

Arizona Administrative Register
Notices of Final Rulemaking

6. An explanation of the rule, including the agency's reasons for initiating the rule:

R9-1-412 incorporates by reference physical plant health and safety codes and standards including the Uniform Building Code, Uniform Mechanical Code, Guidelines for Design and Construction of Hospital and Healthcare Facilities, National Fire Codes, and American National Standard Accessible and Usable Building and Facilities. The rule also references the Arizona Uniform Plumbing Code and the Arizona State Fire Code. The Department refers to the codes and standards in R9-1-412 in Title 9, specifically in Chapter 5, Child Care Facilities; Chapter 8, Food, Recreational and Institutional Sanitation; Chapter 10, Health Care Institutions: Licensure; Chapter 14, Laboratories; and Chapter 20, Behavioral Health Service Agencies: Licensure.

Laws 1997, Ch. 112, effective July 21, 1997, established the Arizona Uniform Plumbing Code Commission and required the Commission to adopt, by rule, a state plumbing code based on the 1994 Uniform Plumbing Code currently incorporated by reference in the rule. A.A.C. Title 4, Chapter 48, Article 1, Arizona Uniform Plumbing Code, was adopted effective February 24, 1999. R4-48-102 requires all persons to comply with the Arizona Uniform Plumbing Code and supersedes the previous incorporation by reference of the Uniform Plumbing Code in the rule. In addition the Arizona State Fire Code, authorized by A.R.S. § 41-2146 and contained in R4-36-201, requires all persons to comply with the Arizona State Fire Code and supersedes the previous incorporation by reference of the Uniform Fire Code in the rule.

In order to have requirements that reflect current industry standards and to maintain consistency with the codes and standards currently enforced by local jurisdictions, the Department is amending the rule to incorporate by reference in R9-1-412 the most current national codes and standards except the Uniform Plumbing Code and the Uniform Fire Code which will be deleted. The rule includes a reference to the Arizona Plumbing Code in Title 4, Chapter 48, Article 1 and the Arizona State Fire Code in Title 4, Chapter 36, Article 2.

In addition, a facility is required to comply with the physical plant health and safety codes and standards incorporated by reference at the time the facility is constructed or when the facility is modified, but the facility is not required to comply with each updated version of the physical plant health and safety codes and standards incorporated by reference. Also, there are provisions in the physical plant health and safety codes and standards incorporated by reference that allow a facility to use alternative means to a requirement if the facility can demonstrate that the alternative means ensure the health and safety of personnel, patients and the public. Consequently, during construction or modification a facility can use the most current materials and technology available to ensure health and safety but is not required to remodel or rebuild every time a code or standard is updated.

7. Reference to any study that the agency relied on and its evaluation of or justification for proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The rule incorporates by reference specific publications of national codes and standards that establish physical plant requirements including the Uniform Building Code, the Uniform Mechanical Code, Guidelines for Design and Construction of Hospital and Healthcare Facilities, the National Fire Codes, and the American National Standard Accessible and Usable Buildings and Facilities. The national organizations responsible for these codes and standards periodically review, revise, and republish the codes and standards in an effort to ensure greater safety and lower costs. The final rule amends the listed publications to ensure that the most current national codes and standards are incorporated by reference. The final rule also deletes the Uniform Plumbing Code and the Uniform Fire Code and includes references to the Arizona Uniform Plumbing Code and the Arizona State Fire Code. The most current state and national codes and standards include changes in the requirements and a corresponding economic impact for the construction and modification of health care institutions. The most current state and national codes and standards do not include any changes or economic impact for Child Care Facilities, Laboratories, and Behavioral Health Services Agencies. Local jurisdictions are using the Arizona Uniform Plumbing Code, the applicable fire code, and the most current national codes and standards.

The Department and local governments

Although amending the rule to incorporate by reference the most current national and state codes and standards will result in both a cost savings for and increased costs to the Department, the net effect will be a moderate increase in costs of approximately \$1800. Because local jurisdictions and industry professionals are using the most current state and national codes and standards, the Department's use of the most current state and national codes and standards will contribute to increased consistency and coordination and result in a minimal cost savings to the Department and local jurisdictions.

Health care institutions

Over the past 20 years, fire code requirements in the national codes and standards have shifted from the use of specific building materials to contain fires to the use of sprinkler systems to suppress fires. As a result the fire code now allows the use of materials that are not fire-rated and less costly. However, the fire code requirements for an electric door connected to an emergency generator will increase the installation cost of the electric door by approximately \$200 per electric door.

The most current national codes and standards incorporated by reference in the proposed rule are more focused on preventive maintenance rather than replacement of materials. It is estimated that the use of protective plates on a nursing care institution's interior doors will increase the life of a door by three years, a cost savings of approximately \$100 per door annually. In addition, allowing a nursing care institution to use battery-operated smoke detectors instead of hardwired smoke detectors in resident rooms will yield a savings of approximately \$138 per smoke detector and will encourage the use of a resident's own bedding and furnishings instead of fire-rated institutional furnishings.

The proposed rule will decrease construction costs for health care institutions. The most current national codes and standards allow some interior corridors to be constructed with material that is not fire-rated and require fewer fire dampers, fire-rated doors, and lower-cost gypsum wall board resulting in decreased costs for interior corridors. The change in the most current national codes and standards requirements results in approximately a 25% decrease in the costs of gypsum wall board, \$600 decrease for each toilet room, \$250 decrease for each room for ventilation, and \$300 decrease for each interior door.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

Several changes were made to ensure that accurate and current information is included in the rule including:

(A)(3) has been deleted because persons are required to comply with Title 4, Chapter 48, Article 1, Arizona Uniform Plumbing Code.

The term "and appendixes" was added to the documents listed in subsections (A)(4) and (A)(5) to more accurately reflect the documents incorporated by reference.

The outdated name of the publishing organization in subsection (A)6) was deleted and the current name was added.

(A)(7) has been deleted because persons are required to comply with Title 4, Chapter 36, Article 2, Arizona State Fire Code.

Subsection (B) was renumbered as subsection (C).

Subsection (B) was added to include a reference to the Arizona State Fire Code and the Arizona Uniform Plumbing Code.

11. A summary of the principal comments and the agency response to them:

COMMENT:

The Department received 1 comment from the Arizona Uniform Plumbing Code Commission that stated that incorporating the Uniform Plumbing Code by reference was inconsistent with the requirements in Title 4, Chapter 48, Article 1, Arizona Uniform Plumbing Code.

RESPONSE:

The Department agrees and deleted the Uniform Plumbing Code and included a reference to Title 4, Chapter 48, Article 1, Arizona Uniform Plumbing Code.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their locations in the rule:

American National Standard Accessible and Usable Buildings and Facilities, ANSI A117.1, 1998 edition, in R9-1-412(A)(5)

Guidelines for Design and Construction of Hospital and Health Care Facilities and appendixes, 1996-97 edition, in R9-1-412(A)(3)

Uniform Mechanical Code and appendixes, 1997 edition, in R9-1-412(A)(2)

National Fire Codes and appendixes - 1999 edition, Volumes 1 through 12 and 1999 Supplement Part 1 and Part 2, in R9-1-412(A)(4)

Uniform Building Code and appendixes, 1997 edition, Volumes 1 through 3, in R9-1-412(A)(1)

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 1. DEPARTMENT OF HEALTH SERVICES - ADMINISTRATION

ARTICLE 4. CODES AND STANDARDS REFERENCED

R9-1-412. Physical Plant Health and Safety Codes and Standards

ARTICLE 4. CODES AND STANDARDS REFERENCED

R9-1-412. Physical Plant Health and Safety Codes and Standards

- A.** When this Section is referenced in a rule contained in A.A.C. Title 9, the following physical plant health and safety codes and standards are incorporated by reference and on file with the Department and the Office of Secretary of State, ~~and This incorporation by reference contains no future editions or amendments or editions shall apply.~~
1. Uniform Building Code ~~and appendixes~~ - ~~1994~~ 1997 edition, Volumes 1 through 3; published by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, ~~California CA~~ 90601-2298 (formerly R9-1-412(A)).
 2. Uniform Mechanical Code ~~and appendixes~~ - ~~1994~~ 1997 edition; published by the International Conference of Building Officials; 5360 Workman Mill Road, Whittier, ~~California CA~~ 90601-2298 (formerly R9-1-412(C)).
 3. ~~Uniform Plumbing Code - 1994 edition; published by the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, CA 91789-2825 (formerly R9-1-412(D)).~~
 4. Guidelines for ~~Design and Construction and Equipment~~ of Hospital and ~~Medical Health Care Facilities and appendixes~~, ~~1992-93~~ 1996-97 edition; published by The American Institute of Architects Press, 1735 New York Avenue, N.W., Washington, D.C. 20006 (formerly R9-1-412(F)).
 5. National Fire Codes ~~and appendixes~~ - ~~1995~~ 1999 ~~editions~~ edition, Volumes 1 through 12 and ~~1995~~ 1999 Supplement Part 1 and Part 2, published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101 (formerly R9-1-412(G) and includes the former R9-1-412(B), Life Safety Code, NFPA 101 and the former R9-1-412(E), National Electrical Code, NFPA 70).
 6. American National Standard Accessible and Usable Buildings and Facilities, ANSI A117.1 - ~~1992~~ 1998 edition; published by ~~Council of American Building Officials~~ International Code Council, 5203 Leesburg Pike, #708, Falls Church, VA 22041 (formerly R9-1-412(H)).
 7. ~~Uniform Fire Code - 1994 edition, Volumes 1 and 2; published by the International Fire Code Institute, 9300 Jollyville Road, Suite 105, Austin, TX (formerly R9-1-412(I)).~~
- B.** When this Section is referenced in a rule contained in A.A.C. Title 9, the following apply:
1. Arizona Uniform Plumbing Code in 4 A.A.C. 48, Article 1; and
 2. Arizona State Fire Code in 4 A.A.C. 36, Article 2.
- BC.** ~~A person shall not be subject to~~ The Department shall not assess any penalty or fee specified in the physical plant health and safety codes and standards that are incorporated by reference in this Section.

NOTICE OF FINAL RULEMAKING

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

PREAMBLE

1. Sections Affected

R10-4-101
R10-4-101
R10-4-101
R10-4-102
R10-4-102
R10-4-102
R10-4-103
R10-4-103
R10-4-104
R10-4-104
R10-4-105
R10-4-105

Rulemaking Action

Repeal
ReNUMBER
Amend
Repeal
ReNUMBER
Amend
ReNUMBER
Amend
ReNUMBER
Amend
ReNUMBER
Amend

Notices of Final Rulemaking

R10-4-106	Renumber
R10-4-106	Amend
R10-4-107	Renumber
R10-4-107	Amend
R10-4-108	Renumber
R10-4-108	Amend
R10-4-109	Renumber
R10-4-109	Amend
R10-4-110	Renumber
R10-4-110	Amend
R10-4-111	Repeal

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-2405(A)(8)

Implementing statute: A.R.S. § 41-2407

3. The effective date of the rules:

November 20, 2000

4. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 1440, April 14, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 3019, August 18, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Donna M. Marcum

Address: 3737 North 7th Street, Suite 260
Phoenix, AZ 85014

Telephone: (602) 230-0252

Fax: (602) 728-0752

6. An explanation of the rule, including the agency's reasons for initiating the rule.

The purpose of the article is to establish guidelines to be used to govern the administration of the Crime Victim Compensation Program. The legislature enacted A.R.S. § 41-2407 in 1986, creating the Victim Compensation and Assistance Fund. The Arizona Criminal Justice Commission must establish, maintain, and support programs that compensate and assist victims of criminally injurious conduct. Arizona is one of two states employing a decentralized model of administration of the Crime Victim Compensation Program. Recipient agencies are responsible for administering their funds at the local level. These rules have been created to provide uniform guidance to the agencies so that compensation claims can be handled in an equitable manner. Without the establishment of rules governing the administration of the program, the funds cannot be regulated appropriately.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material.

