

REFERENCE TITLE: prime contracting deduction; university improvements.

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

## **SB 1331**

Introduced by  
Senator Verschoor

AN ACT

AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5032.02; AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTION 42-5032.02, ARIZONA REVISED STATUTES; RELATING TO THE PRIME CONTRACTING TRANSACTION PRIVILEGE TAX CLASSIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5029, Arizona Revised Statutes, is amended to  
3 read:

4 42-5029. Remission and distribution of monies; definition

5 A. The department shall deposit, pursuant to sections 35-146 and  
6 35-147, all revenues collected under this article and articles 4, 5 and 8 of  
7 this chapter pursuant to section 42-1116, separately accounting for:

8 1. Payments of estimated tax under section 42-5014, subsection D.

9 2. Revenues collected pursuant to section 42-5070.

10 3. Revenues collected under this article and article 5 of this chapter  
11 from and after June 30, 2000 from sources located on Indian reservations in  
12 this state.

13 4. Revenues collected pursuant to section 42-5010, subsection G and  
14 section 42-5155, subsection D.

15 B. The department shall credit payments of estimated tax to an  
16 estimated tax clearing account and each month shall transfer all monies in  
17 the estimated tax clearing account to a fund designated as the transaction  
18 privilege and severance tax clearing account. The department shall credit  
19 all other payments to the transaction privilege and severance tax clearing  
20 account, separately accounting for the monies designated as distribution base  
21 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the  
22 department shall report to the state treasurer the amount of monies collected  
23 pursuant to this article and articles 4, 5 and 8 of this chapter.

24 C. On notification by the department, the state treasurer shall  
25 distribute the monies deposited in the transaction privilege and severance  
26 tax clearing account in the manner prescribed by this section and by sections  
27 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the  
28 account pursuant to sections 42-1118 and 42-1254.

29 D. Of the monies designated as distribution base the department shall:

30 1. Pay twenty-five per cent to the various incorporated municipalities  
31 in this state in proportion to their population to be used by the  
32 municipalities for any municipal purpose.

33 2. Pay 38.08 per cent to the counties in this state by averaging the  
34 following proportions:

35 (a) The proportion that the population of each county bears to the  
36 total state population.

37 (b) The proportion that the distribution base monies collected during  
38 the calendar month in each county under this article, section 42-5164,  
39 subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
40 total distribution base monies collected under this article, section 42-5164,  
41 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
42 the state for the calendar month.

43 3. Pay an additional 2.43 per cent to the counties in this state as  
44 follows:

1 (a) Average the following proportions:

2 (i) The proportion that the assessed valuation used to determine  
3 secondary property taxes of each county, after deducting that part of the  
4 assessed valuation that is exempt from taxation at the beginning of the month  
5 for which the amount is to be paid, bears to the total assessed valuations  
6 used to determine secondary property taxes of all the counties after  
7 deducting that portion of the assessed valuations that is exempt from  
8 taxation at the beginning of the month for which the amount is to be paid.  
9 Property of a city or town that is not within or contiguous to the municipal  
10 corporate boundaries and from which water is or may be withdrawn or diverted  
11 and transported for use on other property is considered to be taxable  
12 property in the county for purposes of determining assessed valuation in the  
13 county under this item.

14 (ii) The proportion that the distribution base monies collected during  
15 the calendar month in each county under this article, section 42-5164,  
16 subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
17 total distribution base monies collected under this article, section 42-5164,  
18 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
19 the state for the calendar month.

20 (b) If the proportion computed under subdivision (a) of this paragraph  
21 for any county is greater than the proportion computed under paragraph 2 of  
22 this subsection, the department shall compute the difference between the  
23 amount distributed to that county under paragraph 2 of this subsection and  
24 the amount that would have been distributed under paragraph 2 of this  
25 subsection using the proportion computed under subdivision (a) of this  
26 paragraph and shall pay that difference to the county from the amount  
27 available for distribution under this paragraph. Any monies remaining after  
28 all payments under this subdivision shall be distributed among the counties  
29 according to the proportions computed under paragraph 2 of this subsection.

