

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1401
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 9, chapter 4, article 6, Arizona Revised
3 Statutes, 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 PERCENT OF THE AREA
19 MEDIAN INCOME AS DETERMINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
20 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:

27 (a) CONSTRUCTS NEW DWELLING UNITS FOR SALE OR RENT AT A SALES OR
28 RENTAL PRICE THAT IS AFFORDABLE TO HOUSEHOLDS EARNING NOT MORE THAN ONE
29 HUNDRED FIFTY PERCENT OF THE AREA MEDIAN INCOME AS DETERMINED BY THE
30 UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

31 (b) RECORDS AN AFFORDABILITY COVENANT OR OTHER BINDING RESTRICTION
32 THAT ENSURES THAT THE SALES OR RENTAL PRICE OF THE DWELLING UNIT IS
33 AFFORDABLE AS PRESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH FOR AT LEAST
34 TWENTY YEARS FOR WORKFORCE HOUSING RENTAL PROJECTS OR INITIAL SALE PRICE
35 AFFORDABILITY FOR OWNERSHIP UNITS.

36 (c) OFFERS ONE HUNDRED PERCENT OF THE NEW DWELLING UNITS IN THE
37 PROJECT FOR SALE OR RENT AT A SALES OR RENTAL PRICE THAT IS AFFORDABLE TO
38 HOUSEHOLDS EARNING NOT MORE THAN ONE HUNDRED FIFTY PERCENT OF THE AREA
39 MEDIAN INCOME AS DETERMINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
40 URBAN DEVELOPMENT.

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

3 35-726. Approval of general plan before issuing bonds; fee;
4 exceptions; definition

5 A. Bonds shall not be issued by a corporation ~~for the purpose of~~
6 ~~financing~~ TO FINANCE single family dwelling units pursuant to section
7 35-706, subsection A, paragraph 11 or 12 without approval of a general
8 plan by its governing body. The corporation shall submit TO THE GOVERNING
9 BODY a general plan for each respective series of bonds ~~to its governing~~
10 ~~body~~. The general plan shall briefly describe:

- 11 1. The amount of the proposed bonds.
- 12 2. The maximum term of the bonds.
- 13 3. The maximum interest rate on the bonds.
- 14 4. The need for the bond issue.
- 15 5. The terms and conditions for originating or purchasing mortgage
16 loans or making loans to lenders.
- 17 6. The area in which the single family dwelling units to be
18 financed may be located.
- 19 7. The proposed fees, charges and expenditures to be paid for
20 originators, servicers, trustees, custodians, mortgage administrators and
21 others.

22 8. All insurance requirements with respect to mortgage loans,
23 mortgaged property, mortgagors, originators, servicers and trustees.

24 9. The anticipated date of issuance of the bonds.

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

- 28 1. Whether the amount of the mortgage monies proposed to be made
29 available is reasonably related to the demand for the mortgage monies.
- 30 2. Whether the terms of the general plan are justifiable in the
31 context of the transaction and in the context of similar transactions.
- 32 3. Whether the fees, costs and expenditures as set forth in the
33 general plan are reasonably related to the services provided.
- 34 4. For projects of owner-occupied single family dwelling units to
35 be occupied by persons of low and moderate income and financed pursuant to
36 section 35-706, subsection A, paragraphs 11 and 12, whether the proposed
37 mortgage monies to be made available will fulfill a public purpose by
38 providing housing for persons of low and moderate income or by encouraging
39 single family developments in all participating jurisdictions, including
40 such jurisdictions' slum or blighted areas as defined in section 36-1471.

41 C. The governing body shall approve or disapprove the general plan
42 not later than thirty days after receipt of the plan. If the governing
43 body does not act on the general plan within thirty days after the date of
44 receipt, the general plan shall be deemed approved. If a general plan is
45 approved, the corporation may issue the series of bonds covered by the
46 general plan with a total principal amount, maximum term and maximum
47 interest rate ~~no~~ NOT greater than that which is set forth in the general
48 plan. The origination and servicing fees pertaining to mortgage loans to
49 be financed in accordance with the general plan shall not exceed those
50 proposed in the general plan. The corporation may vary other items in the

1 general plan on a finding that the variation is minor and that the
2 variations will not impair the security for the bonds or substantially
3 increase the cost of financing the single family dwelling units and the
4 findings of the corporation shall be conclusive.

