

REFERENCE TITLE: federal government; land acquisition; consent

State of Arizona  
Senate  
Fifty-seventh Legislature  
Second Regular Session  
2026

## **SB 1281**

Introduced by  
Senator Farnsworth

### **AN ACT**

AMENDING TITLE 11, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 11-485; AMENDING SECTION 37-620.02, ARIZONA REVISED  
STATUTES; AMENDING TITLE 37, CHAPTER 4, ARIZONA REVISED STATUTES, BY  
ADDING ARTICLE 2; RELATING TO UNITED STATES LAND ACQUISITION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 11, chapter 3, article 3, Arizona Revised  
3 Statutes, is amended by adding section 11-485, to read:

4 11-485. Federal government land acquisition; recording of  
5 deed; prohibition

6 NOTWITHSTANDING ANY OTHER LAW, A COUNTY RECORDER MAY NOT RECORD A  
7 DEED THAT TRANSFERS REAL PROPERTY TO THE FEDERAL GOVERNMENT.

8 Sec. 2. Section 37-620.02, Arizona Revised Statutes, is amended to  
9 read:

10 37-620.02. State consent required; acquisition of private  
11 real property by the United States; joint  
12 resolution; exception

13 A. Pursuant to article I, section 8, clause 17, ~~of the~~ Constitution  
14 of the United States, the consent of this state may NOT be given to the  
15 acquisition, ~~of~~ SALE, GIFT OR GRANT OR ANY OTHER TRANSFER OF AN OWNERSHIP  
16 INTEREST IN any ~~other~~ privately owned real property within this state THAT  
17 IS NOT IN THE POSSESSION OF ANY FEDERAL AGENCY AS OF THE EFFECTIVE DATE OF  
18 THIS AMENDMENT TO THIS SECTION by the United States ~~only upon~~ THAT WOULD  
19 REMOVE THE REAL PROPERTY FROM STATE, COUNTY AND MUNICIPAL PROPERTY TAX  
20 ROLLS WITHOUT THE EXPRESS, AFFIRMATIVE CONSENT OF THE LEGISLATURE AND THE  
21 GOVERNOR THROUGH the governor's signing OF a joint resolution adopted by  
22 AN AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS OF the legislature to  
23 that effect. The joint resolution shall recite the legal description of  
24 the land and the purposes to which ~~the~~ THIS state consents that the  
25 property may be used.

26 B. THIS SECTION DOES NOT LIMIT THE RIGHTS OF ANY INDIAN TRIBE WITH  
27 RESPECT TO THE TRIBE'S INDIAN LANDS, RESERVATIONS AND LANDS ACQUIRED AS A  
28 SETTLEMENT OF A LAND CLAIM.

29 Sec. 3. Heading change

30 The chapter heading of title 37, chapter 4, Arizona Revised  
31 Statutes, is changed from "ACQUISITION OF PRIVATE REAL PROPERTY BY STATE  
32 OR POLITICAL SUBDIVISION" to "ACQUISITION OF PRIVATE REAL PROPERTY BY  
33 GOVERNMENT ENTITIES".

34 Sec. 4. Title 37, chapter 4, Arizona Revised Statutes, is amended  
35 by adding article 2, to read:

36 ARTICLE 2. ACQUISITION OF PRIVATE REAL  
37 PROPERTY BY FEDERAL GOVERNMENT

38 37-821. Sale or transfer of private real property to federal  
39 government; notice; joint legislative committee;  
40 violation; civil penalty; definitions

41 A. ON THE OPENING OF ESCROW FOR THE SALE OR TRANSFER OF TITLE  
42 INTEREST OF PRIVATE REAL PROPERTY TO THE FEDERAL GOVERNMENT OR A FEDERAL  
43 AGENCY, THE ESCROW AGENT SHALL DO BOTH OF THE FOLLOWING:

44 1. NOTIFY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE  
45 OF REPRESENTATIVES THAT A CONTRACT FOR THE SALE OR TRANSFER OF PRIVATE

1 REAL PROPERTY TO THE FEDERAL GOVERNMENT OR A FEDERAL AGENCY HAS BEEN  
2 PLACED IN ESCROW.

3 2. SUBMIT A REQUEST IN WRITING TO THE PRESIDENT OF THE SENATE AND  
4 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES FOR APPROVAL OF THE SALE OR  
5 TRANSFER PURSUANT TO SECTION 37-620.02 AND ARTICLE I, SECTION 8,  
6 CLAUSE 17, CONSTITUTION OF THE UNITED STATES.