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

The promulgation of the rule will not diminish a previous grant of authority of a political subdivision of this state.

9. The summary of the economic, small business, and consumer impact:

There will be a significant positive economic impact as a result of the amendments to the proposed rules.

Costs/Benefits to Implementing Agency: The Arizona Criminal Justice Commission will experience no increase in its supplies and services budget. The personnel budget will not be increased. The management of the funds will continue to be accomplished through the use of existing staff. No increase in administrative overhead is anticipated. The Arizona Criminal Justice Commission will experience non-monetary benefits through accomplishing its statutory obligations in A.R.S. § 41-2407 and will have minimal monetary benefits from the 5% administrative costs retained by the Commission from matching Victims of Crimes Act (VOCA) funds.

Costs/Benefits to Other Agencies Directly Affected by the Amendments: Other state agencies will not be adversely affected by the amendments to the rules governing distribution of funds. The amendments serve the following purposes: 1) Bring the rules into conformance with the language of the Secretary of State's Office; 2) Delete reference to the subrogation agreement that is now in statute and; 3) Increase the benefits available to victims of crime. The State Treasury Department will have no cost increases as a result of the amended rules. The Department already receives and administers the account into which these funds are deposited.

Notices of Final Rulemaking

Costs/Benefits to Political Subdivisions: There may be minimal costs to the political subdivisions for processing claims for persons previously ineligible. All Arizona criminal justice agencies and non-profit organizations providing victim services potentially benefit from the distribution of Crime Victim Compensation funds. The Arizona Criminal Justice Commission allocates funds to each county based on population. The designated operational unit in each county is able to retain a portion of the fund for administrative costs.

Costs/Benefits to Business: There are no additional costs to businesses. The Crime Victim Compensation Program provides reimbursement of unpaid medical and mental health counseling expenses to victims that would otherwise have no resources to pay bills. This is a substantial benefit to businesses in Arizona because these bills may otherwise be written off. The administrative portion of these funds provides a proportionate stimulant to the economy of recipient communities through added jobs that may otherwise not be available.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Technical and grammatical changes were made at the suggestion of the Governor’s Regulatory Review Council staff.

11. A summary of the principle comments and the agency response to them:

Prior to drafting rule revisions, the Arizona Criminal Justice Commission held three meetings throughout the state to solicit public input from those who may have an interest in the rules. Meetings were held in Flagstaff, Phoenix, and Tucson, to ensure statewide participation.

Principle Comments:	Agency Response:
Expand the definition of eligibility for claimants to include victims of international terrorism and those who are not legally present in the United States. Some opposed changes to the rule.	Clarify and expand the definitions for claimant and victim.
Extend the time to file an application for benefits from one year to two or three years. Some opposed changes to the rule.	Extend the time to file a claim to two years.
Extend the mental health counseling benefit from one year of treatment to two to four years. Some opposed changes to the rule.	Extend mental health counseling benefits for victims to three years.
Allow benefits for work loss to derivative victims that must care for family members who have suffered catastrophic injuries as a result of a crime.	No proposed change to the rule due to inadequate funding to support an amendment.
Increase the funeral expense limit to \$3,000-\$3,500 from existing \$2,500.	Increase funeral expense limit to \$5,000.
Increase the limit of emergency awards from \$500 to \$1,000,	No proposed change to the rule due to inadequate funding to support an amendment.
Extend the time allowed to file an appeal of a Compensation Board’s decision from ten days to thirty days.	Extend the time allowed to file an appeal to thirty days.
Institute a three-year time limit on the payment of claims, with the exception of mental health counseling.	No proposed change to the rule due to possibility that claimants may reasonably require additional medical services beyond the three-year time frame.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

18 U.S.C. 2331 R10-4-101(12)

14. Was this rule previously approved as an emergency rule?

No

15. The full text of the rules follows:

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

- R10-4-101. ~~Short Title~~ Definitions
- R10-4-102. ~~Purpose~~ Administration of the Fund
- R10-4-103. ~~Definitions~~ Statewide Operation
- R10-4-104. ~~Administration of the Fund~~ Operational Unit Requirements
- R10-4-105. ~~Statewide Operation~~ Crime Victim Compensation Board
- R10-4-106. ~~Operational Unit Requirements~~ Award Criteria
- R10-4-107. ~~Crime Victim Compensation Board~~ Hearings and Appeals
- R10-4-108. ~~Awards Criteria~~ Emergency Awards
- R10-4-109. Hearings and Appeals
- R10-4-110. Emergency Awards
- R10-4-111. Subrogation Agreement

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

~~R10-4-101.~~ Short Title

The provisions of these rules shall be known and cited as the “Arizona Crime Victim Compensation Program”.

~~R10-4-102.~~ Purpose

The Commission, in recognition that many innocent persons suffer physical injury, extreme mental distress, or death as a direct result of criminal acts or in their efforts to prevent criminal acts or apprehend persons committing or attempting to commit criminal acts, and that victims and derivative victims may thereby suffer disabilities, incur financial hardships, or become dependent on public assistance, shall allocate the public resources available to satisfy these purposes in the most efficient and cost-effective manner possible through the state operation and supervision of locally administered operational units.

~~R10-4-101~~ ~~R10-4-103.~~ Definitions

In these rules:

1. “Allowable expense” means an amount a cost for which a compensation award is authorized under these rules to be paid as a compensation award and made by the ~~Crime Victim Compensation Board~~ to a victim, a derivative victim, or both for economic loss.
2. “Board” means the Crime Victim Compensation Board of ~~for~~ an operational unit.
3. “Claimant” means any natural person, ~~who is legally present in the United States,~~ filing a claim under these rules and authorized to receive a compensation award for economic loss because the person is:
 - a. A victim of criminally injurious conduct ~~that occurs while the person is legally present in the United States;~~
 - b. A resident of this state who is injured by an act of international terrorism ~~as defined in 18 U.S.C. 2331, 1992, (and no later editions or amendments) which is incorporated by reference and on file with the Commission and the Office of the Secretary of State;~~
 - c. A derivative victim;
 - d. A person authorized to act on a victim’s behalf ~~of~~ victim, or a person authorized to act on behalf of a ~~dependent of a deceased victim’s dependent victim~~ if the victim died as a direct result of criminally injurious conduct or an act of international intentional terrorism ~~as defined in 18 U.S.C. 2331;~~ or
 - e. A person who assumes an ~~the~~ obligation or pays an ~~the~~ expense directly related to a victim’s ~~the~~ economic loss incurred as a direct result of criminally injurious conduct or an act of international terrorism ~~as defined in 18 U.S.C. 2331.~~
 - f. Claimant does not mean ~~include~~:
 - i. An offender, an accomplice of the offender, or a person ~~+~~ who encouraged or in any way participated in or facilitated criminally injurious conduct; or an act of international terrorism ~~as defined in 18 U.S.C. 2331;~~

Arizona Administrative Register
Notices of Final Rulemaking

- ii. A person serving a sentence of imprisonment in any detention facility, home arrest program, ~~or~~ work furlough, or ~~a~~ ~~any~~ person who has escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism; or
 - iii. A person convicted of a federal crime who is delinquent in paying a fine, monetary penalty, or restitution imposed for the offense only if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim programs have access to an accurate and efficient criminal debt payment tracking system.
4. "Collateral source" means a source of compensation for economic loss that a claimant has received, or that is available to a claimant including:
- a. The offender or a 3rd party responsible for the offender's actions;
 - b. The United States government ~~of the United States~~ or any of its agencies, a state or any of its political subdivisions, or an instrumentality of 2 or more states, unless the law providing for the compensation makes the compensation ~~it~~ excess or secondary to benefits under this rule, ~~;~~ specifically excluding those federal funds granted under 42 U.S.C. 10602;
 - c. Social Security, Medicare, ~~and or~~ Arizona Health Care Cost Containment System payments;
 - d. State-required, temporary, nonoccupational disability insurance;
 - e. Worker's compensation insurance;
 - f. Wage continuation program programs of any employer;
 - g. Insurance proceeds ~~Proceeds of a contract of insurance~~ payable to the victim or claimant for loss ~~that the claimant~~ sustained due to ~~because of~~ the criminally injurious conduct or an act of international terrorism; or
 - h. A contract providing for prepaid hospital and other health care services or ~~benefits for~~ disability benefits.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. "Criminally injurious conduct" means conduct that; ~~whether completed or preparatory, that poses a substantial threat of physical injury, extreme mental distress or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under applicable laws.~~
- a. Constitutes a crime as defined by the laws of this state whether or not the perpetrator of the act is convicted;
 - b. Poses a substantial threat of physical injury, extreme mental distress or death; and
 - c. Is punishable by fine, imprisonment, or death, or would be punishable but the person engaging in the conduct lacked capacity to commit the crime under applicable laws.
7. "Derivative victim" means:
- a. The spouse, child, parent, stepparent, stepchild, sibling, or guardian ~~parent, spouse, child, or sibling~~ of a victim who died as a result of criminally injurious conduct or an act of international terrorism and includes a child born after the victim's death.
 - b. A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the Board to be substantially similar to a relationship in subsection (7)(a).
 - c. A member of the victim's family ~~of the victim~~ who witnessed the criminally injurious conduct.
 - d. A nonfamily member who witnessed a violent heinous crime.
 - e. A person whose mental health counseling and care or presence during the victim's mental health counseling and care ~~of the victim~~ is required for the successful treatment of the victim.
8. "Economic loss" means financial detriment consisting only of medical expenses, mental health counseling and care expenses, work loss, and funeral expenses.
9. "Extreme mental distress" means a substantial personal disorder of emotional processes, thought or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
10. "Fund" means the Crime Victim Compensation and Assistance Fund.
11. "Funeral expense" means cost ~~any reasonable charge that~~ is incurred as a direct result of a victim's funeral ~~and~~ cremation ~~or~~ burial.
12. "International terrorism" means an act as defined in ~~at~~ 18 U.S.C. 2331 (October 29, 1992), incorporated by reference and on file with the Commission and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
13. "Jurisdiction" means any county in ~~within~~ this state.
14. "Medical expense" means a cost related to medical care due ~~attributable~~ to a physical injury resulting from criminally injurious conduct or an act of international terrorism, ~~as defined in 18 U.S.C. 2331.~~ Medical expense ~~it~~ includes a cost resulting from damage to a prosthetic devices or a dental devices. Medical expense ~~it~~ does not include ~~that portion of~~ a charge for a private room in a hospital, clinic, convalescent home, nursing home, or any other institution ~~institutional~~ engaged in providing nursing care and related services in excess of a charge for semi-private accommodations, unless private accommodations ~~other than semi-private accommodations~~ are medically required.

