

REFERENCE TITLE: development subsidies; recapture; rescission

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1679

Introduced by
Senator Gonzales

AN ACT

AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 20;
RELATING TO ECONOMIC DEVELOPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, Arizona Revised Statutes, is amended by adding
3 chapter 20, to read:

4 CHAPTER 20

5 DEVELOPMENT SUBSIDIES

6 ARTICLE 1. RECAPTURE AND RESCISSION

7 41-2351. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "CORPORATE PARENT" MEANS ANY PERSON, ASSOCIATION, CORPORATION,
10 JOINT VENTURE, PARTNERSHIP OR OTHER ENTITY THAT OWNS OR CONTROLS FIFTY
11 PERCENT OR MORE OF A RECIPIENT CORPORATION.

12 2. "DATE OF SUBSIDY" MEANS:

13 (a) THE DATE THAT A GRANTING BODY PROVIDES THE INITIAL MONETARY
14 VALUE OF A DEVELOPMENT SUBSIDY TO A RECIPIENT CORPORATION.

15 (b) IF THE SUBSIDY IS FOR THE INSTALLATION OF NEW EQUIPMENT, THE
16 DATE THE CORPORATION PUTS THE EQUIPMENT INTO SERVICE.

17 (c) IF THE SUBSIDY IS FOR IMPROVEMENTS TO PROPERTY, THE DATE THE
18 IMPROVEMENTS ARE FINISHED OR THE DATE THE CORPORATION OCCUPIES THE
19 PROPERTY, WHICHEVER IS EARLIER.

20 3. "DEVELOPMENT SUBSIDY" MEANS ANY EXPENDITURE OF PUBLIC MONIES
21 WITH A VALUE OF AT LEAST \$25,000 FOR THE PURPOSE OF STIMULATING ECONOMIC
22 DEVELOPMENT WITHIN THIS STATE OR ANY TAX REDUCTION THAT BENEFITS ONE
23 HUNDRED OR FEWER INDIVIDUALS OR ORGANIZATIONS, INCLUDING BONDS, GRANTS,
24 LOANS, LOAN GUARANTEES, TAX INCREMENT FINANCING, FEE WAIVERS, LAND PRICE
25 SUBSIDIES, MATCHING MONIES, TAX ABATEMENTS, TAX EXEMPTIONS AND TAX
26 CREDITS.

27 4. "DURATION OF THE SUBSIDY" MEANS AS MANY YEARS AS A SUBSIDY
28 BENEFITS A RECIPIENT CORPORATION, SUCH AS THE NUMBER OF YEARS A TAX CREDIT
29 MAY BE CLAIMED OR CARRIED FORWARD, THE NUMBER OF YEARS A LOAN IS FOR OR
30 THE NUMBER OF YEARS A PROPERTY TAX REDUCTION APPLIES.

31 5. "GRANTING BODY" MEANS ANY AGENCY, BOARD, POLITICAL SUBDIVISION
32 OF THIS STATE, PUBLIC OFFICE, PUBLIC-PRIVATE PARTNERSHIP, PUBLIC BENEFIT
33 CORPORATION OR AUTHORITY OF THIS STATE OR A LOCAL GOVERNMENT UNIT THAT
34 PROVIDES A DEVELOPMENT SUBSIDY.

35 6. "JOB" MEANS A JOB IN WHICH AN INDIVIDUAL IS EMPLOYED BY A
36 RECIPIENT CORPORATION FOR AT LEAST THIRTY-TWO HOURS PER WEEK.

37 7. "LOCAL GOVERNMENT UNIT" MEANS AN AGENCY, BOARD, POLITICAL
38 SUBDIVISION OF THIS STATE, COMMISSION, OFFICE, PUBLIC BENEFIT CORPORATION,
39 OR PUBLIC AUTHORITY OF A POLITICAL SUBDIVISION OF THIS STATE.

