

PROPOSED AMENDMENT
SENATE AMENDMENTS TO H.B. 2258
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 13-4304, Arizona Revised Statutes, is amended to
3 read:

4 13-4304. Property subject to forfeiture; exemptions

5 All property, including all interests in such property, **THAT IS**
6 described in a statute providing for its forfeiture **OR THAT IS USED TO**
7 **TRANSPORT OR HOUSE A PERSON WHO HAS BEEN CONVICTED OF VIOLATING 8 UNITED**
8 **STATES CODE SECTION 1324(a)(1)(A) OR 1325** is subject to forfeiture. ~~However,~~
9 **EXCEPT THAT:**

10 1. No vehicle used by any person as a common carrier in the
11 transaction of business as a common carrier may be forfeited under ~~the~~
12 ~~provisions of~~ this chapter unless it appears that the owner or other person
13 in charge of the vehicle was a consenting party or privy to the act or
14 omission giving rise to forfeiture or knew or had reason to know of it.

15 2. No vehicle may be forfeited under ~~the provisions of~~ this chapter
16 for any act or omission established by the owner to have been committed or
17 omitted by a person other than the owner while the vehicle was unlawfully in
18 the possession of a person other than the owner in violation of the criminal
19 laws of this state or of the United States.

20 3. No property may be forfeited pursuant to section 13-3413,
21 subsection A, paragraph 1 or 3 if the conduct giving rise to the forfeiture
22 both:

23 (a) Did not involve an amount of unlawful substance greater than the
24 statutory threshold amount as defined in section 13-3401.

25 (b) Was not committed for financial gain.

26 4. No owner's or interest holder's interest may be forfeited under
27 this chapter if the owner or interest holder establishes all of the
28 following:

1 (a) ~~He~~ THE OWNER acquired the interest before or during the conduct
2 giving rise to forfeiture.

3 (b) ~~He~~ THE OWNER did not empower any person whose act or omission
4 gives rise to forfeiture with legal or equitable power to convey the
5 interest, as to a bona fide purchaser for value, and ~~he~~ THE OWNER was not
6 married to any such person or, if married to such person, held the property
7 as separate property.

8 (c) ~~He~~ THE OWNER did not know and could not reasonably have known of
9 the act or omission or that it was likely to occur.

10 5. No owner's or interest holder's interest may be forfeited under
11 this chapter if the owner or interest holder establishes all of the
12 following:

13 (a) ~~He~~ THE OWNER acquired the interest after the conduct giving rise
14 to forfeiture.

15 (b) ~~He~~ THE OWNER is a bona fide purchaser for value not knowingly
16 taking part in an illegal transaction.

17 (c) ~~He~~ THE OWNER, ~~was~~ at the time of purchase and at all times after
18 the purchase and before the filing of a racketeering lien notice or the
19 provision of notice of pending forfeiture or the filing and notice of a civil
20 or criminal proceeding under this title relating to the property, whichever
21 is earlier, WAS reasonably without notice of the act or omission giving rise
22 to forfeiture and reasonably without cause to believe that the property was
23 subject to forfeiture.

24 6. PROPERTY THAT IS USED TO TRANSPORT OR HOUSE A PERSON WHO HAS BEEN
25 CONVICTED OF VIOLATING 8 UNITED STATES CODE SECTION 1324(a)(1)(A) OR 8 UNITED
26 STATES CODE SECTION 1325 SHALL NOT BE FORFEITED UNDER THIS CHAPTER IF THE
27 OWNER OR OTHER INTEREST HOLDER ESTABLISHES BOTH OF THE FOLLOWING:

28 (a) THE OWNER OR OTHER INTEREST HOLDER ACQUIRES ACTUAL OR CONSTRUCTIVE
29 KNOWLEDGE THAT THE PROPERTY IS BEING USED TO TRANSPORT OR HOUSE A PERSON WHO
30 HAS BEEN CONVICTED OF VIOLATING 8 UNITED STATES CODE SECTION 1324(a)(1)(A) OR
31 8 UNITED STATES CODE SECTION 1325 AFTER THE OWNER ACQUIRES OWNERSHIP OF,
32 SELLS, LEASES OR BROKERS A TRANSACTION INVOLVING THE PROPERTY.

1 (b) THE OWNER OR OTHER INTEREST HOLDER REPORTS THE INFORMATION TO A
2 LAW ENFORCEMENT AGENCY.

