

PIERCE FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1193

(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 12-284, Arizona Revised Statutes, is amended to
3 read:

4 12-284. Fees

5 A. Except as otherwise provided by law, the clerk of the superior
6 court shall receive fees classified as follows:

7	Class	Description	Fee
8	A	Initial case filing fee	
9		Tax case	\$ 166.00
10		Filing complaint, <u>NOTICE OF APPEAL</u>	
11		<u>UNDER SECTION 12-904</u> or petition	166.00
12		Filing intervenor	166.00
13		Additional plaintiffs	166.00
14		Filing foreign judgment	166.00
15		Ownership of real property becomes an	
16		issue plaintiff	166.00
17		Appellant	
18		(except under sections 12-1809 and 13-3602)	166.00
19		Change of venue to this county	166.00
20		Petition for change of name	166.00
21		Filing a process server application	166.00
22	B	Subsequent case filing fee	
23		Filing answer, <u>NOTICE OF APPEARANCE</u>	
24		<u>UNDER SECTION 12-907</u> or initial appearance	\$ 88.00
25		Additional defendants	88.00
26		Notice of appeal to appellate courts	
27		(except under section 12-2107)	88.00
28		Cross-appeal by appellee (except under section	
29		12-2107)	88.00
30		Ownership of real property becomes an	

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1		issue defendant	88.00
2		Jurisdiction exceeded appellee	
3		(within 20 days of filing)	88.00
4		Response to show cause that does one or more	
5		of the following:	
6		1. Requests affirmative relief or	
7		counterrelief	
8		2. Attacks the sufficiency of process	
9		or the proceedings	
10		3. Takes other affirmative action	88.00
11	C	Initial case filing fee	
12		Filing petition for annulment	\$ 131.00
13		Filing for dissolution/legal separation petition	131.00
14		Petition in formal testacy or appointment	
15		proceeding	131.00
16		Application for informal probate or informal	
17		appointment	131.00
18		Petition for supervised administration petition	
19		to appoint guardian	131.00
20		Petition to appoint conservator or make other	
21		protective order	131.00
22		Opposing petition in testacy or appointment	
23		proceedings or appointment of guardian or	
24		conservator	131.00
25		Single estate application or petition under	
26		title 14, chapter 3, section 14-3938	131.00
27		Domestic relations case for which a fee is not	
28		specifically prescribed	131.00
29	D	Subsequent case filing fee	
30		Filing answer to annulment	\$ 66.00
31		Filing for dissolution/legal separation answer	66.00

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1	Any person opposing contested petition if no	
2	prior payment made	66.00
3	Postadjudication petitions in	
4	domestic relations cases	66.00
5	Postjudgment activities in probate cases	66.00
6	E Minimum clerk fee	
7	Filing power of attorney	\$ 26.00
8	Change of venue to another county transmittal	
9	fee	26.00
10	Change of venue to another county pursuant to	
11	section 12-404 transmittal fee	26.00
12	Filing transcript and docketing judgment from	
13	any courts	26.00
14	Issuance of writs of: attachment, execution,	
15	possession, restitution, prohibition and	
16	enforcement of order of judgment-garnishment	26.00
17	Certified copy or abstract of marriage	
18	application or license	26.00
19	Certificate of correctness of copy of record	26.00
20	Justice of peace certificate	26.00
21	Each certificate of clerk to any matter in	
22	clerk's record not specifically provided	26.00
23	Filing any paper or performing any act for which	
24	a fee is not specifically prescribed	26.00
25	Subpoena - (civil)	26.00
26	Research in locating a document (per year or	
27	source researched)	26.00
28	Exemplification (per certification)	26.00
29	Authentication (per certification)	26.00
30	Seal a court file	26.00
31	Reopen a sealed court file	26.00
32	Retrieve bank records	26.00

1		Reel of film alpha index per year (plus per	
2		page fee below)	26.00
3		Payment history report	26.00
4		Certification under one document certification	26.00
5		Civil traffic appeal	26.00
6	F	Per page fee	
7		Making copies (on appeal and on request)	
8		per page	\$.50
9		Making extra copies per page	.50
10		Making photographic or photostatic copies	
11		per page	.50
12		Comparison fee of papers furnished by applicant	
13		per page	.50
14		Alpha index per page	.50
15	G	Special fees	
16		Small claim tax case	\$ 22.00
17		Marriage license and return of a	
18		marriage license	72.00
19		Postage and handling	7.00
20		Notary services	7.00
21		Stop payment on check	14.00

22 B. The clerk of the superior court shall receive the fees prescribed
 23 in subsection A of this section for the following services:

24 1. Making copies of papers and records required to be made by the
 25 clerk on appeal, and copies of papers and records in the clerk's office made
 26 on request in other cases, for each legal size page of original.

