

Commerce & Economic Development Committee

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COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE

LEGISLATION ENACTED

ambulances; certificates of necessity (NOW: eligibility determinations; AHCCCS.) (S.B. 1102/H.B. 2631) – Chapter 4 E

An emergency measure, effective April 24, 2009, that changes the period for determining the continued eligibility of childless Arizona Health Care Cost Containment System (AHCCCS) recipients who are at least 21 years old, from once every six months to once per year.

workers' compensation; charges; dispute resolution (NOW: workers' compensation omnibus) (S.B. 1262) – Chapter 184

Changes certain Department of Insurance filing schedules. Changes the penalties and specifies the terms for a civil action in cases of employer misrepresentation to an insurer. Allows, under specified circumstances, the Industrial Commission of Arizona to consider an employee's earning capacity based on wages from previously terminated employment and permits an employee to later establish that the reduced earning capacity is related to an industrial injury causing temporary or permanent partial disability. Requires physicians to provide information about certain off-label drug prescriptions upon request and to specify a treatment plan that addresses certain topics relating to prescription medication.

UCC; lost cashier's checks (S.B. 1265) – Chapter 66

Establishes that a claim to the amount of a lost, destroyed or stolen cashier's, teller's or certified check may be made if certain requirements are met. Prohibits a bank from imposing additional requirements on the claimant, including the requirement that a claimant post a bond or other form of security. Stipulates that an asserted claim has no legal effect for 90 days after the date of the check unless the check is presented for payment by the person entitled to enforce the check. Specifies that a bank is discharged of all liability upon payment to the claimant or the person entitled to enforce the check so long as the assertion of a claim meets statutory requirements.

Authorizes the treasurer of a county or a city to pay an original warrant based upon an electronic image provided by the servicing bank.

workers' compensation; drugs and alcohol (S.B. 1266) – Chapter 67

Repeals workers' compensation statutes relating to workplace injury due to drugs and alcohol. Removes the stipulation that an employee's drug or alcohol related injury or death is non-compensable if the employer has an established alcohol or drug testing program on file with the Industrial Commission of Arizona (ICA). Removes the requirement that an employer file a written certification annually with ICA.

underground storage tanks; technical correction (NOW: custodial and janitorial services; transfer) (S.B. 1314) – Chapter 191

As session law, requires the Arizona Department of Administration (ADOA) to transfer monies received in FY 2009-2010 to state entities that occupy state owned or leased building space. The monies appropriated will be used to hire current or former state employees to provide custodial and janitorial services. ADOA is required to submit a monthly report to the Director of the Joint Legislative Budget Committee on the amount of monies transferred for custodial and janitorial services during the previous month.

license plates; state name (NOW: unemployment insurance; benefits) (S.B. 1322 / H.B. 2632) – Chapter 3 E

An emergency measure, effective April 24, 2009, that temporarily provides 13 to 20 weeks of additional unemployment benefits to workers who exhaust their regular benefits in a time of high unemployment. Stipulates that extended unemployment benefits are fully funded by federal monies. Terminates the program one month before the federal benefits expire or the week ending December 12, 2009, whichever is later.

renewable, high-wage industries incentives (S.B. 1403) – Chapter 96

Beginning January 1, 2010, establishes a renewable energy industries tax incentive program within the Arizona Department of Commerce (ADOC) to expand or locate qualified renewable energy operations (REO) in Arizona. The program terminates on January 1, 2016.

Income Tax Incentives

To qualify for the tax credit, a business must make new capital investment in manufacturing or in regional, national or global business headquarters as follows: a) at least 51 percent of new full-time employment positions (FTE) at the qualifying facility are paid a wage equaling or exceeding 125 percent of the median annual wage in this state; and b) the employer pays 80 percent or more of the premium for all FTE health insurance coverage. Establishes that the amount of the income tax credit is up to ten percent of the taxpayer's total capital investment if certain job to capital investment ratios are met. Specifies that the tax credits are refundable and requires the taxpayer to claim the tax credit in five equal installments over five consecutive taxable years. Caps the tax credits at \$70 million per taxable year and allows for unclaimed tax credit amounts to carry over to the next year.

