



# ARIZONA HOUSE OF REPRESENTATIVES FLOOR AMENDMENT EXPLANATION

*57th Legislature, 2nd Regular Session  
Majority Research Staff*

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**SB 1401: housing; contractors; bonds; taxes**

## **BLISS FLOOR AMENDMENT**

1. Reduces the household earning threshold, from 150% to 120% of the area median income, relating to classifying dwelling units as *workforce housing* or a *workforce housing project*.
2. Makes a clarifying change.

ADDITIONAL COW  
BLISS FLOOR AMENDMENT  
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1401  
(Reference to House engrossed Senate bill)

Amendment instruction key:  
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.  
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.  
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.  
[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.  
<<Green carets>> indicate a section added to the bill.  
<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Title 9, chapter 4, article 6, Arizona Revised Statutes,  
3 is amended by adding section 9-461.21, to read:

4 9-461.21. Workforce housing projects; residential structures;  
5 plan review and permitting process; definitions

6 A. EACH MUNICIPALITY MAY ESTABLISH AND MAINTAIN A WORKFORCE HOUSING  
7 PROJECT EXPEDITED PLAN REVIEW AND PERMITTING PROCESS. THE WORKFORCE  
8 HOUSING PROJECT EXPEDITED PLAN REVIEW AND PERMITTING PROCESS SHALL INCLUDE  
9 ALL OF THE FOLLOWING:

10 1. A DEDICATED POINT OF CONTACT FOR AFFORDABLE HOUSING APPLICANTS.

11 2. INITIAL PLAN REVIEW WITHIN TWENTY BUSINESS DAYS AFTER THE  
12 SUBMISSION OF THE PLAN APPLICATION.

13 3. INSPECTIONS BEING GIVEN PRIORITY SCHEDULING OR BEING SCHEDULED  
14 WITHIN SEVENTY-TWO HOURS.

15 B. FOR THE PURPOSES OF THIS SECTION:

16 1. "WORKFORCE HOUSING" MEANS NEW DWELLING UNITS THAT ARE:

17 (a) FOR SALE OR RENT AT A SALES OR RENTAL PRICE THAT IS AFFORDABLE  
18 TO HOUSEHOLDS EARNING NOT MORE THAN ONE HUNDRED [FIFTY] [TWENTY] PERCENT  
19 OF THE AREA MEDIAN INCOME AS DETERMINED BY THE UNITED STATES DEPARTMENT OF  
20 HOUSING AND URBAN DEVELOPMENT.

21 (b) SUBJECT TO A RECORDED AFFORDABILITY COVENANT OR OTHER BINDING  
22 RESTRICTION THAT ENSURES THAT THE SALES OR RENTAL PRICE OF THE DWELLING  
23 UNIT IS AFFORDABLE AS PRESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH FOR  
24 AT LEAST TWENTY YEARS.

25 2. "WORKFORCE HOUSING PROJECT" MEANS A RESIDENTIAL PROJECT THAT  
26 DOES ALL OF THE FOLLOWING:

1 (a) CONSTRUCTS NEW DWELLING UNITS FOR SALE OR RENT AT A SALES OR  
2 RENTAL PRICE THAT IS AFFORDABLE TO HOUSEHOLDS EARNING NOT MORE THAN ONE  
3 HUNDRED ~~[FIFTY]~~ [TWENTY] PERCENT OF THE AREA MEDIAN INCOME AS DETERMINED  
4 BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

5 (b) RECORDS AN AFFORDABILITY COVENANT OR OTHER BINDING RESTRICTION  
6 THAT ENSURES THAT THE SALES OR RENTAL PRICE OF THE DWELLING UNIT IS  
7 AFFORDABLE AS PRESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH FOR AT LEAST  
8 TWENTY YEARS FOR WORKFORCE HOUSING RENTAL PROJECTS ~~[OR INITIAL SALE PRICE~~  
9 ~~AFFORDABILITY FOR]~~ [AND AFFORDABLE] OWNERSHIP UNITS.

10 (c) OFFERS ONE HUNDRED PERCENT OF THE NEW DWELLING UNITS IN THE  
11 PROJECT FOR SALE OR RENT AT A SALES OR RENTAL PRICE THAT IS AFFORDABLE TO  
12 HOUSEHOLDS EARNING NOT MORE THAN ONE HUNDRED ~~[FIFTY]~~ [TWENTY] PERCENT OF  
13 THE AREA MEDIAN INCOME AS DETERMINED BY THE UNITED STATES DEPARTMENT OF  
14 HOUSING AND URBAN DEVELOPMENT.

15 Sec. 2. Section 35-726, Arizona Revised Statutes, is amended to  
16 read:

17 35-726. Approval of general plan before issuing bonds; fee;  
18 exceptions; definition

19 A. Bonds shall not be issued by a corporation ~~for the purpose of~~  
20 ~~financing~~ TO FINANCE single family dwelling units pursuant to section  
21 35-706, subsection A, paragraph 11 or 12 without approval of a general  
22 plan by its governing body. The corporation shall submit TO THE GOVERNING  
23 BODY a general plan for each respective series of bonds ~~to its governing~~  
24 ~~body~~. The general plan shall briefly describe:

- 25 1. The amount of the proposed bonds.
- 26 2. The maximum term of the bonds.
- 27 3. The maximum interest rate on the bonds.
- 28 4. The need for the bond issue.
- 29 5. The terms and conditions for originating or purchasing mortgage  
30 loans or making loans to lenders.
- 31 6. The area in which the single family dwelling units to be  
32 financed may be located.
- 33 7. The proposed fees, charges and expenditures to be paid for  
34 originators, servicers, trustees, custodians, mortgage administrators and  
35 others.
- 36 8. All insurance requirements with respect to mortgage loans,  
37 mortgaged property, mortgagors, originators, servicers and trustees.
- 38 9. The anticipated date of issuance of the bonds.

39 B. The governing body shall review general plans submitted by  
40 corporations pursuant to subsection A of this section. In reviewing the  
41 plans the governing body shall consider:

- 42 1. Whether the amount of the mortgage monies proposed to be made  
43 available is reasonably related to the demand for the mortgage monies.
- 44 2. Whether the terms of the general plan are justifiable in the  
45 context of the transaction and in the context of similar transactions.
- 46 3. Whether the fees, costs and expenditures as set forth in the  
47 general plan are reasonably related to the services provided.

1           4. For projects of owner-occupied single family dwelling units to  
2 be occupied by persons of low and moderate income and financed pursuant to  
3 section 35-706, subsection A, paragraphs 11 and 12, whether the proposed  
4 mortgage monies to be made available will fulfill a public purpose by  
5 providing housing for persons of low and moderate income or by encouraging  
6 single family developments in all participating jurisdictions, including  
7 such jurisdictions' slum or blighted areas as defined in section 36-1471.

