

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

# HOUSE BILL 2262

AN ACT

AMENDING SECTIONS 10-301 AND 10-302, ARIZONA REVISED STATUTES; REPEALING SECTION 10-830, ARIZONA REVISED STATUTES; AMENDING TITLE 10, CHAPTER 8, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 10-830 AND SECTION 10-831; AMENDING SECTION 10-842, ARIZONA REVISED STATUTES; AMENDING TITLE 10, CHAPTER 8, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 10-845 AND 10-846; AMENDING SECTIONS 10-1621 AND 10-2431, ARIZONA REVISED STATUTES; RELATING TO CORPORATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 10-301, Arizona Revised Statutes, is amended to  
3 read:

4 10-301. Purposes

5 Subject to any limitations or requirements contained in its articles of  
6 incorporation or in any other applicable law, a corporation shall have the  
7 purpose of engaging in and may engage in any lawful business activity. **THE**  
8 **PURPOSE OF BENEFITING THE SHAREHOLDERS IS AN IMPLIED PURPOSE OF EVERY**  
9 **CORPORATION.**

10 Sec. 2. Section 10-302, Arizona Revised Statutes, is amended to read:

11 10-302. General powers

12 Unless its articles of incorporation provide otherwise, every  
13 corporation has perpetual duration and succession in its corporate name and  
14 has the same powers as an individual to do all things necessary or convenient  
15 to carry out its business and affairs, including power to:

16 1. Sue and be sued, complain and defend in its corporate name.

17 2. Have a corporate seal, which may be altered at will, and to use it,  
18 or a facsimile of it, by impressing or affixing it or in any other manner  
19 reproducing it.

20 3. Make and amend bylaws, not inconsistent with its articles of  
21 incorporation or with the laws of this state, for managing the business and  
22 regulating the affairs of the corporation.

23 4. Purchase, receive, lease or otherwise acquire and to own, hold,  
24 improve, use and otherwise deal with real or personal property or  
25 any interest in property wherever located.

26 5. Sell, convey, mortgage, pledge, lease, exchange and otherwise  
27 dispose of all or any part of its property.

28 6. Purchase, receive, subscribe for or otherwise acquire, own, hold,  
29 vote, use, sell, mortgage, lend, pledge or otherwise dispose of and deal with  
30 shares or other interests in or obligations of any other entity.

31 7. Make contracts and guarantees, incur liabilities, borrow monies,  
32 issue its notes, bonds and other obligations, which may be convertible into  
33 or include the option to purchase other securities of the corporation, and  
34 secure any of its obligations by mortgage, deed of trust, security agreement,  
35 pledge or other encumbrance of any of its property, franchises or income.

36 8. Issue any bond, debenture or debt security of the corporation by  
37 causing one or more officers designated in the bylaws or by the board of  
38 directors to sign the bond, debenture or debt security either manually or in  
39 facsimile and, if deemed necessary or appropriate by the officers, by causing  
40 its authentication, countersignature or registration, either manually or in  
41 facsimile, by a trustee, transfer agent or registrar other than the  
42 corporation itself or an employee of the corporation. If an officer who has  
43 signed, either manually or in facsimile, a bond, debenture or debt security  
44 as provided in this paragraph ceases for any reason to be an officer before

