

REFERENCE TITLE: **vacation rentals; diminution in value**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1497

Introduced by
Senator Marsh: Representative Terech

AN ACT

**REPEALING SECTIONS 9-500.39 AND 11-269.17, ARIZONA REVISED STATUTES;
AMENDING SECTIONS 12-1134, 42-2003 AND 42-5042, ARIZONA REVISED STATUTES;
RELATING TO SHORT-TERM RENTALS AND VACATION RENTALS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Sections 9-500.39 and 11-269.17, Arizona Revised Statutes, are
4 repealed.

5 Sec. 1. Section 12-1134, Arizona Revised Statutes, is amended to
6 read:

7 12-1134. Diminution in value; just compensation; exceptions;
8 definitions

9 A. If the existing rights to use, divide, sell or possess private
10 real property are reduced by the enactment or applicability of any land
11 use law enacted after the date the property is transferred to the owner
12 and such action reduces the fair market value of the property, the owner
13 is entitled to just compensation from this state or the political
14 subdivision of this state that enacted the land use law.

15 B. This section does not apply to land use laws that MEET ANY OF
16 THE FOLLOWING:

17 1. Limit or prohibit a use or division of real property for the
18 protection of the public's health and safety, including rules and
19 regulations relating to fire and building codes, health and sanitation,
20 transportation or traffic control, solid or hazardous waste, and pollution
21 control. ;

22 2. Limit or prohibit the use or division of real property commonly
23 and historically recognized as a public nuisance under common law. ;

24 3. Are required by federal law. ;

25 4. Limit or prohibit the use or division of a property for the
26 purpose of housing sex offenders, selling illegal drugs, liquor control,
27 ~~or~~ pornography, obscenity, nude or topless dancing, and other adult
28 oriented businesses if the land use laws are consistent with the
29 constitutions of this state and the United States. ;

30 5. Establish locations for utility facilities. ;

31 6. Do not directly regulate an owner's land. ; ~~or~~

32 7. Were enacted before ~~the effective date of this section~~ DECEMBER
33 7, 2006.

34 8. REGULATE A VACATION RENTAL OR SHORT-TERM RENTAL.

35 C. This state or the political subdivision of this state that
36 enacted the land use law has the burden of demonstrating that the land use
37 law is exempt pursuant to subsection B OF THIS SECTION.

38 D. The owner shall not be required to first submit a land use
39 application to remove, modify, vary or otherwise alter the application of
40 the land use law to the owner's property as a prerequisite to demanding or
41 receiving just compensation pursuant to this section.

42 E. If a land use law continues to apply to private real property
43 more than ninety days after the owner of the property makes a written
44 demand in a specific amount for just compensation to this state or the
45 political subdivision of this state that enacted the land use law, the

1 owner has a cause of action for just compensation in a court in the county
2 in which the property is located, unless this state or THE political
3 subdivision of this state and the owner reach an agreement on the amount
4 of just compensation to be paid, or unless this state or THE political
5 subdivision of this state amends, ~~OR~~ repeals, ~~THE LAND USE LAW~~ or issues
6 to the landowner a binding waiver of enforcement of the land use law on
7 the owner's specific parcel.

8 F. Any demand for landowner relief or any waiver that is granted in
9 lieu of compensation runs with the land.

10 G. An action for just compensation based on diminution in value
11 must be made or forever barred within three years of the effective date of
12 the land use law, or of the first date the reduction of the existing
13 rights to use, divide, sell or possess property applies to the owner's
14 parcel, whichever is later.

15 H. The remedy created by this section is in addition to any other
16 remedy that is provided by the laws and constitution of this state or the
17 United States and is not intended to modify or replace any other remedy.

18 I. ~~Nothing in~~ This section ~~prohibits~~ DOES NOT PROHIBIT this state
19 or any political subdivision of this state from reaching an agreement with
20 a private property owner to waive a claim for diminution in value
21 regarding any proposed action by this state or a political subdivision of
22 this state or action requested by the property owner.

23 J. FOR THE PURPOSES OF THIS SECTION:

24 1. "TRANSIENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5070.

