

State of Arizona
House of Representatives
Forty-fourth Legislature
Second Regular Session
2000

CHAPTER 334

HOUSE BILL 2451

AN ACT

AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1089.02; AMENDING SECTION 43-1121, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1179; RELATING TO INDIVIDUAL AND CORPORATE INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 43, chapter 10, article 5, Arizona Revised Statutes,
3 is amended by adding section 43-1089.02, to read:

4 **43-1089.02. Credit for donation of school site**

5 A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE IN THE
6 AMOUNT OF THIRTY PER CENT OF THE VALUE OF REAL PROPERTY AND IMPROVEMENTS
7 DONATED BY THE TAXPAYER TO A SCHOOL DISTRICT OR A CHARTER SCHOOL FOR USE AS A
8 SCHOOL OR AS A SITE FOR THE CONSTRUCTION OF A SCHOOL.

9 B. TO QUALIFY FOR THE CREDIT:

10 1. THE REAL PROPERTY AND IMPROVEMENTS MUST BE LOCATED IN THIS STATE.
11 2. THE REAL PROPERTY AND IMPROVEMENTS MUST BE CONVEYED UNENCUMBERED
12 AND IN FEE SIMPLE, EXCEPT THAT:

13 (a) THE CONVEYANCE MUST INCLUDE AS A DEED RESTRICTION AND PROTECTIVE
14 COVENANT RUNNING WITH TITLE TO THE LAND THE REQUIREMENT THAT AS LONG AS THE
15 DONEE HOLDS TITLE TO THE PROPERTY THE PROPERTY SHALL ONLY BE USED AS A SCHOOL
16 OR AS A SITE FOR THE CONSTRUCTION OF A SCHOOL, SUBJECT TO THE PROVISIONS OF
17 SUBSECTION I OR J OF THIS SECTION.

18 (b) IN THE CASE OF A DONATION TO A CHARTER SCHOOL, THE DONOR SHALL
19 RECORD A LIEN ON THE PROPERTY AS PROVIDED BY SUBSECTION J, PARAGRAPH 3 OF
20 THIS SECTION.

21 3. THE CONVEYANCE SHALL NOT VIOLATE THE PROVISIONS OF SECTION 15-341,
22 SUBSECTION D AND SECTION 15-183, SUBSECTION V.

23 C. FOR PURPOSES OF THIS SECTION, THE VALUE OF THE DONATED PROPERTY IS
24 THE PROPERTY'S FAIR MARKET VALUE AS DETERMINED IN A CERTIFIED APPRAISAL AS
25 DEFINED IN SECTION 32-3601 THAT IS CONDUCTED BY AN INDEPENDENT PARTY AND THAT
26 IS PAID FOR BY THE DONEE.

27 D. IF THE PROPERTY IS DONATED BY CO-OWNERS, INCLUDING PARTNERS IN A
28 PARTNERSHIP AND SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361
29 OF THE INTERNAL REVENUE CODE, EACH DONOR MAY CLAIM ONLY THE PRO RATA SHARE OF
30 THE ALLOWABLE CREDIT UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. IF
31 THE PROPERTY IS DONATED BY A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A
32 TAXABLE YEAR IN WHICH THEY COULD HAVE FILED A JOINT RETURN, THEY MAY
33 DETERMINE BETWEEN THEM THE SHARE OF THE CREDIT EACH WILL CLAIM. THE TOTAL OF
34 THE CREDITS ALLOWED ALL CO-OWNER DONORS MAY NOT EXCEED THE ALLOWABLE CREDIT.

35 E. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER
36 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
37 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE
38 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE
39 YEARS' INCOME TAX LIABILITY.

40 F. THE CREDIT UNDER THIS SECTION IS IN LIEU OF ANY DEDUCTION PURSUANT
41 TO SECTION 170 OF THE INTERNAL REVENUE CODE TAKEN FOR STATE TAX PURPOSES.