8           C. The governing body shall approve or disapprove the general plan  
9 not later than thirty days after receipt of the plan. If the governing  
10 body does not act on the general plan within thirty days after the date of  
11 receipt, the general plan shall be deemed approved. If a general plan is  
12 approved, the corporation may issue the series of bonds covered by the  
13 general plan with a total principal amount, maximum term and maximum  
14 interest rate ~~to~~ NOT greater than that which is set forth in the general  
15 plan. The origination and servicing fees pertaining to mortgage loans to  
16 be financed in accordance with the general plan shall not exceed those  
17 proposed in the general plan. The corporation may vary other items in the  
18 general plan on a finding that the variation is minor and that the  
19 variations will not impair the security for the bonds or substantially  
20 increase the cost of financing the single family dwelling units and the  
21 findings of the corporation shall be conclusive.

22           D. The governing body may charge any corporation submitting a  
23 general plan for review a fee of not ~~to exceed ten thousand dollars~~ MORE  
24 THAN \$10,000 together with reimbursement of its actual costs and expenses  
25 incurred in reviewing the general plan.

26           E. Except for a corporation THAT IS approved by the Arizona finance  
27 authority or a governing body of a county or a municipality having a  
28 population of more than ~~seven~~ THREE percent of the total state population,  
29 a corporation shall not issue bonds, other than refunding bonds the  
30 proceeds of which are used exclusively to refund a prior bond issue, to  
31 finance a ~~multifamily~~ residential rental project, sanitarium, clinic,  
32 medical hotel, rest home, nursing home, skilled nursing facility or life  
33 care facility as prescribed in section 20-1801, unless the department  
34 approves the project. The department, with or without a hearing, shall  
35 review the project and consider at least the following factors:

36           1. The demand for and feasibility of the project in the area set  
37 forth in the application to the corporation.

38           2. The terms and conditions of the proposed bonds.

39           3. The proposed use of bond proceeds.

40           4. The benefit to the public if the project provides rental housing  
41 for persons of low and moderate income or encourages rental housing in  
42 slum or blighted areas as defined in section 36-1471.

43           5. If the project consists of a nursing home, or a life care  
44 facility as prescribed in section 20-1801, the benefit to the public of  
45 the project, including the proposed rent, fees and other charges of the  
46 project in relation to the level of services to be offered.

1 F. Subsection E of this section does not apply to bonds issued to  
2 finance:

3 1. A sanitarium, clinic, medical hotel, rest home, nursing home,  
4 skilled nursing facility, or life care facility as prescribed in section  
5 20-1801, if the facility is to be owned and operated by this state or a  
6 political subdivision or agency of this state.

7 2. A nursing home, rest home, skilled nursing facility, life care  
8 facility or senior residential facility providing on-site medical and  
9 support services if the facility is owned and operated by a nonprofit  
10 organization that is exempt from taxation under section 501(c)(3) of the  
11 United States internal revenue code.

12 G. Except for a corporation that is exempt under subsection E of  
13 this section, the department with or without a hearing shall approve or  
14 disapprove the project not later than thirty days after receipt of the  
15 request for approval. If the project is approved the corporation may  
16 issue the bonds described in the approval request with the total principal  
17 amount, maximum term and maximum interest rate ~~no~~ NOT greater than as set  
18 forth in the request. The department shall charge each applicant  
19 submitting a project approval request pursuant to this subsection a fee of  
20 not ~~to exceed five thousand dollars~~ MORE THAN \$5,000 together with  
21 reimbursement of its actual costs and expenses incurred in reviewing the  
22 project. The department shall remit the fees to the state treasurer for  
23 deposit in the Arizona department of housing program fund established by  
24 section 41-3957.

25 H. For the purposes of this section, "department" means the Arizona  
26 department of housing.

27 Sec. 3. Section 42-5010, Arizona Revised Statutes, is amended to  
28 read:

29 42-5010. Rates; distribution base

30 A. The tax imposed by this article is levied and shall be collected  
31 at the following rates:

32 1. Five percent of the tax base as computed for the business of  
33 every person engaging or continuing in this state in the following  
34 business classifications described in article 2 of this chapter:

35 (a) Transporting classification.

36 (b) Utilities classification.

37 (c) Telecommunications classification.

38 (d) Pipeline classification.

39 (e) Private car line classification.

40 (f) Publication classification.

41 (g) Job printing classification.

42 (h) Prime contracting classification.

43 (i) Amusement classification.

44 (j) Restaurant classification.

45 (k) Personal property rental classification.

46 (l) Retail classification and amounts equal to retail transaction  
47 privilege tax due pursuant to section 42-5008.01.

1           2. Five and one-half percent of the tax base as computed for the  
2 business of every person engaging or continuing in this state in:

3           (a) The transient lodging classification described in section  
4 42-5070.

5           (b) The online lodging marketplace classification described in  
6 section 42-5076 who has entered into an agreement with the department to  
7 register for, or has otherwise obtained from the department, a license to  
8 collect tax pursuant to section 42-5005, subsection L.

9           3. Three and one-eighth percent of the tax base as computed for the  
10 business of every person engaging or continuing in this state in the  
11 mining classification described in section 42-5072.

12           4. Zero percent of the tax base as computed for the business of  
13 every person engaging or continuing in this state in the commercial lease  
14 classification described in section 42-5069.

15           B. Except as provided by subsections J, ~~and~~ K AND L of this  
16 section, twenty percent of the tax revenues collected at the rate  
17 prescribed by subsection A, paragraph 1 of this section from persons on  
18 account of engaging in business under the business classifications listed  
19 in subsection A, paragraph 1, subdivisions (a) through (h) of this section  
20 is designated as distribution base for the purposes of section 42-5029.

21           C. Except as provided by subsection K of this section, forty  
22 percent of the tax revenues collected at the rate prescribed by subsection  
23 A, paragraph 1 of this section from persons on account of engaging in  
24 business under the business classifications listed in subsection A,  
25 paragraph 1, subdivisions (i) through (l) of this section is designated as  
26 distribution base for the purposes of section 42-5029.

27           D. Thirty-two percent of the tax revenues collected from persons on  
28 account of engaging in business under the business classification listed  
29 in subsection A, paragraph 3 of this section is designated as distribution  
30 base for the purposes of section 42-5029.

31           E. Fifty-three and one-third percent of the tax revenues collected  
32 from persons on account of engaging in business under the business  
33 classification listed in subsection A, paragraph 4 of this section is  
34 designated as distribution base for the purposes of section 42-5029.

35           F. Fifty percent of the tax revenues collected from persons on  
36 account of engaging in business under the business classification listed  
37 in subsection A, paragraph 2 of this section is designated as distribution  
38 base for the purposes of section 42-5029.