Notices of Final Rulemaking

15. "Mental health counseling and care expense" means a cost related to the assessment, diagnosis, and treatment of a victim's ~~an individual's~~ mental and emotional health functioning that is required to alleviate extreme mental distress resulting from criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331. Mental health counseling and care expense It does not include the cost that portion of a charge for a private room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a charge for semi-private accommodations, unless private accommodations other than semi-private accommodations are medically required.
16. "Operational unit" means a public or private agency ~~that is authorized by the Commission to establish a crime victim compensation program and~~ to receive, evaluate, and present to the Board; ~~under these rules and state law,~~ compensation claims from a claimants; under these rules and state law.
17. "Program" means the Crime Victim Compensation Program.
18. "Subrogation" means the substitution of the state and an ~~the~~ operational unit, to the extent that the operational unit used the operational unit's funds, ~~in the~~ place of the claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award.
19. "Work loss" means a reduction in income from work that a victim would have performed if the victim had not been injured or killed. Work Loss does not include ~~minus~~ any income earned from substitute work or income available to the victim from performed by the victim, ~~or income the victim would have earned in available~~ appropriate substitute work that the victim was capable of performing but unreasonably failed to perform ~~undertake~~.
20. "Victim" means a person who suffers physical injury, extreme mental distress, or death as a direct result of any of the following:
 - a. ~~Criminally injurious conduct, that occurs while the person is legally present in the United States;~~
 - b. ~~An act of international terrorism, as defined in 18 U.S.C. 2331;~~
 - c. ~~A person's good faith effort of any person to prevent criminally injurious conduct,; or~~
 - d. ~~A person's good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct or an act of international terrorism, , as defined in 18 U.S.C. 2331.~~

R10-4-102 R10-4-104. Administration of the Fund

- A. The Commission shall deposit ~~in the Crime Victim Compensation Fund~~ all funds monies received under A.R.S. § 12-116.01 and any other funds received ~~monies from any federal sourcee~~ for compensating a crime victims in the Fund ~~of crime~~.
- B. The Commission shall designate, ~~at the beginning of each state fiscal year,~~ 1 operational unit in ~~within~~ a jurisdiction to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each designated operational unit for expenditure by the Board; Funds shall be distributed by a formula based on a uniform base amount to be determined annually by the Commission,; from staff recommendations derived from an analysis of the prior year expenditure history, and with any remaining monies to be divided among jurisdictions on a population basis. The formula shall be derived using:
 1. An analysis of prior year's expenditure history, and
 2. A uniform base amount with the remaining funds divided among jurisdictions based on population.
- D. The Commission shall reserve the lesser of \$50,000 or 10% of the Fund to be used in the event of an unforeseen increase of victimization by criminally injurious conduct or an act ~~aets~~ of international terrorism ~~as defined in 18 U.S.C. 2331,~~ when compensation for which cannot be provided by an ~~any~~ operational unit.
- E. If there is an unforeseen increase in victimization by criminally injurious conduct or an act ~~aets~~ of international terrorism, ~~as defined in 18 U.S.C. 2331,~~ the Commission shall allow a claimant to apply directly to the Commission for compensation based on ~~upon~~ criteria established by R10-4-106 ~~R10-4-108~~.
- F. If any funds money received from the Commission remain unexpended by the Board at the end of a fiscal year, the funds operational unit shall be returned ~~return the unexpended money~~ to the Commission within 45 days after the end of the fiscal year and redeposited ~~which shall redeposit the unexpended money~~ in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation and restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-106.
- H. ~~G.~~ An operational unit that receives ~~raises~~ additional funds monies for victim compensation shall submit a written report to the Commission. The report shall contain ~~that tells~~ the amount of the additional funds monies distributed to compensate crime victims of crime. The Commission shall use the information in the written report to apply for federal matching of the additional funds monies from the Victims of Crime Act Fund (42 U.S.C. 10601 et seq. [November 26, 1997]). If the matching funds monies are received, the Commission shall forward the matching funds monies to the appropriate operational unit.
- I. The operational unit may use funds to pay administrative costs to the extent authorized by the Commission.

Arizona Administrative Register
Notices of Final Rulemaking

R10-4-103 ~~R10-4-105~~. Statewide Operation

For any portion of the state not served by an operational unit, the Commission may operate a compensation program in accordance with these rules or may provide for a ~~such~~ program by contract.

R10-4-104 ~~R10-4-106~~. Operational ~~Operation~~ Unit Requirements

- A. A public or private agency seeking designation as an operational unit shall submit ~~to the Commission~~ a letter to the Commission requesting designation.
- B. To be eligible to receive designation and funding by the Commission as the operational unit for a jurisdiction, the public or private agency ~~a unit~~ shall agree to:
1. Not use Commission funds or federal funds to supplant funds otherwise available to the program for crime victim compensation;
 2. Make no distinction between residents and non-residents ~~Not discriminate~~ in evaluating claims made by or on behalf of victims and derivative victims of criminally injurious conduct occurring in the public or private agency's within its jurisdiction ~~who are nonresidents of the jurisdiction and those who are residents of the jurisdiction~~;
 3. Forward to the Board compensation claims of victims and derivative victims of criminally injurious conduct occurring in within this state;
 4. Forward to the Board compensation claims of victims and derivative victims of criminally injurious conduct occurring in within the public or private agency's unit's jurisdiction;
 5. Forward to the Board a compensation claims of a residents of the public or private agency's unit's jurisdiction who is ~~a~~ are victims or derivative victims of criminally injurious conduct or an act of international terrorism occurring that occurs in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b)(1)-(6) ~~or of an act of international terrorism as defined in 18 U.S.C. 2331~~;
 6. ~~Provide notice to~~ Notify the Commission of any changes in the public or private agency's unit's procedures before the changes take effect. If the changes are material, the public or private agency unit shall receive prior written approval from the Commission before instituting the changes;
 7. Submit a written quarterly report to the Commission on a form provided by the Commission that describes in detail the public or private agency's its activities under this rule, ~~including the impact that Commission funds had on the unit~~. The report shall ~~also~~ include:
 - a. The impact that Commission funds had on the public or private agency;
 - ~~b.a.~~ The amount and each source of revenue available for the unit for victim compensation correspondence;
 - ~~c.b.~~ The total number of claims, awards, denials, pending claims, total amount of awards; and the ethnic background, national origin, disability, age, and sex of each victim;
 - ~~d.e.~~ The average amount of all awards; the total number and total amount of claims awards for state resident federal victims and nonresident victims; the number and award amount of awards by type of crime; and the number and award amount of awards by type of expense, including medical, mental health counseling, work loss, and funeral;
 - ~~e.d.~~ The type of provider for mental health counseling and care awards including psychiatrist, psychologist, rape crisis center, and community mental health center; the number, amount, and duration of mental health counseling and care awards; and
 - ~~f.e.~~ Referral sources ~~Sources that referred victims to the unit~~;
 8. ~~Provide~~ Make application forms available to all persons who claim an award as a result of criminally injurious conduct or an act of international terrorism that occurred in within the public or private agency's unit's jurisdiction ~~or of an act of international terrorism, as defined in 18 U.S.C. 2331~~. The application form shall, ~~at a minimum~~, contain the following information:
 - a. The name, address, ethnic background, ~~national origin~~, age, and sex of the victim or derivative victim of the criminally injurious conduct ~~or an act of international terrorism, as defined in 18 U.S.C. 2331~~; ~~and the name and address of the claimant, and the relationship of the claimant to the victim~~;
 - b. The claimant's name, address and relationship to the victim;
 - ~~c.b.~~ If the victim is deceased, the name and address of each derivative victim, and the extent to which each was dependent on ~~upon~~ the victim for financial support;
 - ~~d.e.~~ The nature of the criminally injurious conduct or act of international terrorism, as defined in 18 U.S.C. 2331, that is the basis for the claim and the date ~~on which~~ the conduct occurred;
 - ~~e.d.~~ The law enforcement agency or officer to whom the criminally injurious conduct or act of international terrorism, as defined in 18 U.S.C. 2331, was reported;
 - ~~f.e.~~ The nature and extent of the injuries that the victim sustained from the criminally injurious conduct or act of international terrorism, as defined in 18 U.S.C. 2331, the name and address of any person who gave medical treatment to the victim for the injuries, the name and address of any hospital or similar institution where the victim received medical treatment for the injuries, and whether the victim died as a result of the injuries;

Notices of Final Rulemaking

- g. The name and address of any person providing medical treatment to the victim and the name and address of any hospital or similar institution where the victim received medical treatment for the injuries;
 - ~~h.f.~~ The economic loss ~~that a claimant~~ sustained as a result of the criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331;
 - ~~i.g.~~ The name and amount of any collateral source compensation ~~that~~ the victim, a derivative victim, or a claimant has received or is entitled to receive ~~from any collateral source~~ for economic loss as a result of that resulted from the criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, and the name of each collateral source;
 - ~~j.h.~~ An affirmation that the claimant is not ~~;~~ an illegal alien; is not the offender, accomplice, or facilitator; is not serving or was not serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough; and has not escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough, at the time of the criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331. A unit shall not exclude a person convicted of a federal crime who is delinquent in paying a fine, monetary penalty, or restitution imposed for the offense from receiving benefits unless the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that entities administering federal victim programs have access to an accurate and efficient criminal debt payment tracking system; and
 - i. An offender, accomplice, or facilitator of the criminally injurious conduct or an act of international terrorism;
 - ii. Serving or was not serving a sentence of imprisonment in any detention facility, home arrest program, work furlough and has not escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism;
 - ~~k.i.~~ A release authorizing the unit's investigative agent to obtain any report, document, or information that relates to the determination of a the compensation claim for an award of compensation that is requested in the application.
9. Comply with all civil rights requirements; and
10. Ensure each compensation claim ~~Ensure that it monitors, investigates, and substantiates each claim for compensation is monitored, investigated, and substantiated~~ before forwarding the claim to the Board for to make an award; ~~and~~
11. ~~Provide other information and assurances the Commission may require to carry out any of its duties or responsibilities.~~

R10-4-105 R10-4-107. Crime Victim Compensation Board

- A. Each operational unit shall establish ~~have established~~ a Crime Victim Compensation Board. The Board, ~~which~~ shall consist of an odd number and with at least not fewer than 3 three members. The Board shall be to be appointed by the Commission Chairman ~~of the Commission~~ from a list submitted by the operational unit. Members of the Board shall receive no compensation for their services.
- B. ~~The term of office of each~~ Each appointed member's term ~~member~~ shall be 3 three years; except ~~that of those members first appointed.~~ Approximately, ~~approximately~~ 1/3 one-third shall be appointed for a 3-three-year term, 1/3 one-third for a 2-two-year term, and 1/3 one-third for a 1-one-year term. All vacancies, except through the expiration of term, shall be filled for the unexpired term only. The Commission Chairman shall appoint a member to complete a vacated term, ~~to be made by the Chairman of the Commission~~ from a list submitted by the operational unit.
- C. The majority of the Board membership ~~of the Board~~ constitutes a quorum for the transaction of business. The Board shall elect from ~~among~~ its membership a chairman and ~~such~~ other officers as ~~it deems~~ necessary, to serve ~~for such~~ terms determined by as the Board determines.
- D. The Board shall make a compensation award awards according to ~~in accordance with the requirements of~~ these rules and perform ~~any~~ other acts necessary for the operation of the program.

