; composition

E. The **chairman CHAIR** of the council serves as an ex officio member of the state personnel board without voting privileges.

41-1830.12. Law enforcement merit system council; duties; authority; rules; business manager; definitions

A. The law enforcement merit system council shall:

1. Select a **chairman CHAIR** and **vice-chairman. VICE-CHAIR**
2. Hold meetings that are necessary to perform its duties on the call of the **chairman. CHAIR**

41-1902. Membership; terms; vacancies; compensation

A. The commission is composed of five members, who shall be appointed from private life, as follows:

1. Two by the governor, one of whom shall be designated as **chairman CHAIR** by the governor.

41-1904. Recommendations

A. The governor shall include, in the budget next transmitted **by him** to the legislature after the date of the submission of the report and recommendations of the commission, **his THE GOVERNOR'S** own recommendations with respect to the exact rates of pay which **he THE GOVERNOR** deems advisable for those offices and positions subject to this chapter.

B. All or part, as the case may be, of the recommendations of the governor transmitted to the legislature in the budget relating to salaries shall become effective on the first Monday of January of the next calendar year following the transmittal of **his THE GOVERNOR'S** recommendations in the budget, but only to the extent that between the date of transmittal of such recommendations in the budget and the ninetieth day following the transmittal of **his THE GOVERNOR'S** recommendations:

41-1954. Powers and duties

A. In addition to the powers and duties of the agencies listed in section 41-1953, subsection E, the department shall:

1. Administer the following services:

(a) Employment services, including **manpower PEOPLE RESOURCES** programs and work training, field operations, technical services, unemployment compensation, community work and training and other related functions in furtherance of programs under the social security act, as amended, the Wagner-

Peysner act, as amended, the federal unemployment tax act, as amended, 33 United States Code, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(f) **Manpower PEOPLE RESOURCE** planning, including a state **manpower PEOPLE RESOURCE** planning council for the purposes of the federal-state-local cooperative **manpower PEOPLE RESOURCE** planning system and other related functions in furtherance of programs under the comprehensive employment and training act of 1973, as amended, and other related federal acts and titles.

41-1981. Economic security council; special purpose councils

B. The governor shall appoint the members of the council. Membership shall correspond to pertinent federal regulations concerning advisory and planning councils or committees. The governor shall annually select the council **chairman CHAIR** from the membership of the council.

41-2404. Arizona criminal justice commission; members; compensation; terms; meetings

A. The Arizona criminal justice commission is established consisting of the following members:

6. The ~~chairman CHAIR~~ of the board of executive clemency or the **chairman's CHAIR'S** designee.

D. The commission shall meet and organize by electing from among its membership such officers as are deemed necessary or advisable. The commission shall meet at least once during each calendar quarter and additionally as the **chairman CHAIR** deems necessary, and a majority of the members constitutes a quorum for the transaction of business.

41-2831. State educational system for committed youth; report

H. The superintendent shall:

2. Prepare an annual financial report containing information similar to that provided by school districts in the report prescribed in section 15-904 in a format prescribed by the department of administration in consultation with the auditor general and submit the report to the governor, the speaker of the house of representatives, the president of the senate and the department of education by November 1. When submitting the report to the speaker and president, the superintendent shall send a copy of the report to the **chairmen CHAIRS** of the house and senate education committees and shall send a notice to all other legislators that the report is available on request.

41-3201. Advisory council on spinal and head injuries; members; qualifications; appointment; terms; compensation; officers; meetings; staffing; definition

E. Council members shall select a ~~chairman CHAIR~~, **vice-chairman VICE-CHAIR** and secretary each calendar year.

F. The council shall convene in a formal meeting at the call of the **chairman CHAIR** but in no case less than four times each year. A quorum consists of at least seven voting members.

41-3451. Automobile theft authority; powers and duties; fund; audit

B. Members serve staggered four-year terms beginning and ending on the third Monday in January. At the first meeting each year, the members shall select a **chairman CHAIR** from among the members. The authority shall meet at the call of the **chairman CHAIR** or seven members.

D. If the **chairman CHAIR** of the authority knows that a potential ground for the removal of a member of the authority exists under this subsection, the **chairman CHAIR** shall notify the governor. The governor shall remove the member if the governor finds that any of the following applies:

41-4001. Definitions

42. “**Workmanship**” **SKILLFUL** means a minimum standard of construction or installation reflecting a **journeyman AN ARTISAN** quality of the work of the various trades.

41-4036. Repairs; complaints

D. The purchaser may file a complaint with the department on matters covered by this section if the complaint is filed within the twelve-month period prescribed by sections 41-4004 and 41-4031 and the licensee failed to repair or replace the items within the repair and replacement period or the repair or replacement does not comply with adopted codes or **workmanship SKILLFUL** standards.

41-4039. Grounds for disciplinary action

21. Failure to manufacture or install in a **workmanlike SKILLFUL** manner all units and accessory structures that are suitable for their intended purpose.

TITLE 42 Taxation



Revisions are necessary due to exclusionary use of male pronouns.

42-1005 . Powers and duties of director respectively.

A. The director shall be directly responsible to the governor for the direction, control and operation of the department and shall:

1. Make such administrative rules as **he THE DIRECTOR** deems necessary and proper to effectively administer the department and enforce this title and title 43.

7. Delegate such administrative functions, duties or powers as **he THE DIRECTOR** deems necessary to carry out the efficient operation of the department.

42-1113. Closing agreements

The department or any person authorized in writing by the department may enter into a written agreement with a taxpayer relating to the liability of the taxpayer, or relating to the liability of the person or estate for whom **he THE TAXPAYER** acts in respect of any tax administered pursuant to this article for any taxable period. If an agreement is approved by the department within the time stated in the agreement, or later agreed to, it is final and conclusive, except on a showing of fraud, malfeasance or misrepresentation of a material fact. The case shall not be reopened as to the matters agreed on or the agreement modified by any officer, employee or agent of this state. In any suit, action or proceeding,

the agreement, or any determination, assessment, collection, payment, abatement, refund or credit made pursuant to the agreement, shall not be annulled, modified, set aside or disregarded.

42-1121. Overpayment and underpayment in different tax years

A. If an overpayment is made by a taxpayer for any taxable period and a deficiency is owing from the same taxpayer for any other taxable period, the overpayment, if the period within which credit for the overpayment may be allowed has not expired, shall be credited on the deficiency if the period within which assessment of the deficiency may be proposed has not expired, and the balance, if any, shall be credited or refunded to the taxpayer. Interest shall not be assessed on the portion of the deficiency that is extinguished by the credit or added to such portion of the overpayment as is applied against the deficiency for the period of time after the date the overpayment was made. For the purposes of this section, the returns of a decedent and **his THE DECEDENT'S** estate shall be considered returns of the same taxpayer and the returns of the decedent and **his THE DECEDENT'S** estate filed for the year of death shall be considered returns for different taxable years.

42-1204. Property exempt from levy

A. The following property is exempt from levy:

1. Wearing apparel and school books as are necessary for the taxpayer or members of **his THE TAXPAYER'S** family.

5. If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of **his THE TAXPAYER'S** minor children, so much of **his THE** salary, wages or other income as is necessary to comply with such judgment.

6. Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by **him THE TAXPAYER** during such period does not exceed the applicable exempt amount determined under subsection D of this section.

42-2063. Department responsibilities; decision deadlines; definition

A. The department shall attempt to issue a decision from the hearing officer within ninety days after the date of a formal hearing or after the last post-hearing brief is due, whichever is later. If the department expects the decision to be delayed, the department shall notify the taxpayer or **his THE TAXPAYER'S** designated representative of the proposed issue date.

B. The department shall attempt to issue a decision by the director on any pending appeal to the director within ninety days after the last brief is due. If the department expects the decision to be delayed, the department shall notify the taxpayer or **his THE TAXPAYER'S** designated representative of the proposed issue date.

42-5011. Conditional sales

For the purpose of computing the tax levied by this article, conditional sales shall be treated as credit sales and the tax shall be paid only upon the amounts received under such conditional sales contracts,

but if the seller transfers **his THE SELLER'S** interest in such contract to a third person, **he THE SELLER** shall pay upon the full sale price of the commodity unless a record is kept of payments thereafter made on the contract in such manner that the department may at all times ascertain from the records of the seller the amount paid thereon by the purchaser. If at any time the department cannot so ascertain the amount paid thereon, the tax shall become due and payable as to any amounts not shown to be paid by the records of the seller or to the satisfaction of the department.

42-5037. Notices

A. Notices required or authorized by this article to be given by mail to a taxpayer shall be addressed to **him THE TAXPAYER** at **his THE TAXPAYER'S** last known address, or to such address as may appear in the records of the department, and shall be sent by registered first class mail with return receipt requested.

42-5072. Mining classification; definition

E. If a person engaging in business classified under the mining classification ships or transports all or part of a product out of this state without making sale of the product or ships **his THE PERSON'S** product outside of this state in an unfinished condition, the value of the product or article in the condition or form in which it existed when transported out of this state and before it enters interstate commerce is included in the tax base, and the department shall prescribe equitable and uniform rules for ascertaining that value. In determining the tax base, if the product or any part of the product has been processed in this state and the proceeds of such processing have been included in the tax base of the processor under this chapter, the person may deduct from the value of the product when transported out of this state the cost of such processing.

42-5162. Monthly return; time for payment; extension of time; quarterly payment

A. Every retailer engaged in the business of making sales of tangible personal property the use, storage or consumption of which is subject to the tax imposed by this article, and every person who purchases for use, storage or consumption any such property for which the tax is not paid to the retailer, shall file a return with the department on or before the twentieth day of the month next succeeding the month in which the tangible personal property is brought into this state for use, storage or consumption. The return shall be on a form prescribed by the department and shall show the tangible personal property sold for use, storage or consumption or purchased for use, storage or consumption within the state during the preceding calendar month. Such return shall be verified by oath or affirmation of the retailer or person making the report, or **his THE RETAILER'S OR PERSON'S** agent, and shall be accompanied by payment of the tax shown to be due. The return and tax are delinquent if not received by the department on or before the business day preceding the last business day of the month when due.

42-13006. Qualifications of appraisers and assessing personnel; certification program

E. At the request of any of the following the department shall prepare and submit a report on the achievements and problems of the education, training and certification activities under this section:

4. The **chairman CHAIR** of the senate finance committee or its successor.

5. The **chairman CHAIR** of the house of representatives ways and means committee or its successor.

42-13007. Education, training and certification advisory committee

A. The education, training and certification advisory committee is established consisting of the following members:

1. A member of the state board of equalization who is appointed by the **chairman CHAIR** of the state board.

B. The members who are appointed pursuant to subsection A, paragraphs 1 and 2 shall be appointed to one year terms. The training coordinator who serves pursuant to subsection A, paragraph 3 serves at the pleasure of the director, shall serve as secretary to the committee and shall keep written minutes of all committee meetings. The members of the committee shall choose a **chairman CHAIR** from among the members. The committee shall meet at least semiannually at a time and place set by the **chairman CHAIR**. Additional meetings shall be held on the call of the **chairman CHAIR** or at the request of two or more members.

TITLE 43 Taxation of Income

Revisions are necessary due to exclusionary use of male pronouns.

43-303. Returns by agent or guardian

If the taxpayer is unable to make **his** **THE TAXPAYER'S** own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of the taxpayer.

Revision is needed because of Obergefell v. Hodges. The section needs to be revised because of Obergefell v. Hodges ensuring that persons in a same sex marriage have the same rights and obligations as those in every other marriage.

43-309. Joint returns of ~~husband and wife~~ SPOUSES

If **a husband and wife** **SPOUSES** are required to file a return pursuant to section 43-301, they may file a joint return under the following conditions:

1. A joint return shall not be made if **husband and wife** **SPOUSES** have different taxable years. If such taxable years begin on the same day and end on different days because of the death of either or of both, the joint return may be made with respect to the taxable year of each. Such an exception does not apply if the surviving spouse remarried before the close of the surviving spouse's taxable year or if the taxable year of either spouse is a fractional part of a year under section 43-931.

3. For the purposes of this section, the status as **husband and wife** **SPOUSES** of two individuals having taxable years beginning on the same day shall be determined:

- (a) If both have the same taxable year, as of the close of such year.
- (b) If one dies before the close of the taxable year of the other, as of the time of such death.

43-310. Separate returns after filing joint returns

A. If **a husband and wife** **SPOUSES** have filed a joint return for a taxable year for which separate returns could have been made by them under section 43-309, and the time prescribed by this title for filing the return for such taxable year has expired, the spouses may nevertheless make separate returns for such taxable year. Separate returns filed by the spouses in such a case shall constitute their returns for such taxable year, and all payments, credits, refunds or other repayments made or allowed with respect to the joint return for such taxable year shall be taken into account in determining the extent to which the taxes based on the separate returns have been paid.

43-311. Joint return after filing separate return

A. If an individual has filed a separate return for a taxable year for which the individual and spouse could have filed a joint return under section 43-309, and the time prescribed by this title for filing the return for such taxable year has expired, such individual and spouse may nevertheless make a joint return for such taxable year. A joint return filed by **the husband and wife** **SPOUSES** for such taxable

year, and all payments, credits, refunds or other repayments made or allowed with respect to the separate return of either spouse for such taxable year, shall be taken into account in determining the extent to which the tax based upon the joint return has been paid.

F. Where the amount shown as the tax by ~~the husband and wife~~ SPOUSES on a joint return made under subsection A of this section exceeds the aggregate of the amounts shown as the tax upon the separate return of each spouse:

43-322. Signature presumed to be taxpayer's

The fact that an individual's name is signed to a return, statement or other document filed, or that the return, statement or document is signed, subscribed or verified in a manner prescribed by the department pursuant to section 42-1105, subsection B, shall be a presumption of fact that the return, statement or other document was actually signed by ~~him~~ THE INDIVIDUAL.



43-562. ~~Husband and wife~~ SPOUSES, liability for tax

The spouse who controls the disposition of or who receives or spends community income as well as the spouse who is taxable on such income is liable for the payment of the taxes imposed by this title on such income. If a joint return is filed, the liability for the tax on the aggregate income is joint and several.

43-943. Allocation in the case of ~~husband and wife~~ SPOUSES

If ~~husband and wife~~ SPOUSES file separate returns, the department may distribute, apportion or allocate gross income between the spouses, if it is determined that such distribution, apportionment or allocation is necessary in order to reflect the proper income of the spouses.

Revisions are necessary due to exclusionary use of male pronouns.

43-944. Disclosure by department of basis of allocation

If the department reallocates income or deductions upon its examination of any return, it shall, upon the written request of the taxpayer, disclose to ~~him~~ THE TAXPAYER the basis upon which its reallocation has been made.

Revision is needed because of Obergefell v. Hodges. The section needs to be revised because of Obergefell v. Hodges ensuring that persons in a same sex marriage have the same rights and obligations as those in every other marriage.

43-1022. Subtractions from Arizona gross income

If ~~a husband and wife~~ SPOUSES are required to file a return pursuant to section 43-301, they may file a joint return under the following conditions:

1. A joint return shall not be made if ~~husband and wife~~ SPOUSES have different taxable years. If such taxable years begin on the same day and end on different days because of the death of either or of both, the joint return may be made with respect to the taxable year of each. Such an exception does not apply if the surviving spouse remarried before the close of the surviving spouse's taxable year or if the taxable year of either spouse is a fractional part of a year under section 43-931.

43-1041. Optional standard deduction

D. In the case of ~~a husband and wife~~ SPOUSES, the standard deduction provided for in subsection A of this section is not allowed to either if the taxable income of one of the spouses is determined without regard to the standard deduction.

43-1083. Credit for solar energy devices

D. ~~A husband and wife~~ SPOUSES who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

43-1088. Credit for contribution to qualifying charitable organizations; definitions

D. ~~A husband and wife~~ SPOUSES who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

43-1089. Credit for contributions to school tuition organization

B. ~~A husband and wife~~ SPOUSES who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

43-1089.01. Tax credit; public school fees and contributions; definitions

C. ~~A husband and wife~~ SPOUSES who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

43-1089.02. Credit for donation of school site

D. If the property is donated by co-owners, including individual partners in a partnership, each donor may claim only the pro rata share of the allowable credit under this section based on the ownership interest. If the property is donated by ~~a husband and wife~~ SPOUSES who file separate returns for a taxable year in which they could have filed a joint return, they may determine between them the share of the credit each will claim. The total of the credits allowed all co-owner donors may not exceed the allowable credit.

43-1089.03. Credit for contributions to certified school tuition organization

B. ~~A husband and wife~~ SPOUSES who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

Revisions are necessary due to exclusionary use of male pronouns.

43-1411. Partnership, individual partnership liability

An individual carrying on a business in partnership shall be liable for income tax only in ~~his~~ THEIR individual capacity.

TITLE 44 Trade and Commerce



Revisions are necessary due to exclusionary use of male pronouns.

The words man made (44-1799.21) and manhole (44-1642.01) were switched to neutral terms.

44-101. Statute of frauds

No action shall be brought in any court in the following cases unless the promise or agreement upon which the action is brought, or some memorandum thereof, is in writing and signed by the party to be charged, or by some person ~~by him thereunto~~ lawfully authorized **BY THE PARTY TO BE CHARGED**:

1. To charge an executor or administrator upon any promise to answer for any debt or damages due from ~~his~~ **THE EXECUTOR OR ADMINISTRATOR'S** testator or intestate out of ~~his~~ **THE EXECUTOR OR ADMINISTRATOR'S** own estate.
4. Upon a contract to sell or a sale of goods or choses in action of the value of five hundred dollars or more, unless the buyer accepts part of the goods or choses in action, and actually receives them or gives something in earnest to bind the contract, or in part payment, but when a sale is made at auction, an entry by the auctioneer in ~~his~~ **THE AUCTIONEER'S** sale book, made at the time of the sale, of the kind of property sold, the terms of the sale, the price, and the name of the purchaser and person on whose account the sale is made is a sufficient memorandum.

44-132. Capacity of minor to obtain hospital, medical and surgical care; definition

A. Notwithstanding any other provision of law except as provided in title 36, chapter 20, article 1,1 and without limiting cases in which consent may otherwise be obtained or is not required, any emancipated

minor, any minor who has contracted a lawful marriage or any homeless minor may give consent to the furnishing of hospital, medical and surgical care to such minor, and such consent shall not be subject to disaffirmance because of minority. The consent of the parent, or parents, of such a person is not necessary in order to authorize hospital, medical and surgical care. For the purposes of this section only, subsequent judgment of annulment of such marriage or judgment of divorce shall not deprive such person of **his** adult status once attained.

B. A health care provider acting in reliance on the consent of a minor who has authority or apparent authority pursuant to this section to consent to health care is not subject to criminal and civil liability and professional disciplinary action on the ground that ~~he or she~~ **THE HEALTH CARE PROVIDER** failed to obtain consent of the minor's parent, parents or legal guardian. This subsection does not affect any other cause of action permitted under title 12, chapter 5.1.2

C. For purposes of this section, a homeless minor is an individual under the age of eighteen years living apart from **his** **THE MINOR'S** parents and who lacks a fixed and regular nighttime residence or whose primary residence is either a supervised shelter designed to provide temporary accommodations, a halfway house or a place not designed for or ordinarily used for sleeping by humans.

44-140.01. Educational loan; enforceable; prerequisites

Any written obligation signed by a minor sixteen or more years of age in consideration of an educational loan received by **him** **THE MINOR** from any person is enforceable as if **he** **THE MINOR** were an adult at the time of execution, but only if prior to the making of the educational loan an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution.

44-142. Action against persons primarily and secondarily liable on bill of exchange or other contract

The acceptor of a bill of exchange, or any other principal obligor on any contract, may be sued either alone or jointly with any other party who may be liable thereon, but judgment shall not be given against such other party not primarily liable unless judgment has been previously, or is at the same time, given against the acceptor or other principal obligor, except when the plaintiff discontinues **his** **THE PLAINTIFF'S** action against such principal obligor.

44-145. Negotiable instruments or other writings evidencing consumer obligations; limitation on liability

A. The rights of a holder or assignee of an instrument, account, contract right, chattel paper or other writing, other than a check or draft, which evidences the obligation of a natural person as buyer, lessee, or borrower in connection with the purchase or lease of consumer goods or services, are subject to all defenses and setoffs of the debtor arising from or out of such sale or lease if notice of such defense or setoff is given within ninety days after receipt of the goods or services by the debtor, notwithstanding any agreement to the contrary. For a period of ninety days after receipt of the goods or services by the debtor, a holder or assignee is not a holder in due course if **he** **THE HOLDER OR ASSIGNEE** takes an instrument, other than a check or draft, which is subject to the provisions of this section. The rights of the debtor under this section may be asserted only as to amounts then owing and as a matter of defense

to or setoff against a claim by the holder or assignee and may be asserted only if the buyer or lessee gives notice of the claim or defense in writing by certified mail to the seller or lessor at the last known business address of the seller or lessor within ninety days after receipt of the goods or services.

44-286. Requirements and prohibitions as to retail installment contracts

B. The seller shall deliver to the buyer, or mail to ~~him~~ THE BUYER at ~~his~~ THE BUYER'S address shown on the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle shall have the right to rescind ~~his~~ THE BUYER'S agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if the goods cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the contract shall be in a size equal to at least ten point bold type, and, if contained in the contract, shall appear directly above the buyer's signature.

44-401. Definitions

In this chapter, unless the context otherwise requires:

2. "Misappropriation" means either:

(b) Disclosure or use of a trade secret of another without express or implied consent by a person who either:

(i) Used improper means to acquire knowledge of the trade secret.

(ii) At the time of disclosure or use, knew or had reason to know that ~~his~~ THE PERSON'S knowledge of the trade secret was derived from or through a person who had utilized improper means to acquire it, was acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use or was derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use.

(iii) Before a material change of ~~his~~ THE PERSON'S position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

44-1002. Insolvency

B. A debtor who is generally not paying ~~his~~ THE DEBTOR'S debts as they become due is presumed to be insolvent.

44-1004. Transfers fraudulent as to present and future creditors

A. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation under any of the following:

2. Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor either:

(b) Intended to incur, or believed or reasonably should have believed that **he THE DEBTOR** would incur, debts beyond **his THE DEBTOR'S** ability to pay as they became due.

44-1031. Effect of assignment for the benefit of creditors; acknowledgment and recording; invalidity of assignments not made in accordance with this article

A. Every assignment made by an insolvent debtor, or in contemplation of insolvency, for the benefit of **his THE DEBTOR'S** creditors, shall provide, except as otherwise provided in this article, for a distribution of all **his THE DEBTOR'S** real and personal property other than that which is by law exempt from execution, among all **his THE DEBTOR'S** creditors in proportion to their respective claims. However the assignment is made or expressed, it shall have such effect and shall be construed to pass all such property, whether or not specified therein.

44-1032. Assignment for the benefit of consenting creditors; effect; execution of release by creditors

Any debtor desiring to do so may make an assignment for the benefit of such of **his THE DEBTOR'S** creditors only as will consent to accept their proportional share of **his THE DEBTOR'S** estate, and discharge **him THE DEBTOR** from their respective claims. In such case the benefits of the assignment shall be limited and restricted to the creditors consenting thereto. The debtor shall thereupon be discharged from all further liability to the consenting creditors on account of their respective claims, and when paid they shall execute and deliver to the assignee, for the debtor, a release therefrom.

44-1033. Filing of assignment; accompanying inventory of property and indebtedness required; docketing of assignment by clerk

B. An affidavit shall be made by the debtor, and shall be annexed to and delivered with the inventory or schedule, that the inventory or schedule is in all respects just and true according to **his THE DEBTOR'S** best knowledge and belief.

44-1034. Recording of deed of assignment by assignee; bond of assignee; recording; actions upon bond; duty of assignee to execute assignment

A. The assignee shall forthwith, after execution and delivery of the deed of assignment, record it as provided in this article, and execute a bond with securities in an amount determined and approved by the judge of the superior court of the county where the assignment is recorded, or if in more than one county, then in the county where the principal place of business of the debtor is located, conditioned that the assignee will faithfully discharge **his THE ASSIGNEE'S** duties as assignee, and that **he THE ASSIGNEE** will make proportional distribution of the net proceeds of the property among the creditors entitled thereto.

B. The bond shall be payable to the state of Arizona and shall be filed with the county recorder. It shall inure to the benefit of the assignor and the creditors, who may maintain an action thereon, in **his-or-their THE ASSIGNOR OR THE CREDITORS'** own name, jointly or severally, for any breach thereof.

44-1035. Notice of appointment of assignee; publication

The assignee shall, within thirty days after recording the assignment, give public notice of **his THE ASSIGNEE'S** appointment in some newspaper printed in the county where the assignor resides or where **his THE ASSIGNOR'S** principal business was conducted, and as far as possible, the assignee shall also give personal notice or notice by mail to each of the creditors.

44-1036. Powers of court with respect to assignee; removal of assignee; appointment of assignee to fill vacancy

C. In case of removal of the assignee or vacancy in the office by death or otherwise the court shall appoint another in **his THE ASSIGNEE'S** place who shall have the same powers and be subject to the same liabilities as the original assignee.

44-1037. Notice by creditors of consent to assignment; receipt by creditor of portion of claim as consent

Creditors consenting to the assignment shall give the assignee written notice of consent within four months after publication of the notice required under 44-1035, and a creditor not assenting shall not receive or take any benefit under the assignment. A creditor who has no actual notice of the assignment may make known **his THE CREDITOR'S** assent any time before any distribution of assets is made under the assignment. Receipt by a creditor of any portion of **his THE CREDITOR'S** claim from the assignee is conclusive evidence of the assent of such creditor to the assignment.

44-1038. Filing of statement of claim by creditors

Every creditor, consenting to an assignment, shall, within six months from the time of the first publication of the notice of appointment of the assignee, file with the assignee a distinct statement of the particular nature and amount of **his THE CREDITOR'S** claim against the debtor, which shall be supported by an affidavit of the creditor, **his THE CREDITOR'S** agent or attorney, that the statement is true, that the debt is just and that there are no credits or offsets that should be allowed against the claim, except as shown by the statement. No creditor shall take any benefit under any assignment whatever who neglects to file this statement.

44-1039. Statement of claim by creditor as justification for payment by assignee; action to dispute claim; duty of assignee to permit creditor to inspect claims filed by other creditors

B. A creditor entitled to **his THE CREDITOR'S** proportional share of the debtor's property, unless the assignor or other creditor disputing the claim shall, within sixty days after expiration of the time within which creditors are required to file their statements, commence an action in the superior court of the proper county to set aside the allowance and to restrain payment thereon. If it appears in such action that the claim or the disputed part thereof is not lawfully due, the claim shall be disallowed in whole or in part, and the assignee shall be restrained from paying the claim or any portion disallowed.