39           G. In addition to the rates prescribed by subsection A of this  
40 section, if approved by the qualified electors voting at a statewide  
41 general election, an additional rate increment is imposed and shall be  
42 collected through June 30, 2021. The taxpayer shall pay taxes pursuant to  
43 this subsection at the same time and in the same manner as under  
44 subsection A of this section. The department shall separately account for  
45 the revenues collected with respect to the rates imposed pursuant to this  
46 subsection and the state treasurer shall distribute all of those revenues  
47 in the manner prescribed by section 42-5029, subsection E. The rates

1 imposed pursuant to this subsection shall not be considered local revenues  
2 for purposes of article IX, section 21, Constitution of Arizona. The  
3 additional tax rate increment is levied at the rate of six-tenths of one  
4 per cent of the tax base of every person engaging or continuing in this  
5 state in a business classification listed in subsection A, paragraph 1 of  
6 this section.

7         H. Any increase in the rate of tax that is imposed by this chapter  
8 and that is enacted by the legislature or by a vote of the people does not  
9 apply with respect to contracts entered into by prime contractors or  
10 pursuant to written bids made by prime contractors on or before the  
11 effective date of the legislation or the date of the election enacting the  
12 increase. To qualify for the exemption under this subsection, the prime  
13 contractor must maintain sufficient documentation, in a manner and form  
14 prescribed by the department, to verify the date of the contract or  
15 written bid.

16         I. For taxpayers that are taxable under this chapter other than  
17 prime contractors taxable pursuant to section 42-5075:

18         1. Any increase in the rate of tax that is levied by this article  
19 or article 2 of this chapter enacted by the legislature or by a vote of  
20 the people does not apply for a period of one hundred twenty days after  
21 the date of the tax rate increase to the gross proceeds of sales or gross  
22 income from the business of the taxpayer with respect to written contracts  
23 entered into before the effective date of the tax rate increase unless the  
24 taxpayer has entered into a contract that contains a provision that  
25 entitles the taxpayer to recover from the purchaser the amount of the  
26 additional tax levied.

27         2. The provisions of this subsection apply without regard to the  
28 accounting method used by the taxpayer to report the taxes imposed under  
29 article 2 of this chapter.

30         3. The provisions of this subsection shall not be considered in  
31 determining the rate of tax imposed under chapter 6, article 3 of this  
32 title.

33         J. Zero percent of the tax revenues that are collected at the rate  
34 prescribed by subsection A, paragraph 1 of this section from persons on  
35 account of engaging in business under the business classification listed  
36 in subsection A, paragraph 1, subdivision (h) of this section and that are  
37 subject to any distribution required by section 42-5032.02 is designated  
38 as distribution base for the purposes of section 42-5029 until the total  
39 amount subject to distribution pursuant to section 42-5032.02 has reached  
40 the maximum amount prescribed by section 42-5032.02, subsection C.  
41 Thereafter, twenty percent of the remaining tax revenues is designated as  
42 distribution base for the purposes of section 42-5029 as provided by  
43 subsection B of this section.

44         K. Subject to section 48-4238, beginning on October 1, 2025 through  
45 December 31, 2055, zero percent of the tax revenues that are collected at  
46 the rate prescribed by subsection A, paragraph 1 of this section from  
47 persons engaging in business under the business classifications listed in

1 subsection A, paragraph 1, subdivisions (h), (i), (j) and (l) of this  
2 section and that are subject to transmittal required by section 42-5032.03  
3 is designated as distribution base for the purposes of section 42-5029.  
4 Beginning January 1, 2056, twenty percent of the remaining tax revenues  
5 collected at the rate prescribed by subsection A, paragraph 1 of this  
6 section from persons engaging in business under the business  
7 classification listed in subsection A, paragraph 1, subdivision (h) of  
8 this section is designated as distribution base for the purposes of  
9 section 42-5029 as provided by subsection B of this section and forty  
10 percent of the remaining tax revenues collected at the rate prescribed by  
11 subsection A, paragraph 1 of this section from persons engaging in  
12 business under the business classifications listed in subsection A,  
13 paragraph 1, subdivisions (i), (j) and (l) of this section is designated  
14 as distribution base for the purposes of section 42-5029 as provided by  
15 subsection C of this section.

16 L. ONE HUNDRED PERCENT OF THE TAX REVENUES THAT ARE COLLECTED AT  
17 THE RATE PRESCRIBED BY SUBSECTION A, PARAGRAPH 1 OF THIS SECTION FROM  
18 PERSONS ENGAGING IN BUSINESS UNDER THE BUSINESS CLASSIFICATION LISTED IN  
19 SUBSECTION A, PARAGRAPH 1, SUBDIVISION (h) OF THIS SECTION, THAT ARE FROM  
20 THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE  
21 DEVELOPMENT OF WORKFORCE HOUSING PROJECTS AS DEFINED IN SECTION 9-461.21  
22 AND THAT ARE NOT EXEMPT UNDER SECTION 42-5075, SUBSECTION R IS DESIGNATED  
23 AS DISTRIBUTION BASE FOR THE PURPOSES OF SECTION 42-5029.

24 Sec. 4. Section 42-5075, Arizona Revised Statutes, is amended to  
25 read:

26 42-5075. Prime contracting classification; exemptions;  
27 definitions

28 A. The prime contracting classification is comprised of the  
29 business of prime contracting and the business of manufactured building  
30 dealer. Sales for resale to another manufactured building dealer are not  
31 subject to tax. Sales for resale do not include sales to a lessor of  
32 manufactured buildings. The sale of a used manufactured building is not  
33 taxable under this chapter. The prime contracting classification does not  
34 include any work or operation performed by a person that is not required  
35 to be licensed by the registrar of contractors pursuant to section  
36 32-1121.

37 B. The tax base for the prime contracting classification is  
38 sixty-five percent of the gross proceeds of sales or gross income derived  
39 from the business. The following amounts shall be deducted from the gross  
40 proceeds of sales or gross income before computing the tax base:

41 1. The sales price of land, which shall not exceed the fair market  
42 value.

43 2. Sales and installation of groundwater measuring devices required  
44 under section 45-604 and groundwater monitoring wells required by law,  
45 including monitoring wells installed for acquiring information for a  
46 permit required by law.

1           3. The sales price of furniture, furnishings, fixtures, appliances  
2 and attachments that are not incorporated as component parts of or  
3 attached to a manufactured building or the setup site. The sale of such  
4 items may be subject to the taxes imposed by article 1 of this chapter  
5 separately and distinctly from the sale of the manufactured building.

6           4. The gross proceeds of sales or gross income received from a  
7 contract entered into for the modification of any building, highway, road,  
8 railroad, excavation, manufactured building or other structure, project,  
9 development or improvement located in a military reuse zone for providing  
10 aviation or aerospace services or for a manufacturer, assembler or  
11 fabricator of aviation or aerospace products within an active military  
12 reuse zone after the zone is initially established or renewed under  
13 section 42-1301. To be eligible to qualify for this deduction, before  
14 beginning work under the contract, the prime contractor must have applied  
15 for a letter of qualification from the department of revenue.

