Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

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

CHAPTER 371

HOUSE BILL 2613

AN ACT

AMENDING SECTIONS 3-449, 3-466, 3-492, 3-496, 3-521, 27-102, 32-101, 32-102, 32-103, 32-122 AND 32-122.01, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-132; AMENDING SECTIONS 32-142, 32-144, 32-1301, 32-1394.01 AND 32-2352, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2372, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 23, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2372.01; AMENDING SECTIONS 32-2373, 32-2374 AND 32-2391, ARIZONA REVISED STATUTES; AMENDING SECTION 32-3021, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 141, SECTION 1; AMENDING SECTION 32-3021, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 262, SECTION 20; AMENDING SECTIONS 41-619.51, 41-1758, 41-1758.01, 41-2571 AND 42-5075, ARIZONA REVISED STATUTES; RELATING TO REGULATORY LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 3-449, Arizona Revised Statutes, is amended to read:

3-449. Annual licensing; fees; application; penalty

A. ~~No~~ A person ~~shall~~ MAY NOT transact business as a citrus fruit dealer~~, packer~~ or shipper without first obtaining a license as provided in this article. The license expires on August 1 of each year and is renewable annually. The license fee shall be determined according to the annual gross sales based on the dealer's or shipper's previous fiscal year as follows:

1. If the annual gross sales are five hundred thousand dollars or more, the annual fee is four hundred fifty dollars.

2. If the annual gross sales are between two hundred thousand dollars and five hundred thousand dollars, the annual fee is three hundred dollars.

3. If the annual gross sales are two hundred thousand dollars or less, the annual fee is one hundred fifty dollars.

4. If the person was not in business the previous fiscal year, the annual fee is one hundred fifty dollars.

~~B. The application for a packer license shall be filed with the supervisor and be accompanied by an annual license fee of one hundred fifty dollars.~~

~~C.~~ B. If a person engages in business in more than one category as a dealer~~,~~ OR shipper ~~or packer~~, the license designation shall be based on the category in which most of the licensee's business is conducted.

~~D.~~ C. The license fees collected by the supervisor shall be paid into the citrus, fruit and vegetable trust fund.

~~E.~~ D. The application for a dealer~~,~~ OR shipper ~~or packer~~ license shall contain the following information:

1. The full name of the person applying for the license.

2. Whether the applicant is an individual, partnership, firm, corporation, association, trust or cooperative association and the full name of each member of the partnership or firm, the full name of each officer and director of the association or corporation or the full name of each trustee.

3. The principal business address of the applicant in this state and elsewhere and the address where the applicant conducts the described business.

4. The name of the statutory agent in this state for service of legal notice.

5. The category of license for which the applicant is applying.

6. A statement of the facts, signed under penalty of perjury, entitling the applicant to a license under the applicable category and stating whether the applicant has ever had any license to handle citrus, fruit or vegetables in any state denied, suspended or revoked.

7. If the applicant acts as a commission merchant, a schedule of commissions and charges for services, which may not be altered during the term of the license except by written agreement between the parties involved.

~~F.~~ E. The supervisor shall issue to the applicant a license to conduct the business described for a period of one year unless it is revoked for cause.

~~G.~~ F. An applicant who tenders a renewal application for a license that is received by the supervisor after August 15 shall pay a penalty of twenty-five dollars. An applicant who tenders a renewal application for a license that is received after September 1 shall pay a penalty of fifty dollars. All penalties shall be deposited in the citrus, fruit and vegetable trust fund.

Sec. 2. Section 3-466, Arizona Revised Statutes, is amended to read:

3-466. Civil penalties; hearing

A. A person is subject to a civil penalty of not more than five hundred dollars~~,~~ if the person does either of the following:

1. Acts as a dealer~~,~~ OR shipper ~~or packer~~ without a valid license.

2. Knowingly falsifies or causes to be falsified information in a record intended to show proof of ownership.

B. A person shall be subject to a civil penalty of not more than three hundred dollars~~,~~ if the person does any of the following:

1. Makes a written or oral false, deceptive or misleading representation or assertion concerning the quality, size, maturity or condition of citrus fruit.

2. Alters, removes or destroys a warning notice from a lot or part of a lot to which it was affixed except on written authorization of an inspector, the supervisor or the director or by court order.

3. Alters a notice of noncompliance, notice of compliance or notice of disposal that is issued by an inspector.

4. Refuses to submit any container or lot of citrus fruit governed pursuant to this article to an inspection of a representative sample or to refuse to stop and permit inspection of a representative sample of any commercial vehicle containing citrus fruit governed pursuant to this article.

C. A commission merchant is subject to a civil penalty of not more than five hundred dollars~~,~~ if the commission merchant does any of the following:

1. Knowingly makes a false or misleading statement as to the condition of any citrus fruit.

2. Makes a fraudulent charge or return for handling or selling citrus fruit or for rendering any service in connection with handling or selling citrus fruit.

3. Reconsigns a consignment to receive, collect or charge more than one commission without the consent of the consignor.

4. Sells citrus fruit at less than market price to a person with whom the consignment merchant has a direct or indirect financial connection.

5. Makes a sale and directly or indirectly receives a portion of the purchase price other than the commission specified in the contract.

D. A person who is charged with violating this article or rules adopted pursuant to this article may request a hearing pursuant to title 41, chapter 6, article 10.

E. Civil penalties collected pursuant to this section shall be deposited in the citrus, fruit and vegetable trust fund.

Sec. 3. Section 3-492, Arizona Revised Statutes, is amended to read:

3-492. Licensing dealers and shippers; application; fees; penalty

A. ~~No~~ A person ~~shall~~ MAY NOT act as a dealer or shipper without first obtaining a license as provided in this article. Application for the license shall be filed with the supervisor and accompanied by a license fee determined according to the annual gross sales based on the dealer's or shipper's previous fiscal year as follows:

1. If the annual gross sales are five hundred thousand dollars or more, the annual fee is five hundred dollars.

2. If the annual gross sales are between two hundred thousand dollars and five hundred thousand dollars, the annual fee is three hundred fifty dollars.

3. If the annual gross sales are two hundred thousand dollars or less, the annual fee is two hundred dollars.

4. If the person was not in business the previous fiscal year, the annual fee is two hundred dollars.

~~B. A person may not act as a packer without first obtaining a license as provided in this article. The application for a packer license shall be filed with the supervisor and accompanied by an annual license fee of two hundred dollars.~~

~~C.~~ B. If a person engages in business in more than one category as a dealer~~,~~ OR shipper ~~or packer~~, the license designation shall be based on the category in which most of the licensee's business is conducted.

~~D.~~ C. The monies received as license fees under this section shall be paid into the citrus, fruit and vegetable trust fund. The license shall expire on September 1 of each year and is renewable annually.

~~E.~~ D. The application for a dealer~~,~~ OR shipper ~~or packer~~ license shall contain the following information:

1. The full name of the person applying for the license.

2. Whether the applicant is an individual, partnership, firm, corporation, association, trust or cooperative association and the full name of each member of the partnership or firm, the full name of each officer and director of the association or corporation or the full name of each trustee.

3. The principal business address of the applicant in this state and elsewhere and the address where the applicant conducts the described business.

4. The name of the statutory agent in this state for service of legal notice.

5. The category of license for which the applicant is applying.

6. A statement of the facts, signed under penalty of perjury, entitling the applicant to a license under the applicable category and stating whether the applicant has ever had any license to handle citrus, fruit or vegetables in any state denied, suspended or revoked.

7. If the applicant acts as a commission merchant, a schedule of commissions and charges for services, which may not be altered during the term of the license except by written agreement between the parties involved.

~~F.~~ E. The supervisor shall issue to the applicant a license to conduct the business described for a period of one year unless it is revoked for cause.

~~G.~~ F. An applicant who tenders a renewal application for a license that is received by the supervisor after September 15 shall pay a penalty of twenty-five dollars. An applicant who tenders a renewal application for a license that is received after October 1 shall pay a penalty of fifty dollars. All penalties shall be deposited in the citrus, fruit and vegetable trust fund.

Sec. 4. Section 3-496, Arizona Revised Statutes, is amended to read:

3-496. <u>List of licensees; display of license</u>

A. The supervisor may publish a pamphlet containing a list of all licensed dealers~~,~~ AND shippers ~~and packers~~ and the rules pertaining to the enforcement of this article.

B. Each licensed dealer~~,~~ AND shipper ~~and packer~~ shall keep the license in ~~his~~ THE DEALER'S OR SHIPPER'S office or at ~~his~~ THE DEALER'S OR SHIPPER'S principal place of business.

Sec. 5. Section 3-521, Arizona Revised Statutes, is amended to read:

3-521. <u>Civil penalties; hearing</u>

A. A person is subject to a civil penalty of not more than five hundred dollars~~,~~ if the person does either of the following:

1. Acts as a dealer~~,~~ OR shipper ~~or packer~~ without a valid license.

2. Knowingly falsifies or causes to be falsified information in a record intended to show proof of ownership.

B. A person shall be subject to a civil penalty of not more than three hundred dollars~~,~~ if the person does any of the following:

1. Makes a written or oral false, deceptive or misleading representation or assertion concerning the quality, size, maturity or condition of fruit or vegetables.

2. Alters, removes or destroys a warning notice from a lot or part of a lot to which it was affixed except on written authorization of an inspector, the supervisor or the director or by court order.

3. Alters a notice of noncompliance, notice of compliance or notice of disposal that is issued by an inspector.

4. Refuses to submit any container or lot of fruit or vegetables governed by this article to an inspection of a representative sample or refuses to stop and permit inspection of a representative sample of any commercial vehicle containing fruit and vegetables governed by this article.

