

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

**CHAPTER 210**  
**HOUSE BILL 2652**

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. Qualified marketplace contractors; definitions

8 A. A QUALIFIED MARKETPLACE CONTRACTOR SHALL BE TREATED AS AN  
9 INDEPENDENT CONTRACTOR FOR ALL PURPOSES UNDER STATE AND LOCAL LAWS,  
10 REGULATIONS AND ORDINANCES, INCLUDING EMPLOYMENT SECURITY LAWS PRESCRIBED IN  
11 CHAPTER 4 OF THIS TITLE AND WORKERS' COMPENSATION LAWS PRESCRIBED IN CHAPTER  
12 6 OF THIS TITLE, IF ALL OF THE FOLLOWING APPLY:

13 1. ALL OR SUBSTANTIALLY ALL OF THE PAYMENT FOR THE SERVICES PERFORMED  
14 BY THE QUALIFIED MARKETPLACE CONTRACTOR IS RELATED TO THE PERFORMANCE OF  
15 SERVICES OR OTHER OUTPUT.

16 2. THE SERVICES PERFORMED BY THE QUALIFIED MARKETPLACE CONTRACTOR ARE  
17 GOVERNED BY A WRITTEN CONTRACT EXECUTED BETWEEN THE QUALIFIED MARKETPLACE  
18 CONTRACTOR AND A QUALIFIED MARKETPLACE PLATFORM.

19 3. THE WRITTEN CONTRACT REQUIRED BY PARAGRAPH 2 OF THIS SUBSECTION  
20 PROVIDES FOR ALL OF THE FOLLOWING:

21 (a) THAT THE QUALIFIED MARKETPLACE CONTRACTOR IS PROVIDING SERVICES AS  
22 AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE.

23 (b) THAT, PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION, ALL OR  
24 SUBSTANTIALLY ALL OF THE PAYMENT PAID TO THE CONTRACTOR SHALL BE BASED ON THE  
25 PERFORMANCE OF SERVICES OR OTHER OUTPUT.

26 (c) THAT THE QUALIFIED MARKETPLACE CONTRACTOR IS ALLOWED TO WORK ANY  
27 HOURS OR SCHEDULES THE QUALIFIED MARKETPLACE CONTRACTOR CHOOSES. IF THE  
28 QUALIFIED MARKETPLACE CONTRACTOR ELECTS TO WORK SPECIFIED HOURS OR SCHEDULES,  
29 A CONTRACT MAY REQUIRE THE QUALIFIED MARKETPLACE CONTRACTOR TO PERFORM WORK  
30 DURING THE SELECTED HOURS OR SCHEDULES.

31 (d) THAT THE QUALIFIED MARKETPLACE CONTRACT DOES NOT RESTRICT THE  
32 CONTRACTOR'S ABILITY TO PERFORM SERVICES FOR OTHER PARTIES.

33 (e) THAT THE QUALIFIED MARKETPLACE CONTRACTOR BEARS ALL OR  
34 SUBSTANTIALLY ALL OF THE QUALIFIED MARKETPLACE CONTRACTOR'S OWN EXPENSES THAT  
35 ARE INCURRED BY THE QUALIFIED MARKETPLACE CONTRACTOR IN PERFORMING THE  
36 SERVICES.

37 (f) THAT THE QUALIFIED MARKETPLACE CONTRACTOR IS RESPONSIBLE FOR THE  
38 TAXES ON THE QUALIFIED MARKETPLACE CONTRACTOR'S OWN INCOME.

39 (g) THAT THE CONTRACT AND THE ASSOCIATION CREATED BY THE CONTRACT MAY  
40 BE TERMINATED WITHOUT CAUSE BY EITHER PARTY TO THE CONTRACT AT ANY TIME ON  
41 REASONABLE NOTICE GIVEN TO THE OTHER PARTY.

42 B. FOR SERVICES PERFORMED BY A QUALIFIED MARKETPLACE CONTRACTOR BEFORE  
43 THE EFFECTIVE DATE OF THIS SECTION, THE QUALIFIED MARKETPLACE CONTRACTOR  
44 SHALL BE TREATED AS AN INDEPENDENT CONTRACTOR FOR ALL PURPOSES UNDER STATE  
45 AND LOCAL LAWS, REGULATIONS AND ORDINANCES, INCLUDING EMPLOYMENT SECURITY

1 LAWS PRESCRIBED IN CHAPTER 4 OF THIS TITLE AND WORKERS' COMPENSATION LAWS  
2 PRESCRIBED IN CHAPTER 6 OF THIS TITLE, IF BOTH OF THE FOLLOWING APPLY:

3 1. ALL OR SUBSTANTIALLY ALL OF THE PAYMENT FOR THE SERVICES PERFORMED  
4 BY THE QUALIFIED MARKETPLACE CONTRACTOR IS RELATED TO THE PERFORMANCE OF  
5 SERVICES OR OTHER OUTPUT.

