

REFERENCE TITLE: independent business status; declaration

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2114

Introduced by
Representatives Petersen, Cobb: Allen J, Fann, Finchem, Norgaard, Olson,
Shope, Senator Lesko

AN ACT

AMENDING TITLE 23, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10; RELATING
TO EMPLOYMENT RELATIONSHIPS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 23, Arizona Revised Statutes, is amended by adding
3 chapter 10, to read:

4 CHAPTER 10

5 EMPLOYMENT RELATIONSHIPS

6 ARTICLE 1. GENERAL PROVISIONS

7 23-1601. Declaration of independent business status

8 A. ANY EMPLOYING UNIT CONTRACTING WITH AN INDEPENDENT CONTRACTOR MAY
9 PROVE THE EXISTENCE OF AN INDEPENDENT CONTRACTOR RELATIONSHIP FOR THE
10 PURPOSES OF THIS TITLE BY THE INDEPENDENT CONTRACTOR EXECUTING A DECLARATION
11 OF INDEPENDENT BUSINESS STATUS, AS PROVIDED BY THIS SECTION, AND BY THE
12 EMPLOYING UNIT AND THE INDEPENDENT CONTRACTOR ACTING IN A MANNER CONSISTENT
13 WITH THE DECLARATION. TO THE EXTENT ALLOWED BY FEDERAL LAW, A DECLARATION OF
14 INDEPENDENT BUSINESS STATUS EXECUTED IN COMPLIANCE WITH THIS SUBSECTION
15 CREATES A REBUTTABLE PRESUMPTION OF AN INDEPENDENT CONTRACTOR RELATIONSHIP
16 BETWEEN THE INDEPENDENT CONTRACTOR AND THE EMPLOYING UNIT WITH WHOM THE
17 INDEPENDENT CONTRACTOR CONTRACTS. ANY DECLARATION OF INDEPENDENT BUSINESS
18 STATUS SHALL BE SIGNED BY THE INDEPENDENT CONTRACTOR, BE DATED AND, UNLESS
19 OTHERWISE PROVIDED BY LAW, SUBSTANTIALLY COMPLY WITH THE FOLLOWING FORM:

20 THIS DECLARATION OF INDEPENDENT BUSINESS STATUS IS MADE BY
21 (CONTRACTOR) IN RELATION TO SERVICES PERFORMED BY THE
22 CONTRACTOR FOR (CONTRACTING PARTY). THE CONTRACTOR STATES
23 AND DECLARES THE FOLLOWING:

24 1. THE CONTRACTOR OPERATES THE CONTRACTOR'S OWN
25 INDEPENDENT BUSINESS AND IS PROVIDING SERVICES FOR THE
26 CONTRACTING PARTY AS AN INDEPENDENT CONTRACTOR.

27 2. THE CONTRACTOR UNDERSTANDS THAT THE CONTRACTOR IS NOT
28 AN EMPLOYEE OF THE CONTRACTING PARTY AND THE SERVICES RENDERED
29 FOR THE CONTRACTING PARTY DO NOT ESTABLISH ANY RIGHT TO
30 UNEMPLOYMENT BENEFITS OR ANY OTHER RIGHT ARISING FROM AN
31 EMPLOYMENT RELATIONSHIP.

32 3. THE CONTRACTOR UNDERSTANDS THAT THE CONTRACTOR IS NOT
33 INSURED UNDER ANY OF CONTRACTING PARTY'S INSURANCE COVERAGE,
34 INCLUDING WORKERS' COMPENSATION INSURANCE.

35 4. THE CONTRACTOR UNDERSTANDS THAT THE CONTRACTOR IS
36 RESPONSIBLE FOR ANY AND ALL TAX LIABILITY ASSOCIATED WITH
37 PAYMENTS RECEIVED FROM THE CONTRACTING PARTY AND THAT THE
38 CONTRACTING PARTY WILL NOT WITHHOLD ANY TAXES FROM PAYMENTS TO
39 THE CONTRACTOR.

40 5. THE CONTRACTOR UNDERSTANDS THAT THE CONTRACTING PARTY
41 DOES NOT RESTRICT THE CONTRACTOR'S ABILITY TO PERFORM SERVICES
42 FOR OTHER PARTIES. THE CONTRACTOR IS AUTHORIZED TO ACCEPT WORK
43 FROM AND PERFORM WORK FOR OTHER BUSINESSES AND INDIVIDUALS
44 BESIDES THE CONTRACTING PARTY.