7 B. FOR A PRIVATE SALE OR TRANSFER OF PRIVATE REAL PROPERTY TO THE  
8 FEDERAL GOVERNMENT OR A FEDERAL AGENCY THAT IS NOT PROCESSED THROUGH  
9 ESCROW, THE PRIVATE REAL PROPERTY OWNER SHALL DO BOTH OF THE FOLLOWING:

10 1. NOTIFY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE  
11 OF REPRESENTATIVES OF THE SALE OR TRANSFER OF PRIVATE REAL PROPERTY TO THE  
12 FEDERAL GOVERNMENT OR A FEDERAL AGENCY.

13 2. SUBMIT A REQUEST IN WRITING TO THE PRESIDENT OF THE SENATE AND  
14 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES FOR APPROVAL OF THE SALE OR  
15 TRANSFER PURSUANT TO SECTION 37-620.02.

16 C. ON RECEIPT OF THE REQUEST FOR APPROVAL PURSUANT TO SUBSECTION A  
17 OR B OF THIS SECTION, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE  
18 HOUSE OF REPRESENTATIVES SHALL APPOINT A JOINT LEGISLATIVE COMMITTEE TO  
19 CONSIDER THE REQUEST FOR APPROVAL. IF THE COMMITTEE APPROVES THE REQUEST,  
20 THE LEGISLATURE SHALL PREPARE A JOINT RESOLUTION FOR THE LEGISLATURE TO  
21 APPROVE THE SALE OR TRANSFER PURSUANT TO SECTION 37-620.02. IF THE  
22 COMMITTEE DOES NOT APPROVE THE REQUEST, THIS STATE SHALL EXERCISE THE  
23 RIGHT OF FIRST REFUSAL TO PURCHASE THE PRIVATE REAL PROPERTY PURSUANT TO  
24 SECTION 37-822.

25 D. ANY STATE AGENCY OR ANY OFFICER OR EMPLOYEE OF A STATE AGENCY  
26 THAT IS NOTIFIED OR LEARNS OF A NOTICE FROM THE UNITED STATES DEPARTMENT  
27 OF THE INTERIOR REGARDING AN EFFORT TO PLACE PRIVATE REAL PROPERTY LOCATED  
28 IN THIS STATE IN TRUST AS PART OF AN INDIAN TRIBE'S SETTLEMENT OF A LAND  
29 CLAIM SHALL IMMEDIATELY NOTIFY THE PRESIDENT OF THE SENATE AND THE SPEAKER  
30 OF THE HOUSE OF REPRESENTATIVES SO THAT THE LEGISLATURE MAY DO ANY OF THE  
31 FOLLOWING, AS APPLICABLE:

32 1. PROVIDE COMMENT.

33 2. FILE AN ADMINISTRATIVE APPEAL.

34 3. FILE AN ACTION IN THE APPROPRIATE COURT.

35 E. A PERSON WHO VIOLATES SUBSECTION A OR B OF THIS SECTION IS  
36 SUBJECT TO A CIVIL PENALTY OF AT LEAST \$500 BUT NOT MORE THAN \$1,000.

37 F. FOR THE PURPOSES OF THIS SECTION, "ESCROW" AND "ESCROW AGENT"  
38 HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 6-801.

39 37-822. Applicability

40 THIS ARTICLE DOES NOT APPLY TO A TRUSTEE'S DEED OR MORTGAGE THAT IS  
41 INSURED OR HELD BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN  
42 DEVELOPMENT, THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE  
43 FEDERAL HOUSING ADMINISTRATION.

Sec. 5. Legislative findings

The legislature finds that:

1. At the granting of statehood, the new State of Arizona was granted the exclusive right to all lands not assigned under treaty to the Native American tribes.

2. Since the granting of statehood, numerous lands have been retained by the federal government by various means by way of congressional action, thus depriving the State of Arizona of a tax base, which, in comparison to other states, is critical to funding services such as education, public safety and infrastructure.

3. There are three primary legal theories available to Arizona to attempt to prove the claim of tax base in existing American jurisprudence, which are, "the equal sovereignty principle," "the equal footing doctrine" and "the compact theory." All three legal theories provide credible support to the claim of a primary interest in state private property tax base.

4. Arizona relies on approximately sixteen percent of its land area to fund the critical services of education, infrastructure, public safety and welfare programs, while other states enjoy nearly complete access to their lands to generate a survivable tax base.