C. A commission merchant is subject to a civil penalty of not more than five hundred dollars~~,~~ if the commission merchant does any of the following:

1. Knowingly makes a false or misleading statement as to the condition of any fruit or vegetable.

2. Makes a fraudulent charge or return for handling or selling a fruit or vegetable or for rendering any service in connection with handling or selling a fruit or vegetable.

3. Reconsigns a consignment to receive, collect or charge more than one commission without the consent of the consignor.

4. Sells a fruit or vegetable at less than market price to a person with whom the consignment merchant has a direct or indirect financial connection.

5. Makes a sale and directly or indirectly receives a portion of the purchase price other than the commission specified in the contract.

D. A person who is charged with violating this article or rules adopted pursuant to this article may request a hearing before an administrative law judge pursuant to title 41, chapter 6, article 10. The decision of the administrative law judge is subject to review by the director as provided by title 41, chapter 6, article 10.

E. Civil penalties collected pursuant to this section shall be deposited in the citrus, fruit and vegetable trust fund.

Sec. 6. Section 27-102, Arizona Revised Statutes, is amended to read:

27-102. Arizona geological survey; state geologist; powers

A. The Arizona geological survey is established with offices located in proximity to the university of Arizona in Tucson. The governor shall appoint a state geologist, pursuant to section 38-211, to be the administrative head of the Arizona geological survey and to serve at the pleasure of the governor. The state geologist shall be EITHER registered as a geologist by the state board of technical registration OR A TRAINED GEOLOGIST AS DEFINED IN SECTION 32-144, a graduate of an accredited institution and otherwise qualified by education and experience to direct the research and information functions of the Arizona geological survey.

B. The state geologist may organize the Arizona geological survey into such administrative units, and, subject to title 41, chapter 4, article 4, employ professional and support staff, as necessary to achieve the objectives and promote the policies prescribed by this article.

C. The state geologist may:

1. Retain the services of faculty members or students, and shall have reasonable access to the data and other resources, of the university of Arizona or any other state university in this state to conduct or supervise research, experimentation or other related work of the Arizona geological survey.

2. Organize field expeditions to perform work for the Arizona geological survey using university students who are sufficiently advanced in their study of geology to be able to perform satisfactory work.

3. Establish and appoint an advisory board consisting of independent practicing geologists, university or college faculty, mining geologists and others who use and rely on data, information and other services of the Arizona geological survey.

4. Employ volunteer staff as necessary.

D. The expenses of the Arizona geological survey shall be paid by annual appropriation from the state general fund and as otherwise provided by this article.

Sec. 7. Heading change

The chapter heading of title 32, chapter 1, Arizona Revised Statutes, is changed from "ARCHITECTS, ASSAYERS, ENGINEERS, GEOLOGISTS, HOME INSPECTORS, LANDSCAPE ARCHITECTS AND SURVEYORS" to "ARCHITECTS, ENGINEERS, GEOLOGISTS, HOME INSPECTORS, LANDSCAPE ARCHITECTS AND SURVEYORS".

Sec. 8. Section 32-101, Arizona Revised Statutes, is amended to read:

32-101. Purpose; definitions

A. The purpose of this chapter is to provide for the safety, health and welfare of the public through the promulgation and enforcement of standards of qualification for those individuals WHO ARE registered or certified and seeking registration or certification pursuant to this chapter.

B. In this chapter, unless the context otherwise requires:

1. "Advertising" includes business cards, signs or letterhead provided by a person to the public.

2. "Alarm" or "alarm system":

(a) Means any mechanical or electrical device that is designed to emit an audible alarm or transmit a signal or message if activated and that is used to detect an unauthorized entry into a building or other facility or alert other persons of the occurrence of a medical emergency or the commission of an unlawful act against a person or in a building or other facility.

(b) Includes a silent, panic, holdup, robbery, duress, burglary, medical alert or proprietor alarm that requires emergency personnel to respond.

(c) Does not include a telephone call diverter or a system that is designed to report environmental and other occurrences and that is not designed or used to alert or cause other persons to alert public safety personnel.

3. "Alarm agent":

(a) Means a person, whether an employee, an independent contractor or otherwise, who acts on behalf of an alarm business and who tests, maintains, services, repairs, sells, rents, leases or installs alarm systems.

(b) Does not include any action by a person that:

(i) Is performed in connection with an alarm system located on the person's own property or the property of the person's employer.

(ii) Is acting on behalf of an alarm business whose work duties do not include visiting the location where an alarm system installation occurs.

4. "Alarm business":

(a) Means any person who, either alone or through a third party, engages in the business of either of the following:

(i) Providing alarm monitoring services.

(ii) Selling, leasing, renting, maintaining, repairing or installing a nonproprietor alarm system or service.

(b) Does not include any of the following:

(i) A person or company that purchases, rents or uses an alarm that is affixed to a motor vehicle.

(ii) A person who owns or conducts a business of selling, leasing, renting, installing, maintaining or monitoring an alarm that is affixed to a motor vehicle.

(iii) A person who installs a nonmonitored proprietor alarm for a business that the person owns, is employed by or manages.

(iv) The installation or monitoring of fire alarm systems.

(v) An alarm system that is operated by a city or town.

5. "Alarm subscriber" means any person who:

(a) Leases, rents or purchases any monitored alarm system or service from an alarm business.

(b) Leases or rents an alarm system.

(c) Contracts with an alarm business for alarm monitoring, installation, repair or maintenance services.

6. "Architect" means a person who, by reason of knowledge of the mathematical and physical sciences and the principles of architecture and architectural engineering acquired by professional education and practical experience, is qualified to engage in the practice of architecture as attested by registration as an architect.

7. "Architect-in-training" means a candidate for registration as a professional architect who is a graduate of a school approved by the board or who has five years or more of education or experience, or both, in architectural work ~~which~~ THAT meets standards specified by the board in its rules. In addition, the candidate shall have passed the architect-in-training examination.

8. "Architectural practice" means any professional service or creative work requiring architectural education, training and experience, and the application of the mathematical and physical sciences and the principles of architecture and architectural engineering to such professional services or creative work as consultation, evaluation, design and review of construction for conformance with contract documents and design, in connection with any building, planning or site development. A person shall be deemed to practice or offer to practice architecture who in any manner represents that the

person is an architect~~,~~ or is able to perform any architectural service or other services recognized by educational authorities as architecture.

~~9. "Assayer" means a person who analyzes metals, ores, minerals, or alloys in order to ascertain the quantity of gold or silver or any other substance present in them. A person employed on a full-time basis as an assayer by an employer engaged in the business of developing, mining or treating ores or other minerals shall not be deemed to be engaged in assaying practice for the purposes of this chapter if the person engages in assaying practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any assaying services for anyone other than the person's employer.~~

~~10. "Assayer-in-training" means a candidate for registration as a professional assayer who is a graduate of a school and curriculum approved by the board or who has four years or more of education or experience, or both, in assaying work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the assayer-in-training examination.~~

~~11. "Assaying practice" means any professional service or work requiring assaying education, training and experience and the application of special knowledge of the mineral sciences to such service or work as consultation and the evaluation of minerals. A person is deemed to practice or offer to practice assaying who in any manner represents that the person is an assayer or is able to perform any assaying service or other services recognized by educational authorities as assaying.~~

~~12.~~ 9. "Board" means the state board of technical registration.

~~13.~~ 10. "Certified remediation specialist" means a person who has been certified by the board to perform, supervise and review environmental remediations if the use of a certified remediation specialist is specifically authorized by title 49 and rules adopted pursuant to title 49.

~~14.~~ 11. "Controlling person":

(a) Means a person who is designated by an alarm business.

(b) Does not include an alarm agent.

~~15.~~ 12. "Drug laboratory site remediation firm" means a firm that is licensed by the registrar of contractors pursuant to chapter 10 of this title and that performs remediation of residual contamination from the manufacture of methamphetamine, ecstasy or LSD or the storage of chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD. For the purposes of this paragraph:

(a) "Ecstasy" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.

(b) "LSD" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals,

other substances or equipment used in the unlawful manufacture of the dangerous drug.

(c) "Methamphetamine" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.

~~16.~~ 13. "Engineer" means a person who, by reason of special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design acquired by professional education and practical experience, is qualified to practice engineering as attested by registration as a professional engineer.

~~17.~~ 14. "Engineering practice" means any professional service or creative work requiring engineering education, training and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, research investigation, evaluation, planning, surveying as defined in paragraph ~~27~~ 24, subdivisions (d) and (e) of this subsection, design, location, development, and review of construction for conformance with contract documents and design, in connection with any public or private utility, structure, building, machine, equipment, process, work or project. Such services and work include plans and designs relating to the location, development, mining and treatment of ore and other minerals. A person shall be deemed to be practicing or offering to practice engineering if the person practices any branch of the profession of engineering, or by verbal claim, sign, advertisement, letterhead, card or any other manner represents that the person is a professional engineer, or is able to perform or does perform any engineering service or other service recognized by educational authorities as engineering. A person employed on a full-time basis as an engineer by an employer engaged in the business of developing, mining and treating ores and other minerals shall not be deemed to be practicing engineering for the purposes of this chapter if the person engages in the practice of engineering exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any engineering services for persons other than the person's employer.

