

REFERENCE TITLE: leased religious property; class nine

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2128

Introduced by

Representatives Mitchell, Allen J, Kern, Livingston, Mesnard, Senators
Barto, Lesko, Smith: Representatives Fann, Finchem, Gray, Leach, Petersen,
Thorpe, Senators Allen, Farnsworth, Yee

AN ACT

AMENDING TITLE 42, CHAPTER 11, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING
SECTION 42-11132.01; AMENDING SECTIONS 42-11152, 42-11153 AND 42-12009,
ARIZONA REVISED STATUTES; RELATING TO PROPERTY CLASSIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 42, chapter 11, article 3, Arizona Revised Statutes,
3 is amended by adding section 42-11132.01, to read:

4 42-11132.01. Property leased to a church, religious assembly or
5 religious institution

6 A. PROPERTY, BUILDINGS AND FIXTURES THAT ARE LEASED TO A NONPROFIT
7 CHURCH, RELIGIOUS ASSEMBLY OR RELIGIOUS INSTITUTION AND THAT ARE PRIMARILY
8 USED FOR RELIGIOUS WORSHIP SHALL BE CLASSIFIED AS CLASS NINE PROPERTY
9 PURSUANT TO SECTION 42-12009. IF ONLY PART OF THE PARCEL OR IMPROVEMENTS IS
10 LEASED TO A NONPROFIT CHURCH, RELIGIOUS ASSEMBLY OR RELIGIOUS INSTITUTION AND
11 PRIMARILY USED OR HELD FOR RELIGIOUS WORSHIP, ONLY THE PORTION SO LEASED
12 QUALIFIES AS CLASS NINE PROPERTY.

13 B. PROPERTY, BUILDINGS AND FIXTURES THAT ARE OWNED BY AN EDUCATIONAL,
14 RELIGIOUS OR CHARITABLE ORGANIZATION, INSTITUTION OR ASSOCIATION, THAT ARE
15 LEASED TO A NONPROFIT CHURCH, RELIGIOUS ASSEMBLY OR RELIGIOUS INSTITUTION AND
16 THAT ARE PRIMARILY USED FOR RELIGIOUS WORSHIP ARE EXEMPT FROM TAXATION.

17 C. IF THE EDUCATIONAL, RELIGIOUS OR CHARITABLE ORGANIZATION,
18 INSTITUTION OR ASSOCIATION THAT OWNS THE PROPERTY FILES WITH THE ASSESSOR
19 EVIDENCE OF THE ORGANIZATION'S TAX EXEMPT STATUS UNDER SECTION 501(c)(3) OF
20 THE INTERNAL REVENUE CODE AND AN AFFIDAVIT BY THE NONPROFIT CHURCH, RELIGIOUS
21 ASSEMBLY OR RELIGIOUS INSTITUTION THAT IT USES OR HOLDS THE PROPERTY
22 PRIMARILY FOR RELIGIOUS WORSHIP AS DESCRIBED IN SUBSECTION B OF THIS SECTION,
23 THE PROPERTY QUALIFIES FOR THE TAX EXEMPTION UNDER THIS SECTION AND IS EXEMPT
24 FROM THE REQUIREMENT OF FILING SUBSEQUENT AFFIDAVITS UNDER SECTION 42-11152
25 UNTIL ALL OR PART OF THE PROPERTY IS CONVEYED TO A NEW OWNER OR IS NO LONGER
26 PRIMARILY USED OR HELD BY THE CHURCH, ASSEMBLY OR INSTITUTION. AT THAT TIME
27 THE EDUCATIONAL, RELIGIOUS OR CHARITABLE ORGANIZATION, INSTITUTION OR
28 ASSOCIATION MUST NOTIFY THE ASSESSOR OF THE CHANGE IN WRITING.

29 Sec. 2. Section 42-11152, Arizona Revised Statutes, is amended to
30 read:

31 42-11152. Affidavit; false statements

32 A. Except as provided in sections 42-11104, 42-11109, 42-11110,
33 42-11111 and 42-11131 and except for property described in sections 42-11125,
34 42-11127, ~~and~~ 42-11132 AND 42-11132.01, a person who claims exemption from
35 taxation under article IX, section 2, 2.1 or 2.2, Constitution of Arizona,
36 shall:

37 1. When initially claiming the exemption, appear before the county
38 assessor to make an affidavit as to the person's eligibility. If a personal
39 appearance before the county assessor would create a severe hardship, the
40 county assessor may arrange a mutually satisfactory meeting place to make an
41 affidavit as to the person's eligibility.

42 2. When claiming the exemption in subsequent years, appear before the
43 county assessor or a notary public to make an affidavit as to the person's
44 eligibility.

45 3. Fully answer all questions on the eligibility form or otherwise
46 required by the assessor for that purpose.

1 B. At the assessor's discretion, the assessor may require additional
2 proof of the facts stated by the person before allowing an exemption.

3 C. A person who is in the United States military service and who is
4 absent from this state or who is confined in a veterans' hospital or another
5 licensed hospital may make the required affidavit in the presence of any
6 officer who is authorized to administer oaths on a form obtained from the
7 county assessor.