16           5. The gross proceeds of sales or gross income derived from a  
17 contract to construct a qualified environmental technology manufacturing,  
18 producing or processing facility, as described in section 41-1514.02, and  
19 from subsequent construction and installation contracts that begin within  
20 ten years after the start of initial construction. To qualify for this  
21 deduction, before beginning work under the contract, the prime contractor  
22 must obtain a letter of qualification from the department of revenue.  
23 This paragraph shall apply for ten full consecutive calendar or fiscal  
24 years after the start of initial construction.

25           6. The gross proceeds of sales or gross income from a contract to  
26 provide for one or more of the following actions, or a contract for site  
27 preparation, constructing, furnishing or installing machinery, equipment  
28 or other tangible personal property, including structures necessary to  
29 protect exempt incorporated materials or installed machinery or equipment,  
30 and tangible personal property incorporated into the project, to perform  
31 one or more of the following actions in response to a release or suspected  
32 release of a hazardous substance, pollutant or contaminant from a facility  
33 to the environment, unless the release was authorized by a permit issued  
34 by a governmental authority:

35           (a) Actions to monitor, assess and evaluate such a release or a  
36 suspected release.

37           (b) Excavation, removal and transportation of contaminated soil and  
38 its treatment or disposal.

39           (c) Treatment of contaminated soil by vapor extraction, chemical or  
40 physical stabilization, soil washing or biological treatment to reduce the  
41 concentration, toxicity or mobility of a contaminant.

42           (d) Pumping and treatment or in situ treatment of contaminated  
43 groundwater or surface water to reduce the concentration or toxicity of a  
44 contaminant.

45           (e) The installation of structures, such as cutoff walls or caps,  
46 to contain contaminants present in groundwater or soil and prevent them

1 from reaching a location where they could threaten human health or welfare  
2 or the environment.

3 This paragraph does not include asbestos removal or the construction or  
4 use of ancillary structures such as maintenance sheds, offices or storage  
5 facilities for unattached equipment, pollution control equipment,  
6 facilities or other control items required or to be used by a person to  
7 prevent or control contamination before it reaches the environment.

8         7. The gross proceeds of sales or gross income that is derived from  
9 a contract for the installation, assembly, repair or maintenance of  
10 machinery, equipment or other tangible personal property that is either  
11 deducted from the tax base of the retail classification under section  
12 42-5061, subsection B or that is exempt from use tax under section  
13 42-5159, subsection B and that has independent functional utility,  
14 pursuant to the following provisions:

15         (a) The deduction provided in this paragraph includes the gross  
16 proceeds of sales or gross income derived from all of the following:

17         (i) Any activity performed on machinery, equipment or other  
18 tangible personal property with independent functional utility.

19         (ii) Any activity performed on any tangible personal property  
20 relating to machinery, equipment or other tangible personal property with  
21 independent functional utility in furtherance of any of the purposes  
22 provided for under subdivision (d) of this paragraph.

23         (iii) Any activity that is related to the activities described in  
24 items (i) and (ii) of this subdivision, including inspecting the  
25 installation of or testing the machinery, equipment or other tangible  
26 personal property.

27         (b) The deduction provided in this paragraph does not include gross  
28 proceeds of sales or gross income from the portion of any contracting  
29 activity that consists of the development of, or modification to, real  
30 property in order to facilitate the installation, assembly, repair,  
31 maintenance or removal of machinery, equipment or other tangible personal  
32 property that is either deducted from the tax base of the retail  
33 classification under section 42-5061, subsection B or exempt from use tax  
34 under section 42-5159, subsection B.

35         (c) The deduction provided in this paragraph shall be determined  
36 without regard to the size or useful life of the machinery, equipment or  
37 other tangible personal property.

38         (d) For the purposes of this paragraph, "independent functional  
39 utility" means that the machinery, equipment or other tangible personal  
40 property can independently perform its function without attachment to real  
41 property, other than attachment for any of the following purposes:

42         (i) Assembling the machinery, equipment or other tangible personal  
43 property.

44         (ii) Connecting items of machinery, equipment or other tangible  
45 personal property to each other.

1 (iii) Connecting the machinery, equipment or other tangible  
2 personal property, whether as an individual item or as a system of items,  
3 to water, power, gas, communication or other services.

4 (iv) Stabilizing or protecting the machinery, equipment or other  
5 tangible personal property during operation by bolting, burying or  
6 performing other similar nonpermanent connections to either real property  
7 or real property improvements.

8 8. The gross proceeds of sales or gross income attributable to the  
9 purchase of machinery, equipment or other tangible personal property that  
10 is exempt from or deductible from transaction privilege and use tax under:

11 (a) Section 42-5061, subsection A, paragraph 25, 29 or 58.

12 (b) Section 42-5061, subsection B.

13 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),  
14 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 55.

15 (d) Section 42-5159, subsection B.

16 9. The gross proceeds of sales or gross income received from a  
17 contract for the construction of an environmentally controlled facility  
18 for the raising of poultry for the production of eggs and the sorting,  
19 cooling and packaging of eggs.

20 10. The gross proceeds of sales or gross income that is derived  
21 from a contract entered into with a person who is engaged in the  
22 commercial production of livestock, livestock products or agricultural,  
23 horticultural, viticultural or floricultural crops or products in this  
24 state for the modification of any building, highway, road, excavation,  
25 manufactured building or other structure, project, development or  
26 improvement used directly and primarily to prevent, monitor, control or  
27 reduce air, water or land pollution.

28 11. The gross proceeds of sales or gross income that is derived  
29 from the installation, assembly, repair or maintenance of clean rooms that  
30 are deducted from the tax base of the retail classification pursuant to  
31 section 42-5061, subsection B, paragraph 17.

32 12. For taxable periods beginning from and after June 30, 2001, the  
33 gross proceeds of sales or gross income derived from a contract entered  
34 into for the construction of a residential apartment housing facility that  
35 qualifies for a federal housing subsidy for low-income persons over  
36 sixty-two years of age and that is owned by a nonprofit charitable  
37 organization that has qualified under section 501(c)(3) of the internal  
38 revenue code.

39 13. For taxable periods beginning from and after December 31, 1996  
40 and ending before January 1, 2017, the gross proceeds of sales or gross  
41 income derived from a contract to provide and install a solar energy  
42 device. The contractor shall register with the department as a solar  
43 energy contractor. By registering, the contractor acknowledges that it  
44 will make its books and records relating to sales of solar energy devices  
45 available to the department for examination.

1           14. The gross proceeds of sales or gross income derived from a  
2 contract entered into for the construction of a launch site, as defined in  
3 14 Code of Federal Regulations section 401.5.

4           15. The gross proceeds of sales or gross income derived from a  
5 contract entered into for the construction of a domestic violence shelter  
6 that is owned and operated by a nonprofit charitable organization that has  
7 qualified under section 501(c)(3) of the internal revenue code.

8           16. The gross proceeds of sales or gross income derived from  
9 contracts to perform postconstruction treatment of real property for  
10 termite and general pest control, including wood-destroying organisms.

