AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.29; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.09; AMENDING TITLE 33, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1319; AMENDING TITLE 33, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1322.01; AMENDING TITLE 36, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-144; RELATING TO RESIDENTIAL LANDLORDS AND TENANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 9-500.29, to read:

9-500.29.  Prohibition on adopting landlord or tenant pest control requirements

A. THE LEGISLATURE FINDS THAT THE PUBLIC HEALTH THREAT POSED BY HOUSEHOLD PESTS, AS DEFINED IN SECTION 33-1319, CONSTITUTES A MATTER OF STATEWIDE CONCERN AND THAT A UNIFORM, STATEWIDE METHOD FOR ADDRESSING HOUSEHOLD PESTS IN MULTITENANT HOUSING WOULD BE SIGNIFICANTLY MORE EFFECTIVE THAN SEPARATE APPROACHES BY INDIVIDUAL CITIES OR TOWNS.

B. A CITY OR TOWN SHALL NOT ADOPT REQUIREMENTS FOR LANDLORDS OR TENANTS RELATING TO THE CONTROL OF HOUSEHOLD PESTS AS DEFINED IN SECTION 33-1319, OTHER THAN THE REQUIREMENTS PRESCRIBED IN SECTION 33-1319.

Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes, is amended by adding section 11-269.09, to read:

11-269.09.  Prohibition on adopting landlord or tenant pest control requirements

THE BOARD OF SUPERVISORS AND ANY OTHER PERSON UNDER THE AUTHORITY OF THE BOARD OF SUPERVISORS SHALL NOT ADOPT REQUIREMENTS FOR LANDLORDS OR TENANTS RELATING TO THE CONTROL OF HOUSEHOLD PESTS, AS DEFINED IN SECTION 33-1319, OTHER THAN THE REQUIREMENTS PRESCRIBED IN SECTION 33-1319.

Sec. 3. Title 33, chapter 10, article 1, Arizona Revised Statutes, is amended by adding section 33-1319, to read:

33-1319. Pest control; landlord and tenant obligations; definitions

A. THE LANDLORD AND TENANT MAY AGREE IN WRITING THAT IT MAY BE IMPRACTICAL OR IMPOSSIBLE TO DETERMINE THE CAUSE OF A HOUSEHOLD PEST INFESTATION OF THE PREMISES AND THAT, EXCEPT FOR A MATERIAL MISREPRESENTATION BY EITHER THE LANDLORD OR THE TENANT, THE PARTIES AGREE TO CONDUCT MUTUAL ACTIONS TO ADDRESS ANY HOUSEHOLD PEST INFESTATION WITHOUT REGARD TO THE ORIGINAL CAUSE OF THE INFESTATION.

B. THE LANDLORD HAS THE FOLLOWING OBLIGATIONS WITH RESPECT TO A HOUSEHOLD PEST INFESTATION:

1. THE LANDLORD SHALL MAINTAIN THE DWELLING UNIT FREE OF AN INFESTATION OF HOUSEHOLD PESTS AND SHALL MAINTAIN THE DWELLING UNIT AS PRESCRIBED IN SECTION 33-1324.

2. THE LANDLORD SHALL NOT ENTER INTO ANY LEASE AGREEMENT WITH A TENANT FOR A DWELLING UNIT THAT THE LANDLORD KNOWS TO BE INFESTED.

3. ON WRITTEN NOTICE FROM THE TENANT, WITHIN FIVE DAYS THE LANDLORD OR THE LANDLORD'S LICENSED PEST CONTROL PROVIDER SHALL VISUALLY INSPECT THE DWELLING UNIT FOR HOUSEHOLD PESTS. ON EVIDENCE THAT AN INFESTATION EXISTS IN THE DWELLING UNIT, WITHIN FIVE DAYS THE LANDLORD SHALL START THE PROCESS OF MITIGATION OF THE HOUSEHOLD PESTS IN THE DWELLING UNIT.
4. UNLESS THE LANDLORD IS A LICENSED APPLICATOR, THE LANDLORD SHALL
NOT USE ANY PEST CONTROL TECHNIQUES THAT CONSTITUTE MITIGATION AND SHALL USE
A PERSON FOR MITIGATION WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 22.

5. THE LANDLORD SHALL PROVIDE AT LEAST FORTY-EIGHT HOURS NOTICE TO THE
TENANT IN WRITING THAT THE LANDLORD REQUIRE ACCESS TO THE DWELLING UNIT FOR
PURPOSES OF INSPECTING FOR OR MITIGATING A HOUSEHOLD PEST. IF THE TENANT HAS
PROVIDED NOTICE TO THE LANDLORD AS PRESCRIBED IN SUBSECTION C OF THIS
SECTION, THAT NOTICE CONSTITUTES PERMISSION TO ENTER THE DWELLING UNIT FOR
THE SOLE PURPOSE OF ACTING ON THE INSPECTION OR MITIGATION REQUEST AS
PROVIDED IN SECTION 33-1343.

