HOUSE CONCURRENT RESOLUTION 2023

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO PROPERTY TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Under the power of the referendum, as vested in the Legislature, the following measure, relating to property tax, is enacted to become valid as a law if approved by the voters and on proclamation of the Governor:

AN ACT
AMENDING TITLE 42, CHAPTER 17, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9; REPEALING TITLE 42, CHAPTER 17, ARTICLE 9, ARIZONA REVISED STATUTES; RELATING TO PROPERTY TAX.

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

Section 1. Title 42, chapter 17, Arizona Revised Statutes, is amended by adding article 9, to read:

ARTICLE 9. REFUNDS

42-17451. Refund; failure to abate public nuisance; applicability; definitions

A. NOTWITHSTANDING ANY OTHER LAW, SUBJECT TO SUBSECTION C, PARAGRAPH 3 AND SUBSECTION I OF THIS SECTION, BEGINNING IN TAX YEAR 2025, A PROPERTY OWNER MAY APPLY FOR A REFUND IN AN AMOUNT DETERMINED PURSUANT TO SUBSECTION B OF THIS SECTION IF EITHER OF THE FOLLOWING OCCURS:

1. THE CITY, TOWN OR COUNTY IN WHICH THE REAL PROPERTY IS LOCATED ADOPTS AND FOLLOWS A POLICY, PATTERN OR PRACTICE OF DECLINING TO ENFORCE EXISTING LAWS, ORDINANCES OR OTHER LEGISLATION PROHIBITING ILLEGAL CAMPING, OBSTRUCTING PUBLIC THOROUGHFARES, LOITERING, PANHANDLING, PUBLIC URINATION OR DEFECATION, PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES OR POSSESSION OR USE OF ILLEGAL SUBSTANCES AND THE PROPERTY OWNER INCURS DOCUMENTED EXPENSES TO MITIGATE THE EFFECTS OF THE POLICY, PATTERN OR PRACTICE OR THE PUBLIC NUISANCE ON THE PROPERTY OWNER'S REAL PROPERTY.

2. THE CITY, TOWN OR COUNTY IN WHICH THE REAL PROPERTY IS LOCATED MAINTAINS A PUBLIC NUISANCE AND THE PROPERTY OWNER INCURS DOCUMENTED EXPENSES TO MITIGATE THE EFFECTS OF THE POLICY, PATTERN OR PRACTICE OR THE PUBLIC NUISANCE ON THE PROPERTY OWNER'S REAL PROPERTY.

B. THE AMOUNT OF THE REFUND IS EQUAL TO THE DOCUMENTED EXPENSES INCURRED BY THE PROPERTY OWNER THAT WERE REASONABLY NECESSARY TO MITIGATE THE EFFECTS OF THE POLICY, PATTERN OR PRACTICE OR THE PUBLIC NUISANCE ON THE PROPERTY OWNER'S REAL PROPERTY.

C. THE REFUND ALLOWED UNDER THIS SECTION:

1. SHALL BE PAID IN THE SAME MANNER PRESCRIBED BY SECTION 42-1118.
2. NOTWITHSTANDING SECTION 12-1134, SUBSECTION H, IS IN LIEU OF ANY CLAIM FOR MONETARY DAMAGES OR ANY RIGHTS UNDER TITLE 12, CHAPTER 8, ARTICLE 2.1.


D. WITHIN FIFTEEN DAYS AFTER THE DEPARTMENT RECEIVES AN APPLICATION FROM A PROPERTY OWNER FOR A REFUND UNDER THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE AFFECTED CITY, TOWN OR COUNTY. WITHIN THIRTY DAYS AFTER RECEIVING THE NOTICE, THE AFFECTED CITY, TOWN OR COUNTY SHALL ACCEPT OR REJECT THE REFUND AND NOTIFY THE DEPARTMENT OF THAT DETERMINATION. IF THE AFFECTED CITY, TOWN OR COUNTY:

1. ACCEPTS THE REFUND, THE DEPARTMENT SHALL PAY THE REFUND TO THE PROPERTY OWNER PURSUANT TO SUBSECTION C OF THIS SECTION.