44-1040. Discount of claims allowed but not due; amount payable on claim secured by collateral in possession of creditor

Claims not due may be allowed at their present value by discounting them at the rate of interest mentioned in the contract, if any, otherwise at the legal rate. If any creditor holds collateral or security of less value than **his THE CREDITOR'S** debt, the value thereof may be estimated by the assignee and only the difference between such value and the amount of the debt shall be allowed.

44-1041. Right of assignee to property fraudulently conveyed by assignor; action by assignee or creditor to recover property fraudulently conveyed; non-recovery from bona fide purchaser

All property conveyed or transferred by the assignor previous to and in contemplation of the assignment with the intent or design to defeat, delay or defraud creditors, or to give preference to one creditor over another, shall pass to the assignee by the assignment notwithstanding the transfer. The assignee, or in case of **his THE ASSIGNEE'S** neglect or refusal any creditor may, upon securing the assignee against cost or liability, in the name of the assignee, sue for, recover, collect and cause such property to be applied for the benefit of creditors as other property belonging to the debtor's estate in the hands of the assignee. If it appears in such action that the purchaser of such property bought it from the assignor in good faith for a valuable consideration and without reason to believe that the debtor was conveying or transferring the property with intent or design as set forth in this section, the purchaser shall be held to have acquired, as against the assignee and creditors, a good and valid title to the property.

44-1042. Failure of assignor to supply inventory as prima facie evidence of concealment of property by assignor; examination of assignor by court upon application of assignee or creditor

A. No assignment shall be declared fraudulent or void for lack of an inventory or list as required under the provisions of this article, but if such list and inventory are not annexed and verified as provided in 44-1033, it is prima facie evidence that the assignor has secreted and concealed some portion of **his THE ASSIGNOR'S** property from **his THE ASSIGNOR'S** assignee, unless, upon the demand of the assignee or a creditor, the verified inventory and list are furnished to the assignee.

B. If an assignee or creditor has reason to believe that a debtor has concealed any of **his THE DEBTOR'S** property or estate for the purpose of defrauding creditors, the superior court shall, upon application of the assignee or creditor, cause the debtor to appear before it and disclose under oath any knowledge or information **he THE DEBTOR** has of such concealment.

44-1044. Garnishment of assignee by nonconsenting creditor

A creditor, not consenting to the assignment, may proceed by garnishment against the assignee for the excess of property remaining in **his THE ASSIGNEE'S** hands after payment to consenting creditors the amount of their debts and the costs and expenses of the assignment.

44-1045. Distribution to creditors; compensation and expenses allowed assignee

A. When an assignee has in **his THE ASSIGNEE'S** possession funds of the estate of the assignor in an amount sufficient to pay ten per cent of the indebtedness of the assignor, **he THE ASSIGNEE** shall make a pro rata distribution of the funds among the creditors.

B. The assignee shall receive reasonable compensation for **his THE ASSIGNEE'S** services and the necessary costs and expenses, including attorney's fees, of administering the assigned estate, to be allowed by the superior court.

44-1046. Final report by assignee; hearing; discharge of assignee; disposition of funds in estate at final settlement

A. When the assignee has fully performed the duties of **his THE ASSIGNEE'S** trust and desires to be finally discharged therefrom, **he THE ASSIGNEE** shall make a report of **his THE ASSIGNEE'S** proceedings under the assignment. The report shall be under oath and shall set forth the money and assets which came into **his THE ASSIGNEE'S** possession, and how such assets were disbursed and disposed of. The assignee shall file the report in the office of the clerk of the superior court having jurisdiction of the insolvent estate.

44-1047. Fraudulent transactions by assignor; classification

A. A person who makes an assignment for the benefit of creditors is guilty of a crime punishable as prescribed in subsection B, if **he THE PERSON**:

1. Secretes or conceals any property belonging to **his THE PERSON'S** estate, or parts with, conceals, destroys, alters, mutilates or falsifies a book, document or writing relating to such property or estate, or removes such property, book, document or writing, with intent to prevent it or any part thereof from coming into possession of the assignee or to hinder, impede or delay the assignee in recovering or receiving such property or book, document or writing.

2. Makes any payment, gift, sale, assignment, transfer or conveyance of any property belonging to **his THE PERSON'S** estate with intent to prevent it from coming into possession of the assignee or to hinder, impede or delay the assignee in recovering or receiving such property.

3. Spends any property belonging to **his THE PERSON'S** estate in gaming.

4. Knowingly and with the intent to defraud omits from **his THE PERSON'S** schedule any property or effects.

5. Has knowledge or belief of a false or fictitious debt proved against **his THE PERSON'S** estate and fails to disclose such knowledge or belief to **his THE PERSON'S** assignee within one month after acquiring such knowledge or belief.

6. Attempts by fictitious losses or expenses to account for any property belonging to **his THE PERSON'S** estate.

8. Within three months before making the assignment for the benefit of creditors, with intent to defraud

~~his~~ **THE PERSON'S** creditors, pawns, pledges or disposes of, otherwise than by ordinary transactions in due course of business, any goods or chattels obtained on credit and which are unpaid for.

44-1061. Sale of chattels unaccompanied by change of possession as prima facie evidence of fraud against creditors and subsequent purchasers

A. A sale made by a vendor of goods and chattels in ~~his~~ **THE VENDOR'S** possession or under ~~his~~ **THE VENDOR'S** control, or an assignment of goods and chattels, unless the sale or assignment is accompanied by an immediate delivery and followed by an actual and continued change of possession of the things sold or assigned, is prima facie evidence of fraud against creditors of the vendor, or creditors of the person making the assignment, or subsequent purchasers in good faith.

B. The term "creditors" includes all persons who are creditors of the vendor or assignor at any time while such goods and chattels are in ~~his~~ **THE VENDOR OR ASSIGNOR'S** possession or under ~~his~~ **THE VENDOR OR ASSIGNOR'S** control.

44-1207. Interest on lawful charge, fee, cost or expense

Any lawful charge, fee, cost or expense paid by or due to a lender on behalf of a borrower, with ~~his~~ **THE BORROWER'S** consent, may be added to the principal amount of a loan made to such borrower under the provisions of this title or under the provisions of title 6,1 and such amount shall become part of the principal and interest may be charged thereon as provided by law.

44-1212. False report to principal by agent; classification

A commission merchant, broker, agent, factor or consignee who knowingly and with intent to defraud makes to ~~his~~ **THE COMMISSION MERCHANT, BROKER, AGENT, FACTOR OR CONSIGNEE'S** principal or consignor a false statement concerning the price obtained for, or the quality or quantity of property consigned or entrusted to ~~him~~ **THE COMMISSION MERCHANT, BROKER, AGENT, FACTOR OR CONSIGNEE** for sale, is guilty of a class 2 misdemeanor.

44-1216. Fraud on seller of ore; classification

A person or the agent of any person engaged in milling, smelting, sampling, concentrating, reducing, shipping or purchasing ores in this state, who in any manner knowingly alters or changes the true value of ores delivered to ~~him~~ **THEM** to deprive the seller of the correct value thereof, or who substitutes other ores for those delivered, or who issues a bill of sale or certificate of purchase which does not exactly and truthfully state the actual weight, assay value and total amount paid for any lot of ore purchased, or who by secret understanding, or agreement with another, issues a bill of sale or certificate of purchase which does not correctly and truthfully set forth the weight, assay value and total amount paid for the ore purchased by ~~him~~ **THEM**, is guilty of a class 6 felony.

44-1217. Fraud on creditors by removal, sale or concealment of property; classification

A debtor who fraudulently removes ~~his~~ **THE DEBTOR'S** property or effects from the state, or fraudulently sells, conveys, assigns or conceals ~~his~~ **THE DEBTOR'S** property, with intent to defraud, hinder or delay ~~his~~ **THE DEBTOR'S** creditors of their rights, claims or demands, is guilty of a class 2 misdemeanor.

44-1231.02. Sale of Indian arts and crafts; inquiry; labels

B. A person who sells or offers to sell a product that is represented to be authentic Indian arts or crafts shall make due inquiry of ~~his~~ **THE PERSON'S** suppliers concerning the true nature of the materials, product design and process of manufacture to determine whether the product may be lawfully represented as authentic Indian arts or crafts.

44-1236. Certificate of name required; exceptions

A. Any person other than a partnership transacting business in this state under a fictitious name or a designation not showing the name of the owner of the business or the name of the corporation doing such business shall record with the county recorder of the county in which the place of business is located a certificate stating in full either:

1. The name of the owner of the business and ~~his-or-her~~ **THEIR** place of residence, signed by the owner and acknowledged.

44-1242. Sale under own trademark or brand; authority of manufacturer

This article shall not prohibit any person from selling under ~~his~~ **THE PERSON'S** own trademarks, trade names, brands, or the words "no brand", the product of any manufacturer, if such person has first obtained the written authorization of the true manufacturer so to sell such product.

44-1280. Subpoena; failure to supply information or obey subpoena; confidentiality of information; violation; classification

A. The county attorney or attorney general, in addition to other powers conferred on ~~him~~ **THEM** by this article, may issue and serve in the manner provided under 13-4072 a subpoena to a custodian of records of a public service corporation as defined by 40-341 requesting:

C. If the county attorney or attorney general determines that disclosure to the custodian of records of a public service corporation of the evidence relied on to establish reasonable cause would not be in the best interests of the investigation, ~~he~~ **THE COUNTY ATTORNEY OR ATTORNEY GENERAL** may request and the court may examine the evidence in camera and thereafter make its determination.

44-1450. Fraudulent registration; damages

Any person who for ~~himself~~ **THEMSELVES**, or on behalf of any other person, procures the filing or registration of any mark in the office of the secretary of state under the provisions of this article by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

44-1524. Powers of attorney general

A. If the attorney general has reasonable cause to believe that a person has engaged in, is engaging in or is about to engage in any practice or transaction which is in violation of this article or order or assurance of discontinuance entered under this article, ~~he~~ **THE ATTORNEY GENERAL** may:

1. Require such person to file on such forms as ~~he~~ **THE ATTORNEY GENERAL** prescribes a statement or report in writing, under oath, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as ~~he~~ **THE ATTORNEY GENERAL** may deem necessary.

3. Examine any merchandise or sample thereof, or any record, book, document, account or paper as ~~he~~ **THE ATTORNEY GENERAL** may deem necessary.

4. Pursuant to an order of the superior court, impound any record, book, document, account, paper, or sample or merchandise material to such practice and retain the same in ~~his~~ **THE ATTORNEY GENERAL'S** possession until the completion of all proceedings undertaken under this article or in the courts.

B. This section does not prohibit the attorney general from investigation of violations of this article including requesting a person to respond to a complaint filed against ~~him~~ **THE PERSON**. A person cannot be compelled to comply with a request to respond to a complaint except in accordance with 44-1527.

44-1526. Subpoena; hearing; rules and regulations

A. To accomplish the objectives and to carry out the duties prescribed in this article, the attorney general, in addition to other powers conferred ~~upon him~~ by this article, may:

B. The attorney general shall serve a demand or subpoena in accordance with one of the following:

2. On a natural person by delivering the demand or subpoena or by mailing the demand or subpoena by registered mail to the person at ~~his~~ **THE PERSON'S** last known place of business, residence, or both, within or without this state.

44-1529. Powers of receiver

When a receiver is appointed by the court pursuant to this article, ~~he~~ **THE RECEIVER** shall have the power to sue for, collect, receive, or take into ~~his~~ **THE RECEIVER'S** possession all the goods, and chattels, rights and credits, monies and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, including property with which such property has been mingled if it cannot be identified in kind because of such commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. Any person who has suffered damages as a result of the use or employment of any unlawful practice, and submits proof to the satisfaction of the court that ~~he~~ **THE PERSON** has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent ~~he~~ **THE PERSON** has sustained out-of-pocket losses. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and enter such judgments therein as may be required.

44-1553. Voidable franchises

Any franchise may be cancelled by the dealer at **his THE DEALER'S** option by sending a written declaration of that fact and the reasons therefor to the distributor if:

44-1557. Required provisions in agreements between distributors and dealers

Every agreement between a distributor and a dealer shall be in writing and contain:

1. In the absence of any express agreement, the dealer shall not be required to participate financially in the use of any premium, coupon, give-away, or rebate in the operation of **his THE DEALER'S** retail outlet, provided that the distributor may require the dealer to distribute to customers premiums, coupons or give-aways which are furnished to the dealer at the expense of the distributor.

44-1558. Obligation of distributor to repurchase upon termination of agreement; designation of successor in interest

A. In the event of any termination, cancellation or failure to renew, whether by mutual agreement or otherwise, a distributor shall make or cause to be made a good faith offer to repurchase from the dealer, **his THE DEALER'S** heirs, successors and assigns, at the current wholesale prices, any and all merchantable products purchased by such dealer from the distributor, provided that the distributor shall have the right to apply the proceeds against any existing indebtedness owed to **him THE DISTRIBUTOR** by the dealer and that such repurchase obligation is conditioned upon there being no other claims or liens against such products by or on behalf of other creditors of the dealer. Such repurchase shall not constitute a waiver of the dealer's other rights and remedies under this article.

B. The distributor shall accept the designee of the dealer as the successor in interest to **his THE DISTRIBUTOR'S** rights and obligations under a franchise agreement if:

1. Prior to **his THE DEALER'S** death, the dealer notifies the distributor of the designation of **his THE DEALER'S** surviving spouse or child as **his THE DEALER'S** successor in interest.

2. At the time of **his THE DEALER'S** death, the surviving spouse or adult child meets the reasonable qualifications required of dealers by the distributor for the operation of service stations.

44-1602. Requirements of dealers of precious items; violation; classification

B. Before making a purchase, a dealer shall require the person from whom **he THE DEALER** is purchasing to identify **himself THEMSELVES** with a valid motor vehicle operator's license, valid motor vehicle nonoperating identification license, valid armed forces identification card or other valid photo identification sufficient to verify the information required pursuant to subsection A of this section.

C. Each dealer shall, at least once each week in which **he THE DEALER** makes a purchase, make out and deliver to the local law enforcement agency a true, complete and legible list of all items purchased during the period since the last report. The dealer shall use local law enforcement agency forms to meet the requirements of this subsection if such forms are issued by the local law enforcement agency. The list shall include:

44-1623. Sale of pledged goods

A. A pawnbroker shall not sell any items pledged to **him** THE PAWNBROKER as security for a pawn transaction until at least the day after the maturity date.

44-1624. Pawn transactions; reportable transactions

D. Before entering into a pawn transaction or good faith outright purchase of tangible personal property a pawnbroker shall require the pledgor or seller to identify **himself** THEMSELVES with an identification document sufficient to verify the information required pursuant to 44-1625.

44-1625. Report to sheriff

C. The report form provided or approved by the sheriff or **his** THE SHERIFF'S designee shall include at least all of the following:

44-1629. Fees; penalty

C. A licensee who fails to renew **his** THEIR license within thirty days after the payment of the license fee is due is subject to a penalty of ten per cent of the license fee which is payable with the license fee.

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that "sex" included "gender" but that does not mean that "gender" includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that "sex" discrimination includes "gender" but "gender" does not include "sex" under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove "sex."

44-1642. Records of purchase; transaction limitations; age requirement for scrap metal seller; exception

A. Every scrap metal dealer shall keep on the business premises a book or other similar record legibly printed or written in ink, in the English language of each transaction involving the receipt of scrap metal. The record of each receipt of scrap metal shall include the following information:

4. Except as otherwise provided in this paragraph, the seller's name, physical description including **SEX**, gender, height, weight, race and eye and hair color, physical address, date of birth and signature and a photocopy of a current driver license, nonoperating identification license issued pursuant to 28-3165 or photo identification card issued by a tribal government or the United States military. The scrap metal dealer must validate the recorded information by using the seller's current driver license, nonoperating identification license issued pursuant to 28-3165 or photo identification card issued by a tribal government or the United States military. This paragraph does not apply to a seller who is exclusively selling aluminum beverage containers.

B. The record and entries shall be retained in a book or similar record at the business premises for one year after making the final entry of any transaction and shall be retained either at the business premises or any other reasonably available location for an additional year. A scrap metal dealer's business premises, business records relating to scrap metal transactions, including a book or similar record prescribed by this section, and business inventory shall be open during regular business hours for

reasonable inspection by a peace officer. Before an inspection shall take place a peace officer shall first identify **himself THEMSELVES** and the purpose for the inspection to the scrap metal dealer, dealer's manager or other responsible person and comply with all reasonable and customary safety requirements of that scrap metal dealer for the business premises inspected. The scrap metal dealer may require the peace officer to sign an inspection log that includes the officer's name and serial or badge number and the time, the date and the purpose for the inspection.

44-1642.01. Prohibited scrap metal transactions; exceptions; violation; classification

A. A scrap metal dealer shall not knowingly purchase the following types of scrap metal:

1. Metal **manhole MAINTENANCE** covers that are used to cover street or alley service personnel access entrances to municipal sewers and storm drains.

44-1655. Making or offering to make future contract; classification; defense

A. A person who makes or offers to make for **himself THEMSELVES** a future contract is guilty of a class 3 misdemeanor.

B. It may be shown in defense of a prosecution under this section that the transaction out of which the prosecution arose was a "hedging" contract between parties in this state and parties without the state, and if such contract was made wholly or in part by a message sent by telegraph or telephone, that such message was delivered to the person sending it by the defendant **himself**, and not through or by any broker or agent, and that the person rendering the service was a common carrier, exclusively engaged as a common carrier with no connection with or interest in such transaction other than the transmission of the message and receiving the charges therefor which are not in excess of the usual rate for commission messages between the points of transmission and receipt of such message.

44-1660. Compulsory testimony regarding futures or bucket shops; prosecution of witness prohibited

No person is exempt from testifying concerning any offense set forth or prohibited by this article on the ground that such testimony may incriminate **him THE PERSON**, but no prosecution may afterwards be had against **him THE PERSON** for any offense concerning which **he THE PERSON** testified.

44-1676. Fee and bond

B. The bond shall run to the state of Arizona and shall be conditioned that it is for the use or benefit of the person who may be damaged by the violation of any provision of this article by the licensee, **his THEIR** employees or agents, or who may have the cause of action against said licensee, **his THEIR** employees or agents by reason of any matters arising out of the conduct of the auction. Any such person shall have, in addition to any other right of action which **he THE PERSON** may have, a right of action on the bond for all damages not exceeding one thousand dollars, and the aggregate liability of the surety upon the bond for all claims which may arise thereunder shall not exceed the sum specified in the bond.

44-1680. Representation of articles

At an auction held under the provisions of this article, the licensee and ~~his~~ THEIR employees and agents shall represent to the public the true manufacture, quality and kind of articles to be sold. Upon request of any person, a copy of the inventory shall be shown.

44-1683. Licensee's responsibility

The licensee shall be responsible for compliance with the provisions of this article whether ~~he~~ THE LICENSEE is present at or absent from the auction.

44-1684. Sale of articles described falsely

No article shall be sold at auction which has been falsely described or concerning which any false statement has been made by the licensee or ~~his~~ THE LICENSEE'S employee or agent.

44-1691. Definitions

In this chapter, unless the context otherwise requires:

3. "Consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (a) credit or insurance to be used primarily for personal, family, or household purposes, or (b) employment purposes, or (c) other purposes authorized under 44-1692. The term does not include any report containing information solely as to transactions or experiences between the consumer and the person making the report; or any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys ~~his~~ THEIR decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made.

44-1693. Access to reports by a consumer

A. Upon furnishing adequate credentials by a consumer as to ~~his~~ THE CONSUMER'S identity:

B. A consumer reporting agency shall provide trained personnel to disclose the contents of its file to consumers during normal business office hours and assist a consumer in fully understanding all items on ~~his~~ THEIR consumer report.

C. The consumer shall be permitted to be accompanied by one other person of ~~his~~-THE CONSUMER'S choosing, who shall furnish reasonable identification, at such time as the consumer reviews the files of the consumer reporting agency as provided in this section.

D. No consumer reporting agency nor any creditor, licensing agency or employer shall request or require any waiver of rights by any consumer. No consumer reporting agency nor any creditor or any other person shall charge any fee to a consumer for a disclosure of ~~his~~-THE CONSUMER'S file if

within a thirty-day period prior to the request for a disclosure the consumer is denied credit, licensure, employment or received a notice of collection or received other adverse action due to the credit report. Except as provided for in this subsection, a consumer reporting agency may charge a reasonable fee for any disclosures of a file to the consumer or ~~his~~ THE CONSUMER'S designee.

44-1701. Definitions

In this article, unless the context otherwise requires:

2. "Credit services organization" means a person who, with respect to the extension of credit by others, sells, provides, performs or represents that ~~he~~ THE PERSON can or will sell, provide or perform any of the following services in return for the payment of monies or other valuable consideration:

44-1702. Exemptions

This article does not apply to:

4. A person licensed to practice law in this state if the person renders services within the course and scope of ~~his~~ THEIR practice as an attorney at law.

44-1733. Sale or contract for sale of interest in pyramid promotional scheme voidable

Any purchaser in a pyramid promotional scheme may, notwithstanding any agreement to the contrary, declare the related sale or contract for sale void, and ~~he~~ may bring an action in a court of competent jurisdiction to recover the consideration ~~he~~ paid to participate in the scheme. In such action the court shall, in addition to any judgment awarded to the plaintiff, require the defendant to pay interest, reasonable attorneys' fees and the costs of the action, less any money paid to the plaintiff as profit in the transaction.

44-1746. Relief from payment

A. Every contract for dance studio lessons and other services shall contain a clause providing that if, by reason of death or disability, the customer is unable to receive all lessons and other services for which the customer has contracted, the customer or ~~his~~ THE CUSTOMER'S estate shall be relieved from the obligation of making payment for lessons and other services other than those received prior to death or the onset of disability. If the customer has prepaid any sum for lessons and other services so much of such sum as is allocable to lessons and other services the customer has not taken shall be promptly refunded to the customer or ~~his~~ THE CUSTOMER'S legal representative. Any dance studio contract terminated under the provisions of this section may provide for a servicing fee not to exceed ten per cent, less interest or finance charges, of the remaining balance of the contract.

44-1797. Definitions

A. In this article, unless the context otherwise requires:

3. "Discount buying organization" or "organization" means a person, corporation, unincorporated association or other organization that, for a consideration, provides or purports to provide its clients or

the clients or members of any other discount buying organization with the ability to purchase goods or services at discount prices, except that such organization does not include:

(b) A discount buying organization in which a person receives incidental discount buying services as part of a package of services provided to or available to such person on account of **his** membership in such organization, which is not organized for the profit of any person or corporation and which does not have as one of its primary purposes or businesses the provision of discount buying services.

44-1797.04. Disclosures by buying organization; nature of services; listing of items; warranties or guarantees; charges; criminal or civil actions

C. The attorney general may disclose to the public information disclosed to **him** **THE ATTORNEY GENERAL** under subsection B.

44-1797.05. Written contract; contents

A. Each contract for discount buying services shall be in writing and is subject to the provisions of this article. The address of the seller's discount buying facility and the residence address of the buyer shall be clearly indicated on the face of the contract. A copy of the written contract shall be given to the buyer at the time **he** **THE BUYER** signs the contract. All blank spaces in the contract shall be filled in before the contract is signed by the buyer. Provisions or terms written by hand on the buyer's copy shall be legible. The contract shall be specific as to the period of time for which the discount buying services will be available to the buyer. This time period shall not be measured by the life of the buyer.

44-1797.10. Receipt of payment or monies; delivery or availability of goods; time; refund; trust account; deposits and withdrawals

A. Each contract for discount buying services shall provide that if any goods ordered by the buyer from the seller are not delivered to the buyer or available for pickup by the buyer at a location within **his** **THE BUYER'S** county of residence within one hundred twenty days from the date the buyer placed an order for such goods, any monies paid by the buyer for such goods in advance of delivery shall, on the buyer's request, be fully refunded unless a predetermined delivery date has been furnished to the buyer in writing at the time **he** **THE BUYER** ordered such goods and the goods are delivered to the buyer or are available for pickup by that date or if the buyer has waived **his** **THE BUYER'S** right to a refund in writing.

44-1797.13. Misrepresentation; contract void and unenforceable

Any untrue or misleading information, representation, notice, material omission or advertisement of the seller which has been received by or made to the buyer before **he** **THE BUYER** signs a contract for discount buying services renders the contract for discount buying services void and unenforceable by the seller. No seller may make or disseminate such information, representations, notices, material omissions or advertisements.

44-1799.21. Casket sales; price disclosure; definition

D. For the purposes of this section, “casket” means a rigid container that is designed for the permanent encasement of human remains and that is usually constructed of wood, metal or ~~man-made-~~ MANUFACTURED substances and ornamented or lined with fabric.

44-1801. Definitions

In this chapter and chapter 13 of this title, unless the context otherwise requires:

10. “Dealer”:

(a) Means a person who directly or indirectly engages full-time or part-time in this state as agent, broker or principal in the business of offering, buying, selling or otherwise dealing or trading in securities issued by another person, and who is not a ~~salesman~~ SALESPERSON for a registered dealer or is not a bank or savings institution the business of which is supervised and regulated by an agency of this state or the United States.

21. “Registered ~~salesman~~ SALESPERSON” means a ~~salesman~~ SALESPERSON registered under this chapter.

23. “~~Salesman~~ SALESPERSON” means an individual, other than a dealer, employed, appointed or authorized by a dealer to sell securities in this state. The partners or executive officers of a registered dealer shall not be deemed ~~salesmen~~ SALESPERSONS within the meaning of this definition.

44-1842. Transactions by unregistered dealers and ~~salesmen~~ SALESPERSONS prohibited; classification

A. It is unlawful for any dealer to sell or purchase or offer to sell or buy any securities, or for any ~~salesman~~ SALESPERSON to sell or offer for sale any securities within or from this state unless the dealer or ~~salesman~~ SALESPERSON is registered as such pursuant to the provisions of article 9 of this chapter.

44-1848. Registration of dealers and ~~salesmen~~ SALESPERSONS dealing with certain exempt securities or engaging in certain exempt transactions; exemptions

A. A dealer or ~~salesman~~ SALESPERSON who engages in transactions involving variable contracts, which are exempt under section 44-1843, subsection A, paragraph 4, must register with the commission pursuant to article 9 of this chapter.