27 2. Making extra copies of the papers and records mentioned in
 28 paragraph 1 of this subsection, required or requested for each page of copy
 29 of such papers and records.

30 3. In a clerk's office, in which a photographic or photostatic method
 31 of recording is used or is available for use in cooperation with other public
 32 offices, preparing copies enumerated in paragraphs 1 and 2 of this subsection

1 for each page of copy or fraction of a page of copy. Portions of several
2 pages of records may be combined in one page of copy. The clerk may prepare
3 an abstract of marriage in lieu of a reproduction of the recorded marriage
4 license. The fee shall apply to matters whether recorded in such office by
5 longhand, typing, electronic, photographic or photostatic methods. The fees
6 for copies are exclusive of the fees for certification or authentication.

7 4. Issuing a certificate as to official capacity of a justice of the
8 peace and affixing a seal to the certificate.

9 5. Each subpoena issued in a civil proceeding or filing any paper or
10 performing any act for which a fee is not specifically prescribed by law, but
11 the clerk shall not charge for the clerk's services in administering the oath
12 in connection with any affidavit, petition, letters or other pleading or
13 document which, after administration of the oath therefor, is promptly filed
14 by the clerk and becomes a part of a case or matter of record in the office
15 of the clerk.

16 C. In addition to the fees required by subsection A of this section,
17 the clerk shall charge and collect a surcharge of fifteen dollars for each
18 filing of a postadjudication petition in a domestic relations case for which
19 a fee presently is charged under class D in subsection A of this
20 section. The surcharge shall be used exclusively to fund domestic relations
21 education and mediation programs established pursuant to section
22 25-413. Each month the clerk shall transmit the monies the clerk collects
23 pursuant to this subsection to the county treasurer for deposit in the
24 domestic relations education and mediation fund established by section
25 25-413.

26 D. Excluding the monies that are collected pursuant to subsection C of
27 this section, each month the clerk shall transmit seventy-five per cent of
28 the monies collected for subsequent case filing fees for postadjudication
29 petitions in domestic relations cases under class D in subsection A of this
30 section to the county treasurer for deposit in the expedited child support
31 and parenting time fund established pursuant to section 25-412. The

1 remaining twenty-five per cent of the monies collected pursuant to this
2 subsection shall be distributed pursuant to section 12-284.03.

3 E. At the commencement of each action for annulment, dissolution of
4 marriage, legal separation, maternity or paternity, the petitioner shall pay
5 to the clerk of the court the initial case filing fee for the action provided
6 in subsection A of this section. At the time of filing a response, the
7 respondent shall pay to the clerk of the court the subsequent case filing fee
8 for the action provided in subsection A of this section. In each county
9 where the superior court has established a conciliation court, the petitioner
10 and respondent shall each pay to the clerk a sixty-five dollar fee. The
11 monies from the additional fee shall be used to carry out the purposes of the
12 conciliation court pursuant to title 25, chapter 3, article 7.

13 F. In garnishment matters:

14 1. A fee shall not be charged for filing an affidavit seeking only the
15 release of exempt wages.

16 2. A fee shall not be charged for filing a garnishee's answer, for
17 filing a judgment against the garnishee or for the issuance or return of
18 process incident to such a judgment.

19 3. For any contest relating to or any controversion of a garnishment
20 matter, unless the contesting party has paid an appearance fee in that cause,
21 the required appearance fee shall be paid, except that the garnishee shall
22 not pay a clerk's fee.

23 G. A person who is cited to appear and defend an order to show cause
24 shall not be charged an appearance fee. The person may stipulate to or
25 consent to the entry of an order without the payment of an appearance
26 fee. An appearance fee shall be paid if the person is present in person or
27 by an attorney and does one or more of the following:

- 28 1. Requests affirmative relief or counterrelief.
- 29 2. Attacks the sufficiency of process or the proceedings.
- 30 3. Takes other affirmative action.

31 H. A petitioner shall not be charged a fee for requesting an order of
32 protection pursuant to section 13-3602 or an injunction against harassment

1 pursuant to section 12-1809. A defendant shall not be charged an answer fee
2 in an order of protection action if the defendant requests a hearing pursuant
3 to section 13-3602, subsection I or in an injunction against harassment
4 action if the defendant requests a hearing pursuant to section 12-1809,
5 subsection H.

