

Arizona Code of Judicial Administration
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-209: Alternative Business Structures
[Added text is shown underlined, deleted text by ~~strikethrough~~]

A. Definitions.

“Alternative business structure” (“ABS”) is a business entity that includes nonlawyers who have an economic interest or Decision-making Authority in the firm and provides legal services in accord with Supreme Court Rules 31 and 31.1(c).

“Authorized Person” means a person possessing:

1. ~~An~~ A direct economic interest in the ABS equal to or more than ~~10~~ 25 percent of all economic interests in the ABS; or
2. The legal right to exercise Decision-making Authority on behalf of the ABS. Examples may include: a sole proprietor of a sole proprietorship, a manager of a limited liability company, an officer of a corporation, a general partner of a general or limited partnership, or a person possessing comparable rights by operation of law or by agreement.

“Compliance Lawyer” means an active member of the State Bar of Arizona in good standing who, pursuant to Supreme Court Rule 42, ER 5.3(d) and subsection (G)(3)(b) of this section, is responsible for ensuring compliance with the rules governing ABSs, Supreme Court Rule 42, and the regulatory requirements of this section.

“Decision-making Authority” in an ABS means the authority, by operation of law or by agreement, to directly or indirectly:

1. Legally bind the ABS;
2. Control or participate in the management or affairs of the ABS; or
3. ~~Direct or cause the direction of the management and policies of the ABS; or~~ Substantially influence the management, policies, or operations of the ABS.
4. ~~Make day-to-day or long-term decisions on matters of management, policy, and operations of the ABS.~~

“Director” means the administrative director of the courts or the director’s designee.

“~~Direct~~ Economic interest” means (1) a share of a corporation’s stock, a capital or profits interest in a partnership or limited liability company, or a similar ownership interest in any other form of entity, or (2) a right to receive payments for providing to or on behalf of the entity management services, property, or the use of property (including software and other intangible personal property) that is based, in whole or in part, on the firm’s gross revenue or profits or any portion thereof. Notwithstanding the foregoing, “economic interest” does not mean a) employment-based compensation pursuant to a plan qualified under the Internal Revenue Code of 1986, as hereafter may be amended, or any successor rule, or discretionary bonuses paid to employees, ~~or b) debt~~

financing where the lender does not have any decision-making authority or actual ownership interest in the firm.

“Inactive” means a licensee who, upon notification to the Committee, voluntarily decides not to deliver legal services for a specified period of time and is not the subject of any pending disciplinary action.

“Person” means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, or government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

B. [No Change]

C. Purpose. This section is intended to result in the effective administration of the ABS licensing program and for the protection of the public in accordance with all applicable statutes, ACJA sections, and court rules.

D. [No Change]

E. Licensure.

1. Application for Initial Licensure.

a. Purposes. An applicant must demonstrate how its licensure will advance one or more of the following:

(1) Access to legal services.

(2) Innovation in the delivery of legal services for a specified purpose.

(3) Investment capital to support the delivery of legal services.

(4) Equity ownership by:

(a) ~~nonlawyer heirs~~ related persons (as defined in Arizona Supreme Court Rule 42, ER 1.8(c)) of firm lawyers;

(b) nonlawyers in management positions providing key business, operational, or administrative support to a law firm; or

(c) other nonlawyer law firm employees ~~of 10 or more years.~~

(5) Multidisciplinary ownership for purposes of providing coordinated delivery of both legal and non-legal client services.

b. through e. [No Change]

2. through 6. [No Change]

7. Inactive Status

- a. A licensee that seeks inactive status, shall submit a written notice to the Committee. The inactive ABS shall not engage in the practice of law including pro bono or for a fee or other compensation while on inactive status and shall not present themselves as an ABS.
- b. Upon application and payment of any applicable fee required by the applicable section of the ACJA, to transfer from inactive to active status, the Committee may require the inactive licensee to demonstrate it remains in compliance with the applicable ACJA sections and all other requirements for licensure.
- c. If the applicant meets the requirements of this subsection to the satisfaction of the Committee, the Committee shall return the licensee to active status. Division staff shall change the status from “inactive” to “active” and notify the licensee of the Committee’s decision within ten days.