3 Sec. 2. Title 33, chapter 10, article 2, Arizona Revised Statutes, is
4 amended by adding section 33-1331, to read:

5 33-1331. Landlord rental to illegal aliens prohibited; civil
6 penalty; applicability

7 A. A LANDLORD SHALL NOT RENT A DWELLING UNIT IN THIS STATE TO ANY
8 PERSON WHO DOES NOT PRESENT AT LEAST ONE OF THE FOLLOWING DOCUMENTS THAT
9 INDICATES THAT THE PERSON'S PRESENCE IN THE UNITED STATES IS AUTHORIZED UNDER
10 FEDERAL LAW. A LANDLORD IS IN COMPLIANCE WITH THIS SECTION IF THE LANDLORD
11 RECEIVES FROM A TENANT A SWORN STATEMENT IN SUBSTANTIALLY THE FOLLOWING FORM:

12 STATEMENT OF LAWFUL PRESENCE

13 1. I AM A TENANT OR PROSPECTIVE TENANT AND HAVE CHECKED
14 ONE OR MORE BOXES BELOW TO STATE THAT I PRESENTED AT LEAST ONE OF
15 THE FOLLOWING DOCUMENTS TO SHOW THAT I AM LAWFULLY PRESENT IN
16 THIS COUNTRY:

17 [] A VALID ARIZONA DRIVER LICENSE OR NONOPERATING
18 IDENTIFICATION LICENSE ISSUED AFTER 1996.

19 [] A DRIVER LICENSE ISSUED BY A STATE THAT VERIFIES
20 LAWFUL PRESENCE IN THE UNITED STATES.

21 [] A BIRTH CERTIFICATE OR DELAYED BIRTH CERTIFICATE
22 ISSUED IN ANY STATE, TERRITORY OR POSSESSION OF THE
23 UNITED STATES.

24 [] A UNITED STATES CERTIFICATE OF BIRTH ABROAD.

25 [] A UNITED STATES PASSPORT.

26 [] A FOREIGN PASSPORT WITH A UNITED STATES VISA.

27 [] AN I-94 FORM WITH A PHOTOGRAPH.

28 [] A UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
29 EMPLOYMENT AUTHORIZATION DOCUMENT OR REFUGEE TRAVEL
30 DOCUMENT.

31 [] A UNITED STATES CERTIFICATE OF NATURALIZATION.

32 [] A UNITED STATES CERTIFICATE OF CITIZENSHIP.

[] A TRIBAL CERTIFICATE OF INDIAN BLOOD.

[] A TRIBAL OR BUREAU OF INDIAN AFFAIRS AFFIDAVIT OF BIRTH.

[] DOCUMENTATION ISSUED BY THE UNITED STATES GOVERNMENT THAT AUTHORIZES LAWFUL PRESENCE IN THIS COUNTRY

_____.

(DESCRIBE DOCUMENT HERE)

2. BY SIGNING BELOW, I SWEAR OR AFFIRM THAT THE DOCUMENTS I PRESENTED TO THE LANDLORD OR THE LANDLORD'S REPRESENTATIVE ARE GENUINE.

(SIGNATURE)

(DATE)

B. A LANDLORD SHALL REQUEST THE STATEMENT PRESCRIBED IN SUBSECTION A FROM EVERY PERSON WHO RENTS A DWELLING UNIT FROM THAT LANDLORD, AND THE LANDLORD SHALL KEEP A COPY OF THE SIGNED STATEMENT DURING THE TERM OF THE LEASE.

C. A LANDLORD OR LANDLORD'S REPRESENTATIVE IS NOT REQUIRED TO VERIFY THE VALIDITY OF THE DOCUMENTS PRESCRIBED IN SUBSECTION A.

D. A LANDLORD, A LANDLORD'S REPRESENTATIVE OR A PERSON WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 20 HAS THE RIGHT TO REFUSE TO RENT TO A PERSON WHO HAS NOT PROVIDED PROPER DOCUMENTATION PURSUANT TO SUBSECTION A AND SHALL NOT BE LIABLE FOR ANY PENALTY OR CLAIM OF DAMAGES FOR SO DOING. A LANDLORD, A LANDLORD'S REPRESENTATIVE OR A PERSON WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 20 IS NOT LIABLE IN ANY CRIMINAL, CIVIL OR ADMINISTRATIVE ACTION FOR REFUSING TO RENT TO A PERSON WHO HAS NOT PROVIDED PROPER DOCUMENTATION PURSUANT TO SUBSECTION A.