- 1 the security is issued, the corporation may issue the security with the same  
2 effect as if the officer were still in office at the date of issue.
- 3 9. Lend monies, invest and reinvest its monies and receive and hold  
4 real and personal property as security for repayment.
- 5 10. Be a promoter, incorporator, partner, member, associate or manager  
6 of any corporation, partnership, joint venture, trust or other entity.
- 7 11. Conduct its business, locate offices and exercise the powers  
8 granted by chapters 1 through 17 of this title within or without this state.
- 9 12. Elect directors and appoint officers, employees and agents of the  
10 corporation, define their duties, fix their compensation and lend them monies  
11 and credit.
- 12 13. Pay pensions and establish pension plans, pension trusts, profit  
13 sharing plans, share bonus plans, share option plans and benefit or incentive  
14 plans for any of its or its affiliates' current or former directors,  
15 officers, employees and agents.
- 16 14. Eliminate or limit the liability of its directors in the manner and  
17 to the extent provided by section 10-202 and chapter 8, article 5 of this  
18 title.
- 19 15. Make donations for the public welfare or for charitable, scientific  
20 or educational purposes.
- 21 16. Transact any lawful business that will aid governmental policy.
- 22 17. Make payments or donations or do any other act **THAT IS** not  
23 inconsistent with law **AND** that furthers the business and affairs of the  
24 corporation.
- 25 **18. MAKE A POSITIVE IMPACT ON SOCIETY OR THE ENVIRONMENT BY DOING AN**  
26 **ACTION THAT INCLUDES ANY OF THE FOLLOWING:**
- 27 (a) **PROMOTING THE INTERESTS OF ANY OF THE FOLLOWING:**
- 28 (i) **THE EMPLOYEES AND THE WORKFORCE OF THE CORPORATION, ITS**  
29 **SUBSIDIARIES OR ITS SUPPLIERS.**
- 30 (ii) **THE CUSTOMERS OF THE CORPORATION.**
- 31 (iii) **THE COMMUNITY OR SOCIETY, INCLUDING ANY COMMUNITY IN WHICH THE**  
32 **OFFICES OR FACILITIES OF THE CORPORATION ARE LOCATED OR ITS SUBSIDIARIES OR**  
33 **SUPPLIERS ARE LOCATED.**
- 34 (iv) **THE LOCAL OR GLOBAL ENVIRONMENT.**
- 35 (b) **PROVIDING LOW-INCOME OR UNDERSERVED INDIVIDUALS OR COMMUNITIES WITH**  
36 **BENEFICIAL PRODUCTS OR SERVICES.**
- 37 (c) **PROMOTING ECONOMIC OPPORTUNITIES FOR INDIVIDUALS OR COMMUNITIES**  
38 **BEYOND THE CREATION OF JOBS IN THE NORMAL COURSE OF BUSINESS.**
- 39 (d) **PROTECTING OR RESTORING THE ENVIRONMENT.**
- 40 (e) **IMPROVING HUMAN HEALTH.**
- 41 (f) **PROMOTING THE ARTS, SCIENCES OR ADVANCEMENT OF KNOWLEDGE.**
- 42 (g) **INCREASING THE FLOW OF CAPITAL TO ENTITIES WITH A PURPOSE TO**  
43 **BENEFIT SOCIETY OR THE ENVIRONMENT.**
- 44 (h) **CONFERRING ANY OTHER PARTICULAR BENEFIT ON SOCIETY OR THE**  
45 **ENVIRONMENT.**

1 (i) DEFINING, REPORTING AND ASSESSING THE PERFORMANCE OF THE  
2 CORPORATION IN THE ACHIEVEMENT OR FULFILLMENT OF ITS OTHER PURPOSES ACCORDING  
3 TO ONE OR MORE STANDARDS OF MEASUREMENT OF ANY PURPOSES LISTED IN THIS  
4 PARAGRAPH, INCLUDING A THIRD-PARTY STANDARD AS DEFINED IN SECTION 10-2402.

5 Sec. 3. Repeal

6 Section 10-830, Arizona Revised Statutes, is repealed.

7 Sec. 4. Title 10, chapter 8, article 3, Arizona Revised Statutes, is  
8 amended by adding a new section 10-830 and section 10-831, to read:

9 10-830. Standards of conduct for directors

10 A. EACH MEMBER OF THE BOARD OF DIRECTORS, WHEN DISCHARGING THE DUTIES  
11 OF A DIRECTOR, SHALL ACT IN GOOD FAITH AND IN A MANNER THAT THE DIRECTOR  
12 REASONABLY BELIEVES TO BE IN THE BEST INTERESTS OF THE CORPORATION.

13 B. EACH MEMBER OF THE BOARD OF DIRECTORS OR OF A COMMITTEE OF THE  
14 BOARD, WHEN BECOMING INFORMED IN CONNECTION WITH THE BOARD'S OR COMMITTEE'S  
15 DECISION-MAKING FUNCTION OR OVERSIGHT FUNCTION, SHALL DISCHARGE THE MEMBER'S  
16 DUTIES WITH THE CARE THAT A PERSON IN A LIKE POSITION WOULD REASONABLY  
17 BELIEVE APPROPRIATE UNDER SIMILAR CIRCUMSTANCES.

18 C. IN DISCHARGING BOARD OR COMMITTEE DUTIES, A DIRECTOR SHALL DISCLOSE  
19 OR CAUSE TO BE DISCLOSED TO THE OTHER BOARD OR COMMITTEE MEMBERS INFORMATION  
20 NOT ALREADY KNOWN BY THE OTHER MEMBERS BUT KNOWN BY THE DIRECTOR TO BE  
21 MATERIAL TO THE DISCHARGE OF THEIR DECISION-MAKING OR OVERSIGHT FUNCTIONS.  
22 THE DISCLOSURE IS NOT REQUIRED IF THE DIRECTOR REASONABLY BELIEVES THAT  
23 DISCLOSURE WOULD VIOLATE A DUTY IMPOSED UNDER LAW, A LEGALLY ENFORCEABLE  
24 OBLIGATION OF CONFIDENTIALITY OR A PROFESSIONAL ETHICS RULE.