30 4. After any distributions required by sections 42-5030, 42-5030.01,  
31 42-5031, 42-5032, ~~and~~ 42-5032.01 AND 42-5032.02, and after making any  
32 transfer to the water quality assurance revolving fund as required by section  
33 49-282, subsection B, credit the remainder of the monies designated as  
34 distribution base to the state general fund. From this amount:

35 (a) The legislature shall annually appropriate to:

36 (i) The department of revenue sufficient monies to administer and  
37 enforce this article and articles 5 and 8 of this chapter.

38 (ii) The department of economic security monies to be used for the  
39 purposes stated in title 46, chapter 1.

40 (iii) The firearms safety and ranges fund established by section  
41 17-273, fifty thousand dollars derived from the taxes collected from the  
42 retail classification pursuant to section 42-5061 for the current fiscal  
43 year.

1 (b) The state treasurer shall transfer to the tourism fund an amount  
2 equal to the sum of the following:

3 (i) Three and one-half per cent of the gross revenues derived from the  
4 transient lodging classification pursuant to section 42-5070 during the  
5 preceding fiscal year.

6 (ii) Three per cent of the gross revenues derived from the amusement  
7 classification pursuant to section 42-5073 during the preceding fiscal year.

8 (iii) Two per cent of the gross revenues derived from the restaurant  
9 classification pursuant to section 42-5074 during the preceding fiscal year.

10 E. If approved by the qualified electors voting at a statewide general  
11 election, all monies collected pursuant to section 42-5010, subsection G and  
12 section 42-5155, subsection D shall be distributed each fiscal year pursuant  
13 to this subsection. The monies distributed pursuant to this subsection are  
14 in addition to any other appropriation, transfer or other allocation of  
15 public or private monies from any other source and shall not supplant,  
16 replace or cause a reduction in other school district, charter school,  
17 university or community college funding sources. The monies shall be  
18 distributed as follows:

19 1. If there are outstanding state school facilities revenue bonds  
20 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the  
21 amount that is necessary to pay the fiscal year's debt service on outstanding  
22 state school improvement revenue bonds for the current fiscal year shall be  
23 transferred each month to the school improvement revenue bond debt service  
24 fund established by section 15-2084. The total amount of bonds for which  
25 these monies may be allocated for the payment of debt service shall not  
26 exceed a principal amount of eight hundred million dollars exclusive of  
27 refunding bonds and other refinancing obligations.

28 2. After any transfer of monies pursuant to paragraph 1 of this  
29 subsection, twelve per cent of the remaining monies collected during the  
30 preceding month shall be transferred to the technology and research  
31 initiative fund established by section 15-1648 to be distributed among the  
32 universities for the purpose of investment in technology and research-based  
33 initiatives.

34 3. After the transfer of monies pursuant to paragraph 1 of this  
35 subsection, three per cent of the remaining monies collected during the  
36 preceding month shall be transferred to the workforce development account  
37 established in each community college district pursuant to section 15-1472  
38 for the purpose of investment in workforce development programs.

39 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
40 subsection, one-twelfth of the amount a community college that is owned,  
41 operated or chartered by a qualifying Indian tribe on its own Indian  
42 reservation would receive pursuant to section 15-1472, subsection D,  
43 paragraph 2 if it were a community college district shall be distributed each  
44 month to the treasurer or other designated depository of a qualifying Indian  
45 tribe. Monies distributed pursuant to this paragraph are for the exclusive

1 purpose of providing support to one or more community colleges owned,  
2 operated or chartered by a qualifying Indian tribe and shall be used in a  
3 manner consistent with section 15-1472, subsection B. For the purposes of  
4 this paragraph, "qualifying Indian tribe" has the same meaning as defined in  
5 section 42-5031.01, subsection D.

6 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
7 subsection, one-twelfth of the following amounts shall be transferred each  
8 month to the department of education for the increased cost of basic state  
9 aid under section 15-971 due to added school days and associated teacher  
10 salary increases enacted in 2000:

11 (a) In fiscal year 2001-2002, \$15,305,900.

12 (b) In fiscal year 2002-2003, \$31,530,100.

13 (c) In fiscal year 2003-2004, \$48,727,700.

14 (d) In fiscal year 2004-2005, \$66,957,200.

15 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
16 \$86,280,500.

