

PROPOSED AMENDMENT
SENATE AMENDMENTS TO S.B. 1350
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 42-1108, Arizona Revised Statutes, is amended to
3 read:

4 42-1108. Audit; deficiency assessments

5 A. If a taxpayer fails to file a return required by this title or
6 title 43, or if the department is not satisfied with the return or payment of
7 the amount of tax required to be paid under either title, the department may
8 examine any return, including any books, papers, records or memoranda
9 relating to the return, to determine the correct amount of tax. This
10 examination must occur within the time periods prescribed by section 42-1104
11 and may be accomplished through a detailed review of transactions or records
12 or by a statistically valid sampling method.

13 B. The department shall give the taxpayer written notice of its
14 determination of a deficiency by mail, and the deficiency, plus penalties and
15 interest, is final forty-five days from the date of receipt of the notice to
16 the taxpayer unless an appeal is taken to the department. For individual
17 income tax the period is ninety days from the date of mailing. In the case
18 of a joint income tax return, the notice may be a single joint notice mailed
19 to the last known address, but if either spouse notifies the department that
20 separate residences have been established, the department shall mail
21 duplicate originals of the joint notice to each spouse.

22 C. If a deficiency is determined and the assessment becomes final, the
23 department shall mail notice and demand to the taxpayer for the payment of
24 the deficiency. Notwithstanding section 42-1125, subsection E, the

1 deficiency assessed is due and payable at the expiration of ten days from the
2 date of the notice and demand.

3 D. A certificate by the department of the mailing of the notices
4 specified in this section is prima facie evidence of the assessment of the
5 deficiency and the giving of the notices.

6 E. Any amount of tax in excess of that disclosed by the return due to
7 a mathematical error or failure of the taxpayer to properly compute the
8 liability based on the taxable income reported on the return, notice of which
9 has been mailed to the taxpayer, is not a deficiency assessment within the
10 meaning of this section. The taxpayer may not protest or appeal as in the
11 case of a deficiency assessment, based on such notice, and the assessment or
12 collection of the amount of tax erroneously omitted in the return is not
13 prohibited by this article.

14 F. AN ONLINE LODGING MARKETPLACE, ITS RETURNS, INCLUDING ANY
15 SUPPORTING DOCUMENTS, AND ITS PAYMENTS OF TAXES TO THE DEPARTMENT PURSUANT TO
16 CHAPTERS 5 AND 6 OF THIS TITLE ARE SUBJECT TO AUDIT ONLY BY THE DEPARTMENT AT
17 ITS SOLE DISCRETION. AUDITS OF AN ONLINE LODGING MARKETPLACE SHALL BE
18 CONDUCTED SOLELY ON THE BASIS OF THE ONLINE LODGING MARKETPLACE'S TAXPAYER
19 IDENTIFICATION NUMBER AND MAY NOT BE CONDUCTED DIRECTLY OR INDIRECTLY ON ANY
20 INDIVIDUAL ONLINE LODGING OPERATOR OR ANY OCCUPANT TO WHOM LODGINGS ARE
21 FURNISHED THROUGH AN ONLINE LODGING TRANSACTION FACILITATED BY THE ONLINE
22 LODGING MARKETPLACE. AN ONLINE LODGING OPERATOR IS NOT REQUIRED TO DISCLOSE
23 ANY PERSONALLY IDENTIFIABLE INFORMATION RELATING TO ANY ONLINE LODGING
24 OPERATOR OR OCCUPANT TO WHOM LODGINGS ARE FURNISHED IN EXCHANGE FOR A CHARGE
25 FOR OCCUPANCY. FOR THE PURPOSES OF THIS SUBSECTION, "ONLINE LODGING
26 MARKETPLACE", "ONLINE LODGING OPERATOR" AND "ONLINE LODGING TRANSACTION" HAVE
27 THE SAME MEANINGS PRESCRIBED IN SECTION 42-5001.

28 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:
29 42-2003. Authorized disclosure of confidential information

30 A. Confidential information relating to:

31 1. A taxpayer may be disclosed to the taxpayer, its successor in
32 interest or a designee of the taxpayer who is authorized in writing by the

1 taxpayer. A principal corporate officer of a parent corporation may execute
2 a written authorization for a controlled subsidiary.

3 2. A corporate taxpayer may be disclosed to any principal officer, any
4 person designated by a principal officer or any person designated in a
5 resolution by the corporate board of directors or other similar governing
6 body.

7 3. A partnership may be disclosed to any partner of the partnership.
8 This exception does not include disclosure of confidential information of a
9 particular partner unless otherwise authorized.

10 4. An estate may be disclosed to the personal representative of the
11 estate and to any heir, next of kin or beneficiary under the will of the
12 decedent if the department finds that the heir, next of kin or beneficiary
13 has a material interest ~~which~~ THAT will be affected by the confidential
14 information.

15 5. A trust may be disclosed to the trustee or trustees, jointly or
16 separately, and to the grantor or any beneficiary of the trust if the
17 department finds that the grantor or beneficiary has a material interest that
18 will be affected by the confidential information.

19 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
20 to confidentiality either in writing or on the record in any administrative
21 or judicial proceeding.

22 7. The name and taxpayer identification numbers of persons issued
23 direct payment permits may be publicly disclosed.

24 B. Confidential information may be disclosed to:

25 1. Any employee of the department whose official duties involve tax
26 administration.

27 2. The office of the attorney general solely for its use in
28 preparation for, or in an investigation that may result in, any proceeding
29 involving tax administration before the department or any other agency or
30 board of this state, or before any grand jury or any state or federal court.

31 3. The department of liquor licenses and control for its use in
32 determining whether a spirituous liquor licensee has paid all transaction

1 privilege taxes and affiliated excise taxes incurred as a result of the sale
2 of spirituous liquor, as defined in section 4-101, at the licensed
3 establishment and imposed on the licensed establishments by this state and
4 its political subdivisions.

5 4. Other state tax officials whose official duties require the
6 disclosure for proper tax administration purposes if the information is
7 sought in connection with an investigation or any other proceeding conducted
8 by the official. Any disclosure is limited to information of a taxpayer who
9 is being investigated or who is a party to a proceeding conducted by the
10 official.

11 5. The following agencies, officials and organizations, if they grant
12 substantially similar privileges to the department for the type of
13 information being sought, pursuant to statute and a written agreement between
14 the department and the foreign country, agency, state, Indian tribe or
15 organization:

16 (a) The United States internal revenue service, alcohol and tobacco
17 tax and trade bureau of the United States treasury, United States bureau of
18 alcohol, tobacco, firearms and explosives of the United States department of
19 justice, United States drug enforcement agency and federal bureau of
20 investigation.

21 (b) A state tax official of another state.

22 (c) An organization of states, federation of tax administrators or
23 multistate tax commission that operates an information exchange for tax
24 administration purposes.

25 (d) An agency, official or organization of a foreign country with
26 responsibilities that are comparable to those listed in subdivision (a), (b)
27 or (c) of this paragraph.

28 (e) An agency, official or organization of an Indian tribal government
29 with responsibilities comparable to the responsibilities of the agencies,
30 officials or organizations identified in subdivision (a), (b) or (c) of this
31 paragraph.

1 6. The auditor general, in connection with any audit of the department
2 subject to the restrictions in section 42-2002, subsection D.

3 7. Any person to the extent necessary for effective tax administration
4 in connection with:

5 (a) The processing, storage, transmission, destruction and
6 reproduction of the information.

7 (b) The programming, maintenance, repair, testing and procurement of
8 equipment for purposes of tax administration.

9 (c) The collection of the taxpayer's civil liability.

10 8. The office of administrative hearings relating to taxes
11 administered by the department pursuant to section 42-1101, but the
12 department shall not disclose any confidential information:

13 (a) Regarding income tax or withholding tax.

14 (b) On any tax issue relating to information associated with the
15 reporting of income tax or withholding tax.

