

COMMITTEE ON FINANCE
SENATE AMENDMENTS TO H.B. 2363
(Reference to House engrossed bill)

1 Page 1, line 6, strike "A government lessor shall levy and" insert "THERE IS LEVIED
2 AND THE COUNTY TREASURER SHALL"

3 Line 7, strike the second "the" insert "EACH"

4 Line 11, strike "The government lessor levies and collects a commercial" insert
5 "THE IMPROVEMENT IS SUBJECT TO THE"

6 Strike lines 17 through 19, insert:

7 "1. RECORD A MEMORANDUM OF LEASE IN THE OFFICE OF THE COUNTY RECORDER
8 IN THE COUNTY IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED. THE
9 MEMORANDUM OF LEASE MUST INCLUDE THE BASIC LEASE TERMS, INCLUDING THE NAMES
10 OF THE PARTIES, THE LEASED PROPERTY, THE LEASE TERM, INCLUDING THE BEGINNING
11 AND ENDING DATES, AND ANY OPTIONS TO RENEW THE LEASE OR TO PURCHASE ANY OF
12 THE GOVERNMENT PROPERTY IMPROVEMENT OR GOVERNMENT OWNED LAND."

13 Line 20, strike "ABSTRACT" insert "MEMORANDUM OF LEASE"

14 Line 23, after "COUNTY" insert "CITY AND TOWN"

15 After line 28, insert:

16 Sec. 2. Section 42-6203, Arizona Revised Statutes, is amended to read:
17 42-6203. Rates of tax

18 A. Except as otherwise provided in this section, IF A LEASE OF A
19 GOVERNMENT PROPERTY IMPROVEMENT WAS ENTERED INTO BEFORE OCTOBER 1, 2009, OR
20 IF A DEVELOPMENT AGREEMENT ENTERED INTO BEFORE OCTOBER 1, 2009 PROVIDES FOR
21 THE GOVERNMENT LESSOR TO ENTER INTO A LEASE OF A GOVERNMENT PROPERTY
22 IMPROVEMENT ON THE OCCURRENCE OF SPECIFIED CONDITIONS AND THE LEASE IS
23 ENTERED INTO FROM AND AFTER SEPTEMBER 30, 2009:

24 1. The tax authorized by this article shall be levied and collected at
25 the following rates:

1 ~~1.~~ (a) One dollar per square foot of gross building space for office
2 buildings with one floor above ground.

3 ~~2.~~ (b) One dollar twenty-five cents per square foot of gross building
4 space for office buildings with more than one but fewer than eight floors
5 above ground.

6 ~~3.~~ (c) One dollar seventy-five cents per square foot of gross
7 building space for office buildings with eight floors or more above ground.

8 ~~4.~~ (d) One dollar fifty cents per square foot of retail building
9 space, including space that is devoted to the sale of tangible personal
10 property, restaurants, health clubs, hair salons, dry cleaners, travel
11 agencies and other retail services.

12 ~~5.~~ (e) One dollar fifty cents per square foot of hotel or motel
13 building space.

14 ~~6.~~ (f) Seventy-five cents per square foot of warehouse or industrial
15 building space.

16 ~~7.~~ (g) Fifty cents per square foot of residential rental building
17 space.

18 ~~8.~~ (h) One hundred dollars per parking space located in a parking
19 garage or deck.

20 ~~9.~~ (i) One dollar per square foot of all other government property
21 improvements not included in ~~paragraphs 1 through 8~~ SUBDIVISIONS (a) THROUGH
22 (h) of this ~~subsection~~ PARAGRAPH.

23 ~~B.~~ 2. The tax rate for government property improvements for which the
24 original certificate of occupancy was issued:

25 ~~1.~~ (a) At least ten years but less than twenty years before the date
26 the tax is due is eighty per cent of the rate provided in ~~subsection A~~
27 PARAGRAPH 1 of this ~~section~~ SUBSECTION.

28 ~~2.~~ (b) At least twenty years but less than thirty years before the
29 date the tax is due is sixty per cent of the rate provided in ~~subsection A~~
30 PARAGRAPH 1 of this ~~section~~ SUBSECTION.

1 ~~3.~~ (c) At least thirty but less than forty years before the date the
2 tax is due is forty per cent of the rate provided in ~~subsection A~~ PARAGRAPH 1
3 of this ~~section~~ SUBSECTION.