6 I. A person who files a registrar's order pursuant to section
7 32-1166.06 shall not be charged a fee.

8 J. The clerk of the court shall charge and collect a forty-six dollar
9 filing fee for a petition for emancipation of a minor filed pursuant to
10 chapter 15 of this title. Each month the clerk shall transmit the monies the
11 clerk collects pursuant to this subsection to the county treasurer for
12 deposit in the emancipation administrative costs fund established by section
13 12-2456.

14 K. Except for monies that are collected pursuant to subsections C, D,
15 E and J of this section, the clerk of the superior court shall transmit
16 monthly to the county treasurer all monies collected pursuant to this section
17 for distribution or deposit pursuant to section 12-284.03.

18 L. The supreme court may increase the fees prescribed in subsection A
19 of this section in an amount not to exceed the per cent of change in the
20 average consumer price index as published by the United States department of
21 labor, bureau of labor statistics between that figure for the latest calendar
22 year and the calendar year in which the last fee increase occurred.

23 Sec. 2. Section 12-902, Arizona Revised Statutes, is amended to read:

24 12-902. Scope of article

25 A. This article applies to and governs:

26 1. Every action to ~~review~~ judicially REVIEW a final decision of an
27 administrative agency except public welfare decisions pursuant to title 46,
28 or if the act creating or conferring power on an agency or a separate act
29 provides for judicial review of the agency decisions and prescribes a
30 definite procedure for the review.

31 2. An action to review the decision at an administrative hearing ~~held~~
32 ~~pursuant to section 33-1905~~ AS OTHERWISE PROVIDED BY STATUTE.

1 B. Unless review is sought of an administrative decision within the
2 time and in the manner provided in this article, the parties to the
3 proceeding before the administrative agency shall be barred from obtaining
4 judicial review of the decision. If under the terms of the law governing
5 procedure before an agency an administrative decision becomes final because
6 of failure to file any document in the nature of an objection, protest,
7 petition for hearing or application for administrative review within the time
8 allowed by the law, the decision is not subject to judicial review under the
9 provisions of this article except for the purpose of questioning the
10 jurisdiction of the administrative agency over the person or subject matter.

11 Sec. 3. Section 12-904, Arizona Revised Statutes, is amended to read:

12 12-904. Commencement of action; transmission of record

13 A. An action to review a final administrative decision shall be
14 commenced by filing a ~~complaint~~ NOTICE OF APPEAL within thirty-five days from
15 the date when a copy of the decision sought to be reviewed is served upon the
16 party affected. The method of service of the decision shall be as provided
17 by law governing procedure before the administrative agency, or by a rule of
18 the agency made pursuant to law, but if no method is provided a decision
19 shall be deemed to have been served when personally delivered or mailed by
20 certified mail to the party affected at the party's last known residence or
21 place of business. Service is complete on personal service or five days
22 after the date that the final administrative decision is mailed to the
23 party's last known address. THE NOTICE OF APPEAL SHALL IDENTIFY THE FINAL
24 ADMINISTRATIVE DECISION SOUGHT TO BE REVIEWED AND INCLUDE A STATEMENT OF THE
25 ISSUES PRESENTED FOR REVIEW. THE STATEMENT OF AN ISSUE PRESENTED FOR REVIEW
26 IS DEEMED TO INCLUDE EVERY SUBSIDIARY ISSUE FAIRLY COMPRISED IN THE
27 STATEMENT.

28 B. Within ten days after filing a ~~complaint~~ NOTICE OF APPEAL pursuant
29 to this article, the party seeking judicial review shall file a notice of the
30 action with the office of administrative hearings or the agency that
31 conducted the hearing, and the office of administrative hearings or the

1 agency that conducted the hearing shall transmit the record to the superior
2 court. The record shall consist of the following:

- 3 1. The original agency action from which review is sought.
- 4 2. Any motions, memoranda or other documents submitted by the parties
5 to the appeal.
- 6 3. Any exhibits admitted as evidence at the administrative hearing.
- 7 4. The decision by the administrative law judge and any revisions or
8 modifications to the decision.
- 9 5. A copy of the transcript of the administrative hearing, if the
10 party seeking judicial review desires a transcript to be included in the
11 record and provides for preparation of the transcript at the party's own
12 expense. Any other party may have a transcript included in the record by
13 filing a notice with the office of administrative hearings or the agency that
14 conducted the hearing within ten days after receiving notice of the ~~complaint~~
15 ~~NOTICE OF APPEAL~~ and providing for preparation of the transcript at the
16 party's own expense.

