

House Engrossed Senate Bill

low-income multifamily housing; valuation

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 352
SENATE BILL 1076

AN ACT

AMENDING SECTION 42-12004, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 13, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 12; RELATING TO PROPERTY TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-12004, Arizona Revised Statutes, is amended
3 to read:

4 42-12004. Class four property

5 A. For purposes of taxation, class four is established consisting
6 of:

7 1. Real and personal property and improvements to the property that
8 are used for residential purposes, including residential property that is
9 owned in foreclosure by a financial institution, that is not otherwise
10 included in another classification and that is valued at full cash value.
11 The homesite that is included in class four may include:

12 (a) Up to ten acres on a single parcel of real property on which
13 the residential improvement is located.

14 (b) More than ten, but not more than forty, acres on a single
15 parcel of real property on which the residential improvement is located if
16 it is zoned exclusively for residential purposes or contains legal
17 restrictions or physical conditions that prevent the division of the
18 parcel. For the purposes of this subdivision, "physical conditions" means
19 topography, mountains, washes, rivers, roads or any other configuration
20 that limits the residential usable land area.

21 2. Real and personal property and improvements to the property that
22 are used solely as leased or rented property for residential purposes,
23 that are not included in class one, two, three, six, seven or eight and
24 that are valued at full cash value.

25 3. Child care facilities that are licensed under title 36, chapter
26 7.1 and that are valued at full cash value.

27 4. Real and personal property and improvements to property that are
28 used to operate nonprofit residential housing facilities that are
29 structured to house or care for persons with disabilities or who are
30 sixty-two years of age or older and that are valued at full cash value.

31 5. Real and personal property and improvements that are used to
32 operate licensed residential care institutions or licensed nursing care
33 institutions that provide medical services, nursing services or health
34 related services and that are structured to house or care for persons with
35 disabilities or who are sixty-two years of age or older and that are
36 valued at full cash value.

37 6. Real and personal property consisting of no more than eight
38 rooms of residential property that are leased or rented to transient
39 lodgers, together with furnishing no more than a breakfast meal, by the
40 owner who resides on the property and that is valued at full cash value.

41 7. Real and personal property consisting of residential dwellings
42 that are maintained for occupancy by agricultural employees as a condition
43 of employment or as a convenience to the employer, that is not included in
44 class three and that is valued at full cash value. The land associated

1 with these dwellings shall be valued as agricultural land pursuant to
2 chapter 13, article 3 of this title.

3 8. Real property and improvements to property constituting common
4 areas that are valued pursuant to chapter 13, article 9 of this title.

5 9. Real and personal property that is defined as timeshare property
6 by section 32-2197 and valued pursuant to chapter 13, article 10 of this
7 title, except for any property used for commercial, industrial or
8 transient occupancy purposes and included in class one to the extent of
9 that use.

10 10. Real and personal property and improvements that are used for
11 residential purposes, ~~AND~~ AND that are leased or rented to lodgers, except
12 for:

13 (a) Property occupied by the owner of the property as the owner's
14 primary residence and included in class three.

15 (b) Property used for commercial purposes and included in class
16 one.

17 11. LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTIES THAT ARE
18 VALUED PURSUANT TO CHAPTER 13, ARTICLE 12 OF THIS TITLE.

19 B. Subsection A, paragraphs 4 and 5 of this section ~~shall~~ DO not ~~be~~
20 ~~construed to~~ limit eligibility for exemption from taxation under chapter
21 11, article 3 of this title.

22 Sec. 2. Title 42, chapter 13, Arizona Revised Statutes, is amended
23 by adding article 12, to read:

24 ARTICLE 12. VALUATION OF LOW-INCOME MULTIFAMILY
25 RESIDENTIAL RENTAL PROPERTY

26 42-13601. Definitions

27 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

28 1. "CONVENTIONAL MULTIFAMILY PROPERTY" MEANS A RESIDENTIAL RENTAL
29 PROPERTY THAT DOES NOT MEET THE REQUIREMENTS PRESCRIBED IN PARAGRAPH 3 OF
30 THIS SECTION.

31 2. "LOW-INCOME HOUSING TAX CREDIT PROGRAM" MEANS THE FEDERAL
32 LOW-INCOME HOUSING TAX CREDIT PROGRAM ESTABLISHED BY THE TAX REFORM ACT OF
33 1986, CODIFIED IN SECTION 42 OF THE INTERNAL REVENUE CODE AND ADMINISTERED
34 BY THE ARIZONA DEPARTMENT OF HOUSING PURSUANT TO SECTION 35-728 TO
35 ENCOURAGE CONSTRUCTION AND REHABILITATION OF LOW-INCOME RENTAL HOUSING.

