AN ACT

AMENDING TITLE 12, CHAPTER 8, ARTICLE 2.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-1134.01; RELATING TO THE PRIVATE PROPERTY RIGHTS PROTECTION ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1.  Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, title 12, chapter 8, article 2.1, Arizona Revised Statutes, is amended by adding section 12-1134.01, to read:

12-1134.01.  Diminution in value; tax credit for just compensation

A.  NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF THE EXISTING RIGHTS TO USE, DIVIDE, SELL OR POSSESS PRIVATE REAL PROPERTY ARE REDUCED BY THE ENACTMENT OR APPLICABILITY OF ANY LAND USE LAW ENACTED AFTER THE DATE THE PROPERTY IS TRANSFERRED TO THE OWNER AND THAT ACTION REDUCES THE FAIR MARKET VALUE OF THE PROPERTY, THE OWNER MAY WAIVE THE OWNER'S RIGHT TO JUST COMPENSATION PURSUANT TO SECTION 12-1134 AND IS ENTITLED TO A CREDIT AGAINST THE OWNER'S TAX LIABILITY ASSESSED PURSUANT TO TITLE 43, CHAPTER 10, 11, OR 14 IN AN AMOUNT THAT IS EQUAL TO THE JUST COMPENSATION.

B.  WITH RESPECT TO ANY COUNTY, CITY OR TOWN THAT ENACTED THE LAND USE LAW FOR WHICH A CREDIT HAS BEEN CLAIMED PURSUANT TO THIS SECTION, THE STATE TREASURER SHALL:

1.  WITHHOLD FROM THE DISTRIBUTION OF MONIES PURSUANT TO SECTION 42-5029 TO THE AFFECTED COUNTY, CITY OR TOWN THE RESPECTIVE AGGREGATE AMOUNT OF CREDITS CLAIMED UNDER THIS SECTION.

2.  CREDIT MONIES WITHHELD PURSUANT TO THIS SUBSECTION TO THE STATE GENERAL FUND AS PROVIDED BY SECTION 42-5029, SUBSECTION D, PARAGRAPH 4.

C.  WITH RESPECT TO ANY POLITICAL SUBDIVISION OF THIS STATE OTHER THAN THOSE IDENTIFIED IN SUBSECTION B OF THIS SECTION OR ANY STATE AGENCY THAT ENACTED OR ADOPTED THE LAND USE LAW FOR WHICH A CREDIT HAS BEEN CLAIMED PURSUANT TO THIS SECTION, THE STATE TREASURER SHALL:

1.  WITHHOLD FROM THE DISTRIBUTION OF MONIES FROM THE GENERAL FUND TO THE AFFECTED POLITICAL SUBDIVISION OR STATE AGENCY THE RESPECTIVE AGGREGATE AMOUNT OF CREDITS CLAIMED UNDER THIS SECTION.

2.  CREDIT MONIES WITHHELD PURSUANT TO THIS SUBSECTION TO THE STATE GENERAL FUND.

D.  THIS SECTION DOES NOT APPLY TO LAND USE LAWS THAT:

1.  LIMIT OR PROHIBIT A USE OR DIVISION OF REAL PROPERTY FOR THE PROTECTION OF THE PUBLIC'S HEALTH AND SAFETY, INCLUDING RULES AND REGULATIONS RELATING TO FIRE AND BUILDING CODES, HEALTH AND SANITATION, TRANSPORTATION OR TRAFFIC CONTROL, SOLID OR HAZARDOUS WASTE AND POLLUTION CONTROL.

2.  LIMIT OR PROHIBIT THE USE OR DIVISION OF REAL PROPERTY COMMONLY AND HISTORICALLY RECOGNIZED AS A PUBLIC NUISANCE UNDER COMMON LAW.

3.  ARE REQUIRED BY FEDERAL LAW.

4.  LIMIT OR PROHIBIT THE USE OR DIVISION OF A PROPERTY FOR THE PURPOSE OF HOUSING SEX OFFENDERS, SELLING ILLEGAL DRUGS OR LIQUOR CONTROL OR PORNOGRAPHY, OBSCENITY, NUDE OR TOPLESS DANCING AND OTHER ADULT ORIENTED BUSINESSES IF THE LAND USE LAWS ARE CONSISTENT WITH THE CONSTITUTIONS OF THIS STATE AND THE UNITED STATES.
5. Establish Locations for Utility Facilities.

6. Do not directly regulate an owner’s land.


E. In any challenge to a credit claimed pursuant to this section, this state or the political subdivision of this state that enacted the land use law has the burden of demonstrating that the land use law is exempt pursuant to subsection D of this section or that the amount of the credit claimed is unreasonable.

F. The owner shall not be required to first submit a land use application to remove, modify, vary or otherwise alter the application of the land use law to the owner’s property as a prerequisite to demanding or receiving just compensation in the form of a credit pursuant to this section.

G. If a land use law continues to apply to private real property more than sixty days after the owner of the property makes a written demand in a specific amount for just compensation in the form of a credit to this state or the political subdivision of this state that enacted the land use law, the owner is entitled to just compensation in the form of a credit pursuant to this section, unless this state or the political subdivision of this state and the owner reach an agreement on the amount of just compensation to be paid, or unless this state or the political subdivision of this state amends, repeals or issues to the landowner a binding waiver of enforcement of the land use law on the owner’s specific parcel.

H. Any demand for landowner relief or any waiver that is granted in lieu of compensation runs with the land.

I. Any claim for just compensation in the form of a credit pursuant to this section based on diminution in value must be made or is forever barred within three years after the effective date of the land use law, or the first date the reduction of the existing rights to use, divide, sell or possess property applies to the owner’s parcel, whichever is later.

J. If the amount of the credit under this section exceeds the amount that may be applied for the taxable year, the amount of the credit not used as an offset against the tax liability for that taxable year may be carried forward as a credit against up to ten consecutive subsequent taxable years, but not exceeding the owner’s tax liability in each subsequent taxable year.

K. Except for the rights under section 12-1134 that are waived and compromised after claiming a credit pursuant to this section, the remedy under this section is in addition to any other remedy under the laws and constitution of this state or the United States and does not modify or replace any other remedy.

L. This section does not prohibit this state or any political subdivision of this state from reaching an agreement with a private property owner to waive a claim for diminution in value regarding any proposed action by this state or a political subdivision of this state or action requested by the property owner.
Sec. 2. **Requirements for enactment; three-fourths vote**

Pursuant to article IV, part 1, section 1, Constitution of Arizona, section 12-1134.01, Arizona Revised Statutes, as added by this act, is effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.