42 G. ON WRITTEN REQUEST BY THE DONEE, THE DONOR SHALL DISCLOSE IN
43 WRITING TO THE DONEE THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
44 SECTION WITH RESPECT TO THE PROPERTY RECEIVED BY THE DONEE.

1 H. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY REFUSE THE DONATION OF ANY
2 PROPERTY FOR PURPOSES OF THIS SECTION.

3 I. IF THE DONEE IS A SCHOOL DISTRICT:

4 1. THE DISTRICT SHALL NOTIFY THE SCHOOL FACILITIES BOARD ESTABLISHED
5 BY SECTION 15-2001 AND FURNISH THE BOARD WITH ANY INFORMATION THE BOARD
6 REQUESTS REGARDING THE DONATION. A SCHOOL DISTRICT SHALL NOT ACCEPT A
7 DONATION PURSUANT TO THIS SECTION UNLESS THE SCHOOL FACILITIES BOARD HAS
8 REVIEWED THE PROPOSED DONATION AND HAS ISSUED A WRITTEN DETERMINATION THAT
9 THE REAL PROPERTY AND IMPROVEMENTS ARE SUITABLE AS A SCHOOL SITE OR AS A
10 SCHOOL. THE SCHOOL FACILITIES BOARD SHALL ISSUE A DETERMINATION THAT THE
11 REAL PROPERTY AND IMPROVEMENTS ARE NOT SUITABLE AS A SCHOOL SITE OR AS A
12 SCHOOL IF THE EXPENSES THAT WOULD BE NECESSARY TO MAKE THE PROPERTY SUITABLE
13 AS A SCHOOL SITE OR AS A SCHOOL EXCEED THE VALUE OF THE PROPOSED DONATION.

14 2. THE DISTRICT MAY SELL ANY DONATED PROPERTY PURSUANT TO SECTION
15 15-342, BUT THE PROCEEDS FROM THE SALE SHALL ONLY BE USED FOR CAPITAL
16 PROJECTS. THE SCHOOL FACILITIES BOARD SHALL WITHHOLD AN AMOUNT THAT
17 CORRESPONDS TO THE AMOUNT OF THE PROCEEDS FROM ANY MONIES THAT WOULD
18 OTHERWISE BE DUE THE SCHOOL DISTRICT FROM THE SCHOOL FACILITIES BOARD
19 PURSUANT TO SECTION 15-2041.

20 J. IF THE DONEE IS A CHARTER SCHOOL:

21 1. THE CHARTER SCHOOL SHALL:

22 (a) IMMEDIATELY NOTIFY THE SPONSOR OF THE CHARTER SCHOOL BY CERTIFIED
23 MAIL AND SHALL FURNISH THE SPONSOR WITH ANY INFORMATION REQUESTED BY THE
24 SPONSOR REGARDING THE DONATION DURING THE TEN YEAR PERIOD AFTER THE
25 CONVEYANCE IS RECORDED.

26 (b) NOTIFY THE SPONSOR BY CERTIFIED MAIL, AND THE SPONSOR SHALL NOTIFY
27 THE STATE TREASURER, IN THE EVENT OF THE CHARTER SCHOOL'S FINANCIAL FAILURE
28 OR IF THE CHARTER SCHOOL:

29 (i) FAILS TO ESTABLISH A CHARTER SCHOOL ON THE PROPERTY WITHIN
30 FORTY-EIGHT MONTHS AFTER THE CONVEYANCE IS RECORDED.

31 (ii) FAILS TO PROVIDE INSTRUCTION TO PUPILS ON THE PROPERTY WITHIN
32 FORTY-EIGHT MONTHS AFTER THE CONVEYANCE IS RECORDED.

33 (iii) ESTABLISHES A CHARTER SCHOOL ON THE PROPERTY BUT SUBSEQUENTLY
34 CEASES TO OPERATE THE CHARTER SCHOOL ON THE PROPERTY FOR TWENTY-FOUR
35 CONSECUTIVE MONTHS OR FAILS TO PROVIDE INSTRUCTION TO PUPILS ON THE PROPERTY
36 FOR TWENTY-FOUR CONSECUTIVE MONTHS.