36 3. "LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY" MEANS
37 MULTIFAMILY RESIDENTIAL PROPERTY TO WHICH ALL OF THE FOLLOWING APPLY:

38 (a) THE OWNER RECEIVED AN ALLOCATION OF FEDERAL INCOME TAX CREDITS
39 THROUGH THE LOW-INCOME HOUSING TAX CREDIT PROGRAM.

40 (b) THE PROPERTY REMAINS BOTH INCOME AND RENT RESTRICTED CONSISTENT
41 WITH THE LOW-INCOME HOUSING TAX CREDIT PROGRAM AND THE PROVISIONS OF THE
42 DECLARATION OF AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS AGREEMENT
43 RECORDED ON THE PROPERTY. THE REQUIREMENT OF THIS SUBDIVISION IS MET IF
44 AN AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS AGREEMENT IS NOT YET
45 RECORDED ON THE PROPERTY BUT THE PROPERTY IS OTHERWISE SUBJECT TO BOTH

1 INCOME AND RENT RESTRICTIONS UNDER THE LOW-INCOME HOUSING TAX CREDIT
2 PROGRAM.

3 (c) A FEDERAL, STATE OR TRIBAL COURT HAS NOT ENTERED A JUDGMENT OR
4 ORDER BASED ON A FINDING THAT AN ACT OR OMISSION OF AN OWNER OR OPERATOR
5 OF THE PROPERTY CONSTITUTES A BREACH OR VIOLATION OF EITHER:

6 (i) THE DECLARATION OF AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS
7 AGREEMENT RECORDED ON THE PROPERTY.

8 (ii) RESTRICTIONS UNDER THE LOW-INCOME HOUSING TAX CREDIT PROGRAM
9 IMPOSED ON THE PROPERTY BUT NOT CONTAINED WITHIN AN AFFIRMATIVE LAND USE
10 RESTRICTIVE COVENANTS AGREEMENT.

11 (d) THE RESTRICTIONS APPLY TO ALL UNITS ON THE PROPERTY EXCEPT
12 EMPLOYEE UNITS.

13 42-13602. Applicability of article; property

14 PROPERTY THAT IS SUBJECT TO VALUATION BY THE COUNTY ASSESSOR UNDER
15 THIS ARTICLE CONSISTS OF LAND AND BUILDINGS OF LOW-INCOME MULTIFAMILY
16 RESIDENTIAL RENTAL PROPERTY.

17 42-13603. Valuation; income method; requirements;
18 confidentiality; definitions

19 A. SUBJECT TO SECTION 42-13604, THIS ARTICLE ALLOWS THE OWNER OF
20 LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY TO ELECT A STATUTORY
21 INCOME METHOD FOR VALUING THE LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL
22 PROPERTY.

23 B. ON TIMELY ELECTION BY THE OWNER OF A LOW-INCOME MULTIFAMILY
24 RESIDENTIAL RENTAL PROPERTY, THE COUNTY ASSESSOR SHALL VALUE PROPERTY
25 UNDER THIS ARTICLE BASED ON THE INCOME METHOD TO VALUE USING THE ACTUAL
26 ANNUAL INCOME AND ACTUAL ANNUAL EXPENSES OF THE PROPERTY AND USING A
27 CAPITALIZATION RATE THAT IS BASED ON THE PREVAILING CAPITALIZATION RATE
28 FOR A CONVENTIONAL MULTIFAMILY PROPERTY IN THE SAME GEOGRAPHIC AREA
29 ADJUSTED TO ACCOUNT FOR THE DIFFERENCES BETWEEN LOW-INCOME MULTIFAMILY
30 RESIDENTIAL RENTAL PROPERTIES AND CONVENTIONAL MULTIFAMILY PROPERTIES,
31 INCLUDING THE ADDITIONAL RISK THAT THE RECORDED AFFIRMATIVE LAND USE
32 RESTRICTIVE COVENANTS AGREEMENT PLACES ON THE NET OPERATING INCOME FROM
33 THE PROPERTY, THE RESTRICTION TO THE USE OF THE PROPERTY FOR AFFORDABLE
34 HOUSING, THE TIME PERIOD THAT THE INCOME AND USE RESTRICTIONS REMAIN IN
35 EFFECT ON THE PROPERTY AND THE ILLIQUIDITY CAUSED BY THE REDUCED POOL OF
36 QUALIFIED POTENTIAL BUYERS. AFTER THE CAPITALIZATION RATE IS DETERMINED,
37 THE COUNTY ASSESSOR SHALL ADD THE CAPITALIZATION RATE TO THE EFFECTIVE TAX
38 RATE BEFORE CALCULATING THE FULL CASH VALUE.