17 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
18 subsection, seven million eight hundred thousand dollars is appropriated each  
19 fiscal year, to be paid in monthly installments, to the department of  
20 education to be used for school safety as provided in section 15-154 and two  
21 hundred thousand dollars is appropriated each fiscal year, to be paid in  
22 monthly installments to the department of education to be used for the  
23 character education matching grant program as provided in section 15-154.01.

24 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
25 subsection, no more than seven million dollars may be appropriated by the  
26 legislature each fiscal year to the department of education to be used for  
27 accountability purposes as described in section 15-241 and title 15, chapter  
28 9, article 8.

29 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
30 this subsection, one million five hundred thousand dollars is appropriated  
31 each fiscal year, to be paid in monthly installments, to the failing schools  
32 tutoring fund established by section 15-241.

33 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
34 this subsection, twenty-five million dollars shall be transferred each fiscal  
35 year to the state general fund to reimburse the general fund for the cost of  
36 the income tax credit allowed by section 43-1072.01.

37 10. After the payment of monies pursuant to paragraphs 1 through 9 of  
38 this subsection, the remaining monies collected during the preceding month  
39 shall be transferred to the classroom site fund established by section  
40 15-977. The monies shall be allocated as follows in the manner prescribed by  
41 section 15-977:

42 (a) Forty per cent shall be allocated for teacher compensation based  
43 on performance.

44 (b) Twenty per cent shall be allocated for increases in teacher base  
45 compensation and employee related expenses.

1 (c) Forty per cent shall be allocated for maintenance and operation  
2 purposes.

3 F. The department shall credit the remainder of the monies in the  
4 transaction privilege and severance tax clearing account to the state general  
5 fund, subject to any distribution required by section 42-5030.01.

6 G. Notwithstanding subsection D of this section, if a court of  
7 competent jurisdiction finally determines that tax monies distributed under  
8 this section were illegally collected under this article or articles 5 and 8  
9 of this chapter and orders the monies to be refunded to the taxpayer, the  
10 department shall compute the amount of such monies that was distributed to  
11 each city, town and county under this section. The department shall notify  
12 the state treasurer of that amount plus the proportionate share of additional  
13 allocated costs required to be paid to the taxpayer. Each city's, town's and  
14 county's proportionate share of the costs shall be based on the amount of the  
15 original tax payment each municipality and county received. Each month the  
16 state treasurer shall reduce the amount otherwise distributable to the city,  
17 town and county under this section by one thirty-sixth of the total amount to  
18 be recovered from the city, town or county until the total amount has been  
19 recovered, but the monthly reduction for any city, town or county shall not  
20 exceed ten per cent of the full monthly distribution to that entity. The  
21 reduction shall begin for the first calendar month after the final  
22 disposition of the case and shall continue until the total amount, including  
23 interest and costs, has been recovered.

24 H. On receiving a certificate of default from the greater Arizona  
25 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the  
26 extent not otherwise expressly prohibited by law, the state treasurer shall  
27 withhold from the next succeeding distribution of monies pursuant to this  
28 section due to the defaulting political subdivision the amount specified in  
29 the certificate of default and immediately deposit the amount withheld in the  
30 greater Arizona development authority revolving fund. The state treasurer  
31 shall continue to withhold and deposit the monies until the greater Arizona  
32 development authority certifies to the state treasurer that the default has  
33 been cured. In no event may the state treasurer withhold any amount that the  
34 defaulting political subdivision certifies to the state treasurer and the  
35 authority as being necessary to make any required deposits then due for the  
36 payment of principal and interest on bonds of the political subdivision that  
37 were issued before the date of the loan repayment agreement or bonds and that  
38 have been secured by a pledge of distributions made pursuant to this section.

39 I. Except as provided by sections 42-5033 and 42-5033.01, the  
40 population of a county, city or town as determined by the most recent United  
41 States decennial census plus any revisions to the decennial census certified  
42 by the United States bureau of the census shall be used as the basis for  
43 apportioning monies pursuant to subsection D of this section.

