

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

HB 2683

Introduced by
Representatives De Los Santos: Aguilar, Austin, Gutierrez, Hernandez L,
Ortiz, Salman, Stahl Hamilton, Sun, Travers, Senator Mendez

AN ACT

AMENDING SECTION 11-1132, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 8, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-1132.01; AMENDING SECTIONS 11-1134, 11-1136, 11-1137 AND 41-3955, ARIZONA REVISED STATUTES; RELATING TO REAL ESTATE TRANSFERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The article heading of title 11, chapter 8, article 2, Arizona
4 Revised Statutes, is changed from "REAL ESTATE TRANSFER AFFIDAVIT AND FEE"
5 to "REAL ESTATE TRANSFERS, FEES AND TAXES".

6 Sec. 2. Section 11-1132, Arizona Revised Statutes, is amended to
7 read:

8 11-1132. Real estate transfer fee; collection; disposition of
9 proceeds

10 A. Before recording a deed or contract relating to the sale or
11 transfer of real property, the county recorder shall collect:

12 1. A REAL ESTATE TRANSFER fee of ~~two dollars~~ \$2 for the deed or
13 contract.

14 2. IF APPLICABLE, THE REAL ESTATE TRANSFER TAX COLLECTED PURSUANT
15 TO SECTION 11-1132.01.

16 B. The REAL ESTATE TRANSFER fee prescribed in subsection A,
17 PARAGRAPH 1 of this section is included in the amount charged pursuant to
18 section 11-475, subsection A.

19 C. The county shall retain all monies collected pursuant to
20 SUBSECTION A, PARAGRAPH 1 OF this section in the same manner as monies
21 collected under section 11-475.

22 D. THE COUNTY RECORDER SHALL TRANSFER THE MONIES COLLECTED PURSUANT
23 TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION TO THE STATE TREASURER FOR
24 DEPOSIT IN THE HOUSING TRUST FUND ESTABLISHED BY SECTION 41-3955.

25 Sec. 3. Title 11, chapter 8, article 2, Arizona Revised Statutes,
26 is amended by adding section 11-1132.01, to read:

27 11-1132.01. Real estate transfer tax; definition

28 A. THERE IS TAX LEVIED AND THE COUNTY RECORDER SHALL COLLECT A REAL
29 ESTATE TRANSFER TAX ON THE TRANSFER OF TITLE TO RESIDENTIAL REAL PROPERTY
30 IN THE COUNTY TO AN INSTITUTIONAL INVESTOR.

31 B. THE TAX IS LEVIED AT A RATE OF ONE HUNDRED PERCENT OF THE VALUE
32 OF THE PROPERTY DETERMINED FOR THE PURPOSES OF THIS ARTICLE.

33 C. THE TAX IS IN ADDITION TO THE RECORDING FEE COLLECTED PURSUANT
34 TO SECTION 11-475 AND THE REAL ESTATE TRANSFER FEE COLLECTED PURSUANT TO
35 SECTION 11-1132.

36 D. THE TAX APPLIES ONLY TO THE TRANSFER OF TITLE TO RESIDENTIAL
37 REAL PROPERTY CLASSIFIED AS CLASS THREE OR FOUR FOR THE PURPOSES OF
38 PROPERTY TAX PURSUANT TO SECTION 42-12003 OR 42-12004 TO AN INSTITUTIONAL
39 INVESTOR.

40 E. THE TAX SHALL BE PAID TO AND COLLECTED BY THE COUNTY RECORDER AT
41 THE SAME TIME AND IN THE SAME MANNER AS THE REAL ESTATE TRANSFER FEE
42 COLLECTED PURSUANT TO SECTION 11-1132, AND COUNTY RECORDER SHALL TRANSFER
43 MONIES COLLECTED TO THE STATE TREASURER PURSUANT TO SECTION 11-1132,
44 SUBSECTION D.