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

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

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

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

22 3. The proposed use of bond proceeds.

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

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

30 F. Subsection E of this section does not apply to bonds issued to
31 finance:

32 1. A sanitarium, clinic, medical hotel, rest home, nursing home,
33 skilled nursing facility, or life care facility as prescribed in section
34 20-1801, if the facility is to be owned and operated by this state or a
35 political subdivision or agency of this state.

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

41 G. Except for a corporation that is exempt under subsection E of
42 this section, the department with or without a hearing shall approve or
43 disapprove the project not later than thirty days after receipt of the
44 request for approval. If the project is approved the corporation may
45 issue the bonds described in the approval request with the total principal
46 amount, maximum term and maximum interest rate ~~no~~ NOT greater than as set
47 forth in the request. The department shall charge each applicant
48 submitting a project approval request pursuant to this subsection a fee of
49 not ~~to exceed five thousand dollars~~ MORE THAN \$5,000 together with
50 reimbursement of its actual costs and expenses incurred in reviewing the

1 project. The department shall remit the fees to the state treasurer for
2 deposit in the Arizona department of housing program fund established by
3 section 41-3957.

4 H. For the purposes of this section, "department" means the Arizona
5 department of housing.

6 Sec. 3. Section 42-5075, Arizona Revised Statutes, is amended to
7 read:

8 42-5075. Prime contracting classification; exemptions;
9 definitions

10 A. The prime contracting classification is comprised of the
11 business of prime contracting and the business of manufactured building
12 dealer. Sales for resale to another manufactured building dealer are not
13 subject to tax. Sales for resale do not include sales to a lessor of
14 manufactured buildings. The sale of a used manufactured building is not
15 taxable under this chapter. The prime contracting classification does not
16 include any work or operation performed by a person that is not required
17 to be licensed by the registrar of contractors pursuant to section
18 32-1121.

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

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

25 2. Sales and installation of groundwater measuring devices required
26 under section 45-604 and groundwater monitoring wells required by law,
27 including monitoring wells installed for acquiring information for a
28 permit required by law.

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

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

44 5. The gross proceeds of sales or gross income derived from a
45 contract to construct a qualified environmental technology manufacturing,
46 producing or processing facility, as described in section 41-1514.02, and
47 from subsequent construction and installation contracts that begin within
48 ten years after the start of initial construction. To qualify for this
49 deduction, before beginning work under the contract, the prime contractor
50 must obtain a letter of qualification from the department of revenue.

1 This paragraph shall apply for ten full consecutive calendar or fiscal
2 years after the start of initial construction.

3 6. The gross proceeds of sales or gross income from a contract to
4 provide for one or more of the following actions, or a contract for site
5 preparation, constructing, furnishing or installing machinery, equipment
6 or other tangible personal property, including structures necessary to
7 protect exempt incorporated materials or installed machinery or equipment,
8 and tangible personal property incorporated into the project, to perform
9 one or more of the following actions in response to a release or suspected
10 release of a hazardous substance, pollutant or contaminant from a facility
11 to the environment, unless the release was authorized by a permit issued
12 by a governmental authority:

13 (a) Actions to monitor, assess and evaluate such a release or a
14 suspected release.

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

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

20 (d) Pumping and treatment or in situ treatment of contaminated
21 groundwater or surface water to reduce the concentration or toxicity of a
22 contaminant.

23 (e) The installation of structures, such as cutoff walls or caps,
24 to contain contaminants present in groundwater or soil and prevent them
25 from reaching a location where they could threaten human health or welfare
26 or the environment.

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

32 7. The gross proceeds of sales or gross income that is derived from
33 a contract for the installation, assembly, repair or maintenance of
34 machinery, equipment or other tangible personal property that is either
35 deducted from the tax base of the retail classification under section
36 42-5061, subsection B or that is exempt from use tax under section
37 42-5159, subsection B and that has independent functional utility,
38 pursuant to the following provisions:

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

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

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

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

1 (b) The deduction provided in this paragraph does not include gross
2 proceeds of sales or gross income from the portion of any contracting
3 activity that consists of the development of, or modification to, real
4 property in order to facilitate the installation, assembly, repair,
5 maintenance or removal of machinery, equipment or other tangible personal
6 property that is either deducted from the tax base of the retail
7 classification under section 42-5061, subsection B or exempt from use tax
8 under section 42-5159, subsection B.

