

House Engrossed

property tax; refund; nuisance enforcement.

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

HOUSE CONCURRENT RESOLUTION 2023

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO PROPERTY TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,
2 the Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to property tax, is enacted to become
5 valid as a law if approved by the voters and on proclamation of the
6 Governor:

7 AN ACT

8 AMENDING TITLE 42, CHAPTER 17, ARIZONA REVISED STATUTES, BY
9 ADDING ARTICLE 9; REPEALING TITLE 42, CHAPTER 17, ARTICLE 9,
10 ARIZONA REVISED STATUTES; RELATING TO PROPERTY TAX.

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

12 Section 1. Title 42, chapter 17, Arizona Revised
13 Statutes, is amended by adding article 9, to read:

14 ARTICLE 9. REFUNDS

15 42-17451. Refund; failure to abate public nuisance;
16 applicability; definitions

17 A. NOTWITHSTANDING ANY OTHER LAW, SUBJECT TO SUBSECTION
18 C, PARAGRAPH 3 AND SUBSECTION I OF THIS SECTION, BEGINNING IN
19 TAX YEAR 2025, A PROPERTY OWNER MAY APPLY FOR A REFUND IN AN
20 AMOUNT DETERMINED PURSUANT TO SUBSECTION B OF THIS SECTION IF
21 EITHER OF THE FOLLOWING OCCURS:

22 1. THE CITY, TOWN OR COUNTY IN WHICH THE REAL PROPERTY
23 IS LOCATED ADOPTS AND FOLLOWS A POLICY, PATTERN OR PRACTICE OF
24 DECLINING TO ENFORCE EXISTING LAWS, ORDINANCES OR OTHER
25 LEGISLATION PROHIBITING ILLEGAL CAMPING, OBSTRUCTING PUBLIC
26 THOROUGHFARES, LOITERING, PANHANDLING, PUBLIC URINATION OR
27 DEFECATION, PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES OR
28 POSSESSION OR USE OF ILLEGAL SUBSTANCES AND THE PROPERTY OWNER
29 INCURS DOCUMENTED EXPENSES TO MITIGATE THE EFFECTS OF THE
30 POLICY, PATTERN OR PRACTICE OR THE PUBLIC NUISANCE ON THE
31 PROPERTY OWNER'S REAL PROPERTY.

32 2. THE CITY, TOWN OR COUNTY IN WHICH THE REAL PROPERTY
33 IS LOCATED MAINTAINS A PUBLIC NUISANCE AND THE PROPERTY OWNER
34 INCURS DOCUMENTED EXPENSES TO MITIGATE THE EFFECTS OF THE
35 POLICY, PATTERN OR PRACTICE OR THE PUBLIC NUISANCE ON THE
36 PROPERTY OWNER'S REAL PROPERTY.

37 B. THE AMOUNT OF THE REFUND IS EQUAL TO THE DOCUMENTED
38 EXPENSES INCURRED BY THE PROPERTY OWNER THAT WERE REASONABLY
39 NECESSARY TO MITIGATE THE EFFECTS OF THE POLICY, PATTERN OR
40 PRACTICE OR THE PUBLIC NUISANCE ON THE PROPERTY OWNER'S REAL
41 PROPERTY.

42 C. THE REFUND ALLOWED UNDER THIS SECTION:

43 1. SHALL BE PAID IN THE SAME MANNER PRESCRIBED BY
44 SECTION 42-1118.

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2. NOTWITHSTANDING SECTION 12-1134, SUBSECTION H, IS IN LIEU OF ANY CLAIM FOR MONETARY DAMAGES OR ANY RIGHTS UNDER TITLE 12, CHAPTER 8, ARTICLE 2.1.