1 F. FOR THE PURPOSES OF THIS SECTION, "INSTITUTIONAL INVESTOR" MEANS
2 ANY ENTITY OR PERSON WHOSE AGGREGATE FAIR MARKET VALUE OF ALL ASSETS,
3 MINUS THE ENTITY'S OR PERSON'S AGGREGATE DEBT, EXCEEDS \$25,000,000 AT ANY
4 TIME DURING ANY TAXABLE YEAR IN THE PAST TWENTY-FIVE YEARS.

5 Sec. 4. Section 11-1134, Arizona Revised Statutes, is amended to
6 read:

7 11-1134. Exemptions

8 A. The affidavit, ~~and~~ REAL ESTATE TRANSFER fee AND REAL ESTATE
9 TRANSFER TAX required by this article do not apply to the following
10 instruments:

11 1. A deed that represents the payment in full or forfeiture of a
12 recorded contract for the sale of real property.

13 2. A lease or easement on real property, regardless of the length
14 of the term.

15 3. A deed, patent or contract for the sale or transfer of real
16 property in which an agency or representative of the United States, this
17 state, a county, city or town of this state or any political subdivision
18 of this state is the named grantor, and authorized seller, or purchaser.

19 4. A quitclaim deed to quiet title as described in section 12-1103,
20 subsection B or otherwise executed for no monetary consideration.

21 5. A conveyance of real property that is executed pursuant to a
22 court order.

23 6. A deed to an unpatented mining claim.

24 7. A deed of gift.

25 B. The affidavit, ~~and~~ REAL ESTATE TRANSFER fee AND REAL ESTATE
26 TRANSFER TAX required by this article do not apply to a transfer of title:

27 1. Solely in order to provide or release security for a debt or
28 obligation, including a trustee's deed pursuant to power of sale under a
29 deed of trust.

30 2. That confirms or corrects a deed that was previously recorded.

31 3. When the transfer of title has only nominal actual consideration
32 for the transfer of residential property between:

33 (a) Husband and wife or ancestor of the husband and wife.

34 (b) Parent and child, including natural or adopted children and
35 their descendants.

36 (c) Grandparent and grandchild.

37 (d) Natural or adopted siblings.

38 4. On a sale for delinquent taxes or assessments.

39 5. On partition.

40 6. Pursuant to a merger.

41 7. For no consideration or nominal consideration:

42 (a) By a subsidiary to its parent or from a parent to a subsidiary.

43 (b) Among commonly controlled entities.

44 (c) From a member to its limited liability company or from a
45 limited liability company to a member.

1 (d) From a partner to its partnership.
2 (e) From a partnership to a partner.
3 (f) From a joint venturer to its joint venture.
4 (g) From a joint venture to a joint venturer.
5 (h) From a trust beneficiary to its trustee.
6 (i) From a trustee to its trust beneficiary.
7 (j) From any of the entities in subdivisions (a) through (i) of
8 this paragraph to a single purpose entity in order to obtain financing.
9 8. From a person to a trustee or from a trustee to a trust
10 beneficiary with only nominal actual consideration for the transfer.
11 9. To and from an intermediary for the purpose of creating a joint
12 tenancy estate or some other form of ownership.
13 10. From a husband and wife or one of them to both husband and wife
14 to create an estate in community property with right of survivorship.
15 11. From two or more persons to themselves to create an estate in
16 joint tenancy with right of survivorship.
17 12. Pursuant to a beneficiary deed with only nominal actual
18 consideration for the transfer.
19 13. From an owner to itself or a related entity for no or nominal
20 consideration solely for the purpose of consolidating or splitting
21 parcels.
22 14. Due to a legal name change.
23 C. Any instrument that describes a transaction that is exempt under
24 this section shall note the exemption on the face of the instrument at the
25 time of recording, indicating the specific exemption that is claimed.
26 Sec. 5. Section 11-1136, Arizona Revised Statutes, is amended to
27 read:
28 11-1136. Administrative and enforcement powers of department
29 A. The department may prescribe rules that are reasonably necessary
30 to facilitate and expedite the imposition, collection and administration
31 of the REAL ESTATE TRANSFER fee imposed AND REAL ESTATE TRANSFER TAX
32 LEVIED pursuant to this article.
33 B. The department or its authorized agents may:
34 1. Examine books, papers, records or other data bearing on the
35 correctness of any affidavit that is filed or THE REAL ESTATE TRANSFER fee
36 AND REAL ESTATE TRANSFER TAX that ~~is~~ ARE collected pursuant to this
37 article.
38 2. Require the attendance of any person and administer oaths and
39 take testimony with respect to these matters.
40 Sec. 6. Section 11-1137, Arizona Revised Statutes, is amended to
41 read:
42 11-1137. Violations; classification
43 A. A county recorder or employee of the recorder who knowingly
44 records any deed or contract for which a REAL ESTATE TRANSFER fee AND REAL