B. Notwithstanding any other law, the commission may by rule require that any dealer or ~~salesman~~ SALESPERSON who engages in transactions involving securities exempt under section 44-1843, subsection A, paragraph 1, 7 or 9, who engages in transactions involving securities issued by a nonprofit organization which is engaged in, intends to engage in, controls, finances, or lends funds or property to other entities engaged in the construction, operation, maintenance or management of a hospital, sanitarium, rest home, clinic, medical hotel, mortuary, cemetery, mausoleum or other similar facilities or who engages in transactions described in section 44-1844, subsection A, paragraph 1, 4, 11 or 18 or section 44-1845 shall be registered under article 9 of this chapter.

C. Any rule adopted pursuant to this section shall require registration of a dealer or **salesman SALESPERSON** engaged in transactions described in section 44-1844, subsection A, paragraph 1 only if such dealer or **salesman SALESPERSON** is engaged principally and primarily in the business of making a series of private offerings. For the purposes of this subsection, “series” means in excess of four private offerings in any consecutive twelve-month period.

44-1850. Viatical or life settlement investment contracts

A. Section 44-1841 does not apply to viatical or life settlement investment contracts if either:

2. All of the following apply:

D. The commission may deny or revoke an exemption pursuant to subsection A of this section. A denial or revocation of the exemption is effective on the date the commission signs the notice of denial or revocation. The commission may deny or revoke the exemption if the commission finds any of the following:

6. The issuer has knowingly retained a **salesman SALESPERSON** after notice that the **salesman SALESPERSON** has committed an offense under this chapter or has been convicted of an offense or is subject to an order or judgment as described in subsection E of this section.

44-1861. Fees; deposit; abandonment

A. By the affirmative vote of at least four commissioners, the commission may establish by rule an annual fee for the registration of a dealer or a **salesman SALESPERSON**. The fee shall be remitted on or before the last working day of December, and the commission shall deposit the fee, pursuant to sections 35-146 and 35-147, in the securities regulatory and enforcement fund established by section 44-2039.

D. By the affirmative vote of at least four commissioners, the commission may establish by rule a transfer fee for a **salesman SALESPERSON** transferring the **salesman’s SALESPERSON’S** registration from one registered dealer to another registered dealer. The commission shall deposit the fee, pursuant to sections 35-146 and 35-147, in the securities regulatory and enforcement fund established by section 44-2039.

K. An application for registration of securities or registration of a dealer or **salesman SALESPERSON** or an incomplete notice filing is deemed abandoned if both:

44-1873. Recording of registration; effective date of registration; renewal; eligibility of registered securities for sale

C. When registered by description as provided in this section, the securities may be sold in this state by any registered dealer or by any registered **salesman SALESPERSON** employed by a registered dealer.

44-1921. Denial of registration by qualification

Except as provided in section 44-1901, the commission may enter an order denying the registration of any securities to be registered by qualification, if, after a hearing or notice and opportunity for hearing as provided by article 11 of this chapter, it finds that:

2. The issuer or any dealer or **salesman SALESPERSON** designated to engage in the sale of the securities has violated any provision of this chapter, or any rule or order of the commission thereunder.

44-1942. Power of commission or director to require filing of additional information

The commission or the director may require submission of additional information as to applicant's previous history, record or business experience as deemed necessary to determine whether applicant should be registered as a dealer or **salesman SALESPERSON**.

44-1945. Application for registration as **salesman SALESPERSON; filing; contents; exemptions**

A. Any individual may apply for registration as a **salesman SALESPERSON**. An application for registration as a **salesman SALESPERSON** shall be signed by the applicant and by the registered dealer employing or intending to employ the applicant and shall be duly verified by oath. The application accompanied by the registration fee prescribed by section 44-1861, subsection A shall be filed with the commission and shall include the following, together with other information the commission prescribes:

5. A statement showing whether the applicant has been registered as a dealer in or **salesman SALESPERSON** of securities under laws of other states or as a broker or dealer under the securities exchange act of 1934 and whether or not such registration has been denied, cancelled, suspended or revoked and, if so, a complete statement of the facts with respect to the denial, cancellation, suspension or revocation.

B. By rule or order, the commission may provide limited registration requirements for any **salesman SALESPERSON** or class of **salesmen SALESPERSONS** or exempt any **salesman SALESPERSON** or class of **salesmen SALESPERSONS** from registration under this article if the commission determines that registration is not necessary to protect the public interest due to the special characteristics of the securities or transactions in which the **salesman SALESPERSON** or class of **salesmen SALESPERSONS** is involved.

C. Any **salesman SALESPERSON** effecting transactions in this state limited solely to those transactions described in sections 15(h)(2) and (3) of the securities exchange act of 1934 is exempt from registration under this article.

44-1946. Registration in register of dealers and **salesmen SALESPERSONS of applicant complying with requirements**

A. If an applicant has fully complied with the provisions of this article and the rules of the commission thereunder the director shall register the applicant as a **salesman SALESPERSON** in a register of dealers and **salesmen SALESPERSONS**, unless the commission finds cause for denial as provided for in article 10 of this chapter.

B. When the director has registered an applicant as a **salesman SALESPERSON** THE DIRECTOR shall promptly notify the applicants of the registration by mail or by the CRD system.

44-1948. Reporting requirements of dealers and ~~salesmen~~ SALESPERSONS; real property records

A. Dealers and ~~salesmen~~ SALESPERSONS shall retain registration by filing:

B. Dealers shall maintain files in connection with transactions involving real property investment contracts that include listings, deposit receipts, cancelled checks, copies of contracts, agreements and sellers' statements, documents concerning appraisals and credit investigations and all other correspondence relating to the purchase and sale of real property investment contracts. Dealers shall maintain books, records and accounts in conformity with generally accepted accounting principles, showing the receipt and disbursement of funds received by dealers and ~~salesmen~~ SALESPERSONS in connection with the purchase and sale of real property investment contracts. Dealers shall maintain files and records relating to transactions involving real property investment contracts for five years from the date the registration expires. The files and records are subject to inspection at all times by authorized representatives of the commission.

44-1949. Duty of dealer to give notice of termination of employment of ~~salesman~~ SALESPERSON; automatic suspension of ~~salesman's~~ SALESPERSON'S registration; notice of employment of ~~salesman~~ SALESPERSON

Each registered dealer shall promptly notify the director of the termination of the employment of a registered ~~salesman~~ SALESPERSON. The registration of the ~~salesman~~ SALESPERSON shall automatically be suspended from the time of termination of the employment until the ~~salesman~~ SALESPERSON is again employed by a registered dealer and the director is notified by the dealer in writing or by the CRD system, and the registered dealer is notified of approval of the registration by the director or the CRD system or the ~~salesman~~ SALESPERSON has complied with all requirements in accordance with a temporary agent transfer program utilized by the CRD system and the commission.

44-1950. Active military duty; compensation

A ~~salesman~~ SALESPERSON who is registered under this chapter and who is a member of the Arizona national guard, the United States armed forces reserves or the regular component of the United States armed forces shall remain eligible to receive compensation for transactions under this chapter while the ~~salesman~~ SALESPERSON is on federal active duty or while temporarily with a disability following federal active duty if the ~~salesman's~~ SALESPERSON'S registration is in approved status or has been placed in a specially designated inactive status by the financial industry regulatory authority.

44-1961. Grounds for denial, revocation or suspension of dealer registration; administrative remedies

A. After a hearing or notice and opportunity for a hearing as provided in article 11 of this chapter, the commission may enter an order suspending for a period of not to exceed one year, denying or revoking the registration of a dealer if the commission finds that:

7. The dealer has knowingly retained a **salesman SALESPERSON** after notice that the **salesman SALESPERSON** has committed an offense under this chapter.

12. The dealer has failed to reasonably supervise its **salesmen SALESPERSONS**.

44-1962. Grounds for denial, revocation or suspension of registration of **salesman SALESPERSON; administrative remedies**

A. After a hearing or notice and opportunity for a hearing as provided by article 11 of this chapter, the commission may enter an order suspending for a period of not to exceed one year, denying or revoking the registration of a **salesman SALESPERSON** if the commission finds that:

1. The application for registration of the **salesman SALESPERSON**, any statement, document or other exhibit filed with the application or any supplement or amendment to the application is incomplete, inaccurate or misleading.

2. The **salesman SALESPERSON** has violated this chapter or any rule or order of the commission under this chapter.

3. The **salesman SALESPERSON** has failed to file with the commission any record, report or other information required under this chapter or any rule or order of the commission under this chapter or has refused to permit an examination into **his THEIR** affairs.

4. The **salesman SALESPERSON** is lacking in integrity, is not of good business reputation or is not qualified by training or experience.

5. The **salesman SALESPERSON** is not employed by a registered dealer.

6. The **salesman SALESPERSON** has been convicted within ten years preceding the date of filing the application for registration as a **salesman SALESPERSON**, or at anytime thereafter, of a felony or misdemeanor involving a transaction in securities, of which fraud is an essential element or arising out of the conduct of any business in securities.

7. The **salesman SALESPERSON** is permanently or temporarily enjoined by order, judgment or decree of an administrative tribunal or a court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the sale or purchase of securities.

8. The **salesman SALESPERSON** is subject to an order of an administrative tribunal, an SRO or the SEC denying, suspending or revoking membership or registration as a broker or dealer in securities or an investment adviser or investment adviser representative for at least six months.

9. The **salesman SALESPERSON** has been guilty of any fraudulent act or practice in connection with the purchase or sale of securities.

10. The **salesman SALESPERSON** has engaged in dishonest or unethical practices in the securities industry.

11. The **salesman SALESPERSON** has failed to reasonably supervise **salesmen SALESPERSONS** under the **salesman's SALEPERSON'S** supervisory control.

12. The **salesman SALESPERSON** has engaged in dishonest or unethical practices in business or financial matters.

B. In addition to denying, revoking or suspending the registration, if the commission finds that a **salesman SALESPERSON** has engaged in an act, practice or transaction described in subsection A, paragraph 10 or 11, the commission may do one or more of the following:

1. Assess administrative penalties.

2. Order the **salesman SALESPERSON** to cease and desist from engaging in the act, practice or transaction or doing any other act in furtherance of the act, practice or transaction.

C. If the registration of a **salesman SALESPERSON** is revoked or denied, that **salesman SALESPERSON** may not file with the commission an application for registration under this chapter or for licensure under chapter 13 of this title for at least one year after the date of the revocation or denial.

44-1963. Entry of order of denial, revocation or suspension

A. If, after A hearing or notice and opportunity for A hearing as provided by article 11 of this chapter, the commission finds grounds to deny, revoke or suspend the registration of a dealer or **salesman, SALESPERSON** the director shall enter an order in the register of dealers and **salesmen- SALESPERSONS** denying, revoking or suspending the registration of the dealer or **salesman SALESPERSON**. The order shall state specifically the grounds for its issuance.

B. A copy of the order shall be sent by certified mail to the dealer or **salesman SALESPERSON** whose registration is denied, revoked or suspended and, if the denial, revocation or suspension of the registration is of a **salesman SALESPERSON**, to the registered dealer who employs the **salesman SALESPERSON**.

C. Denial, suspension or revocation of the registration of a dealer shall also suspend or revoke the registration of all of the dealer's **salesmen SALESPERSONS**, but suspension or revocation of the registration of a **salesman SALESPERSON** solely because the **salesman SALESPERSON** was employed by a dealer whose registration was denied, suspended or revoked shall not prejudice subsequent applications for registration by the **salesman SALESPERSON**.

D. A dealer or **salesman SALESPERSON** that has voluntarily terminated or allowed the dealer's or **salesman's SALEPERSON'S** registration to lapse continues to be subject to actions by the commission under this article in connection with conduct that began before the termination or lapse of the registration. The commission shall begin any action under this article against the dealer or **salesman SALESPERSON** within two years after the termination or lapse of the registration.

44-1964. Temporary suspension orders

A. If the commission has reasonable grounds to believe that a registered dealer or **salesman SALESPERSON** has been guilty of any act or omission which would be sufficient ground for denying or revoking the registration of the dealer or **salesman SALESPERSON**, it may enter an order temporarily suspending the registration of the dealer or **salesman SALESPERSON** pending an examination into **his THE SALESPERSON'S AFFAIRS**, or pending a hearing or notice and opportunity for hearing as provided by article 11 of this chapter, but no temporary suspension order shall be effective for more than thirty days except with consent of the registrant. The suspension order shall state specifically the grounds for its issuance.

B. On entry of the temporary suspension order, or of an order withdrawing a temporary suspension order previously entered, the director shall send a copy of the order, by certified mail, to the dealer or **salesman SALESPERSON** whose registration is affected at the dealer's or **salesman's SALESPERSON'S** business address, and, if the order affects the registration of a **salesman SALESPERSON**, to the registered dealer who employs the **salesman SALESPERSON**.

44-1971. Initiation of hearing; purpose of hearing

Hearings may be ordered by the commission on the commission's own initiative or at the written request of any interested person:

4. To determine whether the registration of any securities or of any dealer or **salesman SALESPERSON** should be denied, suspended or revoked.

44-1972. Notice of and opportunity for hearing; time of hearing

B. Before entering an order denying, revoking or suspending except temporarily the registration of a dealer or **salesman SALESPERSON** as provided in article 10 of this chapter, the commission shall send to the dealer or **salesman, SALESPERSON**, and, if a **salesman SALESPERSON**, to the registered dealer who employs or intends to employ the **salesman SALESPERSON**, a notice of hearing or notice of opportunity for a hearing.

44-1994. Misrepresentation of effect of registration of dealers or **salesmen SALESPERSONS**

Neither the fact that a dealer or **salesman SALESPERSON** is registered under article 9 of this chapter, nor the fact that the registration of the dealer or **salesman SALESPERSON** has not been denied, suspended or revoked shall be deemed a finding by the commission or by the director that the dealer or **salesman SALESPERSON** is of good business reputation, or is not lacking in integrity, or is not insolvent, or that the application for registration of the dealer or **salesman SALESPERSON**, or any financial statement, document or exhibit filed therewith is true or accurate, or does not contain untrue statements of material facts or omit material facts. It is a fraudulent practice and unlawful for a dealer or **salesman SALESPERSON** in connection with any transaction involving the purchase or sale of securities to make a statement or other representation contrary to this section.

44-2003. Joint and several liability; proportionate liability; determination of responsibility; uncollectible share; settlement discharge; limitation on actions; definitions

A. Subject to the provisions of this section, an action brought under section 44-2001, 44-2002 or 44-2032 may be brought against any person, including any dealer, **salesman SALESPERSON** or agent, who made, participated in or induced the unlawful sale or purchase, and such persons shall be jointly and severally liable to the person who is entitled to maintain such action. No person shall be deemed to have participated in any sale or purchase solely by reason of having acted in the ordinary course of that person's professional capacity in connection with that sale or purchase.

44-2034. Evidence of registration or notice filing; lack of registration or notice filing

A certificate signed by the **chairman CHAIR** or a member of the commission or by the director and under seal of the commission showing that a notice filing has or has not been filed pursuant to article 4 of this chapter or chapter 13, article 12 of this title or that securities have or have not been registered by description as provided in article 6 of this chapter or registered by qualification as provided by article 7 of this chapter, or that a dealer or **salesman SALESPERSON** has or has not been registered as provided in article 9 of this chapter, shall constitute evidence of the facts so certified and shall be admissible in evidence in any civil or criminal action or proceeding in which the question of such notice filing or registration may be at issue.

44-2035. Evidence of record of proceedings

A certificate signed by the **chairman CHAIR** or any member of the commission or by the director, and under seal of the commission, in regard to the record of any proceeding under this chapter for denial, revocation or suspension of the registration of securities or the registration of any dealer or **salesman SALESPERSON** shall constitute evidence of such record and shall be admissible in any proceeding, civil or criminal, in which such record may be at issue.

44-3101. Definitions

In this chapter, unless the context otherwise requires:

5. "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing or selling securities or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. Investment adviser includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. Investment adviser does not include:

(f) A real estate salesperson or real estate broker who is licensed or authorized by the state real estate department to transact the business of real estate, whose performance as an investment adviser is solely incidental to the conduct of the individual's business as a broker or **salesman SALESPERSON** and who receives no special compensation for providing investment advisory services.

44-5001. Definitions

In this chapter, unless the context otherwise requires:

1. “Home solicitation sale” means a sale of goods or services in which the seller or ~~his~~ THE SELLER’S representative personally solicits the sale and the buyer’s agreement or offer to purchase is made at a home other than that of the person soliciting the same and that agreement or offer to purchase is there given to the seller or ~~his~~ THE SELLER’S representative and all or any part of the purchase price is payable in installments, or a debt incurred for payment of the purchase price is payable in installments. A sale which otherwise meets the definition of a home solicitation sale, except that it is a cash sale, shall be deemed to be a home solicitation sale if the seller makes or provides a loan to the buyer or obtains or assists in obtaining a loan for the buyer to pay the purchase price. A sale is not a “home solicitation sale” if it is pursuant to a preexisting account with a seller whose primary business is that of selling goods or services at a fixed location or if it is a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.

44-5007. Buyer responsibility; services

A. Except as provided in subsection C of section 44-5006, within twenty days after a home solicitation sale has been canceled, the buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale, but ~~he~~ THE BUYER is not obligated to tender at any place other than ~~his~~ THE BUYER’S own address. If the seller fails to take possession of such goods within twenty days after cancellation the goods shall become the property of the buyer without obligation to pay for them.

B. The buyer shall take reasonable care of the goods in ~~his~~ THE BUYER’S possession both prior to cancellation and during the following twenty-day period. During the twenty-day period after cancellation, except for the buyer’s duty of care, the goods are at the seller’s risk.

D. The buyer may not cancel a home solicitation sale if ~~he~~ THE BUYER requests the seller to provide goods or services without delay because of an emergency and the seller in good faith makes a substantial beginning of performance before notice of cancellation, and the goods cannot be returned to the seller in substantially as good condition as when the buyer received them.

44-5501. Restrictions

B. Notwithstanding any agreement to the contrary, if the seller or ~~his~~ assignee retakes goods which were the subject of the sale, the buyer shall not be personally liable for the unpaid balance of the price if the sales price were one thousand dollars or less. If the fair market value of retaken goods exceeds the unpaid balance, the buyer shall be entitled to the difference between the unpaid balance, after first deducting all unearned finance charges, and the fair market value of the goods at the time of retaking, less the seller’s or assignee’s reasonable costs and expenses as provided in title 47, chapter 9, article 6. However, the buyer may be liable in damages to the seller or ~~his~~ assignee if the buyer has wrongfully damaged the collateral or if, after default and demand, the buyer has wrongfully failed to make the collateral available to the seller or ~~his~~ assignee.

C. Neither the seller of consumer goods or services nor ~~his~~ assignee may take any other security for a consumer credit sale other than (1) a security interest in goods sold or as to which services have been rendered and (2) in the realty to which such goods may be affixed. If the seller or assignee elects not to

retake the goods, but brings an action for the unpaid balance, the goods may not thereafter be retaken and are not subject to judicial process to enforce any judgment obtained therein.

44-6002. Retail installment contracts; retail charge account agreements; definitions

F. The seller or holder may also charge a late payment or delinquency charge, in addition to all finance charges permitted, on each installment not paid in full upon the tenth day after its due date in an amount not to exceed five dollars on an installment of twenty-five dollars or less and ten dollars on an installment greater than twenty-five dollars. As an alternative, if a seller or holder does not charge, collect or receive a finance charge as permitted in this chapter, ~~he~~ **THE SELLER OR HOLDER** is entitled to charge, collect and receive a delinquency charge determined by applying any rate of interest to the delinquent balance if such interest charge is provided for in the retail charge account agreement.

44-6004. Assignment or transfers

D. Unless the buyer has notice of the assignment of ~~his~~ **THE** retail installment contract, retail charge account agreement or any outstanding balance under either, payment made by the buyer to the holder last known to ~~him~~ **BUYER** is binding upon all subsequent holders.

TITLE 45 Waters



All revisions are necessary due to exclusionary use of male pronouns.

45-101. Definitions

In this title, unless the context otherwise requires:

7. “Riparian area” means a geographically delineated area with distinct resource values, that is characterized by deep-rooted plant species that depend on having roots in the water table or its capillary zone and that occurs within or adjacent to a natural perennial or intermittent stream channel or within or adjacent to a lake, pond or marsh bed maintained primarily by natural water sources. Riparian area does not include areas in or adjacent to ephemeral stream channels, artificially created stockponds, **man-made ARTIFICIAL** storage reservoirs constructed primarily for conservation or regulatory storage, municipal and industrial ponds or **man-made ARTIFICIAL** water transportation, distribution, off-stream storage and collection systems.

45-110. Duties of superintendent; injunctive relief of injured water user

A. The superintendent of each water district shall:

1. Divide the water of the sources of supply of **his THE** district among the several ditches and reservoirs taking water therefrom, and among the laterals and ditches according to the rights of each.
2. Shut and fasten the head gates of ditches, and regulate the controlling works of reservoirs in time of scarcity of water as is necessary by reason of the rights existing from the supply of **his THE** district.

4. As far as practicable, divide, regulate and control the use of waters in **his THE** district by closing head gates to prevent the waste of water or its use in excess of the volume to which the owner of the right is lawfully entitled.

B. When the superintendent regulates a head gate to a ditch or the controlling works of reservoirs, **he THE SUPERINTENDENT** shall attach to the head gate or controlling works a written notice, dated and signed, stating that the head gate or controlling works has been regulated by **him THE SUPERINTENDENT** and is wholly under **his THE SUPERINTENDENT'S** control, and the notice shall be legal notice to all parties interested in the division and distribution of the water of the ditch or reservoir.

45-113. Fees; refunds

B. Except as otherwise prescribed, the director may establish by rule and collect fees for applications, certificates, licenses and permits relating to surface water, groundwater, water exchanges, wells, **grandfathered PREEXISTING** rights, substitution of acres, adequate and assured water supply, groundwater oversupply and lakes and for inspections relating to dam safety.

45-133. Permit for interim water use; application; fee; surcharge on use of groundwater

A. A person otherwise subject to the prohibitions of section 45-132 may use groundwater withdrawn pursuant to a type 1 or type 2 non-irrigation **grandfathered PREEXISTING** right or water other than groundwater to fill or refill all or a portion of a body of water until sufficient effluent is available to fill or refill the body of water if the person applies for and obtains a permit for interim water use from the director. The director may issue a permit if the applicant demonstrates to the satisfaction of the director that all of the following apply:

45-151. Right of appropriation; permitted uses; water rights in stockponds

A. Any person, the state of Arizona or a political subdivision thereof may appropriate unappropriated water for domestic, municipal, irrigation, stock watering, water power, recreation, wildlife, including fish, nonrecoverable water storage pursuant to section 45-833.01 or mining uses, for **his** personal use or for delivery to consumers. The person, the state of Arizona or a political subdivision thereof first appropriating the water shall have the better right.

45-159. Conditions of acceptance of permit

An applicant accepts a permit to appropriate water upon the condition that no value in excess of the amount paid to the state shall be claimed for the permit or for the rights so acquired when a public authority is regulating or fixing the rate or charges of the services to be rendered by the permittee, **his THE PERMITTEE'S** successors or assigns, or when the state, county, city, town, municipal water or irrigation district, or any political subdivision of the state, is seeking to acquire the rights and property of the permittee, **his THE PERMITTEE'S** successors or assigns.

45-174. Using bed of stream as carrier of reservoir waters

When the owner of a reservoir desires to use the bed of a stream or other watercourse for the purpose of carrying water from the reservoir to the consumer, **he THE OWNER** shall in writing notify the water

superintendent of the district in which the water is to be used, giving the date when it is desired to discharge water from the reservoir, its volume, and the names of all persons and ditches entitled to its use. The superintendent shall supervise the opening of the reservoir gates and close or adjust the head gates of all ditches from the watercourse not entitled to the use of the stored water so that persons having the right will receive the water to which they are entitled.

45-402. Definitions

In this chapter, unless the context otherwise requires:

6. “Convey” means to transfer the ownership of a **grandfathered PREEXISTING** right from one person to another.

12. “**grandfathered PREEXISTING** right” means a right to withdraw and use groundwater pursuant to article 5 of this chapter based on the fact of lawful withdrawals and use of groundwater prior to the date of the designation of an active management area.

13. “**grandfathered PREEXISTING** basin” means an area which, as nearly as known facts permit as determined by the director pursuant to this chapter, may be designated so as to enclose a relatively hydrologically distinct body or related bodies of groundwater, which shall be described horizontally by surface description.

19. “Irrigation acre” means an acre of land, as determined in section 45-465, subsection B, to which an irrigation **grandfathered PREEXISTING** right is appurtenant.

21. “Irrigation **grandfathered PREEXISTING** right” means a **grandfathered PREEXISTING** right determined pursuant to section 45-465.

38. “Type 1 non-irrigation **grandfathered PREEXISTING** right” means a non-irrigation **grandfathered PREEXISTING** right associated with retired irrigated land and determined pursuant to section 45-463, 45-469 or 45-472.

39. “Type 2 non-irrigation **grandfathered PREEXISTING** right” means a non-irrigation **grandfathered PREEXISTING** right not associated with retired irrigated land and determined pursuant to section 45-464.

43. “Well” means **a man-made AN ARTIFICIAL** opening in the earth through which water may be withdrawn or obtained from beneath the surface of the earth except as provided in section 45-591.01.

45-411.01. Exemptions from irrigation water duties, conservation requirements for distribution of groundwater and portions of groundwater withdrawal fee for portions of Phoenix active management area; fee; review

A. Each person who is entitled to use groundwater pursuant to an irrigation **grandfathered PREEXISTING** right under article 5 of this chapter on irrigation acres located within the area delineated for exemption under subsection E of this section is exempt, beginning January 1, 1989 through December 31, 2024, from any irrigation water duties or intermediate water duties established or required to be established for those irrigation acres in the management plans for the first, second, third, fourth

and fifth management periods for the Phoenix active management area adopted pursuant to article 9 of this chapter.

G. A person who owns an irrigation **grandfathered PREEXISTING** right appurtenant to ten or fewer irrigation acres located in the exempt area is exempt from the payment of a water duty exemption fee for the acres prescribed by subsection D of this section unless the irrigation acres are part of an integrated farming operation. The exemption provided by this subsection does not apply to the Arlington canal company, the Buckeye water conservation and drainage district or the St. John's irrigation district, or any successor, in any year in which the company or district delivers water to the irrigation acres.