~~18.~~ 15. "Engineer-in-training" means a candidate for registration as a professional engineer who is a graduate in an approved engineering curriculum of four years or more of a school approved by the board or who has ~~had~~ four years or more of education or experience, or both, in engineering work ~~which~~ THAT meets standards specified by the board in its rules. In addition, the candidate shall have passed the engineer-in-training examination.

~~19.~~ 16. "Firm" means any individual or partnership, corporation or other type of association, including the association of a nonregistrant and a registrant who offers to the public professional services regulated by the board.

~~20.~~ 17. "Geological practice" means any professional service or work requiring geological education, training and experience, and the application of special knowledge of the earth sciences to such professional services as consultation, evaluation of mining properties, petroleum properties and groundwater resources, professional supervision of exploration for mineral natural resources including metallic and nonmetallic ores, petroleum and groundwater, and the geological phases of engineering investigations.

~~21.~~ 18. "Geologist" means a person, not of necessity an engineer, who by reason of special knowledge of the earth sciences and the principles and methods of search for and appraisal of mineral or other natural resources acquired by professional education and practical experience is qualified to practice geology as attested by registration as a professional geologist. A person employed on a full-time basis as a geologist by an employer engaged in the business of developing, mining or treating ores and other minerals shall not be deemed to be engaged in geological practice for the purposes of this chapter if the person engages in geological practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any geological services for persons other than the person's employer.

~~22.~~ 19. "Geologist-in-training" means a candidate for registration as a professional geologist who is a graduate of a school approved by the board or who has ~~had~~ four years or more of education or experience, or both, in geological work ~~which~~ THAT meets standards specified by the board in its rules. In addition, the candidate shall have passed the geologist-in-training examination.

~~23.~~ 20. "Home inspection" means a visual analysis for the purposes of providing a professional opinion of the building, any reasonably accessible installed components and the operation of the building's systems, including the controls normally operated by the owner, for the following components of a residential building of four units or less:

(a) Heating system.
(b) Cooling system.
(c) Plumbing system.
(d) Electrical system.
(e) Structural components.
(f) Foundation.
(g) Roof covering.
(h) Exterior and interior components.
(i) Site aspects as they affect the building.
(j) Pursuant to rules adopted by the board, swimming pool and spa.

~~24.~~ 21. "Home inspection report" means a written report that is prepared for compensation, that is issued after a home inspection and that clearly describes and identifies the inspected systems, structures and components of a completed dwelling and any visible major defects found to be

in need of immediate major repair and any recommendations for additional evaluation by appropriate persons.

~~25.~~ 22. "Home inspector" means an individual who is certified pursuant to this chapter as a home inspector and who engages in the business of performing home inspections and writing home inspection reports.

~~26.~~ 23. "Home inspector-in-training" means a candidate for certification as a home inspector who has completed a course of study approved by the board and who is participating in a training program that complies with standards recommended by the home inspector rules and standards committee and approved by the board.

~~27.~~ 24. "Land surveying practice" means the performance of one or more of the following professional services:

(a) Measurement of land to determine the position of any monument or reference point ~~which~~ THAT marks a property line, boundary or corner for the purpose of determining the area or description of the land.

(b) Location, relocation, establishment, reestablishment, setting, resetting or replacing of corner monuments or reference points which identify land boundaries, rights-of-way or easements.

(c) Platting or plotting of lands for the purpose of subdividing.

(d) Measurement by angles, distances and elevations of natural or artificial features in the air, on the surface and immediate subsurface of the earth, within underground workings and on the surface or within bodies of water for the purpose of determining or establishing their location, size, shape, topography, grades, contours or water surface and depths, and the preparation and perpetuation of field note records and maps depicting these features.

(e) Setting, resetting or replacing of points to guide the location of new construction.

~~28.~~ 25. "Land surveyor" means a person who by reason of knowledge of the mathematical and physical sciences, principles of land surveying and evidence gathering acquired by professional education or practical experience, or both, is qualified to practice land surveying as attested by registration as a land surveyor. A person employed on a full-time basis as a land surveyor by an employer engaged in the business of developing, mining or treating ores or other minerals shall not be deemed to be engaged in land surveying practice for purposes of this chapter if the person engages in land surveying practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any land surveying services for persons other than the person's employer.

~~29.~~ 26. "Land surveyor-in-training" means a candidate for registration as a professional land surveyor who is a graduate of a school and curriculum approved by the board~~,~~ or who has four years or more of education or experience, or both, in land surveying work ~~which~~ THAT meets standards

specified by the board in its rules. In addition, the candidate shall have passed the land surveyor-in-training examination.

~~30.~~ 27. "Landscape architect" means a person who, by reason of professional education or practical experience, or both, is qualified to engage in the practice of landscape architecture as attested by registration as a landscape architect.

~~31.~~ 28. "Landscape architect-in-training" means a candidate for registration as a professional landscape architect who is a graduate of a school approved by the board or who has ~~had~~ four years or more of education or experience, or both, in landscape architectural work ~~which~~ THAT meets standards specified by the board in its rules. In addition, the candidate shall have passed the landscape architect-in-training examination.

~~32.~~ 29. "Landscape architectural practice" means the performance of professional services such as consultations, investigation, reconnaissance, research, planning, design or responsible supervision in connection with the development of land and incidental water areas where, and to the extent that, the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings of and approaches to buildings, structures, facilities or other improvements, natural drainage and the consideration and the determination of inherent problems of the land relating to erosion, wear and tear, light or other hazards. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this paragraph but shall not include the making of cadastral surveys or final land plats for official recording or approval, nor mandatorily include planning for governmental subdivisions.

~~33.~~ 30. "Monitored alarm" means a device that is designed for the detection of an entry on any premises and that if activated generates a notification signal.

~~34.~~ 31. "On-site supervisor" means the employee of a drug laboratory site remediation firm who is authorized to oversee on-site workers in the performance of their duties.

~~35.~~ 32. "On-site worker" means an employee of a drug laboratory site remediation firm who has on-site duties or who handles contaminated materials, chemicals or contaminated equipment.

~~36.~~ 33. "Person" means any individual, firm, partnership, corporation, association or other organization.

~~37.~~ 34. "Principal" means an individual who is an officer of the corporation or is designated by a firm as having full authority and responsible charge of the services offered by the firm.

~~38.~~ 35. "Proprietor alarm" means any alarm or alarm system that is owned by an alarm subscriber who has not contracted with an alarm business.

~~39.~~ 36. "Registrant" means a person registered or certified by the board.

~~40.~~ 37. "Registration" means a registration or certification issued by the board.

Sec. 9. Section 32-102, Arizona Revised Statutes, is amended to read:

32-102. State board of technical registration; vacancies; terms

A. ~~A~~ THE state board of technical registration is established consisting of members WHO ARE appointed by the governor as follows:

1. Two architects.

2. Three professional engineers, two of whom are representatives of branches of engineering other than civil engineering and are registered in those branches pursuant to this chapter.

3. One public member.

4. One landscape architect.

5. One geologist ~~or assayer~~.

6. One land surveyor.

B. ~~Upon~~ ON the expiration of any of the terms, a successor~~,~~ WHO IS qualified pursuant to subsection A~~,~~ OF THIS SECTION shall be appointed for a full term of three years. The governor may remove a member of the board for misconduct, incapacity or neglect of duty. Appointment to fill a vacancy caused other than by expiration of term shall be for the unexpired portion of the term.

C. No member may serve more than two consecutive terms.

Sec. 10. Section 32-103, Arizona Revised Statutes, is amended to read:

32-103. Qualifications of members

A. Each professional member of the board shall:

1. Be at least twenty-five years of age.

2. Have been a resident of ~~the~~ THIS state for at least three years immediately preceding appointment as a member.

B. Each member who is an architect, A geologist, ~~an assayer,~~ a landscape architect, a professional engineer or a land surveyor shall have ~~had~~ at least five years' active professional experience as attested by registration under this chapter.

Sec. 11. Section 32-122, Arizona Revised Statutes, is amended to read:

32-122. Qualifications for in-training registration

A. An applicant for in-training registration as an architect, engineer, geologist or landscape architect shall:

1. Be of good moral character and repute.

2. Be a graduate of a school approved by the board or have four years or more, or if an applicant for in-training registration as an architect, five years or more, of education or experience, or both, in work in the profession in which registration is sought that meets standards specified by the board in its rules.

3. Unless exempt under section 32-126, subsection D, pass the in-training examination in the profession in which registration is sought.

B. An applicant for in-training registration as ~~an assayer or~~ A land surveyor shall:

~~1. Be of good moral character and repute.~~

~~2.~~ 1. Be a graduate of a school and curriculum approved by the board, or have four years or more of education or experience, or both, in work in the profession in which registration is sought that meets standards specified by the board in its rules.

~~3.~~ 2. Unless exempt under section 32-126, subsection D, pass the in-training examination in the profession in which registration is sought.

C. An applicant for in-training registration as a home inspector-in-training shall~~:~~

~~1. Be of good moral character and repute.~~

~~2.~~ meet the requirements of section 32-122.02, subsection A, paragraphs 1 through 7.

Sec. 12. Section 32-122.01, Arizona Revised Statutes, is amended to read:

32-122.01. Qualifications for professional registration

A. An applicant for professional registration as an architect, engineer, geologist or landscape architect shall:

1. Be of good moral character and repute.

2. Be actively engaged in education or experience, or both, in the profession for which registration is sought for at least eight years.

3. Unless exempt under section 32-126, pass the in-training and professional examinations in the profession in which registration is sought.

B. An applicant for professional registration as ~~an assayer or~~ A land surveyor shall:

1. Be of good moral character and repute.

2. Be actively engaged in education or experience, or both, in the profession for which registration is sought for at least six years.

