

Overview of Model Prosperity Zone Compact

Article I: Findings and Declaration of Policy: Includes implicit repealer of contrary laws through use of “notwithstanding” clause and invokes all sovereign power of the state.

Article II: Special Purpose Authority of Prosperity Districts

Section 1. **Special Purpose Authority.** Declares purpose of district is to protect right to life, liberty and property.

Section 2. **District Governance.** Describes governing structure of district.

Section 3. **Transparency.** Requires everything the district does to be transparent.

Section 4. **Exclusive Governing Jurisdiction and Authority.** Protects district from annexation and superimposition of other governing authorities; and states limitations on district governing power and authority, including ban on eminent domain, civil forfeiture, ineffective or excessive regulation, prohibition of monopolies, prohibition of government grants, prohibition of subsidies to private enterprise, requirement of public-private partnerships in municipal services, and limitations on debt.

Section 5. **Regulatory Impact Statement.** Requires analysis of past and future regulations to determine whether criteria for authorizing regulation can be met.

Section 6. **Criteria for Authorized Regulation.** Limits regulatory power via sunrise review criteria to common law and malum in se criminal law, or regulations that are strictly targeted to protecting life, liberty and property where contract cannot allocate risks.

Section 7. **Least Restrictive Regulation.** Requires least restrictive regulation for achieving its asserted regulatory purpose.

Section 8. **Conforming Enforcement.** Requires basic due process and separation of powers as well as other measures to ensure regulation enforcement is consistent with previously assessed purpose of regulation.

Section 9. **Regulatory Overreach Defense.** Allows defendant sued over a regulation to shift burden to regulator to prove compliance with regulatory sunrise requirements above.

Section 10. **Automatic Repealer.** Repeals regulations five years after enactment.

Section 11. **General and Complete Repeal of Conflicting Member Law and Jurisdictions.** This repeals all law and agency jurisdictions above the state constitution and common law in the district upon its formation.

Section 12. **External Legal Process.** Requires district to yield to law enforcement and legal process jurisdiction arising from wrongdoing occurring outside of the district.

Section 13. **Duty to Cooperate in Remediating District Externalities.** Requires Prosperity District to remedy causes of externalities or yield to outside entities in remediating same.

Article III: Prosperity District Formation and Expansion

Section 1. **Petition to Form or Expand Prosperity District.** Specifies that a petition evidencing unanimous consent of all property owners and residents to formation of Prosperity District and containing legal description, name, district charter, and revenue sharing covenant will trigger formation or expansion if not rejected based on ministerial grounds by Governor and presiding officers of state legislature.

Section 2. **Default Revenue Sharing Covenant.** Authorizes use of default revenue sharing covenant specified in Article VI to satisfy petition requirement.

Section 3. **Negotiated Revenue Sharing Covenant.** Authorizes recordation of revenue covenant negotiated based on guarantees of revenue maintenance and revenue neutrality in alternative to or later superseding default revenue sharing covenant.

Section 4. **Withdrawal.** Authorizes withdrawal from Prosperity District on same terms as formation and expansion.

Section 5. **Statute of Repose.** Requires litigation to challenge Prosperity District to be filed within six months of recording petition.

Article IV: Compact Formation, Effect, and Amendment

Section 1. **Offer and Acceptance of Interstate Compact.** Specifies how law becomes compact.

Section 2. **Effect of Compact Formation.** Emphasizes contractual nature of compact formation.

Section 3. **Effect of Existing Consent of Congress.** States 4 United States Code § 112 renders Compact equivalent to federal law in criminal law and policy and further generally repeals all such laws and agencies.

Section 4. **Effect of Additional Congressional Consent.** States effect of additional congressional consent on Compact.

Section 5. **Reciprocity, Freedom of Access, Cross-Border Prosperity Districts.** Authorizes prosperity districts to reciprocally recognize access to and freedoms in other districts, and further authorizes formation of cross-border districts in adjacent member states.

Section 6. **Strict Compliance.** Prohibits direct and indirect modes of breaching Compact.

Section 7. **Amendment.** Amendment in the form of repealing provisions is allowed freely to “local tailoring” in Article VI, other amendments must not unsettle investment-backed

expectations and require 3/4ths majority of compact states.

Article V: Compact Commission

Section 1. **Commission.** Specifies power and authority of commission consisting of 3 commissioners, including alternative dispute resolution authority and advocacy authority.

Section 2. **Commissioner Appointment.** Specifies procedure for gubernatorial appointment of commissioner.

Section 3. **Commissioner Removal.** Specifies procedure for removing commissioners through supermajority action of Prosperity Districts.