25 2. "VACATION RENTAL" OR "SHORT-TERM RENTAL":

26 (a) MEANS ANY INDIVIDUALLY OR COLLECTIVELY OWNED SINGLE-FAMILY OR
27 ONE-TO-FOUR-FAMILY HOUSE OR DWELLING UNIT OR ANY UNIT OR GROUP OF UNITS IN
28 A CONDOMINIUM, COOPERATIVE OR TIMESHARE, THAT IS ALSO A TRANSIENT PUBLIC
29 LODGING ESTABLISHMENT OR OWNER-OCCUPIED RESIDENTIAL HOME OFFERED FOR
30 TRANSIENT USE IF THE ACCOMMODATIONS ARE NOT CLASSIFIED FOR PROPERTY
31 TAXATION UNDER SECTION 42-12001.

32 (b) DOES NOT INCLUDE A UNIT THAT IS USED FOR ANY NONRESIDENTIAL
33 USE, INCLUDING A RETAIL, RESTAURANT, BANQUET SPACE OR EVENT CENTER USE OR
34 ANOTHER SIMILAR USE.

35 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to
36 read:

37 42-2003. Authorized disclosure of confidential information

38 A. Confidential information relating to:

39 1. A taxpayer may be disclosed to the taxpayer, its successor in
40 interest or a designee of the taxpayer who is authorized in writing by the
41 taxpayer. A principal corporate officer of a parent corporation may
42 execute a written authorization for a controlled subsidiary. If a
43 taxpayer elects to file an Arizona small business income tax return under
44 section 43-302, a written authorization by ~~a~~ THE taxpayer to allow the

1 department to disclose personal income tax information to a designee
2 includes the corresponding Arizona small business income tax return.

3 2. A corporate taxpayer may be disclosed to any principal officer,
4 any person designated by a principal officer or any person designated in a
5 resolution by the corporate board of directors or other similar governing
6 body. If a corporate officer signs a statement under penalty of perjury
7 representing that the officer is a principal officer, the department may
8 rely on the statement until the statement is shown to be false. For the
9 purposes of this paragraph, "principal officer" includes a chief executive
10 officer, president, secretary, treasurer, vice president of tax, chief
11 financial officer, chief operating officer or chief tax officer or any
12 other corporate officer who has the authority to bind the taxpayer on
13 matters related to state taxes.

14 3. A partnership may be disclosed to any partner of the
15 partnership. This exception does not include disclosure of confidential
16 information of a particular partner unless otherwise authorized.

17 4. A limited liability company may be disclosed to any member of
18 the company or, if the company is manager-managed, to any manager.

19 5. An estate may be disclosed to the personal representative of the
20 estate and to any heir, next of kin or beneficiary under the will of the
21 decedent if the department finds that the heir, next of kin or beneficiary
22 has a material interest that will be affected by the confidential
23 information.

24 6. A trust may be disclosed to the trustee or trustees, jointly or
25 separately, and to the grantor or any beneficiary of the trust if the
26 department finds that the grantor or beneficiary has a material interest
27 that will be affected by the confidential information.

28 7. A government entity may be disclosed to the head of the entity
29 or a member of the governing board of the entity, or any employee of the
30 entity who has been delegated the authorization in writing by the head of
31 the entity or the governing board of the entity.

32 8. Any taxpayer may be disclosed if the taxpayer has waived any
33 rights to confidentiality either in writing or on the record in any
34 administrative or judicial proceeding.

35 9. The name and taxpayer identification numbers of persons issued
36 direct payment permits may be publicly disclosed.

37 10. Any taxpayer may be disclosed during a meeting or telephone
38 call if the taxpayer is present during the meeting or telephone call and
39 authorizes the disclosure of confidential information.

40 B. Confidential information may be disclosed to:

41 1. Any employee of the department whose official duties involve tax
42 administration.

43 2. The office of the attorney general solely for its use in
44 preparation for, or in an investigation that may result in, any proceeding
45 involving tax administration before the department or any other agency or

1 board of this state, or before any grand jury or any state or federal
2 court.