3. MAY NOT EXCEED THE AMOUNT THE PROPERTY OWNER PAID FOR THE PRIOR TAX YEAR IN PRIMARY PROPERTY TAXES FOR THE TAX YEAR TO THE AFFECTED CITY, TOWN OR COUNTY. IF THE TOTAL AMOUNT OF THE REFUND DETERMINED PURSUANT TO SUBSECTION B OF THIS SECTION IS MORE THAN THE AMOUNT THE PROPERTY OWNER PAID FOR THE PRIOR TAX YEAR IN PRIMARY PROPERTY TAXES TO THE AFFECTED CITY, TOWN OR COUNTY FOR THE TAX YEAR AND THE REFUND IS ACCEPTED, THE DEPARTMENT SHALL ISSUE THE REFUND FOR THAT TAX YEAR IN AN AMOUNT EQUAL TO THE AMOUNT THE PROPERTY OWNER PAID FOR THE PRIOR TAX YEAR IN PRIMARY PROPERTY TAX TO THE AFFECTED CITY, TOWN OR COUNTY. THE PROPERTY OWNER MUST APPLY TO THE DEPARTMENT FOR THE REMAINING PORTION OF THE REFUND THE FOLLOWING AND SUCCESSIVE TAX YEARS, AS NEEDED.

D. WITHIN FIFTEEN DAYS AFTER THE DEPARTMENT RECEIVES AN APPLICATION FROM A PROPERTY OWNER FOR A REFUND UNDER THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE AFFECTED CITY, TOWN OR COUNTY. WITHIN THIRTY DAYS AFTER RECEIVING THE NOTICE, THE AFFECTED CITY, TOWN OR COUNTY SHALL ACCEPT OR REJECT THE REFUND AND NOTIFY THE DEPARTMENT OF THAT DETERMINATION. IF THE AFFECTED CITY, TOWN OR COUNTY:

1. ACCEPTS THE REFUND, THE DEPARTMENT SHALL PAY THE REFUND TO THE PROPERTY OWNER PURSUANT TO SUBSECTION C OF THIS SECTION.

2. REJECTS THE REFUND, THE DEPARTMENT MAY NOT PAY THE REFUND TO THE PROPERTY OWNER. THE PROPERTY OWNER MAY FILE A CAUSE OF ACTION IN THE SUPERIOR COURT OF THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED TO CHALLENGE THE REJECTION OF THE REFUND. THE QUESTIONS OF WHETHER THE PROPERTY OWNER IS ENTITLED TO THE REFUND AND WHETHER THE AMOUNT OF THE REFUND IS REASONABLE ARE JUDICIAL QUESTIONS. IN A CAUSE OF ACTION FILED PURSUANT TO THIS PARAGRAPH:

(a) THE CITY, TOWN OR COUNTY SHALL BEAR THE BURDEN OF DEMONSTRATING THAT ITS ACTIONS ARE LAWFUL OR THAT THE AMOUNT OF THE REFUND IS UNREASONABLE.

(b) THE PROPERTY OWNER IS NOT LIABLE TO THE CITY, TOWN OR COUNTY FOR ATTORNEY FEES OR COSTS.

(c) A PREVAILING PROPERTY OWNER SHALL BE AWARDED REASONABLE ATTORNEY FEES AND COSTS.

3. DOES NOT RESPOND TO THE DEPARTMENT WITHIN THE THIRTY-DAY PERIOD, THE REFUND IS DEEMED ACCEPTED AND THE DEPARTMENT SHALL PAY THE REFUND TO THE PROPERTY OWNER.

1 E. ON NOTICE FROM THE DEPARTMENT, THE STATE TREASURER
2 SHALL WITHHOLD FROM THE DISTRIBUTION OF MONIES PURSUANT TO
3 SECTION 42-5029, SUBSECTION D TO THE AFFECTED CITY, TOWN OR
4 COUNTY THE RESPECTIVE AGGREGATE AMOUNT OF REFUNDS ISSUED UNDER
5 THIS SECTION. THE STATE TREASURER SHALL CONTINUE TO WITHHOLD
6 MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ENTIRE AMOUNT
7 PROVIDED BY THE DEPARTMENT HAS BEEN WITHHELD. THE STATE
8 TREASURER SHALL CREDIT ANY MONIES WITHHELD PURSUANT TO THIS
9 SUBSECTION TO THE DEPARTMENT AS REIMBURSEMENT FOR ISSUING THE
10 REFUNDS. THE STATE TREASURER MAY NOT WITHHOLD ANY PAYMENTS
11 FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF
12 THE AFFECTED CITY, TOWN OR COUNTY THAT WERE ISSUED OR INCURRED
13 BEFORE THE REFUND WAS ISSUED.

14 F. THE PROPERTY OWNER MAY NOT BE REQUIRED TO SUBMIT ANY
15 CLAIM AS A PREREQUISITE TO DEMANDING OR RECEIVING JUST
16 COMPENSATION IN THE FORM OF A REFUND PURSUANT TO THIS SECTION.