3. Unless exempt under section 32-126, pass the in-training and professional examinations in the profession in which registration is sought.

C. In computing the period of active engagement required under this section:

1. Each year of study satisfactorily completed in an architectural, engineering, geological or landscape architectural school approved by the board is equivalent to one year of active engagement up to a maximum of five years. One year or more of teaching architectural, engineering, geological or landscape architectural subjects in a school approved by the board is equivalent to one year of active engagement.

2. Each year of study satisfactorily completed in ~~an assaying or~~ A land surveying curriculum and school approved by the board is considered equivalent to one year of active engagement up to a maximum of four years. One year or more of teaching ~~assaying or~~ land surveying or other courses approved by the board as pertinent to the profession in which registration is sought in a school approved by the board is equivalent to one year of active engagement.

D. Except as provided in subsection E of this section, experience credited by the board under this section and sections 32-101, 32-122 and 32-126 must be attained under the direct supervision of a professional who is satisfactory to the board and registered in this state, another state or a foreign country in the profession in which the applicant is seeking registration, except that up to one year's experience may be attained under the direct supervision of a professional who is satisfactory to the board and registered in another profession regulated under this chapter in this state, another state or a foreign country.

E. By two-thirds majority vote the board may allow an applicant except for an architect applicant to meet the requirements of subsection D of this section by crediting comparable experience satisfactory to the board that the applicant attained without direct supervision of a registered professional.

Sec. 13. Title 32, chapter 1, article 2, Arizona Revised Statutes, is amended by adding section 32-132, to read:

32-132. Assayer emeritus status

THE BOARD SHALL GRANT ASSAYER EMERITUS STATUS TO AN ASSAYER WHO IS REGISTERED BY THE BOARD PURSUANT TO THIS CHAPTER ON THE EFFECTIVE DATE OF THIS SECTION IF BOTH OF THE FOLLOWING APPLY:

1. THE ASSAYER HAS NOT RECEIVED ANY COMPLAINTS DURING THE ASSAYER'S ACTIVE REGISTRATION.

2. THE ASSAYER ANALYZES METALS, ORES, MINERALS OR ALLOYS TO ASCERTAIN THE QUANTITY OF GOLD OR SILVER OR ANY OTHER SUBSTANCE PRESENT IN THE METALS, ORES, MINERALS OR ALLOYS.

Sec. 14. Section 32-142, Arizona Revised Statutes, is amended to read:

32-142. Public works

A. Drawings, plans, specifications, estimates and construction observation for public works of ~~the~~ THIS state or a political subdivision ~~thereof~~ OF THIS STATE involving architecture, engineering~~, assaying~~, geology, landscape architecture or land surveying shall be prepared by or under the direct supervision of a registrant within the category involved.

B. Surveys~~,~~ OR maps ~~or assays~~ required in connection with public land surveying ~~or assaying~~ shall be made by or under the personal direction of a qualified registrant.

C. Drawings, plans, design specifications and construction observation of public works facilities of the state or a political subdivision ~~thereof~~ OF THIS STATE for the use or storage of hazardous materials shall be made by or under the direct supervision of a qualified registrant in the appropriate field.

Sec. 15. Section 32-144, Arizona Revised Statutes, is amended to read:

32-144. Exemptions and limitations; definition

A. Professions and occupations regulated by the board may be practiced without compliance with the requirements of this chapter by:

1. An officer or employee of the United States, practicing as such.

2. An employee of a registrant or of a person exempt from registration, if such employment does not involve direct responsibility for design, inspection or supervision.

3. A nonregistrant who designs, alters or adds to either of the following:

(a) A detached single family dwelling.

(b) An individual unit in a multifamily dwelling if the walls that are designed, altered or added in the unit are not bearing walls, shear walls or firewalls, which shall be determined by a registrant following an evaluation of the walls to be designed, altered or added.

4. A nonregistrant who designs a one or two story building or structure in which the square footage of the floor area measured to the outside surface of the exterior walls does not exceed three thousand square feet, that is not intended for occupancy by more than twenty persons on a continuous basis and in which the maximum span of any structural member does not exceed twenty feet unless a greater span is achieved by the use of wood or steel roof or floor trusses or lintels approved by an engineer registered by the board.

5. A nonregistrant who designs additions or alterations to a one or two story building or structure subject to the limitations set forth in paragraph 4 of this subsection. A nonregistrant may exceed the maximum three thousand square foot limitation set forth in paragraph 4 of this subsection for a one-time single addition not exceeding one thousand five hundred square feet as measured to the outside surface of the exterior walls and designed for the purpose of storage of chattels.

6. A nonregistrant who designs a water or wastewater treatment plant, or extensions, additions, modifications or revisions, or extensions to water distribution or collection systems, if the total cost of such construction does not exceed twelve thousand five hundred dollars.

7. A nonregistrant who designs buildings or structures to be erected on property owned or leased by the nonregistrant or by a person, firm or corporation, including a utility, telephone, mining or railroad company, which employs the nonregistrant on a full-time basis, if the buildings or structures are intended solely for the use of the owner or lessee of the property, are not ordinarily occupied by more than twenty people, are not for sale to, rental to or use by the public and conform to the building code adopted by the city, town or county in which the building is to be erected or altered.

8. A nonregistrant who provides horticultural consultations or prepares planting plans for plant installations.

B. A registrant who performs any of the activities described in subsection A, paragraphs 3 through 8 of this section is subject to the requirements of this chapter.

C. The requirements of this chapter shall not apply to work done by any communications common carrier or its affiliates or any public service

corporation or manufacturing industry or by full-time employees of any of them, provided such work is in connection with or incidental to the products, systems or nonengineering services of such communications common carrier or its affiliates or public service corporation or manufacturing industry, and provided that the engineering service is not offered directly to the public.

D. An individual shall not perform home inspections unless the individual is certified as a home inspector pursuant to this chapter, except that nothing in this chapter prevents:

1. A person who is licensed, certified or registered pursuant to this chapter or another chapter in this title from acting within the scope of the person's license, certification or registration.

2. A person who is employed by a governmental entity from inspecting residential structures if the inspection is within official duties and responsibilities.

3. A person from performing a home inspection if the inspection will be used solely by a bank, savings and loan association or credit union to monitor progress on the construction of a residential structure, unless otherwise required by federal law or regulation.

4. A person who is employed as a property manager for a residential structure and whose official duties and responsibilities include inspecting the residential structure from performing a home inspection on the structure if the person does not receive separate compensation for the inspection work.

E. No person including a person described in subsection D of this section may use any letterhead, advertisement, communication or other device to represent that the person is a home inspector unless the person is certified as a home inspector pursuant to this chapter.

F. A TRAINED GEOLOGIST MAY ENGAGE IN A GEOLOGICAL PRACTICE WITHOUT BEING REGISTERED UNDER THIS CHAPTER. A TRAINED GEOLOGIST MAY NOT ENGAGE IN A GEOLOGICAL PRACTICE IF ANY OF THE FOLLOWING APPLIES:

1. THE TRAINED GEOLOGIST HAS BEEN CONVICTED OF A FELONY IN THIS STATE OR ANY OTHER STATE.

2. THE TRAINED GEOLOGIST HAS BEEN REGISTERED OR LICENSED IN THIS STATE OR ANY OTHER STATE AND HAS HAD THE REGISTRATION OR LICENSE SUSPENDED OR REVOKED BY THIS STATE OR THE OTHER STATE.

3. THE TRAINED GEOLOGIST HAS BEEN PROHIBITED FROM ENGAGING IN A GEOLOGICAL PRACTICE IN THIS STATE OR ANY OTHER STATE DUE TO ANY PRIVATE, CIVIL OR PROFESSIONAL COMPLAINT RELATED TO AN ETHICAL OR TECHNICAL VIOLATION WHILE ENGAGED IN THE PRACTICE OF GEOLOGY.

4. THE TRAINED GEOLOGIST FAILS TO DISCLOSE TO A PERSON EMPLOYING OR HIRING THE TRAINED GEOLOGIST:

(a) ANY DISCIPLINARY ACTION TAKEN AGAINST THE TRAINED GEOLOGIST IN THIS STATE OR ANY OTHER STATE DUE TO ANY PRIVATE, CIVIL OR PROFESSIONAL COMPLAINT THAT IS RELATED TO AN ETHICAL OR TECHNICAL VIOLATION WHILE ENGAGED IN THE PRACTICE OF GEOLOGY.

(b) THAT THE TRAINED GEOLOGIST IS NOT A REGISTERED GEOLOGIST PURSUANT TO THIS TITLE.

5. THE TRAINED GEOLOGIST IS REQUIRED TO BE REGISTERED BY ANOTHER LAW IN THIS STATE OR BY FEDERAL LAW.

6. STATE OR FEDERAL LAW CONDITIONS THE ISSUANCE OF A LICENSE OR PERMIT, INCLUDING PERMITS ISSUED UNDER TITLE 27, 37, 45 OR 49, ON THE ISSUANCE OF A REPORT THAT IS SEALED BY A REGISTERED GEOLOGIST.

G. "TRAINED GEOLOGIST" MEANS A PERSON WHO HAS BOTH:

1. EARNED A GEOLOGY DEGREE FROM AN ACCREDITED EDUCATIONAL INSTITUTION.

2. PARTICIPATED IN GEOLOGICAL WORK EXPERIENCE OUTSIDE OF AN EDUCATIONAL INSTITUTION FOR AT LEAST FOUR YEARS.

Sec. 16. Section 32-1301, Arizona Revised Statutes, is amended to read:

32-1301. Definitions

In this chapter, unless the context otherwise requires:

1. "Accredited" means recognized or authorized by the American board of funeral service education.