25 D. IN DISCHARGING BOARD OR COMMITTEE DUTIES, A DIRECTOR MAY RELY ON  
26 ANY OF THE FOLLOWING UNLESS THE DIRECTOR HAS KNOWLEDGE THAT MAKES RELIANCE ON  
27 ANY OF THE FOLLOWING UNWARRENTED:

28 1. THE PERFORMANCE BY ANY OF THE PERSONS SPECIFIED IN SUBSECTION E,  
29 PARAGRAPH 1 OR 3 OF THIS SECTION TO WHOM THE BOARD MAY HAVE DELEGATED,  
30 FORMALLY OR INFORMALLY BY COURSE OF CONDUCT, THE AUTHORITY OR DUTY TO PERFORM  
31 ONE OR MORE OF THE BOARD'S FUNCTIONS THAT ARE DELEGABLE UNDER APPLICABLE LAW.

32 2. INFORMATION, OPINIONS, REPORTS OR STATEMENTS, INCLUDING FINANCIAL  
33 STATEMENTS AND OTHER FINANCIAL DATA, THAT ARE PREPARED OR PRESENTED BY ANY OF  
34 THE PERSONS SPECIFIED IN SUBSECTION E OF THIS SECTION.

35 E. PURSUANT TO SUBSECTION D OF THIS SECTION, A DIRECTOR MAY RELY ON:

36 1. ONE OR MORE OFFICERS OR EMPLOYEES OF THE CORPORATION WHOM THE  
37 DIRECTOR REASONABLY BELIEVES TO BE RELIABLE AND COMPETENT IN THE FUNCTIONS  
38 PERFORMED OR THE INFORMATION, OPINIONS, REPORTS OR STATEMENTS PROVIDED BY THE  
39 OFFICERS OR EMPLOYEES.

40 2. LEGAL COUNSEL, PUBLIC ACCOUNTANTS OR OTHER PERSONS RETAINED BY THE  
41 CORPORATION AS TO MATTERS INVOLVING SKILLS OR EXPERTISE THAT THE DIRECTOR  
42 REASONABLY BELIEVES ARE MATTERS WITHIN THE PARTICULAR PERSON'S PROFESSIONAL  
43 OR EXPERT COMPETENCE OR AS TO WHICH THE PARTICULAR PERSON MERITS CONFIDENCE.

1           3. A COMMITTEE OF THE BOARD OF DIRECTORS OF WHICH THE DIRECTOR IS NOT  
2 A MEMBER IF THE DIRECTOR REASONABLY BELIEVES THAT THE COMMITTEE MERITS  
3 CONFIDENCE.

4           F. TO MAKE A DETERMINATION ABOUT WHAT IS IN THE BEST INTERESTS OF THE  
5 CORPORATION, A DIRECTOR SHALL CONSIDER WHETHER A PROPOSED ACTION MAY FURTHER  
6 THE PURPOSES OF THE CORPORATION SET FORTH IN ITS ARTICLES OF INCORPORATION.  
7 IF THE ARTICLES OF INCORPORATION STATE THAT THE PURPOSES OF THE CORPORATION  
8 INCLUDE PROMOTIONS OF MULTIPLE INTERESTS, THE BEST INTERESTS OF THE  
9 CORPORATION DO NOT REQUIRE THAT ANY PARTICULAR INTERESTS BE GIVEN PRIORITY  
10 OVER OTHER INTERESTS UNLESS THE ARTICLES OF INCORPORATION STATE AN INTENTION  
11 TO GIVE PRIORITY TO PARTICULAR INTERESTS. UNLESS THE ARTICLES OF  
12 INCORPORATION OR BYLAWS OF THE CORPORATION PROHIBIT SUCH CONSIDERATIONS, A  
13 DIRECTOR MAY ALSO CONSIDER WHETHER A PROPOSED ACTION MAY MAKE A POSITIVE  
14 IMPACT ON SOCIETY OR THE ENVIRONMENT, INCLUDING:

15           1. PROMOTING THE INTERESTS OF ANY OF THE FOLLOWING:

16           (a) THE EMPLOYEES AND THE WORKFORCE OF THE CORPORATION, ITS  
17 SUBSIDIARIES OR ITS SUPPLIERS.

18           (b) THE CUSTOMERS OF THE CORPORATION.

19           (c) THE COMMUNITY OR SOCIETY, INCLUDING ANY COMMUNITY IN WHICH THE  
20 OFFICES OR FACILITIES OF THE CORPORATION ARE LOCATED OR ITS SUBSIDIARIES OR  
21 SUPPLIERS ARE LOCATED.

22           (d) THE LOCAL OR GLOBAL ENVIRONMENT.

23           2. PROVIDING LOW-INCOME OR UNDERSERVED INDIVIDUALS OR COMMUNITIES WITH  
24 BENEFICIAL PRODUCTS OR SERVICES.

25           3. PROMOTING ECONOMIC OPPORTUNITY FOR INDIVIDUALS OR COMMUNITIES  
26 BEYOND THE CREATION OF JOBS IN THE NORMAL COURSE OF BUSINESS.

27           4. PROTECTING OR RESTORING THE ENVIRONMENT.

28           5. IMPROVING HUMAN HEALTH.

29           6. PROMOTING THE ARTS, SCIENCES OR ADVANCEMENT OF KNOWLEDGE.