16 9. The United States treasury inspector general for tax administration
17 for the purpose of reporting a violation of internal revenue code section
18 7213A (26 United States Code section 7213A), unauthorized inspection of
19 returns or return information.

20 10. The financial management service of the United States treasury
21 department for use in the treasury offset program.

22 11. The United States treasury department or its authorized agent for
23 use in the state income tax levy program and in the electronic federal tax
24 payment system.

25 12. The Arizona commerce authority for its use in:

26 (a) Qualifying renewable energy operations for the tax incentives
27 under sections 42-12006, 43-1083.01 and 43-1164.01.

28 (b) Qualifying businesses with a qualified facility for income tax
29 credits under sections 43-1083.03 and 43-1164.04.

30 (c) Fulfilling its annual reporting responsibility pursuant to section
31 41-1511, subsections U and V and section 41-1512, subsections U and V.

1 (d) Certifying computer data centers for tax relief under section
2 41-1519.

3 13. A prosecutor for purposes of section 32-1164, subsection C.

4 14. The state fire marshal for use in determining compliance with and
5 enforcing title 41, chapter 16, article 3.1.

6 15. The department of transportation for its use in administering
7 taxes, surcharges and penalties prescribed by title 28.

8 16. The Arizona health care cost containment system administration for
9 its use in administering nursing facility provider assessments.

10 C. Confidential information may be disclosed in any state or federal
11 judicial or administrative proceeding pertaining to tax administration
12 pursuant to the following conditions:

13 1. One or more of the following circumstances must apply:

14 (a) The taxpayer is a party to the proceeding.

15 (b) The proceeding arose out of, or in connection with, determining
16 the taxpayer's civil or criminal liability, or the collection of the
17 taxpayer's civil liability, with respect to any tax imposed under this title
18 or title 43.

19 (c) The treatment of an item reflected on the taxpayer's return is
20 directly related to the resolution of an issue in the proceeding.

21 (d) Return information directly relates to a transactional
22 relationship between a person who is a party to the proceeding and the
23 taxpayer and directly affects the resolution of an issue in the proceeding.

24 2. Confidential information may not be disclosed under this subsection
25 if the disclosure is prohibited by section 42-2002, subsection C or D.

26 D. Identity information may be disclosed for purposes of notifying
27 persons entitled to tax refunds if the department is unable to locate the
28 persons after reasonable effort.

29 E. The department, on the request of any person, shall provide the
30 names and addresses of bingo licensees as defined in section 5-401, verify
31 whether or not a person has a privilege license and number, a tobacco product
32 distributor's license and number or a withholding license and number or

1 disclose the information to be posted on the department's website or
2 otherwise publicly accessible pursuant to section 42-1124, subsection F and
3 section 42-3401.

4 F. A department employee, in connection with the official duties
5 relating to any audit, collection activity or civil or criminal
6 investigation, may disclose return information to the extent that disclosure
7 is necessary to obtain information that is not otherwise reasonably
8 available. These official duties include the correct determination of and
9 liability for tax, the amount to be collected or the enforcement of other
10 state tax revenue laws.

11 G. If an organization is exempt from this state's income tax as
12 provided in section 43-1201 for any taxable year, the name and address of the
13 organization and the application filed by the organization on which the
14 department made its determination for exemption together with any papers
15 submitted in support of the application and any letter or document issued by
16 the department concerning the application are open to public inspection.

17 H. Confidential information relating to transaction privilege tax, use
18 tax, severance tax, jet fuel excise and use tax and any other tax collected
19 by the department on behalf of any jurisdiction may be disclosed to any
20 county, city or town tax official if the information relates to a taxpayer
21 who is or may be taxable by a county, city or town or who may be subject to
22 audit by the department pursuant to section 42-6002. Any taxpayer
23 information released by the department to the county, city or town:

24 1. May only be used for internal purposes, including audits.

25 2. May not be disclosed to the public in any manner that does not
26 comply with confidentiality standards established by the department. The
27 county, city or town shall agree in writing with the department that any
28 release of confidential information that violates the confidentiality
29 standards adopted by the department will result in the immediate suspension
30 of any rights of the county, city or town to receive taxpayer information
31 under this subsection.

1 I. The department may disclose statistical information gathered from
2 confidential information if it does not disclose confidential information
3 attributable to any one taxpayer. The department may disclose statistical
4 information gathered from confidential information, even if it discloses
5 confidential information attributable to a taxpayer, to:

6 1. The state treasurer in order to comply with the requirements of
7 section 42-5029, subsection A, paragraph 3.

8 2. The joint legislative income tax credit review committee, the joint
9 legislative budget committee staff and the legislative staff in order to
10 comply with the requirements of section 43-221.

11 J. The department may disclose the aggregate amounts of any tax
12 credit, tax deduction or tax exemption enacted after January 1, 1994.
13 Information subject to disclosure under this subsection shall not be
14 disclosed if a taxpayer demonstrates to the department that such information
15 would give an unfair advantage to competitors.

16 K. Except as provided in section 42-2002, subsection C, confidential
17 information, described in section 42-2001, paragraph 1, subdivision (a), item
18 (ii), may be disclosed to law enforcement agencies for law enforcement
19 purposes.

20 L. The department may provide transaction privilege tax license
21 information to property tax officials in a county for the purpose of
22 identification and verification of the tax status of commercial property.

23 M. The department may provide transaction privilege tax, luxury tax,
24 use tax, property tax and severance tax information to the ombudsman-citizens
25 aide pursuant to title 41, chapter 8, article 5.

26 N. Except as provided in section 42-2002, subsection D, a court may
27 order the department to disclose confidential information pertaining to a
28 party to an action. An order shall be made only ~~upon~~ ON a showing of good
29 cause and that the party seeking the information has made demand ~~upon~~ ON the
30 taxpayer for the information.

31 O. This section does not prohibit the disclosure by the department of
32 any information or documents submitted to the department by a bingo licensee.

1 Before disclosing the information the department shall obtain the name and
2 address of the person requesting the information.

3 P. If the department is required or permitted to disclose confidential
4 information, it may charge the person or agency requesting the information
5 for the reasonable cost of its services.

6 Q. Except as provided in section 42-2002, subsection D, the department
7 of revenue shall release confidential information as requested by the
8 department of economic security pursuant to section 42-1122 or 46-291.
9 Information disclosed under this subsection is limited to the same type of
10 information that the United States internal revenue service is authorized to
11 disclose under section 6103(1)(6) of the internal revenue code.

12 R. Except as provided in section 42-2002, subsection D, the department
13 of revenue shall release confidential information as requested by the courts
14 and clerks of the court pursuant to section 42-1122.

15 S. To comply with the requirements of section 42-5031, the department
16 may disclose to the state treasurer, to the county stadium district board of
17 directors and to any city or town tax official that is part of the county
18 stadium district confidential information attributable to a taxpayer's
19 business activity conducted in the county stadium district.

20 T. The department shall release to the attorney general confidential
21 information as requested by the attorney general for purposes of determining
22 compliance with or enforcing any of the following:

23 1. Any public health control law relating to tobacco sales as provided
24 under title 36, chapter 6, article 14.

25 2. Any law relating to reduced cigarette ignition propensity standards
26 as provided under title 41, chapter 16, article 3.1.

27 3. Sections 44-7101 and 44-7111, the master settlement agreement
28 referred to in those sections and all agreements regarding disputes under the
29 master settlement agreement.

30 U. For proceedings before the department, the office of administrative
31 hearings, the board of tax appeals or any state or federal court involving
32 penalties that were assessed against a return preparer, an electronic return

1 preparer or a payroll service company pursuant to section 42-1103.02,
2 42-1125.01 or 43-419, confidential information may be disclosed only before
3 the judge or administrative law judge adjudicating the proceeding, the
4 parties to the proceeding and the parties' representatives in the proceeding
5 prior to its introduction into evidence in the proceeding. The confidential
6 information may be introduced as evidence in the proceeding only if the
7 taxpayer's name, the names of any dependents listed on the return, all social
8 security numbers, the taxpayer's address, the taxpayer's signature and any
9 attachments containing any of the foregoing information are redacted and if
10 either:

11 1. The treatment of an item reflected on such return is or may be
12 related to the resolution of an issue in the proceeding.