2. "Administrative costs and expenses" means the cost of copies, transcripts, court reporter and witness fees, reimbursement for mileage and office of administrative hearings costs.

3. "Alternative container" means any unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, that is designed for the encasement of human remains.

4. "Authorizing agent" means a person who is legally entitled to order the cremation, disinterment or embalming of human remains pursuant to section 32-1365.02.

5. "Beneficiary" means a person whose future funeral arrangements will be handled by a funeral establishment pursuant to a prearranged funeral agreement.

6. "Board" means the state board of funeral directors and embalmers.

7. "Business entity" includes any corporation, association, limited liability company, professional corporation, partnership, limited partnership, sole proprietorship, business trust, trust, joint venture and other business entity.

8. "Casket" means a rigid container that is designed for the permanent encasement of human remains and that is usually constructed of wood, metal or synthetic substances and ornamented and lined with fabric.

9. "Change of ownership" means a transfer of a controlling legal or equitable interest in a licensed funeral establishment or crematory resulting from a sale or merger. If the establishment or crematory is operated by a business entity, any transfer of the ownership of ten ~~per cent~~ PERCENT or more of the entity constitutes a change of ownership.

10. "Conviction" means a criminal adjudication or conviction by any state or federal court of competent jurisdiction, including a judgment based

on a no contest plea, without regard to whether civil rights have been restored.

11. "Cremated remains" means the remaining bone fragments after cremation.

12. "Cremation" means the heating process that reduces human remains to bone fragments by combustion and evaporation.

13. "Cremation container" means a leak and spill resistant, rigid, combustible, closed receptacle into which human remains are placed before cremation.

14. "Cremationist" means a person who operates a crematory retort, who performs the actual cremation of human remains and who ~~is~~ MAY BE licensed pursuant to article 6 of this chapter.

15. "Crematory" means a building or portion of a building that is licensed pursuant to article 6 of this chapter and that houses a retort in which only human remains are cremated.

16. "Disciplinary action" means action taken by the board to revoke or suspend a license or registration, to impose probationary requirements or civil penalties or to issue a letter of censure or reprimand to any person who is subject to this chapter and who violates any provision of this chapter or rules adopted by the board.

17. "Embalmer" means a person who is licensed pursuant to this chapter and who is engaged in embalming.

18. "Embalmer's assistant" means a person who is registered pursuant to this chapter and who is engaged in embalming without the supervision of a licensed embalmer.

19. "Embalming" means the implementation of reconstructive procedures and the process of disinfecting and preserving a dead human body to retard organic decomposition by treating the body to reduce the presence and growth of organisms.

20. "Financial institution" means a bank, savings and loan association, trust company or credit union that is lawfully doing business in this state and that is not affiliated with a funeral establishment.

21. "Fixed price prearranged funeral agreement funded by trust" means any agreement or combination of agreements that establishes a fixed price for funeral goods and services, that requires a funeral establishment to provide those funeral goods and services at the price levels in effect at the time of the execution of the agreement and that requires the purchaser to convey all or a portion of the accrued interest to the funeral establishment at the time that the funeral goods and services are actually provided.

22. "Funded by insurance" means that monies for a prearranged funeral agreement are paid directly to an insurance company licensed pursuant to title 20 on behalf of the beneficiary of the agreement.

23. "Funeral directing" means arranging, directing or providing a service in the disposition of dead human bodies for compensation.

24. "Funeral director" means a person who is licensed pursuant to this chapter and who is engaged in funeral directing.

25. "Funeral establishment" means a business at a specific location that is licensed pursuant to this chapter and that is devoted to the care, storage or preparation for final disposition or transportation of dead human bodies.

26. "Funeral goods and services" means any personal property or services typically sold or provided in connection with the final disposition of human remains, including caskets, alternative containers, outer burial containers, cremation containers, transportation containers, funeral clothing or accessories, monuments, grave markers, urns, embalming services, funeral directing services and similar funeral or burial items. Funeral goods and services do not include goods and services sold by cemeteries.

27. "Good moral character" means that a person:

(a) Has not been convicted of a class 1 or 2 felony by a court of competent jurisdiction.

(b) Has not, within five years of application for licensure or registration, been convicted of a felony or misdemeanor if the offense has a reasonable relationship to the person's proposed area of licensure or registration.

(c) Has not, within five years of application for licensure or registration, committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence if the act has a reasonable relationship to the person's proposed area of licensure or registration.

(d) Is not currently incarcerated in or on community supervision after a period of imprisonment in a local, state or federal penal institution or on criminal probation.

(e) Has not engaged in fraud or misrepresentation in connection with an application for licensure or registration under this chapter or an examination required for licensure or registration.

(f) Has not, within five years of application for licensure or registration, had a license, registration or endorsement revoked or suspended by the board or by the funeral services licensing authority of any other jurisdiction.

(g) Has not surrendered a license, registration or endorsement to the board or the funeral licensing authority of any other jurisdiction in lieu of disciplinary action.

(h) Has not practiced funeral directing or embalming without a license in this state or any other jurisdiction that requires licensure to perform these activities.

28. "Holding facility" means a designated area for the retention of human remains.

29. "Human remains" means a lifeless human body or parts of a human body that permit a reasonable inference that death occurred.

30. "Intern" means a person who is licensed pursuant to this chapter and who is engaged in embalming under the supervision of a licensed embalmer.

31. "Intern trainee" means a person who intends to enter training as an intern and who is temporarily employed by a funeral establishment.

32. "License" means a written authorization that is issued by the board and that entitles a person to act as a funeral director, embalmer or intern or to operate a funeral establishment or crematory in this state.

33. "Licensee" means a person to whom the board has issued a license to act as a funeral director, embalmer or intern or to operate a funeral establishment or crematory in this state.

34. "Manage" means:

(a) ~~For~~ THAT a responsible funeral director ~~to exercise~~ EXERCISES control and oversight over all employees of a funeral establishment and over funeral transactions, including the care of dead human bodies, funeral services and activities and the documentation and retention of records.

(b) ~~For~~ THAT a responsible cremationist ~~to exercise~~ EXERCISES control and oversight over all employees of a crematory and crematory operations.

35. "National board examination" means the test or tests given by the conference of funeral service examining boards to determine the entry level knowledge and skills of a person regarding funeral directing and embalming.

36. "Net interest" means interest earned on a prearranged funeral trust account less applicable taxes, reasonable and necessary charges made by the financial institution and the annual service fee permitted to be deducted by the funeral establishment according to section 32-1391.06, subsection B.

37. "Outer burial container" means a container that is designed for placement in a grave around a casket, including burial vaults, grave boxes and grave liners.

38. "Owner" means a person who owns ten ~~per cent~~ PERCENT or more of a business entity. Owner does not include shareholders of companies who have a class of common equity stock listed or authorized to be listed on the New York stock exchange or the American stock exchange or listed on the NASDAQ stock market.

39. "Person legally responsible" means the person responsible for burying a dead body as determined in section 36-831.

40. "Prearranged funeral agreement" means any agreement or combination of agreements under which a payment is made before the death of the intended beneficiary for funeral goods and services to be delivered or performed after the death of the beneficiary.

41. "Prearranged funeral trust account" means a trust account that is established at a financial institution and into which all monies paid on behalf of a beneficiary pursuant to a prearranged funeral agreement are deposited.

42. "Preparation" means washing, shaving, dressing or arranging hair on, applying cosmetics to or positioning bodily features on a dead human body and placing a dead human body in a casket.

43. "Processed cremated remains" means cremated remains after they are pulverized and cleaned, leaving primarily small bone fragments.

44. "Provisionally accredited" means granted candidacy status by the American board of funeral service education.

45. "Registration" means a written authorization that is issued by the board and that entitles a person to act as an assistant funeral director, an embalmer's assistant or a prearranged funeral salesperson in this state.

46. "Responsible cremationist" means a licensed cremationist who manages a crematory.

47. "Responsible funeral director" means a person who is licensed pursuant to this chapter, who is engaged in funeral directing and who manages and is accountable for a funeral establishment.

48. "Retort" means an enclosed space within which cremation takes place.

49. "State equivalent examination" means the test or tests provided by the conference of funeral service examining boards and offered by the board to determine the entry level knowledge and skills of a person regarding funeral directing and embalming.

50. "Supervise" or "supervision" means a licensed embalmer has responsibility for and is within sight and sound of a licensed intern who is embalming a dead human body or a student who is assisting in embalming a dead human body.

51. "Temporary container" means a receptacle that is usually made of cardboard, rigid plastic or another similar material and that is designed to hold processed cremated remains until they are placed in an urn or another permanent container.

52. "Trust funds" means all monies deposited on behalf of a beneficiary of a prearranged funeral agreement funded by trust and all accrued net interest. Trust funds shall be considered an account kept in suspense until distributed to the beneficiary, the funeral establishment or the estate of the beneficiary in accordance with this article.

53. "Universal precautions" means the universal blood and fluid precautions recommended by the centers for disease control of the United States public health service to prevent the transmission of ~~blood-borne~~ BLOODBORNE and bodily fluid-borne infectious diseases.

54. "Unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

(a) Commission of a class 1 or 2 felony.

(b) Commission of a felony or misdemeanor if the offense has a reasonable relationship to funeral directing or embalming. Conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

(c) Providing false, misleading or deceptive information on an application for licensure or registration pursuant to this chapter or on an examination required for licensure or registration.

