

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2155

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 41, chapter 1, article 2, Arizona Revised  
3 Statutes, is amended by adding section 41-134, to read:

4 41-134. Private certifying organizations; voluntary  
5 registration; secretary of state; violation;  
6 definitions

7 A. IN ADDITION TO ANY LICENSING REQUIREMENTS PRESCRIBED BY LAW, A  
8 PRIVATE CERTIFYING ORGANIZATION MAY VOLUNTARILY REGISTER WITH THE SECRETARY  
9 OF STATE. A PRIVATE CERTIFYING ORGANIZATION SHALL PROVIDE THE SECRETARY OF  
10 STATE WITH THE PRIVATE CERTIFYING ORGANIZATION'S NAME, ADDRESS AND OFFICERS  
11 AND THE NAMES OF INDIVIDUALS WHO ARE PRIVATELY CERTIFIED BY THE PRIVATE  
12 CERTIFYING ORGANIZATION. THE SECRETARY OF STATE MAY IMPOSE A REGISTRATION  
13 FEE AND MAY ADOPT RULES AND FORMS TO FACILITATE THE REGISTRATION.

14 B. A PARTICIPATING PRIVATE CERTIFYING ORGANIZATION SHALL DO ALL OF  
15 THE FOLLOWING:

16 1. PUBLISH ON A PUBLICLY ACCESSIBLE WEBSITE ALL OF THE FOLLOWING:

17 (a) THE SCOPE OF PRACTICE FOR EACH LAWFUL OCCUPATION THAT THE  
18 PARTICIPATING PRIVATE CERTIFYING ORGANIZATION CERTIFIES.

19 (b) THE QUALIFICATIONS THAT AN INDIVIDUAL MUST POSSESS TO BECOME  
20 CERTIFIED BY THE PARTICIPATING PRIVATE CERTIFYING ORGANIZATION.

21 (c) OTHER FACTORS THE PARTICIPATING PRIVATE CERTIFYING ORGANIZATION  
22 USES TO CERTIFY INDIVIDUALS, WHICH MAY INCLUDE CONSUMER COMMENTS, RANKINGS  
23 AND OTHER CONSUMER-INITIATED ELEMENTS.

1 (d) THE NAMES, BUSINESS ADDRESSES AND WEBSITES OF ALL INDIVIDUALS  
2 WHO ARE PRIVATELY CERTIFIED BY THE PARTICIPATING PRIVATE CERTIFYING  
3 ORGANIZATION.

4 (e) THE STATES WHERE THE PARTICIPATING PRIVATE CERTIFYING  
5 ORGANIZATION IS REGISTERED.

6 2. REQUIRE QUALIFICATIONS THAT ARE RELATED TO THE LAWFUL OCCUPATION  
7 FOR WHICH AN INDIVIDUAL IS PRIVATELY CERTIFIED.

8 3. VERIFY AN INDIVIDUAL'S QUALIFICATIONS BEFORE PRIVATE  
9 CERTIFICATION AND PERIODICALLY VERIFY THAT THE PRIVATELY CERTIFIED  
10 INDIVIDUAL REMAINS ELIGIBLE FOR PRIVATE CERTIFICATION.

11 4. REQUIRE A PRIVATELY CERTIFIED INDIVIDUAL TO PROMINENTLY DISPLAY  
12 THE PRIVATE CERTIFICATION AND MAKE AVAILABLE MATERIALS ABOUT THE  
13 QUALIFICATIONS AND OTHER FACTORS REQUIRED FOR PRIVATE CERTIFICATION ON  
14 REQUEST.

15 5. HAVE AT LEAST FIFTY PRIVATELY CERTIFIED INDIVIDUALS IN ACTIVE  
16 PRACTICE IN THE UNITED STATES AFTER ONE YEAR OF APPLYING FOR REGISTRATION  
17 WITH THE SECRETARY OF STATE.

18 C. A PARTICIPATING PRIVATE CERTIFYING ORGANIZATION MAY REQUIRE  
19 INDIVIDUALS IT PRIVATELY CERTIFIES TO OBTAIN AND MAINTAIN A BOND FOR  
20 LIABILITY THAT IS RELATED TO THE PRACTICE OF THE INDIVIDUAL'S PRIVATELY  
21 CERTIFIED LAWFUL OCCUPATION.

22 D. A PARTICIPATING PRIVATE CERTIFYING ORGANIZATION MAY REQUIRE A  
23 PRIVATELY CERTIFIED INDIVIDUAL TO PAY ANY INITIAL AND ONGOING FEES.

24 E. NOTWITHSTANDING ANY OTHER LAW, AN INDIVIDUAL WHO IS CERTIFIED BY  
25 A PARTICIPATING PRIVATE CERTIFYING ORGANIZATION MAY ENGAGE IN THE LAWFUL  
26 OCCUPATION FOR WHICH THAT INDIVIDUAL IS PRIVATELY CERTIFIED.

