

House Engrossed

GPLET; agreement posting; abatement period

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

HOUSE BILL 2309

AN ACT

AMENDING SECTIONS 42-6202, 42-6204 AND 42-6209, ARIZONA REVISED STATUTES;
RELATING TO GOVERNMENT PROPERTY LEASE EXCISE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-6202, Arizona Revised Statutes, is amended to
3 read:
4 42-6202. Commercial government property lease excise tax;
5 database
6 A. A government lessor shall levy and the county treasurer shall
7 collect an annual excise tax on each prime lessee for the use or occupancy
8 of each government lessor's government property improvement.
9 B. A government lessor may not own or operate a government property
10 improvement unless one of the following applies:
11 1. The improvement is subject to the government property lease
12 excise tax under this article with respect to the improvement.
13 2. The improvement is exempt from tax under section 42-6208.
14 3. Tax on the improvement has been abated under section 42-6209.
15 C. Within thirty days after entering into a lease for the occupancy
16 of a government property improvement, the government lessor shall:
17 1. Record a memorandum of lease in the office of the county
18 recorder in the county in which the government property improvement is
19 located. The memorandum of lease must include the basic lease terms,
20 including the names of the parties, the leased property, the lease term,
21 including the beginning and ending dates, and any options to renew the
22 lease or to purchase any of the government property improvement or
23 government owned land.
24 2. Submit to the county treasurer copies of the lease or an
25 abstract of the lease.
26 3. INCLUDE THE LEASE OR AN ABSTRACT OF THE LEASE IN THE PUBLIC
27 DATABASE AS DESCRIBED IN SUBSECTION D OF THIS SECTION.
28 D. The government lessor shall maintain a public database by
29 county, city and town, as applicable, or post its lease agreements AND
30 DEVELOPMENT AGREEMENTS on ~~a~~ THE WEBSITE OF THE county, city or town
31 ~~website~~ where the government property improvement is located, of all
32 government property leases AND DEVELOPMENT AGREEMENTS that are subject to
33 the tax under this article.
34 E. The government lessor shall submit a current link to the public
35 database as described in subsection D of this section to the department ~~of~~
36 ~~revenue~~ and notify the department when the database no longer contains any
37 active leases.
38 F. The department ~~of revenue~~ shall place links to all of the
39 government lessors' databases with active leases on ~~their~~ THE DEPARTMENT'S
40 website.
41 G. If a county assessor becomes aware of a government property
42 improvement that is or should be subject to the tax under this article,
43 the assessor shall notify the county treasurer and the government lessor
44 for confirmation that the improvement is included in ~~their~~ THE GOVERNMENT
45 LESSOR'S database.

1 Sec. 2. Section 42-6204, Arizona Revised Statutes, is amended to
2 read:

3 42-6204. Payment; return; interest; penalty; annual reports

4 A. The taxes that are levied pursuant to this article are:

5 1. Due and payable to the county treasurer annually on or before
6 December 1.

7 2. Delinquent if not paid on or before that date.

8 B. The government lessor shall calculate the excise tax for each
9 prime lessee, submit a return to the county treasurer on a return form
10 prescribed by the department ~~of revenue~~ and submit a copy of the return to
11 the prime lessee. If the prime lessee is exempt from the tax pursuant to
12 section 42-6208, the government lessor shall keep and maintain the
13 information required in this subsection. The return form shall be made
14 available by the county treasurer at least sixty days before the taxes are
15 due and payable and shall include:

16 1. The name and address of the prime lessee.

17 2. The location of the government property improvement.

18 3. The amount of gross building space or number of parking garage
19 or deck spaces. The prime lessee may submit an initial statement of gross
20 building space that is certified by a person who is professionally
21 credentialed in this state as an architect, general contractor, surveyor
22 or appraiser and thereafter shall file an annual statement with the
23 return, under penalty of perjury, that the gross building space is
24 unchanged from the amount previously certified.

25 4. The date of the original certificate of occupancy.

26 5. The use or uses of the property.

27 6. If an abatement under section 42-6209 applies, a certification
28 under penalty of perjury that all elements necessary to qualify for the
29 abatement are satisfied for the year covered by the return.

30 7. Any other pertinent information that is required by the return
31 form.

32 C. If any part of the tax is not paid before it becomes delinquent,
33 interest accrues on the unpaid amount at the rate and in the manner
34 prescribed by section 42-18053 until it is paid. Interest on overpayments
35 accrues at the rate and in the manner prescribed by section 42-18053 until
36 the refund is paid by the county treasurer.

37 D. The county treasurer shall assess and collect a penalty of five
38 percent of any part of the tax that is not paid before it becomes
39 delinquent.

40 E. The county treasurer shall issue a receipt to the government
41 lessor and prime lessee for payments under this article.

