

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

# HOUSE BILL 2404

AN ACT

AMENDING TITLE 9, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-808; AMENDING TITLE 11, CHAPTER 6, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-867; RELATING TO ENERGY EFFICIENCY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 7, article 1, Arizona Revised Statutes, is  
3 amended by adding section 9-808, to read:

4 9-808. Affordable housing and residential energy conservation  
5 or efficiency: state preemption: conformation:  
6 definitions

7 A. AFFORDABLE HOUSING AND THE REGULATION OF RESIDENTIAL ENERGY  
8 CONSUMPTION AND ENERGY EFFICIENCY IS OF STATEWIDE CONCERN. AFFORDABLE  
9 HOUSING AND THE REGULATION OF RESIDENTIAL ENERGY CONSUMPTION AND ENERGY  
10 EFFICIENCY PURSUANT TO THIS SECTION IS NOT SUBJECT TO FURTHER REGULATION BY A  
11 COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

12 B. A RESIDENTIAL BUILDING THAT ACHIEVES A HOME ENERGY RATING SYSTEM  
13 INDEX SCORE OF SEVENTY-THREE OR LOWER IN ARIZONA CLIMATE ZONES TWO AND THREE,  
14 SEVENTY-SIX OR LOWER IN ARIZONA CLIMATE ZONE FOUR OR EIGHTY OR LOWER IN  
15 ARIZONA CLIMATE ZONE FIVE THAT IS CONFIRMED IN WRITING BY A HOME ENERGY  
16 RATING PROVIDER SHALL BE DEEMED TO COMPLY WITH ANY, OR PART OF ANY, BUILDING  
17 ENERGY CODE, ORDINANCE, STIPULATION OR OTHER LEGAL REQUIREMENT RELATING TO  
18 ENERGY CONSERVATION OR ENERGY EFFICIENCY ADOPTED OR ENFORCED BY A CITY OR  
19 TOWN. THE WRITTEN CONFIRMATION OF THE HOME ENERGY RATING SYSTEM INDEX SCORE  
20 SHALL BE PROVIDED TO THE CITY OR TOWN IN WHICH THE RESIDENTIAL BUILDING IS  
21 LOCATED. A HOME BUILDER MAY VOLUNTARILY DESIGN AND CONSTRUCT A RESIDENTIAL  
22 BUILDING THAT ACHIEVES A HOME ENERGY RATING SYSTEM INDEX SCORE LOWER THAN THE  
23 SCORES PRESCRIBED IN THIS SECTION. THIS SUBSECTION DOES NOT APPLY TO THE  
24 2015 AND SUBSEQUENT EDITIONS OF A BUILDING ENERGY CODE.

25 C. THE 2015 OR SUBSEQUENT EDITIONS OF A BUILDING ENERGY CODE ADOPTED  
26 OR ENFORCED BY A CITY OR TOWN SHALL INCLUDE OR BE AMENDED TO INCLUDE A  
27 PERFORMANCE-BASED PATH TO COMPLIANCE FOR RESIDENTIAL BUILDINGS USING A HOME  
28 ENERGY RATING SYSTEM INDEX SCORE WITH NO LIMITATIONS, RESTRICTIONS OR  
29 MANDATES AS TO HOW THE NECESSARY SCORE IS ACHIEVED. THE HOME ENERGY RATING  
30 SYSTEM INDEX SCORE SET BY THE CITY OR TOWN THAT A RESIDENTIAL BUILDING MUST  
31 ACHIEVE TO BE DEEMED IN COMPLIANCE WITH THE ADOPTED OR ENFORCED BUILDING  
32 ENERGY CODE SHALL NOT REQUIRE THE RESIDENTIAL BUILDING TO BE MORE ENERGY  
33 EFFICIENT OR CONSERVE MORE ENERGY THAN A RESIDENTIAL BUILDING BUILT IN  
34 COMPLIANCE WITH THE PRESCRIPTIVE REQUIREMENTS OF THE ADOPTED OR ENFORCED  
35 BUILDING ENERGY CODE.

