

House Engrossed

property tax; refund; nuisance enforcement.

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## HOUSE CONCURRENT RESOLUTION 2023

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO  
PROPERTY TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the  
2 Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,  
4 the following measure, relating to property tax, is enacted to become valid  
5 as a law if approved by the voters and on proclamation of the Governor:

6 AN ACT  
7 AMENDING TITLE 42, CHAPTER 17, ARIZONA REVISED STATUTES, BY  
8 ADDING ARTICLE 9; REPEALING TITLE 42, CHAPTER 17, ARTICLE 9,  
9 ARIZONA REVISED STATUTES; RELATING TO PROPERTY TAX.

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

11 Section 1. Title 42, chapter 17, Arizona Revised  
12 Statutes, is amended by adding article 9, to read:

13 ARTICLE 9. REFUNDS

14 42-17451. Refund; failure to abate public nuisance;  
15 applicability; definitions

16 A. NOTWITHSTANDING ANY OTHER LAW, SUBJECT TO SUBSECTION  
17 C, PARAGRAPH 3 AND SUBSECTION I OF THIS SECTION, BEGINNING IN  
18 TAX YEAR 2025, A PROPERTY OWNER MAY APPLY FOR A REFUND IN AN  
19 AMOUNT DETERMINED PURSUANT TO SUBSECTION B OF THIS SECTION IF  
20 EITHER OF THE FOLLOWING OCCURS:

21 1. THE CITY, TOWN OR COUNTY IN WHICH THE REAL PROPERTY  
22 IS LOCATED ADOPTS AND FOLLOWS A POLICY, PATTERN OR PRACTICE OF  
23 DECLINING TO ENFORCE EXISTING LAWS, ORDINANCES OR OTHER  
24 LEGISLATION PROHIBITING ILLEGAL CAMPING, OBSTRUCTING PUBLIC  
25 THOROUGHFARES, LOITERING, PANHANDLING, PUBLIC URINATION OR  
26 DEFECATION, PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES OR  
27 POSSESSION OR USE OF ILLEGAL SUBSTANCES AND THE PROPERTY OWNER  
28 INCURS DOCUMENTED EXPENSES TO MITIGATE THE EFFECTS OF THE  
29 POLICY, PATTERN OR PRACTICE OR THE PUBLIC NUISANCE ON THE  
30 PROPERTY OWNER'S REAL PROPERTY.

31 2. THE CITY, TOWN OR COUNTY IN WHICH THE REAL PROPERTY  
32 IS LOCATED MAINTAINS A PUBLIC NUISANCE AND THE PROPERTY OWNER  
33 INCURS DOCUMENTED EXPENSES TO MITIGATE THE EFFECTS OF THE  
34 POLICY, PATTERN OR PRACTICE OR THE PUBLIC NUISANCE ON THE  
35 PROPERTY OWNER'S REAL PROPERTY.

36 B. THE AMOUNT OF THE REFUND IS EQUAL TO THE DOCUMENTED  
37 EXPENSES INCURRED BY THE PROPERTY OWNER THAT WERE REASONABLY  
38 NECESSARY TO MITIGATE THE EFFECTS OF THE POLICY, PATTERN OR  
39 PRACTICE OR THE PUBLIC NUISANCE ON THE PROPERTY OWNER'S REAL  
40 PROPERTY.

41 C. THE REFUND ALLOWED UNDER THIS SECTION:

42 1. SHALL BE PAID IN THE SAME MANNER PRESCRIBED BY SECTION  
43 42-1118.

1           2. NOTWITHSTANDING SECTION 12-1134, SUBSECTION H, IS IN  
2 LIEU OF ANY CLAIM FOR MONETARY DAMAGES OR ANY RIGHTS UNDER TITLE  
3 12, CHAPTER 8, ARTICLE 2.1.

4           3. MAY NOT EXCEED THE AMOUNT THE PROPERTY OWNER PAID FOR  
5 THE PRIOR TAX YEAR IN PRIMARY PROPERTY TAXES FOR THE TAX YEAR  
6 TO THE AFFECTED CITY, TOWN OR COUNTY. IF THE TOTAL AMOUNT OF  
7 THE REFUND DETERMINED PURSUANT TO SUBSECTION B OF THIS SECTION  
8 IS MORE THAN THE AMOUNT THE PROPERTY OWNER PAID FOR THE PRIOR  
9 TAX YEAR IN PRIMARY PROPERTY TAXES TO THE AFFECTED CITY, TOWN  
10 OR COUNTY FOR THE TAX YEAR AND THE REFUND IS ACCEPTED, THE  
11 DEPARTMENT SHALL ISSUE THE REFUND FOR THAT TAX YEAR IN AN AMOUNT  
12 EQUAL TO THE AMOUNT THE PROPERTY OWNER PAID FOR THE PRIOR TAX  
13 YEAR IN PRIMARY PROPERTY TAX TO THE AFFECTED CITY, TOWN OR  
14 COUNTY. THE PROPERTY OWNER MUST APPLY TO THE DEPARTMENT FOR  
15 THE REMAINING PORTION OF THE REFUND THE FOLLOWING AND SUCCESSIVE  
16 TAX YEARS, AS NEEDED.

