

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1169

AN ACT

AMENDING SECTIONS 11-461, 12-1178, 42-1118 AND 44-1373, ARIZONA REVISED STATUTES; RELATING TO PERSONAL IDENTIFYING INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-461, Arizona Revised Statutes, is amended to
3 read:

4 11-461. Recording instruments; keeping records; identification;
5 location; social security numbers

6 A. The recorder shall have custody of and shall keep all records, maps
7 and papers deposited in the recorder's office.

8 B. The recorder shall record separately, in typewriting, in a legible
9 hand or by use of photostatic or photographic machines or by a system of
10 microphotography, all instruments or writings required or authorized by law
11 to be recorded. In a like manner, the recorder shall record any other
12 instrument offered for recording provided the instruments meet the
13 requirements of section 11-480.

14 C. The recorder may accept a digitized image of a recordable
15 instrument for recording if it is submitted by a title insurer or title
16 insurance agent as defined in section 20-1562, by a state chartered or
17 federally chartered bank insured by the federal deposit insurance
18 corporation, by an active member of the state bar of Arizona, by an agency,
19 branch or instrumentality of the federal government or by a governmental
20 entity and the instrument from which the digitized image is taken conforms to
21 all applicable laws relating to the recording of paper instruments.

22 D. Instruments shall be recorded consecutively as of the time they are
23 received. The recorder shall affix to each instrument, either by hand or in
24 a digitized form, a notation or notations sufficient to provide:

25 1. A record identification to uniquely identify each instrument and to
26 fix its position within the sequence of recordings.

27 2. A record location to enable each instrument to be retrieved for
28 purposes of inspection.

29 E. Instruments may be recorded in docket books, in separate record
30 books or in suitable containers, if the location of each instrument can be
31 determined from notations both on the instrument and in the appropriate
32 index. Reference to any recorded instrument may be made by the record
33 location without further description.

34 F. Any reference to docket and page, or book and page, or similar
35 indication means the record location as notated on each recorded instrument.

36 G. ON OR BEFORE JANUARY 1, 2009, THE RECORDER IN A COUNTY WITH A
37 POPULATION OF MORE THAN TWO MILLION PERSONS, SHALL REDACT REFERENCES TO
38 COMPLETE NINE DIGIT SOCIAL SECURITY NUMBERS ON INSTRUMENTS THAT ARE RECORDED
39 AFTER DECEMBER 31, 1985 AND THAT ARE AVAILABLE ON THE RECORDER'S WEBSITE.
40 SOCIAL SECURITY NUMBERS MAY BE RETAINED ON INSTRUMENTS THAT ARE NOT AVAILABLE
41 ON A WEBSITE. FOR ALL INSTRUMENTS THAT ARE RECORDED BEFORE JANUARY 1, 1986
42 AND THAT ARE AVAILABLE ON A RECORDER'S WEBSITE, THE RECORDER SHALL REDACT
43 REFERENCES TO SOCIAL SECURITY NUMBERS AT THE REQUEST OF THE HOLDER OF THE
44 SOCIAL SECURITY NUMBER IF THE HOLDER IDENTIFIES THE RECORDED INSTRUMENT. THE

1 RECORDER IS NOT LIABLE FOR ANY ERRORS OR CASES OF STOLEN IDENTITY RESULTING
2 FROM REDACTIONS MADE PURSUANT TO THIS SUBSECTION.

3 H. ON OR BEFORE JANUARY 1, 2009, THE RECORDER IN A COUNTY WITH A
4 POPULATION OF LESS THAN TWO MILLION PERSONS SHALL REDACT REFERENCES TO
5 COMPLETE NINE DIGIT SOCIAL SECURITY NUMBERS ON INSTRUMENTS THAT ARE AVAILABLE
6 ON THE RECORDER'S WEBSITE AT THE REQUEST OF THE HOLDER OF THE SOCIAL SECURITY
7 NUMBER IF THE HOLDER IDENTIFIES THE RECORDED INSTRUMENT. SOCIAL SECURITY
8 NUMBERS MAY BE RETAINED ON INSTRUMENTS THAT ARE NOT AVAILABLE ON THE WEBSITE.
9 THE RECORDER IS NOT LIABLE FOR ANY ERRORS OR CASES OF STOLEN IDENTITY
10 RESULTING FROM REDACTIONS MADE PURSUANT TO THIS SUBSECTION.