3 3. The department of liquor licenses and control for its use in
4 determining whether a spirituous liquor licensee has paid all transaction
5 privilege taxes and affiliated excise taxes incurred as a result of the
6 sale of spirituous liquor, as defined in section 4-101, at the licensed
7 establishment and imposed on the licensed establishments by this state and
8 its political subdivisions.

9 4. Other state tax officials whose official duties require the
10 disclosure for proper tax administration purposes if the information is
11 sought in connection with an investigation or any other proceeding
12 conducted by the official. Any disclosure is limited to information of a
13 taxpayer who is being investigated or who is a party to a proceeding
14 conducted by the official.

15 5. The following agencies, officials and organizations, if they
16 grant substantially similar privileges to the department for the type of
17 information being sought, pursuant to statute and a written agreement
18 between the department and the foreign country, agency, state, Indian
19 tribe or organization:

20 (a) The United States internal revenue service, alcohol and tobacco
21 tax and trade bureau of the United States treasury, United States bureau
22 of alcohol, tobacco, firearms and explosives of the United States
23 department of justice, United States drug enforcement agency and federal
24 bureau of investigation.

25 (b) A state tax official of another state.

26 (c) An organization of states, federation of tax administrators or
27 multistate tax commission that operates an information exchange for tax
28 administration purposes.

29 (d) An agency, official or organization of a foreign country with
30 responsibilities that are comparable to those listed in subdivision (a),
31 (b) or (c) of this paragraph.

32 (e) An agency, official or organization of an Indian tribal
33 government with responsibilities comparable to the responsibilities of the
34 agencies, officials or organizations identified in subdivision (a), (b) or
35 (c) of this paragraph.

36 6. The auditor general, in connection with any audit of the
37 department subject to the restrictions in section 42-2002, subsection D.

38 7. Any person to the extent necessary for effective tax
39 administration in connection with:

40 (a) The processing, storage, transmission, destruction and
41 reproduction of the information.

42 (b) The programming, maintenance, repair, testing and procurement
43 of equipment for purposes of tax administration.

44 (c) The collection of the taxpayer's civil liability.

1 8. The office of administrative hearings relating to taxes
2 administered by the department pursuant to section 42-1101, but the
3 department shall not disclose any confidential information without the
4 taxpayer's written consent:

5 (a) Regarding income tax or withholding tax.

6 (b) On any tax issue relating to information associated with the
7 reporting of income tax or withholding tax.

8 9. The United States treasury inspector general for tax
9 administration for the purpose of reporting a violation of internal
10 revenue code section 7213A (26 United States Code section 7213A),
11 unauthorized inspection of returns or return information.

12 10. The financial management service of the United States treasury
13 department for use in the treasury offset program.

14 11. The United States treasury department or its authorized agent
15 for use in the state income tax levy program and in the electronic federal
16 tax payment system.

17 12. The Arizona commerce authority for its use in:

18 (a) Qualifying renewable energy operations for the tax incentives
19 under section 42-12006.

20 (b) Qualifying businesses with a qualified facility for income tax
21 credits under sections 43-1083.03 and 43-1164.04.

22 (c) Fulfilling its annual reporting responsibility pursuant to
23 section 41-1512, subsections U and V and section 41-1517, subsection L.

24 (d) Certifying computer data centers for tax relief under section
25 41-1519.

26 (e) Certifying applicants for the tax credit for motion picture
27 production costs under sections 43-1082 and 43-1165.

28 13. A prosecutor for purposes of section 32-1164, subsection C.

29 14. The office of the state fire marshal for use in determining
30 compliance with and enforcing title 37, chapter 9, article 5.

31 15. The department of transportation for its use in administering
32 taxes, surcharges and penalties prescribed by title 28.

33 16. The Arizona health care cost containment system administration
34 for its use in administering nursing facility provider assessments.

35 17. The department of administration risk management division and
36 the office of the attorney general if the information relates to a claim
37 against this state pursuant to section 12-821.01 involving the department
38 of revenue.

39 18. Another state agency if the taxpayer authorizes the disclosure
40 of confidential information in writing, including an authorization that is
41 part of an application form or other document submitted to the agency.