37 2. THE CHARTER SCHOOL, OR A SUCCESSOR IN INTEREST, SHALL PAY TO THE
38 STATE TREASURER THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION, OR IF
39 THAT AMOUNT IS UNKNOWN, THE AMOUNT OF THE ALLOWABLE CREDIT UNDER THIS
40 SECTION, IF ANY OF THE CIRCUMSTANCES LISTED IN PARAGRAPH 1, SUBDIVISION (b)
41 OF THIS SECTION OCCUR. IF THE AMOUNT IS NOT PAID WITHIN ONE YEAR AFTER THE
42 TREASURER RECEIVES NOTICE UNDER PARAGRAPH 1, SUBDIVISION (b) OF THIS
43 SUBSECTION, A PENALTY AND INTEREST SHALL BE ADDED, DETERMINED PURSUANT TO
44 TITLE 42, CHAPTER 1, ARTICLE 3.

1 3. A TAX CREDIT UNDER THIS SECTION CONSTITUTES A LIEN ON THE PROPERTY,
2 WHICH THE DONOR MUST RECORD ALONG WITH THE TITLE TO THE PROPERTY TO QUALIFY
3 FOR THE CREDIT. THE AMOUNT OF THE LIEN IS THE AMOUNT OF THE ALLOWABLE CREDIT
4 UNDER THIS SECTION, ADJUSTED ACCORDING TO THE AVERAGE CHANGE IN THE GDP PRICE
5 DEFLATOR, AS DEFINED IN SECTION 41-563, FOR EACH CALENDAR YEAR SINCE THE
6 DONATION, BUT NOT EXCEEDING TWELVE AND ONE-HALF PER CENT MORE THAN THE
7 ALLOWABLE CREDIT. THE LIEN IS SUBORDINATE TO ANY LIENS SECURING THE
8 FINANCING OF THE SCHOOL CONSTRUCTION. THE LIEN IS EXTINGUISHED ON THE
9 EARLIEST OF THE FOLLOWING:

10 (a) TEN YEARS AFTER THE LIEN IS RECORDED. AFTER THAT DATE, THE
11 CHARTER SCHOOL, OR A SUCCESSOR IN INTEREST, MAY REQUEST THE STATE TREASURER
12 TO RELEASE THE LIEN.

13 (b) ON PAYMENT TO THE STATE TREASURER BY THE DONEE CHARTER SCHOOL, OR
14 BY A SUCCESSOR IN INTEREST, OF THE AMOUNT OF THE ALLOWABLE CREDIT UNDER THIS
15 SECTION, EITHER VOLUNTARILY OR AS REQUIRED BY PARAGRAPH 2 OF THIS SUBSECTION.
16 AFTER THE REQUIRED AMOUNT IS PAID, THE CHARTER SCHOOL OR SUCCESSOR IN
17 INTEREST MAY REQUEST THE STATE TREASURER TO RELEASE THE LIEN.

18 (c) ON CONVEYANCE OF FEE SIMPLE TITLE TO THE PROPERTY TO A SCHOOL
19 DISTRICT.

20 (d) ON ENFORCEMENT AND SATISFACTION OF THE LIEN PURSUANT TO PARAGRAPH
21 4 OF THIS SUBSECTION.

22 4. THE STATE TREASURER SHALL ENFORCE THE LIEN BY FORECLOSURE WITHIN
23 ONE YEAR AFTER RECEIVING NOTICE OF ANY OF THE CIRCUMSTANCES DESCRIBED IN
24 PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION.

25 5. SUBJECT TO PARAGRAPHS 3 AND 4 OF THIS SUBSECTION, THE CHARTER
26 SCHOOL MAY SELL ANY DONATED PROPERTY.