44 J. Except as otherwise provided by this subsection, on notice from the  
45 department of revenue pursuant to section 42-6010, subsection B, the state

1 treasurer shall withhold from the distribution of monies pursuant to this  
 2 section to the affected city or town the amount of the penalty for business  
 3 location municipal tax incentives provided by the city or town to a business  
 4 entity that locates a retail business facility in the city or town. The  
 5 state treasurer shall continue to withhold monies pursuant to this subsection  
 6 until the entire amount of the penalty has been withheld. The state  
 7 treasurer shall credit any monies withheld pursuant to this subsection to the  
 8 state general fund as provided by subsection D, paragraph 4 of this section.  
 9 The state treasurer shall not withhold any amount that the city or town  
 10 certifies to the department of revenue and the state treasurer as being  
 11 necessary to make any required deposits or payments for debt service on bonds  
 12 or other long-term obligations of the city or town that were issued or  
 13 incurred before the location incentives provided by the city or town.

14 K. For the purposes of this section, "community college district"  
 15 means a community college district that is established pursuant to sections  
 16 15-1402 and 15-1403 and that is a political subdivision of this state.

17 Sec. 2. Title 42, chapter 5, article 1, Arizona Revised Statutes, is  
 18 amended by adding section 42-5032.02, to read:

19 42-5032.02. Distribution of revenues for city or town  
 20 infrastructure improvements related to state  
 21 university construction; definitions

22 A. EACH MONTH THE STATE TREASURER SHALL PAY A CITY OR TOWN, FROM THE  
 23 AMOUNT DESIGNATED AS DISTRIBUTION BASE PURSUANT TO SECTION 42-5029,  
 24 SUBSECTION D, PARAGRAPH 4, THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS  
 25 SECTION FOR THE PURPOSE OF FUNDING UP TO EIGHTY PER CENT OF THE COST OF  
 26 INFRASTRUCTURE IMPROVEMENTS THAT RELATE DIRECTLY TO THE CONSTRUCTION OF  
 27 BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A UNIVERSITY THAT IS  
 28 UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS. A CITY OR TOWN IS  
 29 ONLY ELIGIBLE FOR FUNDING PURSUANT TO THIS SECTION IF AND TO THE EXTENT THAT  
 30 THE CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF  
 31 A UNIVERSITY THAT IS UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS  
 32 IS NOT FUNDED FROM STATE MONIES, MONIES SUPPLIED BY A POLITICAL SUBDIVISION  
 33 OF THIS STATE, MONIES GUARANTEED BY THIS STATE OR MONIES GUARANTEED BY A  
 34 POLITICAL SUBDIVISION OF THIS STATE.

35 B. THE AMOUNT TO BE PAID TO A CITY OR TOWN UNDER SUBSECTION A OF THIS  
 36 SECTION IS THE TOTAL AMOUNT OF STATE TRANSACTION PRIVILEGE TAX REVENUES THAT  
 37 ARE COLLECTED UNDER SECTION 42-5010, SUBSECTION A FROM PERSONS CONDUCTING  
 38 BUSINESS UNDER SECTION 42-5075 AND THAT ARE DERIVED FROM CONTRACTS TO  
 39 CONSTRUCT BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A  
 40 UNIVERSITY THAT IS UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.  
 41 IF STATE MONIES ARE USED TO FULLY OR PARTIALLY FUND THE CONSTRUCTION OF  
 42 BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A UNIVERSITY UNDER  
 43 THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS, THE TRANSACTION PRIVILEGE  
 44 TAX REVENUES ATTRIBUTABLE TO PAYMENTS MADE FROM STATE MONIES SHALL NOT BE  
 45 INCLUDED WHEN CALCULATING THE AMOUNT TO BE PAID UNDER THIS SECTION.

1 C. BEFORE THE COMMENCEMENT OF THE CONSTRUCTION OF BUILDINGS AND  
2 ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A UNIVERSITY UNDER THE  
3 JURISDICTION OF THE ARIZONA BOARD OF REGENTS THAT WILL REQUIRE A CITY OR TOWN  
4 TO MAKE INFRASTRUCTURE IMPROVEMENTS, THE CITY OR TOWN SHALL ENTER INTO A  
5 WRITTEN AGREEMENT WITH THE DEPARTMENT. THIS AGREEMENT AND ANY AMENDMENTS OR  
6 CHANGES TO THE AGREEMENT SHALL:

7 1. STATE THAT THE MONIES RECEIVED UNDER THIS SECTION WILL BE USED  
8 EXCLUSIVELY TO PAY FOR INFRASTRUCTURE IMPROVEMENTS THAT RELATE DIRECTLY TO  
9 THE CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF  
10 A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

11 2. STATE THAT THE CITY OR TOWN WILL PAY A MINIMUM OF TWENTY PER CENT  
12 OF THE COST OF THE INFRASTRUCTURE IMPROVEMENTS WITH ITS OWN MONIES.