30           7. INCREASING THE FLOW OF CAPITAL TO ENTITIES WITH A PURPOSE TO  
31 BENEFIT SOCIETY OR THE ENVIRONMENT.

32           8. CONFERRING ANY OTHER PARTICULAR BENEFIT ON SOCIETY OR THE  
33 ENVIRONMENT.

34           9. BOTH SHORT-TERM AND LONG-TERM EFFECTS OF THE PROPOSED ACTION AND  
35 WHETHER ANYTHING LISTED IN PARAGRAPHS 1 THROUGH 8 OF THIS SUBSECTION MAY BE  
36 SERVED BY THE CONTINUED INDEPENDENCE OF THE CORPORATION.

37           10. DEFINING, REPORTING AND ASSESSING THE PERFORMANCE OF THE  
38 CORPORATION IN THE ACHIEVEMENT OR FULFILLMENT OF ITS OTHER PURPOSES ACCORDING  
39 TO ONE OR MORE STANDARDS OF MEASUREMENT OF ANY PURPOSES LISTED IN THIS  
40 SUBSECTION, INCLUDING A THIRD-PARTY STANDARD AS DEFINED IN SECTION 10-2402.

41           10-831. Standards of liability for directors; presumption; exceptions

42           A. A DIRECTOR IS PRESUMED IN ALL CASES TO HAVE ACTED, FAILED TO ACT OR  
43 OTHERWISE DISCHARGED THE DIRECTOR'S DUTIES PURSUANT TO SECTION 10-830,  
44 SUBSECTIONS A, B AND F. THE BURDEN IS ON THE PARTY CHALLENGING A DIRECTOR'S  
45 ACTION, FAILURE TO ACT OR OTHER DISCHARGE OF DUTIES TO ESTABLISH BY CLEAR AND

1 CONVINCING EVIDENCE FACTS REBUTTING THE PRESUMPTION. A DIRECTOR IS NOT  
2 LIABLE TO THE CORPORATION OR ITS SHAREHOLDERS FOR ANY DECISION TO TAKE OR NOT  
3 TAKE ACTION OR ANY FAILURE TO TAKE ANY ACTION AS A DIRECTOR UNLESS THE PARTY  
4 ASSERTING LIABILITY IN A PROCEEDING ESTABLISHES BY CLEAR AND CONVINCING  
5 EVIDENCE THAT BOTH OF THE FOLLOWING APPLY:

6 1. THERE IS NO DEFENSE SET FORTH BY THE DIRECTOR BASED ON ANY OF THE  
7 FOLLOWING:

8 (a) THE ARTICLES OF INCORPORATION PURSUANT TO SECTION 10-202,  
9 SUBSECTION B, PARAGRAPH 1.

10 (b) SECTION 10-861 IF THE ACTION IS TAKEN IN COMPLIANCE WITH SECTION  
11 10-862 OR 10-863.

12 (c) SECTION 10-845.

13 (d) SECTION 10-2431, SUBSECTION C.

14 2. THE CHALLENGED CONDUCT CONSISTED OF OR WAS THE RESULT OF AT LEAST  
15 ONE OF THE FOLLOWING:

16 (a) AN ACTION NOT IN GOOD FAITH.

17 (b) A DECISION THAT THE DIRECTOR DID NOT REASONABLY BELIEVE TO BE IN  
18 THE BEST INTERESTS OF THE CORPORATION PURSUANT TO SECTION 10-830 OR A  
19 DECISION ABOUT WHICH THE DIRECTOR WAS NOT INFORMED TO AN EXTENT THAT THE  
20 DIRECTOR REASONABLY BELIEVED APPROPRIATE IN THE CIRCUMSTANCES.

21 (c) A LACK OF OBJECTIVITY DUE TO THE DIRECTOR'S FAMILIAL, FINANCIAL OR  
22 BUSINESS RELATIONSHIP WITH OR A LACK OF INDEPENDENCE DUE TO THE DIRECTOR'S  
23 DOMINATION OR CONTROL BY ANOTHER PERSON HAVING A MATERIAL INTEREST IN THE  
24 CHALLENGED CONDUCT IF THE RELATIONSHIP OR THE DOMINATION OR CONTROL COULD  
25 REASONABLY BE EXPECTED TO HAVE AFFECTED THE DIRECTOR'S JUDGMENT RELATING TO  
26 THE CHALLENGED CONDUCT IN A MANNER ADVERSE TO THE CORPORATION AND THE  
27 DIRECTOR HAS NOT ESTABLISHED THAT THE CHALLENGED CONDUCT WAS REASONABLY  
28 BELIEVED BY THE DIRECTOR TO BE IN THE BEST INTERESTS OF THE CORPORATION.

