

REFERENCE TITLE: attorney regulation; assessments; membership dues

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HB 2295

Introduced by
Representative Kern

AN ACT

AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 12-119.06; RELATING TO THE SUPREME COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 12-119.06, to read:

4 12-119.06. Regulation of attorneys: mandatory assessments;
5 voluntary membership dues; uses; records;
6 definition

7 A. TO THE EXTENT PROVIDED BY THE ARIZONA CONSTITUTION, ALL
8 REGULATORY FUNCTIONS RELATING TO THE PRACTICE OF LAW, INCLUDING THE
9 REGULATION OF ATTORNEYS IN THIS STATE, ARE WITHIN THE AUTHORITY OF THE
10 SUPREME COURT.

11 B. THE SUPREME COURT MAY COLLECT A MANDATORY ASSESSMENT FROM EACH
12 ATTORNEY, AS A CONDITION OF PRACTICING LAW IN THIS STATE, TO SUPPORT THE
13 COURT'S REGULATORY FUNCTIONS. THE SUPREME COURT MAY USE MANDATORY
14 ASSESSMENT MONIES ONLY FOR THE FOLLOWING REGULATORY FUNCTIONS FOR
15 ATTORNEYS WHO ARE UNDER THE ACTIVE SUPERVISION OF THE SUPREME COURT:

- 16 1. ADMITTING AN ATTORNEY TO THE PRACTICE OF LAW.
- 17 2. MAINTAINING ATTORNEY RECORDS.
- 18 3. ENFORCING THE ETHICAL RULES THAT GOVERN ATTORNEYS.
- 19 4. REGULATING ANY CONTINUING LEGAL EDUCATION MANDATES FOR
20 ATTORNEYS.

- 21 5. MAINTAINING ATTORNEY TRUST ACCOUNT RECORDS.
- 22 6. PREVENTING THE UNAUTHORIZED PRACTICE OF LAW.

23 C. THE STATE BAR OF ARIZONA MAY ESTABLISH, COLLECT AND USE
24 VOLUNTARY MEMBERSHIP DUES FROM AN ATTORNEY FOR ANY LAWFUL ACTIVITY THAT IS
25 NOT INCLUDED IN SUBSECTION B OF THIS SECTION.

26 D. THE COLLECTION OF MANDATORY ASSESSMENTS MUST BE SEPARATE FROM
27 THE COLLECTION OF ANY VOLUNTARY MEMBERSHIP DUES. THE SUPREME COURT SHALL
28 INCORPORATE ANY MANDATORY ASSESSMENT MONIES COLLECTED INTO ITS BUDGET.
29 ANY OTHER ENTITY IN THIS STATE MAY NOT COLLECT A MANDATORY ASSESSMENT FROM
30 AN ATTORNEY.

31 E. IF THE STATE BAR OF ARIZONA ACCEPTS ANY MANDATORY ASSESSMENT
32 MONIES COLLECTED BY THE SUPREME COURT TO CARRY OUT A REGULATORY FUNCTION
33 LISTED IN SUBSECTION B OF THIS SECTION, THE STATE BAR OF ARIZONA, ON OR
34 BEFORE DECEMBER 31 OF EACH YEAR THAT MANDATORY ASSESSMENT MONIES ARE
35 ACCEPTED, SHALL MAKE AVAILABLE TO THE PUBLIC A LIST OF ALL OF THE
36 EXPENDITURES THAT WERE MADE WITH THE MANDATORY ASSESSMENT MONIES AND
37 PROVIDE FOR AN INDEPENDENT AUDIT OF THE EXPENDITURES TO ENSURE THAT ALL
38 EXPENDITURES WERE IN FURTHERANCE OF THE REGULATORY FUNCTIONS LISTED IN
39 SUBSECTION B OF THIS SECTION. ANY PERSON MAY REQUEST TO EXAMINE OR BE
40 FURNISHED COPIES, PRINTOUTS OR PHOTOGRAPHS OF ANY RECORD DURING REGULAR
41 OFFICE HOURS OR MAY REQUEST THAT THE STATE BAR OF ARIZONA MAIL TO THE
42 PERSON A COPY OF ANY RECORD NOT OTHERWISE AVAILABLE ON THE STATE BAR'S
43 WEBSITE. THE STATE BAR OF ARIZONA MAY REQUIRE ANY PERSON REQUESTING A
44 COPY OF ANY RECORD TO PAY IN ADVANCE FOR ANY COPYING AND POSTAGE
45 CHARGES. THE STATE BAR OF ARIZONA SHALL PROMPTLY FURNISH, AND MAY CHARGE

1 A FEE FOR, THE COPIES, PRINTOUTS OR PHOTOGRAPHS. IF REQUESTED, THE STATE
2 BAR OF ARIZONA SHALL FURNISH AN INDEX OF RECORDS OR CATEGORIES OF RECORDS
3 THAT HAVE BEEN WITHHELD AND THE REASONS THE RECORDS OR CATEGORIES OF
4 RECORDS HAVE BEEN WITHHELD FROM THE REQUESTING PERSON. THE STATE BAR OF
5 ARIZONA MAY NOT INCLUDE IN THE INDEX INFORMATION THAT IS EXPRESSLY
6 PRIVILEGED OR CONFIDENTIAL BY LAW. ANY PERSON WHO HAS REQUESTED TO
7 EXAMINE OR COPY RECORDS PURSUANT TO THIS SUBSECTION AND WHO HAS BEEN
8 DENIED ACCESS TO OR THE RIGHT TO EXAMINE OR COPY SUCH RECORDS MAY APPEAL
9 THE DENIAL THROUGH A SPECIAL ACTION IN THE SUPERIOR COURT PURSUANT TO THE
10 RULES OF PROCEDURE FOR SPECIAL ACTIONS AGAINST A PUBLIC BODY. THE COURT
11 MAY AWARD ATTORNEY FEES AND OTHER LEGAL COSTS THAT ARE REASONABLY INCURRED
12 IN ANY ACTION UNDER THIS SUBSECTION IF THE PERSON SEEKING RECORDS
13 SUBSTANTIALLY PREVAILS. THIS SUBSECTION DOES NOT LIMIT THE RIGHTS OF ANY
14 PARTY TO RECOVER ATTORNEY FEES, EXPENSES AND DOUBLE DAMAGES PURSUANT TO
15 SECTION 12-349. A PERSON WHO IS WRONGFULLY DENIED ACCESS TO RECORDS
16 PURSUANT TO THIS SUBSECTION HAS A CAUSE OF ACTION AGAINST THE STATE BAR OF
17 ARIZONA FOR ANY DAMAGES RESULTING FROM THE DENIAL.

18 F. FOR THE PURPOSES OF THIS SECTION, "RECORD" MEANS ANY RECORD OR
19 OTHER MATTER IN THE CUSTODY OF THE STATE BAR OF ARIZONA RELATED TO
20 MANDATORY ASSESSMENT MONIES THAT ARE COLLECTED BY THE SUPREME COURT AND
21 THAT ARE ACCEPTED BY THE STATE BAR OF ARIZONA.