13 2. Such A return or THE return information relates or may relate to a
14 transactional relationship between a person who is a party to the proceeding
15 and the taxpayer ~~which~~ THAT directly affects the resolution of an issue in
16 the proceeding.

17 3. The method of payment of the taxpayer's withholding tax liability
18 or the method of filing the taxpayer's withholding tax return is an issue for
19 the period.

20 V. The department and attorney general may share the information
21 specified in subsection T of this section with any of the following:

22 1. Federal, state or local agencies for the purposes of enforcement of
23 corresponding laws of other states.

24 2. A court, arbitrator, data clearinghouse or similar entity for the
25 purpose of assessing compliance with or making calculations required by the
26 master settlement agreement or agreements regarding disputes under the master
27 settlement agreement, and with counsel for the parties or expert witnesses in
28 any such proceeding, if the information otherwise remains confidential.

29 W. The department may provide the name and address of qualifying
30 hospitals and qualifying health care organizations, as defined in section
31 42-5001, to a business classified and reporting transaction privilege tax
32 under the utilities classification.

1 X. The department may disclose to an official of any city, town or
2 county in a current agreement or considering a prospective agreement with the
3 department as described in section 42-5032.02, subsection F any information
4 relating to amounts subject to distribution required by section 42-5032.02.
5 Information disclosed by the department under this subsection:

- 6 1. May only be used by the city, town or county for internal purposes.
- 7 2. May not be disclosed to the public in any manner that does not
8 comply with confidentiality standards established by the department. The
9 city, town or county must agree with the department in writing that any
10 release of confidential information that violates the confidentiality
11 standards will result in the immediate suspension of any rights of the city,
12 town or county to receive information under this subsection.

13 Y. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT
14 MAY NOT DISCLOSE INFORMATION PROVIDED BY AN ONLINE LODGING MARKETPLACE, AS
15 DEFINED IN SECTION 42-5001, WITHOUT THE WRITTEN CONSENT OF THE ONLINE LODGING
16 MARKETPLACE, AND THE INFORMATION MAY BE DISCLOSED ONLY PURSUANT TO SUBSECTION
17 A, PARAGRAPHS 1 THROUGH 6, SUBSECTION B, PARAGRAPHS 1, 2, 7 AND 8 AND
18 SUBSECTIONS C AND D OF THIS SECTION. SUCH INFORMATION:

- 19 1. IS NOT SUBJECT TO DISCLOSURE PURSUANT TO TITLE 39, RELATING TO
20 PUBLIC RECORDS.
- 21 2. MAY NOT BE DISCLOSED TO ANY AGENCY OF THIS STATE OR OF ANY COUNTY,
22 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

23 Sec. 3. Section 42-5001, Arizona Revised Statutes, is amended to read:

24 42-5001. Definitions

25 In this article and article 2 of this chapter, unless the context
26 otherwise requires:

27 1. "Business" includes all activities or acts, personal or corporate,
28 engaged in or caused to be engaged in with the object of gain, benefit or
29 advantage, either directly or indirectly, but does not include either:

30 (a) Casual activities or sales.

31 (b) The transfer of electricity from a solar photovoltaic generation
32 system to an electric utility distribution system.

1 2. "Distribution base" means the portion of the revenues derived from
2 the tax levied by this article and articles 5 and 8 of this chapter
3 designated for distribution to counties, municipalities and other purposes
4 according to section 42-5029, subsection D.

5 3. "Engaging", when used with reference to engaging or continuing in
6 business, includes the exercise of corporate or franchise powers.

7 4. "Gross income" means the gross receipts of a taxpayer derived from
8 trade, business, commerce or sales and the value proceeding or accruing from
9 the sale of tangible personal property or service, or both, and without any
10 deduction on account of losses.

11 5. "Gross proceeds of sales" means the value proceeding or accruing
12 from the sale of tangible personal property without any deduction on account
13 of the cost of property sold, expense of any kind or losses, but cash
14 discounts allowed and taken on sales are not included as gross income.

15 6. "Gross income" and "gross proceeds of sales" do not include goods,
16 wares or merchandise, or value thereof, returned by customers if the sale
17 price is refunded either in cash or by credit, nor the value of merchandise
18 traded in on the purchase of new merchandise when the trade-in allowance is
19 deducted from the sales price of the new merchandise before completion of the
20 sale.

21 7. "Gross receipts" means the total amount of the sale, lease or
22 rental price, as the case may be, of the retail sales of retailers, including
23 any services that are a part of the sales, valued in money, whether received
24 in money or otherwise, including all receipts, cash, credits and property of
25 every kind or nature, and any amount for which credit is allowed by the
26 seller to the purchaser without any deduction from the amount on account of
27 the cost of the property sold, materials used, labor or service performed,
28 interest paid, losses or any other expense. Gross receipts do not include
29 cash discounts allowed and taken nor the sale price of property returned by
30 customers if the full sale price is refunded either in cash or by credit.

31 8. "ONLINE LODGING MARKETPLACE" MEANS A PERSON THAT PROVIDES A DIGITAL
32 PLATFORM FOR COMPENSATION THROUGH WHICH A THIRD PARTY OFFERS TO RENT LODGING

1 ACCOMMODATIONS TO AN OCCUPANT, INCLUDING A TRANSIENT AS DEFINED IN SECTION
2 42-5070.

3 9. "ONLINE LODGING OPERATOR" MEANS A PERSON THAT IS ENGAGED IN THE
4 BUSINESS OF RENTING TO AN OCCUPANT, INCLUDING A TRANSIENT AS DEFINED IN
5 SECTION 42-5070, ANY LODGING ACCOMMODATION OFFERED THROUGH AN ONLINE LODGING
6 MARKETPLACE.

7 10. "ONLINE LODGING TRANSACTION" MEANS A TRANSACTION IN WHICH THERE IS
8 A CHARGE TO AN OCCUPANT, INCLUDING A TRANSIENT AS DEFINED IN SECTION 42-5070,
9 BY AN ONLINE LODGING OPERATOR FOR THE OCCUPANCY OF ANY LODGING ACCOMMODATION.

10 ~~8.~~ 11. "Person" or "company" includes an individual, firm,
11 partnership, joint venture, association, corporation, estate or trust, this
12 state, any county, city, town, district, other than a school district, or
13 other political subdivision and any other group or combination acting as a
14 unit, and the plural as well as the singular number.

15 ~~9.~~ 12. "Qualifying community health center":

16 (a) Means an entity that is recognized as nonprofit under section
17 501(c)(3) of the United States internal revenue code, that is a
18 community-based, primary care clinic that has a community-based board of
19 directors and that is either:

20 (i) The sole provider of primary care in the community.

21 (ii) A nonhospital affiliated clinic that is located in a federally
22 designated medically underserved area in this state.

23 (b) Includes clinics that are being constructed as qualifying
24 community health centers.

25 ~~10.~~ 13. "Qualifying health care organization" means an entity that is
26 recognized as nonprofit under section 501(c) of the United States internal
27 revenue code and that uses, saves or invests at least eighty per cent of all
28 monies that it receives from all sources each year only for health and
29 medical related educational and charitable services, as documented by annual
30 financial audits prepared by an independent certified public accountant,
31 performed according to generally accepted auditing standards and filed
32 annually with the department. Monies that are used, saved or invested to

1 lease, purchase or construct a facility for health and medical related
2 education and charitable services are included in the eighty per cent
3 requirement.

