REFERENCE TITLE: homeowners' rebate affidavit

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

# HB 2486

Introduced by
Representative Court

AN ACT

AMENDING SECTIONS 42-12052 AND 42-15103, ARIZONA REVISED STATUTES; RELATING TO RESIDENTIAL PROPERTY TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 42-12052, Arizona Revised Statutes, is amended to read:

42-12052. Review and verification of class three property; civil penalty; appeals

A. Each county assessor shall review assessment information, on a continuing basis, to ensure proper classification of residential dwellings. The assessor may enter into intergovernmental agreements with the department for an exchange of information to ensure a coordinated and comprehensive review and identification of property that may be rented while classified as class three pursuant to section 42-12003.

~~B. Beginning in 2012 and each even-numbered year thereafter the county assessor shall include with the notice of full cash value sent to owners of class three property pursuant to section 42-15101 an affidavit, in a form prescribed by the department, on which the owner must declare, under penalty of perjury, whether the property is the owner's primary residence, or leased or rented to a relative of the owner, as provided by section 42-12053, and used as the relative's primary residence, in the current valuation year. The owner must return the completed affidavit form to the county assessor within sixty days. If the owner indicates on the affidavit that the property is not the owner's or relative's primary residence, if the owner indicates on more than one affidavit that more than one parcel is the owner's primary residence, or if the owner fails to return the affidavit timely to the assessor, the assessor shall reclassify the property as class four pursuant to section 42-12004 or in another classification according to the property's use and within fifteen days notify the owner of the reclassification and of the owner's the right to appeal the reclassification. If for any reason an owner believes that reclassification pursuant to this subsection is erroneous, the owner may file a notice of claim with the assessor pursuant to section 42-16254 to resolve the correct classification.~~

~~C.~~ B. If the assessor has reason to believe that a parcel of property that is classified as class three pursuant to section 42-12003 is not used as the owner's primary residence or is being rented, the assessor shall notify the owner, in a form prescribed by the department as provided by subsection D of this section, and request that the owner respond as to whether the property is occupied as the owner's primary residence, is a secondary residence or is used as a rental property. If the owner responds that the property is not the owner's primary residence, or if the owner fails to respond to the assessor within thirty days after the notice is mailed, the assessor shall mail the owner a final notice within thirty days requesting that the owner provide information as to whether or not the property is the owner's primary residence, a secondary residence or used as a rental property. If the owner fails to respond to the assessor within fifteen days after the final notice is mailed, the assessor shall:

1. Reclassify the property as class four. In addition to other appeal procedures provided by law, the owner of the property that is reclassified as class four under this paragraph may appeal the reclassification to the county board of supervisors within thirty days after the notice of classification is mailed. If the owner proves to the board's satisfaction that the property is occupied as the owner's primary residence, the board shall order the property to be reclassified as class three property pursuant to section 42-12003.

2. Notify the county treasurer who shall assess a civil penalty against the property equal to twice the amount of ~~additional state aid paid pursuant to section 15-972 with respect to the property~~ THE PROPERTY TAXES THAT WOULD HAVE BEEN ASSESSED AGAINST THE PROPERTY IF THE PROPERTY HAD BEEN CLASSIFIED AS CLASS FOUR PURSUANT TO SECTION 42-12004 in the preceding tax year. The owner of the property shall pay a penalty under this paragraph to the county treasurer within thirty days after the notice of the penalty is mailed. The owner may appeal the penalty to the county board of supervisors within the time required for payment. If the owner proves to the board's satisfaction that the property is occupied by the owner, the board shall waive the penalty, and the property shall be listed as class three pursuant to section 42-12003. Until paid or waived, the penalty constitutes a lien against the property. The county treasurer shall deposit all revenue received from penalties assessed under this paragraph in the county general fund.

C. BEGINNING IN 2012 AND EVERY FOURTH YEAR THEREAFTER THE COUNTY ASSESSOR SHALL SEND NOTICES UNDER SUBSECTION B OF THIS SECTION TO EACH OWNER OF PROPERTY CLASSIFIED AS CLASS THREE PURSUANT TO SECTION 42-12003 DESCRIBED BY ANY OF THE FOLLOWING:

1. THE OWNER HAS A MAILING ADDRESS OUTSIDE THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

2. THE OWNER HAS THE SAME MAILING ADDRESS LISTED FOR MORE THAN ONE PARCEL OF CLASS THREE PROPERTY IN THIS STATE.

3. THE OWNER APPEARS TO BE A BUSINESS ENTITY.

D. The department shall:

1. Prescribe all forms used to notify property owners under this section. The forms shall contain information as to criteria for the reclassification of property and the civil penalties that may result if the owner fails to respond to the notice.

2. Monitor and review the procedures and practices used by assessors and treasurers to accomplish the verification of class three property and the assessment and collection of penalties prescribed by this section and propose suggested improvements to establish uniform processes and performance among the counties.

E. The department may inspect the records of county assessors and county treasurers to determine compliance with the requirements of this section and the accuracy of the classification of owner-occupied residential property and rental property.

Sec. 2. Section 42-15103, Arizona Revised Statutes, is amended to read:

42-15103. Contents of notice form

The notice form shall:

1. Prominently display a statement~~:~~

~~(a) In even numbered valuation years informing property owners that if the parcel of property is listed on the notice as class three pursuant to section 42-12003, the owner must complete and return the enclosed affidavit to the county assessor declaring whether the property is the owner's residence, or leased or rented to a relative of the owner, as provided by section 42-12053, and used as the relative's primary residence, for the current year. The statement shall include the following text in at least twelve point type:~~

~~If your property qualifies as your primary residence, you may receive a reduction on your property taxes up to $600.~~

~~(b)~~ informing property owners that if a parcel of property IS NOT THE OWNER'S PRIMARY RESIDENCE OR is used as a rental unit and the property is listed on the notice as class three pursuant to section 42-12003, the owner must notify the county assessor of the rental use of the property or be subject to a civil penalty prescribed by section 42-12052.

~~2. Include with each notice for property classified as class three an affidavit form described by section 42-12052, subsection B, with simplified instructions, for the owner to declare whether the property is the owner's primary residence.~~

~~3.~~ 2. Include a form with instructions on the procedure and deadlines for appealing the assessed valuation shown on the notice. The appeal form for property that is listed as class three pursuant to section 42-12003 shall contain simplified instructions and shall be separate from the appeal form for other classes of property.

~~4.~~ 3. Provide in a separate addendum a statement informing owners of property that is used for residential rental purposes that:

(a) The parcel must be listed on the notice as class four, and the owner must register the residential rental property with the county assessor pursuant to section 33-1902 or the owner may be subject to a penalty.

(b) If the owner is required to register the rental property with the county assessor and fails to do so after receipt of this notice, the city or town may impose a civil penalty payable to the city or town in the amount of one hundred fifty dollars per day for each day of violation, and the city or town may impose enhanced inspection and enforcement measures on the property.

(c) If the city or town in which the property is located requires the lessor to pay transaction privilege tax on residential rent, a notice of applicable requirements imposed by the city or town and that failure to pay the applicable tax could result in a penalty or fine by the city or town.

(d) Residential rental properties are required to comply with the landlord tenant law pursuant to title 33, chapters 10 and 11.