

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2700

AN ACT

AMENDING SECTIONS 42-5075, 43-222, 43-1085 AND 43-1164, ARIZONA REVISED
STATUTES; RELATING TO SOLAR ENERGY TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5075, Arizona Revised Statutes, is amended to
3 read:

4 42-5075. Prime contracting classification; exemptions;
5 definitions

6 A. The prime contracting classification is comprised of the business
7 of prime contracting and dealership of manufactured buildings. Sales for
8 resale to another dealership of manufactured buildings are not subject to
9 tax. Sales for resale do not include sales to a lessor of manufactured
10 buildings. The sale of a used manufactured building is not taxable under
11 this chapter. The proceeds from alteration and repairs to a used
12 manufactured building are taxable under this section.

13 B. The tax base for the prime contracting classification is sixty-five
14 per cent of the gross proceeds of sales or gross income derived from the
15 business. The following amounts shall be deducted from the gross proceeds of
16 sales or gross income before computing the tax base:

17 1. The sales price of land, which shall not exceed the fair market
18 value.

19 2. Sales and installation of groundwater measuring devices required
20 under section 45-604 and groundwater monitoring wells required by law,
21 including monitoring wells installed for acquiring information for a permit
22 required by law.

23 3. The sales price of furniture, furnishings, fixtures, appliances and
24 attachments that are not incorporated as component parts of or attached to a
25 manufactured building or the setup site. The sale of such items may be
26 subject to the taxes imposed by article 1 of this chapter separately and
27 distinctly from the sale of the manufactured building.

28 4. The gross proceeds of sales or gross income received from a
29 contract entered into for the construction, alteration, repair, addition,
30 subtraction, improvement, movement, wrecking or demolition of any building,
31 highway, road, railroad, excavation, manufactured building or other
32 structure, project, development or improvement located in a military reuse
33 zone for providing aviation or aerospace services or for a manufacturer,
34 assembler or fabricator of aviation or aerospace products within an active
35 military reuse zone after the zone is initially established or renewed under
36 section 41-1531. To be eligible to qualify for this deduction, before
37 beginning work under the contract, the prime contractor must have applied for
38 a letter of qualification from the department of revenue.

39 5. The gross proceeds of sales or gross income derived from a contract
40 to construct a qualified environmental technology manufacturing, producing or
41 processing facility, as described in section 41-1514.02, and from subsequent
42 construction and installation contracts that begin within ten years after the
43 start of initial construction. To qualify for this deduction, before
44 beginning work under the contract, the prime contractor must obtain a letter
45 of qualification from the department of revenue. This paragraph shall apply

1 for ten full consecutive calendar or fiscal years after the start of initial
2 construction.

3 6. The gross proceeds of sales or gross income from a contract to
4 provide for one or more of the following actions, or a contract for site
5 preparation, constructing, furnishing or installing machinery, equipment or
6 other tangible personal property, including structures necessary to protect
7 exempt incorporated materials or installed machinery or equipment, and
8 tangible personal property incorporated into the project, to perform one or
9 more of the following actions in response to a release or suspected release
10 of a hazardous substance, pollutant or contaminant from a facility to the
11 environment, unless the release was authorized by a permit issued by a
12 governmental authority:

13 (a) Actions to monitor, assess and evaluate such a release or a
14 suspected release.

15 (b) Excavation, removal and transportation of contaminated soil and
16 its treatment or disposal.

17 (c) Treatment of contaminated soil by vapor extraction, chemical or
18 physical stabilization, soil washing or biological treatment to reduce the
19 concentration, toxicity or mobility of a contaminant.

20 (d) Pumping and treatment or in situ treatment of contaminated
21 groundwater or surface water to reduce the concentration or toxicity of a
22 contaminant.

23 (e) The installation of structures, such as cutoff walls or caps, to
24 contain contaminants present in groundwater or soil and prevent them from
25 reaching a location where they could threaten human health or welfare or the
26 environment.