11           17. The gross proceeds of sales or gross income received from  
12 contracts entered into before July 1, 2006 for constructing a state  
13 university research infrastructure project if the project has been  
14 reviewed by the joint committee on capital review before the university  
15 enters into the construction contract for the project. For the purposes  
16 of this paragraph, "research infrastructure" has the same meaning  
17 prescribed in section 15-1670.

18           18. The gross proceeds of sales or gross income received from a  
19 contract for the construction of any building, or other structure,  
20 project, development or improvement owned by a qualified business under  
21 section 41-1516 for harvesting or processing qualifying forest products  
22 removed from qualifying projects as defined in section 41-1516 if actual  
23 construction begins before January 1, 2024. To qualify for this  
24 deduction, the prime contractor must obtain a letter of qualification from  
25 the Arizona commerce authority before beginning work under the contract.

26           19. Any amount of the gross proceeds of sales or gross income  
27 attributable to development fees that are incurred in relation to a  
28 contract for construction, development or improvement of real property and  
29 that are paid by a prime contractor or subcontractor. For the purposes of  
30 this paragraph:

31           (a) The attributable amount shall not exceed the value of the  
32 development fees actually imposed.

33           (b) The attributable amount is equal to the total amount of  
34 development fees paid by the prime contractor or subcontractor, and the  
35 total development fees credited in exchange for the construction of,  
36 contribution to or dedication of real property for providing public  
37 infrastructure, public safety or other public services necessary to the  
38 development. The real property must be the subject of the development  
39 fees.

40           (c) "Development fees" means fees imposed to offset capital costs  
41 of providing public infrastructure, public safety or other public services  
42 to a development and authorized pursuant to section 9-463.05, section  
43 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
44 paid.

45           20. The gross proceeds of sales or gross income derived from a  
46 contract entered into for the construction of a mixed waste processing  
47 facility that is located on a municipal solid waste landfill and that is

1 constructed for the purpose of recycling solid waste or producing  
2 renewable energy from landfill waste. For the purposes of this paragraph:

3 (a) "Mixed waste processing facility" means a solid waste facility  
4 that is owned, operated or used for the treatment, processing or disposal  
5 of solid waste, recyclable solid waste, very small quantity generator  
6 waste or household hazardous waste. For the purposes of this subdivision,  
7 "very small quantity generator waste", "household hazardous waste" and  
8 "solid waste facility" have the same meanings prescribed in section  
9 49-701, except that solid waste facility does include a site that stores,  
10 treats or processes paper, glass, wood, cardboard, household textiles,  
11 scrap metal, plastic, vegetative waste, aluminum, steel or other  
12 recyclable material.

13 (b) "Municipal solid waste landfill" has the same meaning  
14 prescribed in section 49-701.

15 (c) "Recycling" means collecting, separating, cleansing, treating  
16 and reconstituting recyclable solid waste that would otherwise become  
17 solid waste, but does not include incineration or other similar processes.

18 (d) "Renewable energy" means usable energy, including electricity,  
19 fuels, gas and heat, produced through the conversion of energy provided by  
20 sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or  
21 another nonfossil renewable resource.

22 21. The gross proceeds of sales or gross income derived from a  
23 contract to install containment structures. For the purposes of this  
24 paragraph, "containment structure" means a structure that prevents,  
25 monitors, controls or reduces noxious or harmful discharge into the  
26 environment.

27 C. Entitlement to the deduction pursuant to subsection B, paragraph  
28 7 of this section is subject to the following provisions:

29 1. A prime contractor may establish entitlement to the deduction by  
30 both:

31 (a) Marking the invoice for the transaction to indicate that the  
32 gross proceeds of sales or gross income derived from the transaction was  
33 deducted from the base.

34 (b) Obtaining a certificate executed by the purchaser indicating  
35 the name and address of the purchaser, the precise nature of the business  
36 of the purchaser, the purpose for which the purchase was made, the  
37 necessary facts to establish the deductibility of the property under  
38 section 42-5061, subsection B, and a certification that the person  
39 executing the certificate is authorized to do so on behalf of the  
40 purchaser. The certificate may be disregarded if the prime contractor has  
41 reason to believe that the information contained in the certificate is not  
42 accurate or complete.

43 2. A person who does not comply with paragraph 1 of this subsection  
44 may establish entitlement to the deduction by presenting facts necessary  
45 to support the entitlement, but the burden of proof is on that person.

46 3. The department may prescribe a form for the certificate  
47 described in paragraph 1, subdivision (b) of this subsection. The

1 department may also adopt rules that describe the transactions with  
2 respect to which a person is not entitled to rely solely on the  
3 information contained in the certificate provided in paragraph 1,  
4 subdivision (b) of this subsection but must instead obtain such additional  
5 information as required in order to be entitled to the deduction.

6 4. If a prime contractor is entitled to a deduction by complying  
7 with paragraph 1 of this subsection, the department may require the  
8 purchaser who caused the execution of the certificate to establish the  
9 accuracy and completeness of the information required to be contained in  
10 the certificate that would entitle the prime contractor to the deduction.  
11 If the purchaser cannot establish the accuracy and completeness of the  
12 information, the purchaser is liable in an amount equal to any tax,  
13 penalty and interest that the prime contractor would have been required to  
14 pay under article 1 of this chapter if the prime contractor had not  
15 complied with paragraph 1 of this subsection. Payment of the amount under  
16 this paragraph exempts the purchaser from liability for any tax imposed  
17 under article 4 of this chapter. The amount shall be treated as a  
18 transaction privilege tax to the purchaser and as tax revenues collected  
19 from the prime contractor in order to designate the distribution base for  
20 purposes of section 42-5029.

21 D. Subcontractors or others who perform modification activities are  
22 not subject to tax if they can demonstrate that the job was within the  
23 control of a prime contractor or contractors or a dealership of  
24 manufactured buildings and that the prime contractor or dealership is  
25 liable for the tax on the gross income, gross proceeds of sales or gross  
26 receipts attributable to the job and from which the subcontractors or  
27 others were paid.

28 E. Amounts received by a contractor for a project are excluded from  
29 the contractor's gross proceeds of sales or gross income derived from the  
30 business if the person who hired the contractor executes and provides a  
31 certificate to the contractor stating that the person providing the  
32 certificate is a prime contractor and is liable for the tax under article  
33 1 of this chapter. The department shall prescribe the form of the  
34 certificate. If the contractor has reason to believe that the information  
35 contained on the certificate is erroneous or incomplete, the department  
36 may disregard the certificate. If the person who provides the certificate  
37 is not liable for the tax as a prime contractor, that person is  
38 nevertheless deemed to be the prime contractor in lieu of the contractor  
39 and is subject to the tax under this section on the gross receipts or  
40 gross proceeds received by the contractor.

41 F. Every person engaging or continuing in this state in the  
42 business of prime contracting or dealership of manufactured buildings  
43 shall present to the purchaser of such prime contracting or manufactured  
44 building a written receipt of the gross income or gross proceeds of sales  
45 from such activity and shall separately state the taxes to be paid  
46 pursuant to this section.