4 ~~4.~~ (d) At least forty but less than fifty years before the date the
5 tax is due is twenty per cent of the rate provided in ~~subsection A~~ PARAGRAPH
6 1 of this ~~section~~ SUBSECTION.

7 ~~5.~~ (e) Fifty or more years before the date the tax is due is zero.

8 ~~6.~~ 3. If no certificate of occupancy can be located, dated aerial
9 photographs or other evidence of substantial completion may be used to
10 determine the age of the building for purposes of ~~subsection B~~ PARAGRAPH 2 of
11 this ~~section~~ SUBSECTION.

12 B. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF A LEASE OF A
13 GOVERNMENT PROPERTY IMPROVEMENT WAS ENTERED INTO FROM AND AFTER SEPTEMBER 30,
14 2009 OR IS NOT THE SUBJECT OF A DEVELOPMENT AGREEMENT ENTERED INTO BEFORE
15 OCTOBER 1, 2009:

16 1. THE TAX AUTHORIZED BY THIS ARTICLE SHALL BE LEVIED AND COLLECTED AT
17 THE FOLLOWING BASE RATES, WHICH APPLY THROUGH DECEMBER 31, 2010, SUBJECT TO
18 ANNUAL ADJUSTMENT PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION:

19 (a) TWO DOLLARS SIXTY CENTS PER SQUARE FOOT OF GROSS BUILDING SPACE
20 FOR OFFICE BUILDINGS WITH ONE FLOOR ABOVE GROUND.

21 (b) TWO DOLLARS THIRTY CENTS PER SQUARE FOOT OF GROSS BUILDING SPACE
22 FOR OFFICE BUILDINGS WITH MORE THAN ONE BUT FEWER THAN EIGHT FLOORS ABOVE
23 GROUND.

24 (c) THREE DOLLARS TWENTY CENTS PER SQUARE FOOT OF GROSS BUILDING SPACE
25 FOR OFFICE BUILDINGS WITH EIGHT FLOORS OR MORE ABOVE GROUND.

26 (d) TWO DOLLARS SIXTY CENTS PER SQUARE FOOT OF RETAIL BUILDING SPACE,
27 INCLUDING SPACE THAT IS DEVOTED TO THE SALE OF TANGIBLE PERSONAL PROPERTY,
28 RESTAURANTS, HEALTH CLUBS, HAIR SALONS, DRY CLEANERS, TRAVEL AGENCIES AND
29 OTHER RETAIL SERVICES.

30 (e) TWO DOLLARS PER SQUARE FOOT OF HOTEL OR MOTEL BUILDING SPACE.

31 (f) ONE DOLLAR SIXTY-FIVE CENTS PER SQUARE FOOT OF WAREHOUSE OR
32 INDUSTRIAL BUILDING SPACE.

1 (g) SIXTY CENTS PER SQUARE FOOT OF RESIDENTIAL RENTAL BUILDING SPACE.

2 (h) ONE HUNDRED SEVENTY-FIVE DOLLARS SEVENTY-FIVE CENTS PER PARKING
3 SPACE LOCATED IN A PARKING GARAGE OR DECK.

4 (i) TWO DOLLARS SIXTY CENTS PER SQUARE FOOT OF ALL OTHER GOVERNMENT
5 PROPERTY IMPROVEMENTS NOT INCLUDED IN SUBDIVISIONS (a) THROUGH (h) OF THIS
6 PARAGRAPH.

7 2. ON OR BEFORE DECEMBER 1, 2010 AND DECEMBER 1 OF EACH YEAR
8 THEREAFTER, FOR ALL GOVERNMENT PROPERTY LEASES THAT ARE SUBJECT TO THIS
9 SUBSECTION THE DEPARTMENT OF REVENUE SHALL ADJUST THE TAX RATES THAT APPLY
10 FOR THE PURPOSES OF THIS SUBSECTION IN THE FOLLOWING CALENDAR YEAR FOR EACH
11 PROPERTY USE ACCORDING TO THE AVERAGE ANNUAL POSITIVE OR NEGATIVE PERCENTAGE
12 CHANGE FOR THE TWO MOST RECENT FISCAL YEARS IN THE PRODUCER PRICE INDEX FOR
13 NEW CONSTRUCTION OR ITS SUCCESSOR INDEX PUBLISHED BY THE UNITED STATES BUREAU
14 OF LABOR STATISTICS. ON OR BEFORE DECEMBER 15 OF EACH YEAR, THE DEPARTMENT
15 SHALL POST THE ADJUSTED RATES FOR THE FOLLOWING CALENDAR YEAR ON ITS OFFICIAL
16 WEBSITE AND TRANSMIT THE ADJUSTED RATES TO EACH COUNTY TREASURER.