13 3. STATE THAT THE CITY OR TOWN WILL IMMEDIATELY NOTIFY THE DEPARTMENT  
14 WHEN MONIES RECEIVED UNDER THIS SECTION EXCEED EIGHTY PER CENT OF THE COST OF  
15 THE INFRASTRUCTURE IMPROVEMENTS AND WILL RETURN THE AMOUNT OF THE EXCESS TO  
16 THE STATE TREASURER FOR DEPOSIT IN THE STATE GENERAL FUND.

17 4. STIPULATE THE ACTUAL AMOUNT OF THE CONSTRUCTION FUNDING THAT WILL  
18 BE DERIVED FROM SOURCES OTHER THAN THIS STATE.

19 5. IDENTIFY THE PERSONS WHO WILL BE PRIME CONTRACTORS ON THE  
20 CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A  
21 UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS AND STATE  
22 THAT EACH PRIME CONTRACTOR HAS BEEN NOTIFIED AS TO WHICH PORTION OF THE  
23 CONTRACTOR'S INCOME SHALL BE SEPARATELY IDENTIFIED TO THE DEPARTMENT PURSUANT  
24 TO SECTION 42-5075, SUBSECTION H.

25 6. STIPULATE THAT IF THE FUNDING OF THE CONSTRUCTION OF BUILDINGS AND  
26 ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A UNIVERSITY UNDER THE  
27 JURISDICTION OF THE ARIZONA BOARD OF REGENTS INCLUDES STATE MONIES, THE CITY  
28 OR TOWN SHALL RECEIVE MONIES UNDER THIS SECTION FOR THE COST OF THE  
29 INFRASTRUCTURE IMPROVEMENTS IN A MANNER THAT IS PROPORTIONAL TO THE AMOUNT OF  
30 NONSTATE MONIES AS A PERCENTAGE OF TOTAL FUNDING.

31 7. PROVIDE ANY OTHER INFORMATION DEEMED NECESSARY BY THE DEPARTMENT.

32 D. ON NOTIFICATION FROM A CITY OR TOWN THAT MONIES RECEIVED UNDER THIS  
33 SECTION HAVE MET OR EXCEEDED EIGHTY PER CENT OF THE COST OF THE  
34 INFRASTRUCTURE IMPROVEMENTS RELATED TO THE SPECIFIC CONSTRUCTION OF BUILDINGS  
35 AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A UNIVERSITY UNDER THE  
36 JURISDICTION OF THE ARIZONA BOARD OF REGENTS, THE DEPARTMENT SHALL CEASE  
37 PAYMENTS UNDER SUBSECTION A OF THIS SECTION RELATED TO THIS PROJECT.

38 E. FOR THE PURPOSES OF THIS SECTION:

39 1. "BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A  
40 UNIVERSITY" MEANS ANY BUILDING AND ASSOCIATED IMPROVEMENTS IF THE UNIVERSITY  
41 USES AT LEAST EIGHTY PER CENT OF THE BUILDING AND ASSOCIATED IMPROVEMENTS FOR  
42 ACADEMIC PURPOSES.

43 2. "INFRASTRUCTURE" MEANS WATER OR SEWER LINES, SIDEWALKS, STREETS,  
44 ROADS, TRAFFIC CONTROL AND PUBLIC PARKING IMPROVEMENTS THAT RELATE DIRECTLY  
45 TO THE CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT



1 OF A UNIVERSITY THAT IS UNDER THE JURISDICTION OF THE ARIZONA BOARD OF  
2 REGENTS.

3 Sec. 3. Section 42-5075, Arizona Revised Statutes, is amended to read:  
4 42-5075. Prime contracting classification; exemptions;  
5 definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (a) To be incorporated into real property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           20. The gross proceeds of sales or gross income received from a  
2 contract for the construction of any building or other structure associated  
3 with motion picture production in this state. To qualify for the deduction,  
4 at the time the contract is entered into the motion picture production  
5 company must present to the prime contractor its certificate that is issued  
6 pursuant to section 42-5009, subsection H and that establishes its  
7 qualification for the deduction.