5. The equal sovereignty principle was recently highlighted by the United States Supreme Court in Shelby County, Ala. v. Holder, 570 U.S. 529 (2013), which challenged the requirement of the Voting Rights Act of 1965 (P.L. 89-110, 79 Stat. 437) that certain states preclear their voting laws with the United States Department of Justice as a violation of the constitutional requirement that the states in our federal system be equal in sovereignty. The court applied a heightened level of scrutiny to the preclearance requirements because they treated Alabama as unequal in sovereignty and ruled that the preclearance provisions were unconstitutional under the equal sovereignty principle. For the reasons discussed in detail below, the legislature finds that section 102(a)(1) of the federal land policy and management act of 1976 (P.L. 94-579; 90 Stat. 2743), which reversed almost two hundred years of federal public lands policy from one of disposal to one of near-permanent retention, treats Arizona as unequal in sovereignty as compared to the states with dominion over the land within their borders. This argument, if adopted by the court, would most likely result in a declaration that the United States cannot forever retain the public lands within Arizona's borders, not an order transferring the public lands to the State of Arizona. Therefore, should the court be persuaded by this argument, a subsequent political solution negotiated by all stakeholders would most likely be required to resolve the issue. A possible outcome of that political process could be Arizona's ownership of those lands.

1           6. The equal footing doctrine is based on the equal sovereignty  
2 principle. It requires that states newly admitted to the Union receive  
3 all incidents of sovereignty enjoyed by the thirteen original states. The  
4 equal footing doctrine considers only sovereign and political rights of  
5 the newly admitted states, not economic or geographic differences. The  
6 original thirteen states stepped into the shoes of the Crown with regard  
7 to dominion over public lands within their borders. Similarly, Vermont,  
8 Kentucky, Tennessee, Maine, Texas and Hawaii all came into the Union with  
9 dominion over their public lands. Dominion over land has historically been  
10 viewed as a key incident of sovereignty, and denial of that dominion  
11 negatively impacts sovereignty in a variety of ways. Therefore, in order  
12 for Arizona to have been admitted as a co-equal sovereign with the states  
13 with dominion over public lands within their borders, Arizona also should  
14 have received on admission dominion over the land within its borders. A  
15 ruling by the United States Supreme Court based on the equal footing  
16 doctrine argument would logically result in the transfer of public lands  
17 to the State of Arizona.

18           7. The compact theory posits that the Arizona enabling act was an  
19 offer, and Arizona's acceptance of that offer created a solemn compact.  
20 Implicit in that compact was the duty of the United States to timely  
21 dispose of the public lands within Arizona's borders as it had done with  
22 states admitted before Arizona. There is historical support for the  
23 position that the United States promised to dispose of the public lands,  
24 maintained a policy requiring disposal of public lands and acted on that  
25 policy from 1784 through the date of Arizona's admission. There is  
26 historical evidence that Arizona and the United States both expected, at  
27 the time of Arizona's admission, that the public lands would be disposed  
28 of consistent with past practice. There is also historical evidence that  
29 the intent of the property clause of the Constitution of the United States  
30 was to dispose of public lands, not to forever retain them. Accordingly,  
31 an argument can be made that the United States undertook an obligation to  
32 dispose of the public lands within Arizona's borders.

33           8. Since the United States has not disposed of the public lands  
34 within Arizona, the state relies on less than sixteen percent of the land  
35 it has dominion over as tax base to generate tax revenue in order to pay  
36 for critical services. Arizona cannot continue to serve the interests of  
37 its citizens if the private property tax base is taken without careful  
38 contemplation of consequences of such transfers to a government unit, the  
39 United States, which does not pay tax, nor does it compensate for the  
40 value of the land it controls through payments in lieu of taxes.

41           9. Under article I, section 8, clause 17, Constitution of the  
42 United States, the legislature of each state has the sole authority to  
43 give its consent of all purchases of land, "to exercise exclusive  
44 legislation in all cases whatsoever, over such district (not exceeding ten  
45 miles square) as may, by cession of particular states, and the Acceptance

1 of Congress, become the seat of the government of the United States, and  
2 to exercise like authority over all places purchased by the consent of the  
3 legislature of the State in which the same shall be, for the erection of  
4 forts, magazines, arsenals, dock yards, and other needful buildings".

5 Sec. 6. Short title

6 This act may be cited as the "Tax Base Protection Act".