17 ~~D.~~ C. The tax rate for a government property improvement that was
18 constructed pursuant to a lease or development agreement entered into from
19 and after June 30, 1996 and that is located outside a slum or blighted area
20 established pursuant to title 36, chapter 12, article 3 is one and one-half
21 times the rate established by subsections A and B of this section.

22 ~~E.~~ D. Within the first twenty years after the issuance of the
23 original certificate of occupancy, the tax rate on the use or occupancy of a
24 government property improvement is twenty per cent of the rate established in
25 subsections A ~~and B~~ of this section for any of the following:

26 1. Government property improvements that are subject to leases or
27 agreements that were entered into before April 1, 1985, and options and
28 rights contained in the leases or agreements.

29 2. Government property improvements that are subject to leases entered
30 into based on a redevelopment contract, as defined in section 36-1471,
31 entered into before April 1, 1985.

1 3. Government property improvements that are subject to leases entered
2 into based on an agreement for a redevelopment project for which federal
3 grant monies have been received and that was entered into before April 1,
4 1985.

5 4. Government property improvements that are located at an airport
6 that was owned on or before January 1, 1988 by a county having a population
7 of four hundred thousand persons or less or by a city or town that is located
8 in a county having a population of four hundred thousand persons or less if
9 the property is used primarily for manufacturing, retail, distribution,
10 research or commercial purposes. ~~It~~ FOR THE PURPOSES OF this paragraph,
11 "commercial" includes facilities for office, recreational, hotel, motel and
12 service uses.

13 ~~F.~~ E. Within the first ten years after the issuance of the
14 certificate of occupancy, the tax rate on the use or occupancy of a
15 government property improvement that is located in a slum or blighted area
16 established pursuant to title 36, chapter 12, article 3, resulted or will
17 result in an increase in property value of at least one hundred per cent and
18 is not eligible for abatement pursuant to section 42-6209 is eighty per cent
19 of the rate established in subsections A and B of this section. AFTER TEN
20 YEARS AFTER THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY, THE TAX RATE IS THE
21 FULL RATE ESTABLISHED IN SUBSECTION A OR B OF THIS SECTION.

22 ~~G.~~ F. The tax rate to be applied under subsection A OR B of this
23 section shall be determined by the predominant use to which the government
24 property improvement is devoted, except that in all cases the tax rate
25 prescribed by subsection A, paragraph ~~8- 1~~, SUBDIVISION (h) OR SUBSECTION B,
26 PARAGRAPH 1, SUBDIVISION (h) of this section shall be applied to any parking
27 garage or deck. If there is no single predominant use, the tax shall be
28 determined by applying the appropriate tax rate to the building space devoted
29 to each use identified in that subsection. For the purposes of this
30 subsection WITH RESPECT TO LEASES THAT WERE ENTERED INTO BEFORE OCTOBER 1,
31 2009 OR IF A DEVELOPMENT AGREEMENT ENTERED INTO BEFORE OCTOBER 1, 2009
32 PROVIDES FOR THE GOVERNMENT LESSOR TO ENTER INTO A LEASE OF A GOVERNMENT

1 PROPERTY IMPROVEMENT ON THE OCCURRENCE OF SPECIFIED CONDITIONS AND THE LEASE
2 IS ENTERED INTO FROM AND AFTER SEPTEMBER 30, 2009, the functional area of a
3 government property improvement does not include subsidiary, auxiliary or
4 servient areas such as lobbies, stairwells, mechanical rooms and meeting and
5 banquet rooms. For THE purposes of this subsection, "predominant use" means
6 the use to which eighty-five per cent or more of the functional area of a
7 government property improvement is devoted.