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

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

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

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

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

27           1. A prime contractor may establish entitlement to the deduction by  
28 both:

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

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

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

43           3. The department may prescribe a form for the certificate described  
44 in paragraph 1, subdivision (b) of this subsection. The department may also  
45 adopt rules that describe the transactions with respect to which a person is

1 not entitled to rely solely on the information contained in the certificate  
2 provided in paragraph 1, subdivision (b) of this subsection but must instead  
3 obtain such additional information as required in order to be entitled to the  
4 deduction.

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

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

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

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

1 G. For the purposes of section 42-5032.01, the department shall  
2 separately account for revenues collected under the prime contracting  
3 classification from any prime contractor engaged in the preparation or  
4 construction of a multipurpose facility, and related infrastructure, that is  
5 owned, operated or leased by the tourism and sports authority pursuant to  
6 title 5, chapter 8.

7 H. FOR THE PURPOSES OF SECTION 42-5032.02, THROUGH DECEMBER 31, 2014,  
8 THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES REPORTED AND COLLECTED  
9 UNDER THE PRIME CONTRACTING CLASSIFICATION FROM ANY PRIME CONTRACTOR ENGAGED  
10 IN THE CONSTRUCTION OF ANY BUILDINGS THAT ARE FOR THE BENEFIT OF A UNIVERSITY  
11 THAT IS UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

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

22 ~~I.~~ J. The gross proceeds of sales or gross income derived from  
23 landscaping activities are subject to tax under this section. Landscaping  
24 includes installing lawns, grading or leveling ground, installing gravel or  
25 boulders, planting trees and other plants, felling trees, removing or  
26 mulching tree stumps, removing other imbedded plants, building or modifying  
27 irrigation berms, repairing sprinkler or watering systems, installing  
28 railroad ties and installing underground sprinkler or watering systems.

29 ~~J.~~ K. The portion of gross proceeds of sales or gross income  
30 attributable to the actual direct costs of providing architectural or  
31 engineering services that are incorporated in a contract is not subject to  
32 tax under this section. For the purposes of this subsection, "direct costs"  
33 means the portion of the actual costs that are directly expended in providing  
34 architectural or engineering services.

35 ~~K.~~ L. Operating a landfill or a solid waste disposal facility is not  
36 subject to taxation under this section, including filling, compacting and  
37 creating vehicle access to and from cell sites within the landfill.  
38 Constructing roads to a landfill or solid waste disposal facility and  
39 constructing cells within a landfill or solid waste disposal facility may be  
40 deemed prime contracting under this section.

41 ~~L.~~ M. The following apply to manufactured buildings:  
42 1. For sales in this state where the dealership of manufactured  
43 buildings contracts to deliver the building to a setup site or to perform the  
44 setup in this state, the taxable situs is the setup site.

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

5           3. For sales in this state where the dealership of manufactured  
6 buildings contracts to deliver the building to a setup site that is outside  
7 this state, the situs is outside this state and the transaction is excluded  
8 from tax.

9           ~~M.~~ N. The gross proceeds of sales or gross income attributable to a  
10 separate, written design phase services contract or professional services  
11 contract, executed before modification begins, is not subject to tax under  
12 this section, regardless of whether the services are provided sequential to  
13 or concurrent with prime contracting activities that are subject to tax under  
14 this section. This subsection does not include the gross proceeds of sales  
15 or gross income attributable to construction phase services. For the  
16 purposes of this subsection:

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

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

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

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

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

33           (ii) The amount of an adjustment, if any, to the guaranteed maximum  
34 price as set in the contract for modification work. For the purposes of this  
35 item, "guaranteed maximum price" means the amount guaranteed to be the  
36 maximum amount due to a prime contractor for the performance of all  
37 modification work for the project.

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

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



1 (e) Inspection to determine the dates of substantial completion or  
2 final completion.

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

9 (g) Preparation of status reports after modification work has begun  
10 detailing the progress of work performed, including preparation of any of the  
11 following:

12 (i) Master schedule updates.

13 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

26 2. "Design phase services" means services for developing and  
27 completing a design for a project that are not construction phase services,  
28 including the following:

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

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

35 (c) Preparing drawings and specifications for architectural program  
36 documents, schematic design documents, design development documents,  
37 modification work documents or documents that identify the scope of or  
38 materials for the project.

