

House Engrossed Senate Bill

~~special plate; golf tournament charity~~
(now: housing; contractors; bonds; taxes)

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SENATE BILL 1401

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-461.21; AMENDING SECTIONS 35-726, 42-5010 AND 42-5075,
ARIZONA REVISED STATUTES; RELATING TO HOUSING PROJECTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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 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

1 general plan with a total principal amount, maximum term and maximum
2 interest rate ~~no~~ NOT greater than that which is set forth in the general
3 plan. The origination and servicing fees pertaining to mortgage loans to
4 be financed in accordance with the general plan shall not exceed those
5 proposed in the general plan. The corporation may vary other items in the
6 general plan on a finding that the variation is minor and that the
7 variations will not impair the security for the bonds or substantially
8 increase the cost of financing the single family dwelling units and the
9 findings of the corporation shall be conclusive.

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

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

- 24 1. The demand for and feasibility of the project in the area set
25 forth in the application to the corporation.
- 26 2. The terms and conditions of the proposed bonds.
- 27 3. The proposed use of bond proceeds.
- 28 4. The benefit to the public if the project provides rental housing
29 for persons of low and moderate income or encourages rental housing in
30 slum or blighted areas as defined in section 36-1471.
- 31 5. If the project consists of a nursing home, or a life care
32 facility as prescribed in section 20-1801, the benefit to the public of
33 the project, including the proposed rent, fees and other charges of the
34 project in relation to the level of services to be offered.

35 F. Subsection E of this section does not apply to bonds issued to
36 finance:

- 37 1. A sanitarium, clinic, medical hotel, rest home, nursing home,
38 skilled nursing facility, or life care facility as prescribed in section
39 20-1801, if the facility is to be owned and operated by this state or a
40 political subdivision or agency of this state.
- 41 2. A nursing home, rest home, skilled nursing facility, life care
42 facility or senior residential facility providing on-site medical and
43 support services if the facility is owned and operated by a nonprofit
44 organization that is exempt from taxation under section 501(c)(3) of the
45 United States internal revenue code.

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

14 H. For the purposes of this section, "department" means the Arizona
15 department of housing.

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

18 42-5010. Rates; distribution base

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

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

- 24 (a) Transporting classification.
- 25 (b) Utilities classification.
- 26 (c) Telecommunications classification.
- 27 (d) Pipeline classification.
- 28 (e) Private car line classification.
- 29 (f) Publication classification.
- 30 (g) Job printing classification.
- 31 (h) Prime contracting classification.
- 32 (i) Amusement classification.
- 33 (j) Restaurant classification.
- 34 (k) Personal property rental classification.
- 35 (l) Retail classification and amounts equal to retail transaction
36 privilege tax due pursuant to section 42-5008.01.

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

39 (a) The transient lodging classification described in section
40 42-5070.

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

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

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

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

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

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

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

27 F. Fifty 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 2 of this section is designated as distribution
30 base for the purposes of section 42-5029.

31 G. In addition to the rates prescribed by subsection A of this
32 section, if approved by the qualified electors voting at a statewide
33 general election, an additional rate increment is imposed and shall be
34 collected through June 30, 2021. The taxpayer shall pay taxes pursuant to
35 this subsection at the same time and in the same manner as under
36 subsection A of this section. The department shall separately account for
37 the revenues collected with respect to the rates imposed pursuant to this
38 subsection and the state treasurer shall distribute all of those revenues
39 in the manner prescribed by section 42-5029, subsection E. The rates
40 imposed pursuant to this subsection shall not be considered local revenues
41 for purposes of article IX, section 21, Constitution of Arizona. The
42 additional tax rate increment is levied at the rate of six-tenths of one
43 per cent of the tax base of every person engaging or continuing in this
44 state in a business classification listed in subsection A, paragraph 1 of
45 this section.

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

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

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

21 2. The provisions of this subsection apply without regard to the
22 accounting method used by the taxpayer to report the taxes imposed under
23 article 2 of this chapter.

24 3. The provisions of this subsection shall not be considered in
25 determining the rate of tax imposed under chapter 6, article 3 of this
26 title.

