property; classification; primary residence

State of Arizona Senate Fifty-fifth Legislature Second Regular Session 2022

SENATE BILL 1267

AN ACT

AMENDING SECTIONS 15-972, 42-12003, 42-12004, 42-12052, 42-12054, 42-13302, 42-16002 AND 42-19157, ARIZONA REVISED STATUTES; RELATING TO PROPERTY CLASSIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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 Be it enacted by the Legislature of the State of Arizona: Section 1. Section 15-972, Arizona Revised Statutes, is amended to read:

15-972. State limitation on homeowner property taxes; additional state aid to school districts; definitions

- A. Notwithstanding section 15-971, there shall be additional state aid for education computed for school districts as provided in subsection B of this section.
- B. The clerk of the board of supervisors shall compute such additional state aid for education as follows:
- 1. For a high school district or for a common school district within a high school district that does not offer instruction in high school subjects as provided in section 15-447:
- (a) Determine the qualifying tax rate pursuant to section 41-1276 for the school district.
- (b) Determine the following percentage of the qualifying tax rate determined in subdivision (a) of this paragraph:
 - (i) 47.19 percent through December 31, 2021.
 - (ii) Fifty percent beginning from and after December 31, 2021.
- (c) Select the lesser of the amount determined in subdivision (b) of this paragraph or fifty percent of the primary property tax rate that would be levied in lieu of this section for the district.
- (d) Multiply the rate selected in subdivision (c) of this paragraph as a rate per \$100 assessed valuation by the assessed valuation used for primary property taxes of the residential property in the school district.
- 2. For a unified school district, for a common school district not within a high school district or for a common school district that offers instruction in high school subjects as provided in section 15-447:
- (a) Determine the qualifying tax rate pursuant to section 41-1276 for the school district.
- (b) Determine the following percentage of the qualifying tax rate determined in subdivision (a) of this paragraph:
 - (i) 47.19 percent through December 31, 2021.
 - (ii) Fifty percent beginning from and after December 31, 2021.
- (c) Select the lesser of the amount determined in subdivision (b) of this paragraph or fifty percent of the primary property tax rate that would be levied in lieu of this section for the district.
- (d) Multiply the rate selected in subdivision (c) of this paragraph as a rate per \$100 assessed valuation by the assessed valuation used for primary property taxes of the residential property in the district.
- C. The clerk of the board of supervisors shall report to the department of revenue not later than the Friday following the third Monday in August of each year the amount by school district of additional state aid for education and the data used for computing the amount as provided

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in subsection B of this section. The department of revenue shall verify all of the amounts and report to the county board of supervisors not later than August 30 of each year the property tax rate or rates that shall be used for property tax reduction as provided in subsection E of this section.

- D. The board of supervisors shall reduce the property tax rate or rates that would be levied in lieu of this section by the school district or districts on the assessed valuation used for primary property taxes of the residential property in the school district or districts by the rate or rates selected in subsection B, paragraph 1, subdivision (c) and paragraph 2, subdivision (c) of this section. The excess of the reduction in property taxes for a parcel of property resulting from the reduction in the property tax rate pursuant to this subsection over the amounts listed in this subsection shall be deducted from the amount of additional state aid for education. The reduction in property taxes on a parcel of property resulting from the reduction in the property tax rate pursuant to this subsection shall not exceed \$600, except as provided in subsection I of this section.
- levying taxes for school purposes, the E. Before board supervisors shall determine whether the total primary property taxes to be levied for all taxing jurisdictions on each parcel of residential property, in lieu of this subsection, violate article IX, section 18, Constitution of Arizona. For those properties that qualify for property tax exemptions pursuant to article IX, sections 2, 2.1 and 2.2, Constitution of Arizona, eligibility for the credit is determined on the basis of the limited property value that corresponds to the taxable assessed value after reduction for the applicable exemption. If the board of supervisors determines that such a situation exists, the board shall apply a credit against the primary property taxes due from each such parcel in the amount in excess of article IX, section 18, Constitution of Arizona. Such excess amounts shall also be additional state aid for education for the school district or districts in which the parcel of property is located.
- F. The clerk of the board of supervisors shall report to the department of revenue not later than September 5 of each year the amount by school district of additional state aid for education and the data used for computing the amount as provided in subsection B of this section. The department of revenue shall verify all of the amounts and report to the board of supervisors not later than September 10 of each year the property tax rate that shall be used for property tax reduction as provided in subsection E of this section.
- G. The clerk of the board of supervisors shall report to the department of revenue not later than September 30 of each year in writing the following:

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- 1. The data processing specifications used in the calculations provided for in subsections B and E of this section.
- 2. At a minimum, copies of two actual tax bills for residential property for each distinct tax area.
- H. The department of revenue shall report to the state board of education not later than October 12 of each year the amount by school district of additional state aid for education as provided in this section. The additional state aid for education provided in this section shall be apportioned as provided in section 15-973.
- I. If a parcel of property is owned by a cooperative apartment corporation or is owned by the tenants of a cooperative apartment corporation as tenants in common, the reduction in the property taxes prescribed in subsection D of this section shall not exceed the amounts listed in subsection D of this section for each owner-occupied housing unit on the property. The assessed value used for determining the reduction in taxes for the property is equal to the total assessed value of the property times the ratio of the number of owner-occupied housing units to the total number of housing units on the property. For the purposes of this subsection, "cooperative apartment corporation" means a corporation:
 - 1. Having only one class of outstanding stock.
- 2. Of which all of the stockholders are entitled, solely by reason of their ownership of stock in the corporation, to occupy for dwelling purposes apartments in a building owned or leased by the corporation and that are not entitled, either conditionally or unconditionally, except on a complete or partial liquidation of the corporation, to receive any distribution not out of earnings and profits of the corporation.
- 3. Of which eighty percent or more of the gross income is derived from tenant-stockholders. For the purposes of this paragraph, "gross income" means gross income as defined by the United States internal revenue code, as defined in section 43-105.
- J. The total amount of state monies that may be spent in any fiscal year for state aid for education in this section shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This section does not impose a duty on an officer, agent or employee of this state to discharge a responsibility or create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.
- K. Notwithstanding subsection E of this section, the maximum amount of additional state aid for education that will be funded by this state pursuant to subsection E of this section shall be \$1,000,000 per county. For any county with a school district or districts that collectively would otherwise receive more than \$1,000,000 in additional state aid for education pursuant to subsection E of this section, the property tax

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oversight commission established by section 42-17002 shall determine the proportion of the violation of article IX, section 18, Constitution of Arizona, that is attributable to each taxing jurisdiction within the affected school district or districts. Based on those proportions, the property tax oversight commission shall determine an amount that each taxing jurisdiction within the affected school district or districts shall transfer to the affected school district or districts during the fiscal year in order to compensate the affected school district or districts for its pro rata share of the reduction in additional state aid for education funding required by this subsection. In determining the proportion of the violation of article IX, section 18, Constitution of Arizona, that is attributable to each taxing jurisdiction within the affected school district or districts, the property tax oversight commission shall assume a proportion of zero for any taxing jurisdiction that has a tax rate for the fiscal year that is equal to or less than the tax rate of peer jurisdictions, as determined by the property tax oversight commission.

- L. For the purposes of this section:
- 1. "Owner" includes any purchaser under a contract of sale or under a deed of trust.
- 2. "Residential property" includes owner-occupied real property and improvements to the property and owner-occupied mobile homes that are $\frac{\text{used}}{\text{as}}$ the owner's primary residence and classified as class three property pursuant to section 42-12003.
- Sec. 2. Section 42-12003, Arizona Revised Statutes, is amended to read:

42-12003. Class three property; definition

- A. For THE purposes of taxation, class three is established consisting of:
- 1. Real and personal property and improvements to the property that are used FOR RESIDENTIAL PURPOSES AND IS OCCUPIED BY THE OWNER as the owner's primary residence AS DESCRIBED IN SECTION 42-12053, that are not otherwise included in class one, two, four, six, seven or eight and that are valued at full cash value.
- 2. Real and personal property that is USED FOR RESIDENTIAL PURPOSES AND occupied by a relative of the owner, as provided by DESCRIBED IN section 42-12053, and used as the relative's primary residence, that is not otherwise included in class one, two, four, six, seven or eight and that is valued at full cash value.
- 3. Real and personal property that is owned and USED FOR RESIDENTIAL PURPOSES AND occupied BY THE OWNER as the OWNER'S primary residence of the owner, AS DESCRIBED IN SECTION 42-12053, who also uses the property for lease or rent to lodgers.