27 F. THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE MAY NOT  
28 PROHIBIT OR IMPOSE A PENALTY, FINE OR FEE ON AN INDIVIDUAL WHO IS PRIVATELY  
29 CERTIFIED BY A PARTICIPATING PRIVATE CERTIFYING ORGANIZATION FOR ENGAGING  
30 IN A LAWFUL OCCUPATION IN COMPLIANCE WITH THIS SECTION.

31 G. AN INDIVIDUAL WHO IS PRIVATELY CERTIFIED BY A PARTICIPATING  
32 PRIVATE CERTIFYING ORGANIZATION AND WHO IS NOT LICENSED, REGISTERED OR

1 CERTIFIED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE MAY NOT  
2 USE THE TERMS LICENSED, CERTIFIED OR REGISTERED TO DESCRIBE THE  
3 INDIVIDUAL'S CREDENTIAL OR ANY WORDS, TITLES, ABBREVIATIONS OR LETTERS THAT  
4 WOULD INDUCE A REASONABLY KNOWLEDGEABLE CONSUMER OF SUCH SERVICES TO  
5 BELIEVE THE PRIVATELY CERTIFIED INDIVIDUAL USING THEM IS OCCUPATIONALLY  
6 REGULATED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

7 H. AN INDIVIDUAL WHO IS PRIVATELY CERTIFIED BY A PARTICIPATING  
8 PRIVATE CERTIFYING ORGANIZATION MAY USE THE TERM PRIVATELY CERTIFIED TO  
9 DESCRIBE THE INDIVIDUAL'S CREDENTIALS OR AS PART OF A TITLE OR DESIGNATION.

10 I. AN INDIVIDUAL WHO KNOWINGLY AND FALSELY CLAIMS TO BE PRIVATELY  
11 CERTIFIED PURSUANT TO THIS SECTION IS GUILTY OF FRAUD AND SUBJECT TO ANY  
12 PENALTIES UNDER THE DECEPTIVE TRADE PRACTICES LAWS OF THIS STATE.

13 J. THE SECRETARY OF STATE SHALL ENFORCE THIS SECTION AND MAY  
14 TERMINATE THIS STATE'S REGISTRATION OF THE PARTICIPATING PRIVATE CERTIFYING  
15 ORGANIZATION FOR ANY REASON THE SECRETARY OF STATE DEEMS NECESSARY.

16 K. THE PARTICIPATING PRIVATE CERTIFYING ORGANIZATION THAT CONTINUES  
17 TO OPERATE NINETY DAYS AFTER FAILING TO MEET THE REQUIREMENTS PURSUANT TO  
18 SUBSECTION L, PARAGRAPH 4 OF THIS SECTION IS GUILTY OF FRAUD AND SUBJECT TO  
19 A FINE UNDER THE DECEPTIVE TRADE PRACTICES LAWS OF THIS STATE.

20 L. THIS SECTION DOES NOT LIMIT THIS STATE'S OR A POLITICAL  
21 SUBDIVISION OF THIS STATE'S AUTHORITY TO ENACT AND ENFORCE LAWS RELATING TO  
22 THE FOLLOWING:

- 23 1. A BUSINESS LICENSE OR PERMIT.
- 24 2. A FACILITY LICENSE.
- 25 3. A BUILDING PERMIT OR LAND USE REGULATION.

26 4. PUBLIC HEALTH, SAFETY AND ENVIRONMENTAL REGULATIONS THROUGH THE  
27 ENFORCEMENT OF REGULATIONS OTHER THAN OCCUPATIONAL LICENSES, INCLUDING THE  
28 SALE AND USE OF SUBSTANCES THAT ENDANGER PUBLIC HEALTH AND SAFETY IF  
29 MISHANDLED OR IMPROPERLY DISPENSED, INCLUDING CHEMICALS, EXPLOSIVES AND  
30 PHARMACEUTICALS.

1 M. THIS CHAPTER DOES NOT DO ANY OF THE FOLLOWING:

2 1. CHANGE THIS STATE'S OR A POLITICAL SUBDIVISION OF THIS STATE'S  
3 SOLE AUTHORITY TO REQUIRE AN INDIVIDUAL TO OBTAIN AND MAINTAIN A  
4 GOVERNMENT-ISSUED DRIVER LICENSE AND RELATED INSURANCE FOR PERSONAL OR  
5 COMMERCIAL VEHICLE USE.

6 2. LIMIT DAMAGES IN A PRIVATE CIVIL ACTION AGAINST AN INDIVIDUAL WHO  
7 IS PRIVATELY CERTIFIED OR WHO KNOWINGLY AND FALSELY CLAIMS TO BE PRIVATELY  
8 CERTIFIED.

