CHAPTER 231

HOUSE BILL 2114

AN ACT

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

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

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

CHAPTER 10
EMPLOYMENT RELATIONSHIPS
ARTICLE 1. GENERAL PROVISIONS

23-1601. Declaration of independent business status
A. Compliance with this chapter and the execution of a declaration of independent business status in compliance with this section are not mandatory in order to establish the existence of an independent contractor relationship between an employing unit and an independent contractor. The failure of a party to execute a declaration in compliance with this section does not create any presumptions and is not admissible to deny the existence of an independent contractor relationship.

B. Any employing unit contracting with an independent contractor may prove the existence of an independent contractor relationship for the purposes of this title by the independent contractor executing a declaration of independent business status, as provided by this section, and by the employing unit acting in a manner substantially consistent with the declaration. Compliance with this section creates a rebuttable presumption of an independent contractor relationship between the independent contractor and the employing unit with whom the independent contractor contracts. Any declaration of independent business status shall be signed by the independent contractor, be dated and substantially comply with the following form:

THIS DECLARATION OF INDEPENDENT BUSINESS STATUS IS MADE BY (CONTRACTOR) IN RELATION TO SERVICES PERFORMED BY THE CONTRACTOR FOR OR IN CONNECTION WITH (CONTRACTING PARTY). THE CONTRACTOR STATES AND DECLARES THE FOLLOWING:

1. The contractor acknowledges that the contractor operates the contractor's own independent business and is providing services for or in connection with the contracting party as an independent contractor.

2. The contractor acknowledges that the contractor is not an employee of the contracting party and the services rendered for or in connection with the contracting party do not establish any right to unemployment benefits or any other right arising from an employment relationship.

3. The contractor is responsible for all tax liability associated with payments received from or through the contracting party and the contracting party will not withhold any taxes from payments to the contractor.

4. The contractor is responsible for obtaining and maintaining any required registration, licenses or other authorization necessary for the services rendered by the contractor.
5. The contractor acknowledges at least six of the following:
   (a) That the contractor is not insured under the contracting party’s health insurance coverage or workers’ compensation insurance coverage.
   (b) That the contracting party does not restrict the contractor’s ability to perform services for or through other parties and the contractor is authorized to accept work from and perform work for other businesses and individuals besides the contracting party.
   (c) That the contractor has the right to accept or decline requests for services by or through the contracting party.
   (d) That the contracting party expects that the contractor provides services for other parties.
   (e) That the contractor is not economically dependent on the services performed for or in connection with the contracting party.
   (f) That the contracting party does not dictate the performance, methods or process the contractor uses to perform services.
   (g) That the contracting party has the right to impose quality standards or a deadline for completion of services performed, or both, but the contractor is authorized to determine the days worked and the time periods of work.
   (h) That the contractor will be paid by or through the contracting party based on the work the contractor is contracted to perform and that the contracting party is not providing the contractor with a regular salary or any minimum, regular payment.
   (i) That the contractor is responsible for providing and maintaining all tools and equipment required to perform the services performed.
   (j) That the contractor is responsible for all expenses incurred by the contractor in performing the services.

6. The contractor acknowledges that the terms set forth in this declaration apply to the contractor, the contractor’s employees and the contractor's independent contractors.

C. Subsections A and B of this section do not apply to any employing unit that is licensed or is required to be licensed pursuant to Title 32, Chapter 10 unless the employing unit is contracting with an independent contractor to perform services that do not require a license pursuant to Title 32, Chapter 10 for or in connection with the employing unit.

D. Execution of a declaration of independent business status under this section is optional and this section does not require an independent contractor to execute a declaration of independent business status to be
CONSIDERED AN INDEPENDENT CONTRACTOR. ANY EMPLOYING UNIT OR INDEPENDENT CONTRACTOR MAY RELY ON ANY PROVISION IN THIS TITLE FOR THE PURPOSES OF ESTABLISHING AN EMPLOYMENT OR INDEPENDENT CONTRACTOR RELATIONSHIP.

E. THE EXECUTION OF A DECLARATION OF INDEPENDENT BUSINESS STATUS AND SUBSTANTIAL COMPLIANCE WITH THE DECLARATION PURSUANT TO THIS SECTION DOES NOT OPERATE TO THE SAME EFFECT AS OR OTHERWISE ACT AS A SUBSTITUTE FOR A WRITTEN AGREEMENT EXECUTED PURSUANT TO SECTION 23-902, SUBSECTION D.

23-1602. Determination of employment relationship; prohibition

EXCEPT FOR THE ENFORCEMENT OF CHAPTER 2, ARTICLE 10 OF THIS TITLE, ANY SUPERVISION OR CONTROL EXERCISED BY AN EMPLOYING UNIT TO COMPLY WITH ANY STATUTE, RULE OR CODE ADOPTED BY THE FEDERAL GOVERNMENT, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR ANY REQUIREMENT OF LICENSING, PROFESSIONAL OR ETHICAL STANDARDS MAY NOT BE CONSIDERED FOR THE PURPOSES OF DETERMINING THE INDEPENDENT CONTRACTOR OR EMPLOYMENT STATUS OF ANY RELATIONSHIP OR INDIVIDUAL FOR THE PURPOSES OF THIS TITLE. THIS SECTION DOES NOT OTHERWISE AFFECT ANY INVESTIGATORY OR ENFORCEMENT AUTHORITY RELATED TO THE DETERMINATION OF THE INDEPENDENT CONTRACTOR OR EMPLOYMENT STATUS OF ANY RELATIONSHIP AS PROVIDED BY THIS TITLE OR FEDERAL LAW.

Sec. 2. Severability

If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 3. Applicability

This act does not annul, alter, affect or exempt any employing unit or individual subject to title 23, Arizona Revised Statutes, from complying with the laws of this state, except to the extent that the laws of this state are inconsistent with any provision of this act, and then only to the extent of the inconsistency.

APPROVED BY THE GOVERNOR MAY 12, 2016.