Section 4. **Commission Action.** Specifies how Commission action takes place.

Section 5. **First Order of Business.** Requires Commission principal place of business somewhere in the jurisdiction of the Fifth Circuit of the U.S. Court of Appeals.

Section 6. **Funding.** Requires Prosperity Districts to equally fund Commission through blind trust.

Section 7. **Compact Administrator.** Specifies ministerial powers and authority of Compact Administrator and requires principle place of business somewhere in the jurisdiction of the Fifth Circuit of the U.S. Court of Appeals.

Section 8. **Notice of Key Events.** Specifies required notices.

Section 9. **Cooperation.** Requires cooperation among compact members and commission.

Section 10. **Alternative Dispute Resolution Procedure.** Specifies alternative dispute resolution enforcement procedures.

Article VI: Authorized Local Tailoring

Section 1. Authorizes the following provisions to supplement or override provisions of the Compact.

Section 2. **Guarantee of Vested Rights and Existing Compacts.**

Section 3. **Preservation of Member Judicial Forum.**

Section 4. **Preservation of Uniform Commercial Code.**

Section 5. **Preservation of Electoral Law.**

Section 6. **Preservation of National Security, State of Emergency, and Law Enforcement.**

Section 7. **Federal Grant Requirements Protected.** Establishes procedures for ensuring member state complies with conditions of federal grants.

Section 8. **Federal Primacy.** Designates district as responsible for federal primacy.

Section 9. **National Security Modification to definition of “Eligible Land.”**

Intended to prevent terrorists from acquiring land and creating a Prosperity District.

Section 10. **Municipal Opt-In.** Specifies authority for local law to opt into Compact.

Section 11. **County Opt-In.** Specifies authority for local county law to opt into Compact.

Section 12. **Constitutionally-Required Taxation.** Preserves tax laws required by state constitution.

Section 13. **Income of Residents Doing Business in District.** Preserves power to tax income earned by residents of the state for income-producing activities within a district when they live outside of the district.

Section 14. **Preservation of the Status Quo Relative to Utilities.** Maintains authority of the Arizona Corporation Commission and utility service areas.

Section 15. **Voter Protection.** Preserves voter-protected laws from repeal by the Compact.

Section 16. **Default Revenue Sharing Covenant Based on Land Value.** One possible option for revenue sharing consisting of an obligation running with the property in the prosperity district to pay a small percentage of the fair market value of the land within the district to the state or surrounding governments.

Article VII: Definitions

Section 1. "Compact"

Section 2. "Consent of Congress" defined to include various forms of consent.

Section 4. “District Externality”

Section 3. "Eligible Land"

Section 5. "Member" defines membership relative to other states.

Section 6. “Municipality”

Section 7. "Ordinary Federal Law" specifies federal laws that are subject to same ultimate passage threshold as Compact.

Section 8. "Ordinary Member Law" specifies category of state laws that are subject to same ultimate passage threshold as Compact.

Section 9. “Person”

Section 10. "Prosperity District"

Section 11. "Regulation"

Section 12. "Revenue Sharing Covenant"

Section 13. "State"

Section 14. "Subsidy to Private Enterprise"

Section 15. "Third Party Beneficiary"

Article VIII: Miscellaneous

Section 1. **Nature of Enactment and Effective Date.** Specifies which provisions of the Compact are statutory and immediately effective and which provisions are contractual and effective only when a compact is formed.

Section 2. **Legislative Drafting.** Requires legislative drafting conventions to conform to Compact.

Section 3. **Severance.** Severs compact portions from statutory portions if any constitutional problem arises.

Section 4. **Notice.**

Section 5. **Termination.** Terminates Compact automatically if nothing is built in Prosperity District within 10 years.

Section 6. **Third Party Beneficiary and Vested Rights.** Guarantees property owners vested rights in the Compact's provisions.

Section 7. **Authorized Local Tailoring.** Permits Article VI to tailor the Compact to local conditions in state, including stylistic modifications, default revenue sharing covenants, detailed savings clauses for exempted laws, modifications to respect constitutional limitations, provisions to protect conditions of federal grants, limitations on reciprocity, specific guidelines on local laws needed for opt-in by counties or municipalities, provisions preserving or modifying national security and international policies, and provisions allowing local Native American tribes to join Compact.

Section 8. **Preservation of Person Status for Artificial Persons.** Preserves recognition of artificial persons under externally applicable law in Prosperity District.

Section 9. **Venue.** Requires litigation in circuit jurisdiction of principal place of business of Commission and Compact Administrator.