36 D. NOTHING IN THIS SECTION SHALL PRECLUDE, CHANGE OR IMPAIR THE  
37 AUTHORITY OF A CITY OR TOWN TO ADOPT AND ENFORCE BUILDING ENERGY CODES  
38 GOVERNING BUILDINGS NOT COVERED BY THIS SECTION. NOTHING IN THIS SECTION  
39 SHALL REQUIRE A CITY OR TOWN TO ADOPT ANY, OR PART OF ANY, BUILDING ENERGY  
40 CODE, ORDINANCE, STIPULATION OR OTHER LEGAL REQUIREMENT RELATING TO ENERGY  
41 CONSERVATION OR ENERGY EFFICIENCY.

42 E. FOR THE PURPOSES OF THIS SECTION:

43 1. "ARIZONA CLIMATE ZONE FIVE" INCLUDES CITIES AND TOWNS LOCATED IN  
44 APACHE COUNTY, COCONINO COUNTY AND NAVAJO COUNTY.

1           2. "ARIZONA CLIMATE ZONE FOUR" INCLUDES CITIES AND TOWNS LOCATED IN  
2 GILA COUNTY AND YAVAPAI COUNTY.

3           3. "ARIZONA CLIMATE ZONE THREE" INCLUDES CITIES AND TOWNS LOCATED IN  
4 GRAHAM COUNTY, GREENLEE COUNTY AND SANTA CRUZ COUNTY.

5           4. "ARIZONA CLIMATE ZONE TWO" INCLUDES CITIES AND TOWNS LOCATED IN  
6 COCHISE COUNTY, LA PAZ COUNTY, MARICOPA COUNTY, MOHAVE COUNTY, PIMA COUNTY,  
7 PINAL COUNTY AND YUMA COUNTY.

8           5. "BUILDING ENERGY CODE" MEANS CONSTRUCTION CODES, INCLUDING THE  
9 INTERNATIONAL ENERGY CONSERVATION CODE AND THE ENERGY CONSERVATION CHAPTER OF  
10 THE INTERNATIONAL RESIDENTIAL CODE, HOWEVER DENOMINATED.

11           6. "HOME ENERGY RATING PROVIDER" MEANS AN ORGANIZATION THAT IS  
12 ACCREDITED BY THE RESIDENTIAL ENERGY SERVICES NETWORK AND THAT DEVELOPS,  
13 MANAGES AND OPERATES A HOME ENERGY RATING PROGRAM ACCORDING TO THE  
14 PROCEDURES, RULES AND GUIDELINES SPECIFIED BY THE RESIDENTIAL ENERGY SERVICES  
15 NETWORK.

16           7. "HOME ENERGY RATING SYSTEM INDEX" MEANS A NUMERICAL INTEGER VALUE  
17 THAT REPRESENTS THE RELATIVE ENERGY USE OF A RATED HOME AS COMPARED WITH THE  
18 ENERGY USE OF THE HOME ENERGY RATING SYSTEM REFERENCE HOME AND WHERE AN INDEX  
19 VALUE OF ONE HUNDRED REPRESENTS THE ENERGY USE OF THE HOME ENERGY RATING  
20 SYSTEM REFERENCE HOME AND AN INDEX VALUE OF ZERO REPRESENTS A HOME THAT USES  
21 ZERO NET PURCHASED ENERGY.

22           8. "RESIDENTIAL BUILDING" MEANS ANY DETACHED ONE-FAMILY AND TWO-FAMILY  
23 DWELLINGS AND MULTIPLE SINGLE-FAMILY DWELLINGS, INCLUDING MULTIFAMILY  
24 BUILDINGS THAT ARE THREE STORIES OR LESS IN HEIGHT ABOVE GRADE PLANE.