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

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

16 (i) Assembling the machinery, equipment or other tangible personal
17 property.

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

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

23 (iv) Stabilizing or protecting the machinery, equipment or other
24 tangible personal property during operation by bolting, burying or
25 performing other similar nonpermanent connections to either real property
26 or real property improvements.

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

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

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

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

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

35 9. The gross proceeds of sales or gross income received from a
36 contract for the construction of an environmentally controlled facility
37 for the raising of poultry for the production of eggs and the sorting,
38 cooling and packaging of eggs.

39 10. The gross proceeds of sales or gross income that is derived
40 from a contract entered into with a person who is engaged in the
41 commercial production of livestock, livestock products or agricultural,
42 horticultural, viticultural or floricultural crops or products in this
43 state for the modification of any building, highway, road, excavation,
44 manufactured building or other structure, project, development or
45 improvement used directly and primarily to prevent, monitor, control or
46 reduce air, water or land pollution.

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

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

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

15 14. The gross proceeds of sales or gross income derived from a
16 contract entered into for the construction of a launch site, as defined in
17 14 Code of Federal Regulations section 401.5.

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

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

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

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

40 19. Any amount of the gross proceeds of sales or gross income
41 attributable to development fees that are incurred in relation to a
42 contract for construction, development or improvement of real property and
43 that are paid by a prime contractor or subcontractor. For the purposes of
44 this paragraph:

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

47 (b) The attributable amount is equal to the total amount of
48 development fees paid by the prime contractor or subcontractor, and the
49 total development fees credited in exchange for the construction of,
50 contribution to or dedication of real property for providing public

1 infrastructure, public safety or other public services necessary to the
2 development. The real property must be the subject of the development
3 fees.

4 (c) "Development fees" means fees imposed to offset capital costs
5 of providing public infrastructure, public safety or other public services
6 to a development and authorized pursuant to section 9-463.05, section
7 11-1102 or title 48 regardless of the jurisdiction to which the fees are
8 paid.

9 20. The gross proceeds of sales or gross income derived from a
10 contract entered into for the construction of a mixed waste processing
11 facility that is located on a municipal solid waste landfill and that is
12 constructed for the purpose of recycling solid waste or producing
13 renewable energy from landfill waste. For the purposes of this paragraph:

14 (a) "Mixed waste processing facility" means a solid waste facility
15 that is owned, operated or used for the treatment, processing or disposal
16 of solid waste, recyclable solid waste, very small quantity generator
17 waste or household hazardous waste. For the purposes of this subdivision,
18 "very small quantity generator waste", "household hazardous waste" and
19 "solid waste facility" have the same meanings prescribed in section
20 49-701, except that solid waste facility does include a site that stores,
21 treats or processes paper, glass, wood, cardboard, household textiles,
22 scrap metal, plastic, vegetative waste, aluminum, steel or other
23 recyclable material.

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

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

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

33 21. The gross proceeds of sales or gross income derived from a
34 contract to install containment structures. For the purposes of this
35 paragraph, "containment structure" means a structure that prevents,
36 monitors, controls or reduces noxious or harmful discharge into the
37 environment.

38 C. Entitlement to the deduction pursuant to subsection B, paragraph
39 7 of this section is subject to the following provisions:

40 1. A prime contractor may establish entitlement to the deduction by
41 both:

42 (a) Marking the invoice for the transaction to indicate that the
43 gross proceeds of sales or gross income derived from the transaction was
44 deducted from the base.

45 (b) Obtaining a certificate executed by the purchaser indicating
46 the name and address of the purchaser, the precise nature of the business
47 of the purchaser, the purpose for which the purchase was made, the
48 necessary facts to establish the deductibility of the property under
49 section 42-5061, subsection B, and a certification that the person
50 executing the certificate is authorized to do so on behalf of the

1 purchaser. The certificate may be disregarded if the prime contractor has
2 reason to believe that the information contained in the certificate is not
3 accurate or complete.

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

7 3. The department may prescribe a form for the certificate
8 described in paragraph 1, subdivision (b) of this subsection. The
9 department may also adopt rules that describe the transactions with
10 respect to which a person is not entitled to rely solely on the
11 information contained in the certificate provided in paragraph 1,
12 subdivision (b) of this subsection but must instead obtain such additional
13 information as required in order to be entitled to the deduction.