4 ~~11-~~ 14. "Qualifying health sciences educational institution" means an
5 entity that is recognized as nonprofit under section 501(c) of the United
6 States internal revenue code and that solely provides graduate and
7 postgraduate education in the health sciences. For the purposes of this
8 paragraph, "health sciences" includes medicine, nursing, physician's
9 assistant studies, pharmacy, physical therapy, occupational therapy,
10 biomedical sciences, podiatry, clinical psychology, cardiovascular science,
11 nurse anesthesia, dentistry, optometry and veterinary medicine.

12 ~~12-~~ 15. "Qualifying hospital" means any of the following:

13 (a) A licensed hospital ~~which~~ THAT is organized and operated
14 exclusively for charitable purposes, no part of the net earnings of which
15 inures to the benefit of any private shareholder or individual.

16 (b) A licensed nursing care institution or a licensed residential care
17 institution or a residential care facility operated in conjunction with a
18 licensed nursing care institution or a licensed kidney dialysis center, which
19 provides medical services, nursing services or health related services and is
20 not used or held for profit.

21 (c) A hospital, nursing care institution or residential care
22 institution ~~which~~ THAT is operated by the federal government, this state or a
23 political subdivision of this state.

24 (d) A facility that is under construction and that on completion will
25 be a facility under subdivision (a), (b) or (c) of this paragraph.

26 ~~13-~~ 16. "Retailer" includes every person engaged in the business
27 classified under the retail classification pursuant to section 42-5061 and,
28 when in the opinion of the department it is necessary for the efficient
29 administration of this article, includes dealers, distributors, supervisors,
30 employers and salesmen, representatives, peddlers or canvassers as the agents
31 of the dealers, distributors, supervisors or employers under whom they
32 operate or from whom they obtain the tangible personal property sold by them,

1 whether in making sales on their own behalf or on behalf of the dealers,
2 distributors, supervisors or employers.

3 ~~14.~~ 17. "Sale" means any transfer of title or possession, or both,
4 exchange, barter, lease or rental, conditional or otherwise, in any manner or
5 by any means whatever, including consignment transactions and auctions, of
6 tangible personal property or other activities taxable under this chapter,
7 for a consideration, and includes:

8 (a) Any transaction by which the possession of property is transferred
9 but the seller retains the title as security for the payment of the price.

10 (b) Fabricating tangible personal property for consumers who furnish
11 either directly or indirectly the materials used in the fabrication work.

12 (c) Furnishing, preparing or serving for a consideration any tangible
13 personal property consumed on the premises of the person furnishing,
14 preparing or serving the tangible personal property.

15 ~~15.~~ 18. "Solar daylighting" means a device that is specifically
16 designed to capture and redirect the visible portion of the solar beam, while
17 controlling the infrared portion, for use in illuminating interior building
18 spaces in lieu of artificial lighting.

19 ~~16.~~ 19. "Solar energy device" means a system or series of mechanisms
20 designed primarily to provide heating, to provide cooling, to produce
21 electrical power, to produce mechanical power, to provide solar daylighting
22 or to provide any combination of the foregoing by means of collecting and
23 transferring solar generated energy into such uses either by active or
24 passive means, including wind generator systems that produce electricity.
25 Solar energy systems may also have the capability of storing solar energy for
26 future use. Passive systems shall clearly be designed as a solar energy
27 device, such as a trombe wall, and not merely as a part of a normal
28 structure, such as a window.

29 ~~17.~~ 20. "Tangible personal property" means personal property ~~which~~
30 **THAT** may be seen, weighed, measured, felt or touched or ~~THAT~~ is in any other
31 manner perceptible to the senses.

1 ~~18.~~ 21. "Tax year" or "taxable year" means either the calendar year or
2 the taxpayer's fiscal year, if permission is obtained from the department to
3 use a fiscal year as the tax period instead of the calendar year.

4 ~~19.~~ 22. "Taxpayer" means any person who is liable for any tax ~~which~~
5 THAT is imposed by this article.

6 ~~20.~~ 23. "Wholesaler" or "jobber" means any person who sells tangible
7 personal property for resale and not for consumption by the purchaser.

8 Sec. 4. Section 42-5005, Arizona Revised Statutes, is amended to read:

9 ~~42-5005.~~ Transaction privilege tax and municipal privilege tax
10 licenses; fees; renewal; revocation; violation;
11 classification

12 A. EXCEPT AS PROVIDED BY SUBSECTION L OF THIS SECTION, every person
13 who receives gross proceeds of sales or gross income on which a transaction
14 privilege tax is imposed by this article and who desires to engage or
15 continue in business shall apply to the department for an annual transaction
16 privilege tax license accompanied by a fee of twelve dollars. A person shall
17 not engage or continue in business until the person has obtained a
18 transaction privilege tax license.

19 B. EXCEPT AS PROVIDED BY SUBSECTION L OF THIS SECTION, a person
20 desiring to engage or continue in business within a city or town that imposes
21 a municipal privilege tax shall apply to the department of revenue for an
22 annual municipal privilege tax license accompanied by a fee of up to fifty
23 dollars, as established by ordinance of the city or town. The person shall
24 submit the fee with each new license application. The person may not engage
25 or continue in business until the person has obtained a municipal privilege
26 tax license. The department must collect, hold, pay and manage the fees in
27 trust for the city or town and may not use the monies for any other purposes.

28 C. A transaction privilege tax license is valid only for the calendar
29 year in which it is issued, but it may be renewed for the following calendar
30 year. There is no fee for the renewal of the transaction privilege tax
31 license. The transaction privilege tax license must be renewed at the same
32 time and in the manner as the municipal privilege tax license renewal.

1 D. A municipal privilege tax license is valid only for the calendar
2 year in which it is issued, but it may be renewed for the following calendar
3 year by the payment of a license renewal fee of up to fifty dollars. The
4 renewal fee is due and payable on January 1 and is considered delinquent if
5 not received on or before the last business day of January. The department
6 must collect, hold, pay and manage the fees in trust for the city or town and
7 may not use the monies for any other purposes.

8 E. A licensee that remains in business after the municipal privilege
9 tax license has expired is subject to the payment of the license renewal fee
10 and the civil penalty prescribed in section 42-1125, subsection R.

11 F. If the applicant is not in arrears in payment of any tax imposed by
12 this article, the department shall issue a license authorizing the applicant
13 to engage and continue in business on the condition that the applicant
14 complies with this article. The license number shall be continuous.

15 G. The transaction privilege tax license and the municipal privilege
16 tax license are not transferable on a complete change of ownership or change
17 of location of the business. For the purposes of this subsection:

18 1. "Location" means the business address appearing in the application
19 for the license and on the transaction privilege tax or municipal privilege
20 tax license.

21 2. "Ownership" means any right, title or interest in the business.

22 3. "Transferable" means the ability to convey or change the right or
23 privilege to engage or continue in business by virtue of the issuance of the
24 transaction privilege tax or municipal privilege tax license.

25 H. When the ownership or location of a business on which a transaction
26 privilege tax or municipal privilege tax is imposed has been changed within
27 the meaning of subsection G of this section, the licensee shall surrender the
28 license to the department. The license shall be reissued to the new owners
29 or for the new location on application by the taxpayer and payment of the
30 twelve-dollar fee for a transaction privilege tax license and a fee of up to
31 fifty dollars per jurisdiction for a municipal privilege tax license. The

1 department must collect, hold, pay and manage the fees in trust for the city
2 or town and may not use the monies for any other purposes.

3 I. A person who is engaged in or conducting a business in two or more
4 locations or under two or more business names shall procure a transaction
5 privilege tax license for each location or business name regardless of
6 whether all locations or business names are reported on a consolidated return
7 under a single transaction privilege tax license number. This requirement
8 shall not be construed as conflicting with section 42-5020.

9 J. A person who is engaged in or conducting a business in two or more
10 locations or under two or more business names shall procure a municipal
11 privilege tax license for each location or business name regardless of
12 whether all locations or business names are reported on a consolidated
13 return.