42 F. On or before February 15 of each year, the county treasurer
43 shall submit a report to:

44 1. The department ~~of revenue~~ of all returns and payments received
45 for the preceding calendar year under this section. The report shall be

1 in a form and contain data prescribed by the department ~~of revenue~~ AND
2 SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE.

3 2. The joint legislative budget committee of all returns and
4 payments received for the preceding calendar year with respect to leases
5 of government property improvements owned by the government lessor. These
6 reports shall contain the same data prescribed in paragraph 1 of this
7 subsection.

8 G. The county treasurer is entitled to rely on any information
9 contained in any abatement certification described in subsection B,
10 paragraph 6 of this section unless the county treasurer has actual
11 knowledge that the certification is inaccurate.

12 Sec. 3. Section 42-6209, Arizona Revised Statutes, is amended to
13 read:

14 42-6209. Abatement of tax for government property
15 improvements in single central business district;
16 definition

17 A. A city or town may abate the tax provided for under this article
18 for a limited period beginning when the certificate of occupancy is issued
19 and ending ~~eight~~ NOT MORE THAN FOUR years after the certificate of
20 occupancy is issued on a government property improvement that is
21 constructed either before or after July 20, 1996 and that meets the
22 following requirements:

23 1. The improvement is located in a single central business district
24 in the city or town and is subject to a lease or development agreement
25 entered into on or after April 1, 1985. For the purposes of this section:

26 (a) A city or town shall not designate more than one central
27 business district within its corporate boundaries.

28 (b) A city or town shall not approve or enter into a development
29 agreement or lease for a government property improvement within one year
30 after the designation of the central business district in which the
31 improvement is located.

32 (c) "Central business district" means a single and contiguous
33 geographical area that is designated by resolution of the governing body
34 of the city or town and that is geographically compact and not larger than
35 the greatest of the existing total land area of the central business
36 district of the city or town as of January 1, 2018, two and one-half
37 percent of the total land area within the exterior boundaries of the city
38 or town or nine hundred sixty acres. For the purposes of this
39 subdivision, any central business district formed before January 1, 2018
40 is considered to be geographically compact. For the expanded areas of an
41 existing central business district only and the new designation of a
42 central business district formed on or after January 1, 2018 and for the
43 purposes of this subdivision, "geographically compact" means a form or
44 shape that has a length that is not more than twice its width as measured
45 from at least four points on the exterior boundary of the expanded areas

1 of an existing central business district or a central business district
2 formed on or after January 1, 2018.

3 2. The improvement is located entirely within a slum or blighted
4 area that is designated pursuant to title 36, chapter 12, article 3.

5 3. The government property improvement resulted or will result in
6 an increase in property value of at least one hundred percent.

7 B. The prime lessee shall notify the county treasurer and the
8 government lessor and apply for the abatement before the taxes under this
9 article are due and payable in the first year after the certificate of
10 occupancy is issued.

11 C. Except as provided by subsection D of this section, each lease
12 between a prime lessee and a government lessor for which the tax is abated
13 under this section that is entered into from and after May 31, 2010, ~~and~~ and
14 that does not meet the conditions provided in section 42-6203, subsection
15 A must be approved by a simple majority vote of the governing body without
16 using a consent calendar and shall not be approved unless:

17 1. The government lessor notifies the governing bodies of the
18 county and any city, town and school district in which the government
19 property improvement is located at least sixty days before the approval.
20 The notice must include the name and address of the intended prime lessee,
21 the location and proposed use of the government property improvement and
22 the proposed term of the lease or development agreement.

23 2. The government lessor determines that, within the term of the
24 lease or development agreement, the economic and fiscal benefit to this
25 state and the county, city or town in which the government property
26 improvement is located will exceed the benefits received by the prime
27 lessee as a result of the development agreement or lease on the basis of
28 an estimate of those benefits prepared by an independent third party in a
29 manner and method acceptable to the governing body of the government
30 lessor. The estimate must be provided to the government lessor and the
31 governing bodies of the county and any city, town and school district in
32 which the government property improvement is located at least thirty days
33 before the vote of the governing body. A lease or development agreement
34 between a prime lessee and a government lessor involving residential
35 rental housing is exempt from the economic estimate analysis requirements
36 of this paragraph.

37 3. The lease or development agreement provides that the government
38 lessor may not approve an amendment to change the use of the government
39 property improvement during the period of abatement unless:

40 (a) The government lessor notifies the governing bodies of the
41 county and any city, town and school district in which the government
42 property improvement is located at least sixty days before the approval.
43 The notice must include the name and address of the prime lessee, the
44 location and proposed use of the government property improvement and the
45 remaining term of the lease or development agreement.