9 3. REQUIRE A PRIVATE PARTY OR THIS STATE OR A POLITICAL SUBDIVISION  
10 OF THIS STATE TO DO BUSINESS WITH AN INDIVIDUAL WHO IS NOT LICENSED,  
11 CERTIFIED OR REGISTERED WITH THIS STATE OR A POLITICAL SUBDIVISION OF THIS  
12 STATE.

13 4. CREATE A CAUSE OF ACTION AGAINST A PRIVATE PARTY OR THIS STATE OR  
14 A POLITICAL SUBDIVISION OF THIS STATE.

15 5. ALLOW FOR PRIVATE CERTIFICATION OF OCCUPATIONS REGULATED BY THE  
16 FEDERAL GOVERNMENT OR REQUIRED BY FEDERAL LAW TO BE OCCUPATIONALLY LICENSED  
17 BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

18 6. REQUIRE A PRIVATE CERTIFYING ORGANIZATION TO PARTICIPATE AND  
19 REGISTER WITH THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE PURSUANT  
20 TO THIS SECTION.

21 7. INCREASE THE AUTHORITY OF THIS STATE OR A POLITICAL SUBDIVISION  
22 OF THIS STATE TO REGULATE NONPARTICIPATING PRIVATE CERTIFYING  
23 ORGANIZATIONS.

24 8. REQUIRE DOCTORS AND OTHER MEDICAL PROFESSIONAL TO OBTAIN  
25 OPERATING ROOM PRIVILEGES OR OTHER CREDENTIALS FROM THIS STATE OR REQUIRE  
26 HOSPITALS OR CLINICS TO PERFORM SURGERY OR AN OPERATION.

27 9. REDUCE THE AUTHORITY OF THE ARIZONA SUPREME COURT TO REGULATE WHO  
28 MAY ISSUE SUBPOENAS, SERVE DISCOVERY AND LITIGATE CASES BEFORE JUDGES IN  
29 THIS STATE.

30 N. FOR THE PURPOSES OF THIS SECTION:

1           1. "LAWFUL OCCUPATION" MEANS A COURSE OF CONDUCT, PURSUIT OR  
2           PROFESSION THAT INCLUDES THE SALE OF GOODS OR SERVICES THAT IS NOT ITSELF  
3           ILLEGAL IRRESPECTIVE OF AN OCCUPATIONAL REGULATION.

4           2. "OCCUPATIONAL REGULATION" MEANS A STATUTE, ORDINANCE, RULE OR  
5           OTHER REQUIREMENT IN LAW THAT REQUIRES AN INDIVIDUAL TO POSSESS CERTAIN  
6           PERSONAL QUALIFICATIONS TO WORK IN A LAWFUL OCCUPATION.

7           3. "PARTICIPATING PRIVATE CERTIFYING ORGANIZATION" MEANS A PRIVATE  
8           CERTIFYING ORGANIZATION THAT REGISTERS AND MEETS THE CRITERIA SPECIFIED IN  
9           THIS SECTION.

10          4. "PRIVATE CERTIFICATION" MEANS A NONTRANSFERABLE RECOGNITION BY A  
11          PRIVATE CERTIFYING ORGANIZATION THAT AN INDIVIDUAL MEETS QUALIFICATIONS  
12          DETERMINED BY THE PRIVATE CERTIFYING ORGANIZATION.

13          5. "PRIVATELY CERTIFIED" MEANS A DESIGNATED TITLE THAT AN INDIVIDUAL  
14          MAY USE IF THE INDIVIDUAL IS CERTIFIED BY A PARTICIPATING PRIVATE  
15          CERTIFYING ORGANIZATION.

16          6. "PRIVATE CERTIFYING ORGANIZATION" MEANS A NONGOVERNMENTAL  
17          ORGANIZATION THAT ALLOWS ANY INDIVIDUAL TO APPLY FOR PRIVATE CERTIFICATION  
18          REGARDLESS OF THE INDIVIDUAL'S RACE, CREED, COLOR, ETHNICITY, NATIONAL  
19          ORIGIN, RELIGION, SEX, SEXUAL ORIENTATION OR MARITAL STATUS.

20          7. "QUALIFICATIONS" MEANS CRITERIA RELATED TO AN INDIVIDUAL'S  
21          PERSONAL BACKGROUND THAT MAY INCLUDE COMPLETION OF AN APPROVED EDUCATIONAL  
22          PROGRAM, SATISFACTORY PERFORMANCE ON AN EXAMINATION, WORK EXPERIENCE,  
23          CRIMINAL HISTORY, MORAL STANDING, COMPLETION OF CONTINUING EDUCATION, A  
24          STANDARD OF ETHICAL BEHAVIOR OR OTHER CRITERIA AS DETERMINED BY A PRIVATE  
25          CERTIFYING ORGANIZATION TO QUALIFY THE INDIVIDUAL TO PERFORM A SERVICE TO  
26          AN ACCEPTABLE STANDARD AS DETERMINED BY THE PRIVATE CERTIFYING  
27          ORGANIZATION."

28 Amend title to conform

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