17 Sec. 4. Section 12-906, Arizona Revised Statutes, is amended to read:

18 ~~12-906.~~ 12-906. Service of process

19 In an action to review the decision of an administrative agency, a copy
20 of the ~~summons and complaint~~ ~~NOTICE OF APPEAL~~ shall be served ~~as in civil~~
21 ~~actions and as provided by~~ ~~PURSUANT TO RULE 4 OF~~ the rules of civil
22 procedure, ~~upon~~ ~~ON~~ the agency at its principal office and ~~upon~~ ~~ON~~ all other
23 ~~defendants~~ ~~PARTIES TO THE PROCEEDING BEFORE THE AGENCY.~~

24 Sec. 5. Section 12-907, Arizona Revised Statutes, is amended to read:

25 ~~12-907.~~ 12-907. Appearance of parties to the appeal

26 Within twenty days after service of the ~~summons and complaint~~ ~~NOTICE OF~~
27 ~~APPEAL~~, the ~~defendant~~ ~~APPELLEE~~ agency and all other ~~defendants shall answer~~
28 ~~the complaint~~ ~~APPELLEES SHALL FILE A NOTICE OF APPEARANCE IN RESPONSE TO THE~~
29 ~~NOTICE OF APPEAL.~~ ~~ALL SUBSEQUENT FILINGS SHALL BE MADE AS PROVIDED BY~~
30 ~~SECTION 12-914.~~

31 Sec. 6. Section 12-908, Arizona Revised Statutes, is amended to read:

32 ~~12-908.~~ 12-908. Parties

1 A. In an action to review a final decision of an administrative
2 agency, the agency and all persons, other than the ~~plaintiff~~ APPELLANT, who
3 are parties of record in the proceedings ~~shall be made defendants~~ MAY APPEAR
4 IN THE PROCEEDINGS BEFORE THE SUPERIOR COURT AS APPELLEES.

5 B. IF THE ADMINISTRATIVE HEARING IS HELD BEFORE THE OFFICE OF
6 ADMINISTRATIVE HEARINGS, THE OFFICE OF ADMINISTRATIVE HEARINGS IS NOT A PARTY
7 OF RECORD IN THE PROCEEDINGS AND IS NOT TO BE NAMED AS A PARTY IN THE NOTICE
8 OF APPEAL OR TO APPEAR AS A PARTY IN THE APPELLATE PROCEEDINGS BEFORE THE
9 COURT UNLESS OTHERWISE REQUIRED BY LAW OR ORDER OF THE COURT. FOR THE
10 PURPOSES OF THIS SECTION, THE OFFICE OF ADMINISTRATIVE HEARINGS INCLUDES THE
11 DIRECTOR OF THE OFFICE OF ADMINISTRATIVE HEARINGS AND THE ADMINISTRATIVE LAW
12 JUDGE.

13 Sec. 7. Section 12-909, Arizona Revised Statutes, is amended to read:

14 12-909. Pleadings and record on review

15 A. The ~~complaint~~ NOTICE OF APPEAL shall contain a statement of the
16 findings and decision or part ~~thereof~~ OF THE FINDINGS AND DECISION sought to
17 be reviewed. ~~, and shall clearly specify the grounds upon which review is~~
18 ~~sought. It shall also state whether a transcript is to be designated as part~~
19 ~~of the record pursuant to section 12-904, subsection B, paragraph 5.~~

20 B. ~~Except as otherwise provided, the defendant shall file an~~
21 ~~answer.~~ Notwithstanding section 12-904, subsection B, by order of the court
22 or by stipulation of all parties to the action, the record may be shortened
23 or supplemented.

24 C. If the cause is remanded to the administrative agency and a review
25 thereafter is sought of the administrative decision, the original and
26 supplemental record, or so much thereof as is determined by court order or
27 stipulation of all the parties, shall constitute the record on review.

28 Sec. 8. Section 12-910, Arizona Revised Statutes, is amended to read:

29 12-910. Scope of review

30 A. An action to review a final administrative decision shall be heard
31 and determined with convenient speed. If requested by a party to an action
32 within thirty days after filing a ~~complaint~~ NOTICE OF APPEAL, the court shall

1 hold an evidentiary hearing, including testimony and argument, to the extent
2 necessary to make the determination required by subsection E of this
3 section. The court may hear testimony from witnesses who testified at the
4 administrative hearing and witnesses who were not called to testify at the
5 administrative hearing.

