

REFERENCE TITLE: property tax; refund; nuisance enforcement

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SCR 1006

Introduced by
Senators Petersen: Bolick, Carroll, Kavanagh, Kerr, Rogers, Shope, Wadsack

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)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

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

7 AN ACT

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

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

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

14 ARTICLE 9. REFUNDS

15 42-17451. Refund for property taxes paid; failure to
16 abate public nuisance; applicability;
17 definitions

18 A. NOTWITHSTANDING ANY OTHER LAW, BEGINNING IN TAX YEAR
19 2025, A PROPERTY OWNER MAY APPLY FOR A REFUND OF THE PRIMARY
20 PROPERTY TAX LEVIED ON THE PROPERTY OWNER'S REAL PROPERTY
21 PURSUANT TO THIS CHAPTER AND PAID TO A CITY, TOWN OR COUNTY IF
22 EITHER OF THE FOLLOWING OCCURS:

23 1. THE CITY, TOWN OR COUNTY IN WHICH THE REAL PROPERTY
24 IS LOCATED ADOPTS AND FOLLOWS A POLICY, PATTERN OR PRACTICE OF
25 DECLINING TO ENFORCE EXISTING LAWS, ORDINANCES OR OTHER
26 LEGISLATION PROHIBITING ILLEGAL CAMPING, OBSTRUCTING PUBLIC
27 THOROUGHFARES, LOITERING, PANHANDLING, PUBLIC URINATION OR
28 DEFECATION, PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES OR
29 POSSESSION OR USE OF ILLEGAL SUBSTANCES, AND EITHER:

30 (a) THE FAIR MARKET VALUE OF A PROPERTY OWNER'S REAL
31 PROPERTY IS REDUCED BY THE POLICY, PATTERN, PRACTICE OR PUBLIC
32 NUISANCE.

33 (b) THE PROPERTY OWNER INCURS EXPENSES TO MITIGATE THE
34 EFFECTS OF THE POLICY, PATTERN, PRACTICE OR PUBLIC NUISANCE ON
35 THE PROPERTY OWNER'S REAL PROPERTY.

36 2. THE CITY, TOWN OR COUNTY IN WHICH THE REAL PROPERTY
37 IS LOCATED MAINTAINS A PUBLIC NUISANCE, AND EITHER:

38 (a) THE FAIR MARKET VALUE OF A PROPERTY OWNER'S REAL
39 PROPERTY IS REDUCED BY THE POLICY, PATTERN, PRACTICE OR PUBLIC
40 NUISANCE.

41 (b) THE PROPERTY OWNER INCURS EXPENSES TO MITIGATE THE
42 EFFECTS OF THE POLICY, PATTERN, PRACTICE OR PUBLIC NUISANCE ON
43 THE PROPERTY OWNER'S REAL PROPERTY.

1 B. THE AMOUNT OF THE REFUND IS, AT THE PROPERTY OWNER'S
2 ELECTION, EQUAL TO EITHER:
3 1. THE REDUCTION IN FAIR MARKET VALUE OF THE REAL
4 PROPERTY THAT RESULTS FROM THE CITY'S, TOWN'S OR COUNTY'S
5 POLICY, PATTERN, PRACTICE OR PUBLIC NUISANCE.
6 2. THE EXPENSES INCURRED BY THE PROPERTY OWNER THAT
7 WERE REASONABLY NECESSARY TO MITIGATE THE EFFECTS OF THE
8 POLICY, PATTERN, PRACTICE OR PUBLIC NUISANCE ON THE PROPERTY
9 OWNER'S REAL PROPERTY.
10 C. THE REFUND ALLOWED UNDER THIS SECTION:
11 1. SHALL BE PAID IN THE SAME MANNER PRESCRIBED BY
12 SECTION 42-1118.
13 2. NOTWITHSTANDING SECTION 12-1134, SUBSECTION H, IS IN
14 LIEU OF ANY CLAIM FOR MONETARY DAMAGES OR ANY RIGHTS UNDER
15 TITLE 12, CHAPTER 8, ARTICLE 2.1.
16 D. ON NOTICE FROM THE DEPARTMENT, THE STATE TREASURER
17 SHALL WITHHOLD FROM THE DISTRIBUTION OF MONIES PURSUANT TO
18 SECTION 42-5029, SUBSECTION D TO THE AFFECTED CITY, TOWN OR
19 COUNTY THE RESPECTIVE AGGREGATE AMOUNT OF REFUNDS CLAIMED
20 UNDER THIS SECTION. THE STATE TREASURER SHALL CONTINUE TO
21 WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ENTIRE
22 AMOUNT OF THE REFUNDS HAS BEEN WITHHELD. THE STATE TREASURER
23 SHALL CREDIT ANY MONIES WITHHELD PURSUANT TO THIS SUBSECTION
24 TO THE STATE GENERAL FUND. THE STATE TREASURER MAY NOT
25 WITHHOLD ANY PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER
26 LONG-TERM OBLIGATIONS OF THE CITY, TOWN OR COUNTY THAT WERE
27 ISSUED OR INCURRED BEFORE THE REFUND WAS ISSUED.
28 E. IN ANY CHALLENGE TO A REFUND ALLOWED UNDER THIS
29 SECTION, THE CITY, TOWN OR COUNTY SHALL BEAR THE BURDEN OF
30 DEMONSTRATING THAT ITS ACTIONS ARE LAWFUL OR THAT THE AMOUNT
31 OF THE REFUND IS UNREASONABLE.
32 F. THE PROPERTY OWNER MAY NOT BE REQUIRED TO SUBMIT ANY
33 CLAIM AS A PREREQUISITE TO DEMANDING OR RECEIVING JUST
34 COMPENSATION IN THE FORM OF A REFUND PURSUANT TO THIS SECTION.
35 G. A TAXPAYER MAY CLAIM A REFUND UNDER THIS SECTION
36 ONCE PER TAX YEAR.
37 H. IF THE POLICY, PATTERN, PRACTICE OR PUBLIC NUISANCE
38 REMAINS IN PLACE AFTER THE PROPERTY OWNER APPLIES FOR A REFUND
39 PURSUANT TO THIS SECTION, THE PROPERTY OWNER IS ENTITLED TO
40 ANOTHER REFUND UNDER THIS SECTION IN A SUBSEQUENT TAX YEAR,
41 UNLESS THE CITY, TOWN OR COUNTY AND THE PROPERTY OWNER ENTER
42 INTO A KNOWING AND VOLUNTARY SETTLEMENT, OR THE CITY, TOWN OR
43 COUNTY ENDS THE POLICY, PATTERN OR PRACTICE OR ABATES THE
44 PUBLIC NUISANCE.

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I. 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 CREATED 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.

J. THE DEPARTMENT SHALL PRESCRIBE THE PROCEDURE AND FORM REQUIRED TO ADMINISTER THIS SECTION.

K. 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 IS 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.

L. FOR THE PURPOSES OF THIS SECTION:

1. "FAIR MARKET VALUE" MEANS THE MOST LIKELY PRICE ESTIMATED IN TERMS OF MONEY THAT THE REAL PROPERTY WOULD BRING IF EXPOSED FOR SALE IN THE OPEN MARKET, WITH REASONABLE TIME ALLOWED IN WHICH TO FIND A PURCHASER, AND BUYING WITH KNOWLEDGE OF ALL THE USES AND PURPOSES TO WHICH THE REAL PROPERTY IS ADAPTED AND FOR WHICH THE REAL PROPERTY IS CAPABLE.

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.

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.