27 Sec. 2. Section 43-1121, Arizona Revised Statutes, is amended to read:

28 43-1121. Additions to Arizona gross income; corporations

29 In computing Arizona taxable income for a corporation, the following
30 amounts shall be added to Arizona gross income:

31 1. The amounts computed pursuant to section 43-1021, paragraphs 4
32 through 10 and 14.

33 2. The amount of dividend income received from corporations and
34 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal
35 revenue code.

36 3. Taxes which are based on income paid to states, local governments
37 or foreign governments and which were deducted in computing federal taxable
38 income.

39 4. Expenses and interest relating to tax-exempt income on indebtedness
40 incurred or continued to purchase or carry obligations the interest on which
41 is wholly exempt from the tax imposed by this title. Financial institutions,
42 as defined in section 6-101, shall be governed by section 43-961,
43 paragraph 2.

44 5. Commissions, rentals and other amounts paid or accrued to a
45 domestic international sales corporation controlled by the payor corporation

1 if the domestic international sales corporation is not required to report its
2 taxable income to this state because its income is not derived from or
3 attributable to sources within this state. If the domestic international
4 sales corporation is subject to article 4 of this chapter, the department
5 shall prescribe by rule the method of determining the portion of the
6 commissions, rentals and other amounts which are paid or accrued to the
7 controlled domestic international sales corporation and which shall be
8 deducted by the payor. "Control" for purposes of this paragraph means direct
9 or indirect ownership or control of fifty per cent or more of the voting
10 stock of the domestic international sales corporation by the payor
11 corporation.

12 6. Federal income tax refunds received during the taxable year to the
13 extent they were deducted in arriving at Arizona taxable income in a previous
14 year.

15 7. The amount of net operating loss taken pursuant to section 172 of
16 the internal revenue code.

17 8. The amount of exploration expenses determined pursuant to section
18 617 of the internal revenue code to the extent that they exceed seventy-five
19 thousand dollars and to the extent that the election is made to defer those
20 expenses not in excess of seventy-five thousand dollars.

21 9. Amortization of costs incurred to install pollution control devices
22 and deducted pursuant to the internal revenue code or the amount of deduction
23 for depreciation taken pursuant to the internal revenue code on pollution
24 control devices for which an election is made pursuant to section 43-1129.

25 10. The amount of depreciation or amortization of costs of child care
26 facilities deducted pursuant to section 167 or 188 of the internal revenue
27 code for which an election is made to amortize pursuant to section 43-1130.

28 11. Arizona state income tax refunds received, to the extent the amount
29 of the refunds is not already included in Arizona gross income, if a tax
30 benefit was derived by deduction of this amount in a prior year.

31 12. The amount paid as taxes on property in this state by a qualified
32 defense contractor with respect to which a credit is claimed under section
33 43-1166.

34 13. The loss of an insurance company that is exempt under section
35 43-1201 to the extent that it is included in computing Arizona gross income
36 on a consolidated return pursuant to section 43-947.

37 14. The amount by which the depreciation or amortization computed under
38 the internal revenue code with respect to property for which a credit was
39 taken under section 43-1169 exceeds the amount of depreciation or
40 amortization computed pursuant to the internal revenue code on the Arizona
41 adjusted basis of the property.

42 15. The amount by which the adjusted basis computed under the internal
43 revenue code with respect to property for which a credit was claimed under
44 section 43-1169 and which is sold or otherwise disposed of during the taxable

1 year exceeds the adjusted basis of the property computed under section
2 43-1169.

3 16. The amount by which the depreciation or amortization computed under
4 the internal revenue code with respect to property for which a credit was
5 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
6 depreciation or amortization computed pursuant to the internal revenue code
7 on the Arizona adjusted basis of the property.

8 17. The amount by which the adjusted basis computed under the internal
9 revenue code with respect to property for which a credit was claimed under
10 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed
11 of during the taxable year exceeds the adjusted basis of the property
12 computed under section 43-1170 or 43-1170.01, as applicable.

13 18. The deduction referred to in section 1341(a)(4) of the internal
14 revenue code for restoration of a substantial amount held under a claim of
15 right.