6. THE LANDLORD SHALL PROVIDE THE TENANT WITH WRITTEN NOTICE OF THE
PEST CONTROL TREATMENT PROTOCOL AT LEAST FORTY-EIGHT HOURS BEFORE THE INITIAL
TREATMENT. NOTICE SHALL BE PROVIDED BY PERSONAL DELIVERY TO THE RESIDENT OR
POSTING ON THE FRONT DOOR OF THE DWELLING UNIT.

7. EXCEPT FOR GROSS NEGLIGENCE ON THE PART OF THE LANDLORD AND AS
OTHERWISE PROVIDED BY LAW, THE LANDLORD AND ITS EMPLOYEES, OFFICERS, AGENTS
AND DIRECTORS ARE NOT LIABLE TO THE TENANT OR THE TENANT’S GUESTS FOR ANY
DAMAGES CAUSED BY PESTS, INCLUDING PERSONAL EXPENSES, REPLACEMENT OF
FURNITURE, REPLACEMENT OR CLEANING OF CLOTHING, REPLACEMENT OF MEDICATION OR
MEDICAL EXPENSES.

C. THE TENANT HAS THE FOLLOWING OBLIGATIONS WITH RESPECT TO A
HOUSEHOLD PEST INFESTATION:

1. THE TENANT SHALL MAINTAIN THE DWELLING UNIT FREE OF AN INFESTATION
OF HOUSEHOLD PESTS AND SHALL MAINTAIN THE DWELLING UNIT AS PRESCRIBED IN
SECTION 33-1341.

2. THE TENANT SHALL NOT KNOWINGLY MOVE MATERIALS THAT ARE INFESTED
WITH A HOUSEHOLD PEST INTO A DWELLING UNIT. A TENANT WHO KNOWINGLY MOVES
MATERIALS THAT ARE INFESTED WITH A HOUSEHOLD PEST INTO A DWELLING UNIT SHALL
BE FINANCIALLY RESPONSIBLE FOR ALL PEST CONTROL TREATMENTS AT THE DWELLING
UNIT AND THE SURROUNDING UNITS THAT ARE OR MAY BECOME INFESTED.

3. A TENANT WHO KNOWS OR SHOULD KNOW OF THE PRESENCE OF A HOUSEHOLD
PEST OR WHO SUSPECTS THE PRESENCE OF A HOUSEHOLD PEST SHALL NOTIFY THE
LANDLORD IN WRITING OF THE PRESENCE OF A HOUSEHOLD PEST IN THE DWELLING UNIT
WITHIN FORTY-EIGHT HOURS AFTER DISCOVERY. NOTICE THAT IS PROVIDED BY THE
TENANT PURSUANT TO THIS PARAGRAPH CONSTITUTES PERMISSION TO THE LANDLORD TO
ENTER THE DWELLING UNIT FOR THE SOLE PURPOSE OF ACTING ON THE INSPECTION OR
MITIGATION REQUEST AS PROVIDED IN SECTION 33-1343.

4. A TENANT WHO FAILS TO NOTIFY THE LANDLORD OF THE PRESENCE OF A
HOUSEHOLD PEST AS PROVIDED IN THIS SECTION MAY BE HELD LIABLE FOR ALL PEST
CONTROL EXPENSES FOR THE DWELLING UNIT AND THE SURROUNDING UNITS THAT ARE OR
MAY BECOME INFESTED. PEST CONTROL EXPENSES MAY INCLUDE THE COST OF THE PEST
CONTROL TREATMENT OR TREATMENTS, REPAINTING OF SURFACES, REMOVAL AND
REPLACEMENT OF CARPET OR FLOORING, REMOVAL AND REPLACEMENT OF CABINETS OR
OTHER SURFACES, FURNITURE CLEANING AND REPLACEMENT, PROFESSIONAL CLEANING OF
CLOTHING, BEDDING AND MATTRESS COVERS AND TEMPORARY HOUSING FOR RESIDENTS IN SURROUNDING UNITS THAT MAY BE DISPLACED FROM THEIR INFESTED DWELLING UNIT.

5. ON WRITTEN NOTICE FROM THE LANDLORD PURSUANT TO SUBSECTION B OF THIS SECTION, THE TENANT SHALL GRANT THE LANDLORD, THE LANDLORD'S AGENT OR THE LANDLORD'S LICENSED PEST CONTROL PROVIDER AND ITS EMPLOYEES ACCESS TO THE DWELLING UNIT FOR PURPOSES OF INSPECTION FOR OR MITIGATION OF A HOUSEHOLD PEST.