1 ESTATE TRANSFER TAX is charged by this article without collecting the
2 additional fee AND TAX is guilty of a class 2 misdemeanor.

3 B. Any person who knowingly fails to provide or knowingly falsifies
4 the information that is required by this article on the affidavit of legal
5 value is guilty of a class 2 misdemeanor.

6 Sec. 7. Section 41-3955, Arizona Revised Statutes, is amended to
7 read:

8 41-3955. Housing trust fund; purpose; annual report

9 A. The housing trust fund is established, and the director shall
10 administer the fund. The fund consists of MONIES FROM THE REAL ESTATE
11 TRANSFER TAX DEPOSITED PURSUANT TO SECTION 11-1132, monies from unclaimed
12 property deposited in the fund pursuant to section 44-313, monies
13 transferred pursuant to section 35-751 and investment earnings.

14 B. On notice from the department, the state treasurer shall invest
15 and divest monies in the fund as provided by section 35-313, and monies
16 earned from investment shall be credited to the fund.

17 C. Except as provided in subsection D of this section, fund monies
18 shall be spent on approval of the department for developing projects and
19 programs connected with providing housing opportunities for low and
20 moderate income households and for housing affordability programs.
21 ~~Pursuant to section 44-313, subsection A,~~ A portion of fund monies shall
22 be used exclusively for housing in rural areas.

23 D. Fund monies may be spent on constructing or renovating
24 facilities and on housing assistance, including support services, for
25 persons who have been determined to be seriously mentally ill and to be
26 chronically resistant to treatment.

27 E. For the purposes of subsection C of this section, in approving
28 the expenditure of monies, the director shall give priority to funding
29 projects that provide for operating, constructing or renovating facilities
30 for housing for low-income families and that provide housing and shelter
31 to families that have children.

32 F. The director shall report annually to the legislature on the
33 status of the housing trust fund. The report shall include a summary of
34 facilities for which funding was provided during the preceding fiscal year
35 and shall show the cost and geographic location of each facility and the
36 number of individuals benefiting from the operation, construction or
37 renovation of the facility. The report shall also include the number of
38 individuals who benefit from housing assistance pursuant to subsection D
39 of this section. The report shall be submitted to the president of the
40 senate and the speaker of the house of representatives, and a copy
41 provided to the secretary of state, not later than September 1 of each
42 year.

43 G. Monies in the housing trust fund are exempt from the provisions
44 of section 35-190 relating to lapsing of appropriations.

1 H. An amount not to exceed ten percent of the housing trust fund
2 monies may be appropriated annually by the legislature to the department
3 for administrative costs in providing services relating to the housing
4 trust fund.

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

13 Sec. 8. Requirements for enactment; two-thirds vote

14 Pursuant to article IX, section 22, Constitution of Arizona, this
15 act is effective only on the affirmative vote of at least two-thirds of
16 the members of each house of the legislature and is effective immediately
17 on the signature of the governor or, if the governor vetoes this act, on
18 the subsequent affirmative vote of at least three-fourths of the members
19 of each house of the legislature.