Property Tax Incentives

Requires capital investment of \$25 million or more in facilities, equipment, land and infrastructure to qualify for property tax incentives. Allows a qualifying headquarters or manufacturing facility to be classified as class six property for: a) ten years, if 51 percent or more of the employees are paid an annual wage of 125 percent to 199 percent of the annual median wage in this state; or b) 15 years, if 51 percent or more of the employees are paid an annual wage of 200 percent or more of the annual median wage in this state. Allows up to ten percent of the aggregate full cash value of the property to consist of ancillary and intrinsic uses associated with the manufacturing process or headquarters operation for the purpose of property tax credit calculation.

Miscellaneous

Specifies that ADOC will monitor participating REO's to ensure compliance. The Department of Revenue (DOR) will recapture tax credits already taken if the REO is deemed noncompliant.

charitable organizations; solicitations; disclosures (H.B. 2091) – Chapter 76

Effective January 1, 2010, states that it is unlawful for a charitable organization or other business entity to accept donations for the purpose of resale without clearly posting the following information at the collection site: 1) the name of the collection site's owner; and 2) the name of the charity that benefits financially. Specifies that an entity owns a collection site if it receives at least 51 percent of the proceeds generated by selling the collected donations.

loan originators; mortgage recovery fund. (H.B. 2143) – Chapter 163

Establishes a Mortgage Recovery Fund (Fund) consisting of monies received by the Superintendent of the Department of Financial Institutions (DFI) for the benefit of persons violated by any unlawful act, representation, transaction or conduct of a licensed loan originator. Loan originator licensing and administrative requirements conform with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Beginning July 1, 2010, prohibits a person from acting as a loan originator unless licensed and allows loan originator fees to be retained in a financial services fund. Specifies the application requirements for a loan originator's license and authorizes the Superintendent to deny, suspend or revoke a license under certain conditions.

Establishes guidelines in the event a consumer is harmed by a loan originator. Sets a five-year statute of limitations for an action seeking an order for payment from the Fund. Limits the Fund's liability for damages by specified amounts and requires that actions to recover from the Fund be brought by the Attorney General.

notification; complaint; registrar of contractors (H.B. 2173) – Chapter 99

Clarifies that the deadline for a new home buyer to file a written complaint with the Arizona Registrar of Contractors is two years after the close of escrow or actual occupancy, whichever is earlier. Modifies requirements relating to the display of contractor license numbers. Removes wrongful acts, while retaining fraudulent acts that injure a consumer, as grounds for suspension or revocation of a contractor's license.

~~state compensation fund; employer misrepresentation.~~ (NOW: corporations and LLC omnibus) (H.B. 2199) – Chapter 42

Modifies statute to conform regulations for corporations and limited liability companies (LLC). An LLC's articles of amendment or restated articles of organization do not require publication if a change is made to the name or address of members or the statutory agent or the business address. Allows the Arizona Corporation Commission (ACC) to serve notice by mail or through a process server and modifies certain requirements related to filing affidavits.

Revises the LLC filing statutes to require the ACC to endorse only original articles of dissolution or a document required to bring an LLC into good standing. Specifies requirements and deadlines for publication of articles of dissolution by a corporation and an electric cooperative and for an application for withdrawal by foreign corporations. Specifies annual reporting requirements for electric cooperatives.

domestic microbreweries; production cap (H.B. 2301) – Chapter 81

Doubles the total number of gallons of beer a microbrewery may produce in one calendar year from 620,000 to 1,240,000.

~~technical correction; malpractice claim review (NOW: authorized presence; licensees) (H.B. 2306) – Chapter 137~~

Exempts a business licensee who has affirmatively established U.S. citizenship or federal non-expiring work authorization from providing subsequent documentation of that status upon renewal or reinstatement of the license. An individual who has a limited form of authorization that has expired is required to provide documentation of citizenship or alien status when seeking business license renewal or reinstatement from a state agency.

subdivision public reports (H.B. 2310) – Chapter 17

Decreases the time period the Arizona Department of Real Estate (ADRE) may determine the completeness of a subdivider's public report from 15 business days to 10 business days. Specifies that a public report is administratively complete if a certification or denial letter has not been issued by the Commissioner of ADRE within 10 business days of receipt of the report.

~~capital cases; aggravating factors (NOW: mortgage bankers; loan originators; fees) (H.B. 2318) – Chapter 139~~

Allows a licensed mortgage banker, who funds up to 150 loans a year, to apply for a conversion to a mortgage broker license upon licensure renewal. Grants the Superintendent of the Department of Financial Institutions the discretion to approve the conversion and allows the Superintendent to determine the application fees for a conversion. Changes the fee requirements for a loan originator license transfer from an annual renewal fee to an application fee.

schools; energy contracts (H.B. 2332) – Chapter 101

SEE EDUCATION ACCOUNTABILITY & REFORM COMMITTEE.