8 ~~H.~~ G. Prime lessees of government property improvements who become
9 taxable or whose taxable status terminates during the calendar year in which
10 the taxes are due, including prime lessees subject to exemption or abatement
11 under sections 42-6208 and 42-6209, shall pay tax for that calendar year on a
12 pro rata basis.

13 Sec. 3. Section 42-6204, Arizona Revised Statutes, is amended to read:

14 42-6204. Payment; return; interest; penalty

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

16 1. Due and payable TO THE COUNTY TREASURER annually on or before
17 December 1.

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

19 B. The prime lessee, if subject to the tax or qualified for an
20 abatement under this article, shall submit a return to the ~~government lessor~~
21 COUNTY TREASURER on a RETURN form prescribed by the ~~government lessor~~
22 DEPARTMENT OF REVENUE. If the prime lessee is exempt from the tax pursuant
23 to section 42-6208, the prime lessee shall keep and maintain the information
24 required in this subsection. The return form shall be made available by the
25 ~~government lessor~~ COUNTY TREASURER at least sixty days before the taxes are
26 due and payable and shall include:

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

28 2. The location of the government property improvement.

29 3. The amount of gross building space or number of parking garage or
30 deck spaces. The prime lessee may submit an initial statement of gross
31 building space that is certified by a person who is professionally
32 credentialed in this state as an architect, general contractor, surveyor or

1 appraiser and thereafter shall file an annual statement with the return,
2 under penalty of perjury, that the gross building space is unchanged from the
3 amount previously certified.

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

5 5. The use or uses of the property.

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

9 7. Any other pertinent information that ~~the government lessor may~~
10 ~~require~~ IS REQUIRED BY THE RETURN FORM.

11 C. If any part of the tax is not paid before it becomes delinquent,
12 interest accrues on the unpaid amount at the rate and in the manner
13 prescribed by section 42-1123 until it is paid. Interest on overpayments
14 accrues at the rate and in the manner prescribed by section 42-1123 until the
15 refund is paid BY THE COUNTY TREASURER.

16 D. The ~~government lessor~~ COUNTY TREASURER shall assess and collect a
17 penalty of five per cent of any part of the tax that is not paid before it
18 becomes delinquent.

19 E. The ~~government lessor~~ COUNTY TREASURER shall issue a receipt to the
20 prime lessee for payments under this article.

21 F. ON OR BEFORE FEBRUARY 15 OF EACH YEAR, THE COUNTY TREASURER SHALL
22 SUBMIT A REPORT TO THE DEPARTMENT OF REVENUE AND THE JOINT LEGISLATIVE BUDGET
23 COMMITTEE OF ALL RETURNS AND PAYMENTS RECEIVED FOR THE PRECEDING CALENDAR
24 YEAR UNDER THIS SECTION. THE REPORT SHALL BE IN A FORM AND CONTAIN DATA
25 PRESCRIBED BY THE DEPARTMENT OF REVENUE.

26 ~~F.~~ G. The ~~government lessor shall be~~ COUNTY TREASURER IS entitled to
27 rely upon any information contained in any abatement certification described
28 in subsection B, paragraph 6 of this section unless the ~~government lessor~~
29 COUNTY TREASURER has actual knowledge that the certification is inaccurate.

30 Sec. 4. Section 42-6205, Arizona Revised Statutes, is amended to read:

31 42-6205. Disposition of revenue

1 1. June 30, 1996, INCLUDING A LEASE THAT IS THE SUBJECT OF A
2 DEVELOPMENT AGREEMENT ENTERED INTO BEFORE OCTOBER 1, 2009, shall include:

3 ~~1.~~ (a) A notice of the tax liability under this article.

4 ~~2.~~ (b) A provision that failure by the prime lessee to pay the tax
5 after notice and an opportunity to cure is an event of default that could
6 result in divesting the prime lessee of any interest in or right of occupancy
7 of the government property improvement.

8 2. DECEMBER 31, 2009, EXCEPT A LEASE THAT IS THE SUBJECT OF A
9 DEVELOPMENT AGREEMENT ENTERED INTO BEFORE OCTOBER 1, 2009:

10 (a) SHALL NOT BE APPROVED UNLESS THE GOVERNMENT LESSOR:

11 (i) NOTIFIES THE GOVERNING BODIES OF THE COUNTY AND ANY CITY, TOWN AND
12 SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED AT
13 LEAST SIXTY DAYS BEFORE THE APPROVAL. THE NOTICE MUST INCLUDE THE NAME AND
14 ADDRESS OF THE INTENDED PRIME LESSEE, THE LOCATION AND PROPOSED USE OF THE
15 GOVERNMENT PROPERTY IMPROVEMENT AND THE PROPOSED TERM OF THE LEASE OR
16 DEVELOPMENT AGREEMENT.