45 6. THE CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTING PARTY
46 EXPECTS THAT THE CONTRACTOR PROVIDES SERVICES FOR OTHER PARTIES

1 AND IS THEREFORE NOT ECONOMICALLY DEPENDENT ON THE SERVICES
2 PERFORMED FOR THE CONTRACTING PARTY.

3 7. THE CONTRACTOR HAS THE RIGHT TO ACCEPT OR DECLINE
4 REQUESTS FOR SERVICES BY THE CONTRACTING PARTY.

5 8. THE CONTRACTOR HAS THE RIGHT TO SUBCONTRACT THE
6 SERVICES PROVIDED TO THE CONTRACTING PARTY TO QUALIFIED
7 EMPLOYEES OR SUBCONTRACTORS OF THE CONTRACTOR.

8 9. THE CONTRACTOR RECOGNIZES THAT THE CONTRACTING PARTY
9 DOES NOT DICTATE THE TIME OF PERFORMANCE OR THE METHODS OR
10 PROCESS THE CONTRACTOR USES TO PERFORM SERVICES FOR THE
11 CONTRACTING PARTY. THE CONTRACTING PARTY HAS THE RIGHT TO
12 IMPOSE QUALITY STANDARDS OR A DEADLINE FOR COMPLETION OF
13 SERVICES PERFORMED, OR BOTH, BUT THE CONTRACTOR IS AUTHORIZED TO
14 DETERMINE THE DAYS WORKED, THE TIME OF WORK AND OTHER ASPECTS OF
15 PERFORMANCE.

16 10. THE CONTRACTOR RECOGNIZES THAT THE CONTRACTOR IS
17 RESPONSIBLE FOR OBTAINING AND MAINTAINING ANY REQUIRED
18 REGISTRATION, LICENSES OR OTHER AUTHORIZATION NECESSARY FOR THE
19 SERVICES RENDERED BY THE CONTRACTOR.

20 11. THE CONTRACTOR UNDERSTANDS THAT THE CONTRACTOR WILL
21 BE PAID BY THE CONTRACTING PARTY BASED ON THE WORK THE
22 CONTRACTOR IS CONTRACTED TO PERFORM AND THAT THE CONTRACTING
23 PARTY IS NOT GUARANTEEING OR OTHERWISE PROVIDING THE CONTRACTOR
24 WITH A REGULAR SALARY OR ANY MINIMUM, REGULAR PAYMENT.

25 12. THE CONTRACTOR UNDERSTANDS THAT THE CONTRACTOR IS
26 RESPONSIBLE FOR PROVIDING AND MAINTAINING ALL TOOLS AND
27 EQUIPMENT ASSOCIATED WITH THE SERVICES PERFORMED FOR THE
28 CONTRACTING PARTY.

29 13. THE CONTRACTOR UNDERSTANDS THAT THE CONTRACTOR IS
30 RESPONSIBLE FOR ALL EXPENSES INCURRED BY THE CONTRACTOR IN
31 PERFORMING THE SERVICES FOR THE CONTRACTING PARTY.

32 14. THE CONTRACTOR ACKNOWLEDGES THAT THE TERMS SET FORTH
33 IN THIS DECLARATION APPLY TO THE CONTRACTOR, THE CONTRACTOR'S
34 EMPLOYEES AND THE CONTRACTOR'S INDEPENDENT CONTRACTORS.

35 B. THIS SECTION DOES NOT REQUIRE AN INDEPENDENT CONTRACTOR TO EXECUTE
36 A DECLARATION OF INDEPENDENT BUSINESS STATUS TO BE CONSIDERED AN INDEPENDENT
37 CONTRACTOR. ANY EMPLOYING UNIT OR INDEPENDENT CONTRACTOR MAY RELY ON ANY
38 PROVISION IN THIS TITLE FOR THE PURPOSES OF ESTABLISHING AN EMPLOYMENT OR
39 INDEPENDENT CONTRACTOR RELATIONSHIP.

40 23-1602. Determination of employment relationship; prohibition

41 ANY SUPERVISION OR CONTROL EXERCISED BY AN EMPLOYING UNIT TO COMPLY
42 WITH ANY STATUTE, RULE OR CODE ADOPTED BY THIS STATE OR A POLITICAL
43 SUBDIVISION OF THIS STATE OR ANY PROFESSIONAL LICENSING REQUIREMENT MAY NOT
44 BE CONSIDERED FOR THE PURPOSES OF DETERMINING THE INDEPENDENT CONTRACTOR OR
45 EMPLOYMENT STATUS OF ANY RELATIONSHIP OR INDIVIDUAL FOR THE PURPOSES OF THIS
46 TITLE.