29 (d) A SUSTAINED FAILURE OF THE DIRECTOR TO DEVOTE ATTENTION TO THE  
30 ONGOING OVERSIGHT OF THE BUSINESS AND AFFAIRS OF THE CORPORATION OR A FAILURE  
31 TO DEVOTE TIMELY ATTENTION BY MAKING OR CAUSING TO BE MADE APPROPRIATE  
32 INQUIRY WHEN PARTICULAR FACTS AND CIRCUMSTANCES OF SIGNIFICANT CONCERN  
33 MATERIALIZE THAT WOULD ALERT A REASONABLY ATTENTIVE DIRECTOR TO THE NEED FOR  
34 ACTION.

35 (e) THE RECEIPT OF A FINANCIAL BENEFIT TO WHICH THE DIRECTOR IS NOT  
36 ENTITLED OR ANY OTHER BREACH OF THE DIRECTOR'S DUTIES TO DEAL FAIRLY WITH THE  
37 CORPORATION AND ITS SHAREHOLDERS THAT IS ACTIONABLE UNDER APPLICABLE LAW.

38 B. THE PARTY SEEKING TO HOLD THE DIRECTOR LIABLE:

39 1. FOR MONEY DAMAGES SHALL ESTABLISH BY CLEAR AND CONVINCING EVIDENCE  
40 THAT:

41 (a) THE CORPORATION OR ITS SHAREHOLDERS HAVE SUFFERED HARM.

42 (b) THE HARM SUFFERED WAS PROXIMATELY CAUSED BY THE DIRECTOR'S  
43 CHALLENGED CONDUCT.

44 2. FOR OTHER MONEY PAYMENT UNDER A LEGAL REMEDY, SUCH AS COMPENSATION  
45 FOR THE UNAUTHORIZED USE OF CORPORATE ASSETS, SHALL ESTABLISH BY CLEAR AND

1 CONVINCING EVIDENCE THAT THE PAYMENT SOUGHT IS APPROPRIATE IN THE  
2 CIRCUMSTANCES.

3 3. FOR OTHER MONEY PAYMENT UNDER AN EQUITABLE REMEDY, SUCH AS PROFIT  
4 RECOVERY BY OR DISGORGEMENT TO THE CORPORATION, SHALL ESTABLISH BY CLEAR AND  
5 CONVINCING EVIDENCE THAT THE EQUITABLE REMEDY SOUGHT IS APPROPRIATE IN THE  
6 CIRCUMSTANCES.

7 C. THIS SECTION DOES NOT:

8 1. IN ANY INSTANCE WHERE FAIRNESS IS AT ISSUE, SUCH AS CONSIDERATION  
9 OF THE FAIRNESS OF A TRANSACTION TO THE CORPORATION PURSUANT TO SECTION  
10 10-861, SUBSECTION B, PARAGRAPH 3, ALTER THE BURDEN OF PROVING THE FACT OR  
11 LACK OF FAIRNESS OTHERWISE APPLICABLE.

12 2. ALTER THE EXISTENCE OR LACK OF LIABILITY OF A DIRECTOR UNDER  
13 ANOTHER SECTION OF THIS CHAPTER, SUCH AS THE PROVISIONS GOVERNING THE  
14 CONSEQUENCES OF AN UNLAWFUL DISTRIBUTION UNDER SECTION 10-833 OR A  
15 TRANSACTIONAL INTEREST UNDER SECTION 10-861.

16 3. AFFECT ANY RIGHTS TO WHICH THE CORPORATION OR A SHAREHOLDER MAY BE  
17 ENTITLED UNDER ANOTHER LAW OF THIS STATE OR THE UNITED STATES.

18 Sec. 5. Section 10-842, Arizona Revised Statutes, is amended to read:

19 10-842. Standards of conduct for officers; presumption

20 A. If an officer has discretionary authority with respect to any  
21 duties, ~~an~~ THE officer's duties shall be discharged under that authority:

22 1. In good faith.

23 2. With the care ~~an ordinarily prudent~~ A person in a like position  
24 would ~~exercise~~ REASONABLY BELIEVE APPROPRIATE under similar circumstances.

25 3. In a manner the officer reasonably believes to be in the best  
26 interests of the corporation.

27 B. In discharging duties, an officer is entitled to rely on  
28 information, opinions, reports or statements, including financial statements  
29 and other financial data, if prepared or presented by either:

30 1. One or more directors, officers or employees of the corporation  
31 whom the officer reasonably believes to be reliable and competent in the  
32 matters presented.

33 2. Legal counsel, public accountants or other persons as to matters  
34 the officer reasonably believes are within the person's professional or  
35 expert competence.

36 C. An officer is not acting in good faith if the officer has knowledge  
37 concerning the matter in question that makes reliance otherwise permitted by  
38 subsection B OF THIS SECTION unwarranted.