40 8. "PROJECT SITE" MEANS THE SITE OF A PROJECT FOR WHICH ANY
41 DEVELOPMENT SUBSIDY IS PROVIDED, AS SPECIFIED BY STREET ADDRESS, NAME OF
42 LOCALITY AND ZIP CODE.

43 9. "RECIPIENT CORPORATION" MEANS ANY PERSON, ASSOCIATION,
44 CORPORATION, JOINT VENTURE, PARTNERSHIP OR OTHER ENTITY THAT RECEIVES A
45 DEVELOPMENT SUBSIDY.

1 10. "STATE" MEANS AN AGENCY, BOARD, COMMISSION, OFFICE, PUBLIC
2 BENEFIT CORPORATION OR PUBLIC BENEFIT AUTHORITY OF THIS STATE.

3 41-2352. Development subsidies; review; recapture or
4 rescission

5 A. A GRANTING BODY THAT AWARDS A DEVELOPMENT SUBSIDY SHALL DO
6 EITHER OF THE FOLLOWING:

7 1. CROSS-CHECK JOB CREATION AND OTHER PERFORMANCE DATA THAT IS
8 SUBMITTED BY CORPORATE RECIPIENTS AGAINST INFORMATION SOURCES SUCH AS
9 UNEMPLOYMENT INSURANCE RECORDS.

10 2. CONDUCT PERIODIC AUDITS OF RECIPIENT CORPORATION SUBMISSIONS
11 USING OUTSIDE AUDITORS.

12 B. ANY DEVELOPMENT SUBSIDY AWARD MUST PROVIDE FOR A CLEAR PURPOSE
13 TO THIS STATE, INCLUDING EXPECTED NUMBER OF JOBS CREATED, WAGE AND BENEFIT
14 ACHIEVEMENTS, LOCAL CAPITAL INVESTMENTS, EXPECTED ECONOMIC RETURN ON THE
15 DEVELOPMENT SUBSIDY PROVIDED, ANTICIPATED DURATION OF THE DEVELOPMENT
16 SUBSIDY AND EXPECTED TERMINATION DATE FOR THE DEVELOPMENT SUBSIDY.

17 C. A RECIPIENT CORPORATION IS SUBJECT TO DEVELOPMENT SUBSIDY
18 RECAPTURE OR RESCISSION IF ANY OF THE FOLLOWING APPLIES:

19 1. THE RECIPIENT CORPORATION FAILS TO ACHIEVE ITS JOB CREATION,
20 WAGE AND HEALTH CARE BENEFITS OBLIGATIONS FOR THE PROJECT SITE WITHIN TWO
21 YEARS AFTER THE DATE OF SUBSIDY.

22 2. THE RECIPIENT CORPORATION FAILS TO MAINTAIN ITS WAGE AND HEALTH
23 CARE BENEFITS ACHIEVEMENTS FOR THE DURATION OF THE SUBSIDY OR FIVE YEARS,
24 WHICHEVER IS LONGER.

25 3. THE CORPORATE PARENT OF THE RECIPIENT CORPORATION FAILS TO
26 MAINTAIN, FOR THE DURATION OF THE SUBSIDY OR FOR FIVE YEARS, WHICHEVER IS
27 LONGER, AT LEAST NINETY PERCENT OF ITS EMPLOYMENT IN THIS STATE, WITH THE
28 BASIS OF DECEMBER 31 OF THE YEAR THE DEVELOPMENT SUBSIDY WAS GRANTED.

29 D. FOR EACH YEAR THE RECIPIENT CORPORATION FALLS SHORT OF ITS
30 OBLIGATIONS FOR JOB CREATION, WAGES AND HEALTH CARE BENEFITS, THE VALUE OF
31 THE DEVELOPMENT SUBSIDY SHALL BE REDUCED ON A PRORATED BASIS BY THE SAME
32 SHARE OF JOBS THAT WERE NOT CREATED OR THAT FAILED TO MEET WAGE AND HEALTH
33 CARE BENEFITS OBLIGATIONS. IF THE DEVELOPMENT SUBSIDY HAS ALREADY ACCRUED
34 TO THE RECIPIENT CORPORATION, THIS STATE SHALL RECAPTURE THE SUBSIDY
35 REDUCTION.