39 (d) Preparing an initial schedule for the project, excluding the  
40 preparation of updates to the master schedule after modification work has  
41 begun.

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

1 (i) Labor, materials, machinery and equipment, tools, water, heat,  
2 utilities, transportation and other facilities and services used in the  
3 execution and completion of modification work, regardless of whether they are  
4 temporary or permanent or whether they are incorporated in the modifications.

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

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

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

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

14 (vi) Any bond and insurance premiums.

15 (vii) Any applicable taxes.

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

18 (f) Reviewing and evaluating cost estimates and project documents to  
19 prepare recommendations on site use, site improvements, selection of  
20 materials, building systems and equipment, modification feasibility,  
21 availability of materials and labor, local modification activity as related  
22 to schedules and time requirements for modification work.

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

25 3. "Professional services" means architect services, assayer services,  
26 engineer services, geologist services, land surveying services or landscape  
27 architect services that are within the scope of those services as provided in  
28 title 32, chapter 1 and for which gross proceeds of sales or gross income has  
29 not otherwise been deducted under subsection ~~J~~ K of this section.

30 ~~N~~ O. Notwithstanding subsection ~~O~~ P, paragraph 8 of this section, a  
31 person owning real property who enters into a contract for sale of the real  
32 property, who is responsible to the new owner of the property for  
33 modifications made to the property in the period subsequent to the transfer  
34 of title and who receives a consideration for the modifications is considered  
35 a prime contractor solely for purposes of taxing the gross proceeds of sale  
36 or gross income received for the modifications made subsequent to the  
37 transfer of title. The original owner's gross proceeds of sale or gross  
38 income received for the modifications shall be determined according to the  
39 following methodology:

40 1. If any part of the contract for sale of the property specifies  
41 amounts to be paid to the original owner for the modifications to be made in  
42 the period subsequent to the transfer of title, the amounts are included in  
43 the original owner's gross proceeds of sale or gross income under this  
44 section. Proceeds from the sale of the property that are received after  
45 transfer of title and that are unrelated to the modifications made subsequent

1 to the transfer of title are not considered gross proceeds of sale or gross  
2 income from the modifications.

3 2. If the original owner enters into an agreement separate from the  
4 contract for sale of the real property providing for amounts to be paid to  
5 the original owner for the modifications to be made in the period subsequent  
6 to the transfer of title to the property, the amounts are included in the  
7 original owner's gross proceeds of sale or gross income received for the  
8 modifications made subsequent to the transfer of title.

9 3. If the original owner is responsible to the new owner for  
10 modifications made to the property in the period subsequent to the transfer  
11 of title and derives any gross proceeds of sale or gross income from the  
12 project subsequent to the transfer of title other than a delayed disbursement  
13 from escrow unrelated to the modifications, it is presumed that the amounts  
14 are received for the modifications made subsequent to the transfer of title  
15 unless the contrary is established by the owner through its books, records  
16 and papers kept in the regular course of business.

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

19 ~~0.~~ P. For the purposes of this section:

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

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

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

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

35 (b) Supervises, performs or coordinates the excavation and completion  
36 of site improvements, setup or moving of a manufactured building including  
37 the contracting, if any, with any subcontractor or specialty contractor for  
38 the completion of the contract.

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

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

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

1           7. "Prime contracting" means engaging in business as a prime  
2 contractor.

3           8. "Prime contractor" means a contractor who supervises, performs or  
4 coordinates the modification of any building, highway, road, railroad,  
5 excavation, manufactured building or other structure, project, development or  
6 improvement including the contracting, if any, with any subcontractors or  
7 specialty contractors and who is responsible for the completion of the  
8 contract. Except as provided in subsections E and ~~M~~ 0 of this section, a  
9 person who owns real property, who engages one or more contractors to modify  
10 that real property and who does not itself modify that real property is not a  
11 prime contractor within the meaning of this paragraph regardless of the  
12 existence of a contract for sale or the subsequent sale of that real  
13 property.

14           9. "Sale of a used manufactured building" does not include a lease of  
15 a used manufactured building.

16           Sec. 4. Delayed repeal

17           Section 42-5032.02, Arizona Revised Statutes, as added by this act, is  
18 repealed from and after December 31, 2014.