R10-4-106 R10-4-108. Award Criteria

- A. ~~The An~~ operational unit's Board shall meet at least every 60 days to decide, based on upon the investigative agent's findings, whether to make an award, ~~and, if so,~~ the terms of the award, and the amount of the award. The Board shall render a decision within 60 days of receipt of an the application by the operational unit except where good due cause exists. The Board shall inform the applicant of the Board's decision in writing within 5 days of the decision.
- B. The Board shall not make a compensation award unless it determines that:
 - 1. Criminally injurious conduct or an act of international terrorism, ~~as defined in 18 U.S.C. 2331~~ was committed;
 - 2. The criminally injurious conduct or act of international terrorism, ~~as defined in 18 U.S.C. 2331,~~ directly resulted in physical injury to, extreme mental distress to, or death of the victim;
 - 3. The criminally injurious conduct or act of international terrorism, ~~as defined in 18 U.S.C. 2331,~~ was reported to the appropriate law enforcement authority authorities within 72 hours after its discovery unless good cause is shown to justify a delay; and

Arizona Administrative Register
Notices of Final Rulemaking

4. The compensation application for a ~~compensation award~~ was submitted to the operational unit within with 2 years 1 year of the discovery of the criminally injurious conduct ~~crime~~ or act of international terrorism, as defined in 18 U.S.C. 2331, unless good cause is shown to justify a delay.
- C. The Board shall make a compensation award ~~awards~~ from the Fund only for the following:
1. Medical expenses due attributable to a victim's physical injury or death resulting from criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331;
 2. Work loss for; attributable to a victim's physical injury, extreme mental distress, or death resulting from criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, provided the compensation award for work loss does not exceed an amount equal to 40 hours per week at the current federal minimum wage standard for each week of work loss to the maximum allowable under subsection (D)(1). A compensation award for work loss attributable to a victim's death resulting from criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, may be made to a surviving spouse, child, sibling, or parent of the victim if the Board determines the death resulted in a loss of support from the victim to the spouse, child, sibling, or parent, provided the award for work loss does not exceed an amount equal to 40 hours per week at the current federal minimum wage standard for each week of work loss to the maximum allowable under subsection (D)(1). A compensation award to the parent or guardian of a minor victim may be made for work loss attributable to transporting or accompanying the victim to a medical, or mental health counseling and care visit provided the award for work loss does not exceed an amount equal to 40 hours per month at the current federal minimum wage standard for each month of work loss to the maximum allowable under subsection (D)(1);
 - a. A victim's physical injury, extreme mental distress, or death resulting from criminally injurious conduct or an act of international terrorism. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per week at the current federal minimum wage standard for each week of work loss to the maximum allowable under subsection (D)(1);
 - b. A deceased victim's spouse, child, sibling, or parent if the Board determines the death resulted in a loss of support from the victim to the spouse, child, sibling, or parent. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per week at the current federal minimum wage standard for each week of work loss to the maximum allowable under subsection (D)(1);
 - c. A parent or guardian of a minor victim to transport or accompany the victim to a medical, mental health counseling and care visit, or court proceeding. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per month at the current federal minimum wage standard for each month of work loss to the maximum allowable under subsection (D)(1); or
 - d. A victim or derivative victim to attend court proceedings. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per month at the current federal minimum wage standard for each month of work loss to the maximum allowable under subsection (D)(1).
 3. Funeral expenses due attributable to a victim's death resulting from criminally injurious conduct or an act of international terrorism , as defined in 18 U.S.C. 2331, provided the ~~The~~ compensation award for funeral expense shall not ~~does not~~ exceed \$5,000 ~~\$2,500~~; and
 4. Mental health counseling and care expenses due attributable to a victim's or derivative victim's extreme mental distress resulting from criminally injurious conduct or an act of international terrorism , as defined in 18 U.S.C. 2331, provided the ~~Mental health~~ counseling and care expenses cannot ~~does not~~ exceed a 36 12- month period starting with the 1st treatment. Mental health counseling and care for derivative victims shall be included as a portion of the maximum award.
- D. The Board shall not make a compensation award ~~claim~~ to a claimant ~~to the extent that it exceeds; ;~~
1. Twenty Ten ~~Twenty~~ thousand dollars in the aggregate for a victim and any derivative victim, ; and
 2. The amount existing in the Fund and not committed to other compensation awards; at the time the Board makes the compensation award determination.
- E. The Board shall deny or reduce a compensation award to a claimant if ~~to the extent that:~~
1. ~~In the event of an insufficiency of funds in a given year, an otherwise valid claim may be denied or it may be extended for consideration in the next fiscal year.~~
 1. The economic loss has been recouped from a collateral source;
 2. The degree of responsibility for the cause of the injury or death was due attributable to the victim's ~~victim~~, either through negligence or through intentional ~~or knowing~~ unlawful conduct that substantially provoked or aggravated the incident causing giving rise to the injury;
 3. The claimant has not fully cooperated with the appropriate law enforcement agency ~~agencies~~. In determining the extent of ~~any~~ non-cooperation, the following criteria shall be used; ;
 - a. ~~The~~ If the claimant failed to assist in the prosecution of a person who engaged in criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, or failed to appear as a witness, the claim for a compensation award shall be denied;

- b. ~~The~~ If the claimant initially decided not to assist in the prosecution of a suspect and later but subsequently decided to assist in the prosecution and this causes the suspect of a person who engaged in criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, to escape prosecution or directly negatively affects the prosecution, the claim for a compensation award shall be denied;
 - c. ~~The~~ If law enforcement authority authorities indicates indicate that the claimant was reluctant to give information pertaining to the criminally injurious conduct or act of international terrorism, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities, the award shall be reduced or denied; or
 - d. If the claimant demonstrates that ~~the claimant's~~ failure to cooperate was due to a compelling health or safety risk, the Board shall make a full award within the constraints in subsection (D).
- F. If there are insufficient funds with which to make a compensation award in a given year, the Board may ; deny or extend an otherwise valid claim for consideration in the next fiscal year.
- 1. Deny the claim;
 - 2. Make a partial award and reconsider the claim during the current fiscal year; or
 - 3. Extend a valid claim into the next year.
- G. The operational unit shall not provide funds to pay any attorney's fees incurred by the claimant.
- ~~H.~~ The operational unit may use funds to pay administrative costs to the extent authorized by the Commission.
- ~~H.I.~~ The operational unit, in its discretion, may directly pay compensate the claimant, the provider or pay providers, or both.

R10-4-107 R10-4-109. Hearings and Appeals

- A. The Board, in its discretion, may conduct a hearing upon any application in accordance with A.R.S. § 41-1092 et seq. submitted to it.
- 1. ~~A claimant~~ Any party, in a contested case before the Board, who is aggrieved by a decision of the Board rendered in the such case may file with the Board, no later than ten may request a hearing within 30 days after service of the decision. ~~A~~ , a written request for a hearing rehearing or review of a Board the decision shall specify specifying the particular grounds for the request therefor. For purposes of this paragraph, a Board decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at the his last known residence or place of business.
 - 2. A request for a hearing rehearing under this rule, may be amended at any time before it is ruled on upon by the Board. The Board may require the filing of additional written explanation of the issue raised in the request and may provide for oral argument.
 - 3. A hearing rehearing or review of the decision may be granted for any of the following causes materially affecting the requesting party's rights:
 - a. Irregularity in the administrative proceedings of the Board or its operational unit, or any order of abuse or discretion, depriving whereby the requesting party was deprived of a fair Board decision hearing;
 - b. Board misconduct Misconduct of the Board;
 - c. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original Board meeting hearing;
 - d. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting hearing;
 - e. ~~The~~ That the decision is not justified by the evidence or is contrary to the rules.
 - 4. The Board may affirm or modify the decision or grant a hearing rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in paragraph (3). An order granting a hearing rehearing shall specify with particularity the ground or grounds on which the hearing rehearing is granted and the hearing shall cover only those grounds matters so specified.
 - 5. ~~Within~~ Not later than 30 ten days after a decision is rendered, the Board may, on its own initiative, order a hearing rehearing or review of its decision for any reason for which it might have granted a hearing rehearing on a motion of a party. After giving a party or parties notice and an opportunity to be heard on the matter, the Board may grant a request for a hearing rehearing for a reason not stated in the request. In either case, the grounds for the request shall be specified. order granting such a rehearing shall specify the grounds therefor.
 - 6. For purposes of this Section, the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.
 - 7. If ~~To the extent that~~ the provisions of this rule are in conflict with the provisions of any statute providing for hearings rehearing or decisions of the Board, the such statutory provisions shall govern.

R10-4-108 R10-4-110. Emergency Awards

- A. ~~An~~ Each operational unit may grant an emergency award, if there is a reasonable likelihood that the person is or will be an eligible to be a claimant and serious hardship will result to the person if immediate payment is not made; provided, however, that:
- 1. The emergency award amount of such emergency award shall not exceed \$500; and
 - 2. The emergency award amount of such emergency award shall be deducted from the any final award made to the claimant.

Arizona Administrative Register
Notices of Final Rulemaking

~~R10-4-111. Subrogation Agreement~~

- ~~**A.** As a condition to receipt of a compensation award, the claimant shall sign a subrogation agreement which provides that the state and the operational unit, to the extent that the operational unit used its own funds, are entitled to all of the claimant's rights to receive or recover benefits or advantages up to the amount of the award for economic loss for which an award was made from a collateral source that is or would be available to the victim or claimant. The claimant may still sue the offender for any damages or injuries caused by the offender's criminally injurious conduct and not compensated for by an award. The claimant may also join with the Attorney General, or the operational unit, or both as co-plaintiff in any action against the offender or a third party.~~
- ~~**B.** The agreement shall provide that if payment of an award is made to someone other than the claimant, the state and operational unit are subrogated to all of the payee's rights to receive or recover benefits or advantages for allowable expenses for which an award payment was made, from a collateral source that is or would be available to the victim, claimant, or payee.~~
- ~~**C.** The agreement shall provide that the state shall have first right of subrogation in any matters arising under this Section. All monies that are collected by the state pursuant to this right of subrogation as provided in this Section shall be deposited in the Fund.~~

NOTICE OF FINAL RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION - SECURITIES

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R14-4-140 | Repeal |
| R14-4-140 | New Section |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
- Authorizing statutes: A.R.S. §§ 44-1821 and 44-1845
- Implementing statutes: A.R.S. §§ 44-1844 and 44-1845
- Constitutional authority: Arizona Constitution Article XV §§ 4, 6, and 13
- 3. The effective dates of the rule (if different from the date the rule is filed with the Office):**
- November 22, 2000
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
- Notice of Rulemaking Docket Opening: 5 A.A.R. 2181, July 9, 1999
- Notice of Proposed Rulemaking: 5 A.A.R. 3202, September 17, 1999
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: Cheryl T. Farson, General Counsel
- Address: Arizona Corporation Commission
Securities Division
1300 West Washington, Third Floor
Phoenix, Arizona 85007-2996
- Telephone: (602) 542-4242
- Fax: (602) 594-7470
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
- The Arizona Corporation Commission (the "Commission") has repealed and replaced Section R14-4-140 ("rule 140") because of a recent amendment to federal rule 504. Rule 140 provides an exemption from registration of securities compatible with federal law and consistent with exemptions adopted by other states.

Arizona Administrative Register
Notices of Final Rulemaking

Rule 140 provides an exemption from securities registration for sales to accredited investors if the issuer is also relying on the federal rule 504 exemption from federal registration. Federal rule 504 exempts from registration sales of certain issuers of up to \$1 million worth of securities in a 12-month period. In release no. 33-7644, the SEC amended federal rule 504 effective April 7, 1999. The amended rule 504 requires that, unless issuers exclusively either register on the state level or rely on state law exemptions that permit general solicitation and general advertising so long as sales are made only to accredited investors, issuers may not use general solicitation or general advertising and securities acquired in a federal rule 504 transaction will have the status of securities acquired in a transaction under section 4(2) of the Securities Act of 1933.