45-452. No new irrigated acreage in active management areas; central Arizona project water; exemption

A. In an initial active management area, except as provided in subsections B, H, I and J of this section and sections 45-172, 45-465.01 and 45-465.02, only acres of land which were legally irrigated at any time from January 1, 1975 through January 1, 1980, which are capable of being irrigated, which have not been retired from irrigation for a non-irrigation use pursuant to section 45-463 or 45-469 and for which the irrigation **grandfathered PREEXISTING** right has not been conveyed for a non-irrigation use, may be irrigated with any groundwater, effluent, diffused water on the surface or surface water, except that this does not prohibit irrigation with surface water used pursuant to decreed or appropriative rights established before June 12, 1980. In an initial active management area, land which was not irrigated at any time from January 1, 1975 through January 1, 1980 is deemed to have been in irrigation if the director finds that either of the following applies:

C. Any acres permanently retired from irrigation pursuant to subsection B of this section relinquish their irrigation **grandfathered PREEXISTING** rights, and such rights are deemed to be appurtenant to the substitute acres. Groundwater withdrawn or received for the irrigation of the substitute acres pursuant to an irrigation **grandfathered PREEXISTING** right shall be reduced by the amount of central Arizona project water received for such acres.

F. The director may reverse the substitution of irrigated acres as provided by subsections B through E of this section under the following conditions and procedures:

4. If the director decides to reverse the substitution of acres:

(a) The originally retired irrigation acres regain their original irrigation **grandfathered PREEXISTING** rights, but groundwater withdrawn or received for the irrigation of those acres pursuant to an irrigation **grandfathered PREEXISTING** right shall be reduced by any amount of central Arizona project water received for such acres.

(b) The substitute acres relinquish all irrigation **grandfathered PREEXISTING** rights that were transferred to them under the original substitution of acres.

G. In a subsequent active management area, except as provided in subsections H, I and J of this section or section 45-172, only acres of land which were legally irrigated at any time during the five years preceding the date of the notice of the initiation of designation procedures or the call for the election, which are capable of being irrigated, which have not been retired from irrigation for a non-irrigation use pursuant to section 45-463 or 45-469 and for which the irrigation **grandfathered PREEXISTING** right has not been conveyed for a non-irrigation use, may be irrigated with groundwater, effluent, diffused

water on the surface or surface water, except that this does not prohibit irrigation with surface water used pursuant to decreed or appropriative rights established before the date of the notice or the call. In a subsequent active management area, land is deemed to have been in irrigation if the director finds that either of the following applies:

H. In an active management area, a state university engaged in the teaching and study of and experimentation in the science of agriculture may irrigate not more than three hundred twenty acres of land for such purposes with not more than five acre-feet of groundwater per acre per year. Water produced from any well pursuant to this subsection shall not be leased, sold or transported off the irrigated land operated by the state university. The right to withdraw and use groundwater pursuant to this subsection does not require a withdrawal permit, is not a **grandfathered PREEXISTING** right, shall not give rise to a **grandfathered PREEXISTING** right and may not be conveyed to any other user.

I. In an active management area, a correctional facility under the jurisdiction of the state department of corrections may irrigate with groundwater, effluent, diffused water on the surface or surface water up to a total of ten acres of land that otherwise may not be irrigated pursuant to subsection A or G of this section if the irrigation is for the purpose of producing plants or parts of plants for consumption by inmates at the correctional facility as part of a prisoner work program and if the correctional facility notifies the director of water resources in writing of the location of the acres of land to be irrigated prior to their irrigation. The actual number of acres of land that a correctional facility may irrigate pursuant to this subsection shall be calculated by subtracting the number of acres of land the correctional facility may already irrigate under subsection A or G of this section from ten. The amount of water that a correctional facility may use during a year to irrigate acres of land pursuant to this subsection shall not exceed an amount calculated by multiplying the number of acres of land that are actually irrigated by the correctional facility during the year pursuant to this subsection, by four and one-half acre-feet of water. The right to withdraw and use groundwater pursuant to this subsection does not require an irrigation **grandfathered PREEXISTING** right, is not a **grandfathered PREEXISTING** right, shall not give rise to a **grandfathered PREEXISTING** right, and may not be conveyed to any other user.

J. During the second management period, acres of land in an active management area which have been retired from irrigation for a non-irrigation use pursuant to section 45-463 or 45-469 or for which the irrigation **grandfathered PREEXISTING** right has been conveyed for a non-irrigation use pursuant to section 45-472 may be irrigated with effluent, other than effluent recovered pursuant to a recovery well permit issued under chapter 3.1 of this title or effluent given or received pursuant to a water exchange under chapter 4 of this title, and shall retain its appurtenant type 1 non-irrigation **grandfathered PREEXISTING** right where the following conditions are met:

4. The owner of the land gives written notice to the director of intention to irrigate the land with effluent and receives written approval from the director before commencing irrigation. The notice shall set forth the legal description of the land to be irrigated, the certificate number of the type 1 non-irrigation **grandfathered PREEXISTING** right appurtenant to the land, the source of effluent and the reasons the effluent cannot be reasonably beneficially used otherwise, and shall be accompanied by a copy of the written consent of the city or town in which the land to be irrigated is located.

L. If a person who may irrigate with effluent land to which a type 1 non-irrigation **grandfathered PREEXISTING** right is appurtenant under subsection J of this section conveys all or a portion of the

land to a successor owner, the successor owner shall not irrigate the land prior to providing written notification to the director of the successor owner's intention to irrigate the land and receiving approval from the director pursuant to subsection J of this section.

45-454. Exemption of small non-irrigation wells; definitions

L. A person who owns land from which exempt withdrawals were being made as of the date of the designation of the active management area is not eligible for a certificate of **grandfathered PREEXISTING** right for a type 2 non-irrigation use for such withdrawals.

45-454.01. Exemption of superfund remedial action activities; use requirements; definition

B. New well construction and withdrawal, treatment and reinjection of groundwater into the aquifer that occur as part of a remedial action relating to metal mining activities or a mitigation order relating to metal mining activities and that are undertaken pursuant to title 49, chapter 2, article 5 for the purpose of preventing the migration of a hazardous or nonhazardous substance are exempt from this chapter, except that:

2. If the groundwater that is withdrawn is not reinjected into the aquifer, the groundwater shall be put to reasonable and beneficial use. If the groundwater is withdrawn within an active management area and is not reinjected into the aquifer, the groundwater shall be put to reasonable and beneficial use within the same active management area as follows:

(a) At the metal mining facility pursuant to a groundwater withdrawal permit issued under section 45-514 or a type 2 non-irrigation **grandfathered PREEXISTING** right issued under section 45-464.

(b) At another location pursuant to a **grandfathered PREEXISTING** right issued under article 5 of this chapter or a service area right under article 6 of this chapter.

45-461. Definitions

In this article, unless the context otherwise requires:

3. "Owner" means:

(a) With respect to an irrigation **grandfathered PREEXISTING** right or a type 1 non-irrigation **grandfathered PREEXISTING** right, the owner of the land to which the right is appurtenant.

(b) With respect to a type 2 non-irrigation **grandfathered PREEXISTING** right, the holder of the certificate of type 2 non-irrigation **grandfathered PREEXISTING** right.

6. "Water duty acres" means the acres of land in a farm, as determined pursuant to section 45-465, subsection B, which are used in calculating the maximum amount of groundwater which may be used pursuant to an irrigation **grandfathered PREEXISTING** right.

45-462. grandfathered PREEXISTING groundwater rights; persons included; certificate of exemption amount is legal use

B. For purposes of determining grandfathered PREEXISTING rights pursuant to this article, a groundwater use shall not be determined to be illegal merely because the groundwater legally withdrawn is or has been transported.

C. The amount of groundwater use described by an application for a certificate of exemption is recognized as a legal use for purposes of determining grandfathered PREEXISTING rights pursuant to section 45-464, subject to any modification as a result of a finding on appeal of a factual mistake by the state land department or Arizona water commission in computing the amount of the authorized withdrawal.

D. The right to withdraw or receive and use groundwater pursuant to this article is a grandfathered PREEXISTING right. There are three categories of grandfathered PREEXISTING rights as follows:

1. Non-irrigation grandfathered PREEXISTING rights associated with retired irrigated land as determined pursuant to sections 45-463, 45-469 and 45-472.
2. Non-irrigation grandfathered PREEXISTING rights not associated with retired irrigated land as determined pursuant to section 45-464.
3. Irrigation grandfathered PREEXISTING rights as determined pursuant to section 45-465.

45-463. Type 1 non-irrigation grandfathered PREEXISTING right associated with retired irrigated land; appurtenancy; ownership

D. The right to withdraw or receive groundwater pursuant to this section is a non-irrigation grandfathered PREEXISTING right associated with retired irrigated land, or a type 1 non-irrigation grandfathered PREEXISTING right.

E. A type 1 non-irrigation grandfathered PREEXISTING right is appurtenant to the acre of retired irrigated land associated with the right, is owned by the owner of the land to which the right is appurtenant and may be leased with the land.

F. At the request of a city or town in the Tucson active management area that holds a type 1 non-irrigation grandfathered PREEXISTING right under subsection A of this section, the director, in determining whether to designate or redesignate the city or town as having an assured water supply pursuant to section 45-576, shall include four and one-half acre-feet of groundwater for each acre of retired irrigated land to which the right is appurtenant, multiplied by the number of years between the year of retirement and the year of the request, minus the quantity of groundwater withdrawn from the land between June 12, 1980 and the year of the request, except that:

4. The city or town, before making the request of the director, shall extinguish any irrigation grandfathered PREEXISTING rights or type 1 non-irrigation grandfathered PREEXISTING rights held by the city or town and appurtenant to land acquired or contracted for by the city or town after June 12, 1980 in the same sub-basin.

45-464. Type 2 non-irrigation grandfathered PREEXISTING right not associated with retired irrigated land; determination of amount; definition; ownership

B. If the calculation in subsection A of this section results in an amount greater than zero, that amount is a grandfathered PREEXISTING right in addition to any right obtained pursuant to section 45-463.

D. If a person has been using groundwater for less than one year during the twelve months immediately preceding the date of the designation of the active management area, the amount of the grandfathered PREEXISTING right pursuant to this section is the annual amount determined by the director to be reasonable for a full year to meet the requirements for a facility owned by such person in existence as of the date of the designation of the active management area.

E. If a person has received a certificate of environmental compatibility pursuant to title 40, chapter 2, article 6.2 for the construction of an electrical generating facility within a subsequent active management area for which expenditures or financial commitments for land acquisition, water development, materials, construction or engineering in excess of five hundred thousand dollars have been made before the date of the notice of the initiation of designation procedures or the call for the election for the area, the amount of the grandfathered PREEXISTING right pursuant to this section is the annual amount determined by the director to be reasonable to meet the operational requirements for the facility for a full year.

F. The right to withdraw groundwater pursuant to this section is a non-irrigation grandfathered PREEXISTING right not associated with retired irrigated land, or a type 2 non-irrigation grandfathered PREEXISTING right.

G. A type 2 non-irrigation grandfathered PREEXISTING right may be leased. Except as provided in subsection H of this section, the owner or lessee of a type 2 non-irrigation grandfathered PREEXISTING right may withdraw groundwater pursuant to the right only from a location within the same active management area in which the certificate of grandfathered PREEXISTING right is issued.

H. Beginning July 1, 1994, the holder of a type 2 non-irrigation grandfathered PREEXISTING right issued in the Tucson active management area prior to July 1, 1994, may withdraw groundwater pursuant to the right only from a location within the same active management area in which the well or wells listed on the certificate of grandfathered PREEXISTING right on July 1, 1994, are located. If no well is listed on the certificate of grandfathered PREEXISTING right on July 1, 1994, the holder of the right may withdraw groundwater pursuant to the right only from a location within the same active management area in which the land from which the originating withdrawals were made is located. For purposes of this subsection, the term “originating withdrawals” means the withdrawals of groundwater on which the issuance of a type 2 non-irrigation grandfathered PREEXISTING right was based.

I. If the user of a type 2 non-irrigation grandfathered PREEXISTING right is different from the owner of the right, either the owner, or the user of the right on behalf of the owner, may apply for a certificate of grandfathered PREEXISTING right pursuant to section 45-476.



45-465. Irrigation grandfathered PREEXISTING right; determination of acres entitled to and amount; appurtenancy

D. The right to use groundwater pursuant to this section for the irrigation of an irrigation acre is an irrigation grandfathered PREEXISTING right and is appurtenant to that acre. An irrigation grandfathered PREEXISTING right is owned by the owner of the land to which it is appurtenant and may be leased for an irrigation use with the land to which it is appurtenant.

E. A person who owns or leases irrigation acres may use the total amount of groundwater allowed by the irrigation grandfathered PREEXISTING right for such acres for the irrigation of all or a portion of such acres.

F. If the irrigation water duty for the farm unit in which an irrigation acre is located is reduced by the director pursuant to article 9 of this chapter, the amount of groundwater which may be used for the irrigation of such acre pursuant to the irrigation grandfathered PREEXISTING right under subsection B of this section is reduced accordingly.

45-465.01. Flood damaged acres; substitution of acres; definition

A. A person who owns acres of land within an initial active management area which were legally irrigated at any time during the five years preceding January 1, 1980 and which have not been retired from irrigation for a non-irrigation use pursuant to section 45-463 or 45-469 may permanently retire such acres from irrigation and substitute for such acres the same number of acres within the same sub-basin or a contiguous sub-basin of the same initial active management area which were not

legally irrigated at any time during the five years preceding January 1, 1980, and has the right to use groundwater for the irrigation of such substitute acres as determined pursuant to section 45-465 calculated on the basis of the acres which were legally irrigated, if the owner demonstrates to the satisfaction of the director that all the following apply:

3. The owner has received a certificate of **grandfathered PREEXISTING** right for an irrigation use for the flood damaged acres.

B. Any acres permanently retired from irrigation pursuant to this section relinquish their irrigation **grandfathered PREEXISTING** rights and such rights are deemed to be appurtenant to the substitute acres.

45-465.02. Impediments to efficient irrigation; substitution of acres; definitions

A. A person who owns acres of land described on a certificate of irrigation **grandfathered PREEXISTING** right which have not been retired from irrigation for a non-irrigation use under section 45-463 or 45-469 may apply to the director to permanently retire a portion of those acres from irrigation and substitute for those acres the same number of acres to which irrigation **grandfathered PREEXISTING** rights are not appurtenant. The director may approve the substitution of acres if the owner demonstrates to the director's satisfaction that all of the following apply:

B. Any acres permanently retired from irrigation pursuant to this section relinquish their irrigation **grandfathered PREEXISTING** rights and such rights are deemed to be appurtenant to the substitute acres. The owner or lessee of the substitute acres has the right to use groundwater to irrigate the substitute acres as determined under section 45-465 calculated on the basis of the acres permanently retired from irrigation.

1. "Certificated acres" means the acres described on the certificate of irrigation **grandfathered PREEXISTING** right.

45-465.03. Right to use groundwater for domestic and stockwatering purposes incidental to irrigation **grandfathered PREEXISTING right; definitions**

A. In an initial active management area, a person who holds a certificate of irrigation **grandfathered PREEXISTING** right has the right to withdraw annually up to ten acre-feet of groundwater for domestic purposes or stockwatering from a well or wells the holder is using to withdraw groundwater for irrigation use on the certificated acres and use the groundwater pursuant to subsections B and C of this section if both of the following apply:

2. No certificate of type 2 non-irrigation **grandfathered PREEXISTING** right has been issued by the director based in whole or in part on the withdrawals for domestic purposes or stockwatering.

G. The right to withdraw and use groundwater pursuant to this section is an incident of an irrigation **grandfathered PREEXISTING** right and may be leased or conveyed with the irrigation **grandfathered PREEXISTING** right.

H. If an irrigation **grandfathered PREEXISTING** right is retired or conveyed for a non-irrigation use, the right to withdraw and use groundwater pursuant to this section is extinguished.

I. For purposes of this section:

1. “Certificated acres” means the acres described on the certificate of irrigation **grandfathered PREEXISTING** right.

45-465.04. Use of groundwater to water plants in containers as non-irrigation use; right to use groundwater withdrawn pursuant to irrigation **grandfathered PREEXISTING right to water plants in containers; definition**

B. Notwithstanding subsection A of this section, in an initial active management area, a person who holds a certificate of irrigation **grandfathered PREEXISTING** right may withdraw groundwater pursuant to the right and use the groundwater to water plants in containers on or above the surface of the certificated acres if the plants are grown for sale or human consumption or for use as feed for livestock, range livestock or poultry, as those terms are defined in section 3-1201.

C. A person who holds a certificate of irrigation **grandfathered PREEXISTING** right shall separately measure with a measuring device approved by the director pursuant to section 45-604 any groundwater used for watering plants in containers on or above the surface of the certificated acres and any groundwater used for an irrigation use on the certificated acres.

E. The director may not register credits to the flexibility account established pursuant to section 45-467 for a farm in any year in which the person who holds the certificate of irrigation **grandfathered PREEXISTING** right for the farm uses groundwater to water plants in containers on or above the surface of the certificated acres pursuant to subsection B of this section.

F. On request by the owner of a certificate of irrigation **grandfathered PREEXISTING** right, the director shall separate the certificate into two certificates, with one certificate for those certificated acres on which plants in containers are watered with groundwater pursuant to subsection B of this section and one certificate for those certificated acres on which groundwater is used for an irrigation use. If the director separates a certificate of irrigation **grandfathered PREEXISTING** right into two certificates pursuant to this subsection, the certificated acres associated with each certificate shall be considered a separate farm for purposes of subsection E of this section. The director may not separate a certificate of irrigation **grandfathered PREEXISTING** right into two certificates pursuant to this subsection if it would result in the issuance of a certificate of irrigation **grandfathered PREEXISTING** right with less than two certificated acres.

G. For the purposes of this section, “certificated acres” means the acres described on the certificate of irrigation **grandfathered PREEXISTING** right.

45-467. Withdrawals in excess of irrigation **grandfathered PREEXISTING right; withdrawals less than irrigation **grandfathered PREEXISTING** right; flexibility account; conveyances; variance; exemption**

A. A person who is entitled to use groundwater pursuant to an irrigation **grandfathered PREEXISTING** right may:

I. The maximum excess amount of groundwater that may be used pursuant to this section is equal to fifty per cent of the current irrigation water duty for the farm multiplied by the water duty acres in the

farm. An owner of an irrigation **grandfathered PREEXISTING** right and the person using groundwater pursuant to the right violate this section if the flexibility account for the farm in which the irrigation acres to which the right is appurtenant are located is in arrears at any time in excess of this amount. Groundwater equal to the credit balance in the flexibility account may be used at any time.

K. If an irrigation **grandfathered PREEXISTING** right is conveyed for an irrigation use pursuant to section 45-472, each acre conveyed shall carry with it a proportional share of any debits or credits in the flexibility account for the farm. If an irrigation **grandfathered PREEXISTING** right is conveyed for a non-irrigation use pursuant to section 45-472, each acre conveyed shall carry with it a proportional share of any debits in the flexibility account for the farm.

L. A person in an active management area other than the Santa Cruz active management area who is using groundwater pursuant to an irrigation **grandfathered PREEXISTING** right and who is operating under a variance to the irrigation water duty pursuant to section 45-574:

N. In an active management area other than the Santa Cruz active management area, a person using groundwater pursuant to an irrigation **grandfathered PREEXISTING** right shall file a report with the director each year which shall include the amount of groundwater used pursuant to the irrigation **grandfathered PREEXISTING** right and such other information as the director shall require. In the Santa Cruz active management area, a person using water, other than stored water, withdrawn from a well for irrigation use shall file a report with the director each year which shall include the amount of water used on the farm and such other information as the director shall require. The director may consolidate the reporting requirements of this section with the reporting requirements of section 45-632. A person using groundwater pursuant to an irrigation **grandfathered PREEXISTING** right that is regulated under a best management practices program adopted by the director, pursuant to section 45-566.02, subsection F, section 45-567.02, subsection G or section 45-568.02, subsection F, is exempt from the reporting requirements of this subsection for groundwater used pursuant to the irrigation **grandfathered PREEXISTING** right, except that the person shall file a report with the director each year that includes the information required by the best management practices program. A person using groundwater pursuant to an irrigation **grandfathered PREEXISTING** right that is appurtenant to ten or fewer irrigation acres is exempt from the reporting requirements of this subsection for groundwater used pursuant to the irrigation **grandfathered PREEXISTING** right unless one of the following applies:

1. The land to which the irrigation **grandfathered PREEXISTING** right is appurtenant is part of an integrated farming operation.

2. Groundwater is withdrawn from the land to which the irrigation **grandfathered PREEXISTING** right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a **grandfathered PREEXISTING** groundwater right other than an irrigation **grandfathered PREEXISTING** right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

3. Groundwater is withdrawn from land that is both owned by the owner of the irrigation **grandfathered PREEXISTING** right and contiguous to the land to which the irrigation **grandfathered PREEXISTING** right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a **grandfathered PREEXISTING** groundwater right other than an irrigation **grandfathered PREEXISTING** right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

O. A person who owns an irrigation **grandfathered PREEXISTING** right that is appurtenant to irrigation acres that were capable of being irrigated as of December 31 of the preceding calendar year and whose farm has registered a credit balance to its flexibility account may convey or sell all or a portion of the credit balance to any person, including the conveyor or seller of the credit balance, who owns another irrigation **grandfathered PREEXISTING** right or who uses groundwater pursuant to another irrigation **grandfathered PREEXISTING** right, except that:

45-469. Right to retire irrigation **grandfathered PREEXISTING right for non-irrigation use; development plan approval; amendment of plan; approval of plan prior to retirement; amount withdrawn; service area determined; restoration of retired irrigation **grandfathered PREEXISTING** right**

A. Except as provided in section 45-480, subsection F and subsection P of this section, except as provided in subsection I of this section, a person who owns land that is legally entitled to be irrigated with groundwater pursuant to an irrigation **grandfathered PREEXISTING** right and that is located within an active management area and outside of the exterior boundaries of the service area of a city, town or private water company has the right to retire such land from irrigation in anticipation of a future non-irrigation use and shall not forfeit or abandon the right to withdraw from or receive for such land the amount of groundwater calculated pursuant to subsection F of this section for a non-irrigation use if all of the following apply:

F. The amount of groundwater that may be withdrawn or received annually per acre pursuant to this section is the lesser of:

1. The current maximum amount of groundwater that may be used pursuant to the irrigation **grandfathered PREEXISTING** right for the acre at the time it is retired, as calculated pursuant to section 45-465, subsection B.

2. Three acre-feet multiplied by the water duty acres in the farm in which the acre to which the right is appurtenant is located divided by the number of irrigation acres in the farm.

G. The right to withdraw or receive groundwater pursuant to this section is a non-irrigation **grandfathered PREEXISTING** right associated with retired irrigated land, or a type 1 non-irrigation **grandfathered PREEXISTING** right as described in section 45-463.

H. Whether the land to which an irrigation **grandfathered PREEXISTING** right is appurtenant is within the exterior boundaries of the service area of a city, town or private water company shall be determined as of the date the development plan is filed with the director.

I. A city or town in an initial active management area that holds a certificate of irrigation **grandfathered PREEXISTING** right for acres of land that were acquired before January 1, 1989 in another initial active management area, and a groundwater replenishment district established under title 48, chapter 27 that purchases any of that land from the city or town, has the right, subject to subsections J, K, L and M of this section, to retire the land in anticipation of a future non-irrigation use and withdraw from any location on the land groundwater for non-irrigation use on the land or for transportation to another initial active management area for the purpose of demonstrating and providing an assured water supply if all of the following apply:

K. A city or town that is eligible for a type 1 non-irrigation **grandfathered PREEXISTING** right under subsection I of this section may:

1. Before retiring the land under subsection I of this section, substitute for the acres of land described in subsection I of this section the same number of acres owned by the city or town to which irrigation **grandfathered PREEXISTING** rights are appurtenant and located in the same subbasin as the acres described in subsection I of this section.

2. At any time, elect to convert a type 1 non-irrigation **grandfathered PREEXISTING** right appurtenant to land in the same subbasin and acquired by the city or town before January 1, 1989 under subsection A of this section to a type 1 non-irrigation **grandfathered PREEXISTING** right under subsection I of this section.

N. Subsections A, B and H of this section do not apply to type 1 non-irrigation **grandfathered PREEXISTING** rights acquired under subsection I of this section.

O. The director may restore retired irrigation **grandfathered PREEXISTING** rights to land that was retired from irrigation under this section according to the following conditions and procedures:

2. The current owner of the retired land must apply to the director in writing stating:

(c) Why restoring the irrigation **grandfathered PREEXISTING** rights is necessary.

3. The director shall enter the application in the registry under section 45-479 and review the application. An administrative hearing shall be held in the active management area in which the use is located on whether to restore the irrigation **grandfathered PREEXISTING** rights to the land.

4. The director must find that restoring the irrigation **grandfathered PREEXISTING** rights:

5. If the director decides to restore the retired irrigation **grandfathered PREEXISTING** rights to the land:

(a) The retired irrigation land regains its original irrigation **grandfathered PREEXISTING** rights, with the debits and credits in its flexibility account at the time of retirement.

(b) The type 1 non-irrigation **grandfathered PREEXISTING** right under this section is terminated.

P. Beginning January 1 of the calendar year following the year in which a groundwater replenishment district is required to submit its preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1, the director shall withhold approval of a development plan that is submitted under this section by a person who seeks to obtain a non-irrigation **grandfathered PREEXISTING** right associated with retired irrigated land located in the district unless at the time the plan is submitted:

45-470. Use of type 1 non-irrigation **grandfathered PREEXISTING right by original owner; definition**

A. Except as provided in section 45-469, subsection I, or as provided in subsection B of this section, the original owner of a type 1 non-irrigation **grandfathered PREEXISTING** right pursuant to section 45-463 or 45-469 may:

2. Pursuant to section 45-473, convey retired irrigated land with the appurtenant type 1 non-irrigation **grandfathered PREEXISTING** right. Any land not conveyed shall retain its appurtenant type 1 non-irrigation **grandfathered PREEXISTING** right.

B. The original owner of a type 1 non-irrigation **grandfathered PREEXISTING** right pursuant to section 45-463 or 45-469 shall not withdraw or use groundwater pursuant to the portion of the type 1 non-irrigation **grandfathered PREEXISTING** right that is appurtenant to land which the original owner may irrigate with effluent under section 45-452, subsection J.

45-471. Use of type 2 non-irrigation grandfathered PREEXISTING right by owner

A. The owner of a type 2 non-irrigation **grandfathered PREEXISTING** right pursuant to section 45-464 may use groundwater withdrawn pursuant to the right for any non-irrigation purpose at any location, subject to the provisions governing transportation of groundwater in article 8 of this chapter, except that, if the right is based on withdrawals of groundwater:

B. The owner of a type 2 non-irrigation **grandfathered PREEXISTING** right may withdraw groundwater pursuant to the right only from those wells listed on the certificate of **grandfathered PREEXISTING** right.