2. REJECTS THE REFUND, THE DEPARTMENT MAY NOT PAY THE REFUND TO THE PROPERTY OWNER. THE PROPERTY OWNER MAY FILE A CAUSE OF ACTION IN THE SUPERIOR COURT OF THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED TO CHALLENGE THE REJECTION OF THE REFUND. THE QUESTIONS OF WHETHER THE PROPERTY OWNER IS ENTITLED TO THE REFUND AND WHETHER THE AMOUNT OF THE REFUND IS REASONABLE ARE JUDICIAL QUESTIONS. IN A CAUSE OF ACTION FILED PURSUANT TO THIS PARAGRAPH:

(a) THE CITY, TOWN OR COUNTY SHALL BEAR THE BURDEN OF DEMONSTRATING THAT ITS ACTIONS ARE LAWFUL OR THAT THE AMOUNT OF THE REFUND IS UNREASONABLE.

(b) THE PROPERTY OWNER IS NOT LIABLE TO THE CITY, TOWN OR COUNTY FOR ATTORNEY FEES OR COSTS.

(c) A PREVAILING PROPERTY OWNER SHALL BE AWARDED REASONABLE ATTORNEY FEES AND COSTS.

E. On notice from the Department, the State Treasurer shall withhold from the distribution of monies pursuant to Section 42-5029, Subsection D to the affected city, town or county the respective aggregate amount of refunds issued under this section. The State Treasurer shall continue to withhold monies pursuant to this subsection until the entire amount provided by the Department has been withheld. The State Treasurer shall credit any monies withheld pursuant to this subsection to the Department as reimbursement for issuing the refunds. The State Treasurer may not withhold any payments for debt service on bonds or other long-term obligations of the affected city, town or county that were issued or incurred before the refund was issued.

F. The property owner may not be required to submit any claim as a prerequisite to demanding or receiving just compensation in the form of a refund pursuant to this section.

G. A property owner may apply for a refund under this section once per tax year.

H. If the policy, pattern, practice or public nuisance remains in place after the property owner applies for a refund pursuant to this section, the property owner is entitled to another refund under this section in a subsequent tax year, unless the affected city, town or county and the property owner enter into a knowing and voluntary settlement, or the affected city, town or county ends the policy, pattern or practice or abates the public nuisance.

I. A property owner whose real property is located in the corporate boundaries of a city or town is eligible to apply for a refund only from that city or town. A property owner whose real property is located in an unincorporated area of a county is eligible to apply for a refund only from that county.

J. Except for any rights under Title 12, Chapter 8, Article 2.1 that are fully waived by receiving a refund under this section pursuant to Subsection C, Paragraph 2 of this section, the remedy established by this section is in addition to any other remedy that is provided by the laws and constitution of this state or the United States and is not intended to modify or replace any other remedy.

K. The Department shall prescribe the procedure and form required to administer this section.

L. This section does not apply to:

1. Decisions by city, town or county authorities to exercise prosecutorial discretion not to prosecute alleged offenders if the decisions are made on a case-by-case basis
AND THE JUSTIFICATIONS FOR EACH DECISION ARE PUBLISHED ON A
MONTHLY BASIS BY THE CITY, TOWN OR COUNTY.

2. ACTS OF EXECUTIVE CLEMENCY.
3. ACTS OR OMISSIONS TAKEN PURSUANT TO SECTION 26-303.
4. ACTS OR OMISSIONS MANDATED BY FEDERAL LAW.

M. FOR THE PURPOSES OF THIS SECTION:
1. “AFFECTED CITY, TOWN OR COUNTY” MEANS A CITY, TOWN
OR COUNTY IN WHICH A PROPERTY OWNER IS APPLYING FOR A REFUND
PROVIDED UNDER THIS SECTION.

2. “PROPERTY OWNER” MEANS THE HOLDER OF FEE TITLE TO
THE REAL PROPERTY.

Sec. 2. Delayed repeal
Title 42, chapter 17, article 9, Arizona Revised
Statutes, as added by this act, is repealed from and after
December 31, 2035.

Sec. 3. Legislative intent
The legislature intends that a city, town or county
prioritize the funding of public health and safety services
from monies received pursuant to section 42-5029,
subsection D, Arizona Revised Statutes.

2. The Secretary of State shall submit this proposition to the
voters at the next general election as provided by article IV, part 1,
section 1, Constitution of Arizona.