27 This paragraph does not include asbestos removal or the construction or use
28 of ancillary structures such as maintenance sheds, offices or storage
29 facilities for unattached equipment, pollution control equipment, facilities
30 or other control items required or to be used by a person to prevent or
31 control contamination before it reaches the environment.

32 7. The gross proceeds of sales or gross income that is derived from a
33 contract entered into for the installation, assembly, repair or maintenance
34 of machinery, equipment or other tangible personal property that is deducted
35 from the tax base of the retail classification pursuant to section 42-5061,
36 subsection B, or that is exempt from use tax pursuant to section 42-5159,
37 subsection B, and that does not become a permanent attachment to a building,
38 highway, road, railroad, excavation or manufactured building or other
39 structure, project, development or improvement. If the ownership of the
40 realty is separate from the ownership of the machinery, equipment or tangible
41 personal property, the determination as to permanent attachment shall be made
42 as if the ownership were the same. The deduction provided in this paragraph
43 does not include gross proceeds of sales or gross income from that portion of
44 any contracting activity which consists of the development of, or
45 modification to, real property in order to facilitate the installation,

1 assembly, repair, maintenance or removal of machinery, equipment or other
2 tangible personal property that is deducted from the tax base of the retail
3 classification pursuant to section 42-5061, subsection B or that is exempt
4 from use tax pursuant to section 42-5159, subsection B. For the purposes of
5 this paragraph, "permanent attachment" means at least one of the following:

6 (a) To be incorporated into real property.

7 (b) To become so affixed to real property that it becomes a part of
8 the real property.

9 (c) To be so attached to real property that removal would cause
10 substantial damage to the real property from which it is removed.

11 8. Through December 31, 2009, the gross proceeds of sales or gross
12 income received from a contract for constructing any lake facility
13 development in a commercial enhancement reuse district that is designated
14 pursuant to section 9-499.08 if the prime contractor maintains the following
15 records in a form satisfactory to the department and to the city or town in
16 which the property is located:

17 (a) The certificate of qualification of the lake facility development
18 issued by the city or town pursuant to section 9-499.08, subsection D.

19 (b) All state and local transaction privilege tax returns for the
20 period of time during which the prime contractor received gross proceeds of
21 sales or gross income from a contract to construct a lake facility
22 development in a designated commercial enhancement reuse district, showing
23 the amount exempted from state and local taxation.

24 (c) Any other information that the department considers to be
25 necessary.

26 9. The gross proceeds of sales or gross income attributable to the
27 purchase of machinery, equipment or other tangible personal property that is
28 exempt from or deductible from transaction privilege and use tax under:

29 (a) Section 42-5061, subsection A, paragraph 25 or 29.

30 (b) Section 42-5061, subsection B.

31 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
32 (c), (d), (e), (f), (i), (j) or (l).

33 (d) Section 42-5159, subsection B.

34 10. The gross proceeds of sales or gross income received from a
35 contract for the construction of an environmentally controlled facility for
36 the raising of poultry for the production of eggs and the sorting, cooling
37 and packaging of eggs.

38 11. The gross proceeds of sales or gross income that is derived from a
39 contract entered into with a person who is engaged in the commercial
40 production of livestock, livestock products or agricultural, horticultural,
41 viticultural or floricultural crops or products in this state for the
42 construction, alteration, repair, improvement, movement, wrecking or
43 demolition or addition to or subtraction from any building, highway, road,
44 excavation, manufactured building or other structure, project, development or

1 improvement used directly and primarily to prevent, monitor, control or
2 reduce air, water or land pollution.

3 12. The gross proceeds of sales or gross income that is derived from
4 the installation, assembly, repair or maintenance of clean rooms that are
5 deducted from the tax base of the retail classification pursuant to section
6 42-5061, subsection B, paragraph 17.