17 G. A PROPERTY OWNER MAY APPLY FOR A REFUND UNDER THIS
18 SECTION ONCE PER TAX YEAR.

19 H. IF THE POLICY, PATTERN, PRACTICE OR PUBLIC NUISANCE
20 REMAINS IN PLACE AFTER THE PROPERTY OWNER APPLIES FOR A REFUND
21 PURSUANT TO THIS SECTION, THE PROPERTY OWNER IS ENTITLED TO
22 ANOTHER REFUND UNDER THIS SECTION IN A SUBSEQUENT TAX YEAR,
23 UNLESS THE AFFECTED CITY, TOWN OR COUNTY AND THE PROPERTY
24 OWNER ENTER INTO A KNOWING AND VOLUNTARY SETTLEMENT, OR THE
25 AFFECTED CITY, TOWN OR COUNTY ENDS THE POLICY, PATTERN OR
26 PRACTICE OR ABATES THE PUBLIC NUISANCE.

27 I. A PROPERTY OWNER WHOSE REAL PROPERTY IS LOCATED IN
28 THE CORPORATE BOUNDARIES OF A CITY OR TOWN IS ELIGIBLE TO
29 APPLY FOR A REFUND ONLY FROM THAT CITY OR TOWN. A PROPERTY
30 OWNER WHOSE REAL PROPERTY IS LOCATED IN AN UNINCORPORATED AREA
31 OF A COUNTY IS ELIGIBLE TO APPLY FOR A REFUND ONLY FROM THAT
32 COUNTY.

33 J. EXCEPT FOR ANY RIGHTS UNDER TITLE 12, CHAPTER 8,
34 ARTICLE 2.1 THAT ARE FULLY WAIVED BY RECEIVING A REFUND UNDER
35 THIS SECTION PURSUANT TO SUBSECTION C, PARAGRAPH 2 OF THIS
36 SECTION, THE REMEDY ESTABLISHED BY THIS SECTION IS IN ADDITION
37 TO ANY OTHER REMEDY THAT IS PROVIDED BY THE LAWS AND
38 CONSTITUTION OF THIS STATE OR THE UNITED STATES AND IS NOT
39 INTENDED TO MODIFY OR REPLACE ANY OTHER REMEDY.

40 K. THE DEPARTMENT SHALL PRESCRIBE THE PROCEDURE AND
41 FORM REQUIRED TO ADMINISTER THIS SECTION.

42 L. THIS SECTION DOES NOT APPLY TO:

43 1. DECISIONS BY CITY, TOWN OR COUNTY AUTHORITIES TO
44 EXERCISE PROSECUTORIAL DISCRETION NOT TO PROSECUTE ALLEGED
45 OFFENDERS IF THE DECISIONS ARE MADE ON A CASE-BY-CASE BASIS

1 AND THE JUSTIFICATIONS FOR EACH DECISION ARE PUBLISHED ON A
2 MONTHLY BASIS BY THE CITY, TOWN OR COUNTY.
3 2. ACTS OF EXECUTIVE CLEMENCY.
4 3. ACTS OR OMISSIONS TAKEN PURSUANT TO SECTION 26-303.
5 4. ACTS OR OMISSIONS MANDATED BY FEDERAL LAW.
6 M. FOR THE PURPOSES OF THIS SECTION:
7 1. "AFFECTED CITY, TOWN OR COUNTY" MEANS A CITY, TOWN
8 OR COUNTY IN WHICH A PROPERTY OWNER IS APPLYING FOR A REFUND
9 PROVIDED UNDER THIS SECTION.
10 2. "PROPERTY OWNER" MEANS THE HOLDER OF FEE TITLE TO
11 THE REAL PROPERTY.
12 Sec. 2. Delayed repeal
13 Title 42, chapter 17, article 9, Arizona Revised
14 Statutes, as added by this act, is repealed from and after
15 December 31, 2035.
16 Sec. 3. Legislative intent
17 The legislature intends that a city, town or county
18 prioritize the funding of public health and safety services
19 from monies received pursuant to section 42-5029,
20 subsection D, Arizona Revised Statutes.
21 2. The Secretary of State shall submit this proposition to the
22 voters at the next general election as provided by article IV, part 1,
23 section 1, Constitution of Arizona.