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

29 D. Subcontractors or others who perform modification activities are
30 not subject to tax if they can demonstrate that the job was within the
31 control of a prime contractor or contractors or a dealership of
32 manufactured buildings and that the prime contractor or dealership is
33 liable for the tax on the gross income, gross proceeds of sales or gross
34 receipts attributable to the job and from which the subcontractors or
35 others were paid.

36 E. Amounts received by a contractor for a project are excluded from
37 the contractor's gross proceeds of sales or gross income derived from the
38 business if the person who hired the contractor executes and provides a
39 certificate to the contractor stating that the person providing the
40 certificate is a prime contractor and is liable for the tax under article
41 1 of this chapter. The department shall prescribe the form of the
42 certificate. If the contractor has reason to believe that the information
43 contained on the certificate is erroneous or incomplete, the department
44 may disregard the certificate. If the person who provides the certificate
45 is not liable for the tax as a prime contractor, that person is
46 nevertheless deemed to be the prime contractor in lieu of the contractor
47 and is subject to the tax under this section on the gross receipts or
48 gross proceeds received by the contractor.

1 F. Every person engaging or continuing in this state in the
2 business of prime contracting or dealership of manufactured buildings
3 shall present to the purchaser of such prime contracting or manufactured
4 building a written receipt of the gross income or gross proceeds of sales
5 from such activity and shall separately state the taxes to be paid
6 pursuant to this section.

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

13 H. For the purposes of section 42-5032.02, from and after
14 September 30, 2013, the department shall separately account for revenues
15 reported and collected under the prime contracting classification from any
16 prime contractor engaged in the construction of any buildings and
17 associated improvements that are for the benefit of a manufacturing
18 facility. For the purposes of this subsection, "associated improvements"
19 and "manufacturing facility" have the same meanings prescribed in section
20 42-5032.02.

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

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

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

8 L. The portion of gross proceeds of sales or gross income
9 attributable to the actual direct costs of providing architectural or
10 engineering services that are incorporated in a contract is not subject to
11 tax under this section. For the purposes of this subsection, "direct
12 costs" means the portion of the actual costs that are directly expended in
13 providing architectural or engineering services.

14 M. Operating a landfill or a solid waste disposal facility is not
15 subject to taxation under this section, including filling, compacting and
16 creating vehicle access to and from cell sites within the landfill.
17 Constructing roads to a landfill or solid waste disposal facility and
18 constructing cells within a landfill or solid waste disposal facility may
19 be deemed prime contracting under this section.

20 N. The following apply in determining the taxable situs of sales of
21 manufactured buildings:

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

25 2. For sales in this state where the manufactured building dealer
26 does not contract to deliver the building to a setup site or does not
27 perform the setup, the taxable situs is the location of the dealership
28 where the building is delivered to the buyer.

29 3. For sales in this state where the manufactured building dealer
30 contracts to deliver the building to a setup site that is outside this
31 state, the situs is outside this state and the transaction is excluded
32 from tax.

33 O. The gross proceeds of sales or gross income attributable to a
34 written contract for design phase services or professional services,
35 executed before modification begins and with terms, conditions and pricing
36 of all of these services separately stated in the contract from those for
37 construction phase services, is not subject to tax under this section,
38 regardless of whether the services are provided sequential to or
39 concurrent with prime contracting activities that are subject to tax under
40 this section. This subsection does not include the gross proceeds of
41 sales or gross income attributable to construction phase services. For
42 the purposes of this subsection:

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

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

49 (b) Administration or supervision of any modification performed
50 pursuant to a punch list. For the purposes of this subdivision, "punch

1 list" means minor items of modification work performed after substantial
2 completion and before final completion of the project.

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

7 (i) The scope of a change in the modification work, contract for
8 modification work or other contract documents.

9 (ii) The amount of an adjustment, if any, to the guaranteed maximum
10 price as set in the contract for modification work. For the purposes of
11 this item, "guaranteed maximum price" means the amount guaranteed to be
12 the maximum amount due to a prime contractor for the performance of all
13 modification work for the project.

14 (iii) The extent of an adjustment, if any, to the contract time of
15 performance set forth in the contract.

16 (d) Administration or supervision of any modification performed
17 pursuant to change directives. For the purposes of this subdivision,
18 "change directive" means a written order directing a change in
19 modification work before agreement on an adjustment of the guaranteed
20 maximum price or contract time.