C. The owner of a type 2 non-irrigation **grandfathered PREEXISTING** right may request the director to issue a revised certificate to reflect new or additional points of withdrawal. If a proposed new or additional point of withdrawal is a well that was drilled pursuant to a permit or notice of intention to drill filed after June 12, 1980, the owner shall demonstrate that the proposed withdrawals will not cause unreasonably increasing damage to surrounding land or other water users, and in the Santa Cruz active management area, that the proposed withdrawals will be consistent with the management plan for the active management area.

D. If a type 2 non-irrigation **grandfathered PREEXISTING** right is leased, the lessee may use groundwater withdrawn pursuant to the right subject to subsections A, B and C of this section.

45-472. Conveyance of irrigation grandfathered PREEXISTING right; within service area; outside service area; change to non-irrigation grandfathered PREEXISTING right; forfeiture of right to convey to non-irrigation use; definition

A. The owner of an irrigation **grandfathered PREEXISTING** right may convey the right only with the land to which the right is appurtenant.

B. If the land to which an irrigation **grandfathered PREEXISTING** right is appurtenant is within the exterior boundaries of the service area of a city, town or private water company:

1. The irrigation **grandfathered PREEXISTING** right may be conveyed only for an irrigation use, except for expanded animal industry use or as provided in paragraphs 2 and 3 of this subsection. If an irrigation **grandfathered PREEXISTING** right is conveyed for an irrigation or expanded animal industry use, the full amount of the right is conveyed. The amount of groundwater conveyed pursuant to the right:

(a) For an irrigation use may be withdrawn from the land to which the right is appurtenant or any other land and may be used only on the land to which the right is appurtenant or on contiguous irrigation acres

under common ownership within the service area of the city, town or private water company subject to the provisions of articles 8 and 8.1 of this chapter relating to transportation of groundwater. For purposes of this subdivision, irrigation acres that are separated by a road, highway, easement or right-of-way from the land to which the irrigation **grandfathered PREEXISTING** right is appurtenant are deemed to be contiguous.

2. The irrigation **grandfathered PREEXISTING** right may be conveyed to an industry engaged in the generation of electrical energy for the purpose of electrical energy generation, except that, if the facility for the generation of electrical energy is not subject to title 40, chapter 2, article 6.2, the conveyance is subject to the approval of:

(a) The appropriate city or town, if the irrigation **grandfathered PREEXISTING** right to be conveyed is appurtenant to land within the exterior boundaries of the service area of a city or town.

(b) The director, if the irrigation **grandfathered PREEXISTING** right to be conveyed is appurtenant to land within the corporate limits of a city or town and within the exterior boundaries of the service area of a private water company.

3. If an irrigation **grandfathered PREEXISTING** right is conveyed for a non-irrigation use pursuant to paragraph 2 of this subsection, the amount of the right that is conveyed is the lesser of:

4. The new owner of an irrigation **grandfathered PREEXISTING** right conveyed pursuant to paragraph 2 of this subsection may withdraw the amount of groundwater conveyed pursuant to that right, as determined in paragraph 3 of this subsection, only from the land to which the right is appurtenant and use the groundwater on that land, but may not use the groundwater on other land, except that, if the groundwater was delivered by an irrigation district to the previous owner of the right, the irrigation district may continue to deliver groundwater to the new owner pursuant to the right for use on the land to which the right is appurtenant.

C. If the land to which an irrigation **grandfathered PREEXISTING** right is appurtenant is included within the exterior boundaries of the service area of a city, town or private water company subsequent to the date of the designation of an active management area, the owner of the right may, with the approval of the director and consistent with the provisions of this chapter, convey the **grandfathered PREEXISTING** right for a non-irrigation use, other than an expanded animal industry use, on the land to which the right is appurtenant, upon a showing that adequate water service is unavailable at rates comparable to rates charged similar classes of water users within such service area. The amount of the right conveyed is determined pursuant to subsection B, paragraph 3 of this section. All withdrawal or use of groundwater pursuant to this subsection is subject to subsection H of this section.

D. If the land to which an irrigation **grandfathered PREEXISTING** right is appurtenant is outside of the exterior boundaries of the service area of a city, town or private water company:

1. The irrigation **grandfathered PREEXISTING** right may be conveyed for an irrigation use or a non-irrigation use. If an irrigation **grandfathered PREEXISTING** right is conveyed for an irrigation or an expanded animal industry use, the full amount of the right is conveyed. If an irrigation **grandfathered PREEXISTING** right is conveyed for a non-irrigation use, other than an expanded animal industry use, the amount of the right that is conveyed is the lesser of:

3. The amount of groundwater conveyed pursuant to the right for an irrigation use, as determined in paragraph 1 of this subsection, may be withdrawn from the land to which the right is appurtenant or from any other land and may be used only on the land to which the right is appurtenant or on contiguous irrigation acres under common ownership, subject to the provisions of articles 8 and 8.1 of this chapter relating to transportation of groundwater. For purposes of this paragraph, irrigation acres that are separated by a road, highway, easement or right-of-way from the land to which the irrigation **grandfathered PREEXISTING** right is appurtenant are deemed to be contiguous.

E. If an irrigation **grandfathered PREEXISTING** right is conveyed for a non-irrigation use, the new owner's right to withdraw or receive groundwater is a non-irrigation **grandfathered PREEXISTING** right associated with retired irrigated land, or a type 1 non-irrigation **grandfathered PREEXISTING** right. All subsequent conveyances of that right are governed by section 45-473.

F. The amount of a type 1 non-irrigation **grandfathered PREEXISTING** right shall be determined at the time it is established and shall remain fixed at that amount.

G. An irrigation **grandfathered PREEXISTING** right may not be conveyed for a non-irrigation use if one of the following applies:

1. The irrigation **grandfathered PREEXISTING** right has not been retired in anticipation of a future non-irrigation use and has not been exercised for five consecutive years.

2. The land to which the irrigation **grandfathered PREEXISTING** right is appurtenant was previously designated by the director as protected farmland pursuant to section 45-483, subsection A. This paragraph shall not apply to land that was designated by the director as protected farmland if the director revoked the designation pursuant to section 45-483, subsection C, paragraph 1 and the director determined at that time that the conservation easement in the land was terminated because a partial or full condemnation of the land made farming impracticable.

H. A person who owns a type 1 non-irrigation **grandfathered PREEXISTING** right under this section shall not withdraw or use groundwater pursuant to the portion of the type 1 non-irrigation **grandfathered PREEXISTING** right that is appurtenant to land that the owner may irrigate with effluent pursuant to section 45-452, subsection J.

I. For the purposes of this section, "land to which the right is appurtenant" means the acre or group of contiguous acres conveyed with an irrigation **grandfathered PREEXISTING** right.

45-473. Conveyance of type 1 non-irrigation **grandfathered PREEXISTING right; use by new owner; appurtenancy; within service area; outside service area; definition**

A. The owner of a type 1 non-irrigation **grandfathered PREEXISTING** right may convey the right only for a non-irrigation use and only with the land to which it is appurtenant. For purposes of this section, a type 1 non-irrigation **grandfathered PREEXISTING** right means a non-irrigation **grandfathered PREEXISTING** right associated with retired irrigated land pursuant to section 45-463 or 45-469 or an irrigation **grandfathered PREEXISTING** right which was conveyed for a non-irrigation use pursuant to section 45-472.

B. If a type 1 non-irrigation **grandfathered PREEXISTING** right is conveyed, the full amount of the right is conveyed.

C. If the land to which a type 1 non-irrigation **grandfathered PREEXISTING** right is appurtenant is within the exterior boundaries of the service area of a city, town or private water company, the amount of groundwater conveyed pursuant to the right may be withdrawn by the new owner of the right only from the land to which the right is appurtenant subject to subsection F of this section. The groundwater may be used on the land to which the right is appurtenant, but may not be used on other land unless the use on other land was commenced prior to the date of the designation of the active management area or was commenced by the original owner of the right pursuant to a development plan filed with the director prior to the inclusion of the land within the exterior boundaries of the service area of the city, town or private water company.

D. If the land to which the type 1 non-irrigation **grandfathered PREEXISTING** right is appurtenant is outside of the exterior boundaries of the service area of a city, town or private water company, the amount of groundwater conveyed pursuant to the right may be withdrawn by the new owner of the right only from the land to which the right is appurtenant and used on that land or on any other land, subject to section 45-473.01 and to the provisions of articles 8 and 8.1 of this chapter relating to transportation of groundwater, and to subsection F of this section. If any portion of the amount of groundwater conveyed is withdrawn by the new owner and used on other land, no additional groundwater may be withdrawn for use on the land to which the right is appurtenant, except that, if the new owner is an industry, it may withdraw a portion of the amount of groundwater conveyed for use on other land and withdraw the remainder of the amount of groundwater conveyed for municipal and industrial use on the land to which the right is appurtenant for purposes directly related to the industry's industrial operation.

E. If groundwater was delivered by an irrigation district to the previous owner of a type 1 non-irrigation **grandfathered PREEXISTING** right, the irrigation district may continue to deliver groundwater pursuant to the right to the new owner of the right.

F. The new owner of a type 1 non-irrigation **grandfathered PREEXISTING** right pursuant to section 45-463 or 45-469 shall not withdraw or use groundwater pursuant to the portion of the type 1 non-irrigation **grandfathered PREEXISTING** right that is appurtenant to land which the new owner may irrigate with effluent under section 45-452, subsection J.

G. For purposes of this section, "land to which the right is appurtenant" means the acre or group of contiguous acres conveyed with a type 1 non-irrigation **grandfathered PREEXISTING** right.

45-473.01. Conditions on using groundwater withdrawn pursuant to rights acquired under sections 45-472 and 45-473

A person to whom an irrigation **grandfathered PREEXISTING** right is conveyed for a non-irrigation use after the effective date of this section pursuant to section 45-472 or a person to whom a type 1 non-irrigation **grandfathered PREEXISTING** right is conveyed after the effective date of this section pursuant to section 45-473 shall use the groundwater withdrawn pursuant to the right on the land to which the right is appurtenant or on any other land in the same active management area.

45-474. Conveyance of type 2 non-irrigation **grandfathered PREEXISTING right; amount**

A. The owner of a type 2 non-irrigation **grandfathered PREEXISTING** right may convey the right for any non-irrigation use, except that:

1. A type 2 non-irrigation **grandfathered** **PREEXISTING** right that is used for purposes of mineral extraction or processing may be conveyed only for a mineral extraction or processing use.
 2. A type 2 non-irrigation **grandfathered** **PREEXISTING** right that is used for purposes of electrical energy generation may be conveyed only for an electrical energy generation use.
 3. A type 2 non-irrigation **grandfathered** **PREEXISTING** right in a subsequent active management area that is used for purposes of demonstrating and providing an assured water supply pursuant to section 45-576 in an initial active management area may be conveyed only for the same use and only with the approval of the director. The director shall not withhold approval of a conveyance under this paragraph if the right is no longer needed to provide the assured water supply that it was used to demonstrate.
- B. A type 2 non-irrigation **grandfathered** **PREEXISTING** right may not be conveyed for an irrigation use.
- C. If a type 2 non-irrigation **grandfathered** **PREEXISTING** right is conveyed, the full amount of the right is conveyed.

45-475. Determination of exterior boundaries of service area for purposes of conveyances

For purposes of conveyances of irrigation **grandfathered** **PREEXISTING** rights and type 1 non-irrigation **grandfathered** **PREEXISTING** rights, whether land to which the right is appurtenant is within the exterior boundaries of the service area of a city, town or private water company shall be determined as of the date of the closing of the conveyance transaction according to the most current map of the service area of the city, town or private water company available for public inspection on that date as required by section 45-498:

45-476. Application for certificate of **grandfathered **PREEXISTING** right**

- A. Except as provided in section 45-476.01, a person claiming the right to withdraw or receive and use groundwater pursuant to a **grandfathered** **PREEXISTING** right shall file an application for a certificate of **grandfathered** **PREEXISTING** right with the department not later than fifteen months after the date of the designation of the active management area on a form provided by the department.
- B. The application for a certificate of **grandfathered** **PREEXISTING** right not based upon prior proceedings on a certificate of exemption shall include the following:
2. The name of the active management area within which the withdrawal of groundwater pursuant to the claimed **grandfathered** **PREEXISTING** right is being or has been made.
 3. If the application is for a type 1 non-irrigation **grandfathered** **PREEXISTING** right:
 4. If the application is for a type 2 non-irrigation **grandfathered** **PREEXISTING** right:
 - (b) If the person withdrawing groundwater from the land owned by the applicant has made an application for a type 1 non-irrigation **grandfathered** **PREEXISTING** right, a copy of the application.
 5. If the application is for an irrigation **grandfathered** **PREEXISTING** right:

C. A person or **his THAT PERSON'S** successor claiming the right to use groundwater pursuant to a **grandfathered PREEXISTING** right, described in whole or in part by a certificate of exemption, shall file an application for a certificate of **grandfathered PREEXISTING** right as provided in subsection D of this section and shall automatically be entitled to a certificate or certificates of **grandfathered PREEXISTING** right for the portion of the **grandfathered PREEXISTING** right claimed which is evidenced by the certificate of exemption or established by the proceedings on the certificate of exemption. Notice of the application is not required and hearings shall not be held. If the applicant claims **grandfathered PREEXISTING** rights in addition to the amount of use described in the certificate of exemption, application for such additional amount shall be made pursuant to subsection B of this section, and such application is subject to the notice, objection and hearing provisions applicable to applications made pursuant to that subsection.

D. The application for a certificate of **grandfathered PREEXISTING** right based upon prior proceedings upon an application for a certificate of exemption shall include the following:

2. The name of the active management area within which the withdrawal of groundwater pursuant to the claimed **grandfathered PREEXISTING** right is being or has been made.

45-476.01. Late applications for certificates of **grandfathered PREEXISTING rights: definition**

A. A person who claims the right to withdraw or receive and use groundwater in an initial active management area pursuant to a **grandfathered PREEXISTING** right and who failed to file an application on or before July 1, 1983 as required by law may file a late application for a certificate of **grandfathered PREEXISTING** right pursuant to this section on a form provided by the department.

B. A late application for a certificate of **grandfathered PREEXISTING** right shall include the information required in section 45-476. The fee for filing a late application is one hundred dollars. The director shall deposit, pursuant to sections 35-146 and 35-147, all fees received under this subsection in the water resources fund established by section 45-117.

C. The director shall review each late application for a certificate of **grandfathered PREEXISTING** right submitted pursuant to this section and may conduct such investigations as the director deems necessary to determine whether the information contained in the application is correct and sufficient to issue a certificate.

D. A person who files a late application for a certificate of **grandfathered PREEXISTING** right pursuant to this section has the burden of establishing by clear and convincing evidence that the necessary statutory requirements for issuing the certificate of **grandfathered PREEXISTING** right have been met.

E. The director's decision on a late application for a certificate of **grandfathered PREEXISTING** right submitted pursuant to this section, is subject to administrative review. A person aggrieved by the director's decision is not entitled to an administrative hearing. A final decision of the director approving or denying the application is not subject to judicial review.

F. If the director, after reviewing a late application, determines that the statutory requirements for issuing the certificate of **grandfathered PREEXISTING** right have been met, the director shall issue a certificate of **grandfathered PREEXISTING** right to the applicant pursuant to section 45-481. A holder of a

certificate of **grandfathered PREEXISTING** right issued pursuant to this section has the same rights and duties as all other holders of certificates of **grandfathered PREEXISTING** rights.

H. For the purposes of this article, “late application for a certificate of **grandfathered PREEXISTING** right” means an application that is filed after July 1, 1983 for a certificate of **grandfathered PREEXISTING** right to withdraw or receive and use groundwater in an initial active management area.

45-477. Right to withdraw, receive or use groundwater in an initial active management area

A person shall not withdraw or receive and use groundwater in an initial active management area pursuant to a **grandfathered PREEXISTING** right unless the certificate of **grandfathered PREEXISTING** right has been issued or the application for the certificate of **grandfathered PREEXISTING** right has been filed and is the subject of administrative or judicial review.

45-477.01. Waiver and relinquishment of **grandfathered PREEXISTING rights in a subsequent active management area**

A person who claims the rights to withdraw or receive and use groundwater in a subsequent active management area pursuant to a **grandfathered PREEXISTING** right but who fails to file an application for a certificate of **grandfathered PREEXISTING** right as provided in this article is deemed to waive and relinquish any right to withdraw or receive and use groundwater pursuant to this article.

45-478. Notice of requirement to apply for certificate of **grandfathered PREEXISTING right**

A. Within ninety days of the date of the designation of an active management area, the director shall give notice of the requirement to apply for a certificate of **grandfathered PREEXISTING** right to the clerk of the board of supervisors of the county or counties in which the active management area is located and to the mayor of each city or town, to each private water company and to the presiding officer of each political subdivision established pursuant to title 48, chapter 17, 18, 19 or 20 located in the active management area.

B. The director shall mail by January 1, following the date of the designation of the active management area, a copy of a written notice of the requirement to apply for a certificate of **grandfathered PREEXISTING** right to each owner of real property within the active management area listed on the tax rolls of the county, except owners of real property located in vacant subdivisions or located within the service areas of cities, towns and private water companies, along with a declaration that it is the duty of the recipient to forward the notice to the beneficial owner of the property. The notice shall include a statement that a person who fails to apply for a certificate of **grandfathered PREEXISTING** right within an active management area waives and relinquishes any right to withdraw or receive and use groundwater pursuant to a **grandfathered PREEXISTING** right.

45-479. Registry of applications; written objections; request for hearing

A. The director shall establish a registry of all applications received for a certificate of **grandfathered PREEXISTING** right or a restoration of a retired irrigation **grandfathered PREEXISTING** right for each

active management area. After the deadline for the filing of applications for a certificate of **grandfathered PREEXISTING** right has passed, the director shall notify all applicants for a certificate of **grandfathered PREEXISTING** right that the registry is available in the offices of the department for public inspection during regular business hours.

B. Within one hundred eighty days of the date of the notice required by subsection A of this section, any person residing in the active management area may file a written objection to any application for a certificate of **grandfathered PREEXISTING** right and may request a hearing on the application. Objections may be made only on the basis that the information in the application is incorrect or is insufficient to issue a certificate.

C. This section does not apply to late applications for certificates of **grandfathered PREEXISTING** rights filed pursuant to section 45-476.01.

45-480. Review of applications; investigations; hearings; final determination; judicial review

A. Except as provided in subsection F of this section, the director shall review each application for a certificate of **grandfathered PREEXISTING** right or a restoration of a retired irrigation **grandfathered PREEXISTING** right and may conduct such investigations as deemed necessary to determine whether the information contained in the application is correct and sufficient to issue a certificate or grant restoration. Except as provided in section 45-476, subsection C, in appropriate cases, including cases in which a written objection has been filed, an administrative hearing may be held before the director's decision on the application if the director deems a hearing necessary to determine whether the information contained in the application is correct and sufficient to issue a certificate or grant restoration. Thirty days prior to the date of the hearing, the director shall give notice of the hearing to the applicant and any person who has filed an objection to the application.

B. If the director determines that the information contained in the application is correct and is sufficient to issue a certificate of **grandfathered PREEXISTING** right or restore a retired irrigation **grandfathered PREEXISTING** right, the director shall issue a certificate of **grandfathered PREEXISTING** right pursuant to section 45-481 or restore a retired irrigation **grandfathered PREEXISTING** right to the applicant. If the director determines that the information contained in the application is incorrect or is insufficient to issue a certificate or grant restoration, the director may return the application specifically stating the reasons for its return. The applicant may reapply within thirty days of receipt of the returned application. A reapplication relates back to the filing of the original application but otherwise shall be treated as a new application.

C. If, before an administrative hearing, the director determines that the applicant is not entitled to a certificate of **grandfathered PREEXISTING** right or a restoration of a retired irrigation **grandfathered PREEXISTING** right or determines that the amount of a **grandfathered PREEXISTING** right or a retired irrigation **grandfathered PREEXISTING** right is less than that requested in the application, the director shall provide the applicant with notice and an opportunity for an administrative hearing.

E. This section does not apply to late applications for certificates of **grandfathered PREEXISTING** rights filed pursuant to section 45-476.01.

F. Beginning January 1 of the calendar year following the year in which a groundwater replenishment district is required to submit its preliminary plan pursuant to section 45-576.02, subsection A, paragraph

1, the director shall withhold review of an application for a certificate for a type 1 non-irrigation **grandfathered PREEXISTING** right appurtenant to land located in the district unless at the time the application is filed:

45-481. Issuance of certificates; contents; recordation

A certificate of **grandfathered PREEXISTING** right shall be issued in recordable form and shall contain:

3. The type of **grandfathered PREEXISTING** right represented by the certificate.
4. If the certificate is for a type 1 non-irrigation **grandfathered PREEXISTING** right, the amount of the right and the legal description of the retired irrigated land to which the right is appurtenant.
5. If the certificate is for a type 2 non-irrigation **grandfathered PREEXISTING** right, the amount of the right.
6. If the certificate is for an irrigation **grandfathered PREEXISTING** right, the legal description of the irrigable land to which the right is appurtenant.

45-482. Registry of certificates of **grandfathered PREEXISTING right; reporting; definition**

A. The director shall establish and maintain a registry of certificates of **grandfathered PREEXISTING** rights for each active management area. The registry shall include a copy of each certificate of **grandfathered PREEXISTING** right in the active management area and such other pertinent information as the director determines is necessary.

B. Except as provided in subsection D of this section, a person to whom a certificate of **grandfathered PREEXISTING** right is issued shall notify the director of a change in name or mailing address or a conveyance of the **grandfathered PREEXISTING** right pursuant to sections 45-472 through 45-474. Except as provided in subsection D of this section, a person to whom a **grandfathered PREEXISTING** right is conveyed shall notify the director of the conveyance and shall furnish information as required by the director to keep the registry current and accurate. The director shall have continuing jurisdiction and shall issue revised certificates as necessary.

C. The director may require holders of certificates of **grandfathered PREEXISTING** rights to file additional information with the annual report required by section 45-632 as necessary to keep the registry current and accurate. For purposes of this article, “holder” means a person to whom a certificate of **grandfathered PREEXISTING** right is issued or a person to whom a **grandfathered PREEXISTING** right is conveyed.

D. A holder of a certificate of irrigation **grandfathered PREEXISTING** right is exempt from a notification requirement in subsection B of this section for the irrigation **grandfathered PREEXISTING** right if the irrigation **grandfathered PREEXISTING** right was appurtenant to ten or fewer irrigation acres at the time of the event for which the notification is required unless one of the following applies:

1. The land to which the irrigation **grandfathered PREEXISTING** right is appurtenant is part of an integrated farming operation.

2. Groundwater is withdrawn from the land to which the irrigation **grandfathered PREEXISTING** right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a **grandfathered PREEXISTING** groundwater right other than an irrigation **grandfathered PREEXISTING** right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

3. Groundwater is withdrawn from land that is both owned by the holder of the certificate of irrigation **grandfathered PREEXISTING** right and contiguous to the land to which the irrigation **grandfathered PREEXISTING** right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a **grandfathered PREEXISTING** groundwater right other than an irrigation **grandfathered PREEXISTING** right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

45-483. Designation of protected farmland; notice; revocation of designation; irrigation water duty; assured water supply credit for extinguishment of irrigation **grandfathered PREEXISTING right prohibited**

A. A person who owns land within an active management area that is legally entitled to be irrigated with groundwater pursuant to an irrigation **grandfathered PREEXISTING** right may apply to the director for designation of the land as protected farmland. On receipt of an application, the director shall grant the application and designate the land identified in the application as protected farmland if the director determines that the land is subject to a conservation easement that prohibits the development of the land for nonagricultural uses pursuant to the federal farmland protection program established by Public Law 104-127 (110 Stat. 888).

E. Notwithstanding any other law or rule, the director shall not establish or grant an assured water supply credit for the extinguishment of an irrigation **grandfathered PREEXISTING** right under the rules adopted by the director pursuant to section 45-576, subsection H if the land to which the irrigation **grandfathered PREEXISTING** right is appurtenant was previously designated by the director as protected farmland pursuant to subsection A of this section. This subsection shall not apply to land that was designated by the director as protected farmland if the director revoked the designation pursuant to subsection C, paragraph 1 of this section and the director determined at that time that the conservation easement in the land was terminated because a partial or full condemnation of the land made farming impracticable.

45-491. Scope of article

A. In an active management area, a city, town, private water company or irrigation district may withdraw groundwater only pursuant to this article, except as provided by a **grandfathered PREEXISTING** right and except as otherwise provided in this section.

45-492. Withdrawals by cities, towns and private water companies within service areas; contract to supply groundwater

B. Claims of landowners to irrigation **grandfathered PREEXISTING** rights or type 1 or 2 non-irrigation **grandfathered PREEXISTING** rights shall be subject to article 5 of this chapter.

45-493. Limitations on extensions of service areas; prohibition on formation of private water company for irrigation purpose; prohibition on service without payment of tax

A. In an active management area, the service area of a city, town or private water company may not be extended primarily for any of the following purposes:

3. Including irrigation acres within the exterior boundaries of the service area to extinguish the right to convey irrigation **grandfathered PREEXISTING** rights to a non-irrigation use.

45-494. Withdrawals by irrigation districts in initial active management areas

In an initial active management area established pursuant to section 45-411:

1. An irrigation district existing and engaged in the withdrawal, delivery and distribution of groundwater as of January 1, 1977 shall have the right, subject to section 45-496 and section 45-493, subsection D:

(a) To withdraw and transport groundwater within its service area for the benefit of landowners within its service area, and the landowners are entitled to use the groundwater delivered, provided claims of landowners to irrigation **grandfathered PREEXISTING** rights or type 1 or 2 non-irrigation **grandfathered PREEXISTING** rights shall be subject to article 5 of this chapter.

2. An irrigation district that was not engaged in the withdrawal, delivery and distribution of groundwater as of January 1, 1977 shall be limited to the right, subject to section 45-496, to:

(b) If, as of January 1, 1983, the district had been recommended by the director to receive an allocation of municipal and industrial water from the central Arizona project, contract for surface water from a multi-county water conservation district and deliver such surface water to cities, towns or private water companies for municipal, industrial and domestic purposes, subject to the following conditions:

(iii) Notwithstanding article 5 of this chapter, the original owner and any new owner of a type 1 non-irrigation **grandfathered PREEXISTING** right created pursuant to section 45-469 that is appurtenant to land in the district to which such surface water is distributed by a city, town or private water company may use groundwater withdrawn pursuant to that right only on the land to which the right is appurtenant.