17 (ii) DETERMINES THAT, WITHIN THE TERM OF THE LEASE OR DEVELOPMENT
18 AGREEMENT, THE ECONOMIC AND FISCAL BENEFIT TO THIS STATE AND THE COUNTY, CITY
19 OR TOWN IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED WILL EXCEED
20 THE BENEFITS RECEIVED BY THE PRIME LESSEE AS A RESULT OF THE DEVELOPMENT
21 AGREEMENT OR LEASE ON THE BASIS OF AN ESTIMATE OF THOSE BENEFITS PREPARED BY
22 AN INDEPENDENT THIRD PARTY IN A MANNER AND METHOD ACCEPTABLE TO THE GOVERNING
23 BODY OF THE GOVERNMENT LESSOR. THE ESTIMATE MUST BE PROVIDED TO THE
24 GOVERNMENT LESSOR AND THE GOVERNING BODIES OF THE COUNTY AND ANY CITY, TOWN
25 AND SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED
26 AT LEAST THIRTY DAYS BEFORE THE VOTE OF THE GOVERNING BODY. A LEASE OR
27 DEVELOPMENT AGREEMENT BETWEEN A PRIME LESSEE AND A GOVERNMENT LESSOR
28 INVOLVING RESIDENTIAL RENTAL HOUSING IS EXEMPT FROM THE ECONOMIC ESTIMATE
29 ANALYSIS REQUIREMENTS OF THIS ITEM.

30 (b) MUST BE APPROVED BY A SIMPLE MAJORITY VOTE OF THE GOVERNING BODY
31 WITHOUT THE USE OF A CONSENT CALENDAR.

32 Sec. 6. Section 42-6208, Arizona Revised Statutes, is amended to read:

1 42-6208. Exempt government property improvements

2 The tax under this article does not, AND THE PROVISIONS OF SECTION
3 42-6209, SUBSECTION C DO NOT, apply with respect to:

4 1. Property that is used for a governmental activity.

5 2. Property that is used for public housing.

6 3. Easements and rights-of-way of railroads and gas, electric, water,
7 pipeline and telephone utilities.

8 4. Interests in all or any part of a facility that is owned of record
9 by a government lessor and used primarily for athletic, recreational,
10 entertainment, artistic, cultural or convention activities if the interest is
11 used for those activities or activities directly related and incidental to
12 these uses including concession stands.

13 5. Property that is ~~located on municipal airports and airports that~~
14 ~~operate pursuant to sections 28-8423, 28-8424 and 28-8425, if the property is~~
15 used for or in connection with aviation, including hangars, tie-downs,
16 aircraft maintenance, sale of aviation related items, charter and rental
17 activities, commercial aircraft terminal franchises, RENTAL CAR OPERATIONS,
18 parking facilities and restaurants, stores and other services that are
19 located in a terminal.

20 6. The use by a commercial airline of the runways and terminal
21 facilities of state, city, town or county airports and public airports
22 operating pursuant to sections 28-8423, 28-8424 and 28-8425.

23 7. Leases of property or interests in a transportation facility that
24 is constructed or operated pursuant to title 28, chapter 22, article 1 or 2.

25 8. Interests in property held in trust for an Indian or an Indian
26 tribe by the United States government.

27 9. Interests in property that is defined as "contractor-acquired
28 property" or "government-furnished property" in the federal acquisition
29 regulations (48 Code of Federal Regulations section 45.101) and that is owned
30 by the government and used to perform a government contract.

31 10. Property of a corporation that is organized by or at the direction
32 of a county, city or town to develop, construct, improve, repair, replace or

1 own any property, improvement, building or other facility to be used for
2 public purposes that the county, city or town pledges to lease or
3 lease-purchase with county or municipal special or general revenues.

4 11. Interests in property used by a chamber of commerce recognized
5 under section 501(c)(6) of the United States internal revenue code if the
6 property is used predominately for those federal tax exempt purposes.