42 19. The department of economic security for its use in determining
43 whether an employer has paid all amounts due under the unemployment
44 insurance program pursuant to title 23, chapter 4.

1 20. The department of health services for its use in determining
2 the following:

3 (a) Whether a medical marijuana dispensary is in compliance with
4 the tax requirements of chapter 5 of this title for the purposes of
5 section 36-2806, subsection A.

6 (b) Whether a marijuana establishment, marijuana testing facility
7 or dual licensee licensed under title 36, chapter 28.2 is in compliance
8 with the tax obligations under this title or title 43.

9 21. The Arizona department of agriculture for the purpose of
10 ascertaining compliance with the licensing provisions in title 3.

11 C. Confidential information may be disclosed in any state or
12 federal judicial or administrative proceeding pertaining to tax
13 administration pursuant to the following conditions:

14 1. One or more of the following circumstances must apply:

15 (a) The taxpayer is a party to the proceeding.

16 (b) The proceeding arose out of, or in connection with, determining
17 the taxpayer's civil or criminal liability, or the collection of the
18 taxpayer's civil liability, with respect to any tax imposed under this
19 title or title 43.

20 (c) The treatment of an item reflected on the taxpayer's return is
21 directly related to the resolution of an issue in the proceeding.

22 (d) Return information directly relates to a transactional
23 relationship between a person who is a party to the proceeding and the
24 taxpayer and directly affects the resolution of an issue in the
25 proceeding.

26 2. Confidential information may not be disclosed under this
27 subsection if the disclosure is prohibited by section 42-2002, subsection
28 C or D.

29 D. Identity information may be disclosed for purposes of notifying
30 persons entitled to tax refunds if the department is unable to locate the
31 persons after reasonable effort.

32 E. The department, on the request of any person, shall provide the
33 names and addresses of bingo licensees as defined in section 5-401, verify
34 whether or not a person has a privilege license and number, a tobacco
35 product distributor's license and number or a withholding license and
36 number or disclose the information to be posted on the department's
37 website or otherwise publicly accessible pursuant to section 42-1124,
38 subsection F and section 42-3401.

39 F. A department employee, in connection with the official duties
40 relating to any audit, collection activity or civil or criminal
41 investigation, may disclose return information to the extent that
42 disclosure is necessary to obtain information that is not otherwise
43 reasonably available. These official duties include the correct
44 determination of and liability for tax, the amount to be collected or the
45 enforcement of other state tax revenue laws.

1 G. Confidential information relating to transaction privilege tax,
2 use tax, severance tax, jet fuel excise and use tax and any other tax
3 collected by the department on behalf of any jurisdiction may be disclosed
4 to any county, city or town tax official if the information relates to a
5 taxpayer who is or may be taxable by a county, city or town or who may be
6 subject to audit by the department pursuant to section 42-6002. Any
7 taxpayer information that is released by the department to the county,
8 city or town:

9 1. ~~May be used only for internal purposes, including audits. If~~
10 ~~there is a legitimate business need relating to enforcing laws,~~
11 ~~regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a~~
12 ~~county, city or town tax official may redisclose transaction privilege tax~~
13 ~~information relating to a vacation rental or short-term rental property~~
14 ~~owner or online lodging operator from the new license report and license~~
15 ~~update report, subject to the following:~~

16 (a) ~~The information redisclosed is limited to the following:~~

17 (i) ~~The transaction privilege tax license number.~~

18 (ii) ~~The type of organization or ownership of the business.~~

19 (iii) ~~The legal business name and doing business as name, if~~
20 ~~different from the legal name.~~

21 (iv) ~~The business mailing address, tax record physical location~~
22 ~~address, telephone number, email address and fax number.~~

23 (v) ~~The date the business started in this state, the business~~
24 ~~description and the North American industry classification system code.~~

25 (vi) ~~The name, address and telephone number for each owner,~~
26 ~~partner, corporate officer, member, managing member or official of the~~
27 ~~employing unit.~~

28 (b) ~~Redisclosure is limited to nonelected officials in other units~~
29 ~~within the county, city or town. The information may not be redisclosed~~
30 ~~to an elected official or the elected official's staff.~~

31 (c) ~~All redisclosures of confidential information made pursuant to~~
32 ~~this paragraph are subject to paragraph 2 of this subsection.~~

33 2. May not be disclosed to the public in any manner that does not
34 comply with confidentiality standards established by the department. The
35 county, city or town shall agree in writing with the department that any
36 release of confidential information that violates the confidentiality
37 standards adopted by the department will result in the immediate
38 suspension of any rights of the county, city or town to receive taxpayer
39 information under this subsection.