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

38 K. Subject to section 48-4238, beginning on October 1, 2025 through
39 December 31, 2055, zero percent of the tax revenues that are collected at
40 the rate prescribed by subsection A, paragraph 1 of this section from
41 persons engaging in business under the business classifications listed in
42 subsection A, paragraph 1, subdivisions (h), (i), (j) and (l) of this
43 section and that are subject to transmittal required by section 42-5032.03
44 is designated as distribution base for the purposes of section 42-5029.
45 Beginning January 1, 2056, twenty percent of the remaining tax revenues

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

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

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

22 42-5075. Prime contracting classification; exemptions;
23 definitions

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

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

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

39 2. Sales and installation of groundwater measuring devices required
40 under section 45-604 and groundwater monitoring wells required by law,
41 including monitoring wells installed for acquiring information for a
42 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.

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

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

10 7. The gross proceeds of sales or gross income that is derived from
11 a contract for the installation, assembly, repair or maintenance of
12 machinery, equipment or other tangible personal property that is either
13 deducted from the tax base of the retail classification under section
14 42-5061, subsection B or that is exempt from use tax under section
15 42-5159, subsection B and that has independent functional utility,
16 pursuant to the following provisions:

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

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

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

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

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

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

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

44 (i) Assembling the machinery, equipment or other tangible personal
45 property.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 will make its books and records relating to sales of solar energy devices
2 available to the department for examination.

3 14. The gross proceeds of sales or gross income derived from a
4 contract entered into for the construction of a launch site, as defined in
5 14 Code of Federal Regulations section 401.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 C. Entitlement to the deduction pursuant to subsection B, paragraph
36 7 of this section is subject to the following provisions:

37 1. A prime contractor may establish entitlement to the deduction by
38 both:

39 (a) Marking the invoice for the transaction to indicate that the
40 gross proceeds of sales or gross income derived from the transaction was
41 deducted from the base.

42 (b) Obtaining a certificate executed by the purchaser indicating
43 the name and address of the purchaser, the precise nature of the business
44 of the purchaser, the purpose for which the purchase was made, the
45 necessary facts to establish the deductibility of the property under

1 section 42-5061, subsection B, and a certification that the person
2 executing the certificate is authorized to do so on behalf of the
3 purchaser. The certificate may be disregarded if the prime contractor has
4 reason to believe that the information contained in the certificate is not
5 accurate or complete.

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

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

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

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

38 E. Amounts received by a contractor for a project are excluded from
39 the contractor's gross proceeds of sales or gross income derived from the
40 business if the person who hired the contractor executes and provides a
41 certificate to the contractor stating that the person providing the
42 certificate is a prime contractor and is liable for the tax under article
43 1 of this chapter. The department shall prescribe the form of the
44 certificate. If the contractor has reason to believe that the information
45 contained on the certificate is erroneous or incomplete, the department

1 may disregard the certificate. If the person who provides the certificate
2 is not liable for the tax as a prime contractor, that person is
3 nevertheless deemed to be the prime contractor in lieu of the contractor
4 and is subject to the tax under this section on the gross receipts or
5 gross proceeds received by the contractor.

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

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

18 H. For the purposes of section 42-5032.02, from and after
19 September 30, 2013, the department shall separately account for revenues
20 reported and collected under the prime contracting classification from any
21 prime contractor engaged in the construction of any buildings and
22 associated improvements that are for the benefit of a manufacturing
23 facility. For the purposes of this subsection, "associated improvements"
24 and "manufacturing facility" have the same meanings prescribed in section
25 42-5032.02.

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

39 J. The gross proceeds of sales or gross income derived from a
40 contract for lawn maintenance services is not subject to tax under this
41 section if the contract does not include landscaping activities. Lawn
42 maintenance service is a service pursuant to section 42-5061, subsection
43 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing
44 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,
45 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris

1 collection and removal, tree or shrub pruning or clipping, garden and
2 gravel raking and applying pesticides, as defined in section 3-361, and
3 fertilizer materials, as defined in section 3-262.