36 E. IF A RECIPIENT CORPORATION FALLS SHORT ON ITS JOB CREATION
37 OBLIGATIONS BY AT LEAST TWENTY-FIVE PERCENT FOR THREE CONSECUTIVE YEARS,
38 THE PRO RATA RECAPTURE SHALL APPLY FOR THE THIRD YEAR IN DEFAULT AND THE
39 DEVELOPMENT SUBSIDY SHALL BE RESCINDED EFFECTIVE JANUARY 1 OF THE
40 FOLLOWING YEAR.

41 F. FOR EACH YEAR THE CORPORATE PARENT FAILS TO MAINTAIN AT LEAST
42 NINETY PERCENT OF ITS BASE EMPLOYMENT LEVEL IN THIS STATE, THE DEVELOPMENT
43 SUBSIDY SHALL BE REDUCED AT TWICE THE RATE OF THE CORPORATE PARENT'S JOB
44 LOSS FROM ONE HUNDRED PERCENT OF ITS BASIS OF DECEMBER 31 OF THE YEAR THE

1 SUBSIDY WAS GRANTED. IF THE DEVELOPMENT SUBSIDY HAS ALREADY ACCRUED TO THE
2 RECIPIENT CORPORATION, THIS STATE SHALL RECAPTURE THE SUBSIDY REDUCTION.

3 G. IF THE CORPORATE PARENT FAILS TO MAINTAIN AT LEAST NINETY
4 PERCENT OF ITS BASE EMPLOYMENT LEVEL IN THIS STATE FOR THREE CONSECUTIVE
5 YEARS, THE PRO RATA RECAPTURE SHALL APPLY FOR THE THIRD YEAR IN DEFAULT
6 AND THE SUBSIDY SHALL BE RESCINDED EFFECTIVE JANUARY 1 OF THE FOLLOWING
7 YEAR.

8 41-2353. Private action; enforcement; records

9 A. IF A GRANTING BODY FAILS TO ENFORCE ANY PROVISION OF THIS
10 CHAPTER, ANY INDIVIDUAL WHO PAID PERSONAL INCOME TAXES TO THIS STATE IN
11 THE CALENDAR YEAR BEFORE THE YEAR IN DISPUTE, OR ANY ORGANIZATION
12 REPRESENTING THE TAXPAYERS, IS ENTITLED TO BRING A CIVIL ACTION IN THE
13 SUPERIOR COURT TO COMPEL ENFORCEMENT UNDER THIS CHAPTER. THE COURT SHALL
14 AWARD REASONABLE ATTORNEY FEES AND COSTS TO THE PREVAILING TAXPAYER OR
15 ORGANIZATION.

16 B. THE GRANTING BODY SHALL PUBLISH ON ITS WEBSITE SUMMARY
17 STATISTICS ABOUT ITS ENFORCEMENT ACTIVITIES AND LISTS OF RECIPIENT
18 COMPANIES INVOLVED IN THOSE ACTIVITIES. ALL RECORDS REQUIRED TO BE
19 PREPARED OR MAINTAINED UNDER THIS CHAPTER, INCLUDING APPLICATIONS,
20 PERFORMANCE REPORTS, RECAPTURE PROCEEDINGS AND OTHER RECORDS RELATED
21 DOCUMENTS, ARE SUBJECT TO DISCLOSURE UNDER TITLE 39, CHAPTER 1, ARTICLE 2.
22 THIS SECTION DOES NOT APPLY TO ANY TAX RECORDS CONTAINING INFORMATION OF A
23 PERSONAL AND CONFIDENTIAL NATURE.

24 Sec. 2. Severability

25 If a provision of this act or its application to any person or
26 circumstance is held invalid, the invalidity does not affect other
27 provisions or applications of the act that can be given effect without the
28 invalid provision or application, and to this end the provisions of this
29 act are severable.