40 H. The department may disclose statistical information gathered
41 from confidential information if it does not disclose confidential
42 information attributable to any one taxpayer. The department may disclose
43 statistical information gathered from confidential information, even if it
44 discloses confidential information attributable to a taxpayer, to:

1 1. The state treasurer in order to comply with the requirements of
2 section 42-5029, subsection A, paragraph 3.

3 2. The joint legislative income tax credit review committee, the
4 joint legislative budget committee staff and the legislative staff in
5 order to comply with the requirements of section 43-221.

6 I. The department may disclose the aggregate amounts of any tax
7 credit, tax deduction or tax exemption enacted after January 1, 1994.
8 Information subject to disclosure under this subsection shall not be
9 disclosed if a taxpayer demonstrates to the department that such
10 information would give an unfair advantage to competitors.

11 J. Except as provided in section 42-2002, subsection C,
12 confidential information, described in section 42-2001, paragraph 1,
13 subdivision (a), item (ii), may be disclosed to law enforcement agencies
14 for law enforcement purposes.

15 K. The department may provide transaction privilege tax license
16 information to property tax officials in a county for the purpose of
17 identification and verification of the tax status of commercial property.

18 L. The department may provide transaction privilege tax, luxury
19 tax, use tax, property tax and severance tax information to the
20 ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

21 M. Except as provided in section 42-2002, subsection D, a court may
22 order the department to disclose confidential information pertaining to a
23 party to an action. An order shall be made only on a showing of good
24 cause and that the party seeking the information has made demand on the
25 taxpayer for the information.

26 N. This section does not prohibit the disclosure by the department
27 of any information or documents submitted to the department by a bingo
28 licensee. Before disclosing the information, the department shall obtain
29 the name and address of the person requesting the information.

30 O. If the department is required or allowed to disclose
31 confidential information, it may charge the person or agency requesting
32 the information for the reasonable cost of its services.

33 P. Except as provided in section 42-2002, subsection D, the
34 department of revenue shall release confidential information as requested
35 by the department of economic security pursuant to section 42-1122 or
36 46-291. Information disclosed under this subsection is limited to the
37 same type of information that the United States internal revenue service
38 is authorized to disclose under section 6103(l)(6) of the internal revenue
39 code.

40 Q. Except as provided in section 42-2002, subsection D, the
41 department shall release confidential information as requested by the
42 courts and clerks of the court pursuant to section 42-1122.

43 R. To comply with the requirements of section 42-5031, the
44 department may disclose to the state treasurer, to the county stadium
45 district board of directors and to any city or town tax official that is

1 part of the county stadium district confidential information attributable
2 to a taxpayer's business activity conducted in the county stadium
3 district.

4 S. The department shall release to the attorney general
5 confidential information as requested by the attorney general for purposes
6 of determining compliance with or enforcing any of the following:

7 1. Any public health control law relating to tobacco sales as
8 provided under title 36, chapter 6, article 14.

9 2. Any law relating to reduced cigarette ignition propensity
10 standards as provided under title 37, chapter 9, article 5.

11 3. Sections 44-7101 and 44-7111, the master settlement agreement
12 referred to in those sections and all agreements regarding disputes under
13 the master settlement agreement.

14 T. For proceedings before the department, the office of
15 administrative hearings, the state board of tax appeals or any state or
16 federal court involving penalties that were assessed against a return
17 preparer, an electronic return preparer or a payroll service company
18 pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential
19 information may be disclosed only before the judge or administrative law
20 judge adjudicating the proceeding, the parties to the proceeding and the
21 parties' representatives in the proceeding prior to its introduction into
22 evidence in the proceeding. The confidential information may be
23 introduced as evidence in the proceeding only if the taxpayer's name, the
24 names of any dependents listed on the return, all social security numbers,
25 the taxpayer's address, the taxpayer's signature and any attachments
26 containing any of the foregoing information are redacted and if either:

27 1. The treatment of an item reflected on such a return is or may be
28 related to the resolution of an issue in the proceeding.