1 G. For the purposes of section 42-5032.01, the department shall  
2 separately account for revenues collected under the prime contracting  
3 classification from any prime contractor engaged in the preparation or  
4 construction of a multipurpose facility, and related infrastructure, that  
5 is owned, operated or leased by the tourism and sports authority pursuant  
6 to title 5, chapter 8.

7 H. For the purposes of section 42-5032.02, from and after  
8 September 30, 2013, the department shall separately account for revenues  
9 reported and collected under the prime contracting classification from any  
10 prime contractor engaged in the construction of any buildings and  
11 associated improvements that are for the benefit of a manufacturing  
12 facility. For the purposes of this subsection, "associated improvements"  
13 and "manufacturing facility" have the same meanings prescribed in section  
14 42-5032.02.

15 I. For the purposes of section 42-5032.03 and subject to section  
16 48-4238, beginning October 1, 2025 and each month thereafter through  
17 December 31, 2055, the department shall separately account for revenues  
18 reported and collected under the prime contracting classification from any  
19 prime contractor engaged in the construction of any buildings and  
20 associated improvements that are for the benefit of a major league  
21 baseball facility or an adjacent building that is owned by a county  
22 stadium district pursuant to title 48, chapter 26 and operated by the  
23 county stadium district or the professional baseball franchise  
24 organization that occupies the major league baseball facility or adjacent  
25 building. For the purposes of this subsection, "adjacent building" and  
26 "major league baseball facility" have the same meanings prescribed in  
27 section 48-4201.

28 J. The gross proceeds of sales or gross income derived from a  
29 contract for lawn maintenance services is not subject to tax under this  
30 section if the contract does not include landscaping activities. Lawn  
31 maintenance service is a service pursuant to section 42-5061, subsection  
32 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing  
33 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,  
34 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris  
35 collection and removal, tree or shrub pruning or clipping, garden and  
36 gravel raking and applying pesticides, as defined in section 3-361, and  
37 fertilizer materials, as defined in section 3-262.

38 K. Except as provided in subsection P of this section, the gross  
39 proceeds of sales or gross income derived from landscaping activities is  
40 subject to tax under this section. Landscaping includes installing lawns,  
41 grading or leveling ground, installing gravel or boulders, planting trees  
42 and other plants, felling trees, removing or mulching tree stumps,  
43 removing other imbedded plants, building irrigation berms, installing  
44 railroad ties and installing underground sprinkler or watering systems.

45 L. The portion of gross proceeds of sales or gross income  
46 attributable to the actual direct costs of providing architectural or  
47 engineering services that are incorporated in a contract is not subject to

1 tax under this section. For the purposes of this subsection, "direct  
2 costs" means the portion of the actual costs that are directly expended in  
3 providing architectural or engineering services.

4 M. Operating a landfill or a solid waste disposal facility is not  
5 subject to taxation under this section, including filling, compacting and  
6 creating vehicle access to and from cell sites within the landfill.  
7 Constructing roads to a landfill or solid waste disposal facility and  
8 constructing cells within a landfill or solid waste disposal facility may  
9 be deemed prime contracting under this section.

10 N. The following apply in determining the taxable situs of sales of  
11 manufactured buildings:

12 1. For sales in this state where the manufactured building dealer  
13 contracts to deliver the building to a setup site or to perform the setup  
14 in this state, the taxable situs is the setup site.

15 2. For sales in this state where the manufactured building dealer  
16 does not contract to deliver the building to a setup site or does not  
17 perform the setup, the taxable situs is the location of the dealership  
18 where the building is delivered to the buyer.

19 3. For sales in this state where the manufactured building dealer  
20 contracts to deliver the building to a setup site that is outside this  
21 state, the situs is outside this state and the transaction is excluded  
22 from tax.

23 O. The gross proceeds of sales or gross income attributable to a  
24 written contract for design phase services or professional services,  
25 executed before modification begins and with terms, conditions and pricing  
26 of all of these services separately stated in the contract from those for  
27 construction phase services, is not subject to tax under this section,  
28 regardless of whether the services are provided sequential to or  
29 concurrent with prime contracting activities that are subject to tax under  
30 this section. This subsection does not include the gross proceeds of  
31 sales or gross income attributable to construction phase services. For  
32 the purposes of this subsection:

33 1. "Construction phase services" means services for the execution  
34 and completion of any modification, including the following:

35 (a) Administration or supervision of any modification performed on  
36 the project, including team management and coordination, scheduling, cost  
37 controls, submittal process management, field management, safety program,  
38 close-out process and warranty period services.

39 (b) Administration or supervision of any modification performed  
40 pursuant to a punch list. For the purposes of this subdivision, "punch  
41 list" means minor items of modification work performed after substantial  
42 completion and before final completion of the project.

43 (c) Administration or supervision of any modification performed  
44 pursuant to change orders. For the purposes of this subdivision, "change  
45 order" means a written instrument issued after execution of a contract for  
46 modification work, providing for all of the following:

- 1 (i) The scope of a change in the modification work, contract for  
2 modification work or other contract documents.
- 3 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
4 price as set in the contract for modification work. For the purposes of  
5 this item, "guaranteed maximum price" means the amount guaranteed to be  
6 the maximum amount due to a prime contractor for the performance of all  
7 modification work for the project.
- 8 (iii) The extent of an adjustment, if any, to the contract time of  
9 performance set forth in the contract.
- 10 (d) Administration or supervision of any modification performed  
11 pursuant to change directives. For the purposes of this subdivision,  
12 "change directive" means a written order directing a change in  
13 modification work before agreement on an adjustment of the guaranteed  
14 maximum price or contract time.
- 15 (e) Inspection to determine the dates of substantial completion or  
16 final completion.
- 17 (f) Preparation of any manuals, warranties, as-built drawings,  
18 spares or other items the prime contractor must furnish pursuant to the  
19 contract for modification work. For the purposes of this subdivision,  
20 "as-built drawing" means a drawing that indicates field changes made to  
21 adapt to field conditions, field changes resulting from change orders or  
22 buried and concealed installation of piping, conduit and utility services.
- 23 (g) Preparation of status reports after modification work has begun  
24 detailing the progress of work performed, including preparation of any of  
25 the following:
- 26 (i) Master schedule updates.
- 27 (ii) Modification work cash flow projection updates.
- 28 (iii) Site reports made on a periodic basis.
- 29 (iv) Identification of discrepancies, conflicts or ambiguities in  
30 modification work documents that require resolution.
- 31 (v) Identification of any health and safety issues that have arisen  
32 in connection with the modification work.
- 33 (h) Preparation of daily logs of modification work, including  
34 documentation of personnel, weather conditions and on-site occurrences.
- 35 (i) Preparation of any submittals or shop drawings used by the  
36 prime contractor to illustrate details of the modification work performed.
- 37 (j) Administration or supervision of any other activities for which  
38 a prime contractor receives a certificate for payment or certificate for  
39 final payment based on the progress of modification work performed on the  
40 project.
- 41 2. "Design phase services" means services for developing and  
42 completing a design for a project that are not construction phase  
43 services, including the following:
- 44 (a) Evaluating surveys, reports, test results or any other  
45 information on-site conditions for the project, including physical  
46 characteristics, legal limitations and utility locations for the site.

