

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

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)

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. COMPLIANCE WITH THIS CHAPTER AND THE EXECUTION OF A DECLARATION OF
9 INDEPENDENT BUSINESS STATUS IN COMPLIANCE WITH THIS SECTION ARE NOT MANDATORY
10 IN ORDER TO ESTABLISH THE EXISTENCE OF AN INDEPENDENT CONTRACTOR RELATIONSHIP
11 BETWEEN AN EMPLOYING UNIT AND AN INDEPENDENT CONTRACTOR. THE FAILURE OF A
12 PARTY TO EXECUTE A DECLARATION IN COMPLIANCE WITH THIS SECTION DOES NOT
13 CREATE ANY PRESUMPTIONS AND IS NOT ADMISSIBLE TO DENY THE EXISTENCE OF AN
14 INDEPENDENT CONTRACTOR RELATIONSHIP.

15 B. ANY EMPLOYING UNIT CONTRACTING WITH AN INDEPENDENT CONTRACTOR MAY
16 PROVE THE EXISTENCE OF AN INDEPENDENT CONTRACTOR RELATIONSHIP FOR THE
17 PURPOSES OF THIS TITLE BY THE INDEPENDENT CONTRACTOR EXECUTING A DECLARATION
18 OF INDEPENDENT BUSINESS STATUS, AS PROVIDED BY THIS SECTION, AND BY THE
19 EMPLOYING UNIT ACTING IN A MANNER SUBSTANTIALLY CONSISTENT WITH THE
20 DECLARATION. COMPLIANCE WITH THIS SECTION CREATES A REBUTTABLE PRESUMPTION
21 OF AN INDEPENDENT CONTRACTOR RELATIONSHIP BETWEEN THE INDEPENDENT CONTRACTOR
22 AND THE EMPLOYING UNIT WITH WHOM THE INDEPENDENT CONTRACTOR CONTRACTS. ANY
23 DECLARATION OF INDEPENDENT BUSINESS STATUS SHALL BE SIGNED BY THE INDEPENDENT
24 CONTRACTOR, BE DATED AND SUBSTANTIALLY COMPLY WITH THE FOLLOWING FORM:

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

29 1. THE CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR
30 OPERATES THE CONTRACTOR'S OWN INDEPENDENT BUSINESS AND IS
31 PROVIDING SERVICES FOR OR IN CONNECTION WITH THE CONTRACTING
32 PARTY AS AN INDEPENDENT CONTRACTOR.

33 2. THE CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR IS NOT
34 AN EMPLOYEE OF THE CONTRACTING PARTY AND THE SERVICES RENDERED
35 FOR OR IN CONNECTION WITH THE CONTRACTING PARTY DO NOT ESTABLISH
36 ANY RIGHT TO UNEMPLOYMENT BENEFITS OR ANY OTHER RIGHT ARISING
37 FROM AN EMPLOYMENT RELATIONSHIP.

38 3. THE CONTRACTOR IS RESPONSIBLE FOR ALL TAX LIABILITY
39 ASSOCIATED WITH PAYMENTS RECEIVED FROM OR THROUGH THE
40 CONTRACTING PARTY AND THE CONTRACTING PARTY WILL NOT WITHHOLD
41 ANY TAXES FROM PAYMENTS TO THE CONTRACTOR.

42 4. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING AND
43 MAINTAINING ANY REQUIRED REGISTRATION, LICENSES OR OTHER
44 AUTHORIZATION NECESSARY FOR THE SERVICES RENDERED BY THE
45 CONTRACTOR.

1 5. THE CONTRACTOR ACKNOWLEDGES AT LEAST SIX OF THE
2 FOLLOWING:

3 (a) THAT THE CONTRACTOR IS NOT INSURED UNDER THE
4 CONTRACTING PARTY'S HEALTH INSURANCE COVERAGE OR WORKERS'
5 COMPENSATION INSURANCE COVERAGE.

6 (b) THAT THE CONTRACTING PARTY DOES NOT RESTRICT THE
7 CONTRACTOR'S ABILITY TO PERFORM SERVICES FOR OR THROUGH OTHER
8 PARTIES AND THE CONTRACTOR IS AUTHORIZED TO ACCEPT WORK FROM AND
9 PERFORM WORK FOR OTHER BUSINESSES AND INDIVIDUALS BESIDES THE
10 CONTRACTING PARTY.