39 D. An officer is not liable for any action taken as an officer or any  
40 failure to take any action if the officer's duties were performed in  
41 compliance with this section. In any proceeding commenced under this section  
42 or any other provision of this chapter, an officer has all of the defenses  
43 and presumptions ordinarily available to an officer. An officer is presumed  
44 in all cases to have acted, failed to act or otherwise discharged such  
45 officer's duties in accordance with subsection A OF THIS SECTION. The burden

1 is on the party challenging an officer's action, failure to act or other  
2 discharge of duties to establish by clear and convincing evidence facts  
3 rebutting the presumption.

4 E. TO MAKE A DETERMINATION ABOUT WHAT IS IN THE BEST INTERESTS OF THE  
5 CORPORATION, AN OFFICER SHALL CONSIDER WHETHER A PROPOSED ACTION WILL FURTHER  
6 THE PURPOSES OF THE CORPORATION SET FORTH IN ITS ARTICLES OF INCORPORATION.  
7 IF THE ARTICLES OF INCORPORATION STATE THAT THE PURPOSES OF THE CORPORATION  
8 INCLUDE PROMOTIONS OF MULTIPLE INTERESTS, THE BEST INTERESTS OF THE  
9 CORPORATION DO NOT REQUIRE THAT ANY PARTICULAR INTERESTS BE GIVEN PRIORITY  
10 OVER OTHER INTERESTS UNLESS THE ARTICLES OF INCORPORATION STATE AN INTENTION  
11 TO GIVE PRIORITY TO PARTICULAR INTERESTS. UNLESS THE ARTICLES OF  
12 INCORPORATION OR BYLAWS OF THE CORPORATION PROHIBIT SUCH CONSIDERATIONS, AN  
13 OFFICER MAY ALSO CONSIDER WHETHER A PROPOSED ACTION WILL MAKE A POSITIVE  
14 IMPACT ON SOCIETY OR THE ENVIRONMENT, INCLUDING:

15 1. PROMOTING THE INTERESTS OF ANY OF THE FOLLOWING:

16 (a) THE EMPLOYEES AND WORKFORCE OF THE CORPORATION, ITS SUBSIDIARIES  
17 OR ITS SUPPLIERS.

18 (b) THE CUSTOMERS OF THE CORPORATION.

19 (c) THE COMMUNITY OR SOCIETY, INCLUDING ANY COMMUNITY IN WHICH THE  
20 OFFICES OR FACILITIES OF THE CORPORATION ARE LOCATED OR ITS SUBSIDIARIES OR  
21 SUPPLIERS ARE LOCATED.

22 (d) THE LOCAL OR GLOBAL ENVIRONMENT.

23 2. PROVIDING LOW-INCOME OR UNDERSERVED INDIVIDUALS OR COMMUNITIES WITH  
24 BENEFICIAL PRODUCTS OR SERVICES.

25 3. PROMOTING ECONOMIC OPPORTUNITY FOR INDIVIDUALS OR COMMUNITIES  
26 BEYOND THE CREATION OF JOBS IN THE NORMAL COURSE OF BUSINESS.

27 4. PROTECTING OR RESTORING THE ENVIRONMENT.

28 5. IMPROVING HUMAN HEALTH.

29 6. PROMOTING THE ARTS, SCIENCES OR ADVANCEMENT OF KNOWLEDGE.

30 7. INCREASING THE FLOW OF CAPITAL TO ENTITIES WITH A PURPOSE TO  
31 BENEFIT SOCIETY OR THE ENVIRONMENT.

32 8. CONFERRING ANY OTHER PARTICULAR BENEFIT ON SOCIETY OR THE  
33 ENVIRONMENT.

34 9. BOTH SHORT-TERM AND LONG-TERM EFFECTS OF THE PROPOSED ACTION AND  
35 WHETHER ANYTHING LISTED IN PARAGRAPHS 1 THROUGH 8 OF THIS SUBSECTION MAY BE  
36 SERVED BY THE CONTINUED INDEPENDENCE OF THE CORPORATION.

37 10. DEFINING, REPORTING AND ASSESSING THE PERFORMANCE OF THE  
38 CORPORATION IN THE ACHIEVEMENT OR FULFILLMENT OF ITS OTHER PURPOSES ACCORDING  
39 TO ONE OR MORE STANDARDS OF MEASUREMENT OF ANY PURPOSES LISTED IN THIS  
40 SUBSECTION, INCLUDING A THIRD-PARTY STANDARD AS DEFINED IN SECTION 10-2402.