14 K. A person who is engaged in or conducting business at two or more
15 locations or under two or more business names and who files a consolidated
16 return under a single transaction privilege tax license number as provided by
17 section 42-5020 is required to pay only a single municipal privilege tax
18 license renewal fee for each local jurisdiction pursuant to subsection D of
19 this section. A person who is engaged in or conducting business at two or
20 more locations or under two or more business names and who does not file a
21 consolidated return under a single license number is required to pay a
22 license renewal fee for each location or license in a local jurisdiction.

23 L. FOR THE PURPOSES OF THIS CHAPTER AND CHAPTER 6 OF THIS TITLE, AN
24 ONLINE LODGING MARKETPLACE MAY REGISTER WITH THE DEPARTMENT FOR THE PAYMENT
25 OF TAXES LEVIED BY THIS STATE AND BY ANY COUNTY, CITY, TOWN AND SPECIAL
26 TAXING DISTRICT WITH RESPECT TO ANY ONLINE LODGING TRANSACTION FACILITATED BY
27 THE ONLINE LODGING MARKETPLACE. REGISTRATION UNDER THIS SUBSECTION IS IN
28 LIEU OF ANY REQUIREMENT FOR LICENSING THE ONLINE LODGING MARKETPLACE UNDER
29 SUBSECTION A OR B OF THIS SECTION.

30 ~~L.~~ M. If a person violates this article or any rule adopted under
31 this article, the department upon hearing may revoke any transaction
32 privilege tax or municipal privilege tax license issued to the person. The

1 department shall provide ten days' written notice of the hearing, stating the
2 time and place and requiring the person to appear and show cause why the
3 license or licenses should not be revoked. The department shall provide
4 written notice to the person of the revocation of the license. The notices
5 may be served personally or by mail pursuant to section 42-5037. After
6 revocation, the department shall not issue a new license to the person unless
7 the person presents evidence satisfactory to the department that the person
8 will comply with this article and with the rules adopted under this article.
9 The department may prescribe the terms under which a revoked license may be
10 reissued.

11 ~~M.~~ N. A person who violates any provision of this section is guilty
12 of a class 3 misdemeanor.

13 Sec. 5. Section 42-5014, Arizona Revised Statutes, is amended to read:

14 42-5014. Return and payment of tax; estimated tax; extensions;
15 abatements

16 A. Except as provided in subsection B, C, ~~or~~ D OR E of this section,
17 the taxes levied under this article:

18 1. Are due and payable monthly in the form required by section 42-5018
19 for the amount of the tax, to the department, on or before the twentieth day
20 of the month next succeeding the month in which the tax accrues.

21 2. Are delinquent as follows:

22 (a) For taxpayers that are required or elect to file and pay
23 electronically in any month, if not received by the department on or before
24 the last business day of the month.

25 (b) For all other taxpayers, if not received by the department on or
26 before the business day preceding the last business day of the month.

27 B. The department, for any taxpayer whose estimated annual liability
28 for taxes imposed or administered by this article or chapter 6 of this title
29 is between two thousand dollars and eight thousand dollars, shall authorize
30 such taxpayer to pay such taxes on a quarterly basis. The department, for
31 any taxpayer whose estimated annual liability for taxes imposed by this
32 article is less than two thousand dollars, shall authorize such taxpayer to

1 pay such taxes on an annual basis. For the purposes of this subsection, the
2 taxes due under this article:

3 1. For taxpayers that are authorized to pay on a quarterly basis, are
4 due and payable monthly in the form required by section 42-5018 for the
5 amount of the tax, to the department, on or before the twentieth day of the
6 month next succeeding the quarter in which the tax accrues.

7 2. For taxpayers that are authorized to pay on an annual basis, are
8 due and payable monthly in the form required by section 42-5018 for the
9 amount of the tax, to the department, on or before the twentieth day of
10 January next succeeding the year in which the tax accrues.

11 3. Are delinquent as follows:

12 (a) For taxpayers that are required or elect to file and pay
13 electronically in any quarter, if not received by the department on or before
14 the last business day of the month.

15 (b) For all other taxpayers that are required to file and pay
16 quarterly, if not received by the department on or before the business day
17 preceding the last business day of the month.

18 (c) For taxpayers that are required or elect to file and pay
19 electronically on an annual basis, if not received by the department on or
20 before the last business day of January.

21 (d) For all other taxpayers that are required to file and pay
22 annually, if not received by the department on or before the business day
23 preceding the last business day of January.

24 C. The department may require a taxpayer whose business is of a
25 transient character to file the return and remit the taxes imposed by this
26 article on a daily, a weekly or a transaction by transaction basis, and those
27 returns and payments are due and payable on the date fixed by the department
28 without a grace period otherwise allowed by this section. For the purposes
29 of this subsection, "business of a transient character" means sales activity
30 by a taxpayer not regularly engaged in selling within the state conducted
31 from vehicles, portable stands, rented spaces, structures or booths, or

1 concessions at fairs, carnivals, circuses, festivals or similar activities
2 for not more than thirty consecutive days.

3 D. If the business entity under which a taxpayer reports and pays
4 income tax under title 43 has an annual total tax liability under this
5 article, article 6 of this chapter and chapter 6, article 3 of this title of
6 one million dollars or more, based on the actual tax liability in the
7 preceding calendar year, regardless of the number of offices at which the
8 taxes imposed by this article, article 6 of this chapter or chapter 6,
9 article 3 of this title are collected, or if the taxpayer can reasonably
10 anticipate such liability in the current year, the taxpayer shall report on a
11 form prescribed by the department and pay an estimated tax payment each June.
12 Any other taxpayer may voluntarily elect to pay the estimated tax payment
13 pursuant to this subsection. The payment shall be made on or before June 20
14 and is delinquent if not received by the department on or before the business
15 day preceding the last business day of June for those taxpayers electing to
16 file by mail, or delinquent if not received by the department on the business
17 day preceding the last business day of June for those taxpayers electing to
18 file in person. The estimated tax paid shall be credited against the
19 taxpayer's tax liability under this article, article 6 of this chapter and
20 chapter 6, article 3 of this title for the month of June for the current
21 calendar year. The estimated tax payment shall equal either:

22 1. One-half of the actual tax liability under this article plus
23 one-half of any tax liability under article 6 of this chapter and chapter 6,
24 article 3 of this title for May of the current calendar year.

25 2. The actual tax liability under this article plus any tax liability
26 under article 6 of this chapter and chapter 6, article 3 of this title for
27 the first fifteen days of June of the current calendar year.

28 E. AN ONLINE LODGING MARKETPLACE THAT IS REGISTERED WITH THE
29 DEPARTMENT PURSUANT TO SECTION 42-5005, SUBSECTION L:

30 1. SHALL REMIT TO THE DEPARTMENT THE APPLICABLE TAXES PAYABLE PURSUANT
31 TO THIS CHAPTER AND CHAPTER 6 OF THIS TITLE WITH RESPECT TO EACH ONLINE
32 LODGING TRANSACTION FACILITATED BY THE ONLINE LODGING MARKETPLACE.

1 2. SHALL REPORT THE TAXES MONTHLY AND REMIT THE AGGREGATE TOTAL
2 AMOUNTS FOR ALL OF THE RESPECTIVE TAXING JURISDICTIONS.

3 3. IS NOT REQUIRED TO LIST OR OTHERWISE IDENTIFY ANY INDIVIDUAL ONLINE
4 LODGING OPERATOR ON ANY RETURN OR ANY ATTACHMENT TO A RETURN.