7 13. For taxable periods beginning from and after June 30, 2001, the
8 gross proceeds of sales or gross income derived from a contract entered into
9 for the construction of a residential apartment housing facility that
10 qualifies for a federal housing subsidy for low income persons over sixty-two
11 years of age and that is owned by a nonprofit charitable organization that
12 has qualified under section 501(c)(3) of the internal revenue code.

13 14. For taxable periods beginning from and after December 31, 1996 and
14 ending before January 1, ~~2011~~ 2017, the gross proceeds of sales or gross
15 income derived from a contract to provide and install a solar energy device.
16 The contractor shall register with the department as a solar energy
17 contractor. By registering, the contractor acknowledges that it will make
18 its books and records relating to sales of solar energy devices available to
19 the department for examination.

20 15. The gross proceeds of sales or gross income derived from a contract
21 entered into for the construction of a launch site, as defined in 14 Code of
22 Federal Regulations section 401.5.

23 16. The gross proceeds of sales or gross income derived from a contract
24 entered into for the construction of a domestic violence shelter that is
25 owned and operated by a nonprofit charitable organization that has qualified
26 under section 501(c)(3) of the internal revenue code.

27 17. The gross proceeds of sales or gross income derived from contracts
28 to perform postconstruction treatment of real property for termite and
29 general pest control, including wood destroying organisms.

30 18. The gross proceeds of sales or gross income received from contracts
31 entered into before July 1, 2006 for constructing a state university research
32 infrastructure project if the project has been reviewed by the joint
33 committee on capital review before the university enters into the
34 construction contract for the project. For the purposes of this paragraph,
35 "research infrastructure" has the same meaning prescribed in section 15-1670.

36 19. The gross proceeds of sales or gross income received from a
37 contract for the construction of any building, or other structure, project,
38 development or improvement owned by a qualified business under section
39 41-1516 for harvesting or the initial processing of qualifying forest
40 products removed from qualifying projects as defined in section 41-1516 if
41 actual construction begins before January 1, 2010. To qualify for this
42 deduction, the prime contractor must obtain a letter of qualification from
43 the department of commerce before beginning work under the contract.

44 20. The gross proceeds of sales or gross income received from a
45 contract for the construction of any building or other structure associated

1 with motion picture production in this state. To qualify for the deduction,
2 at the time the contract is entered into the motion picture production
3 company must present to the prime contractor its certificate that is issued
4 pursuant to section 42-5009, subsection H and that establishes its
5 qualification for the deduction.

6 21. Any amount of the gross proceeds of sales or gross income
7 attributable to development fees that are incurred in relation to a contract
8 for construction, development or improvement of real property and that are
9 paid by a prime contractor or subcontractor. For the purposes of this
10 paragraph:

11 (a) The attributable amount shall not exceed the value of the
12 development fees actually imposed.

13 (b) The attributable amount is equal to the total amount of
14 development fees paid by the prime contractor or subcontractor, and the total
15 development fees credited in exchange for the construction of, contribution
16 to or dedication of real property for providing public infrastructure, public
17 safety or other public services necessary to the development. The real
18 property must be the subject of the development fees.

19 (c) "Development fees" means fees imposed to offset capital costs of
20 providing public infrastructure, public safety or other public services to a
21 development and authorized pursuant to section 9-463.05, section 11-1102 or
22 title 48 regardless of the jurisdiction to which the fees are paid.

23 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
24 of this section is subject to the following provisions:

25 1. A prime contractor may establish entitlement to the deduction by
26 both:

27 (a) Marking the invoice for the transaction to indicate that the gross
28 proceeds of sales or gross income derived from the transaction was deducted
29 from the base.

30 (b) Obtaining a certificate executed by the purchaser indicating the
31 name and address of the purchaser, the precise nature of the business of the
32 purchaser, the purpose for which the purchase was made, the necessary facts
33 to establish the deductibility of the property under section 42-5061,
34 subsection B, and a certification that the person executing the certificate
35 is authorized to do so on behalf of the purchaser. The certificate may be
36 disregarded if the prime contractor has reason to believe that the
37 information contained in the certificate is not accurate or complete.