6 B. Relevant and admissible exhibits and testimony that were not
7 offered during the administrative hearing shall be admitted, and objections
8 that a party failed to make to evidence offered at the administrative hearing
9 shall be considered, unless either of the following is true:

10 1. The exhibit, testimony or objection was withheld for purposes of
11 delay, harassment or other improper purpose.

12 2. Allowing admission of the exhibit or testimony or consideration of
13 the objection would cause substantial prejudice to another party.

14 C. For review of final administrative decisions of agencies that are
15 exempt from sections 41-1092.03 through 41-1092.11, pursuant to section
16 41-1092.02, the trial shall be de novo if trial de novo is demanded in the
17 ~~complaint~~ NOTICE OF APPEAL or ~~answer~~ MOTION of ~~a defendant~~ AN APPELLEE other
18 than the agency and if a hearing was not held by the agency or the
19 proceedings before the agency were not stenographically reported or
20 mechanically recorded so that a transcript might be made. On demand of any
21 party, if a trial de novo is available under this section, it may be with a
22 jury, except that a trial of an administrative decision under section 25-522
23 shall be to the court.

24 D. The record in the superior court shall consist of the record of the
25 administrative proceeding, and the record of any evidentiary hearing, or the
26 record of the trial de novo.

27 E. The court may affirm, reverse, modify or vacate and remand the
28 agency action. The court shall affirm the agency action unless after
29 reviewing the administrative record and supplementing evidence presented at
30 the evidentiary hearing the court concludes that the action is not supported
31 by substantial evidence, is contrary to law, is arbitrary and capricious or
32 is an abuse of discretion.

1 Sec. 9. Section 12-911, Arizona Revised Statutes, is amended to read:

2 12-911. Powers of superior court

3 A. The superior court may:

4 1. With or without bond, unless required by the statute under
5 authority of which the administrative decision was entered, and before or
6 after ~~answer~~ THE FILING OF THE NOTICE OF APPEARANCE, stay the decision in
7 whole or in part pending final disposition of the case, after notice to the
8 agency and for good cause shown, except that the court shall not stay an
9 administrative decision wherein unemployment compensation benefits have been
10 allowed to a claimant pursuant to title 23, chapter 4.

11 2. Make any order that it deems proper for the amendment, completion
12 or filing of the record of the proceedings of the administrative agency.

13 3. Allow substitution of parties by reason of marriage, death,
14 bankruptcy, assignment or other cause.

15 4. Dismiss parties or realign parties ~~plaintiff and defendant~~
16 APPELLANT AND APPELLEE.

17 5. Modify, affirm or reverse the decision in whole or in part.

18 6. Specify questions or matters requiring further hearing or
19 proceedings and give other proper instructions.

20 7. When a hearing has been held by the agency, remand for the purpose
21 of taking additional evidence when from the state of the record of the
22 administrative agency or otherwise it appears that such action is just.

23 8. In the case of affirmance or partial affirmance of an
24 administrative decision requiring payment of money, enter judgment for the
25 amount justified by the record and for costs, ~~upon~~ ON which execution may
26 issue.

27 B. Technical errors in the proceedings before the administrative
28 agency or its failure to observe technical rules of evidence shall not
29 constitute grounds for reversal of the decision, unless it appears to the
30 ~~trial~~ SUPERIOR court that the error or failure affected the rights of a party
31 and resulted in injustice to him.

1 C. On motion of a party before rendition of judgment, the ~~trial~~
2 SUPERIOR court shall make findings of fact and state conclusions of law ~~upon~~
3 ON which its judgment is based.

4 Sec. 10. Section 12-912, Arizona Revised Statutes, is amended to read:

5 12-912. Costs

6 Costs may be awarded ~~defendant~~ TO THE APPELLEE agency if a judgment
7 adverse to the ~~plaintiff~~ APPELLANT is rendered. Such costs may be awarded in
8 an amount deemed reasonable by the ~~trial~~ SUPERIOR court, based ~~upon~~ ON the
9 expense the ~~defendant~~ APPELLEE agency has incurred in preparing the record of
10 the proceedings before ~~trial~~ JUDICIAL REVIEW.

