

# The Arizona ABS Program – Three Years In

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On January 1, 2021, Arizona initiated its alternative business structure (“ABS”) program, through which entities owned or to a meaningful degree controlled by nonlawyers may be licensed to provide legal services to third parties.<sup>2</sup> This piece updates readers on the ABS program and its licensed ABS entities.<sup>3</sup>

## **Overview**

At this writing, the Arizona Supreme Court has granted an ABS initial license to **65** entities, 64 of which have active licenses. At least 29 applications are pending with the Arizona Supreme Court Administrative Office of the Courts Certification and Licensing Division (the “Division”). These 29 applications contain 93 sub-applications (Authorized Person applications, Designated Principal Applications, and Compliance Lawyer Applications) that each require background investigation by the Division. Per the Division, the average processing time for an ABS application is 4.6 months before submission to the Arizona Supreme Court Committee on Alternative Business Structures (the “Committee”), which in turn evaluates and recommends (or declines to recommend) initial licensure applications to the Arizona Supreme Court for approval.

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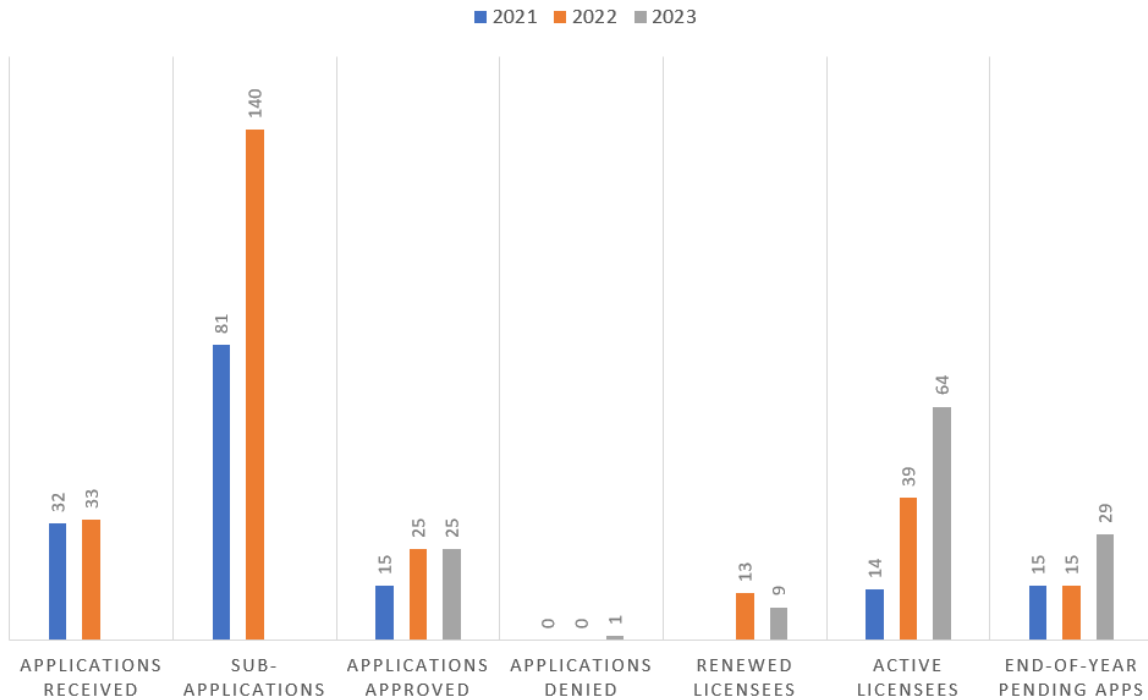
<sup>2</sup> See Arizona Code of Judicial Administration § 7-209; *see also* Andy Halaby & Zach Levy, *Arizona ABS Compliance Lawyers & the Attorney-Client Privilege* (Sept. 2022), available at [gflaw.com/en/insights/2022/9/arizona-abs-compliance-lawyers-and-the-attorney-client-privilege](https://gflaw.com/en/insights/2022/9/arizona-abs-compliance-lawyers-and-the-attorney-client-privilege).

<sup>3</sup> The data contained in this article are based on the authors’ knowledge and experience; materials published on the Arizona Supreme Court’s website; the Arizona Supreme Court’s published administrative orders; websites and Arizona Corporation Commission entries for licensed ABSs; and copies of ABS applications received as of March 2023 through public records requests.

## **ABS Application and License Proliferation**

In its third year of the ABS program, the Division and Committee saw another large increase in the number of licensed ABSs. The number of applications received and approved for licensure has remained relatively steady year-over-year, but the number of received sub-applications has grown since 2021.<sup>4</sup> Below is a year-by-year comparison of certain data points in the ABS program since its inception.