11 Sec. 2. Section 12-1178, Arizona Revised Statutes, is amended to read:
12 12-1178. Judgment; writ of restitution; limitation on issuance

13 A. If the defendant is found guilty, the court shall give judgment for
14 the plaintiff for restitution of the premises, for all charges stated in the
15 rental agreement and for damages, attorney fees, court and other costs and,
16 at the plaintiff's option, ~~for~~ all rent found to be due and unpaid through
17 the periodic rental period, as described in section 33-1314, subsection C, as
18 provided for in the rental agreement, and shall grant a writ of
19 restitution. ~~If the defendant's social security number is contained on the~~
20 ~~complaint at the time of judgment,~~ The person designated by the judge to
21 prepare the judgment shall ensure that the defendant's social security number
22 is NOT contained on the judgment.

23 B. If the defendant is found not guilty, judgment shall be given for
24 the defendant against the plaintiff for damages, attorney fees, ~~AND~~ court
25 and other costs, and if it appears that the plaintiff has acquired possession
26 of the premises since commencement of the action, a writ of restitution shall
27 issue in favor of the defendant.

28 C. No writ of restitution shall issue until the expiration of five
29 calendar days after the rendition of judgment. The writ of restitution shall
30 be enforced as promptly and expeditiously as possible. The issuance or
31 enforcement of a writ of restitution shall not be suspended, delayed, ~~or~~
32 otherwise affected by the filing of a motion to set aside or vacate the
33 judgment or similar motion unless a judge finds good cause.

34 Sec. 3. Section 42-1118, Arizona Revised Statutes, is amended to read:
35 42-1118. Refunds, credits, offsets and abatements

36 A. If the department determines that any amount of tax, penalty or
37 interest has been paid in excess of the amount actually due, the department
38 shall credit the excess amount against any tax administered pursuant to this
39 article, including any penalty or interest owed by the taxpayer. If it is
40 determined that the amount cannot be credited against a tax or installment of
41 taxes due from the taxpayer, the department may:

42 1. Refund the entire amount of tax, interest and penalty, in a lump
43 sum or in not more than five annual installments, to the taxpayer from whom
44 it was collected.

1 2. Issue to the taxpayer a credit voucher for the entire amount of
2 tax, interest and penalty collected, to be carried forward and applied
3 against future tax liabilities until exhausted.

4 3. Refund part, and issue a credit voucher for the balance, of the
5 tax, interest and penalties as provided in paragraphs 1 and 2 of this
6 subsection.

7 B. If the total amount withheld from income under section 43-401
8 exceeds the amount of the tax on the employee's entire taxable income as
9 computed under title 43, the department shall refund the amount of the excess
10 deducted without requiring a filing of a refund claim as provided in this
11 section. The failure of the department to make the refund does not limit the
12 right of the taxpayer to file a claim for a refund pursuant to this section
13 if the claim is not barred under section 42-1106. The department shall not
14 refund amounts less than one dollar unless specifically requested by the
15 taxpayer at the time the return or claim for refund is filed.

16 C. Any overpayment that may result from withholdings or estimates
17 pursuant to section 43-401, 43-581 or 43-582 shall not be credited or
18 refunded unless an Arizona income tax return has been filed for the tax year
19 for which the withholdings or estimates were made.