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- B. For the purposes of this section, a homesite that is included in class three may include:
- 1. Up to ten acres on a single parcel of real property on which the residential improvement is located.
- 2. More than ten, but not more than forty, acres on a single parcel of real property on which the residential improvement is located if it is zoned exclusively for residential purposes or contains legal restrictions or physical conditions that prevent the division of the parcel.
- C. For the purposes of this section, "physical conditions" means topography, mountains, washes, rivers, roads or any other configuration that limits the residential usable land area.
- Sec. 3. Section 42-12004, Arizona Revised Statutes, is amended to read:

42-12004. Class four property

- A. For THE purposes of taxation, class four is established consisting of:
- 1. Real and personal property and improvements to the property that are used for residential purposes, including residential property that is owned in foreclosure by a financial institution, that is not otherwise included in another classification and that is valued at full cash value. The homesite that is included in class four may include:
- (a) Up to ten acres on a single parcel of real property on which the residential improvement is located.
- (b) More than ten, but not more than forty, acres on a single parcel of real property on which the residential improvement is located if it is zoned exclusively for residential purposes or contains legal restrictions or physical conditions that prevent the division of the parcel. For the purposes of this subdivision, "physical conditions" means topography, mountains, washes, rivers, roads or any other configuration that limits the residential usable land area.
- 2. Real and personal property and improvements to the property that are used FOR RESIDENTIAL PURPOSES AND solely as leased or rented property for residential purposes, that are not included in class one, two, three, six, seven or eight and that are valued at full cash value.
- 3. Child care facilities that are licensed under title 36, chapter 7.1 and that are valued at full cash value.
- 4. Real and personal property and improvements to property that are used to operate nonprofit residential housing facilities that are structured to house or care for persons with disabilities or who are AT LEAST sixty-two years of age $\frac{1}{2}$ or $\frac{1}{2}$ and that are valued at full cash value.
- 5. Real and personal property and improvements that are used to operate licensed residential care institutions or licensed nursing care institutions that provide medical services, nursing services or $\frac{1}{1}$

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for persons with disabilities or who are AT LEAST sixty-two years of age or older and that are valued at full cash value.

- 6. Real and personal property consisting of \overline{no} NOT more than eight rooms of residential property that are leased or rented to transient lodgers, together with furnishing \overline{no} NOT more than a breakfast meal, by the owner who resides on the property and that is valued at full cash value.
- 7. Real and personal property consisting THAT CONSISTS of residential dwellings that are maintained for occupancy by agricultural employees as a condition of employment or as a convenience to the employer, that is not included in class three and that is valued at full cash value. The land associated with these dwellings shall be valued as agricultural land pursuant to chapter 13, article 3 of this title.
- 8. Real property and improvements to property constituting common areas that are valued pursuant to chapter 13, article 9 of this title.
- 9. Real and personal property that is defined as timeshare property by section 32-2197 and valued pursuant to chapter 13, article 10 of this title, except for any property used for commercial, industrial or transient occupancy purposes and included in class one to the extent of that use.
- 10. Real and personal property and improvements that are used for residential purposes and that are leased or rented to lodgers, except for:
- (a) Property occupied by the owner of the property as the owner's primary residence and included in class three.
- (b) Property used for commercial purposes and included in class one.
- 11. Low-income multifamily residential rental properties that are valued pursuant to chapter 13, article 13 of this title.
- B. Subsection A, paragraphs 4 and 5 of this section do not limit eligibility for exemption from taxation under chapter 11, article 3 of this title.
- Sec. 4. Section 42-12052, Arizona Revised Statutes, is amended to read:

42-12052. Review and verification of class three property; civil penalty; appeals

- A. Each county assessor shall review assessment information, on a continuing basis, to ensure proper classification of residential dwellings. The assessor may enter into intergovernmental agreements with the department for an exchange of information to ensure a coordinated and comprehensive review and identification of property that may be rented while classified as class three pursuant to section 42-12003.
- B. If the assessor has reason to believe that a parcel of property that is classified as class three pursuant to section 42-12003 is not used as the owner's primary residence or as a qualifying family member residence pursuant to section 42-12053, the assessor shall notify the

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owner, in a form prescribed by the department as provided by subsection D of this section, and request that the owner respond as to whether the property meets the requirements of section 42-12003 or 42-12053, is a secondary residence or is used as a rental property. If the owner fails to respond to the assessor within thirty days after the notice is mailed, the assessor shall mail the owner a final notice within thirty days requesting that the owner provide information as to whether or not the property meets the requirements of a primary residence, a secondary residence or is used as a rental property. If the owner fails to respond to the assessor within fifteen days after the final notice is mailed, the assessor shall:

- 1. Reclassify the property as class four. In addition to other appeal procedures provided by law, the owner of the property that is reclassified as class four under this paragraph may appeal the reclassification to the county board of supervisors within thirty days after the notice of classification is mailed. If the owner proves to the board's satisfaction that the property is occupied as the owner's primary residence, the board shall order the property to be reclassified as class three property pursuant to section 42-12003.
- 2. Notify the county treasurer, who shall assess a civil penalty against the property equal to the amount of additional state aid paid pursuant to section 15-972 with respect to the property in the preceding tax year. The civil penalty shall not be assessed if the ownership of the property has changed after notification. The owner of the property shall pay a penalty under this paragraph to the county treasurer within thirty days after the notice of the penalty is mailed. The owner may appeal the penalty to the county board of supervisors within the time required for payment. If the owner proves to the board's satisfaction that the property is occupied by the owner, the board shall waive the penalty, and the property shall be listed as class three pursuant to section 42-12003. Until paid or waived, the penalty constitutes a lien against the property. The county treasurer shall deposit all revenue received from penalties assessed under this paragraph in the county general fund.
- C. Beginning in 2013 and during each elective term of office thereafter, the county assessor shall send notices under subsection B of this section to each owner of property classified as class three pursuant to section 42-12003 described by any of the following:
- 1. The owner has a mailing address outside the county in which the property is located.
- 2. The owner has a mailing address, other than a post office box, that is different than the situs address of the property.
- 3. The owner has the same mailing address listed for more than one parcel of class three property in this state.
 - 4. The owner appears to be a business entity.

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- D. The department shall:
- 1. Prescribe all forms used to notify property owners under this section. The forms shall contain information as to criteria for the reclassification of property and the civil penalties that may result if the owner fails to respond to the notice.
- 2. Monitor and review the procedures and practices used by assessors and treasurers to accomplish the verification of class three property and the assessment and collection of penalties prescribed by this section and propose suggested improvements to establish uniform processes and performance among the counties.
- E. The department may inspect the records of county assessors and county treasurers to determine compliance with the requirements of this section and the accuracy of the classification of owner-occupied residential property and rental property.
- Sec. 5. Section 42-12054, Arizona Revised Statutes, is amended to read:

42-12054. Change in classification of owner-occupied residence

- A. If a person purchases or converts property that is listed as class one, PURSUANT TO SECTION 42-12001, paragraph 12 or 13, class two or class four pursuant to article 1 of this chapter and occupies the property as the person's primary residence, the person may have the classification reviewed for change to class three from the date of conversion and occupancy as a primary residence and may appeal from the decision resulting from the review in the same manner as provided by law for review of a valuation for ad valorem property taxes and appeal from that review.
- B. If a person purchases or converts property that is listed as class one, PURSUANT TO SECTION 42-12001, paragraph 12 or 13, class two or class four pursuant to article 1 of this chapter and the property is occupied by a member of the owner's immediate family as described in section 42-12053, the person may have the classification reviewed for change to class three from the date of occupancy and may appeal the decision resulting from the review in the same manner as provided by law for review of a valuation for ad valorem property taxes and appeal from that review.
- C. If a person makes such a conversion or occupancy or appeals the classification after the county assessor has closed the rolls, the person may petition the county board of supervisors to change the classification and reduce the assessed valuation from the date of conversion or occupancy.
- D. The board of supervisors shall entertain the petition in the same manner as a board of equalization hears a request for reduction in valuation.

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- E. The petitioner may appeal the board of supervisors' decision in the same manner as provided in section 42-16111, except that the petitioner shall file the notice of appeal within fifteen days after the board's finding.
- F. If the board of supervisors finds that the property is in fact being used for the owner's primary residence and should be listed as class three property, it THE BOARD shall change the classification on the roll and fix the assessed valuation from the date of occupancy. The amount of taxes that is assessed against the property shall be computed by applying the current tax rate to the original assessed valuation prorated for the portion of the tax year before the property was occupied plus the current tax rate applied to the reassessed value of the property prorated for the balance of the year.
- G. The board of supervisors shall notify the department, assessor and county treasurer of the change in classification, the change in assessed valuation and the amount of tax assessed. The department and the assessor may appeal any such decision in the same manner as provided in section 42-16111. The assessor and treasurer shall note the change on their records, and the treasurer may issue a future tax credit, endorsed by the board, to the person whose property is liable for the tax. The tax credit shall be used on the next or several succeeding property tax assessments that the person may owe thereafter.
- Sec. 6. Section 42-13302, Arizona Revised Statutes, is amended to read:

42-13302. <u>Determining limited value in cases of modifications, omissions and changes</u>