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

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

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

23 N. The following apply in determining the taxable situs of sales of
24 manufactured buildings:

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

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

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

36 O. The gross proceeds of sales or gross income attributable to a
37 written contract for design phase services or professional services,
38 executed before modification begins and with terms, conditions and pricing
39 of all of these services separately stated in the contract from those for
40 construction phase services, is not subject to tax under this section,
41 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. This subsection does not include the gross proceeds of
44 sales or gross income attributable to construction phase services. For
45 the purposes of this subsection:

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

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

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

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

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

17 (ii) The amount of an adjustment, if any, to the guaranteed maximum
18 price as set in the contract for modification work. For the purposes of
19 this item, "guaranteed maximum price" means the amount guaranteed to be
20 the maximum amount due to a prime contractor for the performance of all
21 modification work for the project.

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

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

29 (e) Inspection to determine the dates of substantial completion or
30 final completion.

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

37 (g) Preparation of status reports after modification work has begun
38 detailing the progress of work performed, including preparation of any of
39 the following:

40 (i) Master schedule updates.

41 (ii) Modification work cash flow projection updates.

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

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

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

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

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

7 (j) Administration or supervision of any other activities for which
8 a prime contractor receives a certificate for payment or certificate for
9 final payment based on the progress of modification work performed on the
10 project.

11 2. "Design phase services" means services for developing and
12 completing a design for a project that are not construction phase
13 services, including the following:

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

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

20 (c) Preparing drawings and specifications for architectural program
21 documents, schematic design documents, design development documents,
22 modification work documents or documents that identify the scope of or
23 materials for the project.

24 (d) Preparing an initial schedule for the project, excluding the
25 preparation of updates to the master schedule after modification work has
26 begun.

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

30 (i) Labor, materials, machinery and equipment, tools, water, heat,
31 utilities, transportation and other facilities and services used in the
32 execution and completion of modification work, regardless of whether they
33 are temporary or permanent or whether they are incorporated in the
34 modifications.

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

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

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

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

45 (vi) Any bond and insurance premiums.

1 (vii) Any applicable taxes.

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

4 (f) Reviewing and evaluating cost estimates and project documents
5 to prepare recommendations on site use, site improvements, selection of
6 materials, building systems and equipment, modification feasibility,
7 availability of materials and labor, local modification activity as
8 related to schedules and time requirements for modification work.

9 (g) Preparing the plan and procedures for selection of
10 subcontractors, including any prequalification of subcontractor
11 candidates.

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

17 P. The gross proceeds of sales or gross income derived from a
18 contract with the owner of real property or improvements to real property
19 for the maintenance, repair, replacement or alteration of existing
20 property is not subject to tax under this section if the contract does not
21 include modification activities, except as specified in this subsection.
22 The gross proceeds of sales or gross income derived from a de minimis
23 amount of modification activity does not subject the contract or any part
24 of the contract to tax under this section. For the purposes of this
25 subsection:

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

29 2. Each contract is independent of any other contract, except that
30 any change order that directly relates to the scope of work of the
31 original contract shall be treated the same as the original contract under
32 this chapter, regardless of the amount of modification activities included
33 in the change order. If a change order does not directly relate to the
34 scope of work of the original contract, the change order shall be treated
35 as a new contract, with the tax treatment of any subsequent change order
36 to follow the tax treatment of the contract to which the scope of work of
37 the subsequent change order directly relates.

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

1 1. Community facilities districts, fire districts, county
2 television improvement districts, community park maintenance districts,
3 cotton pest control districts, hospital districts, pest abatement
4 districts, health service districts, agricultural improvement districts,
5 county free library districts, county jail districts, county stadium
6 districts, special health care districts, public health services
7 districts, theme park districts or revitalization districts.

8 2. Any special taxing district not specified in paragraph 1 of this
9 subsection if the district does not substantially engage in the
10 modification, maintenance, repair, replacement or alteration of surface or
11 subsurface improvements to land.