7 12. Interests in property used by organizations that are exempt from
8 taxation under section 501(c)(3) of the internal revenue code.

9 13. Interests in parking garages or decks if the parking garages or
10 decks are owned and operated by a government lessor or operated on behalf of
11 a government lessor, by an entity other than the prime lessee, pursuant to a
12 management agreement with the government lessor.

13 14. Residential rentals if the prime lessee is the occupant.

14 Sec. 7. Section 42-6209, Arizona Revised Statutes, is amended to read:

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

17 A. A government lessor ~~shall~~ MAY abate the tax provided for under this
18 article for a limited period beginning when the certificate of occupancy is
19 issued and ending eight years after the certificate of occupancy is issued on
20 a government property improvement that is constructed either before or after
21 July 20, 1996 and that meets the following requirements:

22 1. The improvement is located in a ~~single~~ central business district in
23 a slum or blighted area that is established BY A CITY OR TOWN pursuant to
24 title 36, chapter 12, article 3 and is subject to a lease or development
25 agreement entered into on or after April 1, 1985. FOR THE PURPOSES OF THIS
26 PARAGRAPH:

27 (a) A CITY OR TOWN SHALL NOT DESIGNATE MORE THAN ONE CENTRAL BUSINESS
28 DISTRICT WITHIN ITS CORPORATE BOUNDARIES.

29 (b) A CITY OR TOWN SHALL NOT APPROVE OR ENTER INTO A DEVELOPMENT
30 AGREEMENT PROVIDING FOR A LEASE FOR A GOVERNMENT PROPERTY IMPROVEMENT OR A
31 LEASE FOR A GOVERNMENT PROPERTY IMPROVEMENT WITHIN ONE YEAR AFTER THE

1 DESIGNATION OF THE CENTRAL BUSINESS DISTRICT IN WHICH THE IMPROVEMENT IS
2 LOCATED.

3 (c) "CENTRAL BUSINESS DISTRICT" MEANS A GEOGRAPHICALLY CONTIGUOUS AND
4 COMPACT AREA DESIGNATED BY RESOLUTION OF THE GOVERNING BODY OF THE CITY OR
5 TOWN THAT IS NO LARGER THAN THE GREATER OF FIVE PER CENT OF THE TOTAL LAND
6 AREA WITHIN THE EXTERIOR BOUNDARIES OF THE CITY OR TOWN OR TWO THOUSAND
7 ACRES.

8 2. The government property improvement resulted or will result in an
9 increase in property value of at least one hundred per cent.

10 B. ~~Unless waived by the government lessor,~~ The prime lessee shall
11 NOTIFY THE COUNTY TREASURER AND THE GOVERNMENT LESSOR AND apply for the
12 abatement before the taxes under this article are due and payable in the
13 first year after the certificate of occupancy is issued. ~~The prime lessee~~
14 ~~shall notify the government lessor if the government property improvement no~~
15 ~~longer qualifies for abatement under this section.~~

16 C. A GOVERNMENT LESSOR SHALL NOT ABATE THE TAX FOR MORE THAN ONE
17 EIGHT-YEAR TERM ON ALL OR PART OF THE SAME GOVERNMENT PROPERTY IMPROVEMENT.

18 D. IF A PRIME LESSEE TRANSFERS OR CONVEYS THE LEASE TO ANOTHER PRIME
19 LESSEE, OR CHANGES THE USE OF THE GOVERNMENT PROPERTY IMPROVEMENT, WHILE TAX
20 IS ABATED UNDER THIS SECTION, THE TAX ABATEMENT CONTINUES ONLY FOR THE
21 ORIGINAL ABATEMENT PERIOD ESTABLISHED PURSUANT TO SUBSECTION A OF THIS
22 SECTION.