F. Renewal of Licensure.

- 1. through 2. [No Change]
- 3. Additional Information. Before renewal of licensure, Division staff may require additional information reasonably necessary to determine if the applicant continues to meet the qualifications specified in this section, which may include:
 - a. Background information, pursuant to subsection (E)(1)(a); and
 - b. Fingerprinting pursuant to subsection (E)(1)(~~ee~~).
- 4. Decision Regarding Renewal.
 - a. The Committee may renew a license if the license holder:
 - (1) meets all requirements for renewal as specified in this section;
 - (2) has submitted a complete renewal application and responds to Division staff’s requests for additional information;
 - (3) has paid the annual fee and any late fee assessments owed under (J)(5); and
 - (4) meets the regulatory objectives of Supreme Court Rule 33.1(b)(1); has adequate governance structures and policies under Supreme Court Rule 33.1(b)(2); its licensure is consistent with its purpose under (E)(1)(a); the (E)(2)(c) and (d) considerations are absent; and it is in compliance with the requirements of this section, relevant sections of 7-201, and any other requirements established by the supreme court.
 - b. [No Change]
 - c. The Committee may deny renewal of licensure for any of the reasons stated in

subsection (E)(2)(~~dc~~). Division staff must promptly notify the applicant, in writing, within 10 days of the Committee's decision to deny renewal of licensure. The notice must include the Committee's reasons for the denial of renewal of licensure and the right of the applicant to a hearing, pursuant to subsection (F)(4)(d).

d. [No Change]

G. Role and Responsibilities of Licensed Alternative Business Structures and Compliance Lawyers.

1. Initial Licensure. In addition to the requirements of subsection (E)(1), each applicant for licensure as an ABS must meet the following requirements:
 - a. Submit completed applications for the ABS and each Authorized Person.
 - b. Submit a prescribed indemnification statement and conflict of interest statement signed by each Authorized Person.
 - c. Fully disclose all relationships to any parent company or organization, and currently paid or unpaid officers, directors, owners, and boards of directors, and any and all company subsidiary dba's operating in any state.
 - d. Declare a statutory agent in Arizona.
 - e. Obtain any necessary federal and state tax identification numbers as required by law.
 - f. ~~Designate~~ Appoint a Designated Principal with whom Division staff may communicate on any administrative, procedural, or operational issues.
 - g. Submit articles of incorporation and letters of good standing from the Arizona Corporation Commission or otherwise demonstrate authorization to do business in the State of Arizona.
 - h. Demonstrate the business meets objectives identified in Supreme Court Rule 33.1(b) and subsection (E)(2)(a) herein.
 - i. Submit the prescribed acknowledgement form that the ABS and its members are subject to the regulatory and discipline authority as set forth in the supreme court rules and this section.
 - j. Insurance Disclosure
 - (1) Each ABS must certify to the State Bar of Arizona on an annual form prescribed by the State Bar of Arizona on or before February 1 of each year whether the ABS is currently covered by professional liability insurance. Each ABS who reports being covered by professional liability insurance must notify the State Bar of Arizona in

writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason. An ABS that acquires professional liability insurance after February 1 must advise the State Bar of Arizona of the change of status in coverage.

- (2) The State Bar of Arizona must make the information submitted by ABSs pursuant to this rule available to the public on its website as soon as practicable after receiving the information.
- (3) Any ABS who fails to comply with this section in a timely fashion may be summarily suspended by the Committee on Alternative Business Structures. Supplying false information in complying with the requirements of this section shall subject the ABS to appropriate disciplinary action.