21 (e) Inspection to determine the dates of substantial completion or
22 final completion.

23 (f) Preparation of any manuals, warranties, as-built drawings,
24 spares or other items the prime contractor must furnish pursuant to the
25 contract for modification work. For the purposes of this subdivision,
26 "as-built drawing" means a drawing that indicates field changes made to
27 adapt to field conditions, field changes resulting from change orders or
28 buried and concealed installation of piping, conduit and utility services.

29 (g) Preparation of status reports after modification work has begun
30 detailing the progress of work performed, including preparation of any of
31 the following:

32 (i) Master schedule updates.

33 (ii) Modification work cash flow projection updates.

34 (iii) Site reports made on a periodic basis.

35 (iv) Identification of discrepancies, conflicts or ambiguities in
36 modification work documents that require resolution.

37 (v) Identification of any health and safety issues that have arisen
38 in connection with the modification work.

39 (h) Preparation of daily logs of modification work, including
40 documentation of personnel, weather conditions and on-site occurrences.

41 (i) Preparation of any submittals or shop drawings used by the
42 prime contractor to illustrate details of the modification work performed.

43 (j) Administration or supervision of any other activities for which
44 a prime contractor receives a certificate for payment or certificate for
45 final payment based on the progress of modification work performed on the
46 project.

47 2. "Design phase services" means services for developing and
48 completing a design for a project that are not construction phase
49 services, including the following:

1 (a) Evaluating surveys, reports, test results or any other
2 information on-site conditions for the project, including physical
3 characteristics, legal limitations and utility locations for the site.

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

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

11 (d) Preparing an initial schedule for the project, excluding the
12 preparation of updates to the master schedule after modification work has
13 begun.

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

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

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

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

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

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

32 (vi) Any bond and insurance premiums.

33 (vii) Any applicable taxes.

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

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

41 (g) Preparing the plan and procedures for selection of
42 subcontractors, including any prequalification of subcontractor
43 candidates.

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

49 P. The gross proceeds of sales or gross income derived from a
50 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 AS DEFINED IN SECTION 9-461.21
41 IF THE WORKFORCE HOUSING PROJECT IS NOT SUBJECT TO THE STATE'S PORTION OF
42 THE PRIME CONTRACTING SALES TAX UNDER THIS SECTION, REGARDLESS OF WHETHER
43 THE SERVICES ARE PROVIDED SEQUENTIAL TO OR CONCURRENT WITH PRIME
44 CONTRACTING ACTIVITIES THAT ARE SUBJECT TO TAX UNDER THIS SECTION.

45 ~~R.~~ S. Notwithstanding subsection ~~S~~ T, paragraph 10 of this
46 section, a person owning real property who enters into a contract for sale
47 of the real property, who is responsible to the new owner of the property
48 for modifications made to the property in the period subsequent to the
49 transfer of title and who receives a consideration for the modifications
50 is considered a prime contractor solely for purposes of taxing the gross

1 proceeds of sale or gross income received for the modifications made
2 subsequent to the transfer of title. The original owner's gross proceeds
3 of sale or gross income received for the modifications shall be determined
4 according to the following methodology:

5 1. If any part of the contract for sale of the property specifies
6 amounts to be paid to the original owner for the modifications to be made
7 in the period subsequent to the transfer of title, the amounts are
8 included in the original owner's gross proceeds of sale or gross income
9 under this section. Proceeds from the sale of the property that are
10 received after transfer of title and that are unrelated to the
11 modifications made subsequent to the transfer of title are not considered
12 gross proceeds of sale or gross income from the modifications.

13 2. If the original owner enters into an agreement separate from the
14 contract for sale of the real property providing for amounts to be paid to
15 the original owner for the modifications to be made in the period
16 subsequent to the transfer of title to the property, the amounts are
17 included in the original owner's gross proceeds of sale or gross income
18 received for the modifications made subsequent to the transfer of title.

19 3. If the original owner is responsible to the new owner for
20 modifications made to the property in the period subsequent to the
21 transfer of title and derives any gross proceeds of sale or gross income
22 from the project subsequent to the transfer of title other than a delayed
23 disbursement from escrow unrelated to the modifications, it is presumed
24 that the amounts are received for the modifications made subsequent to the
25 transfer of title unless the contrary is established by the owner through
26 its books, records and papers kept in the regular course of business.