1 (b) The government lessor determines that, within the remaining
2 term of the lease or development agreement, the economic and fiscal
3 benefit to this state and the county, city or town in which the government
4 property improvement is located will exceed the benefits received by the
5 prime lessee as a result of the change in the lease or development
6 agreement on the basis of an estimate of those benefits prepared by an
7 independent third party in a manner and method acceptable to the governing
8 body of the government lessor. The estimate must be provided to the
9 government lessor and the governing bodies of the county and any city,
10 town and school district in which the government property improvement is
11 located at least thirty days before the vote of the governing body. A
12 change in use under a lease or development agreement between a prime
13 lessee and a government lessor to residential rental housing is exempt
14 from the economic estimate analysis requirements of this subdivision.

15 D. Subsection C of this section does not apply if:

16 1. The tax is not abated under this section.

17 2. The government lessor is acting as a commercial landlord without
18 a development agreement in a lease for a use ancillary to a government
19 property improvement used for a public purpose.

20 E. The designation of a slum or blighted area that is originally
21 designated from and after September 30, 2018 and in which a central
22 business district is located automatically terminates on the tenth
23 anniversary after the designation unless the city or town formally renews
24 or modifies all or part of the slum or blighted area designation. The
25 termination of a slum or blighted area designation under this subsection
26 does not affect any existing project described in section 35-701,
27 paragraph 7, subdivision (a), item (ix) that is within the designated
28 area. Before the tenth anniversary of its designation, the city or town
29 shall review the area and, pursuant to the review, shall either renew,
30 modify or terminate the designation. If the city or town renews or
31 modifies the original designation, the slum or blighted area designation
32 is subject to subsequent reviews on a ten-year cycle. If the city or town
33 fails to renew or modify the designation, the slum or blighted area
34 designation automatically terminates five years after the review. This
35 subsection does not apply to leases or development agreements to lease
36 government property if either of the following conditions is met with
37 respect to any such excluded area:

38 1. The lease of the government property improvement was entered
39 into before the termination or modification of the slum or blighted area
40 designation.

41 2. A development agreement, ordinance or resolution was approved by
42 the governing body of the government lessor before the termination or
43 modification of the slum or blighted area designation that authorized a
44 lease on the occurrence of specified conditions and the lease was entered
45 into within five years after the date the development agreement was

1 entered into or the ordinance or resolution was approved by the governing
2 body.

3 F. Before October 1, 2020, each city or town shall review the
4 designation of each slum or blighted area that was originally designated
5 before September 30, 2018 and in which a central business district is
6 located. All such slum or blighted areas in which a central business
7 district is located are considered to be valid. Pursuant to the review,
8 the city or town shall either renew, modify or terminate the
9 designation. If the city or town renews or modifies the original
10 designation, the slum or blighted area designation is subject to
11 subsequent reviews on a ten-year cycle. If the city or town fails to
12 renew or modify the designation, the slum or blighted area designation
13 automatically terminates from and after September 30, 2025, or five years
14 after any subsequent review. The termination of a slum or blighted area
15 designation under this subsection does not affect:

16 1. Any existing project described in section 35-701, paragraph 7,
17 subdivision (a), item (ix) that is within the designated area.

18 2. Any lease or development agreement to lease government property
19 if either of the following conditions is met with respect to the slum or
20 blighted area:

21 (a) The lease of the government property improvement was entered
22 into before the termination or modification of the slum or blighted area
23 designation.

24 (b) A development agreement, ordinance or resolution was approved
25 by the governing body of the government lessor before the termination or
26 modification of the slum or blighted area designation that authorized a
27 lease on the occurrence of specified conditions and the lease was entered
28 into within five years after the date the development agreement was
29 entered into or the ordinance or resolution was approved by the governing
30 body.

31 G. Notwithstanding section 42-6206, subsection C, beginning with
32 development agreements, ordinances or resolutions to lease government
33 property improvements approved by the governing body of the government
34 lessor from and after December 31, 2016, the lease period for a property
35 for which the tax is abated under this section may not exceed ~~eight~~ FOUR
36 years, including any abatement period, regardless of whether the lease is
37 transferred or conveyed to subsequent prime lessees during that
38 period. As soon as reasonably practicable but within twelve months after
39 the expiration date of the lease, the government lessor must convey to the
40 current prime lessee title to the government property improvement and the
41 underlying land. Property conveyed to the prime lessee under this
42 subsection does not qualify for classification as class six property or
43 for any other discounted assessment regardless of the location or
44 condition of the property. This subsection does not apply to leases or

1 development agreements to lease government property if either of the
2 following occurred before January 1, 2017:

3 1. A corresponding resolution or ordinance for the lease or intent
4 to lease such property subject to this section was approved by the
5 governing body of the government lessor.

6 2. A proposal was submitted to the government lessor in response to
7 a request for proposals.

8 Sec. 4. Applicability

9 Section 42-6209, Arizona Revised Statutes, as amended by this act,
10 applies to agreements entered into from and after December 31, 2024.