In August 1995, Arizona was the first state to adopt an exemption from registration that permitted general solicitation and general advertising so long as sales are made only to accredited investors—the repealed rule 140. In April 1997, the North American Securities Administrators Association, Inc. (“NASAA”), adopted a model accredited investor exemption. Several of the states that have adopted an accredited investor exemption have based their exemptions on the NASAA model rule.

The Division anticipates that issuers may choose to conduct public offerings under the amended federal rule 504 and will register on the state level or will conduct the offering in states that have accredited investor exemptions. In order to provide consistency with the accredited investor exemptions in other states and to facilitate an issuer’s reliance on accredited investor exemptions in several states, the Commission repealed and remade rule 140 based on the NASAA model accredited investor exemption.

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

The rule will not diminish a previous grant of authority of any political subdivision of this state.

8. The summary of the economic, small business, and consumer impact:

Pursuant to A.R.S. § 41-1055(D)(3), the Commission is exempt from providing an economic, small business, and consumer impact statement.

9. A description of the changes between the proposed rule, including supplemental notices, and the final rule (if applicable):

Technical changes have been made to correct typographical errors and to conform to requirements of the offices of the attorney general and secretary of state, as follows:

1. The title of the Section is revised from “Exempt Public Offerings to Accredited Investors” to conform to the title as listed in the table of contents for the chapter, “Accredited Investor Exemption.”
2. The following sentence is added at the end of subsection (A): Copies of rule 504 are available from the Commission and from the Superintendent of Documents, Government Printing office, Washington, D.C. 20402.
3. The last sentence of subsection (B) is revised as follows: “The exemption from A.R.S. § 44-1842 is not available for ~~third~~3rd parties or dealers.”
4. The last sentence of subsection (F) is revised as follows: The general announcement shall include only the following information, ~~unless additional information is specifically permitted by the Director in writing.~~
5. The first sentence of subsection (H) is revised as follows: “In connection with an offer made under this Section, the issuer may provide information in addition to the general announcement under subsection (F) if such information meets ~~one~~1 of the ~~two~~2 following conditions:”
6. Subsection (J)(2) is revised as follows: “Investors may not resell the securities unless the securities are ~~first~~1st registered or qualify for an exemption from registration.
7. Subsection (K) is revised as follows: A legend regarding resale restrictions shall be conspicuously set forth on the front of any certificate that represents a security issued or resold in accordance with this rule. Any certificate legend shall no longer be required ~~the earlier of~~ on the termination of any resale restrictions in accordance with this Section or 12 months after the initial purchase from the issuer, whichever occurs first.
8. Subsection (L) is revised as follows: “The issuer shall file with the Commission a copy of Form D within 15 calendar days after the ~~first~~1st sale within or from Arizona, a consent to service of process, a copy of the general announcement, and the fee set forth in A.R.S. § 44-1861(G).”

10. A summary of the principal comments and the agency response to them:

The Commission received no written comments regarding the proposed rule 140.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rule:

Rule 504 of Regulation D (17 CFR 230.504 (1999)) R14-4-140(A)(3)

13. Whether the rule was previously adopted as an emergency rule and, if so, whether the text was changed between adoption as an emergency rule and the adoption of the final rule.

Not applicable

14. The full text of the rule follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION - SECURITIES

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

~~R14-4-140. Exempt Public Offerings to Accredited Investors Repealed~~

~~R14-4-140. Accredited Investor Exemption~~

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

~~R14-4-140. Exempt Public Offerings to Accredited Investors Repealed~~

~~A. Definitions and terms.~~ As used in this rule, the following terms shall have the meaning indicated:

- ~~1. "Accredited investor" shall have the meaning provided in R14-4-126.~~
- ~~2. "Business Day" shall mean any day other than a Saturday, Sunday, or day which is a legal holiday in the state of Arizona.~~
- ~~3. "Form D" shall mean Form D of Regulation D (17 CFR 239.500 (1994)) promulgated by the SEC under the Securities Act of 1933, which is incorporated by reference and is on file with the office of the Secretary of State.~~
- ~~4. "Rule 504" shall mean Rule 504 of Regulation D (17 CFR 230.504 (1994)) promulgated by the SEC under the Securities Act of 1933, which is incorporated by reference and is on file with the Office of the Secretary of State.~~
- ~~5. "Securities Act" shall mean the Arizona Securities Act.~~
- ~~6. "SEC" shall mean the United States Securities and Exchange Commission.~~

~~B. Initial offers and sales of securities by an issuer in reliance on Rule 504 shall be exempt from the registration requirements of A.R.S. §§ 44-1841 and 44-1842, subject to the satisfaction of all of the following conditions:~~

- ~~1. The exemption from A.R.S. § 44-1842 shall be available for offers of an issuer made only by its employees, officers, and directors who were not retained for the primary purpose of making offers on behalf of the issuer and shall not be available for third parties or dealers retained by an issuer in connection with offers of the issuer.~~
- ~~2. The sale of securities shall not exceed \$1,000,000 in any 12-month period.~~
- ~~3. The issuer shall not be a development stage company with no specific business plan or purpose or a development stage company that has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.~~
- ~~4. Offers of securities must specify that sales shall be made only to accredited investors. Sales of securities shall be made exclusively to accredited investors.~~
- ~~5. Any prospectus, offering memorandum, subscription documents, or other offering documents used in connection with the offer or sale of securities shall be filed with the Commission at least ten business days prior to the initial sale of securities.~~
- ~~6. An opinion of counsel as to the validity of the issuance of the securities and the filing fee required by A.R.S. § 44-1861(E) shall be filed with the Commission at least ten business days prior to the initial sale of securities.~~
- ~~7. Any advertisement, communication, or sales literature of any kind, published either manually or electronically, exhibited, or broadcast for radio or television must specify that sales shall be made only to accredited investors and shall be filed with the Commission at least five business days prior to the use thereof. All radio and television broadcasts must be scripted and all such scripts and a videotape of all scripted television broadcasts must be submitted to the Commission within the requisite time period.~~
- ~~8. The following legend shall be set forth on the cover page of any offering documents, or any subscription documents if there are no other offering documents, printed in capital letters in bold-face Roman type at least as large as ten-point modern type and at least two points leaded:~~

~~"SUBJECT TO THE PROVISIONS OF ARIZONA ADMINISTRATIVE CODE R14-4-140, THESE SECURITIES MAY BE OFFERED AND SOLD BY THE ISSUER ONLY TO ACCREDITED INVESTORS AS DEFINED IN ARIZONA ADMINISTRATIVE CODE R14-4-126 AND MAY BE RE-OFFERED AND SOLD WITHIN ARIZONA FOR A THREE-YEAR PERIOD ONLY TO ACCREDITED INVESTORS. THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR THE ARIZONA CORPORATION COMMISSION, NOR HAVE THEY PASSED UPON THE MERITS OF OR OTHERWISE APPROVED THIS OFFERING. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE."~~

Arizona Administrative Register
Notices of Final Rulemaking

9. The first sentence of the legend required by subsection (B)(8) shall be conspicuously set forth on the front of any certificate that represents a security issued or resold in accordance with this rule. Any certificate legend shall no longer be required upon the termination of any resale restrictions in accordance with subsection (F).
 10. A copy of any initial Form D required to be filed with the SEC shall be filed with the Commission within ten business days after filing the Form D with the SEC.
 11. At the time of sale, the issuer, or any of its predecessors, affiliates, directors, officers, general partners, or beneficial owners of 10% or more of any class of its equity securities, or any underwriter of the securities shall not fall within the disqualification of A.R.S. § 44-1901(G)(1) through (6).
 12. No later than 30 business days following the completion of any offering of securities, the issuer shall file with the Commission a certificate, signed by at least two of its authorized officers, partners or other authorized persons, stating that such authorized officers, partners or other authorized persons, in their official capacities for the issuer and after undertaking a reasonable investigation, believe that the issuer has complied with all of the requirements of this subsection (B).
- C.** The Director may, in the Director's discretion, waive any disqualification caused by subsection (B)(11).
- D.** Any disqualification caused by subsection (B)(11) shall cease to exist if any of the following occurs:
1. The basis for the disqualification has been removed by the jurisdiction creating it.
 2. The jurisdiction in which the disqualifying event occurred issues a written waiver of the disqualification.
 3. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.
- E.** Except for re-offers and resales registered under Articles 6 or 7 of the Securities Act, re-offers and resales of securities issued in accordance with subsection (B) shall be made in Arizona exclusively in accordance with subsection (E). Such re-offers and resales shall be exempt from the registration requirements of A.R.S. §§ 44-1841 and 44-1842, subject to satisfaction of all of the following conditions:
1. Re-offers of securities must specify that resales within Arizona shall be made only to accredited investors. Resales of securities within Arizona shall be made exclusively to accredited investors.
 2. The seller of securities shall reasonably believe that the initial sale of securities complied with subsection (B). A reasonable belief may be based on the certificate of the issuer billed in accordance with subsection (B)(12), provided that the seller of the securities did not know and, in the exercise of reasonable care, could not have known of any material misstatement or omission in such certificate.
 3. Any advertisement, communication, or sales literature of any kind, published either manually or electronically, exhibited, or broadcast for radio or television must specify the resales shall be made only to accredited investors.
- F.** Any restrictions on re-offers or resales of securities imposed by subsection (E) shall terminate upon the earlier of:
1. Three years after the date of the filing of the certificate of the issuer required by subsection (B)(12);
 2. The registration, with the Commission under Articles 6 or 7 of the Securities Act or with the SEC under the Securities Act of 1933 or the Securities Exchange Act of 1934, of all or part of the same class of securities or any other class of the issuer's securities junior in rank to such class of securities.
- G.** The Director may revoke the availability of subsection (B) or (E) prior to any particular sale of securities under such subsections with respect to a particular issuer, seller, or transaction if the Director determines that there is a reasonable likelihood that the sale of the securities would work or tend to work a fraud or deceit upon the purchasers thereof. In the event the Director makes such a determination, the seller of the securities may request a hearing in accordance with the provisions of Article 11 of the Securities Act by notifying the Commission within ten days after notice of the Director's determination described in this subsection (G).
- H.** No action or inaction on the part of the Commission or the Director with respect to any offer or sale of securities undertaken pursuant to this rule shall be deemed to be a waiver of any condition of this rule nor shall it be deemed to be a confirmation by the Commission of the availability of this rule or the approval of any offering.
- Note. No specific information is required to be furnished to purchasers other than the legend required by subsection (B)(8). However, in view of the anti-fraud provisions of federal securities laws and the Securities Act, issuers of securities should consider carefully the advisability of written disclosure of all material information and risks respecting the securities being offered to investors.

R14-4-140. Accredited Investor Exemption

- A.** As used in this Section, the following terms shall have the meaning indicated:
1. "Accredited investor" shall have the meaning provided in R14-4-126.
 2. "Form D" shall mean Form D of Regulation D (17 CFR 239.500) promulgated by the SEC under the Securities Act of 1933.
 3. "Rule 504" shall mean Rule 504 of Regulation D (17 CFR 230.504 (1999)) promulgated by the SEC under the Securities Act of 1933, which is incorporated by reference and is on file with the office of the secretary of state. The incorporated material contains no later editions or amendments. Copies of rule 504 are available from the Commission and from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.
 4. "Securities Act" shall mean the Arizona Securities Act, A.R.S. §§ 44-1801 through 44-2126.
 5. "SEC" shall mean the United States Securities and Exchange Commission.