39 C. THE OWNER OF A LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL
40 PROPERTY MAY ELECT TO HAVE THE VALUATION OF THE PROPERTY DETERMINED BY THE
41 INCOME METHOD TO VALUE BY SUBMITTING THE THREE MOST CURRENT ANNUAL AUDITED
42 FINANCIAL STATEMENTS REQUIRED BY THE ARIZONA DEPARTMENT OF HOUSING TO THE
43 COUNTY ASSESSOR BEFORE SEPTEMBER 1 OF THE YEAR IMMEDIATELY PRECEDING THE
44 YEAR FOR WHICH THE PROPERTY WILL BE VALUED. IF THE OWNER DOES NOT YET
45 HAVE THREE ANNUAL AUDITED FINANCIAL STATEMENTS BECAUSE THE PROPERTY IS TOO

1 NEW TO THE LOW-INCOME HOUSING TAX CREDIT PROGRAM TO HAVE THREE YEARS OF
2 AUDITED DATA, THE OWNER MAY SUBMIT AND THE COUNTY ASSESSOR SHALL USE FOR
3 VALUATION PURPOSES THE AVAILABLE AUDITED FINANCIAL STATEMENTS AND THE PRO
4 FORMA INCOME AND EXPENSE DATA THAT WAS PROVIDED TO THE ARIZONA DEPARTMENT
5 OF HOUSING AT THE TIME THE LOW-INCOME HOUSING TAX CREDIT APPLICATION WAS
6 SUBMITTED TO THE ARIZONA DEPARTMENT OF HOUSING.

7 D. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR AN OWNER OF A
8 LOW-INCOME MULTIFAMILY RESIDENTIAL HOUSING TAX CREDIT PROJECT TO ELECT TO
9 VALUE THE PROPERTY PURSUANT TO THIS ARTICLE.

10 E. ALL INFORMATION A TAXPAYER SUBMITS TO THE COUNTY ASSESSOR
11 PURSUANT TO THIS ARTICLE IS CONFIDENTIAL PURSUANT TO CHAPTER 2, ARTICLE 1
12 OF THIS TITLE.

13 F. IF A PROPERTY PREVIOUSLY QUALIFIED FOR VALUATION UNDER THIS
14 ARTICLE BUT HAS BEEN FULLY TRANSITIONED TO CURRENT USE AS A CONVENTIONAL
15 MULTIFAMILY PROPERTY IN COMPLIANCE WITH 26 UNITED STATES CODE SECTION
16 42(h)(6)(E), THE PROPERTY SHALL NO LONGER BE VALUED UNDER THIS ARTICLE AND
17 THE PROPERTY'S LIMITED VALUE SHALL BE CALCULATED PURSUANT TO SECTION
18 42-13302.

19 G. FOR THE PURPOSES OF THIS SECTION:

20 1. "ACTUAL ANNUAL EXPENSES" MEANS ALL OPERATING EXPENSES, AS
21 REFLECTED IN THE ANNUAL INCOME AND EXPENSE DOCUMENTATION SUBMITTED
22 PURSUANT TO SUBSECTION C OF THIS SECTION, INCLUDING THE FOLLOWING:

- 23 (a) MAINTENANCE AND REPAIR COSTS.
- 24 (b) SUPPLIES.
- 25 (c) SERVICE CONTRACTS.
- 26 (d) UTILITIES.
- 27 (e) TENANT INTERNET SERVICE AND OTHER SERVICES REQUIRED BY THE
28 ARIZONA DEPARTMENT OF HOUSING.
- 29 (f) ADMINISTRATIVE COSTS, INCLUDING COSTS FOR THE FOLLOWING:
 - 30 (i) ACCOUNTING AND AUDITING.
 - 31 (ii) OFFICE SUPPLIES.
 - 32 (iii) COMPLIANCE AND ASSET MANAGEMENT.
 - 33 (iv) MONITORING IMPOSED BY THE ARIZONA DEPARTMENT OF HOUSING.
 - 34 (v) ATTORNEY FEES.
 - 35 (vi) PAYROLL AND PAYROLL TAXES.
 - 36 (vii) EMPLOYEE BENEFITS.
 - 37 (viii) SECURITY.
 - 38 (ix) SUPPORTIVE AND ANY OTHER SERVICES STIPULATED BY THE
39 AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS AGREEMENT.
 - 40 (x) MARKETING, LEASING, ADVERTISING AND PROMOTION.
- 41 (g) PROPERTY MANAGEMENT FEES.
- 42 (h) GROUND AND LAND LEASE COSTS.
- 43 (i) PROPERTY AND LIABILITY INSURANCE.
- 44 (j) TAXES, EXCEPT PROPERTY TAXES DETERMINED PURSUANT TO SUBSECTION
45 B OF THIS SECTION.

1 (k) REQUIRED REPLACEMENT AND OPERATING RESERVES.
2 (l) FOR PROPERTIES FOR WHICH THE TENANTS PAY THEIR OWN UTILITY
3 COSTS, UTILITY COSTS FOR COMMON AREAS AND VACANT UNITS.
4 (m) ANY OTHER COSTS IMPOSED PURSUANT TO THE AFFIRMATIVE LAND USE
5 RESTRICTIVE COVENANTS AGREEMENT.
6 2. "ACTUAL ANNUAL INCOME":
7 (a) MEANS ALL OPERATING INCOME GENERATED FROM THE RENTAL OF REAL
8 PROPERTY, INCLUDING RENTS, APPLICATION AND LATE FEES AND FORFEITED
9 SECURITY DEPOSITS.
10 (b) DOES NOT INCLUDE THE FEDERAL INCOME TAX CREDITS OR INVESTMENT
11 PROCEEDS RESULTING FROM THE FEDERAL INCOME TAX CREDITS THAT ARE ALLOCATED
12 TO THE OWNER.
13 42-13604. Required documentation
14 A. AS A CONDITION OF VALUATION UNDER THIS ARTICLE, AN OWNER OR
15 OPERATOR OF LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY MUST
16 PROVIDE WRITTEN DOCUMENTATION TO THE COUNTY ASSESSOR CONFIRMING THAT THE
17 PROPERTY HAS BEEN PLACED IN SERVICE AS A LOW-INCOME MULTIFAMILY
18 RESIDENTIAL RENTAL PROPERTY CONSISTENT WITH SECTION 42 OF THE INTERNAL
19 REVENUE CODE.
20 B. INTERNAL REVENUE SERVICE FORM 8609 OR AN EQUIVALENT SUCCESSOR
21 FORM DESIGNATED BY THE INTERNAL REVENUE CODE THAT IS SIGNED BY THE ARIZONA
22 DEPARTMENT OF HOUSING OR THE CERTIFICATE OF OCCUPANCY AND THE DECLARATION
23 OF AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS AGREEMENT RECORDED ON THE
24 PROPERTY SATISFY THE DOCUMENTATION REQUIREMENT PRESCRIBED BY THIS SECTION.
25 42-13605. Appeals
26 A. AN OWNER OR OPERATOR OF LOW-INCOME MULTIFAMILY RESIDENTIAL
27 RENTAL PROPERTY THAT OPTS INTO THE INCOME VALUATION METHOD SET FORTH IN
28 THIS ARTICLE MAY APPEAL THE VALUE OF THE PROPERTY PURSUANT TO CHAPTER 16
29 OF THIS TITLE. ON APPEAL, THE OWNER OR OPERATOR MAY SUBMIT MORE RECENT
30 INCOME AND EXPENSE DATA FROM THE YEAR PRECEDING JANUARY 1 OF THE VALUATION
31 YEAR TO BE USED IN CALCULATING THE VALUE OF THE PROPERTY BY THE VALUATION
32 METHOD SET FORTH IN THIS ARTICLE.
33 B. AN OWNER OR OPERATOR OF LOW-INCOME MULTIFAMILY RESIDENTIAL
34 RENTAL PROPERTY THAT DOES NOT OPT INTO THE INCOME VALUATION METHOD SET
35 FORTH IN THIS ARTICLE MAY APPEAL THE VALUE OF THE PROPERTY USING THE
36 VALUATION METHOD SET FORTH IN THIS ARTICLE.

APPROVED BY THE GOVERNOR MAY 10, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2021.