38 2. A person who does not comply with paragraph 1 of this subsection
39 may establish entitlement to the deduction by presenting facts necessary to
40 support the entitlement, but the burden of proof is on that person.

41 3. The department may prescribe a form for the certificate described
42 in paragraph 1, subdivision (b) of this subsection. The department may also
43 adopt rules that describe the transactions with respect to which a person is
44 not entitled to rely solely on the information contained in the certificate
45 provided in paragraph 1, subdivision (b) of this subsection but must instead

1 obtain such additional information as required in order to be entitled to the
2 deduction.

3 4. If a prime contractor is entitled to a deduction by complying with
4 paragraph 1 of this subsection, the department may require the purchaser who
5 caused the execution of the certificate to establish the accuracy and
6 completeness of the information required to be contained in the certificate
7 which would entitle the prime contractor to the deduction. If the purchaser
8 cannot establish the accuracy and completeness of the information, the
9 purchaser is liable in an amount equal to any tax, penalty and interest which
10 the prime contractor would have been required to pay under article 1 of this
11 chapter if the prime contractor had not complied with paragraph 1 of this
12 subsection. Payment of the amount under this paragraph exempts the purchaser
13 from liability for any tax imposed under article 4 of this chapter. The
14 amount shall be treated as a transaction privilege tax to the purchaser and
15 as tax revenues collected from the prime contractor in order to designate the
16 distribution base for purposes of section 42-5029.

17 D. Subcontractors or others who perform services in respect to any
18 improvement, building, highway, road, railroad, excavation, manufactured
19 building or other structure, project, development or improvement are not
20 subject to tax if they can demonstrate that the job was within the control of
21 a prime contractor or contractors or a dealership of manufactured buildings
22 and that the prime contractor or dealership is liable for the tax on the
23 gross income, gross proceeds of sales or gross receipts attributable to the
24 job and from which the subcontractors or others were paid.

25 E. Amounts received by a contractor for a project are excluded from
26 the contractor's gross proceeds of sales or gross income derived from the
27 business if the person who hired the contractor executes and provides a
28 certificate to the contractor stating that the person providing the
29 certificate is a prime contractor and is liable for the tax under article 1
30 of this chapter. The department shall prescribe the form of the certificate.
31 If the contractor has reason to believe that the information contained on the
32 certificate is erroneous or incomplete, the department may disregard the
33 certificate. If the person who provides the certificate is not liable for
34 the tax as a prime contractor, that person is nevertheless deemed to be the
35 prime contractor in lieu of the contractor and is subject to the tax under
36 this section on the gross receipts or gross proceeds received by the
37 contractor.

38 F. Every person engaging or continuing in this state in the business
39 of prime contracting or dealership of manufactured buildings shall present to
40 the purchaser of such prime contracting or manufactured building a written
41 receipt of the gross income or gross proceeds of sales from such activity and
42 shall separately state the taxes to be paid pursuant to this section.

43 G. For the purposes of section 42-5032.01, the department shall
44 separately account for revenues collected under the prime contracting
45 classification from any prime contractor engaged in the preparation or

1 construction of a multipurpose facility, and related infrastructure, that is
2 owned, operated or leased by the tourism and sports authority pursuant to
3 title 5, chapter 8.

4 H. The gross proceeds of sales or gross income derived from a contract
5 for lawn maintenance services are not subject to tax under this section if
6 the contract does not include landscaping activities. Lawn maintenance
7 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
8 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
9 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
10 lawn de-thatching, seeding winter lawns, leaf and debris collection and
11 removal, tree or shrub pruning or clipping, garden and gravel raking and
12 applying pesticides, as defined in section 3-361, and fertilizer materials,
13 as defined in section 3-262.