6. AFTER RECEIVING NOTICE OF AN INSPECTION OR MITIGATION AS PROVIDED IN SUBSECTION B OF THIS SECTION, IF A TENANT INTERFERES WITH, OBSTRUCTS OR INHIBITS ACCESS TO THE DWELLING UNIT REQUESTED FOR PURPOSES OF A VISUAL INSPECTION FOR OR MITIGATION OF THE PRESENCE OF A HOUSEHOLD PEST, THE LANDLORD IS NOT LIABLE TO THE TENANT OR THE TENANT'S GUESTS FOR ANY DAMAGES RELATING TO AND ARISING FROM THE PRESENCE OF A HOUSEHOLD PEST. THE TENANT'S OBSTRUCTION OR INTERFERENCE ALSO CONSTITUTES A VIOLATION OF SECTION 33-1341 FOR FAILURE TO MAINTAIN THE DWELLING UNIT IN A MANNER MATERIALLY AFFECTING HEALTH AND SAFETY.

7. THE TENANT SHALL COMPLY WITH THE PEST CONTROL PROTOCOL ESTABLISHED BY THE LANDLORD OR BY THE LICENSED PEST CONTROL PROVIDER, WHICH MAY INCLUDE PRETREATMENT ACTIVITIES, EVACUATION OF THE DWELLING UNIT DURING AND AFTER TREATMENT FOR A REQUIRED PERIOD OF TIME, COMPLETING ALL POSTTREATMENT ACTIVITIES AND IMMEDIATELY REPORTING INEFFECTIVE TREATMENT OR REINFESTATION TO THE LANDLORD.

8. IF THE TENANT FAILS TO COMPLY COMPLETELY WITH THE PEST CONTROL PROTOCOL, THE TENANT MAY BE HELD FINANCIALLY RESPONSIBLE FOR ALL PEST CONTROL TREATMENTS OF THE DWELLING UNIT AND THE SURROUNDING UNITS THAT ARE OR MAY BECOME INFESTED AS A RESULT OF THE TENANT'S FAILURE TO PROVIDE NOTICE OR TO COMPLY WITH THE PEST CONTROL PROTOCOL. THE TENANT'S FAILURE ALSO CONSTITUTES A VIOLATION OF SECTION 33-1341 FOR FAILURE TO MAINTAIN THE DWELLING UNIT IN A MANNER MATERIALLY AFFECTING HEALTH AND SAFETY.

9. THE TENANT SHALL NOT USE ANY PEST CONTROL TECHNIQUES THAT CONSTITUTE MITIGATION.

D. TREATMENT FOR THE CONTROL OF HOUSEHOLD PESTS IN THE UNIT MAY CONSTITUTE DAMAGES TO THE UNIT BEYOND NORMAL WEAR AND TEAR, AND ACTUAL PEST CONTROL COSTS MAY BE ITEMIZED AND DEDUCTED FROM THE TENANT'S SECURITY DEPOSIT PURSUANT TO SECTION 33-1321 IF THE TENANT FAILS TO PROVIDE NOTICE OR FAILS TO COMPLY WITH THE PEST CONTROL PROTOCOL PURSUANT TO THIS SECTION.

E. THE LANDLORD AND TENANT OF A SINGLE FAMILY RESIDENCE MAY AGREE THAT THE TENANT IS RESPONSIBLE FOR PEST CONTROL AS PROVIDED IN SECTION 33-1324.

F. MITIGATION OF A PEST IS DEEMED SUCCESSFUL IF THERE IS NOT ANY EVIDENCE OF HOUSEHOLD PEST ACTIVITY FOR FIFTY DAYS AFTER THE LAST APPLICATION OF ANY TREATMENT.

G. FOR THE PURPOSES OF THIS SECTION:

1. "HOUSEHOLD PEST" MEANS BEDBUGS KNOWN AS CIMEX LECTULARIUS, INCLUDING THEIR EGGS.
2. "INFESTATION" OR "INFESTED" MEANS THE PRESENCE OF A HOUSEHOLD PEST THAT MAY MATERIALLY AFFECT THE HEALTH AND SAFETY OF TENANTS AND THEIR GUESTS.

3. "MITIGATING" OR "MITIGATION" MEANS THE PROCESS UNDERTAKEN BY A PEST CONTROL PROVIDER LICENSED PURSUANT TO TITLE 32, CHAPTER 22, ARTICLE 2 TO ATTEMPT TO ELIMINATE OR MANAGE THE INFESTATION OF A HOUSEHOLD PEST BY POISONING, SPRAYING, FUMIGATING, TRAPPING OR ANY OTHER RECOGNIZED AND LAWFUL PEST CONTROL METHODS, INCLUDING REPEATED APPLICATIONS OF ANY TREATMENT, PARTICULARLY TO AREAS WHERE HOUSEHOLD PESTS ARE LIKELY TO CONGREGATE.

