

REFERENCE TITLE: TPT; additional rate; online lodging

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2135

Introduced by
Representatives Salman: Stahl Hamilton

AN ACT

AMENDING SECTION 41-3955, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5010.02; AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-3955, Arizona Revised Statutes, is amended to
3 read:
4 41-3955. Housing trust fund; purpose; annual report
5 A. The housing trust fund is established, and the director shall
6 administer the fund. The fund consists of:
7 1. Monies from unclaimed property deposited in the fund pursuant to
8 section 44-313. ~~;~~
9 2. Monies transferred pursuant to section 35-751. ~~and~~
10 3. MONIES DISTRIBUTED PURSUANT TO SECTION 42-5010.02.
11 4. Investment earnings.
12 B. On notice from the department, the state treasurer shall invest
13 and divest monies in the fund as provided by section 35-313, and monies
14 earned from investment shall be credited to the fund.
15 C. Except as provided in subsection D of this section, fund monies
16 shall be spent on approval of the department for developing projects and
17 programs connected with providing housing opportunities for low and
18 moderate income households and for housing affordability programs.
19 ~~Pursuant to section 44-313, subsection A,~~ A portion of fund monies shall
20 be used exclusively for housing in rural areas.
21 D. Fund monies may be spent on constructing or renovating
22 facilities and on housing assistance, including support services, for
23 persons who have been determined to be seriously mentally ill and to be
24 chronically resistant to treatment.
25 E. For the purposes of subsection C of this section, in approving
26 the expenditure of monies, the director shall give priority to funding
27 projects that provide for operating, constructing or renovating facilities
28 for housing for low-income families and that provide housing and shelter
29 to families that have children.
30 F. The director shall report annually to the legislature on the
31 status of the housing trust fund. The report shall include a summary of
32 facilities for which funding was provided during the preceding fiscal year
33 and shall show the cost and geographic location of each facility and the
34 number of individuals benefiting from the operation, construction or
35 renovation of the facility. The report shall also include the number of
36 individuals who benefit from housing assistance pursuant to subsection D
37 of this section. The report shall be submitted to the president of the
38 senate and the speaker of the house of representatives, and a copy
39 provided to the secretary of state, not later than September 1 of each
40 year.
41 G. Monies in the housing trust fund are exempt from the provisions
42 of section 35-190 relating to lapsing of appropriations.
43 H. An amount not to exceed ten percent of the housing trust fund
44 monies may be appropriated annually by the legislature to the department

1 for administrative costs in providing services relating to the housing
2 trust fund.

3 I. For any construction project financed by the department pursuant
4 to this section, the department shall notify a city, town, county or
5 tribal government that a project is planned for its jurisdiction and,
6 before proceeding, shall seek comment from the governing body of the city,
7 town, county or tribal government or an official authorized by the
8 governing body of the city, town, county or tribal government. The
9 department shall not interfere with or attempt to override the local
10 jurisdiction's planning, zoning or land use regulations.

11 Sec. 2. Title 42, chapter 5, article 1, Arizona Revised Statutes,
12 is amended by adding section 42-5010.02, to read:

13 42-5010.02. Transaction privilege tax; additional rate
14 increment; online lodging marketplace
15 classification

16 A. IN ADDITION TO THE RATES PRESCRIBED BY SECTION 42-5010,
17 SUBSECTION A, PARAGRAPH 2, AN ADDITIONAL RATE INCREMENT IS IMPOSED AND
18 SHALL BE COLLECTED ON EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN
19 THE ONLINE LODGING MARKETPLACE CLASSIFICATION DESCRIBED IN SECTION 42-5076
20 WHO HAS ENTERED INTO AN AGREEMENT WITH THE DEPARTMENT TO REGISTER FOR, OR
21 HAS OTHERWISE OBTAINED FROM THE DEPARTMENT, A LICENSE TO COLLECT TAX
22 PURSUANT TO SECTION 42-5005, SUBSECTION L. THE ADDITIONAL TAX RATE
23 INCREMENT IS LEVIED AT THE RATE OF SIXTEEN AND ONE-HALF PERCENT OF THE TAX
24 BASE OF EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN THE ONLINE
25 LODGING MARKETPLACE CLASSIFICATION DESCRIBED IN SECTION 42-5076 WHO HAS
26 ENTERED INTO AN AGREEMENT WITH THE DEPARTMENT TO REGISTER FOR, OR HAS
27 OTHERWISE OBTAINED FROM THE DEPARTMENT, A LICENSE TO COLLECT TAX PURSUANT
28 TO SECTION 42-5005, SUBSECTION L.