41 Sec. 6. Title 10, chapter 8, article 4, Arizona Revised Statutes, is  
42 amended by adding sections 10-845 and 10-846, to read:

43 10-845. Taking advantage of business opportunities; directors

44 A. A DIRECTOR'S TAKING ADVANTAGE, DIRECTLY OR INDIRECTLY, OF A  
45 BUSINESS OPPORTUNITY MAY NOT BE THE SUBJECT OF EQUITABLE RELIEF OR GIVE RISE

1 TO AN AWARD OF DAMAGES OR OTHER SANCTIONS AGAINST THE DIRECTOR WHETHER IN A  
2 DIRECT ACTION OR IN A PROCEEDING BY OR IN THE RIGHT OF THE CORPORATION ON THE  
3 GROUND THAT THE OPPORTUNITY SHOULD HAVE FIRST BEEN OFFERED TO THE  
4 CORPORATION, IF BEFORE BECOMING LEGALLY OBLIGATED AS A RESULT OF THE  
5 OPPORTUNITY THE DIRECTOR BRINGS THE OPPORTUNITY TO THE ATTENTION OF THE  
6 CORPORATION AND EITHER OF THE FOLLOWING APPLIES:

7 1. PURSUANT TO SECTION 10-862, ACTION BY QUALIFIED DIRECTORS  
8 DISCLAIMING THE CORPORATION'S INTEREST IN THE OPPORTUNITY IS TAKEN AS IF THE  
9 DECISION BEING MADE CONCERNED A DIRECTOR'S CONFLICTING INTEREST TRANSACTION.

10 2. PURSUANT TO SECTION 10-863, SHAREHOLDERS' ACTION DISCLAIMING THE  
11 CORPORATION'S INTEREST IN THE OPPORTUNITY IS TAKEN AS IF THE DECISION BEING  
12 MADE CONCERNED A DIRECTOR'S CONFLICTING INTEREST TRANSACTION EXCEPT THAT,  
13 INSTEAD OF MAKING REQUIRED DISCLOSURE AS DEFINED IN SECTION 10-860, THE  
14 DIRECTOR SHALL MAKE PRIOR DISCLOSURE TO THOSE ACTING ON BEHALF OF THE  
15 CORPORATION OF ALL MATERIAL FACTS CONCERNING THE BUSINESS OPPORTUNITY THAT  
16 ARE THEN KNOWN TO THE DIRECTOR.

17 B. IN ANY PROCEEDING SEEKING EQUITABLE RELIEF OR OTHER REMEDIES BASED  
18 ON AN ALLEGED IMPROPER TAKING ADVANTAGE OF A BUSINESS OPPORTUNITY BY A  
19 DIRECTOR, THE FACT THAT THE DIRECTOR DID NOT EMPLOY THE PROCEDURE DESCRIBED  
20 IN SUBSECTION A OF THIS SECTION BEFORE TAKING ADVANTAGE OF THE OPPORTUNITY  
21 DOES NOT CREATE AN INFERENCE THAT THE OPPORTUNITY SHOULD HAVE BEEN FIRST  
22 PRESENTED TO THE CORPORATION OR ALTER THE BURDEN OF PROOF OTHERWISE  
23 APPLICABLE TO ESTABLISH THAT THE DIRECTOR BREACHED A DUTY TO THE CORPORATION  
24 IN THE CIRCUMSTANCES.

25 10-846. Enforcement proceedings: liability for monetary  
26 damages: definition

27 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A PERSON MAY  
28 NOT BRING AN ACTION OR ASSERT A CLAIM AGAINST A CORPORATION OR ITS DIRECTORS  
29 OR OFFICERS WITH RESPECT TO EITHER OF THE FOLLOWING:

30 1. THE FAILURE OF THE CORPORATION TO PURSUE A NONMONETARY PURPOSE SET  
31 FORTH IN ITS ARTICLES OF INCORPORATION.

32 2. A DIRECTOR'S OR OFFICER'S VIOLATION OF AN OBLIGATION, DUTY OR  
33 STANDARD OF CONDUCT TO CONSIDER THE EFFECT OF AN ACT, OMISSION OR DECISION BY  
34 A CORPORATION ON A NONMONETARY PURPOSE SET FORTH IN ITS ARTICLES OF  
35 INCORPORATION.

36 B. AN ENFORCEMENT PROCEEDING AGAINST A CORPORATION OR ITS DIRECTORS OR  
37 OFFICERS WITH RESPECT TO SUBSECTION A OF THIS SECTION MAY BE COMMENCED OR  
38 MAINTAINED ONLY AS FOLLOWS:

39 1. DERIVATIVELY IN ACCORDANCE WITH CHAPTER 7, ARTICLE 4 OF THIS TITLE  
40 BY A SHAREHOLDER OF THE CORPORATION.

41 2. BY OTHER PERSONS AS SPECIFIED IN THE ARTICLES OF INCORPORATION OR  
42 BYLAWS OF THE CORPORATION.

43 C. A CORPORATION IS NOT LIABLE FOR MONETARY DAMAGES RESULTING FROM ANY  
44 FAILURE OF THE CORPORATION TO PURSUE ANY NONMONETARY PURPOSE WHETHER OR NOT  
45 SET FORTH IN THE ARTICLES OF INCORPORATION.

1 D. FOR THE PURPOSES OF THIS SECTION, "NONMONETARY PURPOSE" MEANS ANY  
2 PURPOSE OTHER THAN TO BENEFIT THE ECONOMIC OR FINANCIAL INTERESTS OF THE  
3 SHAREHOLDERS OF THE CORPORATION.