2. Roles and Responsibilities of ABSs. Each ABS must:

- a. Adhere to the Rules of Arizona Supreme Court and the standards in the code of conduct in (K).
- b. Maintain a statutory agent in Arizona.
- c. Maintain an active Arizona licensed Lawyer in good standing at all times.
- ~~e.d.~~ Notify Division staff within 30 days of any change in Designated Principal, Compliance Lawyer, or other Authorized Person; the contact details of any Designated Principal, Compliance Lawyers, or other Authorized Person; (E)(1)(a) purpose; or any other required database information. The Designated Principal of the ABS must notify Division staff of changes through the ABS regulation email system or in writing, utilizing the form or online portal provided by Division staff. A change in (E)(1)(a) purpose is not effective without Committee approval.
- ~~d.e.~~ Maintain the confidentiality of all records regarding any person receiving legal services.
- ~~e.f.~~ Any ABS that ceases doing business must adhere to the requirements of (H)(4) through (6).

3. Compliance Lawyer. Each ABS must designate a Compliance Lawyer whose qualifications and responsibilities are as follows:

- a. Qualifications. The Compliance Lawyer must:
 - (1) Meet the requirements of Supreme Court Rule 31.1(a)(1);
 - (2) Be a manager, employee, or independent contractor ~~of~~ associated with the ABS ~~with and have~~ Decision-making Authority;
 - (3) Consent to the designation to serve as Compliance Lawyer for no more than three entities;

- (4) Not have been disbarred or subject to disciplinary suspension in any jurisdiction during the past 10 years;
- (5) Not have been Reprimanded or Admonished in any jurisdiction, or be subject to the foreign jurisdiction's equivalent of such, in the past 5 years; and
- (6) Possess the capacity, competence, credentials, and experience in the legal field to supervise the firm and ensure that ethical obligations, protection of the public, and standards of professionalism are adhered to.

b. Responsibilities. The Compliance Lawyer must take all reasonable steps to:

- (1) ~~Ensure compliance with the ethical and professional responsibilities of lawyers in the ABS providing legal services~~ Proactively and persistently ensure that the ABS, its lawyers, and Authorized Persons comply with the Arizona Rules of Professional Conduct and the ACJA, and independently and actively supervise the firm;
- (2) ~~Ensure compliance by the ABS's Authorized Persons that the practice of law is only provided by persons authorized to do so and in compliance with the Arizona Supreme Court Rules;~~
- (3) ~~Ensure the ABS's Authorized Persons and others employed, associated with, or engaged by the ABS do not cause or substantially contribute to a breach of the regulatory requirements of this code or the ethical and professional obligations of lawyers;~~
- (43) ~~Ensure that a prompt report is made to the State Bar of Arizona of any facts or matters reasonably believed to be a substantial breach of the regulatory requirements of this code or the ethical and professional obligations of lawyers that any lawyer or other service provider involved in the delivery of legal services complies with the Arizona Rules of Professional Conduct;~~
- (4) Ensure that a prompt report is made to the State Bar of Arizona of any facts or matters reasonably believed to be a substantial breach of the regulatory requirements of this code or the ethical and professional obligations of lawyers or nonlawyers; and
- (5) Ensure that the State Bar of Arizona is promptly informed of any fact or matter that reasonably should be brought to its attention in order that the State Bar of Arizona it may investigate whether a breach of regulatory or ethical requirements has occurred of this code or the ethical and professional obligations of nonlawyers;
- (6) Notify Division staff and the State Bar of Arizona in writing within 30 days when the Compliance Lawyer has ceased to be the Compliance Lawyer for the ABS;
- (7) Notify Division staff and the Committee within 30 days of any disciplinary sanction imposed against the Compliance Lawyer or the ABS; and
- (8) Conduct semi-annual compliance audits to review the firm's internal policies and procedures to ensure compliance with Arizona Supreme Court Rule 33.1, ACJA § 7-209, and at the completion of each audit, prepare and retain a written report of the findings.

c. [No Change]

H. and I. [No Change]

J. Fee Schedule.

1. Classification. For purposes of this fee schedule, an ABS is classified as one of the following:
 - a. “Nonprofit ABS” means an ABS that is a domestic or foreign nonprofit corporation in good standing that is authorized to conduct business in this state.
 - b. “Equity ABS” means an ABS created and operated solely as a means of providing for law firm ownership to those persons listed in (E)(1)(a)(4).
 - c. “Regular ABS” means an ABS that is not exclusively a Nonprofit or Equity ABS.
3. through 10. [No Change]

K. [No Change]