14 I. The gross proceeds of sales or gross income derived from
15 landscaping activities are subject to tax under this section. Landscaping
16 includes installing lawns, grading or leveling ground, installing gravel or
17 boulders, planting trees and other plants, felling trees, removing or
18 mulching tree stumps, removing other imbedded plants, building or modifying
19 irrigation berms, repairing sprinkler or watering systems, installing
20 railroad ties and installing underground sprinkler or watering systems.

21 J. The portion of gross proceeds of sales or gross income attributable
22 to the actual direct costs of providing architectural or engineering services
23 that are incorporated in a contract is not subject to tax under this section.
24 For the purposes of this subsection, "direct costs" means the portion of the
25 actual costs that are directly expended in providing architectural or
26 engineering services.

27 K. Operating a landfill or a solid waste disposal facility is not
28 subject to taxation under this section, including filling, compacting and
29 creating vehicle access to and from cell sites within the landfill.
30 Constructing roads to a landfill or solid waste disposal facility and
31 constructing cells within a landfill or solid waste disposal facility may be
32 deemed prime contracting under this section.

33 L. The following apply to manufactured buildings:

34 1. For sales in this state where the dealership of manufactured
35 buildings contracts to deliver the building to a setup site or to perform the
36 setup in this state, the taxable situs is the setup site.

37 2. For sales in this state where the dealership of manufactured
38 buildings does not contract to deliver the building to a setup site or does
39 not perform the setup, the taxable situs is the location of the dealership
40 where the building is delivered to the buyer.

41 3. For sales in this state where the dealership of manufactured
42 buildings contracts to deliver the building to a setup site that is outside
43 this state, the situs is outside this state and the transaction is excluded
44 from tax.

1 M. The gross proceeds of sales or gross income attributable to a
2 separate, written design phase services contract or professional services
3 contract, executed before modification begins, is not subject to tax under
4 this section, regardless of whether the services are provided sequential to
5 or concurrent with prime contracting activities that are subject to tax under
6 this section. This subsection does not include the gross proceeds of sales
7 or gross income attributable to construction phase services. For the
8 purposes of this subsection:

9 1. "Construction phase services" means services for the execution and
10 completion of any modification, including the following:

11 (a) Administration or supervision of any modification performed on the
12 project, including team management and coordination, scheduling, cost
13 controls, submittal process management, field management, safety program,
14 close-out process and warranty period services.

15 (b) Administration or supervision of any modification performed
16 pursuant to a punch list. For the purposes of this subdivision, "punch list"
17 means minor items of modification work performed after substantial completion
18 and before final completion of the project.

19 (c) Administration or supervision of any modification performed
20 pursuant to change orders. For the purposes of this subdivision, "change
21 order" means a written instrument issued after execution of a contract for
22 modification work, providing for all of the following:

23 (i) The scope of a change in the modification work, contract for
24 modification work or other contract documents.

25 (ii) The amount of an adjustment, if any, to the guaranteed maximum
26 price as set in the contract for modification work. For the purposes of this
27 item, "guaranteed maximum price" means the amount guaranteed to be the
28 maximum amount due to a prime contractor for the performance of all
29 modification work for the project.

30 (iii) The extent of an adjustment, if any, to the contract time of
31 performance set forth in the contract.

32 (d) Administration or supervision of any modification performed
33 pursuant to change directives. For the purposes of this subdivision, "change
34 directive" means a written order directing a change in modification work
35 before agreement on an adjustment of the guaranteed maximum price or contract
36 time.

37 (e) Inspection to determine the dates of substantial completion or
38 final completion.

39 (f) Preparation of any manuals, warranties, as-built drawings, spares
40 or other items the prime contractor must furnish pursuant to the contract for
41 modification work. For the purposes of this subdivision, "as-built drawing"
42 means a drawing that indicates field changes made to adapt to field
43 conditions, field changes resulting from change orders or buried and
44 concealed installation of piping, conduit and utility services.