45-494.01. Addition and exclusion of area by irrigation districts in initial active management areas

A. In an initial active management area, an irrigation district established pursuant to title 48, chapter 19 existing and engaged in the withdrawal, delivery and distribution of groundwater as of January 1, 1977 may add to the service area of the district acres of land which have irrigation **grandfathered PREEXISTING** rights to replace other lands that have irrigation **grandfathered PREEXISTING** rights of similar area for the purpose of maintaining the same acreage as of June 12, 1980, if both of the following apply:

45-495. Withdrawals and transportations by irrigation districts within subsequent active management areas

In a subsequent active management area established pursuant to section 45-412:

1. An irrigation district existing and engaged in the withdrawal, delivery and distribution of groundwater as of the date of the designation of the active management area shall have the right, subject to section 45-496:

(a) To withdraw and transport groundwater within its service area for the benefit of landowners within its service area, and the landowners are entitled to use the groundwater delivered, provided claims of landowners to irrigation **grandfathered PREEXISTING** rights or type 1 or 2 non-irrigation **grandfathered PREEXISTING** rights shall be subject to the provisions of article 5 of this chapter.

45-497. Withdrawal of groundwater by irrigation districts for municipal or industrial purposes

B. An industrial user may not obtain groundwater delivery service from an irrigation district in excess of the amount it was entitled to receive on the date of the designation of the active management area unless the industrial user has acquired a **grandfathered PREEXISTING** right or has obtained a general industrial use permit pursuant to section 45-515. An industrial user that has been issued a general industrial use permit pursuant to section 45-515 may, at any time, elect to receive groundwater from an irrigation district in the amount specified in the permit if:

45-514. Mineral extraction and metallurgical processing permit; conditions for issuance; duration of permit

A. Except as provided in subsection D of this section, a person who is engaged in or proposes to engage in the extraction and processing of minerals shall be issued a permit to withdraw groundwater in the required amount, if all of the following apply:

4. The applicant does not own or lease type 2 non-irrigation **grandfathered PREEXISTING** rights originally based on withdrawals of groundwater for the extraction or processing of minerals that the applicant is not using or leasing and that can be used at the proposed location without imposing an unreasonable economic burden on the applicant.

45-515. General industrial use permits; conditions for issuance; duration of permit

A. Except as provided in subsection D of this section, the director shall issue a permit to withdraw groundwater from a point outside of the exterior boundaries of the service area of a city, town or private water company for a general industrial use outside of the exterior boundaries of such service area if the director determines that all of the following apply:

3. Irrigation **grandfathered PREEXISTING** rights appurtenant to acres of land in reasonable proximity to the intended general industrial use are not available for purchase at a reasonable price or cannot be acquired by eminent domain and the applicant does not own or lease **grandfathered PREEXISTING**

rights that the applicant is not using or leasing, that may be used for the intended general industrial use and that can be used for the intended general industrial use without imposing an unreasonable economic burden on the applicant.

45-517. Temporary permit for electrical energy generation; conditions for issuance

A. The director shall, upon an adequate showing that an emergency exists, issue a temporary permit to a person engaged in the generation of electrical energy to withdraw groundwater in excess of the amount of groundwater the person is legally entitled to withdraw under a **grandfathered PREEXISTING** right or other groundwater withdrawal permit.

45-519. Drainage water withdrawal permit; conditions for issuance

B. The holder of a permit issued under subsection A of this section may:

1. Use groundwater withdrawn pursuant to the permit for a non-irrigation use if the person holds a non-irrigation **grandfathered PREEXISTING** right pursuant to article 5 of this chapter, a general industrial use permit pursuant to section 45-515 or a service area right pursuant to article 6 of this chapter.

2. Convey groundwater withdrawn pursuant to the permit to another person for a non-irrigation use if the person receiving the groundwater holds a non-irrigation **grandfathered PREEXISTING** right pursuant to article 5 of this chapter, a general industrial use permit pursuant to section 45-515 or a service area right pursuant to article 6 of this chapter.

45-541. Transportation within a sub-basin

A. Groundwater which is withdrawn pursuant to a **grandfathered PREEXISTING** right or a groundwater withdrawal permit or from an exempt well may be transported without payment of damages within a sub-basin of an active management area, subject to the limitations on location of use in sections 45-472 and 45-473.

45-542. Transportation between sub-basins or away from an active management area; irrigation **grandfathered PREEXISTING right; type 1 non-irrigation **grandfathered PREEXISTING** right**

A. Groundwater which is withdrawn pursuant to an irrigation **grandfathered PREEXISTING** right may be transported between sub-basins of an active management area or away from an active management area, subject to the limitations on location of use in section 45-472.

B. Groundwater which is withdrawn pursuant to a type 1 non-irrigation **grandfathered PREEXISTING** right may be transported between sub-basins of an active management area or away from an active management area, subject to the limitations on location of use in section 45-473, except that groundwater withdrawn pursuant to a type 1 non-irrigation **grandfathered PREEXISTING** right may be transported away from an initial active management area only pursuant to any of the following:

1. A type 1 non-irrigation **grandfathered PREEXISTING** right acquired under section 45-463 and appurtenant to land in the Tucson active management area, if the groundwater is used for the extraction or processing of minerals in an adjacent active management area or groundwater basin.

C. Transportations of groundwater pursuant to this section are not subject to payment of damages if the amount transported does not exceed three acre-feet per acre per year withdrawn from retired irrigated land. Transportations of groundwater pursuant to an irrigation **grandfathered PREEXISTING** right in excess of three acre-feet per acre per year withdrawn from retired irrigated land are subject to payment of damages.

45-543. Transportation between sub-basins or away from an active management area; damages; non-irrigation **grandfathered PREEXISTING right not associated with retired irrigated land; service area withdrawals; permit; exempt well**

A. Groundwater may be transported between sub-basins of an active management area or away from an active management area, subject to payment of damages, if the groundwater is withdrawn:

1. Pursuant to a type 2 non-irrigation **grandfathered PREEXISTING** right, except that groundwater withdrawn pursuant to a type 2 non-irrigation **grandfathered PREEXISTING** right may not be transported away from the Pinal active management area to another initial active management area for the purpose of demonstrating and providing an assured water supply.

B. Groundwater that is withdrawn by a city, town or private water company within its service area may be transported pursuant to a delivery contract authorized by section 45-492, subsection C between sub-basins of an active management area and shall be subject to payment of damages unless the groundwater is withdrawn pursuant to a type 1 non-irrigation **grandfathered PREEXISTING** right.

45-561. Definitions

In this article, unless the context otherwise requires:

9. “Mined groundwater” means the amount of groundwater withdrawn or received by a municipal provider from within an active management area during a calendar year for use in its service area, minus both of the following, as applicable:

(b) If the municipal provider is a city or town in the Tucson active management area, the amount of groundwater withdrawn by the municipal provider during the calendar year from land owned or leased by the municipal provider to which a type 1 non-irrigation **grandfathered PREEXISTING** right under section 45-463, subsection A is appurtenant, up to the following amount:

45-563.02. Exemption from irrigation water duties; small irrigation **grandfathered PREEXISTING rights; criteria; conservation requirement; exception**

A. A person who is entitled to use groundwater pursuant to an irrigation **grandfathered PREEXISTING** right is exempt from any irrigation water duties or intermediate water duties established for the farm to which the right is appurtenant under sections 45-564, 45-565, 45-566, 45-567 and 45-568 if both of the following apply:

45-564. Management plan for first management period; guidelines

B. Within thirty days after the management plan for the first management period is adopted, the director shall give written notice of:

1. The irrigation water duty for the farm unit to each person in the farm unit who is entitled to withdraw or receive groundwater pursuant to an irrigation **grandfathered PREEXISTING** right and to each person distributing groundwater pursuant to an irrigation **grandfathered PREEXISTING** right.

45-565. Management plan for second management period; guidelines

G. A person who is entitled to use groundwater pursuant to an irrigation **grandfathered PREEXISTING** right may apply to the director at any time during the management period for an exemption from the irrigation water duties established under subsection A, paragraph 1 of this section. The director shall grant the exemption if the person demonstrates to the director's satisfaction that granting the exemption is consistent with achieving the management goal of the active management area and that one of the following applies:

1. Withdrawal of groundwater pursuant to the irrigation **grandfathered PREEXISTING** right during the management period will intercept groundwater that would otherwise flow out of and be lost to the active management area within the next fifteen years without entering another active management area.
2. Withdrawal of groundwater pursuant to the irrigation **grandfathered PREEXISTING** right during the management period will prevent encroachment of a rising depth to groundwater level that will cause waterlogging problems within the next fifteen years.

45-566. Management plan for third management period; guidelines

A. For the third management period, 2000 to 2010, the director shall promulgate a management plan for each initial active management area not later than January 1, 1998. The director:

9. May include in each plan a program for the purchase and retirement of **grandfathered PREEXISTING** rights by the department to begin no earlier than January 1, 2006.

D. A person who is entitled to use groundwater pursuant to an irrigation **grandfathered PREEXISTING** right may apply to the director at any time during the management period for an exemption from the irrigation water duties established pursuant to subsection A, paragraph 1 of this section. The director shall grant the exemption if the person demonstrates to the director's satisfaction that granting the exemption is consistent with achieving the management goal of the active management area and that one of the following applies:

1. Withdrawal of groundwater pursuant to the irrigation **grandfathered PREEXISTING** right during the management period will intercept the groundwater that would otherwise flow out of and be lost to the active management area within the next fifteen years without entering another active management area.
2. Withdrawal of groundwater pursuant to the irrigation **grandfathered PREEXISTING** right during the management period will prevent encroachment of a rising depth to groundwater level that will cause waterlogging problems within the next fifteen years.

45-566.02. Alternative conservation programs for agriculture; third management period

section 45-566, subsection A, paragraph 1.

B. The director shall establish the components of the historic cropping program in the management plan for the third management period to assure that conservation equivalent to that required by section 45-566, subsection A, paragraph 1 will be achieved. In addition to the program components established by the director, the historic cropping program shall include the following provisions:

5. Only owners of an irrigation **grandfathered PREEXISTING** right may apply for participation in the historic cropping program.

C. In the management plan, the director shall establish criteria that the applicant shall satisfy to enter the historic cropping program to assure that conservation equivalent to that required by section 45-566, subsection A, paragraph 1 will be achieved. An owner of an irrigation **grandfathered PREEXISTING** right may apply to participate in the historic cropping program by filing an application with the director. The director shall not approve an application for the historic cropping program unless the applicant satisfies the entrance criteria established by the director and the following conditions are satisfied:

D. In the management plan, the director shall establish performance standards that the owner of an irrigation **grandfathered PREEXISTING** right or any person using groundwater pursuant to that right shall satisfy while participating in the historic cropping program to assure that conservation equivalent to that required by section 45-566, subsection A, paragraph 1 will be achieved. After an owner of an irrigation **grandfathered PREEXISTING** right has been approved for participation in the historic cropping program, the owner of the irrigation **grandfathered PREEXISTING** right, and any person using groundwater pursuant to that right, shall meet both of the following conditions:

2. Not accumulate debits to the flexibility account established under section 45-467 that exceed twenty-five per cent of the maximum annual groundwater allotment established under subsection B of this section. The owner of the irrigation **grandfathered PREEXISTING** right, and any person entitled to use groundwater pursuant to that right, violate this section if the debit balance exceeds the amount stated in this paragraph.

E. Notwithstanding the provisions of section 45-467, an owner of an irrigation **grandfathered PREEXISTING** right, while participating in the historic cropping program, shall not convey or sell flexibility account credits from, or purchase flexibility account credits for, the flexibility account regulated by the historic cropping program.

F. The director shall include in a modification to the management plan for the third management period a best management practices program that is an alternative to the agricultural conservation program required by section 45-566, subsection A, paragraph 1 and that the director determines will achieve conservation that is at least equivalent to that required under section 45-566, subsection A, paragraph 1. The best management practices program shall require the owner of an irrigation **grandfathered PREEXISTING** right and any person using groundwater pursuant to the right to implement specific agricultural conservation practices for water use on the land or farm unit to which the right is appurtenant in lieu of complying with an irrigation water duty and a maximum annual groundwater allotment. The director may include in the adoption of, or a modification to, the management plan for the third management period additional alternative agricultural conservation programs that the director determines achieve conservation that is at least equivalent to that required under section 45-566, subsection A, paragraph 1. The director may establish a cropped acreage program in which the maximum annual groundwater allotment is determined based on the crops grown during the calendar year in which the irrigation efficiency is applied.

45-567. Management plan for fourth management period; guidelines

A. For the fourth management period, 2010 to 2020, the director shall promulgate a management plan for each initial active management area not later than January 1, 2008. The director:

8. May include in each plan, if feasible, a program for purchase and retirement of **grandfathered PREEXISTING** rights by the department.

E. A person who is entitled to use groundwater pursuant to an irrigation **grandfathered PREEXISTING** right may apply to the director at any time during the fourth management period for an exemption from the irrigation water duties established under subsection A, paragraph 1 of this section. The director shall grant the exemption if the person demonstrates to the director's satisfaction that granting the exemption is consistent with achieving the management goal of the active management area and that one of the following applies:

1. Withdrawal of groundwater pursuant to the irrigation **grandfathered PREEXISTING** right during the management period will intercept groundwater that would otherwise flow out of and be lost to the active management area within the next fifteen years without entering another active management area.
2. Withdrawal of groundwater pursuant to the irrigation **grandfathered PREEXISTING** right during the management period will prevent encroachment of a rising depth to groundwater level that will cause waterlogging problems within the next fifteen years.

45-567.02. Alternative conservation programs for agriculture; fourth management period

B. The director shall establish the components of the historic cropping program in the management plan for the fourth management period to assure that conservation equivalent to that required by section 45-567, subsection A, paragraph 1 will be achieved. In addition to the program components established by the director, the historic cropping program shall include the following provisions:

5. Only owners of an irrigation **grandfathered PREEXISTING** right may apply for participation in the historic cropping program.

C. In the management plan, the director shall establish criteria that the applicant shall satisfy to enter the historic cropping program to assure that conservation equivalent to that required by section 45-567, subsection A, paragraph 1 will be achieved. An owner of an irrigation **grandfathered PREEXISTING** right may apply to participate in the historic cropping program by filing an application with the director. The director shall not approve an application for the historic cropping program unless the applicant satisfies the entrance criteria established by the director and the following conditions are satisfied:

D. In the management plan, the director shall establish performance standards that the owner of an irrigation **grandfathered PREEXISTING** right or any person using groundwater pursuant to that right shall satisfy while participating in the historic cropping program to assure that conservation equivalent to that required by section 45-567, subsection A, paragraph 1 will be achieved. After an owner of an irrigation **grandfathered PREEXISTING** right has been approved for participation in the historic cropping program, the owner of that right, and any person using groundwater pursuant to that right, shall meet both of the following conditions:

2. Not accumulate debits to the flexibility account established under section 45-467 that exceed twenty-five per cent of the maximum annual groundwater allotment established under subsection B of this section. The owner of the irrigation **grandfathered PREEXISTING** right, and any person entitled to use groundwater pursuant to that right, violate this section if the debit balance exceeds the amount stated in this paragraph.

E. Notwithstanding the provisions of section 45-467, an owner of an irrigation **grandfathered PREEXISTING** right, while participating in the historic cropping program, shall not convey or sell flexibility account credits from, or purchase flexibility account credits for, the flexibility account regulated by the historic cropping program.

G. The director shall include in the adoption of the management plan for the fourth management period a best management practices program that requires the owner of an irrigation **grandfathered PREEXISTING** right and any person using groundwater pursuant to the right to implement specific agricultural conservation practices for water use on the land or farm unit to which the right is appurtenant in lieu of complying with an irrigation water duty and a maximum annual groundwater allotment. The program shall be designed to achieve conservation that is at least equivalent to that required under section 45-567, subsection A, paragraph 1.

45-568. Management plan for fifth management period; guidelines

A. For the fifth management period, 2020 to 2025, the director shall promulgate a management plan for each initial active management area not later than January 1, 2019 pursuant to the guidelines prescribed in section 45-567, subsections A and B, except that:

3. A person who is entitled to use groundwater pursuant to an irrigation **grandfathered PREEXISTING** right may apply to the director at any time during the management period for an exemption from the irrigation water duties established pursuant to this section. The director shall grant the exemption if the person demonstrates to the director's satisfaction that granting the exemption is consistent with achieving the management goal of the active management area and that one of the following applies:

(a) Withdrawal of groundwater pursuant to the irrigation **grandfathered PREEXISTING** right during the management period will intercept groundwater that would otherwise flow out of and be lost to the active management area in the next fifteen years without entering another active management area.

(b) Withdrawal of groundwater pursuant to the irrigation **grandfathered PREEXISTING** right during the management period will prevent encroachment of a rising depth to groundwater level that will cause waterlogging problems within the next fifteen years.

45-568.02. Alternative conservation programs for agriculture; fifth management period

B. The director shall establish the components of the historic cropping program in the management plan for the fifth management period to assure that conservation equivalent to that required by section 45-568, subsection A will be achieved. In addition to the program components established by the director, the historic cropping program shall include the following provisions:

5. Only owners of an irrigation **grandfathered PREEXISTING** right may apply for participation in the historic cropping program.

C. In the management plan, the director shall establish criteria that the applicant shall satisfy to enter the historic cropping program to assure that conservation equivalent to that required by section 45-568, subsection A will be achieved. An owner of an irrigation **grandfathered PREEXISTING** right may apply to participate in the historic cropping program by filing an application with the director. The director shall not approve an application for the historic cropping program unless the applicant satisfies the entrance criteria established by the director and the following conditions are satisfied:

D. In the management plan, the director shall establish performance standards that the owner of an irrigation **grandfathered PREEXISTING** right or any person using groundwater pursuant to that right shall satisfy while participating in the historic cropping program to assure that conservation equivalent to that required by section 45-568, subsection A will be achieved. After an owner of an irrigation **grandfathered PREEXISTING** right has been approved for participation in the historic cropping program, the owner of that right, and any person using groundwater pursuant to that right, shall meet both of the following conditions:

2. Not accumulate debits to the flexibility account established under section 45-467 that exceed twenty-five per cent of the maximum annual groundwater allotment established under subsection B of this section. The owner of the irrigation **grandfathered PREEXISTING** right, and any person entitled to use groundwater pursuant to that right, violate this section if the debit balance exceeds the amount stated in this paragraph.

E. Notwithstanding the provisions of section 45-467, an owner of an irrigation **grandfathered PREEXISTING** right, while participating in the historic cropping program, shall not convey or sell flexibility account credits from, or purchase flexibility account credits for, the flexibility account regulated by the historic cropping program.

G. The director shall include in the adoption of the management plan for the fifth management period a best management practices program that requires the owner of an irrigation **grandfathered PREEXISTING** right and any person using groundwater pursuant to the right to implement specific agricultural conservation practices for water use on the land or farm unit to which the right is appurtenant in lieu of complying with an irrigation water duty and a maximum annual groundwater allotment. The program shall be designed to achieve conservation that is at least equivalent to that required under section 45-568, subsection A.

45-571.01. Notification to persons filing late applications for certificates of **grandfathered PREEXISTING rights and to persons with new groundwater rights or uses; compliance; variance; review**

A. The director, at the time a certificate of **grandfathered PREEXISTING** right is issued pursuant to the late application procedures in section 45-476.01, shall establish and give written notice of any applicable irrigation water duty or conservation requirement.

45-577. Application; hydrological study; review of application

A. The director shall prescribe the form of application for a certificate of assured water supply, to include, as applicable:

5. If groundwater is a proposed source of water:

(a) Evidence of ownership of any **grandfathered PREEXISTING** rights pursuant to which groundwater may be withdrawn for the proposed development.

45-604. Water measuring devices

B. A person who holds a type 2 non-irrigation **grandfathered PREEXISTING** right or a groundwater withdrawal permit in the amount of ten or fewer acre-feet per year is not required to use a water measuring device to measure withdrawals pursuant to that **grandfathered PREEXISTING** right or groundwater withdrawal permit unless the person holds more than one such right or permit in the aggregate amount of more than ten acre-feet per year and withdraws more than ten acre-feet of groundwater per year pursuant to those rights or permits from one well.

D. In an active management area, a person, other than an irrigation district, who withdraws groundwater from a non-exempt well for use pursuant to an irrigation **grandfathered PREEXISTING** right that is appurtenant to ten or fewer irrigation acres is not required to use a water measuring device to measure withdrawals from that well unless groundwater withdrawn from the well is also used pursuant to either a service area right pursuant to article 6 of this chapter or a **grandfathered PREEXISTING** groundwater right other than an irrigation **grandfathered PREEXISTING** right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

45-611. Groundwater withdrawal fee; amounts and purposes of fee; exception

A. Except as provided in subsection B of this section, the director shall levy and collect an annual groundwater withdrawal fee from each person withdrawing groundwater in the Prescott active management area or the person who owns the right to withdraw the groundwater, in an amount not to exceed \$5 per acre-foot of groundwater withdrawn and beneficially used. The director shall levy and collect an annual withdrawal fee from each person withdrawing water, other than stored water, from a well in the Santa Cruz active management area or the person who owns the right to withdraw the water, in an amount not to exceed \$5 per acre-foot of water, other than stored water, that is withdrawn and beneficially used. For the purposes of this article, the annual withdrawal fee levied and collected in the Santa Cruz active management area shall be considered a groundwater withdrawal fee. The actual amount of the fee levied and collected by the director pursuant to this subsection shall be set by the director as follows:

3. For purchasing and retiring **grandfathered PREEXISTING** rights, an amount not greater than \$2 per acre-foot per year. The initial fee for purchasing and retiring **grandfathered PREEXISTING** rights shall be levied in the first year in which the director develops and implements a program for the purchase and retirement of **grandfathered PREEXISTING** rights as part of the management plan for the active management area, but not earlier than January 1, 2006. The director may not levy a fee under this paragraph on a district member of a groundwater replenishment district that withdraws groundwater in the district for a non-irrigation use in the district.

B. A person, other than an irrigation district, who withdraws groundwater in an active management area from a non-exempt well for use pursuant to an irrigation **grandfathered PREEXISTING** right that is appurtenant to ten or fewer irrigation acres and the person who owns the right to withdraw the groundwater are exempt from the groundwater withdrawal fee requirements of subsections A and C of this section for those withdrawals unless the irrigation acres are part of an integrated farming operation.

C. Except as provided in section 45-411.01, subsection C and subsection B of this section, the director shall levy and collect an annual groundwater withdrawal fee from each person who withdraws groundwater in the Tucson, Phoenix and Pinal active management areas or the person who owns the right to withdraw the groundwater, in an amount of not more than \$5 per acre-foot of groundwater withdrawn and beneficially used. The director shall set the actual amount of the fee as follows:

4. For purchasing and retiring ~~grandfathered~~ PREEXISTING rights, an amount of not more than \$2 per acre-foot per year. The initial fee for purchasing and retiring ~~grandfathered~~ PREEXISTING rights shall be levied in the first year in which the director develops and implements a program for the purchase and retirement of ~~grandfathered~~ PREEXISTING rights as part of the management plan for the active management area, but not earlier than January 1, 2006. The director may not levy a fee pursuant to this paragraph on a district member of a groundwater replenishment district that withdraws groundwater in the district for non-irrigation use in the district.

45-613. Use of withdrawal fees collected for augmentation and conservation and purchase and retirement of ~~grandfathered~~ PREEXISTING rights, Arizona water banking purposes and groundwater and irrigation efficiency projects

B. Monies collected in an active management area for the purpose of purchasing and retiring ~~grandfathered~~ PREEXISTING rights under section 45-611, subsection A, paragraph 3 and subsection C, paragraph 4 shall be used only to finance the program for the purchase and retirement of ~~grandfathered~~ PREEXISTING rights that is part of the management plan for the active management area.

45-614. Setting groundwater withdrawal fee; statement entered in record; statement transmitted to state treasurer; notice; payment; penalty

D. A person who, under section 45-604, subsection B, is not required to use and does not use a water measuring device to measure withdrawals made pursuant to a type 2 non-irrigation ~~grandfathered~~ PREEXISTING right or a groundwater withdrawal permit shall pay an amount equal to the groundwater withdrawal fee set by the director for the calendar year multiplied by the number of acre-feet of the ~~grandfathered~~ PREEXISTING right or the groundwater withdrawal permit.

45-615. Deposits; divisions of collections into funds

Except as provided in section 45-113, subsection C, the director shall deposit, pursuant to sections 35-146 and 35-147, all monies collected by the department pursuant to section 45-611, subsection A, paragraphs 2 and 3 and subsection C, paragraphs 2, 3 and 4 and any other monies received for that purpose. Based on the statement of the director transmitted pursuant to section 45-614, subsection B, the monies collected shall be allocated as follows:

3. Monies received for the purpose of purchase and retirement of ~~grandfathered~~ PREEXISTING rights shall be kept in a purchase and retirement fund. Separate accounts for each active management area shall be maintained within the fund. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

45-616. Water quality assurance fee; disposition of revenue

A. The director shall levy and collect, in a form prescribed by the department, an annual water quality assurance fee from each person who owns a type 1 or a type 2 non-irrigation **grandfathered PREEXISTING** right pursuant to article 5 of this chapter or who holds a groundwater withdrawal permit for beneficial use issued pursuant to article 7 of this chapter.

C. A person who, under section 45-604, subsection B, is not required to use and does not use a water measuring device to measure withdrawals made pursuant to a type 2 non-irrigation **grandfathered PREEXISTING** right or a groundwater withdrawal permit shall pay an amount equal to the water quality assurance fee of two dollars twelve cents per acre-foot multiplied by the number of acre-feet of the **grandfathered PREEXISTING** right or the groundwater withdrawal permit.

45-632. Records and annual report of groundwater pumping, transportation and use; penalty

D. A person who owns or leases an irrigation **grandfathered PREEXISTING** right that is appurtenant to ten or fewer irrigation acres is exempt from the record keeping and reporting requirements of this section for the irrigation **grandfathered PREEXISTING** right unless one of the following applies:

1. The land to which the irrigation **grandfathered PREEXISTING** right is appurtenant is part of an integrated farming operation.
2. Groundwater is withdrawn from the land to which the irrigation **grandfathered PREEXISTING** right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a **grandfathered PREEXISTING** groundwater right other than an irrigation **grandfathered PREEXISTING** right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.
3. Groundwater is withdrawn from land that is both owned by the owner of the irrigation **grandfathered PREEXISTING** right and contiguous to the land to which the irrigation **grandfathered PREEXISTING** right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a **grandfathered PREEXISTING** groundwater right other than an irrigation **grandfathered PREEXISTING** right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

E. An irrigation district which delivers and distributes groundwater in an active management area may file an annual report with the director for each person who holds an irrigation **grandfathered PREEXISTING** right appurtenant to irrigation acres within the service area of the irrigation district, if the irrigation district delivers all the water used on the person's irrigation acres. If an irrigation district files an annual report for such a person, the irrigation district shall report the following information for each such person:

1. The name of the person and the certificate number of the person's irrigation **grandfathered PREEXISTING** right.

F. Persons who are required to report under subsection B, paragraph 1 of this section and who withdraw groundwater during the calendar year in an active management area shall report the following information for each well:

2. The quantity of groundwater withdrawn from the well during the calendar year. A person who, under section 45-604, subsection B, is not required to use and does not use a water measuring device to measure withdrawals made pursuant to a type 2 non-irrigation **grandfathered PREEXISTING** right or a groundwater withdrawal permit shall estimate the quantity of groundwater withdrawn pursuant to the **grandfathered PREEXISTING** right or withdrawal permit.