5 4. SHALL REMIT THE TAX IMPOSED PURSUANT TO THE COMMERCIAL LEASE
6 CLASSIFICATION UNDER SECTION 42-5069 FOR EACH ONLINE LODGING TRANSACTION THAT
7 INVOLVES A LEASE OR RENTAL FOR CONSIDERATION OF THE RIGHT TO USE OR OCCUPY
8 REAL PROPERTY FOR THIRTY OR MORE CONSECUTIVE DAYS, NOTWITHSTANDING THE
9 EXCLUSION UNDER SECTION 42-5069, SUBSECTION C, PARAGRAPH 18.

10 5. SHALL REMIT THE TAX IMPOSED PURSUANT TO THE TRANSIENT LODGING
11 CLASSIFICATION UNDER SECTION 42-5070 FOR EACH ONLINE LODGING TRANSACTION THAT
12 INVOLVES A LEASE OR RENTAL OF TRANSIENT LODGING, NOTWITHSTANDING THE
13 EXCLUSION UNDER SECTION 42-5070, SUBSECTION B, PARAGRAPH 4.

14 ~~E.~~ F. The taxpayer shall prepare a return showing the amount of the
15 tax for which the taxpayer is liable for the preceding month, and shall mail
16 or deliver the return to the department in the same manner and time as
17 prescribed for the payment of taxes in subsection A of this section. If the
18 taxpayer fails to file the return in the manner and time as prescribed for
19 the payment of taxes in subsection A of this section, the amount of the tax
20 required to be shown on the return is subject to the penalty imposed pursuant
21 to section 42-1125, subsection A, without any reduction for taxes paid on or
22 before the due date of the return. The return shall be verified by the oath
23 of the taxpayer or an authorized agent or as prescribed by the department
24 pursuant to section 42-1105, subsection B.

25 ~~F.~~ G. Any person who is taxable under this article and who makes cash
26 and credit sales shall report such cash and credit sales separately and on
27 making application may obtain from the department an extension of time for
28 payment of taxes due on the credit sales. The extension shall be granted by
29 the department under such rules as the department prescribes. When the
30 extension is granted, the taxpayer shall thereafter include in each monthly
31 report all collections made on such credit sales during the month next
32 preceding and shall pay the taxes due at the time of filing such report.

1 ~~G.~~ H. The returns required under this article shall be made on forms
2 prescribed by the department and shall capture data with sufficient
3 specificity to meet the needs of all taxing jurisdictions.

4 ~~H.~~ I. Any person who is engaged in or conducting business in two or
5 more locations or under two or more business names shall file the return
6 required under this article by electronic means.

7 ~~I.~~ J. The department, for good cause, may extend the time for making
8 any return required by this article and may grant such reasonable additional
9 time within which to make the return as it deems proper, but the time for
10 filing the return shall not be extended beyond the first day of the third
11 month next succeeding the regular due date of the return.

12 ~~J.~~ K. The department, with the approval of the attorney general, may
13 abate small tax balances if the administration costs exceed the amount of tax
14 due.

15 ~~K.~~ L. For the purposes of subsection D of this section, "taxpayer"
16 means the business entity under which the business reports and pays state
17 income taxes regardless of the number of offices at which the taxes imposed
18 by this article, article 6 of this chapter or chapter 6, article 3 of this
19 title are collected.

20 Sec. 6. Section 42-5069, Arizona Revised Statutes, is amended to read:

21 42-5069. Commercial lease classification; definitions

22 A. The commercial lease classification is comprised of the business of
23 leasing for a consideration the use or occupancy of real property.

24 B. A person who, as a lessor, leases or rents for a consideration
25 under one or more leases or rental agreements the use or occupancy of real
26 property that is used by the lessee for commercial purposes is deemed to be
27 engaged in business and subject to the tax imposed by article 1 of this
28 chapter, but this subsection does not include leases or rentals of real
29 property used for residential or agricultural purposes.

30 C. The commercial lease classification does not include:

31 1. Any business activities that are classified under the transient
32 lodging classification.

1 2. Activities engaged in by the Arizona exposition and state fair
2 board or county fair commissions in connection with events sponsored by those
3 entities.

4 3. Leasing real property to a lessee who subleases the property if the
5 lessee is engaged in business classified under the commercial lease
6 classification or the transient lodging classification.

7 4. Leasing real property pursuant to a written lease agreement entered
8 into before December 1, 1967. This exclusion does not apply to the
9 businesses of hotels, guest houses, dude ranches and resorts, rooming houses,
10 apartment houses, office buildings, automobile storage garages, parking lots
11 or tourist camps, or to the extension or renewal of any such written lease
12 agreement.

13 5. Leasing real property between affiliated companies, businesses,
14 persons or reciprocal insurers. For the purposes of this paragraph:

15 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
16 means the lessor holds a controlling interest in the lessee, the lessee holds
17 a controlling interest in the lessor, affiliated persons hold a controlling
18 interest in both the lessor and the lessee, or an unrelated person holds a
19 controlling interest in both the lessor and lessee.

20 (b) "Affiliated persons" means members of an individual's family or
21 persons who have ownership or control of a business entity.

22 (c) "Controlling interest" means direct or indirect ownership of at
23 least eighty percent of the voting shares of a corporation or of the
24 interests in a company, business or person other than a corporation.

25 (d) "Members of an individual's family" means the individual's spouse
26 and brothers and sisters, whether by whole or half blood, including adopted
27 persons, ancestors and lineal descendants.

28 (e) "Reciprocal insurers" has the same meaning prescribed in section
29 20-762.

30 6. Leasing real property for boarding horses.

31 7. Leasing or renting real property or the right to use real property
32 at exhibition events in this state sponsored, operated or conducted by a

1 nonprofit organization that is exempt from taxation under section 501(c)(3),
2 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is
3 associated with major league baseball teams or a national touring
4 professional golfing association and no part of the organization's net
5 earnings inures to the benefit of any private shareholder or individual.

6 8. Leasing or renting real property or the right to use real property
7 for use as a rodeo featuring primarily farm and ranch animals in this state
8 sponsored, operated or conducted by a nonprofit organization that is exempt
9 from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or
10 501(c)(8) of the internal revenue code and no part of the organization's net
11 earnings inures to the benefit of any private shareholder or individual.

12 9. Leasing or renting dwelling units, lodging facilities or trailer or
13 mobile home spaces if the units, facilities or spaces are intended to serve
14 as the principal or permanent place of residence for the lessee or renter or
15 if the unit, facility or space is leased or rented to a single tenant thirty
16 or more consecutive days.

17 10. Leasing or renting real property and improvements for use
18 primarily for religious worship by a nonprofit organization that is exempt
19 from taxation under section 501(c)(3) of the internal revenue code and no
20 part of the organization's net earnings inures to the benefit of any private
21 shareholder or individual.

22 11. Leasing or renting real property used for agricultural purposes
23 under either of the following circumstances:

24 (a) The lease or rental is between family members, trusts, estates,
25 corporations, partnerships, joint venturers or similar entities, or any
26 combination thereof, if the individuals or at least eighty percent of the
27 beneficiaries, shareholders, partners or joint venturers share a family
28 relationship as parents or ancestors of parents, children or descendants of
29 children, siblings, cousins of the first degree, aunts, uncles, nieces or
30 nephews of the first degree, spouses of any of the listed relatives and
31 listed relatives by the half-blood or by adoption.

1 (b) The lessor leases or rents real property used for agricultural
2 purposes under no more than three leases or rental agreements.

3 12. Leasing, renting or granting the right to use real property to
4 vendors or exhibitors by a trade or industry association that is a qualifying
5 organization pursuant to section 513(d)(3)(C) of the internal revenue code
6 for a period not to exceed twenty-one days in connection with an event that
7 meets all of the following conditions:

8 (a) The majority of such vending or exhibition activities relate to
9 the nature of the trade or business sponsoring the event.

10 (b) The event is held in conjunction with a formal business meeting of
11 the trade or industry association.

12 (c) The event is organized by the persons engaged in the particular
13 trade or industry.

