

REFERENCE TITLE: exactions; individualized determinations; appeal

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

SB 1787

Introduced by
Senator Petersen

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.2, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-463.07; AMENDING TITLE 11, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-810.02; RELATING TO MUNICIPAL AND COUNTY DEVELOPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 6.2, Arizona Revised
3 Statutes, is amended by adding section 9-463.07, to read:

4 9-463.07. Exactions; mitigation costs; individualized
5 determination; appeal; protest; definitions

6 A. NOTWITHSTANDING ANY OTHER LAW, A MUNICIPALITY MAY NOT IMPOSE AN
7 EXACTION ON AN APPLICANT FOR ANY PROPOSED PROJECT WITHOUT A WRITTEN NOTICE
8 TO THE APPLICANT OF THE REQUIRED EXACTION.

9 B. ON RECEIPT OF THE WRITTEN NOTICE REQUIRED BY SUBSECTION A OF
10 THIS SECTION, THE APPLICANT MAY REQUEST AN INDIVIDUALIZED DETERMINATION
11 THAT DEMONSTRATES THE BASIS FOR THE EXACTION BEING IMPOSED ON THE PROPOSED
12 PROJECT. THE INDIVIDUALIZED DETERMINATION SHALL INCLUDE THE METHODOLOGY,
13 SUPPORTING DATA AND ANY INFORMATION THAT IS USED TO DETERMINE THE ADVERSE
14 IMPACT THAT IS ANTICIPATED TO RESULT FROM THE PROPOSED PROJECT AND THE
15 METHOD OF CALCULATING THE EXACTION AMOUNT BASED ON THAT IDENTIFIED ADVERSE
16 IMPACT. THE MUNICIPALITY SHALL PAY FOR THE INDIVIDUALIZED DETERMINATION
17 REQUIRED PURSUANT TO THIS SUBSECTION.

18 C. THE MUNICIPALITY SHALL PROVIDE THE COMPLETED INDIVIDUALIZED
19 DETERMINATION REQUIRED PURSUANT TO SUBSECTION B OF THIS SECTION WITHIN
20 SIXTY DAYS AFTER RECEIVING THE REQUEST FROM THE APPLICANT FOR THE
21 INDIVIDUALIZED DETERMINATION. UNLESS AN APPLICANT FILES AN APPEAL, THE
22 INDIVIDUALIZED DETERMINATION SHALL BE THE FINAL DETERMINATION. IF THE
23 INDIVIDUALIZED DETERMINATION IS NOT COMPLETED AND DELIVERED TO THE
24 APPLICANT WITHIN SIXTY DAYS AFTER RECEIVING THE REQUEST FOR THE
25 INDIVIDUALIZED DETERMINATION FROM THE APPLICANT, THE EXACTION IS DEEMED
26 EXCESSIVE AND IS WAIVED.

27 D. IF AN APPLICANT OBJECTS TO THE METHODOLOGY, SUPPORTING
28 INFORMATION OR CONCLUSIONS IN THE INDIVIDUALIZED DETERMINATION, THE
29 APPLICANT MAY FILE AN APPEAL. THE APPEAL MAY BE FILED AT THE TIME THE
30 APPLICANT RECEIVES THE INDIVIDUALIZED DETERMINATION PURSUANT TO SUBSECTION
31 C OF THIS SECTION OR THE APPLICANT MAY FILE AN APPEAL WITH OTHER MATTERS
32 THAT ARISE IN THE PERMIT REVIEW PROCESS THAT IS RELATED TO THE
33 APPLICATION. IN AN APPEAL, THE MUNICIPALITY HAS THE BURDEN OF PROOF TO
34 DEMONSTRATE THAT THE EXACTION IS ROUGHLY PROPORTIONAL TO THE ADVERSE
35 IMPACT OF THE PROPOSED PROJECT.

36 E. AN APPLICANT MAY ELECT TO PROCEED UNDER PROTEST AND SATISFY A
37 REQUIRED EXACTION WHILE THE EXACTION IS BEING APPEALED. ANY SATISFACTION
38 OF AN EXACTION UNDER PROTEST MAY NOT BE CONSTRUED AS A WAIVER OF ANY
39 OBJECTIONS OR APPEALS OR RIGHT TO JUDICIAL REVIEW OF THE EXACTION. THE
40 MUNICIPALITY MAY NOT REQUIRE THE APPLICANT TO SATISFY THE EXACTION AS A
41 PREREQUISITE TO APPEAL THE VALIDITY OF THE INDIVIDUALIZED DETERMINATION
42 PROVIDED PURSUANT TO SUBSECTION C OF THIS SECTION.