Arizona Administrative Register
Notices of Final Rulemaking

- B.** Offers and sales of securities by an issuer in compliance with Rule 504 shall be exempt from the registration requirements of A.R.S. §§ 44-1841 and 44-1842, subject to the satisfaction of the provisions of this Section. The exemption from A.R.S. § 44-1842 is available for the issuer's employees, officers, and directors who make offers or sales on behalf of the issuer if they were not retained for the primary purpose of making such offers or sales. The exemption from A.R.S. § 44-1842 is not available for 3rd parties or dealers.
- C.** This exemption is not available to a "blind pool offering" within the meaning of A.R.S. § 44-1801, an issuer that either has no specific business plan or purpose or whose business plan is to engage in a merger or acquisition with an unidentified entity or person, or an issuer that is excluded from the exemption pursuant to subsection (M).
- D.** Offers of securities must specify that sales shall be made only to accredited investors. Sales of securities shall be made exclusively to accredited investors.
- E.** The issuer shall reasonably believe, after inquiry, that each purchaser is buying the security for the purchaser's own account and not with the view to distribute, or for sale in connection with a distribution of, the security. Any resale of a security sold in reliance on this Section within 12 months of the initial purchase from the issuer, except a resale to an accredited investor or pursuant to a registration statement effective under A.R.S. Title 44, Chapter 12, Article 7, shall be presumed to be with a view to distribution and not for investment. Securities issued under this Section may only be resold pursuant to registration or an exemption under the Securities Act.
- F.** A general announcement of the proposed offering may be made by any means. The general announcement shall include only the following information.
1. The name, address, and telephone number of the issuer of the securities.
 2. The name, a brief description, and price, if known, of any security to be issued.
 3. A brief description of the issuer's business.
 4. The type, number, and aggregate amount of securities being offered.
 5. The name, address, and telephone number of the person to contact for additional information.
 6. A statement that discloses all of the following terms and conditions:
 - a. Sales will only be made to accredited investors.
 - b. No money or other consideration is being solicited or will be accepted in connection with the general announcement.
 - c. The securities have not been registered with or approved by any state securities agency or the SEC and are being offered and sold under an exemption from registration.
- G.** Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this rule.
- H.** In connection with an offer made under this Section, the issuer may provide information in addition to the general announcement under subsection (F) if such information meets 1 of the 2 following conditions:
1. Is delivered through an electronic database that is restricted to persons who have been identified as accredited investors.
 2. Is delivered after the issuer reasonably believes, after inquiry, that the prospective purchaser is an accredited investor.
- I.** No telephone solicitation shall be permitted unless prior to placing the call the issuer reasonably believes, after inquiry, that the prospective purchaser to be solicited is an accredited investor.
- J.** The cover page of any offering documents, or any subscription documents if there are no other offering documents, shall include a conspicuous legend that states that:
1. The securities may be sold only to accredited investors for investment and not in connection with a distribution.
 2. Investors may not resell the securities unless the securities are 1st registered or qualify for an exemption from registration.
 3. The securities have not been approved or disapproved by the SEC or the Arizona Corporation Commission nor have they passed upon the merits of or otherwise approved the offering.
- K.** A legend regarding resale restrictions shall be conspicuously set forth on the front of any certificate that represents a security issued or resold in accordance with this rule. Any certificate legend shall no longer be required on the termination of any resale restrictions in accordance with this Section or 12 months after the initial purchase from the issuer, whichever occurs first.
- L.** The issuer shall file with the Commission a copy of Form D within 15 calendar days after the 1st sale within or from Arizona, a consent to service of process, a copy of the general announcement, and the fee set forth in A.R.S. § 44-1861(G).
- M.** This exemption is not available to an issuer if it, or any of its predecessors, affiliates, directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, promoters, or any underwriter of the securities or any partner, director, or officer of such underwriter:
1. Has been convicted within the 10 years preceding the filing of the notice required by this Section, or at any time thereafter prior to the termination of the offering, of a felony or misdemeanor involving racketeering or a transaction in securities, or of which fraud is an essential element.

Notices of Final Rulemaking

2. Is subject to an order, judgment, or decree of any court of competent jurisdiction entered within 5 years of the date of filing of the notice required by this Section, temporarily, preliminarily, or permanently enjoining or restraining any conduct or practice in connection with the sale or purchase of securities, or involving fraud, deceit, or racketeering.
 3. Has been subject to any state or federal administrative order or judgment in connection with the purchase or sale of securities entered within 5 years preceding the filing of the notice required by this Section, or at any time thereafter prior to the termination of the offering.
 4. Is subject to an order of any state or federal agency denying or revoking registration or licensure as a broker or dealer in securities or as an investment adviser or investment adviser representative, or is subject to an order denying or revoking membership in a national securities association registered under the Securities Exchange Act of 1934, or has been suspended for a period exceeding 6 months or expelled from membership in a national securities exchange registered under the Securities Exchange Act of 1934.
- N.** Any disqualification caused by subsection (M) shall cease to exist if any of the following occurs:
1. The basis for the disqualification has been removed by the jurisdiction creating it.
 2. The jurisdiction in which the disqualifying event occurred issues a written waiver of the disqualification.
 3. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

PREAMBLE

1. **Sections Affected**

R20-4-1502	<u>Rulemaking Action</u>
R20-4-1504	Amend
R20-4-1505	Amend
R20-4-1530	Repeal
2. **The specific authority for the rulemaking, including both the authorizing statute (general), and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 6-123

Implementing statutes: A.R.S. §§ 6-122, 6-124, and 32-1055
3. **The effective date of the rules:**

November 13, 2000
4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening, 5 A.A.R. 4325, November 12, 1999

Notice of Rulemaking Docket Opening, 6 A.A.R. 1516, April 21, 2000

Notice of Proposed Rulemaking, 6 A.A.R. 2841, August 4, 2000
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	John P. Hudock
Address:	2910 North 44th Street, Suite 310 Phoenix, AZ 85018
Telephone:	(602) 255-4421, Ext. 167
Fax:	(602) 381-1225
E-Mail:	jhudock@azbanking.com
6. **An explanation of the rule, including the agency's reason for initiating the rule:**

This rulemaking will amend R20-4-1502 to remove the requirement that an out-of-state collection agency agree, as a condition of licensure, to maintain an office in Arizona for the collection of claims. This revision is needed to reconcile the Section with the legislature's revision of A.R.S. § 32-1024, which removed the statutory requirement of an in-state license. That change was accomplished by the 44th Legislature in its second regular session, by the passage of House Bill 2088, Laws 2000, Ch. 7, § 4.

The same bill also amended A.R.S. § 32-1055 to remove the requirement that an out-of-state collection agency use an Arizona depository for trust funds. Laws 2000, Ch. 7, § 6. This rulemaking addresses that statutory change by amending R20-4-1505.

Arizona Administrative Register
Notices of Final Rulemaking

The Department also proposes to amend R20-4-1504 to permit the use of electronic recordkeeping systems. This revision is advisable because it can lower the licensees' costs by minimizing the cost of space to store records. At the same time, the records will remain available to the Department for examinations.

Also, the Department proposes to amend R20-4-1505 to permit licensees to disburse funds from trust accounts using electronic payments. This revision was requested by industry representatives and is advisable for two reasons. First, these payment methods are more secure than paper checks sent through the mail. Also, electronic payment systems are more economical. They allow licensees to save the costs of printed checks and postage.

Finally, this proceeding will repeal R20-4-1530, and the Department will rely on the requirements of A.R.S., Title 32, Chapter 9, Article 2 in the future. The statutes do not require the forms in the repealed Section to be in the Superintendent's rules. Repeal will allow the Superintendent to specify the particulars of the various forms outside the rule-making process.

Additional editorial changes have been made in the text of these Sections to streamline the writing, remove passive constructions, and modernize statutory citations contained in the rules.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

The Department did not rely on any study as an evaluator or justification for the rules.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business, and consumer impact:

A. The Banking Department

Income and expenses to this Agency are negligible.

B. Other Public Agencies

The state will incur normal publishing costs incident to rulemaking.

C. Private Persons and Businesses Directly Affected

Costs of services will not increase to any measurable degree. Some licensees' cost of doing business should decrease.

D. Consumers

No measurable effect on consumers is expected.

E. Private and Public Employment

There is no measurable effect on private and public employment.

F. State Revenues

This rulemaking will not change state revenues.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The final rules do not differ from the proposed rules. The final rules are more comprehensive in scope than was indicated in the original docket opening because the legislature amended the statute while this rulemaking was in progress.

Also, editorial changes have been made in the text of these Sections to streamline the writing, remove passive constructions, and modernize statutory citations contained in the rules.

11. A summary of the principal comments and the agency response to them:

The Department has not received any comments since the Secretary of State published the proposed rule. The Department invited the Arizona Collectors Association to comment in a letter mailed in early April 2000, while the proposed rule was posted on the Department's web site. The Association did not respond.

Before publication of the proposed rule in the *Administrative Register*, the Department received favorable comment from both in-state and out-of-state sources.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

None

Arizona Administrative Register
Notices of Final Rulemaking

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

ARTICLE 15. COLLECTION AGENCIES

R20-4-1502. Applications
R20-4-1504. Records
R20-4-1505. Trust Account
R20-4-1530. Forms Repealed

ARTICLE 15. COLLECTION AGENCIES

R20-4-1502. Applications

- ~~A.~~ Application for a collection agency license shall be made by completing and filing with the Superintendent an application on the form prescribed in R20-4-1530(A). The application filed with the Superintendent shall be accompanied by the following:
- ~~1.~~ The bond required by A.R.S. § 32-1022.
 - ~~2.~~ The nonrefundable investigation fee and original license fee prescribed by A.R.S. § 32-1028.
 - ~~3.~~ A current financial statement on the form prescribed in R20-4-1530(B).
 - ~~4.~~ A certified copy of the current articles of incorporation, by-laws, partnership agreement, or other governing documents under which the applicant proposes to conduct business, and
 - ~~5.~~ A Statement of Personal History for each principal officer, partner and manager of the applicant on the form prescribed in R20-4-1410.
- ~~B.~~ An out-of-state collection agency applying for a license under A.R.S. § 32-1024 shall file an application as provided in subsection (A) and shall file with said application a signed statement declaring that:
- ~~1.~~ The requirements for securing the license upon which reciprocity is sought were, at the time of issuance, substantially the same or equal to the requirements imposed under Chapter 9, Title 32, Arizona Revised Statutes, together with a complete description of what those requirements were.
 - ~~2.~~ The state issuing the license upon which reciprocity is sought extends reciprocity under similar circumstances to licensed collection agents of this state, together with a complete description of the conditions upon which said state extends reciprocity.
 - ~~3.~~ The applicant agrees, as a condition of licensure to maintain an officer in this state for the collection of claims.
- ~~C.~~ Application for renewal of a license shall be made by completing and filing with the Superintendent, prior to January 1 of each year, an application for renewal on the form prescribed in R20-4-1530(C). Each application for renewal shall be accompanied by the renewal fee prescribed in A.R.S. § 32-1028, and a current financial statement on the form prescribed in R20-4-1530(B).
- ~~D.~~ Application for a provisional license under A.R.S. § 32-1027 shall be made by completing and filing with the Superintendent within 30 days from the occurrence of the event warranting the license as prescribed in A.R.S. § 32-1027, an application on the form prescribed in R20-4-1530(C). The application shall be completed in all respects except that in the case of the death of an individual licensee the applicant shall be said licensee's personal representative or his appointee; in the case of the dissolution of a partnership licensee, the applicant shall be the surviving partners; and in the case of the termination of employment of the active manager, the applicant shall be the existing licensee and questions regarding the active manager need not be completed. The application shall be clearly identified at the top of the first page with the inscription "APPLICATION FOR PROVISIONAL LICENSE PURSUANT TO A.R.S. § 32-1027" and shall be accompanied by the following:
- ~~a.~~ The bond required by A.R.S. § 32-1022 executed and acknowledged by the applicant as principal.
 - ~~b.~~ A current financial statement on the form prescribed in R20-4-1530(B).
 - ~~e.~~ A detailed description of the facts justifying the issuance of a provisional license.
 - ~~e.~~ In the case of termination of the employment of the active manager, evidence that the Superintendent was notified of such termination within ten days as required by A.R.S. § 32-1023.
- ~~E.~~ The Superintendent may require additional information he considers necessary in connection with any application under this rule.
- A. An applicant for a license shall complete and file an application, as required by the Department, by delivering the application to the Superintendent, together with the following documents and payment:
1. The bond required by A.R.S. § 32-1021;