1 (b) Evaluating any criteria or programming objectives for the  
2 project to ascertain requirements for the project, such as physical  
3 requirements affecting cost or projected utilization of the project.

4 (c) Preparing drawings and specifications for architectural program  
5 documents, schematic design documents, design development documents,  
6 modification work documents or documents that identify the scope of or  
7 materials for the project.

8 (d) Preparing an initial schedule for the project, excluding the  
9 preparation of updates to the master schedule after modification work has  
10 begun.

11 (e) Preparing preliminary estimates of costs of modification work  
12 before completion of the final design of the project, including an  
13 estimate or schedule of values for any of the following:

14 (i) Labor, materials, machinery and equipment, tools, water, heat,  
15 utilities, transportation and other facilities and services used in the  
16 execution and completion of modification work, regardless of whether they  
17 are temporary or permanent or whether they are incorporated in the  
18 modifications.

19 (ii) The cost of labor and materials to be furnished by the owner  
20 of the real property.

21 (iii) The cost of any equipment of the owner of the real property  
22 to be assigned by the owner to the prime contractor.

23 (iv) The cost of any labor for installation of equipment separately  
24 provided by the owner of the real property that has been designed,  
25 specified, selected or specifically provided for in any design document  
26 for the project.

27 (v) Any fee paid by the owner of the real property to the prime  
28 contractor pursuant to the contract for modification work.

29 (vi) Any bond and insurance premiums.

30 (vii) Any applicable taxes.

31 (viii) Any contingency fees for the prime contractor that may be  
32 used before final completion of the project.

33 (f) Reviewing and evaluating cost estimates and project documents  
34 to prepare recommendations on site use, site improvements, selection of  
35 materials, building systems and equipment, modification feasibility,  
36 availability of materials and labor, local modification activity as  
37 related to schedules and time requirements for modification work.

38 (g) Preparing the plan and procedures for selection of  
39 subcontractors, including any prequalification of subcontractor  
40 candidates.

41 3. "Professional services" means architect services, engineer  
42 services, geologist services, land surveying services or landscape  
43 architect services that are within the scope of those services as provided  
44 in title 32, chapter 1 and for which gross proceeds of sales or gross  
45 income has not otherwise been deducted under subsection L of this section.

46 P. The gross proceeds of sales or gross income derived from a  
47 contract with the owner of real property or improvements to real property

1 for the maintenance, repair, replacement or alteration of existing  
2 property is not subject to tax under this section if the contract does not  
3 include modification activities, except as specified in this subsection.  
4 The gross proceeds of sales or gross income derived from a de minimis  
5 amount of modification activity does not subject the contract or any part  
6 of the contract to tax under this section. For the purposes of this  
7 subsection:

8       1. Tangible personal property that is incorporated or fabricated  
9 into a project described in this subsection may be subject to the amount  
10 prescribed in section 42-5008.01.

11       2. Each contract is independent of any other contract, except that  
12 any change order that directly relates to the scope of work of the  
13 original contract shall be treated the same as the original contract under  
14 this chapter, regardless of the amount of modification activities included  
15 in the change order. If a change order does not directly relate to the  
16 scope of work of the original contract, the change order shall be treated  
17 as a new contract, with the tax treatment of any subsequent change order  
18 to follow the tax treatment of the contract to which the scope of work of  
19 the subsequent change order directly relates.

20       Q. Notwithstanding subsection P of this section, a contract that  
21 primarily involves surface or subsurface improvements to land and that is  
22 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is  
23 taxable under this section, even if the contract also includes vertical  
24 improvements. Agencies that are subject to procurement processes under  
25 those provisions shall include in the request for proposals a notice to  
26 bidders when those projects are subject to this section. This subsection  
27 does not apply to contracts with:

28       1. Community facilities districts, fire districts, county  
29 television improvement districts, community park maintenance districts,  
30 cotton pest control districts, hospital districts, pest abatement  
31 districts, health service districts, agricultural improvement districts,  
32 county free library districts, county jail districts, county stadium  
33 districts, special health care districts, public health services  
34 districts, theme park districts or revitalization districts.

35       2. Any special taxing district not specified in paragraph 1 of this  
36 subsection if the district does not substantially engage in the  
37 modification, maintenance, repair, replacement or alteration of surface or  
38 subsurface improvements to land.

39       R. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE  
40 DEVELOPMENT OF WORKFORCE HOUSING PROJECTS IS NOT SUBJECT TO TAX UNDER THIS  
41 SECTION, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL TO OR  
42 CONCURRENT WITH PRIME CONTRACTING ACTIVITIES THAT ARE SUBJECT TO TAX UNDER  
43 THIS SECTION, IN AN AMOUNT THAT IS EQUAL TO THE STATE'S PORTION OF THE  
44 REVENUES COLLECTED FROM THE TRANSACTION. THE DEPARTMENT SHALL SEPARATELY  
45 ACCOUNT FOR REVENUES COLLECTED UNDER THE PRIME CONTRACTING CLASSIFICATION  
46 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE

1 DEVELOPMENT OF WORKFORCE HOUSING PROJECTS THAT IS NOT EXEMPT UNDER THIS  
2 SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION:

3 1. "STATE'S PORTION" MEANS THE AMOUNT OF STATE TRANSACTION  
4 PRIVILEGE TAX REVENUES COLLECTED BY THIS STATE UNDER SECTION 42-5010,  
5 SUBSECTION A THAT WOULD NOT HAVE BEEN DESIGNATED AS DISTRIBUTION BASE FROM  
6 THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE  
7 DEVELOPMENT OF WORKFORCE HOUSING PROJECTS AND THE AMOUNT THAT IS CREDITED  
8 TO THE STATE GENERAL FUND PURSUANT TO SECTION 42-5029, SUBSECTION D,  
9 PARAGRAPH 4.

10 2. "WORKFORCE HOUSING PROJECTS" HAS THE SAME MEANING PRESCRIBED IN  
11 SECTION 9-461.21.

12 ~~R.~~ S. Notwithstanding subsection ~~S~~ T, paragraph 10 of this  
13 section, a person owning real property who enters into a contract for sale  
14 of the real property, who is responsible to the new owner of the property  
15 for modifications made to the property in the period subsequent to the  
16 transfer of title and who receives a consideration for the modifications  
17 is considered a prime contractor solely for purposes of taxing the gross  
18 proceeds of sale or gross income received for the modifications made  
19 subsequent to the transfer of title. The original owner's gross proceeds  
20 of sale or gross income received for the modifications shall be determined  
21 according to the following methodology:

22 1. If any part of the contract for sale of the property specifies  
23 amounts to be paid to the original owner for the modifications to be made  
24 in the period subsequent to the transfer of title, the amounts are  
25 included in the original owner's gross proceeds of sale or gross income  
26 under this section. Proceeds from the sale of the property that are  
27 received after transfer of title and that are unrelated to the  
28 modifications made subsequent to the transfer of title are not considered  
29 gross proceeds of sale or gross income from the modifications.