25           Sec. 2. Title 11, chapter 6, article 5, Arizona Revised Statutes, is  
26 amended by adding section 11-867, to read:

27           11-867. Affordable housing and residential energy conservation  
28                                   or efficiency: state preemption: conformation:  
29                                   definitions

30           A. AFFORDABLE HOUSING AND THE REGULATION OF RESIDENTIAL ENERGY  
31 CONSUMPTION AND ENERGY EFFICIENCY IS OF STATEWIDE CONCERN. AFFORDABLE  
32 HOUSING AND THE REGULATION OF RESIDENTIAL ENERGY CONSUMPTION AND ENERGY  
33 EFFICIENCY PURSUANT TO THIS SECTION IS NOT SUBJECT TO FURTHER REGULATION BY A  
34 COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

35           B. A RESIDENTIAL BUILDING THAT ACHIEVES A HOME ENERGY RATING SYSTEM  
36 INDEX SCORE OF SEVENTY-THREE OR LOWER IN ARIZONA CLIMATE ZONES TWO AND THREE,  
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38 ARIZONA CLIMATE ZONE FIVE THAT IS CONFIRMED IN WRITING BY A HOME ENERGY  
39 RATING PROVIDER SHALL BE DEEMED TO COMPLY WITH ANY, OR PART OF ANY, BUILDING  
40 ENERGY CODE, ORDINANCE, STIPULATION OR OTHER LEGAL REQUIREMENT RELATING TO  
41 ENERGY CONSERVATION OR ENERGY EFFICIENCY ADOPTED OR ENFORCED BY A COUNTY.  
42 THE WRITTEN CONFIRMATION OF THE HOME ENERGY RATING SYSTEM INDEX SCORE SHALL  
43 BE PROVIDED TO THE COUNTY IN WHICH THE RESIDENTIAL BUILDING IS LOCATED. A  
44 HOME BUILDER MAY VOLUNTARILY DESIGN AND CONSTRUCT A RESIDENTIAL BUILDING THAT  
45 ACHIEVES A HOME ENERGY RATING SYSTEM INDEX SCORE LOWER THAN THE SCORES

1 PRESCRIBED IN THIS SECTION. THIS SUBSECTION DOES NOT APPLY TO THE 2015 AND  
2 SUBSEQUENT EDITIONS OF A BUILDING ENERGY CODE.

3 C. THE 2015 OR SUBSEQUENT EDITIONS OF A BUILDING ENERGY CODE ADOPTED  
4 OR ENFORCED BY A COUNTY SHALL INCLUDE OR BE AMENDED TO INCLUDE A PERFORMANCE-  
5 BASED PATH TO COMPLIANCE FOR RESIDENTIAL BUILDINGS USING A HOME ENERGY RATING  
6 SYSTEM INDEX SCORE WITH NO LIMITATIONS, RESTRICTIONS OR MANDATES AS TO HOW  
7 THE NECESSARY SCORE IS ACHIEVED. THE HOME ENERGY RATING SYSTEM INDEX SCORE  
8 SET BY THE COUNTY THAT A RESIDENTIAL BUILDING MUST ACHIEVE TO BE DEEMED IN  
9 COMPLIANCE WITH THE ADOPTED OR ENFORCED BUILDING ENERGY CODE SHALL NOT  
10 REQUIRE THE RESIDENTIAL BUILDING TO BE MORE ENERGY EFFICIENT OR CONSERVE MORE  
11 ENERGY THAN A RESIDENTIAL BUILDING BUILT IN COMPLIANCE WITH THE PRESCRIPTIVE  
12 REQUIREMENTS OF THE ADOPTED OR ENFORCED BUILDING ENERGY CODE.

13 D. NOTHING IN THIS SECTION SHALL PRECLUDE, CHANGE OR IMPAIR THE  
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26 4. "ARIZONA CLIMATE ZONE TWO" INCLUDES COCHISE COUNTY, LA PAZ COUNTY,  
27 MARICOPA COUNTY, MOHAVE COUNTY, PIMA COUNTY, PINAL COUNTY AND YUMA COUNTY.

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