6 2. THE SERVICES PERFORMED BY THE QUALIFIED MARKETPLACE CONTRACTOR ARE  
7 GOVERNED BY A WRITTEN CONTRACT EXECUTED BETWEEN THE QUALIFIED MARKETPLACE  
8 CONTRACTOR AND A QUALIFIED MARKETPLACE PLATFORM THAT CONFORMS TO THE  
9 REQUIREMENTS OF SUBSECTION A, PARAGRAPH 3 OF THIS SECTION.

10 C. COMPLIANCE WITH THIS SECTION IS NOT MANDATORY IN ORDER TO ESTABLISH  
11 THE EXISTENCE OF AN INDEPENDENT CONTRACTOR RELATIONSHIP. THE EXCLUSION OF  
12 ANY CONTRACTOR OR DIGITAL PLATFORM FROM THIS SECTION DOES NOT CREATE ANY  
13 PRESUMPTIONS AND IS NOT ADMISSIBLE TO DENY THE EXISTENCE OF AN INDEPENDENT  
14 CONTRACTOR RELATIONSHIP.

15 D. THIS SECTION DOES NOT APPLY TO:

16 1. SERVICE PERFORMED IN THE EMPLOY OF A STATE, OR ANY POLITICAL  
17 SUBDIVISION OF THE STATE, OR IN THE EMPLOY OF AN INDIAN TRIBE, OR ANY  
18 INSTRUMENTALITY OF A STATE, ANY POLITICAL SUBDIVISION OF A STATE OR ANY  
19 INDIAN TRIBE THAT IS WHOLLY OWNED BY ONE OR MORE STATES OR POLITICAL  
20 SUBDIVISIONS OR INDIAN TRIBES, PROVIDED THAT SUCH SERVICE IS EXCLUDED FROM  
21 EMPLOYMENT AS DEFINED IN THE FEDERAL UNEMPLOYMENT TAX ACT (26 UNITED STATES  
22 CODE SECTIONS 3301 AND 3306(c)(7)).

23 2. SERVICE PERFORMED IN THE EMPLOY OF A RELIGIOUS, CHARITABLE,  
24 EDUCATIONAL OR OTHER ORGANIZATION THAT IS EXCLUDED FROM EMPLOYMENT AS DEFINED  
25 IN THE FEDERAL UNEMPLOYMENT TAX ACT (26 UNITED STATES CODE SECTIONS 3301  
26 THROUGH 3311), SOLELY BY REASON OF 26 UNITED STATES CODE SECTION 3306(c)(8).

27 E. FOR THE PURPOSES OF THIS SECTION:

28 1. "QUALIFIED MARKETPLACE CONTRACTOR" MEANS ANY PERSON OR  
29 ORGANIZATION, INCLUDING AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY  
30 COMPANY, PARTNERSHIP, SOLE PROPRIETOR OR OTHER ENTITY, THAT ENTERS INTO AN  
31 AGREEMENT WITH A QUALIFIED MARKETPLACE PLATFORM TO USE THE QUALIFIED  
32 MARKETPLACE PLATFORM'S DIGITAL PLATFORM TO PROVIDE SERVICES TO THIRD-PARTY  
33 INDIVIDUALS OR ENTITIES SEEKING THOSE SERVICES. QUALIFIED MARKETPLACE  
34 CONTRACTOR DOES NOT INCLUDE ANY CONTRACTOR WHEN THE SERVICES PERFORMED  
35 CONSIST OF TRANSPORTING FREIGHT, SEALED AND CLOSED ENVELOPES, BOXES OR  
36 PARCELS OR OTHER SEALED AND CLOSED CONTAINERS FOR COMPENSATION.

37 2. "QUALIFIED MARKETPLACE PLATFORM" MEANS AN ORGANIZATION, INCLUDING,  
38 BUT NOT LIMITED TO, A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP,  
39 SOLE PROPRIETOR OR ANY OTHER ENTITY, THAT BOTH:

40 (a) OPERATES A DIGITAL WEBSITE OR DIGITAL SMARTPHONE APPLICATION THAT  
41 FACILITATES THE PROVISION OF SERVICES BY QUALIFIED MARKETPLACE CONTRACTORS TO  
42 INDIVIDUALS OR ENTITIES SEEKING SUCH SERVICES.

43 (b) ACCEPTS SERVICE REQUESTS FROM THE PUBLIC ONLY THROUGH ITS DIGITAL  
44 WEBSITE OR DIGITAL SMARTPHONE APPLICATION, AND DOES NOT ACCEPT SERVICE

1 REQUESTS BY TELEPHONE, BY FACSIMILE OR IN PERSON AT PHYSICAL RETAIL  
2 LOCATIONS.  
3 QUALIFIED MARKETPLACE PLATFORM DOES NOT INCLUDE ANY DIGITAL WEBSITE OR  
4 SMARTPHONE APPLICATION WHERE THE SERVICES FACILITATED CONSIST OF TRANSPORTING  
5 FREIGHT, SEALED AND CLOSED ENVELOPES, BOXES OR PARCELS OR OTHER SEALED AND  
6 CLOSED CONTAINERS FOR COMPENSATION.

APPROVED BY THE GOVERNOR MAY 12, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2016.