

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.

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

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

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

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

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

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

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

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

42           3. DOES NOT RESPOND TO THE DEPARTMENT WITHIN THE  
43 THIRTY-DAY PERIOD, THE REFUND IS DEEMED ACCEPTED AND THE  
44 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.

PASSED BY THE HOUSE FEBRUARY 28, 2024.

PASSED BY THE SENATE MARCH 4, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 4, 2024.