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

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

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

32 (a) For existing property that is properly classified as class two
33 property under section 42-12002, paragraph 1, subdivision (c) or paragraph
34 2, subdivision (c) and that is used for residential purposes, class three
35 property under section 42-12003 or class four property under section
36 42-12004, this paragraph does not apply if the contract amount is more
37 than twenty-five percent of the most recent full cash value established
38 under chapter 13, article 2 of this title as of the date of any bid for
39 the work or the date of the contract, whichever value is higher.

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

43 (c) Project elements may not be artificially separated from a
44 contract to cause a project to qualify as an alteration. The department
45 has the burden of proof that project elements have been artificially
46 separated from a contract.

47 (d) If a project for which the owner and the person performing the
48 work reasonably believed, at the inception of the contract, would be
49 treated as an alteration under this paragraph and, on completion of the
50 project, the project exceeded the applicable threshold described in either

1 subdivision (a) or (b) of this paragraph by not more than twenty-five
2 percent of the applicable threshold for any reason, the work performed
3 under the contract qualifies as an alteration.

4 (e) A change order that directly relates to the scope of work of
5 the original contract shall be treated as part of the original contract,
6 and the contract amount shall include any amount attributable to a change
7 order that directly relates to the scope of work of the original contract.

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

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

10 3. "Contractor" is synonymous with the term "builder" and means any
11 person or organization that undertakes to or offers to undertake to, or
12 purports to have the capacity to undertake to, or submits a bid to, or
13 does personally or by or through others, modify any building, highway,
14 road, railroad, excavation, manufactured building or other structure,
15 project, development or improvement, or to do any part of such a project,
16 including the erection of scaffolding or other structure or works in
17 connection with such a project, and includes subcontractors and specialty
18 contractors. For all purposes of taxation or deduction, this definition
19 shall govern without regard to whether or not such a contractor is acting
20 in fulfillment of a contract.

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

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

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

26 (b) Supervises, performs or coordinates the excavation and
27 completion of site improvements or the setup of a manufactured building,
28 including the contracting, if any, with any subcontractor or specialty
29 contractor for the completion of the contract.

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

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

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

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

40 7. "Modify" means to make a modification or cause a modification to
41 be made.

42 8. "Owner" means the person that holds title to the real property
43 or improvements to real property that is the subject of the work, as well
44 as an agent of the title holder and any person with the authority to
45 perform or authorize work on the real property or improvements, including
46 a tenant and a property manager. For the purposes of subsection P of this
47 section, a person who is hired by a general contractor that is hired by an
48 owner, or a subcontractor of a general contractor that is hired by an
49 owner, is considered to be hired by the owner.

1 9. "Prime contracting" means engaging in business as a prime
2 contractor.

3 10. "Prime contractor" means a contractor who supervises, performs
4 or coordinates the modification of any building, highway, road, railroad,
5 excavation, manufactured building or other structure, project, development
6 or improvement, including the contracting, if any, with any subcontractors
7 or specialty contractors and who is responsible for the completion of the
8 contract. Except as provided in subsections E and ~~R~~ S of this section, a
9 person who owns real property, who engages one or more contractors to
10 modify that real property and who does not itself modify that real
11 property is not a prime contractor within the meaning of this paragraph
12 regardless of the existence of a contract for sale or the subsequent sale
13 of that real property.

14 11. "Replacement" means the removal from service of one component
15 or system of existing property or tangible personal property installed in
16 existing property, including machinery or equipment, and the installation
17 of a new component or system or new tangible personal property, including
18 machinery or equipment, that provides the same, a similar or an upgraded
19 design or functionality, regardless of the contract amount and regardless
20 of whether the existing component or system or existing tangible personal
21 property is physically removed from the existing property.

22 12. "Sale of a used manufactured building" does not include a lease
23 of a used manufactured building.

24 Sec. 4. Effective date

25 Section 9-461.21, Arizona Revised Statutes, as added by this act,
26 and sections 35-726 and 42-5075, Arizona Revised Statutes, as amended by
27 this act, are effective twelve months from and after the general effective
28 date.

29 Sec. 5. Short title

30 This act may be cited as the "Workforce Housing Incentive Act".

31 Amend title to conform

TERESA MARTINEZ

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