4. "SURROUNDING UNIT" MEANS A DWELLING UNIT THAT SHARES A COMMON WALL WITH, OR THAT IS LOCATED ABOVE OR BELOW, ANOTHER DWELLING UNIT.

Sec. 4. Title 33, chapter 10, article 2, Arizona Revised Statutes, is amended by adding section 33-1322.01, to read:

33-1322.01. Delivery of department of health services bedbug pamphlet

BEGINNING FEBRUARY 1, 2011 AND ON COMMENCEMENT OF A NEW LEASE OR ON RENEWAL OF AN EXISTING LEASE, THE LANDLORD SHALL DELIVER TO THE TENANT A COPY OF THE DEPARTMENT OF HEALTH SERVICES BEDBUG PAMPHLET PREPARED PURSUANT TO SECTION 36-144 OR SHALL PROVIDE A WEBSITE ADDRESS FOR THE TENANT TO OBTAIN THE PAMPHLET. IF THE TENANT DOES NOT HAVE INTERNET ACCESS, THE LANDLORD SHALL PROVIDE THE TENANT WITH A COPY OF THE PAMPHLET.

Sec. 5. Title 36, chapter 1, article 2, Arizona Revised Statutes, is amended by adding section 36-144, to read:

36-144. Bedbug pamphlet

A. ON OR BEFORE JANUARY 1, 2011, THE DEPARTMENT SHALL PREPARE A PAMPHLET THAT DESCRIBES BEDBUGS, ALSO KNOWN AS CIMEX LECTULARIUS, AND THAT EXPLAINS HOW BEDBUGS SPREAD. THE PAMPHLET MAY CONTAIN INFORMATION THAT THE DIRECTOR DEEMS NECESSARY. THE DEPARTMENT MAY REVISE THE PAMPHLET WHenever NEW INFORMATION CONCERNING BEDBUGS BECOMES AVAILABLE OR AT LEAST EVERY THREE YEARS. THE PAMPHLET SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

1. MEASURES THAT MAY BE TAKEN TO PREVENT AND CONTROL BEDBUGS IN A RESIDENTIAL OR HOTEL SETTING, INCLUDING THE USE OF LICENSED PEST CONTROL EXTERMINATION, CLEANING THE DWELLING SPACE AND MATTRESSES AND LAUNDERING BEDCLOTHES AND CLOTHING.

2. THE RESTRICTIONS ON PERSONS WHO MAY LAWFULLY APPLY PESTICIDES.

3. SPECIFIC FACTS ABOUT BEDBUGS, INCLUDING THEIR APPEARANCE, BREEDING AND FEEDING HABITS.

4. THE REQUIREMENTS FOR DISINFECTING, LABELING AND RESELLING MATTRESSES AS PROVIDED IN CHAPTER 6, ARTICLE 11 OF THIS TITLE.

5. BEHAVIORS THAT ARE RISK FACTORS FOR ATTRACTING AND SUPPORTING THE PRESENCE OF BEDBUGS SUCH AS PURCHASING OR USING RENOVATED, USED OR DISCARDED MATTRESSES, USED FURNITURE OR PRE-OWNED CLOTHING AND TRAVEL WITHOUT PROPER PRECAUTIONS.

6. A STATEMENT DESCRIBING THE LEGAL RIGHTS AND RESPONSIBILITIES IMPOSED ON TENANTS AND LANDLORDS AS PROVIDED IN SECTION 33-1319.
7. MEASURES THAT MAY BE TAKEN TO PREVENT AND CONTROL BEDBUGS IN A RESIDENTIAL SETTING, INCLUDING PROFESSIONAL PEST CONTROL EXTERMINATING, CLEANING THE RESIDENCE AND MATTRESSES AND LAUNDERING BEDCLOTHES AND CLOTHING.

B. THE DEPARTMENT SHALL MAKE THE PAMPHLET AVAILABLE TO THE PUBLIC IN BOTH ENGLISH AND SPANISH ON THE DEPARTMENT’S WEBSITE IN AN EASILY PRINTABLE FORMAT.

C. THE PAMPHLET SHALL SERVE AS AN INFORMATIONAL DOCUMENT ONLY AND DOES NOT AFFECT ANY JUDICIAL DETERMINATION RELATED TO THIS SECTION OR SECTION 9-500.29, 11-269.09, 33-1319 OR 33-1322.01. THE PAMPHLET AND ITS CONTENTS DO NOT CONSTITUTE MEDICAL ADVICE.