20 D. The department shall give a vendor who has a duty to collect use
21 tax pursuant to chapter 5, article 4 of this title and who has not collected
22 that tax full credit or offset for any use tax, interest and penalty paid to
23 the department by the purchaser when issuing a determination of a deficiency
24 pursuant to section 42-1108. This credit or offset shall be computed from
25 the date of the use tax payment by the purchaser. If the purchaser has been
26 audited by the department for use tax for the period of the purchase, the
27 purchaser is considered to have paid the use tax to the department. For
28 other purchases, the vendor may submit an affirmation by a purchaser on a
29 form prescribed by the department that use tax was paid on the purchase. A
30 fully completed certificate, taken in good faith by the vendor, constitutes
31 proof that the vendor is entitled to this credit or offset. The department
32 may require a purchaser who has submitted the certificate to establish the
33 accuracy and completeness of the information contained in the certificate.
34 If the purchaser cannot establish the accuracy and completeness of the
35 information, the purchaser is liable for a penalty equal to the amount of tax
36 and interest that would have been paid by the seller and for the additional
37 penalties pursuant to section 42-1125. Payment of the penalty relieves the
38 purchaser of any responsibility for paying the use tax. The department may
39 require this proof and may assess the purchaser within the later of the
40 period of limitations set forth in section 42-1104 or one year from the date
41 the notice of proposed deficiency is issued to the vendor if the purchaser
42 does not establish the accuracy of the information contained in the
43 certificate.

44 E. Each claim for refund shall be filed with the department in writing
45 and shall identify the claimant by name, address and tax identification

1 number. Each claim shall provide the amount of refund requested, the
2 specific tax period involved and the specific grounds on which the claim is
3 founded. Refunds are subject to setoff for debts pursuant to section
4 42-1122.

5 F. A motor vehicle manufacturer that repurchases a vehicle pursuant to
6 section 44-1263 or for reasons of consumer satisfaction may apply for a
7 refund of the taxes paid under chapter 5 of this title if that manufacturer
8 has refunded the amount of tax to the consumer. A refund is allowed under
9 this subsection only if the manufacturer provides satisfactory proof to the
10 department that tax amounts attributed to the sale of the vehicle were
11 collected from the consumer and that the manufacturer refunded an amount of
12 tax to the consumer. Any refund provided under this subsection is in lieu of
13 any refund on the vehicle that the dealer may otherwise be entitled to
14 receive. A manufacturer must apply for a refund under this subsection within
15 four years after repurchasing the vehicle. For the purposes of this
16 subsection:

17 1. "Consumer" has the same meaning prescribed in section 44-1261.

18 2. "Motor vehicle manufacturer" means a corporation engaged in the
19 business of producing passenger cars, trucks and multipurpose **PASSENGER**
20 vehicles as described in 49 Code of Federal Regulations section 571.3.

21 3. "Satisfactory proof" includes copies of checks and a purchase or
22 lease agreement that lists the vehicle identification number and that
23 itemizes the amount that was collected as tax from the consumer.

24 **G. THE DEPARTMENT SHALL NOT IMPRINT THE FULL SOCIAL SECURITY NUMBER OR**
25 **OTHER TAXPAYER IDENTIFIER USED PURSUANT TO SECTION 42-1105 ON ANY TAXPAYER**
26 **REFUND CHECK, VOUCHER OR OTHER CREDIT DOCUMENTATION ISSUED TO THE TAXPAYER**
27 **UNDER THIS SECTION.**

28 ~~G.~~ H. If any amount has been erroneously determined to be due from
29 any person but not yet collected, the department shall cancel the amount or
30 amounts on its records.

31 ~~H.~~ I. If, with or after the filing of a protest or an appeal with the
32 department, the state board of tax appeals or the court, a taxpayer pays the
33 tax protested or appealed before the department, board or court acts upon the
34 protest or the appeal, such body shall treat the protest or the appeal as a
35 claim for refund or an appeal from the denial of a claim for refund filed
36 under this section.

37 Sec. 4. Section 44-1373, Arizona Revised Statutes, is amended to read:
38 **44-1373. Restricted use of personal identifying information;**
39 **civil penalty; definition**

40 A. Except as otherwise specifically provided by law, beginning on
41 January 1, 2005, a person or entity shall not:

42 1. Intentionally communicate or otherwise make an individual's social
43 security number available to the general public.