(d) Bribing or offering to bribe, directly or indirectly, a member of the board to influence the member's actions in the performance of the member's duties.

(e) Wilfully interfering with an embalmer, funeral director or cremationist who has lawful custody of a dead human body in the performance of the embalmer's, funeral director's or cremationist's duty to embalm or prepare the body for burial, transportation or cremation.

(f) Paying or causing money or other valuable consideration to be paid to a person, other than an employee of a funeral establishment, to secure business regulated pursuant to this chapter from or through the person.

(g) Violating any law of this state or any rule adopted by the department of health services that relates to the embalming or preparation of dead human bodies.

(h) Certifying falsely to having embalmed or prepared a dead human body that was embalmed by a person other than a licensed embalmer making the certification or an intern under the supervision of a licensed embalmer making the certification.

(i) Falsely advertising or labeling any service or merchandise with the intention of deceiving the public.

(j) Shipping or delivering any merchandise or supplies that are not the substantial equivalent of or superior in quality to merchandise or supplies previously presented to the purchaser as samples.

(k) Committing any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence if the act has a reasonable relationship to funeral directing or embalming.

(l) Engaging in any conduct or practice that is reasonably related to funeral directing or embalming and that is or may be harmful or dangerous to the health, safety or welfare of the public.

(m) Within a period of five years, having a license, registration or endorsement suspended or revoked by the board or by the funeral services licensing authority of any other jurisdiction or surrendering a license, registration or endorsement in lieu of disciplinary action.

55. "Urn" means a receptacle into which processed cremated remains are placed for disposition.

Sec. 17. Section 32-1394.01, Arizona Revised Statutes, is amended to read:

32-1394.01. <u>Application; qualifications for cremationist licensure; licensure requirement for responsible cremationists</u>

A. An applicant for a cremationist license shall submit a completed application on a form prescribed by the board. The application shall be subscribed under oath and shall be accompanied by the applicable fee pursuant to section 32-1309 and any additional information that the board deems necessary.

B. An applicant for a cremationist license shall be of good moral character and shall submit a completed fingerprint card and the prescribed fingerprint ~~background~~ RECORDS check fee to the board to enable the board or the department of public safety to conduct a criminal ~~background~~ RECORDS check.

C. An applicant for a cremationist license shall meet the educational requirements as prescribed by the board in rule.

D. If the board finds that the applicant meets the criteria for cremationist licensure under this section and under rules adopted by the board, the board shall issue a cremationist license.

E. NOTWITHSTANDING ANY OTHER LAW, A RESPONSIBLE CREMATIONIST IS REQUIRED TO BE LICENSED PURSUANT TO THIS ARTICLE. ANY OTHER CREMATIONIST MAY BE LICENSED PURSUANT TO THIS ARTICLE BUT, IF NOT LICENSED, MAY ENGAGE ONLY IN CREMATION ACTIVITY THAT IS ALLOWED WITHOUT A LICENSE.

Sec. 18. Section 32-2352, Arizona Revised Statutes, is amended to read:

32-2352. Enforcement; contract with private entity

A. The director, subject to title 41, chapter 6, shall adopt such rules concerning the administration and enforcement of this chapter as are necessary to carry out the intent of this chapter and to protect the public. The director or the director's authorized representative shall inspect the school facilities and equipment used by applicants and licensees under this chapter ~~and examine applicants for instructor's licenses~~.

B. The director shall administer and enforce this chapter.

C. The director may contract with a private entity to conduct inspections pursuant to this section and to administer any rules adopted pursuant to this section that relate to the licensure and administration of professional driver training schools pursuant to this chapter. The term of any contract entered into pursuant to this subsection shall not exceed five years with a right to renew for an additional five years. The private entity that contracts with the director pursuant to this subsection:

1. Shall not provide professional driver training school courses.

2. May charge a fee to each person who enrolls in a professional driver training school.

Sec. 19. Delayed repeal

Section 32-2372, Arizona Revised Statutes, is repealed from and after December 31, 2016.

Sec. 20. Title 32, chapter 23, article 2, Arizona Revised Statutes, is amended by adding section 32-2372.01, to read:

32-2372.01 Commercial motor vehicle instructor; requirements

ON OR BEFORE DECEMBER 31, 2016 THE DIRECTOR SHALL ADOPT RULES TO ESTABLISH REQUIREMENTS AND MINIMUM STANDARDS FOR COMMERCIAL MOTOR VEHICLE INSTRUCTORS.

Sec. 21. Section 32-2373, Arizona Revised Statutes, is amended to read:

32-2373. Refusal to issue or renew license of school or agent

A. The director may refuse to issue or renew the license for a school or an agent ~~or instructor~~ in any case ~~where~~ IN WHICH the director determines that the licensee or applicant has not complied with, or has knowingly violated, any provision of this chapter or any rule adopted pursuant to this chapter by the director.

B. An applicant or licensee who is aggrieved by the director's decision may make a written request to the department for a hearing within thirty days after service of notice of the refusal. If the applicant or licensee does not request a hearing within thirty days, the decision is final. If the applicant or licensee requests a hearing, the director shall give written notice to the applicant or licensee to appear at the hearing and show cause why the refusal to issue or renew the license should not be upheld. After consideration of the evidence presented at the hearing, the director shall serve notice in writing to the applicant or licensee of the director's findings and order.

Sec. 22. Section 32-2374, Arizona Revised Statutes, is amended to read:

32-2374. Fees

Except as provided in section 32-4301, all licenses expire on the last day of the calendar year and may be renewed ~~upon~~ ON application to the director as prescribed by rule. Each application for an original or renewal license to operate a professional driver training school shall be accompanied by a fee of two hundred dollars. Each application for an original or renewal agent's ~~or instructor's~~ license shall be accompanied by a fee of ten dollars. An application for a branch license shall be accompanied by a fee of fifty dollars. No license fee may be refunded in the event a license is suspended or revoked.

Sec. 23. Section 32-2391, Arizona Revised Statutes, is amended to read:

32-2391. Suspension and revocation of license; determination; appeal

The director, after conducting a hearing for the licensee, may cancel, suspend or revoke the license of a school~~,~~ OR agent ~~or instructor~~ in any case ~~where~~ IN WHICH the director finds that the licensee has not complied with, or has knowingly violated, this chapter or any rule adopted under this chapter. Each cancelled, suspended or revoked license shall be returned to the director by the licensee. Decisions of the director shall be subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 24. Section 32-3021, Arizona Revised Statutes, as amended by Laws 2011, chapter 141, section 1, is amended to read:

32-3021. Private vocational program license; qualifications; provision of information; exemptions

A. A person shall not operate a private vocational program unless the person holds a private vocational program license issued pursuant to this chapter. Each program offered by a private vocational program licensee shall be authorized on a private vocational program license. The board shall prescribe the manner in which the programs shall be identified on the license.

B. An applicant for a private vocational program license shall meet all of the following requirements:

1. Furnish a letter of credit, surety bond or cash deposit as provided in section 32-3023.

2. Make specific information concerning educational programs, including statements of purpose, objectives, course of study, policies, fees and other pertinent information, available to prospective students and the general public.

3. Be financially responsible and have management capability.

4. Maintain a qualified faculty.

5. Maintain facilities, equipment and materials that are appropriate for the stated program. All facilities shall meet applicable state and local health and safety laws.

6. Maintain appropriate records as the board prescribes that are properly safeguarded and preserved.

7. Use only advertisements that are consistent with the information made available as provided in paragraph 2 of this subsection.

8. Provide courses of instruction that meet stated objectives.

9. Provide a grievance procedure for students.

10. Comply with all federal and state laws relating to the operation of a private postsecondary educational institution.

11. Other requirements the board deems necessary.

C. An applicant for a private vocational program license shall submit evidence of meeting the requirements prescribed in subsection B of this section to the board. The board shall verify the evidence submitted. Verification shall include on-site verification.

D. The filing of an application grants the board the authority to obtain information from any of the following:

1. A licensing board or agency in any state, district, territory or county of the United States or any foreign country.

2. The Arizona criminal justice information system as defined in section 41-1750.

3. The federal bureau of investigation.

E. The board, on application, may issue a private vocational program license to a new educational institution as provided in this section, except

that the board shall establish separate minimum standards for licensure requirements of new educational institutions. These minimum standards may include the modification of licensure requirements as provided in subsection B, paragraphs 3, 5, 6, 7 and 8 of this section to meet the circumstances of new educational institutions. The board shall monitor the new educational institution to ensure compliance with the licensure requirements. The board shall issue a private vocational program license as provided in this subsection one time only to new educational institutions.

F. This section does not apply to any of the following:

1. A school licensed pursuant to chapter 3 or 5 of this title.

2. An instructional program or course sponsored by a bona fide trade association solely for its members.

3. Privately owned academic schools engaged in the process of general education that is designed to produce a level of development equivalent to that necessary to meet the requirements for entrance into a public community college or public university in this state and that may incidentally offer technical and vocational courses as part of the curriculum.

4. Schools or private instruction conducted by any person engaged in training, tutoring or teaching individuals or groups, if the instruction is related to hobbies, avocations, academic improvement or recreation and may only incidentally lead to gainful employment and if the instruction is for a period of under forty hours and costs less than one thousand dollars.

5. Schools conducted by any person solely for training the person's own employees.

6. An instructional program or course offered solely for employees and for the purpose of improving the employees in their employment if both of the following apply:

(a) The employee is not charged a fee.