11 Sec. 11. Section 12-914, Arizona Revised Statutes, is amended to read:

12 12-914. Rules of procedure

13 A. Where applicable, the rules of ~~civil~~ procedure FOR JUDICIAL REVIEW
14 OF ADMINISTRATIVE DECISIONS in superior courts, including rules relating to
15 appeals to the supreme court, shall apply to all proceedings except as
16 otherwise provided in this article, EXCEPT IN CASES IN WHICH THE SUPERIOR
17 COURT HAS CONDUCTED A TRIAL DE NOVO PURSUANT TO SECTION 12-910.

18 B. THE RULES OF CIVIL PROCEDURE APPLY TO ALL PROCEEDINGS IN WHICH THE
19 SUPERIOR COURT ORDERS A TRIAL DE NOVO PURSUANT TO SECTION 12-910.

20 Sec. 12. Section 41-1001.01, Arizona Revised Statutes, is amended to
21 read:

22 41-1001.01. Regulatory bill of rights

23 A. To ensure fair and open regulation by state agencies, a person:

24 1. Is eligible for reimbursement of fees and other expenses if the
25 person prevails by adjudication on the merits against an agency in a court
26 proceeding regarding an agency decision as provided in section 12-348.

27 2. Is eligible for reimbursement of the person's costs and fees if the
28 person prevails against any agency in an administrative hearing as provided
29 in section 41-1007.

30 3. Is entitled to have an agency not charge the person a fee unless
31 the fee for the specific activity is expressly authorized as provided in
32 section 41-1008.

1 4. Is entitled to receive the information and notice regarding
2 inspections prescribed in section 41-1009.

3 5. May review the full text or summary of all rule making activity,
4 the summary of substantive policy statements and the full text of executive
5 orders in the register as provided in article 2 of this chapter.

6 6. May participate in the rule making process as provided in articles
7 3, 4, 4.1 and 5 of this chapter, including:

8 (a) Providing written ~~or-oral~~ comments OR TESTIMONY on proposed rules
9 to an agency as provided in section 41-1023 and having the agency adequately
10 address those comments as provided in section 41-1052, subsection D,
11 INCLUDING COMMENTS OR TESTIMONY CONCERNING THE INFORMATION CONTAINED IN THE
12 ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT.

13 (b) Filing an early review petition with the governor's regulatory
14 review council as provided in article 5 of this chapter.

15 (c) Providing written ~~or-oral~~ comments OR TESTIMONY on rules to the
16 governor's regulatory review council during the mandatory sixty-day comment
17 period as provided in article 5 of this chapter.

18 7. Is entitled to have an agency not base a licensing decision in
19 whole or in part on licensing conditions or requirements that are not
20 specifically authorized by statute, rule or state tribal gaming compact as
21 provided in section 41-1030, subsection B.

22 8. Is entitled to have an agency not make a rule under a specific
23 grant of rule making authority that exceeds the subject matter areas listed
24 in the specific statute or not make a rule under a general grant of rule
25 making authority to supplement a more specific grant of rule making authority
26 as provided in section 41-1030, subsection C.

27 9. May allege that an existing agency practice or substantive policy
28 statement constitutes a rule and have that agency practice or substantive
29 policy statement declared void because the practice or substantive policy
30 statement constitutes a rule as provided in section 41-1033.

31 10. May file a complaint with the administrative rules oversight
32 committee concerning:

1 (a) A rule's, practice's or substantive policy statement's lack of
2 conformity with statute or legislative intent as provided in section 41-1047.

3 (b) An existing statute, rule, practice alleged to constitute a
4 rule or substantive policy statement that is alleged to be duplicative or
5 onerous as provided in section 41-1048.

6 11. May have the person's administrative hearing on contested cases and
7 appealable agency actions heard by an independent administrative law judge as
8 provided in articles 6 and 10 of this chapter.

9 12. May have administrative hearings governed by uniform administrative
10 appeal procedures as provided in articles 6 and 10 of this chapter **AND MAY**
11 **APPEAL A FINAL ADMINISTRATIVE DECISION BY FILING A NOTICE OF APPEAL PURSUANT**
12 **TO TITLE 12, CHAPTER 7, ARTICLE 6.**

13 13. May have an agency approve or deny the person's license application
14 within a predetermined period of time as provided in article 7.1 of this
15 chapter.

16 14. Is entitled to receive written notice from an agency on denial of a
17 license application:

18 (a) That justifies the denial with references to the statutes or rules
19 on which the denial is based as provided in section 41-1076.