1 (g) Preparation of status reports after modification work has begun
2 detailing the progress of work performed, including preparation of any of the
3 following:

4 (i) Master schedule updates.

5 (ii) Modification work cash flow projection updates.

6 (iii) Site reports made on a periodic basis.

7 (iv) Identification of discrepancies, conflicts or ambiguities in
8 modification work documents that require resolution.

9 (v) Identification of any health and safety issues that have arisen in
10 connection with the modification work.

11 (h) Preparation of daily logs of modification work, including
12 documentation of personnel, weather conditions and on-site occurrences.

13 (i) Preparation of any submittals or shop drawings used by the prime
14 contractor to illustrate details of the modification work performed.

15 (j) Administration or supervision of any other activities for which a
16 prime contractor receives a certificate for payment or certificate for final
17 payment based on the progress of modification work performed on the project.

18 2. "Design phase services" means services for developing and
19 completing a design for a project that are not construction phase services,
20 including the following:

21 (a) Evaluating surveys, reports, test results or any other information
22 on-site conditions for the project, including physical characteristics, legal
23 limitations and utility locations for the site.

24 (b) Evaluating any criteria or programming objectives for the project
25 to ascertain requirements for the project, such as physical requirements
26 affecting cost or projected utilization of the project.

27 (c) Preparing drawings and specifications for architectural program
28 documents, schematic design documents, design development documents,
29 modification work documents or documents that identify the scope of or
30 materials for the project.

31 (d) Preparing an initial schedule for the project, excluding the
32 preparation of updates to the master schedule after modification work has
33 begun.

34 (e) Preparing preliminary estimates of costs of modification work
35 before completion of the final design of the project, including an estimate
36 or schedule of values for any of the following:

37 (i) Labor, materials, machinery and equipment, tools, water, heat,
38 utilities, transportation and other facilities and services used in the
39 execution and completion of modification work, regardless of whether they are
40 temporary or permanent or whether they are incorporated in the
41 modifications.

42 (ii) The cost of labor and materials to be furnished by the owner of
43 the real property.

44 (iii) The cost of any equipment of the owner of the real property to
45 be assigned by the owner to the prime contractor.

1 (iv) The cost of any labor for installation of equipment separately
2 provided by the owner of the real property that has been designed, specified,
3 selected or specifically provided for in any design document for the project.

4 (v) Any fee paid by the owner of the real property to the prime
5 contractor pursuant to the contract for modification work.

6 (vi) Any bond and insurance premiums.

7 (vii) Any applicable taxes.

8 (viii) Any contingency fees for the prime contractor that may be used
9 before final completion of the project.

10 (f) Reviewing and evaluating cost estimates and project documents to
11 prepare recommendations on site use, site improvements, selection of
12 materials, building systems and equipment, modification feasibility,
13 availability of materials and labor, local modification activity as related
14 to schedules and time requirements for modification work.

15 (g) Preparing the plan and procedures for selection of subcontractors,
16 including any prequalification of subcontractor candidates.

17 3. "Professional services" means architect services, assayer services,
18 engineer services, geologist services, land surveying services or landscape
19 architect services that are within the scope of those services as provided in
20 title 32, chapter 1 and for which gross proceeds of sales or gross income has
21 not otherwise been deducted under subsection J of this section.

22 N. Notwithstanding subsection O, paragraph 8 of this section, a person
23 owning real property who enters into a contract for sale of the real
24 property, who is responsible to the new owner of the property for
25 modifications made to the property in the period subsequent to the transfer
26 of title and who receives a consideration for the modifications is considered
27 a prime contractor solely for purposes of taxing the gross proceeds of sale
28 or gross income received for the modifications made subsequent to the
29 transfer of title. The original owner's gross proceeds of sale or gross
30 income received for the modifications shall be determined according to the
31 following methodology:

32 1. If any part of the contract for sale of the property specifies
33 amounts to be paid to the original owner for the modifications to be made in
34 the period subsequent to the transfer of title, the amounts are included in
35 the original owner's gross proceeds of sale or gross income under this
36 section. Proceeds from the sale of the property that are received after
37 transfer of title and that are unrelated to the modifications made subsequent
38 to the transfer of title are not considered gross proceeds of sale or gross
39 income from the modifications.