29 B. THE TAXPAYER SHALL PAY TAXES PURSUANT TO THIS SECTION AT THE
30 SAME TIME AND IN THE SAME MANNER AS UNDER SECTION 42-5010, SUBSECTION A,
31 PARAGRAPH 2. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR THE REVENUES
32 COLLECTED WITH RESPECT TO THE RATES IMPOSED BY THIS SECTION, AND THE STATE
33 TREASURER SHALL DISTRIBUTE ALL OF THOSE REVENUES TO THE HOUSING TRUST FUND
34 ESTABLISHED BY SECTION 41-3955.

35 Sec. 3. Section 42-5029, Arizona Revised Statutes, is amended to
36 read:

37 42-5029. Remission and distribution of monies; withholding;
38 definition

39 A. The department shall deposit, pursuant to sections 35-146 and
40 35-147, all revenues collected under this article and articles 4, 5 and 8
41 of this chapter pursuant to section 42-1116, separately accounting for:

- 42 1. Payments of estimated tax under section 42-5014, subsection D.
- 43 2. Revenues collected pursuant to section 42-5070.

1 3. Revenues collected under this article and article 5 of this
2 chapter from and after June 30, 2000 from sources located on Indian
3 reservations in this state.

4 4. Revenues collected pursuant to section 42-5010, subsection G and
5 section 42-5155, subsection D.

6 5. Revenues collected pursuant to section 42-5010.01 and section
7 42-5155, subsection E.

8 **6. REVENUES COLLECTED PURSUANT TO SECTION 42-5010.02.**

9 B. The department shall credit payments of estimated tax to an
10 estimated tax clearing account and each month shall transfer all monies in
11 the estimated tax clearing account to a fund designated as the transaction
12 privilege and severance tax clearing account. The department shall credit
13 all other payments to the transaction privilege and severance tax clearing
14 account, separately accounting for the monies designated as distribution
15 base under sections 42-5010, 42-5164 and 42-5205. Each month the
16 department shall report to the state treasurer the amount of monies
17 collected pursuant to this article and articles 4, 5 and 8 of this
18 chapter.

19 C. On notification by the department, the state treasurer shall
20 distribute the monies deposited in the transaction privilege and severance
21 tax clearing account in the manner prescribed by this section and by
22 sections 42-5164 and 42-5205, after deducting warrants drawn against the
23 account pursuant to sections 42-1118 and 42-1254.

24 D. Of the monies designated as distribution base, the department
25 shall:

26 1. Pay twenty-five percent to the various incorporated
27 municipalities in this state in proportion to their population to be used
28 by the municipalities for any municipal purpose.

29 2. Pay 38.08 percent to the counties in this state by averaging the
30 following proportions:

31 (a) The proportion that the population of each county bears to the
32 total state population.

33 (b) The proportion that the distribution base monies collected
34 during the calendar month in each county under this article, section
35 42-5164, subsection B and section 42-5205, subsection B bear to the total
36 distribution base monies collected under this article, section 42-5164,
37 subsection B and section 42-5205, subsection B throughout ~~the~~ THIS state
38 for the calendar month.