Arizona trust code (H.B. 2333) – Chapter 85

Modifies the Arizona Trust Code, including the following revisions: 1) adds limited liability companies to the types of entities that may be created during probate administration; 2) makes certain revisions to unitrust and irrevocable trust statutes; 3) prohibits written trust instruments from being amended orally; 4) exempts trust assets from certain creditor's claims; 5) allows a trustee reasonable compensation or fees; and 6) authorizes a trustee to amend a trust if the name of a beneficiary or trustee has been legally changed.

uniform principal and income act (H.B. 2334) – Chapter 102

Modifies the Uniform Principal and Income Act (Act), which governs the accounting for trusts and estates, to comply with recent Internal Revenue Service rulings and court decisions. Stipulates trustee requirements and provides guidelines relating to allocations, accounting and administration of separate funds subject to the Act and establishes formulae to calculate fund value and taxable income determinations.

amendments; self-storage units (H.B. 2435) – Chapter 48

Makes procedural changes relating to delinquent rent on self-service storage units. Modifies the notice of default requirements sent to an occupant. Eliminates the requirement to publish a notice of property sale relating to a rent delinquent unit and describes a commercially reasonable sale.

liquor licenses; public recreation area (H.B. 2441) – Chapter 50

Specifies that consuming beer or wine in a public recreation area at a group event is lawful if a special event license or a wine festival license has been obtained.

scrap metal; theft; dealers (H.B. 2465) – Chapter 144

Prohibits a scrap metal dealer from knowingly purchasing certain metals in their original form, including aluminum or stainless steel beer kegs or catalytic converters. Penalizes, as a class 1 misdemeanor, the purchase or sale of a used catalytic converter, subject to certain exemptions.

Prescribes the value of ferrous metal or nonferrous metal at the time of theft as the fair market value of scrap metal in the locality and the repair or replacement value of any property damaged during the theft. Specifies certain circumstances in which an inference may arise regarding a person's awareness of the risk that scrap metal in the person's possession was stolen.

Effective September 1, 2010, specifies requirements for the Department of Public Safety (DPS) to establish electronic submission standards for scrap metal receipt records. Requires DPS to make scrap metal information submitted by dealers available to local law enforcement agencies via the Internet.

~~health insurance; purchase outside state~~ (NOW: commercial mortgage broker license) (H.B. 2486 / S.B. 1404) – Chapter 108

Establishes a commercial mortgage broker license and applies mortgage broker requirements to commercial mortgage brokers. Requires various license application fees and renewal fees to be paid to the Department of Financial Institutions. A person who only brokers commercial mortgage loans may obtain either a mortgage broker license or a commercial mortgage broker license. Clarifies that a person who brokers only residential mortgage loans must obtain only a mortgage broker license. Specifies requirements for a commercial mortgage broker license and exempts applicants from statutory continuing education requirements under specified circumstances.

LEGISLATION VETOED

renewable energy production tax credit (H.B. 2341) – VETOED

Beginning January 1, 2010, creates a new individual and corporate income tax credit for the cost of the production of commercially marketed electricity from renewable sources, including wind, biomass and solar. In order to be eligible for the credit, the taxpayer must own a qualified energy generator that produces electricity for the first time between January 1, 2010 and December 30, 2020. The credit is limited to ten consecutive tax years, beginning with the year the generator first begins producing commercially marketable energy.

The amount of the credit is as follows: 1) for a generator using wind or biomass as a source of electricity, the amount of the credit allowed is one cent per megawatt hour, up to 400,000 megawatt hours per year; or 2) for a generator using solar as a source of electricity, the amount of credit begins at fifteen cents per kilowatt hour, and increases one half cent per year until it reaches four cents per kilowatt hour in its sixth year of operation. After the sixth year, it decreases one-half cent until the credit expires after the tenth year.

The Governor indicated in her veto letter that although she supports the concepts advanced by the legislation, there is no way to calculate how many new megawatt hours may be produced over the next ten years and that therefore the potential impact to tax revenue is unknown. The Governor also urged lawmakers to revisit the legislation by placing a reasonable cap on the amount of credit that can be claimed and that she will amend the call of the Forty-Ninth Legislature, Third Special Session to allow consideration of a revised version of the legislation.