30 2. If the original owner enters into an agreement separate from the  
31 contract for sale of the real property providing for amounts to be paid to  
32 the original owner for the modifications to be made in the period  
33 subsequent to the transfer of title to the property, the amounts are  
34 included in the original owner's gross proceeds of sale or gross income  
35 received for the modifications made subsequent to the transfer of title.

36 3. If the original owner is responsible to the new owner for  
37 modifications made to the property in the period subsequent to the  
38 transfer of title and derives any gross proceeds of sale or gross income  
39 from the project subsequent to the transfer of title other than a delayed  
40 disbursement from escrow unrelated to the modifications, it is presumed  
41 that the amounts are received for the modifications made subsequent to the  
42 transfer of title unless the contrary is established by the owner through  
43 its books, records and papers kept in the regular course of business.

44 4. The tax base of the original owner is computed in the same  
45 manner as a prime contractor under this section.

46 ~~S~~ T. For the purposes of this section:

1           1. "Alteration" means an activity or action that causes a direct  
2 physical change to existing property. For the purposes of this paragraph:

3           (a) For existing property that is properly classified as class two  
4 property under section 42-12002, paragraph 1, subdivision (c) or paragraph  
5 2, subdivision (c) and that is used for residential purposes, class three  
6 property under section 42-12003 or class four property under section  
7 42-12004, this paragraph does not apply if the contract amount is more  
8 than twenty-five percent of the most recent full cash value established  
9 under chapter 13, article 2 of this title as of the date of any bid for  
10 the work or the date of the contract, whichever value is higher.

11           (b) For all existing property other than existing property  
12 described in subdivision (a) of this paragraph, this paragraph does not  
13 apply if the contract amount is more than \$750,000.

14           (c) Project elements may not be artificially separated from a  
15 contract to cause a project to qualify as an alteration. The department  
16 has the burden of proof that project elements have been artificially  
17 separated from a contract.

18           (d) If a project for which the owner and the person performing the  
19 work reasonably believed, at the inception of the contract, would be  
20 treated as an alteration under this paragraph and, on completion of the  
21 project, the project exceeded the applicable threshold described in either  
22 subdivision (a) or (b) of this paragraph by not more than twenty-five  
23 percent of the applicable threshold for any reason, the work performed  
24 under the contract qualifies as an alteration.

25           (e) A change order that directly relates to the scope of work of  
26 the original contract shall be treated as part of the original contract,  
27 and the contract amount shall include any amount attributable to a change  
28 order that directly relates to the scope of work of the original contract.

29           (f) Alteration does not include maintenance, repair or replacement.

30           2. "Contracting" means engaging in business as a contractor.

31           3. "Contractor" is synonymous with the term "builder" and means any  
32 person or organization that undertakes to or offers to undertake to, or  
33 purports to have the capacity to undertake to, or submits a bid to, or  
34 does personally or by or through others, modify any building, highway,  
35 road, railroad, excavation, manufactured building or other structure,  
36 project, development or improvement, or to do any part of such a project,  
37 including the erection of scaffolding or other structure or works in  
38 connection with such a project, and includes subcontractors and specialty  
39 contractors. For all purposes of taxation or deduction, this definition  
40 shall govern without regard to whether or not such a contractor is acting  
41 in fulfillment of a contract.

42           4. "Manufactured building" means a manufactured home, mobile home  
43 or factory-built building, as defined in section 41-4001.

44           5. "Manufactured building dealer" means a dealer who either:

45           (a) Is licensed pursuant to title 41, chapter 37, article 4 and who  
46 sells manufactured buildings to the final consumer.

1 (b) Supervises, performs or coordinates the excavation and  
2 completion of site improvements or the setup of a manufactured building,  
3 including the contracting, if any, with any subcontractor or specialty  
4 contractor for the completion of the contract.

5 6. "Modification" means construction, grading and leveling ground,  
6 wreckage or demolition. Modification does not include:

7 (a) Any project described in subsection P of this section.

8 (b) Any wreckage or demolition of existing property, or any other  
9 activity that is a necessary component of a project described in  
10 subsection P of this section.

11 (c) Any mobilization or demobilization related to a project  
12 described in subsection P of this section, such as the erection or removal  
13 of temporary facilities to be used by those persons working on the  
14 project.

15 7. "Modify" means to make a modification or cause a modification to  
16 be made.

17 8. "Owner" means the person that holds title to the real property  
18 or improvements to real property that is the subject of the work, as well  
19 as an agent of the title holder and any person with the authority to  
20 perform or authorize work on the real property or improvements, including  
21 a tenant and a property manager. For the purposes of subsection P of this  
22 section, a person who is hired by a general contractor that is hired by an  
23 owner, or a subcontractor of a general contractor that is hired by an  
24 owner, is considered to be hired by the owner.

25 9. "Prime contracting" means engaging in business as a prime  
26 contractor.

27 10. "Prime contractor" means a contractor who supervises, performs  
28 or coordinates the modification of any building, highway, road, railroad,  
29 excavation, manufactured building or other structure, project, development  
30 or improvement, including the contracting, if any, with any subcontractors  
31 or specialty contractors and who is responsible for the completion of the  
32 contract. Except as provided in subsections E and ~~R~~ S of this section, a  
33 person who owns real property, who engages one or more contractors to  
34 modify that real property and who does not itself modify that real  
35 property is not a prime contractor within the meaning of this paragraph  
36 regardless of the existence of a contract for sale or the subsequent sale  
37 of that real property.

38 11. "Replacement" means the removal from service of one component  
39 or system of existing property or tangible personal property installed in  
40 existing property, including machinery or equipment, and the installation  
41 of a new component or system or new tangible personal property, including  
42 machinery or equipment, that provides the same, a similar or an upgraded  
43 design or functionality, regardless of the contract amount and regardless  
44 of whether the existing component or system or existing tangible personal  
45 property is physically removed from the existing property.

46 12. "Sale of a used manufactured building" does not include a lease  
47 of a used manufactured building.

House Amendments to S.B. 1401

1           Sec. 5. Effective date  
2           Section 9-461.21, Arizona Revised Statutes, as added by this act,  
3 and sections 35-726, 42-5010 and 42-5075, Arizona Revised Statutes, as  
4 amended by this act, are effective twelve months from and after the  
5 general effective date.

6           Sec. 6. Short title  
7           This act may be cited as the "Workforce Housing Incentive Act".

8 Enroll and engross to conform

9 Amend title to conform

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05/29/2026

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