17           D. WITHIN FIFTEEN DAYS AFTER THE DEPARTMENT RECEIVES AN  
18 APPLICATION FROM A PROPERTY OWNER FOR A REFUND UNDER THIS  
19 SECTION, THE DEPARTMENT SHALL NOTIFY THE AFFECTED CITY, TOWN OR  
20 COUNTY. WITHIN THIRTY DAYS AFTER RECEIVING THE NOTICE, THE  
21 AFFECTED CITY, TOWN OR COUNTY SHALL ACCEPT OR REJECT THE REFUND  
22 AND NOTIFY THE DEPARTMENT OF THAT DETERMINATION. IF THE  
23 AFFECTED CITY, TOWN OR COUNTY:

24           1. ACCEPTS THE REFUND, THE DEPARTMENT SHALL PAY THE  
25 REFUND TO THE PROPERTY OWNER PURSUANT TO SUBSECTION C OF THIS  
26 SECTION.

27           2. REJECTS THE REFUND, THE DEPARTMENT MAY NOT PAY THE  
28 REFUND TO THE PROPERTY OWNER. THE PROPERTY OWNER MAY FILE A  
29 CAUSE OF ACTION IN THE SUPERIOR COURT OF THE COUNTY IN WHICH  
30 THE REAL PROPERTY IS LOCATED TO CHALLENGE THE REJECTION OF THE  
31 REFUND. THE QUESTIONS OF WHETHER THE PROPERTY OWNER IS ENTITLED  
32 TO THE REFUND AND WHETHER THE AMOUNT OF THE REFUND IS REASONABLE  
33 ARE JUDICIAL QUESTIONS. IN A CAUSE OF ACTION FILED PURSUANT TO  
34 THIS PARAGRAPH:

35           (a) THE CITY, TOWN OR COUNTY SHALL BEAR THE BURDEN OF  
36 DEMONSTRATING THAT ITS ACTIONS ARE LAWFUL OR THAT THE AMOUNT OF  
37 THE REFUND IS UNREASONABLE.

38           (b) THE PROPERTY OWNER IS NOT LIABLE TO THE CITY, TOWN  
39 OR COUNTY FOR ATTORNEY FEES OR COSTS.

40           (c) A PREVAILING PROPERTY OWNER SHALL BE AWARDED  
41 REASONABLE ATTORNEY FEES AND COSTS.

42           3. DOES NOT RESPOND TO THE DEPARTMENT WITHIN THE  
43 THIRTY-DAY PERIOD, THE REFUND IS DEEMED ACCEPTED AND THE  
44 DEPARTMENT SHALL PAY THE REFUND TO THE PROPERTY OWNER.

1 E. ON NOTICE FROM THE DEPARTMENT, THE STATE TREASURER  
2 SHALL WITHHOLD FROM THE DISTRIBUTION OF MONIES PURSUANT TO  
3 SECTION 42-5029, SUBSECTION D TO THE AFFECTED CITY, TOWN OR  
4 COUNTY THE RESPECTIVE AGGREGATE AMOUNT OF REFUNDS ISSUED UNDER  
5 THIS SECTION. THE STATE TREASURER SHALL CONTINUE TO WITHHOLD  
6 MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ENTIRE AMOUNT  
7 PROVIDED BY THE DEPARTMENT HAS BEEN WITHHELD. THE STATE  
8 TREASURER SHALL CREDIT ANY MONIES WITHHELD PURSUANT TO THIS  
9 SUBSECTION TO THE DEPARTMENT AS REIMBURSEMENT FOR ISSUING THE  
10 REFUNDS. THE STATE TREASURER MAY NOT WITHHOLD ANY PAYMENTS FOR  
11 DEBT SERVICE ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE  
12 AFFECTED CITY, TOWN OR COUNTY THAT WERE ISSUED OR INCURRED  
13 BEFORE THE REFUND WAS ISSUED.

14 F. THE PROPERTY OWNER MAY NOT BE REQUIRED TO SUBMIT ANY  
15 CLAIM AS A PREREQUISITE TO DEMANDING OR RECEIVING JUST  
16 COMPENSATION IN THE FORM OF A REFUND PURSUANT TO THIS SECTION.