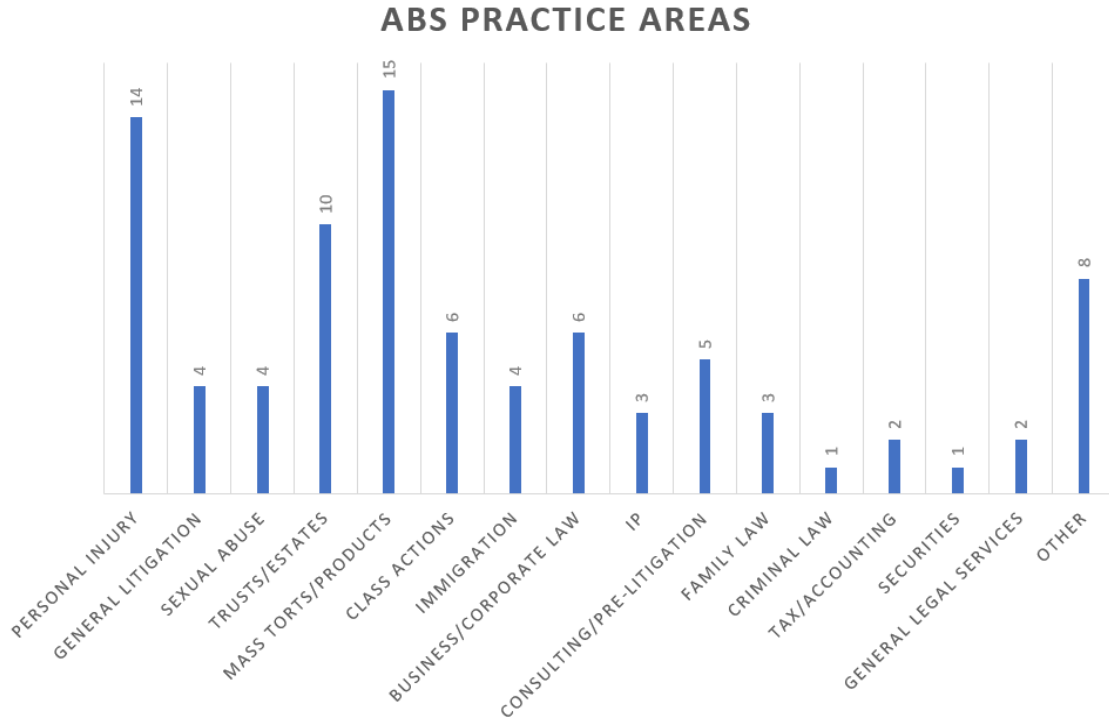
### **THREE-YEAR COMPARISON FOR ABS PROGRAM**



<sup>4</sup> The Division has not yet announced the total number of applications it received in 2023 or the total number of sub-applications it received. However, at the most recent Committee meeting (held November 14, 2023), the Division announced that 29 applications and 93 sub-applications are pending.

## Practice Areas

The distribution of legal services provided (or contemplated to be provided<sup>5</sup>) by Arizona’s ABSs is shown in the chart below.<sup>6</sup> As shown, ABSs featuring a wide variety of practice areas have been licensed. Many practice personal injury, mass torts, and products liability law. A significant number practice trusts, estates, and probate law.



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<sup>5</sup> This information comes from ABS initial license applications, and thus conveys what applicants said they intended to do when applying, rather than what they actually have done since achieving licensure. That said, we are aware of no general substantial variation between the two.

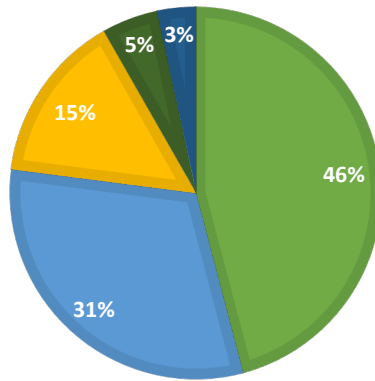
<sup>6</sup> “Business/Corporate Law” includes ABSs that described their area of practice as related to corporations, in-house corporate counsel, business formation, business law, or general business legal services. The term “Consulting/Pre-Litigation” includes ABSs that described their area of practice as related to pre-litigation risk and claims consulting, data analytics, case management, or IT consulting. Some applicants cited plans to practice in multiple areas, which explains why the total number in the figure exceeds the total number of licensed entities cited earlier.

### **Nonlawyer vs. Lawyer Ownership**

Of licensed ABSs with known ownership, 46% are wholly owned by nonlawyers; 31% have more than 50% nonlawyer ownership; 15% are equally owned by nonlawyers and lawyers; 5% have less than 50% nonlawyer ownership; and 3% are wholly owned by lawyers. Thus, the majority of licensed ABSs are majority-owned by non-lawyers. Only a handful of entities have less than 50% non-lawyer ownership.

#### **OWNERSHIP BREAKDOWN**

■ 100% NLO ■ More than 50% NLO ■ 50% NLO ■ Less than 50% NLO ■ 100% LO

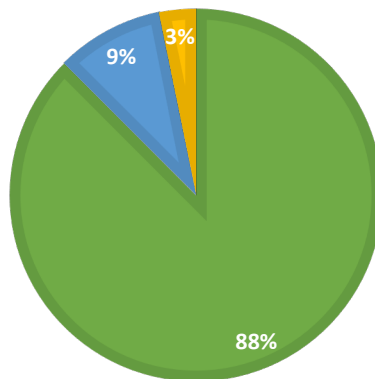


### **ABS Entity Type**

Of the currently licensed entities, the vast majority (88%) chose to form as a limited liability company or professional limited liability company. Corporations or professional corporations (9%) and limited liability partnerships (3%) were much less popular.

#### **ENTITY TYPE**

■ LLC/PLLC ■ Corporation/PC ■ LLP

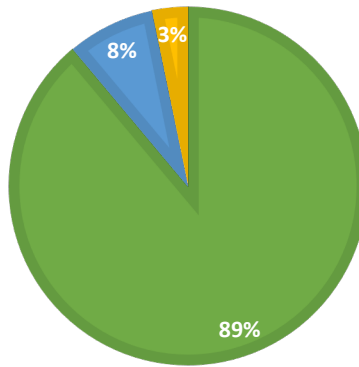


**State of Formation**

Of the licensed ABS entities, most were formed in Arizona (89%). A small number were formed in Delaware (8%) and Wyoming (3%).

**STATE OF FORMATION**

■ Arizona ■ Delaware ■ Wyoming



**Conclusion**

Since inception, the ABS program has continued to grow as more and more applicants seek to be licensed as ABSs. The authors anticipate additional growth, as well as modification of the application and approval process in order to align efficiencies, in 2024.