23 E. EXCEPT AS PROVIDED BY SUBSECTION F, EACH LEASE BETWEEN A PRIME
24 LESSEE AND A GOVERNMENT LESSOR FOR WHICH THE TAX IS ABATED UNDER THIS SECTION
25 AND THAT IS ENTERED INTO FROM AND AFTER SEPTEMBER 30, 2009, OR THAT IS NOT
26 THE SUBJECT OF A DEVELOPMENT AGREEMENT ENTERED INTO BEFORE OCTOBER 1, 2009,
27 MUST BE APPROVED BY A SIMPLE MAJORITY VOTE OF THE GOVERNING BODY WITHOUT THE
28 USE OF A CONSENT CALENDAR AND SHALL NOT BE APPROVED UNLESS:

29 1. THE GOVERNMENT LESSOR NOTIFIES THE GOVERNING BODIES OF THE COUNTY
30 AND ANY CITY, TOWN AND SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY
31 IMPROVEMENT IS LOCATED AT LEAST SIXTY DAYS BEFORE THE APPROVAL. THE NOTICE
32 MUST INCLUDE THE NAME AND ADDRESS OF THE INTENDED PRIME LESSEE, THE LOCATION

1 AND PROPOSED USE OF THE GOVERNMENT PROPERTY IMPROVEMENT AND THE PROPOSED TERM
2 OF THE LEASE OR DEVELOPMENT AGREEMENT.

3 2. THE GOVERNMENT LESSOR DETERMINES THAT, WITHIN THE TERM OF THE LEASE
4 OR DEVELOPMENT AGREEMENT, THE ECONOMIC AND FISCAL BENEFIT TO THIS STATE AND
5 THE COUNTY, CITY OR TOWN IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS
6 LOCATED WILL EXCEED THE BENEFITS RECEIVED BY THE PRIME LESSEE AS A RESULT OF
7 THE DEVELOPMENT AGREEMENT OR LEASE ON THE BASIS OF AN ESTIMATE OF THOSE
8 BENEFITS PREPARED BY AN INDEPENDENT THIRD PARTY IN A MANNER AND METHOD
9 ACCEPTABLE TO THE GOVERNING BODY OF THE GOVERNMENT LESSOR. THE ESTIMATE MUST
10 BE PROVIDED TO THE GOVERNMENT LESSOR AND THE GOVERNING BODIES OF THE COUNTY
11 AND ANY CITY, TOWN AND SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY
12 IMPROVEMENT IS LOCATED AT LEAST THIRTY DAYS BEFORE THE VOTE OF THE GOVERNING
13 BODY. A LEASE OR DEVELOPMENT AGREEMENT BETWEEN A PRIME LESSEE AND A
14 GOVERNMENT LESSOR INVOLVING RESIDENTIAL RENTAL HOUSING IS EXEMPT FROM THE
15 ECONOMIC ESTIMATE ANALYSIS REQUIREMENTS OF THIS PARAGRAPH.

16 3. THE TERM OF THE LEASE DOES NOT EXCEED THREE HUNDRED TWELVE MONTHS,
17 REGARDLESS OF WHETHER THE LEASE IS TRANSFERRED OR CONVEYED TO SUBSEQUENT
18 PRIME LESSEES DURING THAT PERIOD. ON THE EXPIRATION DATE OF THE LEASE THE
19 GOVERNMENT LESSOR MUST CONVEY TITLE TO THE GOVERNMENT PROPERTY IMPROVEMENT
20 AND UNDERLYING LAND TO THE CURRENT PRIME LESSEE.

21 4. THE LEASE OR DEVELOPMENT AGREEMENT PROVIDES THAT THE GOVERNMENT
22 LESSOR MAY NOT APPROVE AN AMENDMENT TO CHANGE THE USE OF THE GOVERNMENT
23 PROPERTY IMPROVEMENT DURING THE PERIOD OF ABATEMENT UNLESS:

24 (a) THE GOVERNMENT LESSOR NOTIFIES THE GOVERNING BODIES OF THE COUNTY
25 AND ANY CITY, TOWN AND SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY
26 IMPROVEMENT IS LOCATED AT LEAST SIXTY DAYS BEFORE THE APPROVAL. THE NOTICE
27 MUST INCLUDE THE NAME AND ADDRESS OF THE PRIME LESSEE, THE LOCATION AND
28 PROPOSED USE OF THE GOVERNMENT PROPERTY IMPROVEMENT AND THE REMAINING TERM OF
29 THE LEASE OR DEVELOPMENT AGREEMENT.