40 2. If the original owner enters into an agreement separate from the
41 contract for sale of the real property providing for amounts to be paid to
42 the original owner for the modifications to be made in the period subsequent
43 to the transfer of title to the property, the amounts are included in the
44 original owner's gross proceeds of sale or gross income received for the
45 modifications made subsequent to the transfer of title.

1 3. If the original owner is responsible to the new owner for
2 modifications made to the property in the period subsequent to the transfer
3 of title and derives any gross proceeds of sale or gross income from the
4 project subsequent to the transfer of title other than a delayed disbursement
5 from escrow unrelated to the modifications, it is presumed that the amounts
6 are received for the modifications made subsequent to the transfer of title
7 unless the contrary is established by the owner through its books, records
8 and papers kept in the regular course of business.

9 4. The tax base of the original owner is computed in the same manner
10 as a prime contractor under this section.

11 0. For the purposes of this section:

12 1. "Contracting" means engaging in business as a contractor.

13 2. "Contractor" is synonymous with the term "builder" and means any
14 person or organization that undertakes to or offers to undertake to, or
15 purports to have the capacity to undertake to, or submits a bid to, or does
16 personally or by or through others, modify any building, highway, road,
17 railroad, excavation, manufactured building or other structure, project,
18 development or improvement, or to do any part of such a project, including
19 the erection of scaffolding or other structure or works in connection with
20 such a project, and includes subcontractors and specialty contractors. For
21 all purposes of taxation or deduction, this definition shall govern without
22 regard to whether or not such contractor is acting in fulfillment of a
23 contract.

24 3. "Dealership of manufactured buildings" means a dealer who either:

25 (a) Is licensed pursuant to title 41, chapter 16 and who sells
26 manufactured buildings to the final consumer.

27 (b) Supervises, performs or coordinates the excavation and completion
28 of site improvements, setup or moving of a manufactured building including
29 the contracting, if any, with any subcontractor or specialty contractor for
30 the completion of the contract.

31 4. "Manufactured building" means a manufactured home, mobile home or
32 factory-built building, as defined in section 41-2142.

33 5. "Modification" means construction, alteration, repair, addition,
34 subtraction, improvement, movement, wreckage or demolition.

35 6. "Modify" means to construct, alter, repair, add to, subtract from,
36 improve, move, wreck or demolish.

37 7. "Prime contracting" means engaging in business as a prime
38 contractor.

39 8. "Prime contractor" means a contractor who supervises, performs or
40 coordinates the modification of any building, highway, road, railroad,
41 excavation, manufactured building or other structure, project, development or
42 improvement including the contracting, if any, with any subcontractors or
43 specialty contractors and who is responsible for the completion of the
44 contract. Except as provided in subsections E and ~~M~~ N of this section, a
45 person who owns real property, who engages one or more contractors to modify

1 that real property and who does not itself modify that real property is not a
2 prime contractor within the meaning of this paragraph regardless of the
3 existence of a contract for sale or the subsequent sale of that real
4 property.

5 9. "Sale of a used manufactured building" does not include a lease of
6 a used manufactured building.

7 Sec. 2. Section 43-222, Arizona Revised Statutes, is amended to read:
8 43-222. Income tax credit review schedule

9 The joint legislative income tax credit review committee shall review
10 the following income tax credits:

11 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,
12 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
13 43-1175 and 43-1182.

14 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083, ~~43-1085,~~
15 ~~43-1164~~ and 43-1183.

16 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,
17 ~~43-1085~~, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1164, 43-1167,
18 43-1169, 43-1176 and 43-1181.

19 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
20 43-1170 and 43-1178.

