

PROPOSITION 312
[HCR 2023 - 2024]

property tax; refund; nuisance; enforcement.

ANALYSIS BY LEGISLATIVE COUNCIL

Legislative Council Staff Draft

1 Beginning in tax year 2025 through tax year 2035, Proposition 312 would allow a
2 property owner to apply for a refund once per tax year of the documented, reasonable expenses
3 incurred to mitigate the effects of a city, town or county:

4 1. Maintaining a public nuisance on the property owner's real property or

5 2. Adopting and following a policy, pattern or practice that declines to enforce existing
6 laws prohibiting illegal camping, obstructing a public thoroughfare, loitering, panhandling,
7 urinating or defecating in public, consuming alcoholic beverages in public or possessing or using
8 illegal substances and the property owner incurs documented expenses to mitigate the effects of
9 the policy, pattern, practice or public nuisance on their real property.

10 Proposition 312 would require a property owner to apply to the Arizona Department of
11 Revenue to initiate the refund process. The property owner would be eligible for a refund from
12 the city or town in which their real property is located or from the county in which their real
13 property is located if the real property is located in the unincorporated area of the county. After
14 receiving the refund application, the department would notify the appropriate city, town or
15 county, which would accept or reject the refund. If the refund is accepted or unacknowledged for
16 at least 30 days, the department would pay the refund. If the refund is rejected, the property
17 owner would be eligible to file a cause of action for a court to determine whether the property
18 owner is entitled to the refund and whether the amount of the refund is reasonable.

19 Proposition 312 would set the refund amount as the documented, reasonable expenses
20 that the property owner incurred to mitigate the effects of the policy, pattern or practice or the
21 public nuisance on their real property. However, if the refund amount is more than the amount
22 the property owner paid in primary property taxes on the real property for the prior tax year, the
23 refund for that tax year would be limited to the amount paid in primary property taxes to the city,
24 town or county, and the property owner must reapply in subsequent tax years to receive the
25 remaining balance of the refund. Additionally, if a public nuisance or policy, pattern or practice
26 remains in place, the property owner would be eligible to apply for another refund in a
27 subsequent tax year, unless the property owner entered into a settlement with the city, town or
28 county.

29 Proposition 312 would require the state treasurer to withhold the refund amount from
30 monies otherwise due to the appropriate city, town or county from transaction privilege tax
31 revenues and credit that amount to the Department of Revenue as reimbursement for the refunds
32 issued.

33 A property owner who receives a refund would waive their rights under the Private
34 Property Rights Protection Act, which prohibits a government from taking private property

1 without just compensation, but the property owner could pursue other remedies provided in
2 Arizona law, the Arizona Constitution or the United States Constitution.

3 Finally, refunds would not apply to case-by-case, published decisions of city, town or
4 county authorities that exercise prosecutorial discretion not to prosecute alleged offenders, acts
5 of executive clemency, acts or omissions taken during a state of emergency or acts or omissions
6 required by federal law.

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