39 3. Pay an additional 2.43 percent to the counties in this state as
40 follows:

41 (a) Average the following proportions:

42 (i) The proportion that the assessed valuation used to determine
43 secondary property taxes of each county, after deducting that part of the
44 assessed valuation that is exempt from taxation at the beginning of the
45 month for which the amount is to be paid, bears to the total assessed

1 valuations used to determine secondary property taxes of all the counties
 2 after deducting that portion of the assessed valuations that is exempt
 3 from taxation at the beginning of the month for which the amount is to be
 4 paid. Property of a city or town that is not within or contiguous to the
 5 municipal corporate boundaries and from which water is or may be withdrawn
 6 or diverted and transported for use on other property is considered to be
 7 taxable property in the county for purposes of determining assessed
 8 valuation in the county under this item.

9 (ii) The proportion that the distribution base monies collected
 10 during the calendar month in each county under this article, section
 11 42-5164, subsection B and section 42-5205, subsection B bear to the total
 12 distribution base monies collected under this article, section 42-5164,
 13 subsection B and section 42-5205, subsection B throughout ~~the~~ THIS state
 14 for the calendar month.

15 (b) If the proportion computed under subdivision (a) of this
 16 paragraph for any county is greater than the proportion computed under
 17 paragraph 2 of this subsection, the department shall compute the
 18 difference between the amount distributed to that county under paragraph 2
 19 of this subsection and the amount that would have been distributed under
 20 paragraph 2 of this subsection using the proportion computed under
 21 subdivision (a) of this paragraph and shall pay that difference to the
 22 county from the amount available for distribution under this paragraph.
 23 Any monies remaining after all payments under this subdivision shall be
 24 distributed among the counties according to the proportions computed under
 25 paragraph 2 of this subsection.

26 4. After any distributions required by sections 42-5030,
 27 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making
 28 any transfer to the water quality assurance revolving fund as required by
 29 section 49-282, subsection B, credit the remainder of the monies
 30 designated as distribution base to the state general fund. From this
 31 amount the legislature shall annually appropriate to:

32 (a) The department of revenue, sufficient monies to administer and
 33 enforce this article and articles 5 and 8 of this chapter.

34 (b) The department of economic security, monies to be used for the
 35 purposes stated in title 46, chapter 1.

36 (c) The firearms safety and ranges fund established by section
 37 17-273, ~~fifty thousand dollars~~ \$50,000,000 derived from the taxes
 38 collected from the retail classification pursuant to section 42-5061 for
 39 the current fiscal year.

40 E. If approved by the qualified electors voting at a statewide
 41 general election, all monies collected pursuant to section 42-5010,
 42 subsection G and section 42-5155, subsection D shall be distributed each
 43 fiscal year pursuant to this subsection. The monies distributed pursuant
 44 to this subsection are in addition to any other appropriation, transfer or
 45 other allocation of public or private monies from any other source and

1 shall not supplant, replace or cause a reduction in other school district,
2 charter school, university or community college funding sources. The
3 monies shall be distributed as follows:

4 1. If there are outstanding state school facilities revenue bonds
5 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
6 amount that is necessary to pay the fiscal year's debt service on
7 outstanding state school improvement revenue bonds for the current fiscal
8 year shall be transferred each month to the school improvement revenue
9 bond debt service fund established by section 15-2084. The total amount
10 of bonds for which these monies may be allocated for the payment of debt
11 service shall not exceed a principal amount of eight hundred million
12 dollars exclusive of refunding bonds and other refinancing obligations.

13 2. After any transfer of monies pursuant to paragraph 1 of this
14 subsection, twelve per cent of the remaining monies collected during the
15 preceding month shall be transferred to the technology and research
16 initiative fund established by section 15-1648 to be distributed among the
17 universities for the purpose of investment in technology and
18 research-based initiatives.

19 3. After the transfer of monies pursuant to paragraph 1 of this
20 subsection, three per cent of the remaining monies collected during the
21 preceding month shall be transferred to the workforce development account
22 established in each community college district pursuant to section 15-1472
23 for the purpose of investment in workforce development programs.