1 (b) THE GOVERNMENT LESSOR DETERMINES THAT, WITHIN THE REMAINING TERM
2 OF THE LEASE OR DEVELOPMENT AGREEMENT, THE ECONOMIC AND FISCAL BENEFIT TO
3 THIS STATE AND THE COUNTY, CITY OR TOWN IN WHICH THE GOVERNMENT PROPERTY
4 IMPROVEMENT IS LOCATED WILL EXCEED THE BENEFITS RECEIVED BY THE PRIME LESSEE
5 AS A RESULT OF THE CHANGE IN THE LEASE OR DEVELOPMENT AGREEMENT ON THE BASIS
6 OF AN ESTIMATE OF THOSE BENEFITS PREPARED BY AN INDEPENDENT THIRD PARTY IN A
7 MANNER AND METHOD ACCEPTABLE TO THE GOVERNING BODY OF THE GOVERNMENT
8 LESSOR. THE ESTIMATE MUST BE PROVIDED TO THE GOVERNMENT LESSOR AND THE
9 GOVERNING BODIES OF THE COUNTY AND ANY CITY, TOWN AND SCHOOL DISTRICT IN
10 WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED AT LEAST THIRTY DAYS
11 BEFORE THE VOTE OF THE GOVERNING BODY. A CHANGE IN USE UNDER A LEASE OR
12 DEVELOPMENT AGREEMENT BETWEEN A PRIME LESSEE AND A GOVERNMENT LESSOR TO
13 RESIDENTIAL RENTAL HOUSING IS EXEMPT FROM THE ECONOMIC ESTIMATE ANALYSIS
14 REQUIREMENTS OF THIS SUBDIVISION.

15 F. SUBSECTION E DOES NOT APPLY IN CASES WHERE:

16 1. THE TAX IS NOT ABATED UNDER THIS SECTION.

17 2. THE GOVERNMENT LESSOR IS ACTING AS A COMMERCIAL LANDLORD WITHOUT A
18 DEVELOPMENT AGREEMENT IN A LEASE FOR A USE ANCILLARY TO A GOVERNMENT PROPERTY
19 IMPROVEMENT USED FOR A PUBLIC PURPOSE.

20 Sec. 8. Section 42-6210, Arizona Revised Statutes, is amended to read:
21 42-6210. Park property lease excise tax

22 A. A county shall levy and collect an annual excise tax on each prime
23 lessee of a lease with the national park service of the United States
24 department of the interior of a property improvement located in the county.

25 B. The tax prescribed by this section shall be assessed, collected and
26 distributed in the same manner as prescribed in this article for the
27 government property lease excise tax, except that:

28 1. Section 42-6206 does not apply to a lease with the national park
29 service.

30 2. The tax rate shall not be less than twenty per cent of the tax rate
31 prescribed in section 42-6203, subsection A OR B, AS APPLICABLE.

1 4. The statutory rates of tax in producing the expected revenues.

2 5. The tax revenue generated from new economic activity conducted in
3 government property improvements compared with the loss of ad valorem
4 property tax revenues from tax-exempt government property improvements.

5 6. The success of tax abatement under section 42-6209, Arizona Revised
6 Statutes, as amended by this act, in promoting redevelopment in slum and
7 blighted areas.

8 7. Issues relating to government property improvements that are exempt
9 from the tax.

10 8. Any other issues relating to abuse or noncompliance with the
11 requirements of the law.

12 9. Other recommendations for achieving the goals described in this
13 subsection.

14 B. County treasurers and the department of revenue shall cooperate
15 with and assist the auditor general in compiling data and other information
16 necessary for the purposes of the audit.

17 C. The auditor general shall provide copies of the audit report to:

18 1. The governor, the president of the senate and the speaker of the
19 house of representatives.

20 2. The chairpersons of the house of representatives ways and means
21 committee and the senate finance committee.

22 3. The secretary of state and the Arizona state library, archives and
23 public records.

24 4. Any other person who requests a copy of the report.

25 D. After the audit is completed, each county treasurer shall pay the
26 cost of the audit prescribed by this section before making any distribution
27 prescribed by section 42-6205. The payment shall be made within thirty days
28 after receiving the amount billed from the auditor general. If the monthly
29 tax collections are less than the amount billed, the county treasurer shall
30 continue in succeeding months to first pay the balance due the auditor
31 general, before making any other distribution, until the full amount is

Senate Amendments to H.B. 2363

- 1 paid. County treasurers are entitled to credit with each taxing jurisdiction
- 2 for amounts paid under this subsection."
- 3 Amend title to conform

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