E. A LANDLORD WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF UP TO TWO HUNDRED FIFTY DOLLARS FOR EACH DAY OF VIOLATION. THE ATTORNEY GENERAL, A COUNTY ATTORNEY OR A CITY OR TOWN ATTORNEY MAY ENFORCE THIS SECTION BY FILING AN ACTION TO COLLECT THE CIVIL PENALTY.

1 F. THIS SECTION APPLIES TO LEASES AND RENTAL AGREEMENTS THAT ARE
2 ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2009.

3 Sec. 3. Title 33, chapter 11, article 2, Arizona Revised Statutes, is
4 amended by adding section 33-1439, to read:

5 33-1439. Landlord rental to illegal aliens prohibited; civil
6 penalty; applicability

7 A. A LANDLORD SHALL NOT RENT A DWELLING UNIT OR MOBILE HOME SPACE IN
8 THIS STATE TO ANY PERSON WHO DOES NOT PRESENT AT LEAST ONE OF THE FOLLOWING
9 DOCUMENTS THAT INDICATES THAT THE PERSON'S PRESENCE IN THE UNITED STATES IS
10 AUTHORIZED UNDER FEDERAL LAW. A LANDLORD IS IN COMPLIANCE WITH THIS SECTION
11 IF THE LANDLORD RECEIVES FROM A TENANT A SWORN STATEMENT IN SUBSTANTIALLY THE
12 FOLLOWING FORM:

13 STATEMENT OF LAWFUL PRESENCE

14 1. I AM A TENANT OR PROSPECTIVE TENANT AND HAVE CHECKED
15 ONE OR MORE BOXES BELOW TO STATE THAT I PRESENTED AT LEAST ONE OF
16 THE FOLLOWING DOCUMENTS TO SHOW THAT I AM LAWFULLY PRESENT IN
17 THIS COUNTRY:

- 18 [] A VALID ARIZONA DRIVER LICENSE OR NONOPERATING
19 IDENTIFICATION LICENSE ISSUED AFTER 1996.
20 [] A DRIVER LICENSE ISSUED BY A STATE THAT VERIFIES
21 LAWFUL PRESENCE IN THE UNITED STATES.
22 [] A BIRTH CERTIFICATE OR DELAYED BIRTH CERTIFICATE
23 ISSUED IN ANY STATE, TERRITORY OR POSSESSION OF THE
24 UNITED STATES.
25 [] A UNITED STATES CERTIFICATE OF BIRTH ABROAD.
26 [] A UNITED STATES PASSPORT.
27 [] A FOREIGN PASSPORT WITH A UNITED STATES VISA.
28 [] AN I-94 FORM WITH A PHOTOGRAPH.
29 [] A UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
30 EMPLOYMENT AUTHORIZATION DOCUMENT OR REFUGEE TRAVEL
31 DOCUMENT.
32 [] A UNITED STATES CERTIFICATE OF NATURALIZATION.

- 1 [] A UNITED STATES CERTIFICATE OF CITIZENSHIP.
- 2 [] A TRIBAL CERTIFICATE OF INDIAN BLOOD.
- 3 [] A TRIBAL OR BUREAU OF INDIAN AFFAIRS AFFIDAVIT OF
- 4 BIRTH.
- 5 [] DOCUMENTATION ISSUED BY THE UNITED STATES GOVERNMENT
- 6 THAT AUTHORIZES LAWFUL PRESENCE IN THIS COUNTRY
- 7 _____.

(DESCRIBE DOCUMENT HERE)

2. BY SIGNING BELOW, I SWEAR OR AFFIRM THAT THE DOCUMENTS I PRESENTED TO THE LANDLORD OR THE LANDLORD'S REPRESENTATIVE ARE GENUINE.

(SIGNATURE)

(DATE)

B. A LANDLORD SHALL REQUEST THE STATEMENT PRESCRIBED IN SUBSECTION A FROM EVERY PERSON WHO RENTS A DWELLING UNIT OR MOBILE HOME SPACE FROM THAT LANDLORD, AND THE LANDLORD SHALL KEEP A COPY OF THE SIGNED STATEMENT DURING THE TERM OF THE LEASE.

C. A LANDLORD OR LANDLORD'S REPRESENTATIVE IS NOT REQUIRED TO VERIFY THE VALIDITY OF THE DOCUMENTS PRESCRIBED IN SUBSECTION A.