20 (b) That explains the applicant's right to appeal the denial as
21 provided in section 41-1076.

22 15. Is entitled to receive information regarding the license
23 application process **BEFORE OR** at the time the person obtains an application
24 for a license as provided in ~~section~~ **SECTIONS 41-1001.02 AND** 41-1079.

25 16. May receive public notice and participate in the adoption or
26 amendment of agreements to delegate agency functions, powers or duties to
27 political subdivisions as provided in section 41-1026.01 and article 8 of
28 this chapter.

29 17. May inspect all rules and substantive policy statements of an
30 agency, including a directory of documents, in the office of the agency
31 director as provided in section 41-1091.

1 18. May file a complaint with the office of the ombudsman-citizens aide
2 to investigate administrative acts of agencies as provided in chapter 8,
3 article 5 of this title.

4 19. Unless specifically authorized by statute, may expect state
5 agencies to avoid duplication of other laws that do not enhance regulatory
6 clarity and to avoid dual permitting to the extent practicable as prescribed
7 in section 41-1002.

8 B. The enumeration of the rights listed in subsection A of this
9 section does not grant any additional rights that are not prescribed in the
10 sections referenced in subsection A of this section.

11 Sec. 13. Title 41, chapter 6, article 1, Arizona Revised Statutes, is
12 amended by adding section 41-1001.02, to read:

13 41-1001.02. Clarification of interpretation

14 A. BEFORE SUBMITTING AN APPLICATION FOR A LICENSE A PERSON MAY REQUEST
15 FROM THE AGENCY ISSUING THE LICENSE A CLARIFICATION OF ITS INTERPRETATION OR
16 APPLICATION OF A STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY
17 STATEMENT AFFECTING THE PERSON'S PREPARATION OF THE APPLICATION FOR A LICENSE
18 BY PROVIDING THE AGENCY WITH A WRITTEN REQUEST THAT STATES:

19 1. THE NAME AND ADDRESS OF THE PERSON REQUESTING THE CLARIFICATION.

20 2. THE STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY
21 STATEMENT OR PART OF THE STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE
22 POLICY STATEMENT THAT THE PERSON IS REQUESTING BE CLARIFIED.

23 3. ANY FACTS RELEVANT TO THE REQUESTED CLARIFICATION.

24 4. THE PERSON'S PROPOSED INTERPRETATION OF THE APPLICABLE STATUTE,
25 RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY STATEMENT OR PART OF THE
26 STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY STATEMENT.

27 5. WHETHER, TO THE BEST KNOWLEDGE OF THE PERSON, THE ISSUES OR RELATED
28 ISSUES ARE BEING CONSIDERED BY THE AGENCY IN CONNECTION WITH AN EXISTING
29 LICENSE OR LICENSE APPLICATION.

30 B. ON RECEIPT OF A REQUEST THAT COMPLIES WITH SUBSECTION A OF THIS
31 SECTION:

1 1. THE AGENCY MAY MEET WITH THE PERSON TO DISCUSS THE WRITTEN REQUEST
2 AND SHALL RESPOND WITHIN THIRTY DAYS OF THE RECEIPT OF THE WRITTEN REQUEST
3 WITH A WRITTEN CLARIFICATION OF ITS INTERPRETATION OR APPLICATION AS RAISED
4 IN THE WRITTEN REQUEST.

5 2. THE AGENCY SHALL PROVIDE THE REQUESTOR WITH AN OPPORTUNITY TO MEET
6 AND DISCUSS THE AGENCY'S WRITTEN CLARIFICATION.

7 C. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY'S WRITTEN CLARIFICATION
8 PURSUANT TO THIS SECTION DOES NOT CONSTITUTE AN APPEALABLE ACTION AS DEFINED
9 IN SECTION 41-1092 OR AN ACTION AGAINST THE PARTY PURSUANT TO SECTION
10 41-1092.12.

11 D. NOTWITHSTANDING ANY OTHER LAW, THIS SECTION DOES NOT APPLY TO THE
12 ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD."

13 Renumber to conform

14 Page 3, after line 10, insert:

15 "Sec. 15. Section 41-1092, Arizona Revised Statutes, is amended to
16 read:

17 41-1092. Definitions

18 In this article, unless the context otherwise requires:

19 1. "Administrative law judge" means an individual or an agency head,
20 board or commission that sits as an administrative law judge, that conducts
21 administrative hearings in a contested case or an appealable agency action
22 and that makes decisions regarding the contested case or appealable agency
23 action.