29 2. Such a return or the return information relates or may relate to
30 a transactional relationship between a person who is a party to the
31 proceeding and the taxpayer that directly affects the resolution of an
32 issue in the proceeding.

33 3. The method of payment of the taxpayer's withholding tax
34 liability or the method of filing the taxpayer's withholding tax return is
35 an issue for the period.

36 U. The department and attorney general may share the information
37 specified in subsection S of this section with any of the following:

38 1. Federal, state or local agencies located in this state for the
39 purposes of enforcement of the statutes or agreements specified in
40 subsection S of this section or for the purposes of enforcement of
41 corresponding laws of other states.

42 2. Indian tribes located in this state for the purposes of
43 enforcement of the statutes or agreements specified in subsection S of
44 this section.

1 3. A court, arbitrator, data clearinghouse or similar entity for
2 the purpose of assessing compliance with or making calculations required
3 by the master settlement agreement or agreements regarding disputes under
4 the master settlement agreement, and with counsel for the parties or
5 expert witnesses in any such proceeding, if the information otherwise
6 remains confidential.

7 V. The department may provide the name and address of qualifying
8 hospitals and qualifying health care organizations, as defined in section
9 42-5001, to a business that is classified and reporting transaction
10 privilege tax under the utilities classification.

11 W. The department may disclose to an official of any city, town or
12 county in a current agreement or considering a prospective agreement with
13 the department as described in section 42-5032.02, subsection G any
14 information relating to amounts that are subject to distribution and that
15 are required by section 42-5032.02. Information disclosed by the
16 department under this subsection:

17 1. May be used only by the city, town or county for internal
18 purposes.

19 2. May not be disclosed to the public in any manner that does not
20 comply with confidentiality standards established by the department. The
21 city, town or county must agree with the department in writing that any
22 release of confidential information that violates the confidentiality
23 standards will result in the immediate suspension of any rights of the
24 city, town or county to receive information under this subsection.

25 X. Notwithstanding any other provision of this section, the
26 department may not disclose information provided by an online lodging
27 marketplace, as defined in section 42-5076, without the written consent of
28 the online lodging marketplace, and the information may be disclosed only
29 pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,
30 paragraphs 1, 2, 7 and 8 and subsections C, D and G of this section. Such
31 information:

32 1. Is not subject to disclosure pursuant to title 39, relating to
33 public records.

34 2. May not be disclosed to any agency of this state or of any
35 county, city, town or other political subdivision of this state.

36 Sec. 3. Section 42-5042, Arizona Revised Statutes, is amended to
37 read:

38 42-5042. Online lodging operators; requirements; civil
39 penalty; definitions

40 A. An online lodging operator may not offer for rent or rent a
41 lodging accommodation without a current transaction privilege tax license.
42 The online lodging operator shall list the transaction privilege tax
43 license number on each advertisement for each lodging accommodation the
44 online lodging operator maintains, including online lodging marketplace
45 postings. An online lodging operator that fails to comply with this

1 subsection shall pay a civil penalty of \$250 for a first offense and
2 \$1,000 for a second or any subsequent offense.

3 B. For the purposes of this section:

4 1. "Lodging accommodation" has the same meaning prescribed in
5 section 42-5076.

6 2. "Online lodging marketplace" has the same meaning prescribed in
7 section 42-5076.

8 3. "Online lodging operator" has the same meaning prescribed in
9 section 42-5076 ~~and includes an owner of a vacation rental or short-term~~
10 ~~rental that is not offered through an online lodging marketplace.~~

11 ~~4. "Vacation rental" and "short-term rental" have the same meanings~~
12 ~~prescribed in section 9-500.39 or 11-269.17.~~

13 ~~5. "Verified violation" has the same meaning prescribed in section~~
14 ~~9-500.39 or 11-269.17.~~