ARIZONA’S REGULATORY BILL OF RIGHTS

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Arizona’s Regulatory Bill of Rights

- S.B. 1598 applies to cities, counties and flood control districts
- Similar requirements have applied to the State of Arizona since 1998
- Intended to “ensure fair and open regulation”
- Creates entitlement to information and notice regarding inspections
Arizona’s Regulatory Bill of Rights

- Prohibits licensing decisions based on conditions or requirements not specifically authorized
- Provides time frames for approvals and denials of applications
- Creates entitlement to receipt of written or electronic notice of denial of a license application, to include:
  - Justification of denial with reference to relevant authority, and
  - Explanation of appeal rights
Arizona’s Regulatory Bill of Rights

- Requires an entity to provide information on the process with each application form
- Permits a regulated person to inspect all authority and policies, including a directory thereof, at the permitting entity’s office or website
- Except where specifically authorized, disallows creation of duplicative laws and dual permitting to the extent practicable
Arizona’s Regulatory Bill of Rights

- All licensing decisions must be specifically authorized in whole by statute, rule, ordinance or delegation agreement—a general grant of authority is ordinarily insufficient.
- Permits filing of complaints with a board of supervisors or city counsel concerning any ordinance, regulation or substantive policy statement that fails to comply with this law.
- Flexibility remains to issue licenses and adopt ordinances or codes.
- Provides for reimbursement of fees and other expenses if a person prevails by adjudication in court.
Arizona’s Regulatory Bill of Rights—Inspections

- Provisions effective July 1, 2012
- Does not apply to an inspection requested by the regulated person
- Requires an inspector or regulator entering premises to conduct an inspection to:
  - Present photo identification upon entry
  - State the purpose of the inspection and legal authority therefor
  - Disclose any inspection fees
  - Allow the regulated person to have an on-site representative accompany the inspector or regulator on the premises
- Exceptions: Food and swimming pool inspections, and confidential interviews
Arizona’s Regulatory Bill of Rights—Inspections

- Inspector requirements, continued
  - Provide notice of the right to have:
    - Copies of any original documents taken during an inspection
    - Split or duplicate samples taken during an inspection if it would not render analysis inconclusive
    - Copies of sample analysis
  - Inform each person if their conversation with an inspector or regulator during an inspection is being tape recorded
  - Inform each person interviewed during an inspection that statements may be included in an inspection report
Arizona’s Regulatory Bill of Rights—Inspections

- An inspector or regulator shall, generally upon initiation of or two work days before an inspection, further provide in writing or electronically:
  - The rights provided by the regulatory bill of rights
  - Contact information for an employee of the permitting entity who is available to answer questions regarding the inspection
  - Appeal rights of a final decision, including appropriate contact information

- An inspector shall obtain a signature of the inspected premises’ representative, attesting that the above information has been received, or shall note if the representative refuses to sign
A copy of or electronic access to an inspection report shall be provided at the time of the inspection, within 30 work days after the inspection, or as otherwise required by federal law.

An inspection report will identify deficiencies found during an inspection, which the permitting entity may provide an opportunity to correct under certain circumstances and with specific conditions and requirements.

After an inspection, a regulated person shall be provided at least a monthly update of any related action.
Arizona’s Regulatory Bill of Rights—Inspections

- Inspections must be authorized by law
- This section applies only to inspections for licensing or license compliance purposes (e.g., not for criminal investigations, local health department, etc.)
- Evidence gathered in violation of this section is not generally a basis for exclusion of the evidence in a civil or administrative proceeding
- Permitting entity employee failure of compliance is cause for disciplinary action and shall be considered as grounds for reduction of any fine or civil penalty
SENATE BILL 1598

AN ACT

AMENDING SECTIONS 9-461, 9-461.05 AND 9-461.06, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-461.14; AMENDING TITLE 9, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING SECTIONS 11-801, 11-804 AND 11-805, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2010, CHAPTER 244, SECTION 7; AMENDING TITLE 11, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2010, CHAPTER 244, SECTION 7, BY ADDING SECTION 11-809; AMENDING TITLE 11, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 11; AMENDING SECTION 12-348, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 21, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; RELATING TO CITY, COUNTY AND FLOOD CONTROL DISTRICT REGULATIONS.
QUESTIONS