24 2. "Administrative law judge decision" means the findings of fact,
25 conclusions of law and recommendations or decisions issued by an
26 administrative law judge.

27 3. "Appealable agency action" means an action that determines the
28 legal rights, duties or privileges of a party and that is not a contested
29 case. Appealable agency actions do not include interim orders by
30 self-supporting regulatory boards, ~~or~~ rules, orders, standards or statements
31 of policy of general application issued by an administrative agency to
32 implement, interpret or make specific the legislation enforced or

1 administered by it OR CLARIFICATIONS OF INTERPRETATION, nor does it mean or
2 include rules concerning the internal management of the agency that do not
3 affect private rights or interests. For the purposes of this paragraph,
4 administrative hearing does not include a public hearing held for the purpose
5 of receiving public comment on a proposed agency action.

6 4. "Director" means the director of the office of administrative
7 hearings.

8 5. "Final administrative decision" means a decision by an agency that
9 is subject to judicial review pursuant to title 12, chapter 7, article 6.

10 6. "Office" means the office of administrative hearings.

11 7. "Self-supporting regulatory board" means any one of the following:

12 (a) The Arizona state board of accountancy.

13 (b) The state board of appraisal.

14 (c) The board of barbers.

15 (d) The board of behavioral health examiners.

16 (e) The Arizona state boxing and mixed martial arts commission.

17 (f) The state board of chiropractic examiners.

18 (g) The board of cosmetology.

19 (h) The state board of dental examiners.

20 (i) The state board of funeral directors and embalmers.

21 (j) The Arizona game and fish commission.

22 (k) The board of homeopathic and integrated medicine examiners.

23 (l) The Arizona medical board.

24 (m) The naturopathic physicians medical board.

25 (n) The state board of nursing.

26 (o) The board of examiners of nursing care institution administrators
27 and adult care home managers.

28 (p) The board of occupational therapy examiners.

29 (q) The state board of dispensing opticians.

30 (r) The state board of optometry.

31 (s) The Arizona board of osteopathic examiners in medicine and
32 surgery.

- 1 (t) The Arizona peace officer standards and training board.
- 2 (u) The Arizona state board of pharmacy.
- 3 (v) The board of physical therapy examiners.
- 4 (w) The state board of podiatry examiners.
- 5 (x) The state board for private postsecondary education.
- 6 (y) The state board of psychologist examiners.
- 7 (z) The board of respiratory care examiners.
- 8 (aa) The office of pest management.
- 9 (bb) The state board of technical registration.
- 10 (cc) The Arizona state veterinary medical examining board.
- 11 (dd) The acupuncture board of examiners.
- 12 (ee) The Arizona regulatory board of physician assistants.
- 13 (ff) The board of athletic training.
- 14 (gg) The board of massage therapy.

15 Sec. 16. Section 41-1092.06, Arizona Revised Statutes, is amended to
16 read:

17 41-1092.06. Appeals of agency actions and contested cases;
18 informal settlement conferences; applicability

19 A. If requested by the appellant of an appealable agency action **OR THE**
20 **RESPONDENT IN A CONTESTED CASE**, the agency shall hold an informal settlement
21 conference within fifteen days after receiving the request. A request for an
22 informal settlement conference shall be in writing and shall be filed with
23 the agency no later than twenty days before the hearing. If an informal
24 settlement conference is requested, the agency shall notify the office of the
25 request and the outcome of the conference, except as provided in section
26 41-1092.01, subsection F. The request for an informal settlement conference
27 does not toll the sixty day period in which the administrative hearing is to
28 be held pursuant to section 41-1092.05.

29 B. If an informal settlement conference is held, a person with the
30 authority to act on behalf of the agency must represent the agency at the
31 conference. The agency representative shall notify the appellant in writing
32 that statements, either written or oral, made by the appellant at the

1 conference, including a written document, created or expressed solely for the
2 purpose of settlement negotiations are inadmissible in any subsequent
3 administrative hearing. The parties participating in the settlement
4 conference shall waive their right to object to the participation of the
5 agency representative in the final administrative decision.

6 Sec. 17. Effective date

7 Sections 12-284, 12-902, 12-904, 12-906, 12-907, 12-908, 12-909,
8 12-910, 12-911, 12-912, 12-914 and 41-1001.01, Arizona Revised Statutes, as
9 amended by this act, are effective from and after June 30, 2013.

10 Amend title to conform

JUSTIN PIERCE

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