

REFERENCE TITLE: universities; lease-back financing

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

## **HB 2280**

Introduced by  
Representative Leach

AN ACT

AMENDING SECTIONS 15-1625 AND 15-1636, ARIZONA REVISED STATUTES; RELATING  
TO THE ARIZONA BOARD OF REGENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 15-1625, Arizona Revised Statutes, is amended to  
3 read:

4 15-1625. General powers of board as body corporate; limit on  
5 lease-back financing

6 A. The Arizona board of regents is a body corporate with perpetual  
7 succession. The board has jurisdiction and control over the universities.

8 B. The board may:

9 1. Adopt a corporate seal.

10 2. Contract.

11 3. Sue and be sued.

12 4. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, purchase,  
13 receive, hold, ~~AND~~ AND make and take leases and long-term leases of and sell  
14 real and personal property for the benefit of this state and for the use  
15 of the institutions under its jurisdiction.

16 C. NOTWITHSTANDING ANY OTHER LAW, BEGINNING ON JULY 1, 2018, THE  
17 BOARD OR A CORPORATION FORMED BY A UNIVERSITY UNDER THE JURISDICTION OF  
18 THE BOARD MAY NOT ENTER INTO A DEVELOPMENT AGREEMENT OR EXECUTE A  
19 TRANSACTION FOR WHICH THE DEED TO A PROPERTY IMPROVEMENT IS TRANSFERRED TO  
20 THE BOARD OR THAT UNIVERSITY AND SUBSEQUENTLY LEASED BACK TO A PRIVATE  
21 LESSOR FOR COMMERCIAL USE UNLESS THE PROPERTY IMPROVEMENT IS USED  
22 PRIMARILY FOR AN ACADEMIC PURPOSE, FOR STUDENT HOUSING OR AS AUTHORIZED IN  
23 SECTION 15-1636. THIS SUBSECTION DOES NOT PROHIBIT THE BOARD FROM ACTING  
24 AS A GROUND LESSOR OR AS A COMMERCIAL LANDLORD WITHOUT A DEVELOPMENT  
25 AGREEMENT IN A LEASE FOR A USE ANCILLARY TO A GOVERNMENT PROPERTY  
26 IMPROVEMENT USED FOR A UNIVERSITY PURPOSE.

27 Sec. 2. Section 15-1636, Arizona Revised Statutes, is amended to  
28 read:

29 15-1636. Lease of real property and improvements in research  
30 parks; prohibited and allowable uses; duties of  
31 board

32 A. The board shall not lease real property located in an area  
33 defined as a research park pursuant to section 35-701 unless the lease  
34 contains a covenant that prohibits unlimited manufacturing on the site and  
35 allows the board to enforce the covenant by appropriate means, which may  
36 include termination of the lease.

37 B. The board may take title to and lease improvements constructed  
38 on land located in an area defined as a research park pursuant to section  
39 35-701 if the lease contains a covenant that restricts the use of the  
40 subject property to the uses permitted under this section. The lease  
41 shall allow the board to enforce the covenant by appropriate means,  
42 including termination of the lease. The board may lease unimproved lots  
43 or parcels located in an area defined as a research park pursuant to  
44 section 35-701 for any use by a lessee.

1 C. The requirements of subsection B of this section do not apply to  
2 improvements constructed before July 20, 1996 or to a lease entered into  
3 between the board and a lessee, subsidiary, successor, sublessee or  
4 assignee of a lessee, who originally entered into any lease with the board  
5 before July 31, 1996.

6 D. The subject property may be used only for the following  
7 purposes:

8 1. Laboratories, offices and other facilities for testing,  
9 consulting and information processing, related to research and  
10 development.

11 2. Production, assembly or sale of products pursuant to research  
12 and development activities.

13 3. Pilot plants in which processes planned for use in production  
14 elsewhere can be tested and assembled.

15 4. FOR A LEASE ENTERED INTO BETWEEN THE BOARD AND A LESSEE,  
16 SUBSIDIARY, SUCCESSOR, SUBLESSEE OR ASSIGNEE OF A LESSEE WHO ORIGINALLY  
17 ENTERED INTO ANY LEASE WITH THE BOARD BEFORE JULY 31, 2018, regional or  
18 national headquarters of the lessee or its subsidiaries that are engaged  
19 in research and development or education activities.

20 5. Education and training facilities.

21 6. Operations required to maintain or support any permitted use,  
22 including maintenance shops, power plants, wastewater treatment  
23 facilities, the keeping of animals, machine shops, common area  
24 improvements and facilities and professional and commercial services  
25 supporting permitted uses, such as child development centers, food  
26 services and post office and mailing centers.

27 E. THE BOARD MAY NOT DESIGNATE, WITHOUT APPROVAL OF THE  
28 LEGISLATURE, A NEW RESEARCH PARK OR INCREASE THE SIZE OF AN EXISTING  
29 RESEARCH PARK AS DEFINED IN SECTION 35-701 BEYOND THE CONTIGUOUS BORDERS  
30 OF EXISTING RESEARCH PARKS AS THOSE BORDERS EXISTED ON JANUARY 1, 2018.

31 F. BEGINNING WITH LEASES ORIGINALLY ENTERED INTO AFTER JULY 31,  
32 2018, THE BOARD SHALL INDIVIDUALLY REVIEW AND APPROVE ALL LEASES ENTERED  
33 INTO PURSUANT TO THIS SECTION FOR COMPLIANCE AND MAY NOT DESIGNATE THIS  
34 AUTHORITY TO REVIEW AND APPROVE THESE LEASES. THE BOARD MAY NOT APPROVE A  
35 LEASE UNLESS THE REVIEW DEMONSTRATES THE LINK BETWEEN THE LEASE AND AN  
36 ACADEMIC MISSION OF THE UNIVERSITY.

37 Sec. 3. Retroactivity

38 A. Section 15-1625, Arizona Revised Statutes, as amended by this  
39 act, applies retroactively to from and after June 30, 2018.

40 B. Section 15-1636, subsection E, Arizona Revised Statutes, as  
41 added by this act, applies retroactively to from and after December 31,  
42 2017.

43 C. Section 15-1636, subsection F, Arizona Revised Statutes, as  
44 added by this act, applies retroactively to from and after July 30, 2018.