8 D. A false statement that is made or sworn to in the affidavit is
9 perjury.

10 Sec. 3. Section 42-11153, Arizona Revised Statutes, is amended to
11 read:

12 42-11153. Deadline for filing affidavit

13 A. Except as provided in section 42-11104, subsection E, section
14 42-11109, subsection B, section 42-11110, subsection B, section 42-11111,
15 subsection H, section 42-11131, subsection C and section 42-11132, subsection
16 C AND SECTION 42-11132.01, SUBSECTION C, a failure by a taxpayer who is
17 entitled to an exemption to make an affidavit or furnish evidence required by
18 this article between the first Monday in January and March 1 of each year
19 constitutes a waiver of the exemption.

20 B. If a widow, ~~OR~~ widower or person with a disability whose property
21 is exempt from tax under section 42-11111, or an organization that is exempt
22 from federal income tax under section 501(c) of the internal revenue code and
23 is exempt from property tax under article 3 of this chapter, submits a
24 petition after the deadlines prescribed by subsection A of this section, the
25 person or organization may have the waiver redeemed by the county board of
26 supervisors at any regular meeting, except that no taxes that were due and
27 payable before the petition was submitted may be refunded or abated.

28 Sec. 4. Section 42-12009, Arizona Revised Statutes, is amended to
29 read:

30 42-12009. Class nine property

31 A. For purposes of taxation, class nine is established consisting of:
32 1. Improvements that are located on federal, state, county or
33 municipal property and owned by the lessee of the property if:

34 (a) The improvements are required to become the property of the
35 federal, state, county or municipal owner of the property on termination of
36 the leasehold interest in the property.

37 (b) Both the improvements and the property are used exclusively for
38 athletic, recreational, entertainment, artistic or cultural facilities.

39 2. Improvements that are located on federal, state, county or
40 municipal property and owned by the lessee of the property if:

41 (a) The improvements are required to become the property of the
42 federal, state, county or municipal owner of the property on termination of
43 the leasehold interest in the property.

44 (b) Both the improvements and the property are:

45 (i) Used for or in connection with aviation, including hangars,
46 tie-downs, aircraft maintenance, sales of AVIATION-RELATED items, charter and

1 rental activities, parking facilities and restaurants, stores and other
2 services located in a terminal.

3 (ii) Located on a state, county, city or town airport or a public
4 airport operating pursuant to sections 28-8423, 28-8424 and 28-8425.

5 3. Property that is defined as "contractor-acquired property" or
6 "government-furnished property" in the federal acquisition regulations
7 (48 Code of Federal Regulations section 45.101) and that is leased to or
8 acquired by the government and used to perform a government contract.

9 4. Property of a corporation that is organized by or at the direction
10 of this state or a county, city or town to develop, construct, improve,
11 repair, replace or own any property, improvement, building or other facility
12 to be used for public purposes that the state, county, city or town pledges
13 to lease or lease-purchase with state, county or municipal special or general
14 revenues and that is not otherwise exempt under chapter 11, article 3 of this
15 title.

16 5. Real property and improvements, including land, buildings,
17 furniture and equipment, regardless of ownership, that are leased for the
18 entire valuation year to, and used exclusively by, a nonprofit organization
19 that is recognized under section 501(c)(3) of the internal revenue code and
20 that operates on the premises as a charter school pursuant to section 15-183
21 OR THAT ARE LEASED FOR THE ENTIRE VALUATION YEAR TO, AND USED EXCLUSIVELY BY,
22 A NONPROFIT CHURCH, RELIGIOUS ASSEMBLY OR RELIGIOUS INSTITUTION. If only
23 part of a parcel of real property or improvements to real property is leased
24 for operation of a charter school OR A CHURCH, RELIGIOUS ASSEMBLY OR
25 RELIGIOUS INSTITUTION as provided by this paragraph, only the portion so
26 leased qualifies for classification under this section. A property owner who
27 leases property to a charter school OR A CHURCH, RELIGIOUS ASSEMBLY OR
28 RELIGIOUS INSTITUTION AS PROVIDED BY THIS PARAGRAPH shall file an affidavit
29 with the county assessor stating that the charter school OR CHURCH, RELIGIOUS
30 ASSEMBLY OR RELIGIOUS INSTITUTION shall be the sole beneficiary of the change
31 in property tax classification pursuant to this section and that the lease
32 rate that is charged to the charter school OR CHURCH, RELIGIOUS ASSEMBLY OR
33 RELIGIOUS INSTITUTION is consistent with the lease rates that are charged to
34 other tenants of the property or a fair market rate.

35 6. Improvements that are located on federal, state, county or
36 municipal property and owned by the lessee of the property if:

37 (a) The improvements become the property of the federal, state, county
38 or municipal owner of the property on termination of the leasehold interest
39 in the property.

40 (b) Both the improvements and the property are used primarily for
41 convention activities.

42 B. Improvements that are located in an area defined as a research park
43 pursuant to section 35-701 may not be classified under this section.

44 C. All property classified as class nine is subject to valuation at
45 full cash value.