14 13. Leasing, renting or granting the right to use real property for a
15 period not to exceed twenty-one days by a coliseum, civic center, civic
16 plaza, convention center, auditorium or arena owned by this state or any of
17 its political subdivisions.

18 14. Leasing or subleasing real property used by a nursing care
19 institution as defined in section 36-401 that is licensed pursuant to title
20 36, chapter 4.

21 15. Leasing or renting an eligible facility as defined in section
22 28-7701.

23 16. Granting or providing rights to real property that constitute a
24 profit à prendre for the severance of minerals, including all rights to use
25 the surface or subsurface of the property as is necessary or convenient to
26 the right to sever the minerals. This paragraph does not exclude from the
27 commercial lease classification leasehold rights to the real property that
28 are granted in addition to and not included within the right of profit à
29 prendre, but the tax base for the grant of such a leasehold right, if the
30 gross income derived from the grant is not separately stated from the gross
31 income derived from the grant of the profit à prendre, shall not exceed the
32 fair market value of the leasehold rights computed after excluding the value

1 of all rights under the profit à prendre. For the purposes of this
2 paragraph, "profit à prendre" means a right to use the land of another to
3 mine minerals, and carries with it the right of entry and the right to remove
4 and take the minerals from the land and also includes the right to use the
5 surface of the land as is necessary and convenient for exercise of the
6 profit.

7 17. The leasing or renting of space to make attachments to utility
8 poles as follows:

9 (a) By a person that is engaged in business under section 42-5063 or
10 42-5064 or that is a cable operator.

11 (b) To a person that is engaged in business under section 42-5063 or
12 42-5064 or that is a cable operator.

13 18. THE ACTIVITIES OF ANY ONLINE LODGING MARKETPLACE.

14 D. The tax base for the commercial lease classification is the gross
15 proceeds of sales or gross income derived from the business, but THE
16 FOLLOWING SHALL BE DEDUCTED FROM THE TAX BASE:

17 1. Reimbursements to the lessor for utility service ~~shall be deducted~~
18 ~~from the tax base.~~

19 2. THE GROSS PROCEEDS OR GROSS INCOME RECEIVED BY AN ONLINE LODGING
20 OPERATOR FROM ANY ONLINE LODGING TRANSACTION OR TRANSACTIONS FOR WHICH THE
21 ONLINE LODGING OPERATOR HAS RECEIVED WRITTEN NOTICE OR DOCUMENTATION FROM A
22 REGISTERED ONLINE LODGING MARKETPLACE THAT IT HAS OR WILL REMIT THE
23 APPLICABLE TAX WITH RESPECT TO THOSE TRANSACTIONS TO THE DEPARTMENT PURSUANT
24 TO SECTION 42-5014, SUBSECTION E.

25 E. Notwithstanding section 42-1104, subsection B, paragraph 1,
26 subdivision (b) and paragraph 2, the failure to file tax returns for the
27 commercial lease classification that report gross income derived from any
28 agreement that constitutes, in whole or in part, a grant of a right of profit
29 à prendre for the severance of minerals does not constitute an exception to
30 the general rule for the statute of limitations.

1 F. For the purposes of this section:

2 1. "Cable operator" has the same meaning prescribed by section 9-505.

3 2. "Leasing" includes renting.

4 3. "Real property" includes any improvements, rights or interest in
5 such property.

6 4. "Utility pole" means any wooden, metal or other pole used for
7 utility purposes and the pole's appurtenances that are attached or authorized
8 for attachment by the person controlling the pole.

9 Sec. 7. Section 42-5070, Arizona Revised Statutes, is amended to read:

10 42-5070. [Transient lodging classification: definition](#)

11 A. The transient lodging classification is comprised of the business
12 of operating, for occupancy by transients, a hotel or motel, including an
13 inn, tourist home or house, dude ranch, resort, campground, studio or
14 bachelor hotel, lodging house, rooming house, apartment house, dormitory,
15 public or private club, mobile home or house trailer at a fixed location or
16 other similar structure, and also including a space, lot or slab that is
17 occupied or intended or designed for occupancy by transients in a mobile home
18 or house trailer furnished by them for such occupancy.

19 B. The transient lodging classification does not include:

20 1. Operating a convalescent home or facility, home for the aged,
21 hospital, jail, military installation or fraternity or sorority house or
22 operating any structure exclusively by an association, institution,
23 governmental agency or corporation for religious, charitable or educational
24 purposes, if no part of the net earnings of the association, corporation or
25 other entity inures to the benefit of any private shareholder or individual.

26 2. A lease or rental of a mobile home or house trailer at a fixed
27 location or any other similar structure, and also including a space, lot or
28 slab that is occupied or intended or designed for occupancy by transients in
29 a mobile home or house trailer furnished by them for such occupancy for
30 thirty or more consecutive days.

31 3. Leasing or renting four or fewer rooms of an owner-occupied
32 residential home, together with furnishing no more than a breakfast meal, to

1 transient lodgers at no more than a fifty ~~per cent~~ PERCENT average annual
2 occupancy rate.

3 4. THE ACTIVITIES OF ANY ONLINE LODGING MARKETPLACE.

4 C. The tax base for the transient lodging classification is the gross
5 proceeds of sales or gross income derived from the business, ~~except that the~~
6 ~~tax base does not include~~ BUT THE FOLLOWING SHALL BE DEDUCTED FROM THE TAX
7 BASE:

8 1. THE gross proceeds of sales or gross income derived from business
9 activity that is properly included in another business classification under
10 this article and that is taxable to the person engaged in that business
11 classification, but the gross proceeds of sales or gross income to be
12 deducted shall not exceed the consideration paid to the person conducting the
13 activity.

14 2. THE GROSS PROCEEDS OR GROSS INCOME RECEIVED BY AN ONLINE LODGING
15 OPERATOR FROM ANY ONLINE LODGING TRANSACTION OR TRANSACTIONS FOR WHICH THE
16 ONLINE LODGING OPERATOR HAS RECEIVED WRITTEN NOTICE OR DOCUMENTATION FROM A
17 REGISTERED ONLINE LODGING MARKETPLACE THAT IT HAS OR WILL REMIT THE
18 APPLICABLE TAX WITH RESPECT TO THOSE TRANSACTIONS TO THE DEPARTMENT PURSUANT
19 TO SECTION 42-5014, SUBSECTION E.

20 D. For the purposes of this section, the tax base for the transient
21 lodging classification does not include gross proceeds of sales or gross
22 income derived from:

23 1. Transactions or activities that are not limited to transients and
24 that would not be taxable if engaged in by a person not subject to tax under
25 this article.

26 2. Transactions or activities that are not limited to transients and
27 that would not be taxable if engaged in by a person subject to taxation under
28 section 42-5062 or 42-5073 due to an exclusion, exemption or deduction.

29 3. Commissions paid to a person that is engaged in transient lodging
30 business subject to taxation under this section by a person providing
31 services or property to the customers of the person engaging in the transient
32 lodging business.

1 E. The department shall separately account for revenues collected
2 under the transient lodging classification for the purposes of section
3 42-5029, subsection D, paragraph 4, subdivision (b).

4 F. For the purposes of this section, "transient" means any person who
5 either at the person's own expense or at the expense of another obtains
6 lodging space or the use of lodging space on a daily or weekly basis, or on
7 any other basis for less than thirty consecutive days.

8 Sec. 8. Title 42, chapter 6, article 1, Arizona Revised Statutes, is
9 amended by adding section 42-6009, to read:

10 42-6009. Online lodging: definitions

11 A. EXCEPT AS PROVIDED BY THIS SECTION, A CITY, TOWN OR OTHER TAXING
12 JURISDICTION MAY NOT LEVY A TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE OR
13 OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED, ON THE BUSINESS OF OPERATING
14 AN ONLINE LODGING MARKETPLACE OR AN ONLINE LODGING OPERATOR OR ON ANY ONLINE
15 LODGING TRANSACTION.