4 Sec. 7. Section 10-1621, Arizona Revised Statutes, is amended to read:  
5 10-1621. Other reports to shareholders

6 A. If a corporation indemnifies or advances expenses to a director  
7 under sections 10-851 through 10-854, the corporation shall report the  
8 indemnification or advance in writing to the shareholders with or before the  
9 annual financial statements required under section 10-1620. Failure to  
10 report under this ~~section~~ SUBSECTION does not invalidate otherwise valid  
11 indemnification. This ~~section~~ SUBSECTION does not apply to a corporation  
12 whose shares are listed on a national securities exchange or are regularly  
13 traded in a market maintained by one or more members of a national or  
14 affiliated securities association.

15 B. A CORPORATION MAY, AND IF REQUIRED IN ITS ARTICLES OF INCORPORATION  
16 SHALL, MAIL OR TRANSMIT TO EACH SHAREHOLDER AN ANNUAL REPORT ASSESSING THE  
17 PERFORMANCE OF THE CORPORATION IN THE ACHIEVEMENT OR FULFILLMENT OF ITS  
18 PURPOSES AS STATED IN ITS ARTICLES OF INCORPORATION ACCORDING TO ANY  
19 STANDARDS SET FORTH IN THE ARTICLES OF INCORPORATION. IF THE REPORT IS  
20 REQUIRED, IT MUST BE PROVIDED WITHIN ONE HUNDRED TWENTY DAYS AFTER THE CLOSE  
21 OF EACH FISCAL YEAR OR WITHIN ANOTHER PERIOD AS PROVIDED IN THE ARTICLES OF  
22 INCORPORATION. ON WRITTEN REQUEST FROM A SHAREHOLDER, THE CORPORATION SHALL  
23 MAIL OR TRANSMIT TO THAT SHAREHOLDER THE LATEST REPORT.

24 Sec. 8. Section 10-2431, Arizona Revised Statutes, is amended to read:  
25 10-2431. Standard of conduct for directors

26 A. In discharging the duties of their respective positions and in  
27 considering the best interests of the benefit corporation, the board of  
28 directors, committees of the board and individual directors of a benefit  
29 corporation:

30 1. Shall consider the effects of any action or inaction on:

31 (a) The shareholders of the benefit corporation.

32 (b) The employees and workforce of the benefit corporation, its  
33 subsidiaries and its suppliers.

34 (c) The interests of customers as beneficiaries of the general public  
35 benefit or specific public benefit purposes of the benefit corporation.

36 (d) Community and societal factors, including those of each community  
37 in which offices or facilities of the benefit corporation, its subsidiaries  
38 or its suppliers are located.

39 (e) The local and global environment.

40 (f) The short-term and long-term interests of the benefit corporation,  
41 including benefits that may accrue to the benefit corporation from its  
42 long-term plans and the possibility that these interests may be best served  
43 by the continued independence of the benefit corporation.

44 (g) The ability of the benefit corporation to accomplish its general  
45 public benefit purpose and any specific public benefit purpose.

1           2. May consider the interests referred to in section 10-2702 and other  
2 pertinent factors or the interests of any other group that they deem  
3 appropriate except that they do not have to give priority to the interests of  
4 a particular person or group referred to in this subsection over the  
5 interests of any other person or group unless the benefit corporation has  
6 stated in its articles of incorporation its intention to give priority to  
7 certain interests related to its accomplishment of its general public benefit  
8 purpose or of a specific public benefit purpose identified in its articles.

9           B. The consideration of interests and factors in the manner required  
10 by subsection A of this section does not constitute a violation of section  
11 10-830.

12           C. Except as provided in the articles of incorporation or bylaws ~~and~~  
13 ~~in subsection E of this section~~, a director is not personally liable for  
14 monetary damages for:—

15           ~~1. Any action or inaction in the course of performing the duties of a~~  
16 ~~director under subsection A of this section if the director performed the~~  
17 ~~duties of office in compliance with section 10-830 and this section.~~

18           ~~2.~~ failure of the benefit corporation to pursue or create general  
19 public benefit or a specific public benefit. **THE STANDARDS OF CONDUCT AND**  
20 **PRESUMPTIONS SET FORTH IN CHAPTER 8 OF THIS TITLE APPLY TO DIRECTORS AND**  
21 **OFFICERS OF BENEFIT CORPORATIONS.**

22           D. A director does not have a duty to a person that is a beneficiary  
23 of the general public benefit purpose or a specific public benefit purpose of  
24 a benefit corporation arising from the status of the person as a beneficiary.

25           ~~E. Subsection C of this section does not apply to a director's~~  
26 ~~conflicting interest transaction, as defined in section 10-860, in which the~~  
27 ~~director has directly or indirectly benefitted.~~

28           Sec. 9. Effective date

29           This act is effective from and after December 31, 2014.