D. A LANDLORD, A LANDLORD'S REPRESENTATIVE OR A PERSON WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 20 HAS THE RIGHT TO REFUSE TO RENT TO A PERSON WHO HAS NOT PROVIDED PROPER DOCUMENTATION PURSUANT TO SUBSECTION A AND SHALL NOT BE LIABLE FOR ANY PENALTY OR CLAIM OF DAMAGES FOR SO DOING. A LANDLORD, A LANDLORD'S REPRESENTATIVE OR A PERSON WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 20 IS NOT LIABLE IN ANY CRIMINAL, CIVIL OR ADMINISTRATIVE ACTION FOR REFUSING TO RENT TO A PERSON WHO HAS NOT PROVIDED PROPER DOCUMENTATION PURSUANT TO SUBSECTION A.

E. A LANDLORD WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF UP TO TWO HUNDRED FIFTY DOLLARS FOR EACH DAY OF VIOLATION. THE ATTORNEY

1 GENERAL, A COUNTY ATTORNEY OR A CITY OR TOWN ATTORNEY MAY ENFORCE THIS
2 SECTION BY FILING AN ACTION TO COLLECT THE CIVIL PENALTY.

3 F. THIS SECTION APPLIES TO LEASES AND RENTAL AGREEMENTS THAT ARE
4 ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2009.

5 Sec. 4. Section 44-283, Arizona Revised Statutes, is amended to read:
6 44-283. Denial, suspension or revocation of licenses

7 A. The administrator may deny a license applied for under this chapter
8 or suspend or revoke a license issued under this chapter on any of the
9 following grounds:

10 1. Material misstatement in the application for a license.

11 2. A violation, either knowingly or without the exercise of due care
12 to prevent the violation, of this chapter or of any rule or order adopted or
13 issued pursuant to this chapter.

14 3. Defrauding any retail buyer to the buyer's damage.

15 4. Fraudulent misrepresentation, circumvention or concealment by the
16 licensee through whatever subterfuge or device of any of the material
17 particulars or the nature thereof required to be stated or furnished to the
18 retail buyer under this article.

19 5. Conviction in any state of a felony or a misdemeanor involving
20 breach of trust, ~~or~~ dishonesty OR MONEY LAUNDERING.

21 6. Having a judgment or order entered against the licensee or
22 applicant by an administrative agency of this or any other state or by the
23 federal government in which one of the bases of the judgment or order is
24 fraud, deceit or misrepresentation, if the conduct was engaged in directly by
25 the licensee or applicant or was authorized, solicited, commanded or
26 knowingly permitted by the directors or senior management of the licensee or
27 applicant.

28 7. ENGAGING IN CONDUCT THAT THE APPLICANT OR LICENSEE KNEW OR HAD
29 REASON TO KNOW WOULD BE USED TO FACILITATE A CRIME.

30 8. KNOWINGLY ENGAGING IN THE SALE OF MOTOR VEHICLES USED TO TRANSPORT
31 ILLEGAL ALIENS OR ILLEGAL DRUGS.

1 9. KNOWINGLY CREATING OR PLACING, OR BOTH CREATING AND PLACING, FALSE
2 OR NONEXISTENT LIENS ON VEHICLES.

3 10. KNOWINGLY ALTERING SALES CONTRACTS WITHOUT A RETAIL BUYER'S
4 KNOWLEDGE.

5 B. If a licensee is a firm, association or corporation, it is
6 sufficient cause for the suspension or revocation of a license that any
7 officer, director or trustee of a licensed firm, association or corporation,
8 or any member of a licensed partnership, has so acted or failed to act as
9 would be cause for suspending or revoking a license to such party as an
10 individual. Each licensee is responsible for the acts of any or all of the
11 licensee's employees while acting as the licensee's agent, if the licensee
12 after actual knowledge of the acts retained the benefits, proceeds, profits
13 or advantages accruing from the acts or otherwise ratified the acts.

14 C. Hearings on the denial, suspension or revocation of a license shall
15 be conducted pursuant to title 41, chapter 6, article 10. No revocation,
16 suspension or surrender of any license shall impair or affect the obligation
17 of any lawful retail installment contract acquired by the licensee before the
18 revocation, suspension or surrender of the license."

19 Amend title to conform

ROBERT "BOB" BURNS

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04/11/2008
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C: myr