(b) The employer provides or funds the program or course pursuant to a valid written contract between the employer and a program or course provider.

7. Training conducted pursuant to 14 Code of Federal Regulations part 141.

8. A school that solely provides an instructional program for certified nursing assistants and is licensed by the nursing board pursuant to section 32-1606, subsection B, paragraph 11.

9. A professional driving training school licensed by the department of transportation pursuant to chapter 23, articles 1, 2 and 3 of this title.

10. A training program approved by the board of examiners of nursing care institution administrators and assisted living facility managers that solely provides training for managers and caregivers of assisted living facilities.

11. A YOGA TEACHER TRAINING COURSE OR PROGRAM OR A YOGA INSTRUCTIONAL COURSE OR PROGRAM.

Sec. 25. Section 32-3021, Arizona Revised Statutes, as amended by Laws 2015, chapter 262, section 20, is amended to read:

32-3021. Private vocational program license; qualifications; provision of information; exemptions

A. A person shall not operate a private vocational program unless the person holds a private vocational program license issued pursuant to this chapter. Each program offered by a private vocational program licensee shall be authorized on a private vocational program license. The board shall prescribe the manner in which the programs shall be identified on the license.

B. An applicant for a private vocational program license shall meet all of the following requirements:

1. Furnish a letter of credit, surety bond or cash deposit as provided in section 32-3023.

2. Make specific information concerning educational programs, including statements of purpose, objectives, course of study, policies, fees and other pertinent information, available to prospective students and the general public.

3. Be financially responsible and have management capability.

4. Maintain a qualified faculty.

5. Maintain facilities, equipment and materials that are appropriate for the stated program. All facilities shall meet applicable state and local health and safety laws.

6. Maintain appropriate records as the board prescribes that are properly safeguarded and preserved.

7. Use only advertisements that are consistent with the information made available as provided in paragraph 2 of this subsection.

8. Provide courses of instruction that meet stated objectives.

9. Provide a grievance procedure for students.

10. Comply with all federal and state laws relating to the operation of a private postsecondary educational institution.

11. Other requirements the board deems necessary.

C. An applicant for a private vocational program license shall submit evidence of meeting the requirements prescribed in subsection B of this section to the board. The board shall verify the evidence submitted. Verification shall include on-site verification.

D. The filing of an application grants the board the authority to obtain information from any of the following:

1. A licensing board or agency in any state, district, territory or county of the United States or any foreign country.

2. The Arizona criminal justice information system as defined in section 41-1750.

3. The federal bureau of investigation.

E. The board, on application, may issue a private vocational program license to a new educational institution as provided in this section, except

1 that the board shall establish separate minimum standards for licensure
2 requirements of new educational institutions. These minimum standards may
3 include the modification of licensure requirements as provided in subsection
4 B, paragraphs 3, 5, 6, 7 and 8 of this section to meet the circumstances of
5 new educational institutions. The board shall monitor the new educational
6 institution to ensure compliance with the licensure requirements. The board
7 shall issue a private vocational program license as provided in this
8 subsection one time only to new educational institutions.
9 F. This section does not apply to any of the following:
10 1. A school licensed pursuant to chapter 3 or 5 of this title.
11 2. An instructional program or course sponsored by a bona fide trade
12 association solely for its members.
13 3. Privately owned academic schools engaged in the process of general
14 education that is designed to produce a level of development equivalent to
15 that necessary to meet the requirements for entrance into a public community
16 college or public university in this state and that may incidentally offer
17 technical and vocational courses as part of the curriculum.
18 4. Schools or private instruction conducted by any person engaged in
19 training, tutoring or teaching individuals or groups, if the instruction is
20 related to hobbies, avocations, academic improvement or recreation and may
21 only incidentally lead to gainful employment and if the instruction is for a
22 period of under forty hours and costs less than one thousand dollars.
23 5. Schools conducted by any person solely for training the person's
24 own employees.
25 6. An instructional program or course offered solely for employees and
26 for the purpose of improving the employees in their employment if both of the
27 following apply:
28 (a) The employee is not charged a fee.
29 (b) The employer provides or funds the program or course pursuant to a
30 valid written contract between the employer and a program or course provider.
31 7. Training conducted pursuant to 14 Code of Federal Regulations
32 part 141.
33 8. A school that solely provides an instructional program for
34 certified nursing assistants and licensed nursing assistants and is licensed
35 by the nursing board pursuant to section 32-1606, subsection B, paragraph 11.
36 9. A professional driving training school licensed by the department
37 of transportation pursuant to chapter 23, articles 1, 2 and 3 of this title.
38 10. A training program approved by the board of examiners of nursing
39 care institution administrators and assisted living facility managers that
40 solely provides training for managers and caregivers of assisted living
41 facilities.
42 11. A YOGA TEACHER TRAINING COURSE OR PROGRAM OR A YOGA INSTRUCTIONAL
43 COURSE OR PROGRAM.

Sec. 26. Section 41-619.51, Arizona Revised Statutes, is amended to read:

41-619.51. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the ~~state board of appraisal~~ DEPARTMENT OF FINANCIAL INSTITUTIONS, the Arizona game and fish department, ~~or~~ the board of examiners of nursing care institution administrators and assisted living facility managers OR THE STATE BOARD OF DENTAL EXAMINERS.

2. "Board" means the board of fingerprinting.

3. "Central registry exception" means notification to the department of economic security, the department of child safety or the department of health services, as appropriate, pursuant to section 41-619.57 that the person is not disqualified because of a central registry check conducted pursuant to section 8-804.

4. "Expedited review" means an examination, in accordance with board rule, of the documents an applicant submits by the board or its hearing officer without the applicant being present.

5. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

6. "Person" means a person who is required to be fingerprinted pursuant to this article or who is subject to a central registry check and any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-463.
(d) Section 8-509.
(e) Section 8-802.
(f) Section 8-804.
(g) Section 15-183.
(h) Section 15-503.
(i) Section 15-512.
(j) Section 15-534.
(k) Section 15-763.01.
(l) Section 15-782.02.
(m) Section 15-1330.
(n) Section 15-1881.
(o) Section 17-215.
(p) Section 28-3413.
(q) Section 32-1232.
(r) SECTION 32-1284.

(s) SECTION 32-1297.01.
~~(r)~~ (t) Section 32-2108.01.
~~(s)~~ (u) Section 32-2123.
~~(t)~~ (v) Section 32-2371.
~~(u) Section 32-2372.~~
~~(v)~~ (w) Section 32-3620.
~~(w)~~ (x) Section 32-3668.
~~(x)~~ (y) Section 32-3669.
~~(y)~~ (z) Section 36-207.
~~(z)~~ (aa) Section 36-411.
~~(aa)~~ (bb) Section 36-425.03.
~~(bb)~~ (cc) Section 36-446.04.
~~(cc)~~ (dd) Section 36-594.01.
~~(dd)~~ (ee) Section 36-594.02.
~~(ee)~~ (ff) Section 36-882.
~~(ff)~~ (gg) Section 36-883.02.
~~(gg)~~ (hh) Section 36-897.01.
~~(hh)~~ (ii) Section 36-897.03.
~~(ii)~~ (jj) Section 36-3008.
~~(jj)~~ (kk) Section 41-619.53.
~~(kk)~~ (ll) Section 41-1964.
~~(ll)~~ (mm) Section 41-1967.01.
~~(mm)~~ (nn) Section 41-1968.
~~(nn)~~ (oo) Section 41-1969.
~~(oo)~~ (pp) Section 41-2814.
~~(pp)~~ (qq) Section 46-141, subsection A.
~~(qq)~~ (rr) Section 46-321.

Sec. 27. Section 41-1758, Arizona Revised Statutes, is amended to read:

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the ~~state board of appraisal~~ DEPARTMENT OF FINANCIAL INSTITUTIONS, the board of fingerprinting, the Arizona game and fish department, ~~or~~ the board of examiners of nursing care institution administrators and assisted living facility managers OR THE STATE BOARD OF DENTAL EXAMINERS.

2. "Division" means the fingerprinting division in the department of public safety.

3. "Electronic or internet-based fingerprinting services" means a secure system for digitizing applicant fingerprints and transmitting the applicant data and fingerprints of a person or entity submitting fingerprints

to the department of public safety for any authorized purpose under this title. For the purposes of this paragraph, "secure system" means a system that complies with the information technology security policy approved by the department of public safety.

4. "Good cause exception" means the issuance of a fingerprint clearance card to an applicant pursuant to section 41-619.55.

5. "Person" means a person who is required to be fingerprinted pursuant to any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-463.
(d) Section 8-509.
(e) Section 8-802.
(f) Section 15-183.
(g) Section 15-503.
(h) Section 15-512.
(i) Section 15-534.
(j) Section 15-763.01.
(k) Section 15-782.02.
(l) Section 15-1330.
(m) Section 15-1881.
(n) Section 17-215.
(o) Section 28-3413.
(p) Section 32-1232.
(q) SECTION 32-1284.
(r) SECTION 32-1297.01.
~~(q)~~ (s) Section 32-2108.01.
~~(r)~~ (t) Section 32-2123.
~~(s)~~ (u) Section 32-2371.
~~(t) Section 32-2372.~~
~~(u)~~ (v) Section 32-3620.
~~(v)~~ (w) Section 32-3668.
~~(w)~~ (x) Section 32-3669.
~~(x)~~ (y) Section 36-207.
~~(y)~~ (z) Section 36-411.
~~(z)~~ (aa) Section 36-425.03.
~~(aa)~~ (bb) Section 36-446.04.
~~(bb)~~ (cc) Section 36-594.01.
~~(cc)~~ (dd) Section 36-594.02.
~~(dd)~~ (ee) Section 36-882.
~~(ee)~~ (ff) Section 36-883.02.
~~(ff)~~ (gg) Section 36-897.01.
~~(gg)~~ (hh) Section 36-897.03.
~~(hh)~~ (ii) Section 36-3008.
~~(ii)~~ (jj) Section 41-619.52.