16 19. The amount by which a capital loss carryover allowable pursuant to
17 section 1341(b)(5) of the internal revenue code exceeds the capital loss
18 carryover allowable pursuant to section 43-1130.01, subsection F.

19 20. Any amount deducted in computing Arizona taxable income as expenses
20 for installing solar stub outs or electric vehicle recharge outlets in this
21 state with respect to which a credit is claimed pursuant to section 43-1176.

22 21. Any wage expenses deducted pursuant to the internal revenue code
23 for which a credit is claimed under section 43-1175 and representing net
24 increases in qualified employment positions for employment of temporary
25 assistance for needy families recipients.

26 22. Any amount of expenses that were deducted pursuant to the internal
27 revenue code and for which a credit is claimed under section 43-1178.

28 23. Any amount deducted pursuant to section 170 of the internal revenue
29 code representing the contribution of a motor vehicle for which a credit is
30 claimed pursuant to section 43-1177.

31 24. THE AMOUNT OF ANY DEDUCTION THAT IS CLAIMED IN COMPUTING ARIZONA
32 GROSS INCOME AND THAT REPRESENTS A DONATION OF A SCHOOL SITE FOR WHICH A
33 CREDIT IS CLAIMED UNDER SECTION 43-1179.

34 Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
35 amended by adding section 43-1179, to read:

36 43-1179. Credit of donation of school site

37 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE IN THE
38 AMOUNT OF THIRTY PER CENT OF THE VALUE OF REAL PROPERTY AND IMPROVEMENTS
39 DONATED BY THE TAXPAYER TO A SCHOOL DISTRICT OR A CHARTER SCHOOL FOR USE AS A
40 SCHOOL OR AS A SITE FOR THE CONSTRUCTION OF A SCHOOL.

41 B. TO QUALIFY FOR THE CREDIT:

42 1. THE REAL PROPERTY AND IMPROVEMENTS MUST BE LOCATED IN THIS STATE.
43 2. THE REAL PROPERTY AND IMPROVEMENTS MUST BE CONVEYED UNENCUMBERED
44 AND IN FEE SIMPLE EXCEPT THAT:

(a) THE CONVEYANCE MUST INCLUDE AS A DEED RESTRICTION AND PROTECTIVE COVENANT RUNNING WITH TITLE TO THE LAND THE REQUIREMENT THAT AS LONG AS THE DONEE HOLDS TITLE TO THE PROPERTY THE PROPERTY SHALL ONLY BE USED AS A SCHOOL OR AS A SITE FOR THE CONSTRUCTION OF A SCHOOL, SUBJECT TO THE PROVISIONS OF SUBSECTION I OR J OF THIS SECTION.

(b) IN THE CASE OF A DONATION TO A CHARTER SCHOOL, THE DONOR SHALL RECORD A LIEN ON THE PROPERTY AS PROVIDED BY SUBSECTION J, PARAGRAPH 3 OF THIS SECTION.

3. THE CONVEYANCE SHALL NOT VIOLATE THE PROVISIONS SET FORTH IN SECTION 15-341, SUBSECTION D AND SECTION 15-183, SUBSECTION V.

C. FOR PURPOSES OF THIS SECTION, THE VALUE OF THE DONATED PROPERTY IS THE PROPERTY'S FAIR MARKET VALUE AS DETERMINED IN A CERTIFIED APPRAISAL AS DEFINED IN SECTION 32-3601 THAT IS CONDUCTED BY AN INDEPENDENT PARTY AND THAT IS PAID FOR BY THE DONEE.

D. IF THE PROPERTY IS DONATED BY CO-OWNERS, INCLUDING CORPORATE PARTNERS IN A PARTNERSHIP, EACH DONOR MAY CLAIM ONLY THE PRO RATA SHARE OF THE ALLOWABLE CREDIT UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL CO-OWNER DONORS MAY NOT EXCEED THE ALLOWABLE CREDIT.

E. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

F. THE CREDIT UNDER THIS SECTION IS IN LIEU OF ANY DEDUCTION PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE TAKEN FOR STATE TAX PURPOSES.

G. ON WRITTEN REQUEST BY THE DONEE, THE DONOR SHALL DISCLOSE IN WRITING TO THE DONEE THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS SECTION WITH RESPECT TO THE PROPERTY RECEIVED BY THE DONEE.

H. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY REFUSE THE DONATION OF ANY PROPERTY FOR PURPOSES OF THIS SECTION.

I. IF THE DONEE IS A SCHOOL DISTRICT:

1. THE DISTRICT SHALL NOTIFY THE SCHOOL FACILITIES BOARD ESTABLISHED BY SECTION 15-2001 AND FURNISH THE BOARD WITH ANY INFORMATION THE BOARD REQUESTS REGARDING THE DONATION. A SCHOOL DISTRICT SHALL NOT ACCEPT A DONATION PURSUANT TO THIS SECTION UNLESS THE SCHOOL FACILITIES BOARD HAS REVIEWED THE PROPOSED DONATION AND HAS ISSUED A WRITTEN DETERMINATION THAT THE REAL PROPERTY AND IMPROVEMENTS ARE SUITABLE AS A SCHOOL SITE OR AS A SCHOOL. THE SCHOOL FACILITIES BOARD SHALL ISSUE A DETERMINATION THAT THE REAL PROPERTY AND IMPROVEMENTS ARE NOT SUITABLE AS A SCHOOL SITE OR AS A SCHOOL IF THE EXPENSES THAT WOULD BE NECESSARY TO MAKE THE PROPERTY SUITABLE AS A SCHOOL SITE OR AS A SCHOOL EXCEED THE VALUE OF THE PROPOSED DONATION.

2. THE DISTRICT MAY SELL ANY DONATED PROPERTY PURSUANT TO SECTION 15-342, BUT THE PROCEEDS FROM THE SALE SHALL ONLY BE USED FOR CAPITAL PROJECTS. THE SCHOOL FACILITIES BOARD SHALL WITHHOLD AN AMOUNT THAT

1 CORRESPONDS TO THE AMOUNT OF THE PROCEEDS FROM ANY MONIES THAT WOULD
2 OTHERWISE BE DUE THE SCHOOL DISTRICT FROM THE SCHOOL FACILITIES BOARD
3 PURSUANT TO SECTION 15-2041.

4 J. IF THE DONEE IS A CHARTER SCHOOL:

5 1. THE CHARTER SCHOOL SHALL:

6 (a) IMMEDIATELY NOTIFY THE SPONSOR OF THE CHARTER SCHOOL BY CERTIFIED
7 MAIL AND SHALL FURNISH THE SPONSOR WITH ANY INFORMATION REQUESTED BY THE
8 SPONSOR REGARDING THE DONATION DURING THE TEN YEAR PERIOD AFTER THE
9 CONVEYANCE IS RECORDED.

10 (b) NOTIFY THE SPONSOR BY CERTIFIED MAIL, AND THE SPONSOR SHALL NOTIFY
11 THE STATE TREASURER, IN THE EVENT OF THE CHARTER SCHOOL'S FINANCIAL FAILURE
12 OR IF THE CHARTER SCHOOL:

13 (i) FAILS TO ESTABLISH A CHARTER SCHOOL ON THE PROPERTY WITHIN
14 FORTY-EIGHT MONTHS AFTER THE CONVEYANCE IS RECORDED.

15 (ii) FAILS TO PROVIDE INSTRUCTION TO PUPILS ON THE PROPERTY WITHIN
16 FORTY-EIGHT MONTHS AFTER THE CONVEYANCE IS RECORDED.

17 (iii) ESTABLISHES A CHARTER SCHOOL ON THE PROPERTY BUT SUBSEQUENTLY
18 CEASES TO OPERATE THE CHARTER SCHOOL ON THE PROPERTY FOR TWENTY-FOUR
19 CONSECUTIVE MONTHS OR FAILS TO PROVIDE INSTRUCTION TO PUPILS ON THE PROPERTY
20 FOR TWENTY-FOUR CONSECUTIVE MONTHS.