- A. In the following circumstances the limited property value shall be established at a level or percentage of full cash value that is comparable to that of other properties of the same or a similar use or classification:
- 1. Property that was erroneously totally or partially omitted from the property tax rolls in the preceding tax year, except as a result of this section.
- 2. Property for which a change in PHYSICAL, OBJECTIVELY VERIFIABLE use has occurred ON THE PROPERTY since the preceding tax year. FOR THE PURPOSES OF THIS PARAGRAPH AND SECTION 42-16002, A CHANGE IN THE OCCUPANT OR CLASSIFICATION OF A SINGLE-FAMILY RESIDENCE IS NOT A CHANGE IN USE, IN AND OF ITSELF.
- 3. Property that has been modified by construction, destruction or demolition since the preceding valuation year such that the total value of the modification is equal to or greater than fifteen percent of the full cash value.
- 4. Property that has been split, subdivided or consolidated from January 1 through September 30 of the valuation year, except for cases that result from an action initiated by a governmental entity.

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- B. In the case of property that is split, subdivided or consolidated after September 30 through December 31 of the valuation year, except for cases that result from an action initiated by a governmental entity, the total limited property value of the new parcel or parcels shall be IS the same as the total limited property value of the original parcel or parcels. For the following valuation year, the limited property value shall be established at a level or percentage of full cash value that is comparable to that of other properties of the same or a similar use or classification. The new parcel or parcels shall retain the same value-adding characteristics that applied to the original parcel before being split or consolidated, except as provided in subsection A, paragraph 3 of this section.
- C. In the case of property that was split, subdivided or consolidated from January 1 through September 30 of the valuation year as a result of an action initiated by a governmental entity, the limited value is the lower of either:
- 1. The level or percentage of full cash value that is comparable to that of other properties of the same or similar use or classification.
- 2. The total limited value for the original parcel or parcels as determined under section 42-13301, and in the following valuation year, the limited property value shall be established pursuant to section 42-13301.
- D. In the case of property that was split, subdivided or consolidated after September 30 through December 31 of the valuation year as a result of an action initiated by a governmental entity, the total limited value for the resulting parcel or parcels is the same as the total limited value for the original parcel or parcels as determined under section 42-13301, and in the following valuation year, the limited property value shall be established as the lower of either:
- 1. The level or percentage of full cash value that is comparable to that of other properties of the same or similar use or classification.
- 2. The limited property value established pursuant to section 42-13301.
- Sec. 7. Section 42-16002, Arizona Revised Statutes, is amended to read:

42-16002. <u>Changes and corrections in tax roll to reflect</u> <u>determinations on review or appeal</u>

- A. The county assessor or county treasurer, whichever is appropriate, shall make the necessary changes in the tax roll and records to reflect the determinations that change valuations or classifications of property that result from reviews, administrative or judicial appeals or correction of errors and omissions under this title.
- B. If a review or administrative appeal pursuant to article 2, 3 or 4 of this chapter or a judicial appeal pursuant to article 5 of this chapter results in a reduction of the valuation or a change in the

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classification of property, in the next year the valuation or classification of property shall be the valuation or classification that was determined by the review or appeal unless either:

- 1. There is new construction, a structural change or a change of use on the property AS PRESCRIBED BY SECTION 42-13302, SUBSECTION A, PARAGRAPH 2.
- 2. Chapters 11 through 19 of this title require a specific annual formula for the valuation.
- C. This section does not limit the right of a property owner to appeal the valuation or classification of the property.
- Sec. 8. Section 42-19157, Arizona Revised Statutes, is amended to read:

42-19157. <u>Collection of delinquent taxes</u>

- A. Except as otherwise prescribed by this article, if a person who is liable for paying tax under this article evades or is delinquent in paying the tax, the tax shall be collected in the manner and by the officers prescribed by this chapter for collecting delinquent taxes on personal property.
- B. Notwithstanding any other law, for a mobile home for which an affidavit of affixture has not been recorded pursuant to section 42-15203, that is not placed on the real property roll and that is used as the owner's primary residence, the delinquent tax may be collected pursuant to subsection A of this section only after both of the following occur:
 - 1. The tax has been delinquent for a period of one year.
- 2. The person liable for paying the tax has not redeemed the property within six months after the end of the one-year period prescribed in paragraph 1 of this subsection.
- C. For delinquent tax report purposes, the county treasurer and the officers prescribed by this chapter shall use the method and procedures of identifying mobile homes as prescribed by the department of transportation.

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