~~(jj)~~ (kk) Section 41-619.53.
~~(kk)~~ (ll) Section 41-1964.
~~(ll)~~ (mm) Section 41-1967.01.
~~(mm)~~ (nn) Section 41-1968.
~~(nn)~~ (oo) Section 41-1969.
~~(oo)~~ (pp) Section 41-2814.
~~(pp)~~ (qq) Section 46-141, subsection A.
~~(qq)~~ (rr) Section 46-321.

6. "Vulnerable adult" has the same meaning prescribed in section 13-3623.

Sec. 28. Section 41-1758.01, Arizona Revised Statutes, is amended to read:

41-1758.01. Fingerprinting division; powers and duties

A. The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3413, 32-1232, 32-1284, 32-1297.01, 32-2108.01, 32-2123, 32-2371, ~~32-2372,~~ 32-3620, 32-3668, 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the right to petition the board of fingerprinting for a good cause exception pursuant to section 41-1758.03, 41-1758.04 or 41-1758.07.

5. If after conducting a state and federal criminal history records check the division determines that it is not authorized to issue a fingerprint clearance card to a person, inform the person in writing that the division is not authorized to issue a fingerprint clearance card. The notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

6. Notify the person in writing if the division suspends, revokes or

places a driving restriction notation on a fingerprint clearance card pursuant to section 41-1758.04. The notice shall include the criminal history information on which the suspension, revocation or placement of the driving restriction notation was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

7. Administer and enforce this article.

B. The fingerprinting division may contract for electronic or internet-based fingerprinting services through an entity or entities for the acquisition and transmission of applicant fingerprint and data submissions to the department, including identity verified fingerprints pursuant to section 15-106. The entity or entities contracted by the department of public safety may charge the applicant a fee for services provided pursuant to this article. The entity or entities contracted by the department of public safety shall comply with:

1. All information privacy and security measures and submission standards established by the department of public safety.

2. The information technology security policy approved by the department of public safety.

Sec. 29. Section 41-2571, Arizona Revised Statutes, is amended to read:

41-2571. Definitions

In this article, unless the context otherwise requires:

1. "Architect services", "engineer services", "land surveying services"~~, "assayer services"~~, "geologist services" and "landscape architect services" ~~means~~ MEAN those professional services within the scope of the practice of those services as provided in title 32, chapter 1, article 1.

2. "Cost" means the aggregate cost of all materials and services, including labor performed by force account.

3. "Design professional service contract" means a written agreement relating to the planning, design, construction administration, study, evaluation, consulting, inspection, surveying, mapping, material sampling, testing or other professional, scientific or technical services furnished in connection with any actual or proposed study, planning, survey, environmental remediation, construction, improvement, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility or development or other improvement to land.

4. "Design professional services" means architect services, engineer services, land surveying services, geologist services or landscape architect services or any combination of those services performed by or under the supervision of a design professional or employees or subconsultants of the design professional.

5. "Subconsultant" means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that has

a direct contract with a design professional or another subconsultant to perform a portion of the work under a design professional service contract.

Sec. 30. Section 42-5075, Arizona Revised Statutes, is amended to read:

42-5075. Prime contracting classification; exemptions; definitions

A. The prime contracting classification is comprised of the business of prime contracting and the business of manufactured building dealer. Sales for resale to another manufactured building dealer are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter.

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

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

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

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

4. The gross proceeds of sales or gross income received from a contract entered into for the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within an active military reuse zone after the zone is initially established or renewed under section 41-1531. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.

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

for ten full consecutive calendar or fiscal years after the start of initial construction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

(d) Section 42-5159, subsection B.

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

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the

modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the prime

contractor must obtain a letter of qualification from the Arizona commerce authority before beginning work under the contract.

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

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

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

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

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

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

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

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

(d) "Renewable energy" has the same meaning prescribed in section 41-1511.

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

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

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

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

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

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

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

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

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the

1 certificate is a prime contractor and is liable for the tax under article 1
2 of this chapter. The department shall prescribe the form of the certificate.
3 If the contractor has reason to believe that the information contained on the
4 certificate is erroneous or incomplete, the department may disregard the
5 certificate. If the person who provides the certificate is not liable for
6 the tax as a prime contractor, that person is nevertheless deemed to be the
7 prime contractor in lieu of the contractor and is subject to the tax under
8 this section on the gross receipts or gross proceeds received by the
9 contractor.
10 F. Every person engaging or continuing in this state in the business
11 of prime contracting or dealership of manufactured buildings shall present to
12 the purchaser of such prime contracting or manufactured building a written
13 receipt of the gross income or gross proceeds of sales from such activity and
14 shall separately state the taxes to be paid pursuant to this section.
15 G. For the purposes of section 42-5032.01, the department shall
16 separately account for revenues collected under the prime contracting
17 classification from any prime contractor engaged in the preparation or
18 construction of a multipurpose facility, and related infrastructure, that is
19 owned, operated or leased by the tourism and sports authority pursuant to
20 title 5, chapter 8.
21 H. For the purposes of section 42-5032.02, from and after
22 September 30, 2013, the department shall separately account for revenues
23 reported and collected under the prime contracting classification from any
24 prime contractor engaged in the construction of any buildings and associated
25 improvements that are for the benefit of a manufacturing facility. For the
26 purposes of this subsection, "associated improvements" and "manufacturing
27 facility" have the same meanings prescribed in section 42-5032.02.
28 I. The gross proceeds of sales or gross income derived from a contract
29 for lawn maintenance services are not subject to tax under this section if
30 the contract does not include landscaping activities. Lawn maintenance
31 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
32 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
33 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
34 lawn de-thatching, seeding winter lawns, leaf and debris collection and
35 removal, tree or shrub pruning or clipping, garden and gravel raking and
36 applying pesticides, as defined in section 3-361, and fertilizer materials,
37 as defined in section 3-262.
38 J. Except as provided in subsection O of this section, the gross
39 proceeds of sales or gross income derived from landscaping activities are
40 subject to tax under this section. Landscaping includes installing lawns,
41 grading or leveling ground, installing gravel or boulders, planting trees and
42 other plants, felling trees, removing or mulching tree stumps, removing other
43 imbedded plants, building irrigation berms, installing railroad ties and
44 installing underground sprinkler or watering systems.

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

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

M. The following apply in determining the taxable situs of sales of manufactured buildings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

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

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

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

3. "Professional services" means architect services, ~~assayer services,~~ engineer services, geologist services, land surveying services or landscape

architect services that are within the scope of those services as provided in title 32, chapter 1 and for which gross proceeds of sales or gross income has not otherwise been deducted under subsection K of this section.

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

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

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

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

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

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

Q. Notwithstanding subsection R, paragraph 10 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for

modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

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

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

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

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

R. For the purposes of this section:

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

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

(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if any of the following is true:

(i) The contract amount is more than seven hundred fifty thousand dollars.

(ii) The scope of work directly relates to more than forty percent of the existing square footage of the existing property.

(iii) The scope of work involves expanding the square footage of more than ten percent of the existing property.

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

(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.

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

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

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

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

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-2142.

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

(a) Is licensed pursuant to title 41, chapter 16 and who sells manufactured buildings to the final consumer.

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

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

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

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

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

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

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

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

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

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

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

Sec. 31. <u>Department of administration; transfer of nonhealth regulatory boards and occupational licenses; study; report</u>

A. The department of administration shall conduct a study relating to the transfer of all nonhealth regulatory boards and occupational licenses

1 issued by state agencies to a new licensing and regulatory division in the
2 department of administration. The study shall include the costs and benefits
3 associated with the transfer. The department may consult with any board,
4 agency or industry group necessary to complete the study.
5 B. The department of administration shall submit a report of its
6 findings and recommendations to the governor, the president of the senate and
7 the speaker of the house of representatives on or before September 1, 2016
8 and shall provide a copy of this report to the secretary of state.
9 Sec. 32. Retention of members
10 Notwithstanding section 32-102, Arizona Revised Statutes, as amended by
11 this act, all persons serving as members of the state board of technical
12 registration on the effective date of this act may continue to serve until
13 the expiration of their normal terms. The governor shall make all subsequent
14 appointments as prescribed by statute.
15 Sec. 33. Effective date
16 Section 32-3021, Arizona Revised Statutes, as amended by Laws 2015,
17 chapter 262, section 20 and this act, is effective from and after June 30,
18 2016.

APPROVED BY THE GOVERNOR MAY 19, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 19, 2016.

Passed the House March 3, 2016

by the following vote: 31 Ayes,

20 Nays, 9 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate May 5, 2016

by the following vote: 19 Ayes,

10 Nays, 1 Not Voting

President of the Senate

Pro Tempore

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2613

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 6, 2016,

by the following vote: 34 Ayes,

20 Nays, 6 Not Voting

Speaker of the House

Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6 day of May, 2016,

at 8:18 o'clock P. M.

Valerie Hanna
Secretary to the Governor

Approved this 19th day of

May, 2016,

at 11:16 o'clock A. M.

Doug Ducey
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19th day of May, 2016

at 3:20 o'clock P M.

Michele Reagan
Secretary of State

H.B. 2613