21 5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,
22 43-1083.01, 43-1084, 43-1162, 43-1164.01, ~~and~~ 43-1170.01 AND 43-1184.

23 Sec. 3. Section 43-1085, Arizona Revised Statutes, is amended to read:
24 43-1085. Credit for solar energy devices; commercial and
25 industrial applications

26 A. For taxable years beginning from and after December 31, 2005
27 through December 31, ~~2012~~ 2018, a credit is allowed against the taxes imposed
28 by this title for a taxpayer who is either:

29 1. Installing one or more solar energy devices, as defined in section
30 42-5001 and certified pursuant to section 41-1510.01, during the taxable year
31 for commercial, industrial or any other nonresidential application in the
32 taxpayer's facility located in this state.

33 2. The third party organization that financed, installed or
34 manufactured the solar energy device that qualifies for the credit under
35 paragraph 1 of this subsection if the taxpayer or an entity exempt from
36 taxation under chapter 12 of this title who otherwise would qualify for this
37 credit transfers the credit on a form prescribed by the department to the
38 third party organization.

39 B. The amount of the credit is equal to ten per cent of the installed
40 cost of the device.

41 C. The person who provides or installs the device shall furnish the
42 taxpayer with an accounting of the cost to the taxpayer.

43 D. The taxpayer may not cumulate total tax credits under this section
44 exceeding twenty-five thousand dollars with respect to the same building in
45 the same year or fifty thousand dollars in total credits in any year.

1 E. If the allowable credit exceeds the taxes otherwise due under this
2 title on the claimant's income, or if there are no taxes due under this
3 title, the amount of the claim not used to offset taxes under this title may
4 be carried forward for not more than five consecutive taxable years as a
5 credit against subsequent years' income tax liability.

6 F. Co-owners of a business, including partners in a partnership and
7 shareholders of an S corporation, as defined in section 1361 of the internal
8 revenue code, may each claim only the pro rata share of the credit allowed
9 under this section based on the ownership interest or financial investment in
10 the system. The total of the credits allowed all such owners may not exceed
11 the amount that would have been allowed a sole owner.

12 Sec. 4. Section 43-1164, Arizona Revised Statutes, is amended to read:

13 43-1164. Credit for solar energy devices; commercial and
14 industrial applications

15 A. For taxable years beginning from and after December 31, 2005
16 through December 31, ~~2012~~ 2018, a credit is allowed against the taxes imposed
17 by this title for a taxpayer that is either:

18 1. Installing one or more solar energy devices, as defined in section
19 42-5001 and certified pursuant to section 41-1510.01, during the taxable year
20 for commercial, industrial or any other nonresidential application in the
21 taxpayer's facility located in this state.

22 2. The third party organization that financed, installed or
23 manufactured the solar energy device that qualifies for the credit under
24 paragraph 1 of this subsection if the taxpayer or an entity exempt from
25 taxation under chapter 12 of this title who otherwise would qualify for this
26 credit transfers the credit on a form prescribed by the department to the
27 third party organization.

28 B. The amount of the credit is equal to ten per cent of the installed
29 cost of the device.

30 C. The person who provides or installs the device shall furnish the
31 taxpayer with an accounting of the cost to the taxpayer.

32 D. The taxpayer may not cumulate total tax credits under this section
33 exceeding twenty-five thousand dollars with respect to the same building in
34 the same year or fifty thousand dollars in total credits in any year.

35 E. If the allowable credit exceeds the taxes otherwise due under this
36 title on the claimant's income, or if there are no taxes due under this
37 title, the amount of the claim not used to offset taxes under this title may
38 be carried forward for not more than five consecutive taxable years as a
39 credit against subsequent years' income tax liability.

40 F. Co-owners of a business, including corporate partners in a
41 partnership, may each claim only the pro rata share of the credit allowed
42 under this section based on the ownership interest or financial investment in
43 the system. The total of the credits allowed all such owners may not exceed
44 the amount that would have been allowed a sole owner.