16 B. A CITY, TOWN OR OTHER TAXING JURISDICTION MAY LEVY A TRANSACTION
17 PRIVILEGE, SALES, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE AS PROVIDED BY
18 THE MODEL CITY TAX CODE ON ONLINE LODGING OPERATORS SUBJECT TO THE FOLLOWING
19 CONDITIONS:

20 1. THE ADOPTED TAX MUST BE CONSISTENT WITH THE TREATMENT OF ONLINE
21 LODGING OPERATORS AND ONLINE LODGING TRANSACTIONS PROVIDED BY CHAPTER 5 OF
22 THIS TITLE.

23 2. THE ADOPTED TAX SHALL BE ADMINISTERED, COLLECTED AND ENFORCED BY
24 THE DEPARTMENT AND REMITTED TO THE CITY, TOWN OR OTHER TAXING JURISDICTION IN
25 A UNIFORM MANNER.

26 3. THE ADOPTED TAX MUST BE UNIFORM ON ONLINE LODGING OPERATORS AND
27 OTHER TAXPAYERS OF THE SAME CLASS WITHIN THE JURISDICTIONAL BOUNDARIES OF THE
28 CITY, TOWN OR OTHER TAXING JURISDICTION.

29 4. ANY ADOPTED TAX IS SUBJECT TO:

30 (a) SECTION 42-1108, SUBSECTION F, RELATING TO AUDITS.

31 (b) SECTION 42-2003, SUBSECTION Y, RELATING TO CONFIDENTIAL
32 INFORMATION.

1 (c) SECTION 42-5003, SUBSECTION B, RELATING TO JUDICIAL ENFORCEMENT.

2 (d) SECTION 42-5005, SUBSECTION L, RELATING TO REGISTRATION OF ONLINE
3 LODGING MARKETPLACES.

4 (e) SECTION 42-5014, SUBSECTION E, RELATING TO TAX RETURNS.

5 5. THE TAX MAY NOT BE COLLECTED FROM AN ONLINE LODGING OPERATOR WITH
6 RESPECT TO ANY ONLINE LODGING TRANSACTION OR TRANSACTIONS FOR WHICH THE
7 ONLINE LODGING OPERATOR HAS RECEIVED WRITTEN NOTICE OR DOCUMENTATION FROM A
8 REGISTERED ONLINE LODGING MARKETPLACE THAT IT HAS OR WILL REMIT THE
9 APPLICABLE TAX WITH RESPECT TO THOSE TRANSACTIONS TO THE DEPARTMENT PURSUANT
10 TO SECTION 42-5014, SUBSECTION E.

11 C. FOR THE PURPOSES OF THIS SECTION, "ONLINE LODGING MARKETPLACE",
12 "ONLINE LODGING OPERATOR" AND "ONLINE LODGING TRANSACTION" HAVE THE SAME
13 MEANINGS PRESCRIBED IN SECTION 42-5001.

14 Sec. 9. Section 42-12003, Arizona Revised Statutes, is amended to
15 read:

16 42-12003. Class three property; definition

17 A. For purposes of taxation, class three is established consisting of:

18 1. Real and personal property and improvements to the property that
19 are used as the owner's primary residence, that are not otherwise included in
20 class one, two, four, six, seven or eight and that are valued at full cash
21 value.

22 2. Real and personal property that is occupied by a relative of the
23 owner, as provided by section 42-12053, and used as the relative's primary
24 residence, that is not otherwise included in class one, two, four, six, seven
25 or eight and that is valued at full cash value.

26 3. REAL AND PERSONAL PROPERTY THAT IS OWNED AND OCCUPIED AS THE
27 PRIMARY RESIDENCE OF THE OWNER WHO ALSO USES THE PROPERTY FOR ONLINE LODGING
28 TRANSACTIONS, AS DEFINED IN SECTION 42-5001, BUT THAT OTHERWISE QUALIFIES
29 UNDER THIS SECTION.

30 B. For the purposes of this section, a homesite that is included in
31 class three may include:

1 1. Up to ten acres on a single parcel of real property on which the
2 residential improvement is located.

3 2. More than ten, but not more than forty, acres on a single parcel of
4 real property on which the residential improvement is located if it is zoned
5 exclusively for residential purposes or contains legal restrictions or
6 physical conditions that prevent the division of the parcel.

7 C. For the purposes of this section, "physical conditions" means
8 topography, mountains, washes, rivers, roads or any other configuration that
9 limits the residential usable land area.

10 Sec. 10. Section 42-12004, Arizona Revised Statutes, is amended to
11 read:

12 42-12004. Class four property

13 A. For purposes of taxation, class four is established consisting of:

14 1. Real and personal property and improvements to the property that
15 are used for residential purposes, including residential property that is
16 owned in foreclosure by a financial institution, that is not otherwise
17 included in another classification and that is valued at full cash value.
18 The homesite that is included in class four may include:

19 (a) Up to ten acres on a single parcel of real property on which the
20 residential improvement is located.

21 (b) More than ten, but not more than forty, acres on a single parcel
22 of real property on which the residential improvement is located if it is
23 zoned exclusively for residential purposes or contains legal restrictions or
24 physical conditions that prevent the division of the parcel. For the
25 purposes of this subdivision, "physical conditions" means topography,
26 mountains, washes, rivers, roads or any other configuration that limits the
27 residential usable land area.

28 2. Real and personal property and improvements to the property that
29 are used solely as leased or rented property for residential purposes, that
30 are not included in class one, two, three, six, seven or eight and that are
31 valued at full cash value.

1 3. Child care facilities that are licensed under title 36, chapter 7.1
2 and that are valued at full cash value.

3 4. Real and personal property and improvements to property that are
4 used to operate nonprofit residential housing facilities that are structured
5 to house or care for persons with disabilities or who are sixty-two years of
6 age or older and that are valued at full cash value.

7 5. Real and personal property and improvements that are used to
8 operate licensed residential care institutions or licensed nursing care
9 institutions that provide medical services, nursing services or health
10 related services and that are structured to house or care for persons with
11 disabilities or who are sixty-two years of age or older and that are valued
12 at full cash value.

13 6. Real and personal property consisting of no more than eight rooms
14 of residential property that are leased or rented to transient lodgers,
15 together with furnishing no more than a breakfast meal, by the owner who
16 resides on the property and that is valued at full cash value.

17 7. Real and personal property consisting of residential dwellings that
18 are maintained for occupancy by agricultural employees as a condition of
19 employment or as a convenience to the employer, that is not included in class
20 three and that is valued at full cash value. The land associated with these
21 dwellings shall be valued as agricultural land pursuant to chapter 13,
22 article 3 of this title.

23 8. Real property and improvements to property constituting common
24 areas that are valued pursuant to chapter 13, article 9 of this title.

25 9. Real and personal property that is defined as timeshare property by
26 section 32-2197 and valued pursuant to chapter 13, article 10 of this title,
27 except for any property used for commercial, industrial or transient
28 occupancy purposes and included in class one to the extent of that use.

29 10. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE USED FOR
30 ONLINE LODGING TRANSACTIONS, AS DEFINED IN SECTION 42-5001, BUT THAT
31 OTHERWISE QUALIFY UNDER PARAGRAPH 1 OF THIS SUBSECTION EXCEPT FOR:

1 (a) PROPERTY OCCUPIED BY THE OWNER OF THE PROPERTY AS THE OWNER'S
2 PRIMARY RESIDENCE AND INCLUDED IN CLASS THREE.

3 (b) PROPERTY USED FOR COMMERCIAL PURPOSES AND INCLUDED IN CLASS ONE.

4 B. Subsection A, paragraphs 4 and 5 of this section shall not be
5 construed to limit eligibility for exemption from taxation under chapter 11,
6 article 3 of this title.

7 Sec. 11. Effective date

8 This act is effective from and after December 31, 2016."

9 Amend title to conform

DEBBIE LESKO

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C: dmt