21 2. THE CHARTER SCHOOL, OR A SUCCESSOR IN INTEREST, SHALL PAY TO THE
22 STATE TREASURER THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION, OR IF
23 THAT AMOUNT IS UNKNOWN, THE AMOUNT OF THE ALLOWABLE CREDIT UNDER THIS
24 SECTION, IF ANY OF THE CIRCUMSTANCES LISTED IN PARAGRAPH 1, SUBDIVISION (b)
25 OF THIS SECTION OCCUR. IF THE AMOUNT IS NOT PAID WITHIN ONE YEAR AFTER THE
26 TREASURER RECEIVES NOTICE UNDER PARAGRAPH 1, SUBDIVISION (b) OF THIS
27 SUBSECTION, A PENALTY AND INTEREST SHALL BE ADDED, DETERMINED PURSUANT TO
28 TITLE 42, CHAPTER 1, ARTICLE 3.

29 3. A TAX CREDIT UNDER THIS SECTION CONSTITUTES A LIEN ON THE PROPERTY,
30 WHICH THE DONOR MUST RECORD ALONG WITH THE TITLE TO THE PROPERTY TO QUALIFY
31 FOR THE CREDIT. THE AMOUNT OF THE LIEN IS THE AMOUNT OF THE ALLOWABLE CREDIT
32 UNDER THIS SECTION, ADJUSTED ACCORDING TO THE AVERAGE CHANGE IN THE GDP PRICE
33 DEFLATOR, AS DEFINED IN SECTION 41-563, FOR EACH CALENDAR YEAR SINCE THE
34 DONATION, BUT NOT EXCEEDING TWELVE AND ONE-HALF PER CENT MORE THAN THE
35 ALLOWABLE CREDIT. THE LIEN IS SUBORDINATE TO ANY LIENS SECURING THE
36 FINANCING OF THE SCHOOL CONSTRUCTION. THE LIEN IS EXTINGUISHED ON THE
37 EARLIEST OF THE FOLLOWING:

38 (a) TEN YEARS AFTER THE LIEN IS RECORDED. AFTER THAT DATE, THE
39 CHARTER SCHOOL, OR A SUCCESSOR IN INTEREST, MAY REQUEST THE STATE TREASURER
40 TO RELEASE THE LIEN.

41 (b) ON PAYMENT TO THE STATE TREASURER BY THE DONEE CHARTER SCHOOL, OR
42 BY A SUCCESSOR IN INTEREST, OF THE AMOUNT OF THE ALLOWABLE CREDIT UNDER THIS
43 SECTION, EITHER VOLUNTARILY OR AS REQUIRED BY PARAGRAPH 2 OF THIS SUBSECTION.
44 AFTER THE REQUIRED AMOUNT IS PAID, THE CHARTER SCHOOL OR SUCCESSOR IN
45 INTEREST MAY REQUEST THE STATE TREASURER TO RELEASE THE LIEN.

(c) ON CONVEYANCE OF FEE SIMPLE TITLE TO THE PROPERTY TO A SCHOOL DISTRICT.

(d) ON ENFORCEMENT AND SATISFACTION OF THE LIEN PURSUANT TO PARAGRAPH 4 OF THIS SUBSECTION.

4. THE STATE TREASURER SHALL ENFORCE THE LIEN BY FORECLOSURE WITHIN ONE YEAR AFTER RECEIVING NOTICE OF ANY OF THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION.

5. SUBJECT TO PARAGRAPHS 3 AND 4 OF THIS SUBSECTION, THE CHARTER SCHOOL MAY SELL ANY DONATED PROPERTY.

Sec. 4. Effective date; applicability

This act is effective and applies to taxable years beginning from and

APPROVED BY THE GOVERNOR APRIL 20, 2000.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2000.