12 R. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE
13 DEVELOPMENT OF WORKFORCE HOUSING PROJECTS IS NOT SUBJECT TO TAX UNDER THIS
14 SECTION, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL TO OR
15 CONCURRENT WITH PRIME CONTRACTING ACTIVITIES THAT ARE SUBJECT TO TAX UNDER
16 THIS SECTION, IN AN AMOUNT THAT IS EQUAL TO THE STATE'S PORTION OF THE
17 REVENUES COLLECTED FROM THE TRANSACTION. THE DEPARTMENT SHALL SEPARATELY
18 ACCOUNT FOR REVENUES COLLECTED UNDER THE PRIME CONTRACTING CLASSIFICATION
19 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE
20 DEVELOPMENT OF WORKFORCE HOUSING PROJECTS THAT IS NOT EXEMPT UNDER THIS
21 SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION:

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

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

31 ~~R.~~ S. Notwithstanding subsection ~~S~~ T, paragraph 10 of this
32 section, a person owning real property who enters into a contract for sale
33 of the real property, who is responsible to the new owner of the property
34 for modifications made to the property in the period subsequent to the
35 transfer of title and who receives a consideration for the modifications
36 is considered a prime contractor solely for purposes of taxing the gross
37 proceeds of sale or gross income received for the modifications made
38 subsequent to the transfer of title. The original owner's gross proceeds
39 of sale or gross income received for the modifications shall be determined
40 according to the following methodology:

41 1. If any part of the contract for sale of the property specifies
42 amounts to be paid to the original owner for the modifications to be made
43 in the period subsequent to the transfer of title, the amounts are
44 included in the original owner's gross proceeds of sale or gross income
45 under this section. Proceeds from the sale of the property that are

1 received after transfer of title and that are unrelated to the
2 modifications made subsequent to the transfer of title are not considered
3 gross proceeds of sale or gross income from the modifications.

4 2. If the original owner enters into an agreement separate from the
5 contract for sale of the real property providing for amounts to be paid to
6 the original owner for the modifications to be made in the period
7 subsequent to the transfer of title to the property, the amounts are
8 included in the original owner's gross proceeds of sale or gross income
9 received for the modifications made subsequent to the transfer of title.

10 3. If the original owner is responsible to the new owner for
11 modifications made to the property in the period subsequent to the
12 transfer of title and derives any gross proceeds of sale or gross income
13 from the project subsequent to the transfer of title other than a delayed
14 disbursement from escrow unrelated to the modifications, it is presumed
15 that the amounts are received for the modifications made subsequent to the
16 transfer of title unless the contrary is established by the owner through
17 its books, records and papers kept in the regular course of business.

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

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

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

23 (a) For existing property that is properly classified as class two
24 property under section 42-12002, paragraph 1, subdivision (c) or paragraph
25 2, subdivision (c) and that is used for residential purposes, class three
26 property under section 42-12003 or class four property under section
27 42-12004, this paragraph does not apply if the contract amount is more
28 than twenty-five percent of the most recent full cash value established
29 under chapter 13, article 2 of this title as of the date of any bid for
30 the work or the date of the contract, whichever value is higher.

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

34 (c) Project elements may not be artificially separated from a
35 contract to cause a project to qualify as an alteration. The department
36 has the burden of proof that project elements have been artificially
37 separated from a contract.

38 (d) If a project for which the owner and the person performing the
39 work reasonably believed, at the inception of the contract, would be
40 treated as an alteration under this paragraph and, on completion of the
41 project, the project exceeded the applicable threshold described in either
42 subdivision (a) or (b) of this paragraph by not more than twenty-five
43 percent of the applicable threshold for any reason, the work performed
44 under the contract qualifies as an alteration.

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

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

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

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

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

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

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

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

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

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

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

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

37 7. "Modify" means to make a modification or cause a modification to
38 be made.

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

1 owner, or a subcontractor of a general contractor that is hired by an
2 owner, is considered to be hired by the owner.

3 9. "Prime contracting" means engaging in business as a prime
4 contractor.

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

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

24 12. "Sale of a used manufactured building" does not include a lease
25 of a used manufactured building.

26 Sec. 5. Effective date

27 Section 9-461.21, Arizona Revised Statutes, as added by this act,
28 and sections 35-726, 42-5010 and 42-5075, Arizona Revised Statutes, as
29 amended by this act, are effective twelve months from and after the
30 general effective date.

31 Sec. 6. Short title

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