17 G. A PROPERTY OWNER MAY APPLY FOR A REFUND UNDER THIS  
18 SECTION ONCE PER TAX YEAR.

19 H. IF THE POLICY, PATTERN, PRACTICE OR PUBLIC NUISANCE  
20 REMAINS IN PLACE AFTER THE PROPERTY OWNER APPLIES FOR A REFUND  
21 PURSUANT TO THIS SECTION, THE PROPERTY OWNER IS ENTITLED TO  
22 ANOTHER REFUND UNDER THIS SECTION IN A SUBSEQUENT TAX YEAR,  
23 UNLESS THE AFFECTED CITY, TOWN OR COUNTY AND THE PROPERTY OWNER  
24 ENTER INTO A KNOWING AND VOLUNTARY SETTLEMENT, OR THE AFFECTED  
25 CITY, TOWN OR COUNTY ENDS THE POLICY, PATTERN OR PRACTICE OR  
26 ABATES THE PUBLIC NUISANCE.

27 I. A PROPERTY OWNER WHOSE REAL PROPERTY IS LOCATED IN  
28 THE CORPORATE BOUNDARIES OF A CITY OR TOWN IS ELIGIBLE TO APPLY  
29 FOR A REFUND ONLY FROM THAT CITY OR TOWN. A PROPERTY OWNER  
30 WHOSE REAL PROPERTY IS LOCATED IN AN UNINCORPORATED AREA OF A  
31 COUNTY IS ELIGIBLE TO APPLY FOR A REFUND ONLY FROM THAT COUNTY.

32 J. EXCEPT FOR ANY RIGHTS UNDER TITLE 12, CHAPTER 8,  
33 ARTICLE 2.1 THAT ARE FULLY WAIVED BY RECEIVING A REFUND UNDER  
34 THIS SECTION PURSUANT TO SUBSECTION C, PARAGRAPH 2 OF THIS  
35 SECTION, THE REMEDY ESTABLISHED BY THIS SECTION IS IN ADDITION  
36 TO ANY OTHER REMEDY THAT IS PROVIDED BY THE LAWS AND CONSTITUTION  
37 OF THIS STATE OR THE UNITED STATES AND IS NOT INTENDED TO MODIFY  
38 OR REPLACE ANY OTHER REMEDY.

39 K. THE DEPARTMENT SHALL PRESCRIBE THE PROCEDURE AND FORM  
40 REQUIRED TO ADMINISTER THIS SECTION.

41 L. THIS SECTION DOES NOT APPLY TO:

42 1. DECISIONS BY CITY, TOWN OR COUNTY AUTHORITIES TO  
43 EXERCISE PROSECUTORIAL DISCRETION NOT TO PROSECUTE ALLEGED  
44 OFFENDERS IF THE DECISIONS ARE MADE ON A CASE-BY-CASE BASIS AND

1 THE JUSTIFICATIONS FOR EACH DECISION ARE PUBLISHED ON A MONTHLY  
2 BASIS BY THE CITY, TOWN OR COUNTY.  
3 2. ACTS OF EXECUTIVE CLEMENCY.  
4 3. ACTS OR OMISSIONS TAKEN PURSUANT TO SECTION 26-303.  
5 4. ACTS OR OMISSIONS MANDATED BY FEDERAL LAW.  
6 M. FOR THE PURPOSES OF THIS SECTION:  
7 1. "AFFECTED CITY, TOWN OR COUNTY" MEANS A CITY, TOWN OR  
8 COUNTY IN WHICH A PROPERTY OWNER IS APPLYING FOR A REFUND  
9 PROVIDED UNDER THIS SECTION.  
10 2. "PROPERTY OWNER" MEANS THE HOLDER OF FEE TITLE TO THE  
11 REAL PROPERTY.  
12 Sec. 2. Delayed repeal  
13 Title 42, chapter 17, article 9, Arizona Revised Statutes,  
14 as added by this act, is repealed from and after December 31,  
15 2035.  
16 Sec. 3. Legislative intent  
17 The legislature intends that a city, town or county  
18 prioritize the funding of public health and safety services from  
19 monies received pursuant to section 42-5029, subsection D,  
20 Arizona Revised Statutes.  
21 2. The Secretary of State shall submit this proposition to the voters  
22 at the next general election as provided by article IV, part 1, section 1,  
23 Constitution of Arizona.

PASSED BY THE HOUSE FEBRUARY 28, 2024.

PASSED BY THE SENATE MARCH 4, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 4, 2024.