Arizona Administrative Register
Notices of Final Rulemaking

2. The nonrefundable investigation fee and original license fee required by A.R.S. § 32-1028 and stated in A.R.S. § 6-126;
 3. A current financial statement in the form required by the Department;
 4. A certified copy of the current articles of incorporation, by-laws, partnership agreement, or other organizational documents under which the applicant proposes to conduct business; and
 5. A statement of personal history for each principal officer, partner, and manager of the applicant, in the form required by the Department.
- B.** An out-of-state collection agency applying for a license under A.R.S. § 32-1024 shall complete and file the application required by subsection (A), together with a signed statement declaring that:
1. The requirements for securing the out-of-state license were, when issued, substantially the same or equivalent to the requirements imposed under A.R.S., Title 32, Chapter 9, Article 2. The statement shall also contain a complete description of those requirements.
 2. The state issuing the out-of-state license extends reciprocity to Arizona licensees under similar circumstances. The statement shall also contain a complete description of the conditions for reciprocity in the other state.
- C.** A licensee applying for license renewal shall complete and file an application, as required by the Department, by delivering the renewal application to the Superintendent before January 1st, together with the renewal fee required by A.R.S. § 32-1028 and stated in A.R.S. § 6-126. An application for renewal shall also include a current financial statement in the form required by the Department.
- D.** An applicant for a provisional license under A.R.S. § 32-1027 shall complete and file an application as required by the Department, by delivering the application to the Superintendent within 30 days of the event justifying a provisional license. The applicant shall deliver the application together with each of the following:
1. A bond that satisfies the requirements of A.R.S. § 32-1022;
 2. A current financial statement as required by the Department;
 3. A detailed description of the facts justifying the issuance of a provisional license; and
 4. Evidence that the licensee notified the Superintendent as required by A.R.S. § 32-1023, in the event the licensee has terminated its active manager.
- E.** An applicant for a provisional license shall, in each instance, be appropriate to the circumstances justifying the provisional license, as follows:
1. A licensee's personal representative, or the personal representative's appointee, shall complete and file an application if the licensee, a natural person, has died;
 2. The surviving partners shall complete and file an application if the licensee, a partnership, has dissolved;
 3. A licensee shall complete and file an application if an active manager's employment was terminated.
- F.** An applicant for a provisional license shall clearly label the top of the first page with the heading "APPLICATION FOR PROVISIONAL LICENSE UNDER A.R.S. § 32-1027."
- G.** The Superintendent may require additional information the Superintendent considers necessary in connection with any application under this rule.

R20-4-1504. Records

- A.** A licensee may use a computer recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of its books, accounts, and records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may modify a computer recordkeeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any modification that changes a computer system back to a paper-based recordkeeping system;
- B.** ~~All licensees collection agencies shall keep and maintain books, accounts, and records adequate to provide a clear and readily understandable record of all business conducted by the collection agency, including without limitation:~~
1. ~~Records or books of account setting forth listing the all clients' accounts account of each client in numerical order, or in alphabetical order according to the clients' names of the clients. If a the collection agency keeps books of accounting are kept in numerical order, the collection agency shall alphabetically maintain an alphabetical cross-index of each client name with the corresponding with the account's number of the account. Each such account shall reflect the its true condition of each client's account at each calendar month's the end of each calendar month, and shall include:~~
 - a. ~~The client's name and address of the client;~~
 - b. ~~Name of the debtor or debtors from whom collection was or is being made. Each debtor's name worked for collection in that month;~~
 - c. ~~The Amount amount, and description, and date of each debit and each credit to the account; and date thereof;~~
 - d. ~~The balance Balance due to, or owing from, the client.~~
 2. ~~A record and history of each debt for collection that which shall clearly shows show:~~
 - a. ~~The Name debtor's name of the debtor;~~
 - b. ~~The Principal debt's principal amount of the debt;~~

Notices of Final Rulemaking

- c. ~~The~~ Any interest charged or collected;
 - d. The amount, and a description of Any any other charges, ~~with a description thereof;~~
 - e. The amount, and date, of Each each payment received or collected; ~~and the date thereof.~~
 - f. The current balance due on the debt.
- 3. An original of ~~all each~~ written ~~contracts contract,~~ and ~~amendments thereto which are between the licensee and a client, including any contract amendments entered into between the collection agency and its clients.~~
 - 4. A trust general ledger reflecting all deposits to; and ~~payments disbursements from;~~ a the trust account. A The licensee shall post transactions to its trust general ledger shall be posted at least every 5 five business days. A licensee shall bring its trust general ledger and brought current within 24 hours if when requested by the Superintendent.
 - 5. ~~The licensee's trust account~~ A reconciliation of the collection agency's trust account, prepared at least once a month.
 - 6. Books, records, and files ~~in such condition maintained so that a spot check may be readily and easily made the Superintendent can easily conduct an unannounced spot check, as well as the examinations and investigations as required by A.R.S. §§ 32-1052(A) 6-122 and 6-124.~~
 - 7. A copy of all pleadings ~~of in all~~ pending litigation ~~to which that names~~ the collection agency ~~is as~~ a defendant.
 - 8. A record of fictitious names used by the agency's debt collectors as required by provided in R20-4-1520.
- ~~C.B.~~ In addition to the foregoing, all receipts issued by the collection agency shall be signed by and with the name of the person issuing the receipt, and shall show the name of the collection agency thereon. A person issuing a receipt for a collection agency shall sign the receipt using that person's true name. Each receipt shall also show the collection agency's name.
- ~~D.C.~~ A licensee shall maintain All all records, or complete duplicates of records, required under this rule Section shall be maintained by the collection agency and shall be make them available for examination, investigation, or audit upon demand for examination within in the state of Arizona within 3 three working days after the Superintendent demands the records.
- ~~E.D.~~ A licensee shall retain the records required by this Section for the following periods:
- 1. A licensee shall retain All all records described in subsections paragraphs (B) (1), (B) (3), (B) (4), (B) (5), (B) (6), and (B) (7), and (B) (8) of subsection (A) shall be maintained for at least six years following their creation.
 - 2. A licensee shall retain All all records described in subsection (B) paragraph (2) of subsection (A) shall be maintained for at least three years from an account's assignment of the account to the licensee, provided however, that if If there is some collection a licensee collects any money on the an account, then, and in that event, the licensee shall retain the records described in subsection (B)(2) shall be maintained for a period of at least 3 three years from the last collection date of the last such collection.

R20-4-1505. Trust Account

- A. Every collection agency shall within a reasonable time and in any event not more than three business days deposit in a trust account with an Arizona bank or savings and loan association all monies collected by the agency pursuant to contracts with its clients, and such monies shall remain deposited therein until remitted to such clients, or otherwise disbursed as provided in this rule A licensee that maintains an office in Arizona shall deposit all funds collected for a client in a trust account with an Arizona bank or savings and loan association. A licensee that does not maintain an office in Arizona shall deposit all funds collected for a client in a trust account at a depository in the state where the licensee maintains its principal office. A licensee shall deposit all client funds before the close of its business on the 3rd business day after the licensee receives the funds. Client funds shall remain on deposit as required by this Section until:
 - 1. Paid over to a client, or
 - 2. Otherwise paid as provided in this Section.
- B. A licensee shall pay funds All disbursements from the trust account shall be either:
 - 1. By prenumbered printed checks, or
 - 2. By electronic payment.
- C. No funds other than those collected by the collection agency in accordance with its contract with its clients shall be deposited in the agency's trust account. Under no circumstances shall either the collection agency or any of its officers, directors, partners, managers, members or employees permit funds in which they have an interest other than that provided for in the agency's contract with its client, to be commingled with trust funds held by the collection agency. A licensee shall deposit in its trust account only the funds it has collected for its client. A licensee, its officers, directors, partners, managers, members, or employees shall not commingle, or permit the commingling of, their own funds with client funds. This prohibition includes any funds that a licensee, or any officer, director, partner, manager, member, or employee claims an interest in if that interest arises outside the licensee's contract with a client.

Arizona Administrative Register
Notices of Final Rulemaking

- D. ~~If the client cannot be located for purposes of making final disbursement under this rule or if any check disbursing funds to the client is returned without being negotiated, the collection agency shall retain the undisbursed funds in the trust account or in a separate trust account for dormant accounts. A licensee shall keep unpaid client funds in its trust account. A licensee may maintain a separate trust account for dormant accounts into which the licensee deposits unpaid funds such as those of a client that cannot be located, or any trust account check issued to a client that is returned without being negotiated. After the time prescribed by law the collection agency shall file with the Arizona Department of Revenue the report of abandoned property required under A.R.S. § 44-361. As to all those unpaid funds, under A.R.S. § 44-317, a licensee shall file an abandoned property report at the Arizona Department of Revenue as and when required by law.~~
- E. ~~A collection agency licensee shall withdraw from the its trust account all fees and commissions due the licensee under its contract with a client and deposit them directly into the agency's its own operating account such fees and commissions as are due the agency under the contract with its client.~~
- F. ~~No disbursements shall be made from the trust accounts of the collection agency except as provided herein, or as expressly authorized in the client contract, or as authorized in writing by the Superintendent. A licensee shall not pay funds from its trust account except as:~~
- ~~1. Provided in this Section.~~
 - ~~2. Expressly authorized in its contract with a client, or~~
 - ~~3. Authorized in writing by the Superintendent.~~

R20-4-1530. Forms Repealed

- ~~A. The form of the application for a collection agency shall be as follows:~~

Arizona Administrative Register
Notices of Final Rulemaking

STATE BANKING DEPARTMENT

101 Commerce Building
1601 West Jefferson
Phoenix, Arizona 85007

APPLICATION FOR COLLECTION AGENCY LICENSE

INSTRUCTIONS: All information required by the application must be typewritten or printed

(For Department Use Only)

DATE FILED _____
LICENSE ISSUED _____
LICENSE NUMBER _____
RECEIPT NO. _____ AMOUNT _____

TO THE SUPERINTENDENT OF BANKS:

Application is hereby made for a license to engage in and carry on the business of a Collection Agency, pursuant to Title 32, Chapter 9, Arizona Revised Statutes.