24 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of
25 this subsection, one-twelfth of the amount a community college that is
26 owned, operated or chartered by a qualifying Indian tribe on its own
27 Indian reservation would receive pursuant to section 15-1472, subsection
28 D, paragraph 2 if it were a community college district shall be
29 distributed each month to the treasurer or other designated depository of
30 a qualifying Indian tribe. Monies distributed pursuant to this paragraph
31 are for the exclusive purpose of providing support to one or more
32 community colleges owned, operated or chartered by a qualifying Indian
33 tribe and shall be used in a manner consistent with section 15-1472,
34 subsection B. For the purposes of this paragraph, "qualifying Indian
35 tribe" has the same meaning as defined in section 42-5031.01,
36 subsection D.

37 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of
38 this subsection, one-twelfth of the following amounts shall be transferred
39 each month to the department of education for the increased cost of basic
40 state aid under section 15-971 due to added school days and associated
41 teacher salary increases enacted in 2000:

- 42 (a) In fiscal year 2001-2002, \$15,305,900.
- 43 (b) In fiscal year 2002-2003, \$31,530,100.
- 44 (c) In fiscal year 2003-2004, \$48,727,700.
- 45 (d) In fiscal year 2004-2005, \$66,957,200.

1 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
2 \$86,280,500.

3 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of
4 this subsection, seven million eight hundred thousand dollars is
5 appropriated each fiscal year, to be paid in monthly installments, to the
6 department of education to be used for school safety as provided in
7 section 15-154 and two hundred thousand dollars is appropriated each
8 fiscal year, to be paid in monthly installments to the department of
9 education to be used for the character education matching grant program as
10 provided in section 15-154.01.

11 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of
12 this subsection, no more than seven million dollars may be appropriated by
13 the legislature each fiscal year to the department of education to be used
14 for accountability purposes as described in section 15-241 and title 15,
15 chapter 9, article 8.

16 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of
17 this subsection, one million five hundred thousand dollars is appropriated
18 each fiscal year, to be paid in monthly installments, to the failing
19 schools tutoring fund established by section 15-241.

20 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of
21 this subsection, twenty-five million dollars shall be transferred each
22 fiscal year to the state general fund to reimburse the general fund for
23 the cost of the income tax credit allowed by section 43-1072.01.

24 10. After the payment of monies pursuant to paragraphs 1 through 9
25 of this subsection, the remaining monies collected during the preceding
26 month shall be transferred to the classroom site fund established by
27 section 15-977. The monies shall be allocated as follows in the manner
28 prescribed by section 15-977:

29 (a) Forty per cent shall be allocated for teacher compensation
30 based on performance.

31 (b) Twenty per cent shall be allocated for increases in teacher
32 base compensation and employee related expenses.

33 (c) Forty per cent shall be allocated for maintenance and operation
34 purposes.

35 F. The department shall credit the remainder of the monies in the
36 transaction privilege and severance tax clearing account to the state
37 general fund, subject to any distribution required by section 42-5030.01.

38 G. Notwithstanding subsection D of this section, if a court of
39 competent jurisdiction finally determines that tax monies distributed
40 under this section were illegally collected under this article or articles
41 5 and 8 of this chapter and orders the monies to be refunded to the
42 taxpayer, the department shall compute the amount of such monies that was
43 distributed to each city, town and county under this section. Each
44 city's, town's and county's proportionate share of the costs shall be
45 based on the amount of the original tax payment each municipality and

1 county received. Each month the state treasurer shall reduce the amount
 2 otherwise distributable to the city, town and county under this section by
 3 ~~one thirty-sixth~~ 1/36 of the total amount to be recovered from the city,
 4 town or county until the total amount has been recovered, but the monthly
 5 reduction for any city, town or county shall not exceed ten percent of the
 6 full monthly distribution to that entity. The reduction shall begin for
 7 the first calendar month after the final disposition of the case and shall
 8 continue until the total amount, including interest and costs, has been
 9 recovered.