45-815.01. Facilities not qualifying as storage facilities

The following shall not be permitted as underground storage facilities:

2. Aqueducts, irrigation canals and other **man-made ARTIFICIAL** water conveyance systems.

45-841.01. Accrual of long-term storage credits; Indian water rights settlements

D. Before accruing any long-term storage credits under this section, a party seeking to participate in the accrual of long-term storage credits under this section shall file with the director all of the following information:

1. A written notice of the party's intent to begin the delivery of central Arizona project water that is available to the Indian community to the holder of **grandfathered PREEXISTING** groundwater rights in an active management area.

2. A sworn statement by the holder of the **grandfathered PREEXISTING** groundwater rights that the holder will use the water delivered off of Indian community lands on a gallon-for-gallon substitute basis instead of groundwater that otherwise would have been pumped pursuant to the **grandfathered PREEXISTING** groundwater rights from within an active management area.

3. A listing and description of the **grandfathered PREEXISTING** groundwater rights that will not be exercised by the holder because of the delivery of the water that is delivered by the Indian community.

4. A hydrologic report assessing the effect of nonexercise of **grandfathered PREEXISTING** groundwater rights under this section on any underground storage facility that was constructed as a state demonstration project and that is located within ten miles of the point of withdrawal for the **grandfathered PREEXISTING** groundwater rights.

F. If the director determines that the parties have complied with subsection D of this section, the Indian community may begin accruing long-term storage credits for the delivery of central Arizona project water to the holder of the **grandfathered PREEXISTING** groundwater rights, but only if the following apply:

1. By March 31 of each year, the holder of the **grandfathered PREEXISTING** groundwater rights files an annual report with the director for the preceding calendar year. The annual report shall include the following information:

(a) The total quantity of water received from the Indian community during the year for use by the holder under this section.

(b) A listing of those **grandfathered PREEXISTING** groundwater rights that were not exercised during the year by the holder because of the receipt of central Arizona project water delivered by the Indian community.

2. The director finds that the water reported as received by the **grandfathered PREEXISTING** groundwater right holder was used on a gallon-for-gallon substitute basis for groundwater.

3. The Indian community has offered to sell the Arizona water banking authority ten per cent of any long-term storage credits accruable by the Indian community under this section at a price per acre-foot at the time of sale equal to the authority's cost of delivering and storing water at an underground storage facility that was constructed as a state demonstration project and that is located within ten miles of the point of withdrawal of any of the **grandfathered PREEXISTING** groundwater rights identified in the list filed with the director pursuant to subsection D, paragraph 3 of this section, except that any credits purchased pursuant to such offer may not be recovered within five miles of the exterior reservation boundary of the Indian community.

G. The water that is received under this section by the holder of the **grandfathered PREEXISTING** groundwater right is deemed to be groundwater for all purposes of chapter 2 of this title as if the holder had withdrawn it from a well. The holder is responsible for all records, reports and fees required by chapter 2 of this title relating to the water received.

H. The director shall establish a long-term storage account for the Indian community in accordance with section 45-852.01 and each year shall credit to that long-term storage account ninety-five per cent of the water received by the holder of the **grandfathered PREEXISTING** groundwater right during the preceding year that meets the requirements of subsection F of this section.

45-1002. Water exchanges; conditions

A. A person may withdraw, divert or use water received through a water exchange only if one or more of the following apply:

6. All water exchanged pursuant to the water exchange or water exchange contract is groundwater and the exchange is between an irrigation district and an irrigation **grandfathered PREEXISTING** right holder within that irrigation district.

45-1203. Approval by director of proposed dams or enlargements of existing dams; application for construction or enlargement

B. A separate application for each dam shall be filed with the director upon forms provided by **him THE DIRECTOR**, reciting the name and address of the owner or **his THE OWNER'S** agent, the location, type, size and height of the proposed dam and appurtenant works, the storage capacity of the reservoir, and such other information as the director requests. The application shall also set forth the area of the drainage basin, rainfall and stream flow records, flood flow records and estimates and other similar information required by the director. The director may require information concerning subsoil and foundation conditions and may require that the site be drilled or otherwise prospected.

D. The means, plans and specifications by which the stream or body of water is to be dammed, by-passed or controlled during construction shall be stated in the application, or such means, plans and specifications shall be submitted to the director for approval prior to beginning construction. The director shall have the same authority over the construction and maintenance of such means of damming, by-passing or controlling the stream or body of water during construction of the dam as **he THE DIRECTOR** has over similar work on the dam itself.

45-1206. Approval of repair, alteration or removal of dam

A. Before commencing the repair, alteration or removal of a dam, application shall be made for written approval by the director, except as otherwise provided by this article. The application shall state the name and address of the applicant, shall adequately detail the changes it proposes to effect and shall be accompanied by maps, plans and specifications setting forth such details and dimensions as the director requires. The director may waive any such requirements. The application shall give such other information concerning the dam and reservoir required by the director and such information concerning the safety of any change **he THE DIRECTOR** may require and shall state the proposed time of commencement and completion of the work. The application shall otherwise conform to the requirements of section 45-1203.

B. When repairs are necessary to safeguard life and property, they may be started immediately, but the director shall be notified forthwith of the proposed repairs and of work under way, and they shall be made to conform to **his THE DIRECTOR'S** orders.

45-1208. Inspections and investigations during construction; modifications; notice

A. During the construction, enlargement, repair, alteration or removal of a dam the director shall make such inspections, investigations or examinations as **he THE DIRECTOR** deems necessary to enforce the provisions of **his THE DIRECTOR'S** approval and the plans and specifications as approved. If thereafter as the work progresses the director believes amendments, modifications or changes are necessary to insure safety, **he THE DIRECTOR** shall revise the approval.

B. If, during construction, reconstruction, repair, alteration or enlargement of any dam, the director finds the work is not being done in accordance with the provisions of the approval and the approved plans and specifications, **he THE DIRECTOR** shall give written notice by registered mail or personal service to the person who received the approval and to the person in charge of construction at the dam. The notice shall state the particulars in which compliance has not been made, and shall order immediate compliance with the terms of the approval, and the approved plans and specifications. The director may order that no further construction work be undertaken until such compliance has been effected and approved by the director. A failure to comply with the approval and the approved plans and specifications shall render the approval revocable unless compliance is made after notice as provided by this section.

45-1211. Time for filing petition; board of review

A. The petition for review shall be in writing and shall be filed with the director within ten days after issuance of the approval, disapproval or order of which complaint is made. Upon receipt of the petition, the director shall prepare a list of ten qualified experts. Within ten days the petitioner shall select three individuals from the list who shall then serve as the board of review. The board shall serve at the expense of the petitioners. Within thirty days from its designation, or within such further time as the

director allows, the board shall report to the director and **he THE DIRECTOR** shall forthwith affirm, change or modify the report, and **his THE DIRECTOR'S** action shall be final and not subject to further review. No board of review shall be appointed to consider any action taken by the director relative to emergency regulation and control of a dam under section 45-1212 or action taken by the director under section 45-1221.

B. Pending examination, change or modification by the director, **his THE DIRECTOR'S** approval, disapproval or order issued shall remain operative. Operations shall be suspended if an applicant or owner files a petition for a board of review unless the director orders work to proceed because of emergency conditions.

45-1213. Inspection upon complaint

Upon receipt of a written complaint that the person or property of the complainant is endangered by any dam, the director shall inspect such dam unless **his THE DIRECTOR'S** records disclose that the complaint is without merit. If the complainant insists upon an inspection and deposits with the director an amount sufficient to cover costs of inspection, the inspection shall be made. If an unsafe condition is found, the director shall cause it to be corrected, and the deposit shall be returned. If the complaint was without merit the deposit shall be paid into the general fund.

45-1214. Investigations for review of design and construction

The director shall make investigations and assemble data for a proper review and study of the design and construction of dams, reservoirs and appurtenances, and shall make watershed investigations to facilitate decisions on public safety. The director or **his THE DIRECTOR'S** representatives may enter upon private property for such purposes.

45-1216. Violations; classification

A. It is unlawful for an owner, director, officer, agent, employee, contractor or **his THE CONTRACTOR'S** agents to construct, reconstruct, repair, enlarge, alter or remove a dam without an approval as provided in this chapter, or contrary to an approval issued. It is unlawful for the agents or employees of the director to permit such work to be done without immediately notifying the director.

45-1217. Action and procedures to restrain violations

B. An action or proceeding under this section may be commenced whenever any owner or any person acting as a director, officer, agent or employee of any owner, or any contractor or agent or employee of such contractor is:

1. Failing or omitting or about to fail or omit to do anything required of **him THAT PERSON** by this chapter or by any approval, order, rule, regulation or requirement of the director under the authority of this chapter; or

C. Any action or proceeding under this section shall be commenced in a court of appropriate jurisdiction in which:

2. The owner or person complained of has **his THAT PERSON'S** principal place of business; or

45-1446. Time for determining costs; change of determination

A. The state's portion of the costs of lands, easements and rights-of-way shall be determined by the director at or prior to the time the director submits **his THE DIRECTOR'S** report to the legislature recommending an appropriation for such project.

B. The state's portion of such costs shall not be changed unless there are major project changes made in the plan of improvement, in which case the director, prior to the next appropriation of state funds for the project, shall review the project and make such reports and recommendations to the legislature as **he THE DIRECTOR** deems justified by the project changes.

45-1449. Report to legislature

The director shall report to the legislature, within fifteen days after the commencement of each regular session, on the disbursal or refusal to disburse money appropriated to **him THE DIRECTOR** by the legislature for purposes of this chapter and on the disbursal or refusal to disburse monies in any special appropriations for flood control.

45-1451. Powers and duties of director

A. The director, or **his THE DIRECTOR'S** duly authorized representative, may call, conduct, attend or otherwise participate in conferences or hearings, official or unofficial, within or without this state, with interested persons, agencies or officers of this or any other state or the federal government, concerning flood control and floodplain management.

45-1606. Exception

Nothing in this article shall be construed to prohibit the use and operation of equipment and supplies designed for the purpose of weather control or cloud modification owned by the owner, lessee or licensee of real property used for agricultural purposes on the property for **his THAT PERSON'S** exclusive benefit.

45-1607. Violations; classification

Any person conducting weather control or cloud modification operations without first having procured a license as provided by this article, or who knowingly makes a false statement in the application for license, or who knowingly fails to file any report or evaluation required by this article, or who conducts any weather control or cloud modification operation after revocation of **his-or-its THAT PERSON'S** license, or who violates any other provision of this article, is guilty of a class 3 misdemeanor.

45-1921. Board of directors; qualification and organization; compensation

E. Each member of the board shall serve at the pleasure of the governing body or official that selected **him THAT MEMBER**. A subsequent board member shall qualify within thirty days after receiving notice of **his THAT MEMBER'S** appointment in the same manner as prescribed by this section.

F. The board shall select a **chairman CHAIR**, **vice-chairman VICE-CHAIR** and secretary-treasurer from among the members who shall hold office at the pleasure of the board.

45-1977. Annual financial statement and audit

B. Within thirty days after the close of each fiscal year the authority shall cause an audit to be made of the funds of the authority by a certified public accountant. The board shall file a copy of the audit with the auditor general. The auditor general may make such further audits and examinations as **he THE AUDITOR GENERAL** deems necessary and may take appropriate action relating to the audit pursuant to title 41, chapter 7, article 10.1. If the auditor general takes no official action within thirty days after the audit is filed, the audit is deemed sufficient. The board shall pay any fees and costs of the certified public accountant and auditor general under this section from the general fund of the authority.

45-1997. Certification of bonds by attorney general

The board may submit any bonds issued under this article to the attorney general after all proceedings for their authorization have been completed. On submission the attorney general shall examine and pass on the validity of the bonds and the regularity of the proceedings. If the proceedings comply with this article, and if **he THE ATTORNEY GENERAL** determines that, when delivered and paid for, the bonds will constitute binding and legal obligations of the board, the attorney general shall certify on the back of each bond, in substance, that it is issued according to the constitution and laws of this state.

45-2101. Declaration of policy

B. The primary purpose of this chapter is to establish the Arizona water protection fund commission and the Arizona water protection fund that shall provide an annual source of monies for the development and implementation of measures to protect water of sufficient quality and quantity to maintain, enhance and restore rivers and streams and associated riparian habitats, including fish and wildlife resources that are dependent on these important habitats consistent with existing water law and water rights, and measures to increase water availability. The commission may also provide funding to develop and protect riparian habitats in conjunction with **a man-made AN ARTIFICIAL** water resource project, if the **man-made ARTIFICIAL** water resource water project directly or indirectly benefits a river or stream and includes or creates a riparian habitat. This funding shall occur primarily through the grant of monies from the Arizona water protection fund by the commission to entities that cooperate and work in conjunction with local residents and affected jurisdictions.

C. This declaration of policy and the use of the words “restore”, “restoring” and “restoration” in this chapter does not imply an intent to prescribe the removal of dams, levees or other **man-made ARTIFICIAL BARRIER**.

45-2201. Definitions

In this chapter, unless the context otherwise requires:

14. “United States” means the secretary of the interior, acting for the United States department of interior, or **his THE** duly authorized representative.

45-2221. Board of directors; organization; compensation

B. The board consists of persons appointed by the resolutions of the municipal corporations that are authority members and, if appointed, the person appointed pursuant to subsection C. Each authority

member shall appoint one director to the board. Each director appointed pursuant to this subsection shall serve at the pleasure of the authority member that appointed **him THAT DIRECTOR**. Each director appointed pursuant to this subsection may be removed from the board by resolution of the authority member that appointed **him THAT DIRECTOR**. An authority member that removes a director from the board shall appoint another director to the board.

45-2601. Definitions

Unless the context otherwise requires, the terms defined in sections 45-402 and 45-802.01 have the same meaning in this chapter and for the purposes of this chapter:

11. “Industrial use” means all of the following:

(a) A nonirrigation use of water commenced after December 31, 2002 that is not supplied by a municipal provider, including animal industry use and expanded animal industry use.

(b) A use of groundwater commenced before January 1, 2003 by a holder of a type 1 nonirrigation **grandfathered PREEXISTING** right in existence on December 31, 2002, other than a type 1 nonirrigation **grandfathered PREEXISTING** right held by a municipal provider and other than a use under another groundwater right or permit, in excess of the amount allowed under the type 1 nonirrigation **grandfathered PREEXISTING** right.

(c) A use of groundwater commenced before January 1, 2003 by a holder of a type 2 nonirrigation **grandfathered PREEXISTING** right in existence on December 31, 2002, other than a type 2 nonirrigation **grandfathered PREEXISTING** right held by a municipal provider, in excess of the amount allowed under the right and for which the holder has no other groundwater right.

45-2626. Individual replenishment obligations of persons using underground water or stored water within an eastern protection zone or a western protection zone for industrial use; enforcement action; notice

A. If there is a municipal and industrial replenishment obligation for the eastern protection zone north for any year, as calculated under section 45-2622, subsection B, any person who withdraws underground water or stored water from within that protection zone during the year for an industrial use within an eastern protection zone in an amount that exceeds a volume calculated by multiplying the number of industrial acres associated with the industrial use by three and one-half acre-feet shall have an individual replenishment obligation for that year in the amount of the excess, except that if the industrial use was commenced prior to January 1, 2003, the replenishment obligation shall be limited to the volume of groundwater withdrawn in excess of the amount allowed under the industrial user’s type 1 nonirrigation **grandfathered PREEXISTING** right, type 2 nonirrigation **grandfathered PREEXISTING** right or general industrial use permit issued under section 45-515. For the purposes of this subsection, stored water does not include any water stored at a storage facility located within the eastern protection zone north.

B. If there is a municipal and industrial replenishment obligation for the eastern protection zone south for any year, as calculated under section 45-2622, subsection B, any person who withdraws underground water or stored water from within that protection zone during the year for an industrial use within an eastern protection zone in an amount that exceeds a volume calculated by multiplying the number of industrial acres associated with the industrial use by three and one-half acre-feet shall have an individual

replenishment obligation for that year in the amount of the excess, except that if the industrial use was commenced prior to January 1, 2003, the replenishment obligation shall be limited to the volume of groundwater withdrawn in excess of the amount allowed under the industrial user's type 1 nonirrigation **grandfathered PREEXISTING** right, type 2 nonirrigation **grandfathered PREEXISTING** right or general industrial use permit issued under section 45-515. For the purposes of this subsection, stored water does not include any water stored at a storage facility located within the eastern protection zone south.

C. If there is a municipal and industrial replenishment obligation for the western municipal and industrial protection zone for any year, as calculated under section 45-2622, subsection B, any person who withdraws underground water or stored water from within that protection zone during the year for an industrial use within that protection zone in an amount that exceeds a volume calculated by multiplying the number of industrial acres associated with the industrial use by three and one-half acre-feet shall have an individual replenishment obligation for that year in the amount of the excess, except that if the industrial use was commenced prior to January 1, 2003, the replenishment obligation shall be limited to the volume of groundwater withdrawn in excess of the amount allowed under the industrial user's type 1 nonirrigation **grandfathered PREEXISTING** right, type 2 nonirrigation **grandfathered PREEXISTING** right or general industrial use permit issued under section 45-515. For the purposes of this subsection, stored water does not include any water stored at a storage facility located within the western municipal and industrial protection zone.

G. The director shall include written notice of the requirements of this section in any groundwater withdrawal permit, nonirrigation **grandfathered PREEXISTING** right authorization to drill a nonexempt well under section 45-596 or recovery well permit issued in an eastern protection zone or the western municipal and industrial protection zone after the effective date of this section.

TITLE 46 Welfare



Revisions are necessary due to exclusionary use of male pronouns or necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

46-101. Definitions

In this title, unless the context otherwise requires:

8. “Dependent child” means a needy child who has been deprived of parental support or care by reason of the death, unemployment of the supporting parent as defined and prescribed by the rules of the department, continued absence from the home, or physical or mental incapacity of a parent, and whose relatives who are responsible under the law for the child’s support are not able to provide adequate care and support of the child without public assistance, and who is living with ~~his~~ **A PARENT**, father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, niece, nephew or cousin in a place of residence maintained by one or more of such relatives as ~~his or their own~~ **A** home or who is in the legal custody of the department of child safety and placed in a foster home or with an unrelated adult as a recipient of temporary assistance for needy families. Such dependent child must be under eighteen years of age or, if eighteen, must be a full-time student in a high school, or in the equivalent level of vocational or technical training, and shall be reasonably expected to complete the program before reaching age nineteen.

13. “Head of household” means a dependent child’s parent or the spouse of the parent, or the dependent child’s nonparent relative or spouse of the nonparent relative, who receives cash assistance for **himself THE INDIVIDUAL’S** use and on behalf of the dependent child or only on behalf of the dependent child.

14. “Homestead property” means a home owned and occupied by the applicant or recipient, or **his THE APPLICANT’S** spouse.

26. “Vendor payment” means any payment to a person other than the recipient on **his THE RECIPIENT’S** behalf.

46-132. Special services unit

A. There shall be a special services unit in the department of economic security.

B. The supervisor of the special services unit shall be qualified with appropriate investigative or legal background. **He THE SUPERVISOR** shall be responsible to the director for the following:

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that “sex” included “gender” but that does not mean that “gender” includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that “sex” discrimination includes “gender” but “gender” does not include “sex” under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove “sex.”

46-140.01. Verifying applicants for public benefits; violation; classification; citizen suits

(Caution: 1998 Prop. 105 applies.)

C. This section shall be enforced without regard to race, **SEX**, religion, gender, ethnicity or national origin. Any person who is a resident of this state shall have standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceeding pending in the court.

Revisions needed due to exclusionary use of male pronouns.

46-184. Advisory council duties

C. The council shall convene in formal meeting at the call of the **chairman CHAIR**, but in no case less than four times each fiscal year. A quorum shall consist of no less than nine members present. Recommendations to the department, the governor, the president of the senate and the speaker of the house of representatives by the council shall be represented by a simple majority vote of members present of a quorum in formal meeting. Minority opinions with respect to any council recommendation may be formally submitted in writing to the department, the governor, the president of the senate and the speaker of the house of representatives through the **chairman CHAIR** of the council.

D. The subcommittee on Alzheimer’s disease and related disorders appointed pursuant to section 46-183 shall collect new data from long-term care providers, families and victims of Alzheimer’s disease and related disorders and prepare new or revised recommendations based on this information.

46-207. Grant plus income; uniform assistance plan; amount of assistance

D. For assistance granted pursuant to section 46-292, the department shall include a shelter cost factor. For purposes of determining assistance payments with this shelter cost factor, the department shall reduce the federal poverty level used in its calculation of payments by thirty-seven per cent if the person is not paying, or is not obligated to pay, shelter costs on ~~his~~ **THE PERSON'S** place of residence.

46-251. Mandatory state supplemental payments program

B. Mandatory state supplemental payments shall be granted for January 1974 and thereafter under this section to any person who meets and maintains the following requirements:

2. Is eligible for and receives, or who, but for ~~his~~ **THE PERSON'S** income, would be eligible to receive, a payment under title XVI of the social security act, as amended.

46-253. Ineligibility

No payment shall be made under this article to or on behalf of any individual who is not a resident of the state of Arizona or who refuses to apply for or accept supplemental security income for which ~~he~~ **THE INDIVIDUAL** is eligible under title XVI of the social security act, as amended.

46-294. Duration of assistance

A. A needy family is ineligible for a cash assistance grant awarded under this article, except in case of hardship or as provided in subsection G of this section, if any of the following applies:

1. The needy family includes a head of household or the spouse of the head of household who has received cash assistance for ~~himself~~ **THE INDIVIDUAL'S USE** for a total of twelve months.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption, and can be listed as "parent" on the birth certificate (McLaughlin v. Swanson, No. 2 CA-CV 2019-0210, Oct 5, 2020).

46-295. Recovery of public assistance from legally responsible persons; fund

A. If a recipient of public assistance has a person who is legally responsible for that person's support and who is presently able to reimburse the department for public assistance provided, the department, through the attorney general or county attorney, shall proceed in the following order against:

3. A father, ~~or~~ mother; **OR PARENT** not presently receiving public assistance.

Revisions are necessary due to exclusionary use of male pronouns.

46-296. Eligibility for assistance; unwed minor parents

B. Subsection A does not apply to unwed minor parents in any of the following situations:

4. The unwed minor parent and **his** **THE UNWED MINOR PARENT’S** child or children reside with the minor’s parent or parents, other adult relative or legal guardian who either has eligible children or is determined needy by the department. The department shall use the following guidelines when determining eligibility pursuant to this paragraph:

46-303. Violation; injunction

A. No person working in any program supported by state funds nor any state agency or agency of any political subdivision thereof, or any employee thereof, shall hinder or prohibit any person who is entitled to eye care which may be rendered by either an optometrist or a physician and surgeon skilled in diseases of the eye, to select a member of either such profession to render the service within the scope of **his** **THE PROFESSIONAL’S** license.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption, and can be listed as “parent” on the birth certificate (McLaughlin v. Swanson, No. 2 CA-CV 2019-0210, Oct 5, 2020).

46-402. Definitions

In this chapter, unless the context otherwise requires:

1. “Absent parent” means the non-custodial natural or adoptive father, **or** mother, **OR PARENT** of a dependent child.

46-404. Notice; service; order

B. The notice shall include:

3. A statement that within ten days after service, **he** **THE ABSENT PARENT** may contact the department office which served the notice to review **his** **THE ABSENT PARENT’S** financial status.

5. A statement that if the absent parent has any questions, **he** **THE ABSENT PARENT** should contact the department office serving the notice or respond through an attorney.

46-451. Definitions; program goals

A. In this chapter, unless the context otherwise requires:

1. "Abuse" means:

10. "Vulnerable adult" means an individual who is eighteen years of age or older and who is unable to protect **himself THEMSELVES** from abuse, neglect or exploitation by others because of a physical or mental impairment. Vulnerable adult includes an incapacitated person as defined in section 14-5101.

46-452. Protective services worker; powers and duties; immunity; communications

A. A protective services worker shall:

4. Offer an adult in need of protective services or **his THE ADULT'S** guardian whatever services appear appropriate in view of the evaluation.

46-452.01. Office of state long-term care ombudsman OMBUDSPERSON

The office of state long-term care **ombudsman OMBUDSPERSON** is established pursuant to the older Americans act of 1965, as amended (P.L. 100-175; United States Code section 307(a)(12)). The state long-term care **ombudsman OMBUDSPERSON** is under the direct supervision of the department of economic security, aging and adult administration program administrator or **his THE ADMINISTRATOR'S** designee. The department shall adopt rules for the purpose of implementing the state long-term care **ombudsman OMBUDSPERSON** program.

46-452.02. Long-term care ombudsman OMBUDSPERSON; duties; immunity from liability

A. A representative of the office of the state long-term care **ombudsman OMBUDSPERSON** who performs the official duties of the long-term care **ombudsman OMBUDSPERSON** shall not be liable under state law for the good faith performance of official duties.

B. Official duties of the office of the state long-term care **ombudsman OMBUDSPERSON** include authority to:

C. Official duties of the office of the state long-term care **ombudsman OMBUDSPERSON** do not include activities performed by a licensed health care provider as defined in section 12-561.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents.

46-453. Immunity of participants; nonprivileged communication

A. Any person making a complaint, furnishing a report, information or records required or authorized by this chapter or otherwise participating in the program authorized by this chapter or in a judicial or administrative proceeding or investigation resulting from reports, information or records submitted or obtained pursuant to this chapter is immune from any civil or criminal liability by reason of such action, unless the person acted with malice or unless such person has been charged with or is suspected of abusing, exploiting or neglecting the vulnerable adult in question. Except as provided in subsection B of

this section the physician-patient privilege, ~~husband-wife~~ MARITAL privilege or any privilege except the attorney-client privilege, provided for by professions such as the practice of social work or nursing covered by law or a code of ethics regarding practitioner-client confidences, both as they relate to the competency of the witness and to the exclusion of confidential communications, shall not pertain in any civil or criminal litigation in which a vulnerable adult's exploitation, abuse or neglect is an issue nor in any judicial or administrative proceeding resulting from a report, information or records submitted or obtained pursuant to section 46-454 nor in any investigation of a vulnerable adult's exploitation, abuse or neglect conducted by a peace officer or a protective services worker.