1 2. Print an individual's social security number on any card required
2 for the individual to receive products or services provided by the person or
3 entity.

4 3. Require the transmission of an individual's social security number
5 over the internet unless the connection is secure or the social security
6 number is encrypted.

7 4. Require the use of an individual's social security number to access
8 an internet web site, unless a password or unique personal identification
9 number or other authentication device is also required to access the site.

10 5. Print a number that the person or entity knows to be an
11 individual's social security number on any materials that are mailed to the
12 individual, unless state or federal law requires the social security number
13 to be on the document to be mailed. This paragraph does not prohibit the
14 mailing of documents that include social security numbers sent as part of an
15 application or enrollment process or to establish, amend or terminate an
16 account, contract or policy or to confirm the accuracy of the social security
17 number. In a transaction involving or otherwise relating to an individual,
18 if a person or entity receives a number from a third party, the person or
19 entity has no duty to inquire or otherwise determine if the number is or
20 includes that individual's social security number. The person or entity may
21 print that number on materials that are mailed to the individual, unless the
22 person or entity that received the number has actual knowledge that the
23 number is or includes the individual's social security number. This
24 paragraph does not prohibit the mailing to the individual of any copy or
25 reproduction of a document that includes a social security number if the
26 social security number was included on the original document before
27 January 1, 2005.

28 B. Notwithstanding subsection A, a person or entity that before
29 January 1, 2005 used an individual's social security number in a manner
30 inconsistent with subsection A may continue using that individual's social
31 security number in that manner on and after January 1, 2005 subject to the
32 following conditions:

33 1. The use of the social security number must be continuous. If the
34 use is stopped for any reason, subsection A applies.

35 2. Beginning in 2005, the person or entity must provide the individual
36 with an annual written disclosure of the individual's right to stop the use
37 of the social security number in a manner prohibited by subsection A.

38 3. If the individual requests in writing, the person or entity must
39 stop using the social security number in a manner prohibited by subsection A
40 within thirty days after receiving the request. No fee or charge is allowed
41 for implementing the request, and the person or entity shall not deny
42 services to the individual because of the request.

43 C. This section does not prohibit the collection, use or release of a
44 social security number as required by the laws of this state or the United
45 States or for internal verification or administrative purposes.

1 D. Beginning on January 1, 2005, this state or any political
2 subdivision of this state shall not use an individual's social security
3 number on state issued or political subdivision issued forms of
4 identification.

5 E. This section does not prohibit an agency of this state or a
6 political subdivision of this state from disseminating or using the last four
7 numbers of an individual's social security number.

8 F. A government agency shall not transmit to an individual material
9 that contains both an individual's social security number and bank, savings
10 and loan association or credit union account number. This subsection does
11 not prohibit the transmitting of documents that include social security and
12 bank, savings and loan association or credit union account numbers as a part
13 of an application or enrollment process or to establish, amend or terminate
14 an account, contract or policy or to confirm the accuracy of the social
15 security, bank, savings and loan association or credit union account number.

16 G. Except as otherwise provided by law, documents or records that are
17 recorded and made available on the recording entity's public web site after
18 the effective date of this amendment to this section shall not contain ~~more
19 than five numbers that are reasonably identifiable as being part of an
20 individual's social security number and shall not contain~~ an individual's:

- 21 1. Credit card, charge card or debit card numbers.
- 22 2. Retirement account numbers.
- 23 3. Savings, checking or securities entitlement account numbers.

24 H. Only the attorney general or a county attorney, or both, may
25 commence a legal action for a violation of this section.

26 I. A person or entity is subject to a civil penalty of up to five
27 hundred dollars for each act of recording that violates subsection G. The
28 civil penalty shall not apply to a person or entity that transmits the
29 document for recording but has no authority for the creation of the document.

30 J. A county agency is not subject to civil liability for any action
31 relating to information recorded pursuant to subsection G.

32 K. For the purposes of this section, "individual" means a resident of
33 this state.