10 H. On receiving a certificate of default from the greater Arizona
 11 development authority pursuant to section 41-2257 or 41-2258 and to the
 12 extent not otherwise expressly prohibited by law, the state treasurer
 13 shall withhold from the next succeeding distribution of monies pursuant to
 14 this section due to the defaulting political subdivision the amount
 15 specified in the certificate of default and immediately deposit the amount
 16 withheld in the greater Arizona development authority revolving fund. The
 17 state treasurer shall continue to withhold and deposit the monies until
 18 the greater Arizona development authority certifies to the state treasurer
 19 that the default has been cured. ~~In no event may~~ The state treasurer MAY
 20 NOT withhold any amount that the defaulting political subdivision
 21 certifies to the state treasurer and the authority as being necessary to
 22 make any required deposits then due for the payment of principal and
 23 interest on bonds of the political subdivision that were issued before the
 24 date of the loan repayment agreement or bonds and that have been secured
 25 by a pledge of distributions made pursuant to this section.

26 I. Except as provided by sections 42-5033 and 42-5033.01, the
 27 population of a county, city or town as determined by the most recent
 28 United States decennial census plus any revisions to the decennial census
 29 certified by the United States bureau of the census shall be used as the
 30 basis for apportioning monies pursuant to subsection D of this section.

31 J. Except as otherwise provided by this subsection, on notice from
 32 the department of revenue pursuant to section 42-6010, subsection B, the
 33 state treasurer shall withhold from the distribution of monies pursuant to
 34 this section to the affected city or town the amount of the penalty for
 35 business location municipal tax incentives provided by the city or town to
 36 a business entity that locates a retail business facility in the city or
 37 town. The state treasurer shall continue to withhold monies pursuant to
 38 this subsection until the entire amount of the penalty has been withheld.
 39 The state treasurer shall credit any monies withheld pursuant to this
 40 subsection to the state general fund as provided by subsection D,
 41 paragraph 4 of this section. The state treasurer shall not withhold any
 42 amount that the city or town certifies to the department of revenue and
 43 the state treasurer as being necessary to make any required deposits or
 44 payments for debt service on bonds or other long-term obligations of the

1 city or town that were issued or incurred before the location incentives
2 provided by the city or town.

3 K. On notice from the auditor general pursuant to section 9-626,
4 subsection D, the state treasurer shall withhold from the distribution of
5 monies pursuant to this section to the affected city the amount computed
6 pursuant to section 9-626, subsection D. The state treasurer shall
7 continue to withhold monies pursuant to this subsection until the entire
8 amount specified in the notice has been withheld. The state treasurer
9 shall credit any monies withheld pursuant to this subsection to the state
10 general fund as provided by subsection D, paragraph 4 of this section.

11 L. Except as otherwise provided by this subsection, on notice from
12 the attorney general pursuant to section 41-194.01, subsection B,
13 paragraph 1 that an ordinance, regulation, order or other official action
14 adopted or taken by the governing body of a county, city or town violates
15 state law or the Constitution of Arizona, the state treasurer shall
16 withhold the distribution of monies pursuant to this section to the
17 affected county, city or town and shall continue to withhold monies
18 pursuant to this subsection until the attorney general certifies to the
19 state treasurer that the violation has been resolved. The state treasurer
20 shall redistribute the monies withheld pursuant to this subsection among
21 all other counties, cities and towns in proportion to their population as
22 provided by subsection D of this section. The state treasurer shall not
23 withhold any amount that the county, city or town certifies to the
24 attorney general and the state treasurer as being necessary to make any
25 required deposits or payments for debt service on bonds or other long-term
26 obligations of the county, city or town that were issued or incurred
27 before committing the violation.

28 M. For the purposes of this section, "community college district"
29 means a community college district that is established pursuant to
30 sections 15-1402 and 15-1403 and that is a political subdivision of this
31 state and, unless otherwise specified, includes a community college
32 tuition financing district established pursuant to section 15-1409.

33 Sec. 4. Short title

34 This act may be cited as the "FairBNB Housing Act".

35 Sec. 5. Requirements for enactment; two-thirds vote

36 Pursuant to article IX, section 22, Constitution of Arizona, this
37 act is effective only on the affirmative vote of at least two-thirds of
38 the members of each house of the legislature and is effective immediately
39 on the signature of the governor or, if the governor vetoes this act, on
40 the subsequent affirmative vote of at least three-fourths of the members
41 of each house of the legislature.