43 F. AN APPLICANT MAY BRING AN ACTION IN AN APPROPRIATE COURT TO
44 CHALLENGE THE VALIDITY OF THE INDIVIDUALIZED DETERMINATION OR THE
45 EXACTION. THE COURT SHALL REVIEW THE EXACTION DE NOVO. THE MUNICIPALITY

1 HAS THE BURDEN OF PROOF TO DEMONSTRATE THAT THE EXACTION IS ROUGHLY
2 PROPORTIONAL TO THE ADVERSE IMPACT OF THE PROPOSED PROJECT. THE COURT
3 SHALL AWARD COMPENSATORY DAMAGES AND ATTORNEY FEES TO A PREVAILING
4 APPLICANT THAT BRINGS AN ACTION PURSUANT TO THIS SUBSECTION.

5 G. FOR THE PURPOSES OF THIS SECTION:

6 1. "EXACTION":

7 (a) MEANS ANY FEE, DEDICATION OR CONDITION THAT IS IMPOSED BY A
8 MUNICIPALITY ON AN APPLICANT OR PROPERTY OWNER AS A CONDITION OF GRANTING
9 A PERMIT OR OTHER APPROVAL FOR THE PROPOSED PROJECT.

10 (b) DOES NOT INCLUDE FEES FOR MUNICIPAL SERVICES OR REGULAR PERMIT
11 APPLICATION FEES.

12 2. "INDIVIDUALIZED DETERMINATION" MEANS A WRITTEN ANALYSIS THAT IS
13 SPECIFIC TO THE PROPOSED PROJECT TO ASSESS WHETHER AN EXACTION, INCLUDING
14 A DEVELOPMENT OR MITIGATION FEE, IS ROUGHLY PROPORTIONAL IN NATURE AND
15 EXTENT TO THE ADVERSE IMPACTS OF THE PROPOSED PROJECT.

16 3. "PROPOSED PROJECT":

17 (a) MEANS ANY APPLICATION FOR USE OR DEVELOPMENT OF REAL PROPERTY.

18 (b) INCLUDES RESIDENTIAL, COMMERCIAL, RECREATIONAL, AGRICULTURAL,
19 AND INDUSTRIAL USE OR DEVELOPMENT.

20 Sec. 2. Title 11, chapter 6, article 1, Arizona Revised Statutes,
21 is amended by adding section 11-810.02, to read:

22 11-810.02. Exactions; mitigation costs; individualized
23 determination; appeal; protest; definitions

24 A. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY NOT IMPOSE AN
25 EXACTION ON AN APPLICANT FOR ANY PROPOSED PROJECT WITHOUT A WRITTEN NOTICE
26 TO THE APPLICANT OF THE REQUIRED EXACTION.

27 B. ON RECEIPT OF THE WRITTEN NOTICE REQUIRED BY SUBSECTION A OF
28 THIS SECTION, THE APPLICANT MAY REQUEST AN INDIVIDUALIZED DETERMINATION
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34 IMPACT. THE COUNTY SHALL PAY FOR THE INDIVIDUALIZED DETERMINATION
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36 C. THE COUNTY SHALL PROVIDE THE COMPLETED INDIVIDUALIZED
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38 SIXTY DAYS AFTER RECEIVING THE REQUEST FROM THE APPLICANT FOR THE
39 INDIVIDUALIZED DETERMINATION. UNLESS AN APPLICANT FILES AN APPEAL, THE
40 INDIVIDUALIZED DETERMINATION SHALL BE THE FINAL DETERMINATION. IF THE
41 INDIVIDUALIZED DETERMINATION IS NOT COMPLETED AND DELIVERED TO THE
42 APPLICANT WITHIN SIXTY DAYS AFTER RECEIVING THE REQUEST FOR THE
43 INDIVIDUALIZED DETERMINATION FROM THE APPLICANT, THE EXACTION IS DEEMED
44 EXCESSIVE AND IS WAIVED.

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4 APPLICANT RECEIVES THE INDIVIDUALIZED DETERMINATION PURSUANT TO SUBSECTION
5 C OF THIS SECTION OR THE APPLICANT MAY FILE AN APPEAL WITH OTHER MATTERS
6 THAT ARISE IN THE PERMIT REVIEW PROCESS THAT IS RELATED TO THE
7 APPLICATION. IN AN APPEAL, THE COUNTY HAS THE BURDEN OF PROOF TO
8 DEMONSTRATE THAT THE EXACTION IS ROUGHLY PROPORTIONAL TO THE ADVERSE
9 IMPACT OF THE PROPOSED PROJECT.

10 E. AN APPLICANT MAY ELECT TO PROCEED UNDER PROTEST AND SATISFY A
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12 OF AN EXACTION UNDER PROTEST MAY NOT BE CONSTRUED AS A WAIVER OF ANY
13 OBJECTIONS OR APPEALS OR RIGHT TO JUDICIAL REVIEW OF THE EXACTION. THE
14 COUNTY MAY NOT REQUIRE THE APPLICANT TO SATISFY THE EXACTION AS A
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19 EXACTION. THE COURT SHALL REVIEW THE EXACTION DE NOVO. THE COUNTY HAS
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