1. Name of Applicant: _____
(Furnish corporate, trade or individual's name under which business is to be conducted.)
2. Address of principal Arizona office where business is to be conducted:

(Street and Number) (City) (State) (Zip)
3. Mailing address (if different) _____
4. Telephone number of principal Arizona office _____
5. Is the applicant a _____ Corporation _____ Partnership _____ Sole Proprietorship _____ Other
6. If the applicant is not a corporation, describe the nature of the business entity on a separate sheet. If the applicant is a corporation, complete the following:
 - a. Name of the corporation _____
 - b. Place and date of incorporation _____
7. If applicant is other than an individual, give the name of the Active Manager who is to have primary responsibility for the business to be conducted by the applicant: _____
 - a. Business address _____
 - b. Residence _____
 - c. Is manager also an officer, director or partner of applicant?
Yes _____ No _____ If yes state which. _____
 - d. Is active Manager a U.S. Citizen? Yes _____ No _____
8. Does Sole Proprietorship/Active Manager have practical experience in the collection agency business?
Yes _____ No _____

Please detail Sole Proprietor/Active Managers:

Arizona Administrative Register
Notices of Final Rulemaking

9. The name(s) and address(es), both of residence and place of business, of the applicant, principal officers thereof if a corporation, partners thereof if a partnership are as follows: (Insert the official capacity of the person in the business entity and the number of years such person has been engaged in the collection agency business next to his name. Also indicate how many years immediately prior to this application have you resided in Arizona.)

a.	_____	_____	_____
	(Name)	(Capacity)	(Yrs. in Bus.)
	_____	_____	_____
	(Business Address)	(Residence Address)	(Yrs. at Res.)
b.	_____	_____	_____
	(Name)	(Capacity)	(Yrs. in Bus.)
	_____	_____	_____
	(Business Address)	(Residence Address)	(Yrs. at Res.)
c.	_____	_____	_____
	(Name)	(Capacity)	(Yrs. in Bus.)
	_____	_____	_____
	(Business Address)	(Residence Address)	(Yrs. at Res.)
d.	_____	_____	_____
	(Name)	(Capacity)	(Yrs. in Bus.)
	_____	_____	_____
	(Business Address)	(Residence Address)	(Yrs. at Res.)
e.	_____	_____	_____
	(Name)	(Capacity)	(Yrs. in Bus.)
	_____	_____	_____
	(Business Address)	(Residence Address)	(Yrs. at Res.)
f.	_____	_____	_____
	(Name)	(Capacity)	(Yrs. in Bus.)
	_____	_____	_____
	(Business Address)	(Residence Address)	(Yrs. at Res.)

10. Name and address of firm or agency which audits your financial records and provides accounting services:

Notices of Final Rulemaking

11. State whether the applicant or any officer, director, partner or active manager thereof has been convicted of any criminal offense other than a traffic violation.
Yes _____ No _____
(If yes, complete and attach Statements of Personal History for such persons.)
12. State whether the applicant, or any officer, director, partner or active manager thereof has had a final judgment issued against him in a civil action on account of fraud, misrepresentation or deceit.
Yes _____ No _____
(If yes, furnish complete details on separate sheet.)
13. State whether the applicant, or any officer, director, partner or active manager thereof, has filed bankruptcy within the last ten years?
Yes _____ No _____
(If yes, furnish complete details on separate sheet.)
14. State whether the applicant or any officer, director, partner or active manager is interested in or connected with any other collection agency licensed by the Arizona Superintendent of Banks
Yes _____ No _____
(If yes, furnish complete details on separate sheet.)
15. State whether the applicant or any officer, director, partner or active manager thereof is currently licensed to conduct the business of a collection agency in any other state
Yes _____ No _____
(If yes, furnish details on separate sheet.)
16. State whether the applicant or any officer, director, partner or active manager thereof has at any time been licensed to conduct the business of a collection agency in this or any other state.
Yes _____ No _____
(If yes, furnish details on separate sheet.)
17. State whether any application by the applicant or any officer, director, partner or active manager thereof for a license to conduct the business of a collection agency has at any time been denied by this or any other state.
Yes _____ No _____
(If yes, furnish details on separate sheet.)
18. State whether any license of the applicant or any officer, director, partner or active manager thereof to conduct the business of a collection agency has at any time been suspended or revoked by this or any other state.
Yes _____ No _____
(If yes, furnish details on separate sheet.)
19. If applicant is applying for a license based pursuant to A.R.S. Section 32-1024 relating to out-of-state collection agents, does applicant hold a valid and subsisting license to operate a collection agency issued by another state?
Yes _____ No _____
(If yes, explain on separate sheet the requirements existing in the state of licensure.)
Does state concerned extend reciprocity rights under similar circumstances to licensed collection agents of this state?
Yes _____ No _____
(If yes, furnish details on separate sheet.)
20. If license is issued, do you agree to maintain an office within the state of Arizona?
Yes _____ No _____

Arizona Administrative Register
Notices of Final Rulemaking

B. The form of the financial statement for a collection agency shall be as follows:

STATE BANKING DEPARTMENT
101 Commerce Building
1601 West Jefferson
Phoenix, Arizona 85007

COLLECTION AGENCY FINANCIAL STATEMENT

TO THE SUPERINTENDENT OF BANKS:

The financial statement of the licensee/applicant described below for the period beginning _____, 19 ____ and ending _____, 19 ____ is hereby submitted.

NAME OF LICENSEE/APPLICANT _____

ADDRESS _____

CITY & STATE _____

I. BALANCE SHEET (As of the end of the reporting period)

ASSETS

	<u>Dollars</u>	<u>Cents</u>
1. Cash	_____	_____
2. Notes Receivable – Secured	_____	_____
3. Notes Receivable – Unsecured	_____	_____
4. Accounts Receivable – Current	_____	_____
5. Accounts Receivable - Past Due	_____	_____
6. U.S. Govt. obligations	_____	_____
7. Real Estate (Part II, line 5)	_____	_____
8. Stock, bonds & other investments (Part III, line a)	_____	_____
9. Other Assets (Part IV, line 9)	_____	_____
10. TOTAL ASSETS (sum of lines 1 thru 9)	_____	_____

LIABILITIES

	<u>Dollars</u>	<u>Cents</u>
11. Notes Payable	_____	_____
12. Accounts Payable	_____	_____
13. Accrued Taxes	_____	_____
14. Accrued Interest	_____	_____
15. Subordinated Notes & Debentures	_____	_____
16. Due to affiliates	_____	_____
17. Other liabilities (Part V, Line 4)	_____	_____
18. TOTAL LIABILITIES (sum of lines 11 thru 17)	_____	_____

NET WORTH

19. Preferred stock-	Number of shares outstanding _____	
	Par value per share _____	
20. Common stock -	Number of shares authorized _____	
	Number of shares outstanding _____	
	Par value per share _____	
21. Additional paid in capital	_____	
22. Retained earnings (deficit)	_____	
23. Capital reserves	_____	
24. TOTAL NET WORTH (sum of lines 19 thru 23)	_____	
25. TOTAL LIABILITIES & NET WORTH (sum of lines 18 & 25)	_____	

Arizona Administrative Register
Notices of Final Rulemaking

II. SCHEDULE OF REAL ESTATE OWNED

Description & Location	Title and Owner	Cost	Appraisal Value	Mortgages	Tax Value	Insurance
1.			\$	\$	\$	\$
2.						
3.						
4.						
5. Total Real Estate Owned		\$				

III. SCHEDULE STOCKS, BONDS AND OTHER INVESTMENTS

DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
1.	\$	5.	\$
2.		6.	
3.		7.	
4.		8.	
		9. Total Stocks, Bonds and Other Investments	\$

IV. SCHEDULE OF OTHER ASSETS INVESTMENTS

DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
1.	\$	5.	\$
2.		6.	
3.		7.	
4.		8.	
		9. Total Other Assets	\$

V. SCHEDULE OF OTHER LIABILITIES

Name of Creditor	Amount	Type of Obligation	Description of Security	Amount of Security
1.	\$			\$
2.				
3.				
4.				
5.				
6.				
7. Total Other Liabilities	\$			

VI. SCHEDULE OF CONTINGENT LIABILITIES

1. Upon Notes or Accounts Receivable Discounted	
2. As Guarantor for Other on Notes Bonds Contracts, etc.	
3. Any Other Contingent Liability	
4. Total Contingent Liabilities	\$

Arizona Administrative Register
Notices of Final Rulemaking

VII. STATEMENT OF NET WORTH AND INCOME AND EXPENSES

1. Net Worth at end of previous year		_____
2. <u>Income</u>		
3. Income from collections	_____	
4. Profit (or loss) on investments	_____	
5. Income from investments	_____	
6. Other Income	_____	
7. Total Income (sum of lines 3 thru 6)	_____	
8. <u>Expenses</u>		
9. Salaries	_____	
10. Accounting Services	_____	
11. FICA taxes	_____	
12. Other taxes	_____	
13. Supplies	_____	
14. Depreciation	_____	
15. Insurance & bonds	_____	
16. Advertising	_____	
17. Interest	_____	
18. License & Examination fees	_____	
19. Office Expenses		_____
20. Other Expenses		_____
21. Total Expenses (sum of lines 9 thru 20)		_____
22. Profit (loss) (line 7 less line 21)		_____
23. NET WORTH AT END OF REPORTING PERIOD (line 1 plus line 22)		_____

If line 23 does not agree with line 24 of Part I. (Balance Sheet), explain fully on a separate sheet

Arizona Administrative Register

Notices of Final Rulemaking

C. The form of the application for renewal of a collection agency license shall be as follows:

STATE BANKING DEPARTMENT
101 Commerce Building
1601 West Jefferson
Phoenix, Arizona 85007

COLLECTION AGENCY
APPLICATION FOR LICENSE RENEWAL
For Period Ending _____, 19 ____

(For Department Use Only)
DATE FILED _____
RECEIPT NO. _____
AMOUNT _____

TO THE SUPERINTENDENT OF BANKS:

Application is hereby made to renew the Collection Agency license, described below:

- 1. Name of licensee making application:
License No.
(Name shown on license)
2. Street address Phone
3. State whether the information is contained in the original application for license, as supplemented by any application for renewal heretofore filed, has changed.
Yes No
(If yes, furnish details on separate sheet.)
4. General Information
A. Has a bond of not less than \$3,000 as required under A.R.S. § 32-1021 and 32-1022 been maintained in full force and effect at all times during the reporting period?
Yes No
(If no, explain on separate sheet.)
B. Has applicant rendered an account of and paid to all clients, for whom collections have been made, the proceeds collected, less collection charges as agreed to between applicant and client within 30 days from the last day of the month in which collections have been made?
Yes No
(If no, explain on separate sheet.)
C. Has applicant deposited with a local depository all monies collected by him and due and owing clients, and to keep such monies deposited until remitted to such clients?
Yes No
(If no, explain on separate sheet.)
D. Has applicant kept a record of monies collected and the remittance of such monies?
Yes No
(If no, explain on separate sheet.)
E. Have there been any changes during the reporting period in the name under which applicant does business or address at which the business is conducted?
Yes No
(If the changes have not been so filed explain on separate sheet.)
F. Has the applicant aided or abetted, directly or indirectly, any person, persons or organizations in evading or violating any of the provisions of this article?
Yes No
G. Have any lawsuits been filed against the collection agency during the reporting period which related in any manner to the licensee's business as a collection agency?
Yes No
(If yes, explain on separate sheet)
5. Attached is a check for the renewal fee required by A.R.S. 32-1028; a true financial statement as prescribed by R20-4-1530(B).