B. In any civil or criminal litigation in which incapacitation, abuse, exploitation or neglect of a vulnerable adult is an issue, a ~~clergyman~~ CLERGY or priest shall not, without ~~his~~ THE CLERGY'S consent, be examined as a witness concerning any confession made to ~~him~~ THE CLERGY in ~~his~~ THEIR role as a ~~clergyman~~ CLERGY or a priest in the course of the discipline enjoined by the church to which ~~he~~ THEY belongs.

46-455. Permitting life or health of a vulnerable adult to be endangered by neglect; violation; classification; civil remedy; definition

1. Ordering any person to divest ~~himself~~ THEMSELVES of any direct or indirect interest in any enterprise.

I. A defendant convicted in any criminal proceeding is precluded from subsequently denying the essential allegations of the criminal offense of which ~~he~~ THE DEFENDANT was convicted in any civil proceeding. For the purposes of this subsection, a conviction may result from a verdict or plea, including a plea of no contest.

M. Except in cases filed by a county attorney, the attorney general, upon timely application, may intervene in any civil action or proceeding brought under this section if the attorney general certifies that in ~~his~~ THE ATTORNEY GENERAL'S opinion the action is of special public importance. Upon intervention, the attorney general may assert any available claim and is entitled to the same relief as if the attorney general had instituted a separate action.

46-456. Duty to a vulnerable adult; financial exploitation; civil penalties; exceptions; definitions

H. Subsections A, B, C, D, E and F of this section do not apply to an agent who is acting within the scope of the person's duties as, or on behalf of, any of the following:

1. A bank, financial institution or escrow agent licensed or certified pursuant to title 6.
2. A securities dealer or ~~salesman~~ SALESPERSON registered pursuant to title 44, chapter 12, article 9.

46-601. Identification card; contents; definition

B. The identification card shall bear the title of «Arizona social services identification card», the social security number, full name, date of birth, residence address and a brief description of the holder, the case number issued by the department to such recipient and either a facsimile of the signature of the holder or a space on which ~~he~~ THE RECIPIENT shall write ~~his~~ THE RECIPIENT'S usual signature with pen

and ink. Every such card shall contain the photograph of the holder. Such photograph shall be processed in color.

Revision is necessary because of Obergefell v. Hodges whereas the parents in a same sex marriage have the same rights and obligation as other parents. Also see McLaughlin v. Jones, 243 Ariz 29, (2017) holding that the same-sex spouse benefits from the marital paternity presumption, and can be listed as “parent” on the birth certificate (McLaughlin v. Swanson, No. 2 CA-CV 2019-0210, Oct 5, 2020).

46-801. Definitions

12. “Parent” or “parents” means the natural, **MARITAL**, or adoptive parents of a child.

Sex and gender are very different things and cannot be used interchangeably. The Bostock case ruled that “sex” included “gender” but that does not mean that “gender” includes sex - it does not. The earlier cases of Price Waterhouse and Oncale also show that “sex” discrimination includes “gender” but “gender” does not include “sex” under the law. So to be inclusive, you have to use sex. You can use gender in addition, but you cannot remove “sex.”

46-803. Eligibility for child care assistance

O. This section shall be enforced without regard to race, religion, **SEX**, gender, ethnicity or national origin.

TITLE 47 Uniform Commercial Code

All revisions are necessary due to exclusionary use of male pronouns.

47-2104. Definitions: “merchant”; “between merchants”; “financing agency”

A. “Merchant” means a person who deals in goods of the kind INVOLVED IN THE TRANSACTION, A PERSON THAT BY ~~or otherwise by his~~ occupation holds himself out as having PURPORTS TO HAVE knowledge or skill peculiar to the practices or goods involved in the transaction, or ~~to whom such~~ A PERSON TO WHICH knowledge or skill may be attributed by his THE PERSON’S employment of an agent or broker or other intermediary ~~who by his~~ THAT BY occupation holds himself out as having PURPORTS TO HAVE such knowledge or skill.

47-2201. Formal requirements; statute of frauds

A. Except as otherwise provided in this section, a contract for the sale of goods for the price of five hundred dollars or more is not enforceable by way of action or defense unless there is some writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his SUCH PARTY’S authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this subsection beyond the quantity of goods shown in such writing.

47-2210. Delegation of performance; assignment of rights

A. A party may perform his ITS duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his THE original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

B. Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him SUCH PARTY by his contract, or impair materially THE chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor’s due performance of his THE entire obligation can be assigned despite agreement otherwise.

E. An assignment of “the contract” or of “all my rights under the contract” or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him THE ASSIGNEE to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

F. The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his THE PARTY’S rights against the assignor demand assurances from the assignee (section 47-2609).

47-2304. Price payable in money, goods, realty, or otherwise

A. The price can be made payable in money or otherwise. If it is payable in whole or in part in goods each party is a seller of the goods ~~which he is to transfer~~RED.

47-2305. Open price term

B. A price to be fixed by the seller or by the buyer means a price ~~for him~~ to BE fixED in good faith.

C. When a price left to be fixed otherwise than by agreement of the parties fails to be fixed through fault of one party, the other PARTY ~~may at his ITS~~ option MAY treat the contract as cancelled or ~~himself~~ MAY fix a reasonable price.

47-2507. Effect of seller's tender; delivery on condition

A. Tender of delivery is a condition to the buyer's duty to accept the goods and, unless otherwise agreed, to ~~his~~ THE BUYER'S duty to pay for them. Tender entitles the seller to acceptance of the goods and to payment according to the contract.

B. Where payment is due and demanded on the delivery to the buyer of goods or documents of title, ~~his~~ THE BUYER'S right as against the seller to retain or dispose of them is conditional upon ~~his~~ THE BUYER making the payment due.

47-2508. Cure by seller of improper tender or delivery; replacement

A. Where any tender or delivery by the seller is rejected because non-conforming and the time for performance has not yet expired, the seller may seasonably notify the buyer of ~~his~~ THE SELLER'S intention to cure and may then within the contract time make a conforming delivery.

B. Where the buyer rejects a non-conforming tender which the seller had reasonable grounds to believe would be acceptable with or without money allowance the seller may if ~~he~~ THE SELLER seasonably notifies the buyer have a further reasonable time to substitute a conforming tender.

47-2509. Risk of loss in the absence of breach

A. Where the contract requires or authorizes the seller to ship the goods by carrier:

1. If it does not require ~~him~~ THE SELLER to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are duly delivered to the carrier even though the shipment is under reservation (section 47-2505); but

2. If it does require ~~him~~ THE SELLER to deliver them at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there duly so tendered as to enable the buyer to take delivery.

B. Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer:

1. On **his THE BUYER'S** receipt of possession or control of a negotiable document of title covering the goods; or

3. After **his THE BUYER'S** receipt of possession or control of a nonnegotiable document of title or other direction to deliver in a record, as provided in paragraph 2, subsection D of section 47-2503.

C. In any case not within subsection A or B of this section, the risk of loss passes to the buyer on **his THE BUYER'S** receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

47-2510. Effect of breach on risk of loss

B. Where the buyer rightfully revokes acceptance, **he THE BUYER** may, to the extent of any deficiency in **his THE BUYER'S** effective insurance coverage, treat the risk of loss as having rested on the seller from the beginning.

C. Where the buyer as to conforming goods already identified to the contract for sale repudiates or is otherwise in breach before risk of their loss has passed to **him THE BUYER**, the seller may to the extent of any deficiency in **his THE SELLER'S** effective insurance coverage treat the risk of loss as resting on the buyer for a commercially reasonable time.



47-2512. Payment by buyer before inspection

B. Payment pursuant to subsection A of this section does not constitute an acceptance of goods or impair the buyer's right to inspect or any of **his THE BUYER'S** remedies.

47-2602. Manner and effect of rightful rejection

B. Subject to the provisions of sections 47-2603 and 47-2604 on rejected goods:

2. If the buyer has before rejection taken physical possession of goods in which **he THE BUYER** does not have a security interest under the provisions of this chapter (subsection C of section 47-2711), **he THE BUYER** is under a duty after rejection to hold them with reasonable care at the seller's disposition for a time sufficient to permit the seller to remove them; but

47-2603. Merchant buyer's duties as to rightfully rejected goods

A. Subject to any security interest in the buyer (subsection C of section 47-2711), when the seller has no agent or place of business at the market of rejection a merchant buyer is under a duty after rejection of goods in **his THE BUYER'S** possession or control to follow any reasonable instructions received from the seller with respect to the goods and in the absence of such instructions to make reasonable efforts to sell them for the seller's account if they are perishable or threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

B. When the buyer sells goods under subsection A of this section, **he THE BUYER** is entitled to reimbursement from the seller or out of the proceeds for reasonable expenses of caring for and selling them, and if the expenses include no selling commission then to such commission as is usual in the trade or if there is none to a reasonable sum not exceeding ten per cent on the gross proceeds.

47-2604. Buyer's options as to salvage of rightfully rejected goods

Subject to the provisions of section 47-2603 on perishables if the seller gives no instructions within a reasonable time after notification of rejection the buyer may store the rejected goods for the seller's account or reship them to **him THE SELLER** or resell them for the seller's account with reimbursement as provided in section 47-2603. Such action is not acceptance or conversion.

47-2605. Waiver of buyer's objections by failure to particularize

A. The buyer's failure to state in connection with rejection a particular defect which is ascertainable by reasonable inspection precludes **him THE BUYER** from relying on the unstated defect to justify rejection or to establish breach:

47-2606. What constitutes acceptance of goods

A. Acceptance of goods occurs when the buyer:

1. After a reasonable opportunity to inspect the goods signifies to the seller that the goods are conforming or that **he THE BUYER** will take or retain them in spite of their non-conformity; or

3. Does any act inconsistent with the seller's ownership; but if such act is wrongful as against the seller it is an acceptance only if ratified by **him THE SELLER**.

47-2607. Effect of acceptance; notice of breach; burden of establishing breach after acceptance; notice of claim or litigation to person answerable over

C. Where a tender has been accepted:

1. The buyer must within a reasonable time after **he THE BUYER** discovers or should have discovered any breach notify the seller of breach or be barred from any remedy; and
2. If the claim is one for infringement or the like (subsection C of section 47-2312) and the buyer is sued as a result of such a breach **he THE BUYER** must so notify the seller within a reasonable time after **he THE BUYER** receives notice of the litigation or be barred from any remedy over for liability established by the litigation.

D. The burden is on the buyer to establish any breach with respect to the goods accepted.

E. Where the buyer is sued for breach of a warranty or other obligation for which **his THE** seller is answerable over:

1. **He THE BUYER** may give **his THE** seller written notice of the litigation. If the notice states that the seller may come in and defend and that if the seller does not do so, **he THE SELLER** will be bound in any action **against him** by **his THE** buyer by any determination of fact common to the two litigations, then unless the seller after seasonable receipt of the notice does come in and defend **he THE PERSON NOTIFIED** is so bound.
2. If the claim is one for infringement or the like (subsection C of section 47-2312) the original seller may demand in writing that **his THE** buyer turn over **to him** control of the litigation including settlement or else be barred from any remedy over and if **he THE SELLER** also agrees to bear all expense and to satisfy any adverse judgment, then unless the buyer after seasonable receipt of the demand does turn over control the buyer is so barred.

47-2608. Revocation of acceptance in whole or in part

A. The buyer may revoke **his** acceptance of a lot or commercial unit whose nonconformity substantially impairs its value to **him- THE BUYER** if **THE LOT OR UNIT WAS he-has** accepted **it**:

2. Without discovery of such nonconformity if **his** acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances.

C. A buyer who so revokes has the same rights and duties with regard to the goods involved as if **he-had THEY HAD BEEN** rejected **them**.

47-2609. Right to adequate assurance of performance

A. A contract for sale imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party the other may in writing demand adequate assurance of due performance and, until **he-receives-such THAT** assurance **IS RECEIVED**, **may**-if commercially reasonable, **MAY**

suspend any performance for which **he has not already received** the agreed return **HAS NOT ALREADY BEEN RECEIVED**.

47-2610. Anticipatory repudiation

When either party repudiates the contract with respect to a performance not yet due the loss of which will substantially impair the value of the contract to the other, the aggrieved party may:

2. Resort to any remedy for breach (section 47-2703 or 47-2711), even though **he IT** has notified the repudiating party that **he IT** would await the latter's performance and has urged retraction; and

3. In either case suspend **his ITS** own performance or proceed in accordance with the provisions of this chapter on the seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods (section 47-2704).

47-2611. Retraction of anticipatory repudiation

A. Until the repudiating party's next performance is due **he IT** can retract **his ITS** repudiation unless the aggrieved party has since the repudiation cancelled or materially changed **his ITS** position or otherwise indicated that **he IT** considers the repudiation final.

47-2612. "Installment contract"; breach

C. Whenever non-conformity or default with respect to one or more installments substantially impairs the value of the whole contract there is a breach of the whole. But the aggrieved party reinstates the contract if **he IT** accepts a non-conforming installment without seasonably notifying of cancellation or if **he IT** brings an action with respect only to past installments or demands performance as to future installments.

47-2613. Casualty to identified goods

Where the contract requires for its performance goods identified when the contract is made, and the goods suffer casualty without fault of either party before the risk of loss passes to the buyer, or in a proper case under a "no arrival, no sale" term (section 47-2324) then:

2. If the loss is partial or the goods have so deteriorated as no longer to conform to the contract the buyer may nevertheless demand inspection and at **his ITS** option either treat the contract as avoided or accept the goods with due allowance from the contract price for the deterioration or the deficiency in quantity but without further right against the seller.

47-2615. Excuse by failure of presupposed conditions

Except so far as a seller may have assumed a greater obligation and subject to section 47-2614 on substituted performance:

1. Delay in delivery or non-delivery in whole or in part by a seller who complies with paragraphs 2 and 3 of this section is not a breach of **his THE SELLER'S** duty under a contract for sale if performance as agreed has been made impracticable by the occurrence of a contingency the non-occurrence of which

was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid.

2. Where the causes mentioned in paragraph 1 of this section affect only a part of the seller's capacity to perform, **he THE SELLER** must allocate production and deliveries among **his THE SELLER'S** customers but may at **his THE SELLER'S** option include regular customers not then under contract as well as **his THE SELLER'S** own requirements for further manufacture. **He THE SELLER** may so allocate in any manner which is fair and reasonable.

47-2616. Procedure on notice claiming excuse

A. Where the buyer receives notification of a material or indefinite delay or an allocation justified under section 47-2615 **he THE BUYER** may by written notification to the seller as to any delivery concerned, and where the prospective deficiency substantially impairs the value of the whole contract under the provisions of this chapter relating to breach of installment contracts (section 47-2612), then also as to the whole:

2. Modify the contract by agreeing to take **his THE** available quota in substitution.

47-2702. Seller's remedies on discovery of buyer's insolvency

A. Where the seller discovers the buyer to be insolvent **he THE SELLER** may refuse delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this chapter (section 47-2705).

B. ~~Where the~~ **A** seller **THAT** discovers that the buyer has received goods on credit while insolvent **he** may reclaim the goods upon demand made within ten days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten-day limitation does not apply. Except as provided in this subsection the seller may not base a right to reclaim goods on the buyer's fraudulent or innocent misrepresentation of solvency or of intent to pay.

47-2704. Seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods

A. An aggrieved seller under section 47-2708 may:

1. Identify to the contract conforming goods not already identified if **THEY ARE IN THE SELLER'S POSSESSION OR CONTROL** at the time **he THE SELLER** learned of the breach ~~they are in his possession or control.~~

47-2705. Seller's stoppage of delivery in transit or otherwise

A. The seller may stop delivery of goods in the possession of a carrier or other bailee when **he THE SELLER** discovers the buyer to be insolvent (section 47-2702) and may stop delivery of carload, truckload, planeload or larger shipments of express or freight when the buyer repudiates or fails to make a payment due before delivery or if for any other reason the seller has a right to withhold or reclaim the goods.

47-2706. Seller's resale including contract for resale

C. Where the resale is at private sale the seller must give the buyer reasonable notification of **his THE SELLER'S** intention to resell.

F. The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (section 47-2707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of **his THE** security interest, as hereinafter defined (subsection C of section 47-2711).

47-2707. "Person in the position of a seller"

A. A "person in the position of a seller" includes as against a principal an agent who has paid or become responsible for the price of goods on behalf of **his THE** principal or anyone who otherwise holds a security interest or other right in goods similar to that of a seller.

47-2709. Action for the price

B. Where the seller sues for the price **he THE SELLER** must hold for the buyer any goods which have been identified to the contract and are still in **his THE SELLER'S** control except that if resale becomes possible **he THE SELLER** may resell them at any time prior to the collection of the judgment. The net proceeds of any such resale must be credited to the buyer and payment of the judgment entitles **him THE BUYER** to any goods not resold.

47-2711. Buyer's remedies in general; buyer's security interest in rejected goods

A. Where the seller fails to make delivery or repudiates or the buyer rightfully rejects or justifiably revokes acceptance then with respect to any goods involved, and with respect to the whole if the breach goes to the whole contract (section 47-2612), the buyer may cancel and ~~whether or not he has done so~~ may in addition to recovering so much of the price as has been paid:

C. On rightful rejection or justifiable revocation of acceptance a buyer has a security interest in goods in **his THE BUYER'S** possession or control for any payments made on their price and any expenses reasonably incurred in their inspection, receipt, transportation, care and custody and may hold such goods and resell them in like manner as an aggrieved seller (section 47-2706).

47-2712. "Cover"; buyer's procurement of substitute goods

C. Failure of the buyer to effect cover within this section does not bar **him THE BUYER** from any other remedy.

47-2714. Buyer's damages for breach in regard to accepted goods

A. Where the buyer has accepted goods and given notification (subsection C of section 47-2607) **he THE BUYER** may recover as damages for any non-conformity of tender the loss resulting in the ordinary course of events from the seller's breach as determined in any manner which is reasonable.

47-2716. Buyer's right to specific performance or replevin

C. The buyer has a right of replevin for goods identified to the contract if after reasonable effort ~~he~~ **THE BUYER** is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. In the case of goods bought for personal, family or household purposes, the buyer's right of replevin vests on acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

47-2717. Deduction of damages from the price

The buyer on notifying the seller of ~~his~~ **THE BUYER'S** intention to do so may deduct all or any part of the damages resulting from any breach of the contract from any part of the price still due under the same contract.

47-2718. Liquidation or limitation of damages; deposits

B. Where the seller justifiably withholds delivery of goods because of the buyer's breach, the buyer is entitled to restitution of any amount by which the sum of ~~his~~ **THE BUYER'S** payments exceeds:

D. Where a seller has received payment in goods their reasonable value or the proceeds of their resale shall be treated as payments for the purposes of subsection B of this section; but if the seller has notice of the buyer's breach before reselling goods received in part performance, ~~his~~ **THE SELLER'S** resale is subject to the conditions laid down in this chapter on resale by an aggrieved seller (section 47-2706).

47-2722. Who can sue third parties for injury to goods

Where a third party so deals with goods which have been identified to a contract for sale as to cause actionable injury to a party to that contract:

2. If at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the contract for sale and there is no arrangement between them for disposition of the recovery, ~~his~~ **THE PLAINTIFF'S** suit or settlement is, subject to ~~his own~~ **THE PLAINTIFF'S** interest, as a fiduciary for the other party to the contract;

47-2723. Proof of market price: time and place

C. Evidence of a relevant price prevailing at a time or place other than the one described in this chapter offered by one party is not admissible unless and until ~~he~~ **THE PARTY** has given the other party such notice as the court finds sufficient to prevent unfair surprise.

47-2A103. Definitions and index of definitions

A. In this chapter, unless the context otherwise requires:

1. "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale ~~to him~~ is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that

kind but does not include a pawnbroker. “Buying” may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

15. “Lessee in ordinary course of business” means a person who in good faith and without knowledge that the lease ~~to him~~ is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. “Leasing” may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

47-2A108. Unconscionability

D. In an action in which the lessee claims unconscionability with respect to a consumer lease:

2. If the court does not find unconscionability and the lessee claiming unconscionability has brought or maintained an action ~~he or she~~ **THE LESSEE** knew to be groundless, the court shall award reasonable attorney fees to the party against whom the claim is made.

47-2A109. Option to accelerate at will

A. A term providing that one party or ~~his~~ **THAT PARTY’S** successor in interest may accelerate payment or performance or require collateral or additional collateral “at will” or “when ~~he~~ **THAT PARTY** deems ~~himself ITSELF~~ insecure” or in words of similar import must be construed to mean that ~~he~~ **THE PARTY** has power to do so only if ~~he~~ **THAT PARTY** in good faith believes that the prospect of payment or performance is impaired.

47-2A220. Effect of default on risk of loss

A. Where risk of loss is to pass to the lessee and the time of passage is not stated:

2. If the lessee rightfully revokes acceptance, ~~he~~ **THE LESSEE**, to the extent of any deficiency in ~~his~~ **THE LESSEE’S** effective insurance coverage, may treat the risk of loss as having remained with the lessor from the beginning.

B. Whether or not risk of loss is to pass to the lessee, if the lessee as to conforming goods already identified to a lease contract repudiates or is otherwise in default under the lease contract, the lessor, or, in the case of a finance lease, the supplier, to the extent of any deficiency in ~~his~~ **THE LESSOR’S OR SUPPLIER’S** effective insurance coverage may treat the risk of loss as resting on the lessee for a commercially reasonable time.

47-2A221. Casualty to identified goods

If a lease contract requires goods identified when the lease contract is made, and the goods suffer

casualty without fault of the lessee, the lessor or the supplier before delivery, or the goods suffer casualty before risk of loss passes to the lessee pursuant to the lease agreement or section 47-2A219, then:

2. If the loss is partial or the goods have so deteriorated as to no longer conform to the lease contract, the lessee may nevertheless demand inspection and at **his THE LESSEE'S** option either treat the lease contract as avoided or, except in a finance lease that is not a consumer lease, accept the goods with due allowance from the rent payable for the balance of the lease term for the deterioration or the deficiency in quantity but without further right against the lessor.

47-2A306. Priority of certain liens arising by operation of law

If a person in the ordinary course of **his** business furnishes services or materials with respect to goods subject to a lease contract, a lien upon those goods in the possession of that person given by statute or rule of law for those materials or services takes priority over any interest of the lessee under the lease contract or this chapter unless the lien is created by statute and the statute provides otherwise or unless the lien is created by rule of law and the rule of law provides otherwise.

47-2A310. Lessor's and lessee's rights when goods become accessions

E. When under subsection B or subsections C and D a lessor or a lessee of accessions holds an interest that is superior to all interests in the whole, the lessor or the lessee may on default, expiration, termination or cancellation of the lease contract by the other party but subject to the provisions of the lease contract and this chapter, or if necessary to enforce **his THE LESSOR'S OR LESSEE'S** other rights and remedies under this chapter, remove the goods from the whole, free and clear of all interests in the whole, but **he THE LESSOR OR LESSEE** must reimburse any holder of an interest in the whole who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

47-2A401. Insecurity; adequate assurance of performance

B. If reasonable grounds for insecurity arise with respect to the performance of either party, the insecure party may demand in writing adequate assurance of due performance. Until the insecure party receives that assurance, if commercially reasonable the insecure party may suspend any performance for which **he THE INSECURE PARTY** has not already received the agreed return.

47-2A405. Excused performance

Subject to section 47-2A404 on substituted performance, the following rules apply:

2. If the causes mentioned in paragraph 1 of this section affect only part of the lessor's or the supplier's capacity to perform, **he THE LESSOR OR SUPPLIER** shall allocate production and deliveries among **his THE LESSOR'S OR SUPPLIER'S** customers but at **his THE LESSOR'S OR SUPPLIER'S** option may include regular customers not then under contract for sale or lease as well as **his THE LESSOR'S OR SUPPLIERS'** own requirements for further manufacture. **He THE LESSOR OR SUPPLIER** may so allocate in any manner that is fair and reasonable.

47-2A504. Liquidation of damages

C. If the lessor justifiably withholds or stops delivery of goods because of the lessee's default or insolvency (section 47-2A525 or 47-2A526), the lessee is entitled to restitution of any amount by which the sum of **his THE LESSEE'S** payments exceeds:

47-2A507. Proof of market rent; time and place

C. Evidence of a relevant rent prevailing at a time or place or for a lease term other than the one described in this chapter offered by one party is not admissible unless and until **he THAT PARTY** has given the other party notice the court finds sufficient to prevent unfair surprise.

47-2A511. Merchant lessee's duties as to rightfully rejected goods

A. Subject to any security interest of a lessee (section 47-2A508, subsection E), if a lessor or a supplier has no agent or place of business at the market of rejection, a merchant lessee, after rejection of goods in **his THE MERCHANT LESSEE'S** possession or control, shall follow any reasonable instructions received from the lessor or the supplier with respect to the goods. In the absence of those instructions, a merchant lessee shall make reasonable efforts to sell, lease or otherwise dispose of the goods for the lessor's account if they threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

B. If a merchant lessee (subsection A of this section) or any other lessee (section 47-2A512) disposes of goods, **he THE MERCHANT LESSEE OR ANY OTHER LESSEE** is entitled to reimbursement either from the lessor or the supplier or out of the proceeds for reasonable expenses of caring for and disposing of the goods and, if the expenses include no disposition commission, to such commission as is usual in the trade, or if there is none, to a reasonable sum not exceeding ten per cent of the gross proceeds.

47-2A513. Cure by lessor of improper tender or delivery; replacement

B. If the lessee rejects a nonconforming tender that the lessor or the supplier had reasonable grounds to believe would be acceptable with or without money allowance, the lessor or the supplier may have a further reasonable time to substitute a conforming tender if **he THE LESSOR OR SUPPLIER** seasonably notifies the lessee.

47-2A531. Standing to sue third parties for injury to goods

B. If at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the lease contract and there is no arrangement between them for disposition of the recovery, **his THE PLAINTIFF'S** suit or settlement, subject to **his-own THE PLAINTIFF'S** interest, is as a fiduciary for the other party to the lease contract.

The 28th Amendment states:

**“Equality of rights under the law shall not be denied or abridged
by the United States or by any state on account of sex.”**



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