11 (c) THAT THE CONTRACTOR HAS THE RIGHT TO ACCEPT OR
12 DECLINE REQUESTS FOR SERVICES BY OR THROUGH THE CONTRACTING
13 PARTY.

14 (d) THAT THE CONTRACTING PARTY EXPECTS THAT THE
15 CONTRACTOR PROVIDES SERVICES FOR OTHER PARTIES.

16 (e) THAT THE CONTRACTOR IS NOT ECONOMICALLY DEPENDENT ON
17 THE SERVICES PERFORMED FOR OR IN CONNECTION WITH THE CONTRACTING
18 PARTY.

19 (f) THAT THE CONTRACTING PARTY DOES NOT DICTATE THE
20 PERFORMANCE, METHODS OR PROCESS THE CONTRACTOR USES TO PERFORM
21 SERVICES.

22 (g) THAT THE CONTRACTING PARTY HAS THE RIGHT TO IMPOSE
23 QUALITY STANDARDS OR A DEADLINE FOR COMPLETION OF SERVICES
24 PERFORMED, OR BOTH, BUT THE CONTRACTOR IS AUTHORIZED TO
25 DETERMINE THE DAYS WORKED AND THE TIME PERIODS OF WORK.

26 (h) THAT THE CONTRACTOR WILL BE PAID BY OR THROUGH THE
27 CONTRACTING PARTY BASED ON THE WORK THE CONTRACTOR IS CONTRACTED
28 TO PERFORM AND THAT THE CONTRACTING PARTY IS NOT PROVIDING THE
29 CONTRACTOR WITH A REGULAR SALARY OR ANY MINIMUM, REGULAR
30 PAYMENT.

31 (i) THAT THE CONTRACTOR IS RESPONSIBLE FOR PROVIDING AND
32 MAINTAINING ALL TOOLS AND EQUIPMENT REQUIRED TO PERFORM THE
33 SERVICES PERFORMED.

34 (j) THAT THE CONTRACTOR IS RESPONSIBLE FOR ALL EXPENSES
35 INCURRED BY THE CONTRACTOR IN PERFORMING THE SERVICES.

36 6. THE CONTRACTOR ACKNOWLEDGES THAT THE TERMS SET FORTH
37 IN THIS DECLARATION APPLY TO THE CONTRACTOR, THE CONTRACTOR'S
38 EMPLOYEES AND THE CONTRACTOR'S INDEPENDENT CONTRACTORS.

39 C. SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY TO ANY EMPLOYING
40 UNIT THAT IS LICENSED OR IS REQUIRED TO BE LICENSED PURSUANT TO TITLE 32,
41 CHAPTER 10 UNLESS THE EMPLOYING UNIT IS CONTRACTING WITH AN INDEPENDENT
42 CONTRACTOR TO PERFORM SERVICES THAT DO NOT REQUIRE A LICENSE PURSUANT TO
43 TITLE 32, CHAPTER 10 FOR OR IN CONNECTION WITH THE EMPLOYING UNIT.

44 D. EXECUTION OF A DECLARATION OF INDEPENDENT BUSINESS STATUS UNDER
45 THIS SECTION IS OPTIONAL AND THIS SECTION DOES NOT REQUIRE AN INDEPENDENT
46 CONTRACTOR TO EXECUTE A DECLARATION OF INDEPENDENT BUSINESS STATUS TO BE

1 CONSIDERED AN INDEPENDENT CONTRACTOR. ANY EMPLOYING UNIT OR INDEPENDENT
2 CONTRACTOR MAY RELY ON ANY PROVISION IN THIS TITLE FOR THE PURPOSES OF
3 ESTABLISHING AN EMPLOYMENT OR INDEPENDENT CONTRACTOR RELATIONSHIP.

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

8 23-1602. Determination of employment relationship; prohibition

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

19 Sec. 2. Severability

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

25 Sec. 3. Applicability

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

APPROVED BY THE GOVERNOR MAY 12, 2016.

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