

Senate Engrossed

exactions; individualized determinations; appeal

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

SENATE BILL 1787

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 APPEAL DIRECTLY TO THE ATTORNEY GENERAL. THE ATTORNEY
30 GENERAL SHALL TREAT THE APPEAL AS A REQUEST MADE PURSUANT TO SECTION
31 41-194.01. IN AN APPEAL, THE MUNICIPALITY HAS THE BURDEN OF PROOF TO
32 DEMONSTRATE THAT THE EXACTION IS ROUGHLY PROPORTIONAL TO THE ADVERSE
33 IMPACT OF THE PROPOSED PROJECT. IF AN APPLICANT IS SUCCESSFUL IN AN
34 APPEAL, THE ATTORNEY GENERAL SHALL DEEM THE EXACTION EXCESSIVE AND SHALL
35 WAIVE THE EXACTION OR, IF THE APPLICANT HAS PROCEEDED UNDER PROTEST
36 PURSUANT TO SUBSECTION E OF THIS SECTION, THE ATTORNEY GENERAL SHALL
37 DIRECT THE MUNICIPALITY TO COMPENSATE THE APPLICANT FOR ANY COSTS THAT THE
38 APPLICANT HAS EXPENDED IN FURTHERANCE OF THE EXCESSIVE EXACTION.

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

1 F. AN APPLICANT MAY BRING AN ACTION IN AN APPROPRIATE COURT TO
2 CHALLENGE THE VALIDITY OF THE INDIVIDUALIZED DETERMINATION OR THE
3 EXACTION. THE COURT SHALL REVIEW THE EXACTION DE NOVO. THE MUNICIPALITY
4 HAS THE BURDEN OF PROOF TO DEMONSTRATE THAT THE EXACTION IS ROUGHLY
5 PROPORTIONAL TO THE ADVERSE IMPACT OF THE PROPOSED PROJECT. THE COURT
6 SHALL AWARD COMPENSATORY DAMAGES AND ATTORNEY FEES TO A PREVAILING
7 APPLICANT THAT BRINGS AN ACTION PURSUANT TO THIS SUBSECTION.

8 G. FOR THE PURPOSES OF THIS SECTION:

9 1. "EXACTION":

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

13 (b) DOES NOT INCLUDE:

14 (i) DEVELOPMENT FEES COLLECTED PURSUANT TO SECTION 9-463.05.

15 (ii) FEES FOR MUNICIPAL SERVICES.

16 (iii) REGULAR PERMIT APPLICATION FEES.

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

21 3. "PROPOSED PROJECT" MEANS ANY APPLICATION FOR USE OR DEVELOPMENT
22 OF RESIDENTIAL REAL PROPERTY.

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

25 11-810.02. Exactions; mitigation costs; individualized
26 determination; appeal; protest; definitions

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

30 B. ON RECEIPT OF THE WRITTEN NOTICE REQUIRED BY SUBSECTION A OF
31 THIS SECTION, THE APPLICANT MAY REQUEST AN INDIVIDUALIZED DETERMINATION
32 THAT DEMONSTRATES THE BASIS FOR THE EXACTION BEING IMPOSED ON THE PROPOSED
33 PROJECT. THE INDIVIDUALIZED DETERMINATION SHALL INCLUDE THE METHODOLOGY,
34 SUPPORTING DATA AND ANY INFORMATION THAT IS USED TO DETERMINE THE ADVERSE
35 IMPACT THAT IS ANTICIPATED TO RESULT FROM THE PROPOSED PROJECT AND THE
36 METHOD OF CALCULATING THE EXACTION AMOUNT BASED ON THAT IDENTIFIED ADVERSE
37 IMPACT. THE COUNTY SHALL PAY FOR THE INDIVIDUALIZED DETERMINATION
38 REQUIRED PURSUANT TO THIS SUBSECTION.

39 C. THE COUNTY SHALL PROVIDE THE COMPLETED INDIVIDUALIZED
40 DETERMINATION REQUIRED PURSUANT TO SUBSECTION B OF THIS SECTION WITHIN
41 SIXTY DAYS AFTER RECEIVING THE REQUEST FROM THE APPLICANT FOR THE
42 INDIVIDUALIZED DETERMINATION. UNLESS AN APPLICANT FILES AN APPEAL, THE
43 INDIVIDUALIZED DETERMINATION SHALL BE THE FINAL DETERMINATION. IF THE
44 INDIVIDUALIZED DETERMINATION IS NOT COMPLETED AND DELIVERED TO THE
45 APPLICANT WITHIN SIXTY DAYS AFTER RECEIVING THE REQUEST FOR THE

1 INDIVIDUALIZED DETERMINATION FROM THE APPLICANT, THE EXACTION IS DEEMED
2 EXCESSIVE AND IS WAIVED.

3 D. IF AN APPLICANT OBJECTS TO THE METHODOLOGY, SUPPORTING
4 INFORMATION OR CONCLUSIONS IN THE INDIVIDUALIZED DETERMINATION, THE
5 APPLICANT MAY APPEAL DIRECTLY TO THE ATTORNEY GENERAL. THE ATTORNEY
6 GENERAL SHALL TREAT THE APPEAL AS A REQUEST MADE PURSUANT TO SECTION
7 41-194.01. 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. IF AN APPLICANT IS SUCCESSFUL IN AN
10 APPEAL, THE ATTORNEY GENERAL SHALL DEEM THE EXACTION EXCESSIVE AND SHALL
11 WAIVE THE EXACTION OR, IF THE APPLICANT HAS PROCEEDED UNDER PROTEST
12 PURSUANT TO SUBSECTION E OF THIS SECTION, THE ATTORNEY GENERAL SHALL
13 DIRECT THE COUNTY TO COMPENSATE THE APPLICANT FOR ANY COSTS THAT THE
14 APPLICANT HAS EXPENDED IN FURTHERANCE OF THE EXCESSIVE EXACTION.

15 E. AN APPLICANT MAY ELECT TO PROCEED UNDER PROTEST AND SATISFY A
16 REQUIRED EXACTION WHILE THE EXACTION IS BEING APPEALED. ANY SATISFACTION
17 OF AN EXACTION UNDER PROTEST MAY NOT BE CONSTRUED AS A WAIVER OF ANY
18 OBJECTIONS OR APPEALS OR RIGHT TO JUDICIAL REVIEW OF THE EXACTION. THE
19 COUNTY MAY NOT REQUIRE THE APPLICANT TO SATISFY THE EXACTION AS A
20 PREREQUISITE TO APPEAL THE VALIDITY OF THE INDIVIDUALIZED DETERMINATION
21 PROVIDED PURSUANT TO SUBSECTION C OF THIS SECTION.

22 F. AN APPLICANT MAY BRING AN ACTION IN AN APPROPRIATE COURT TO
23 CHALLENGE THE VALIDITY OF THE INDIVIDUALIZED DETERMINATION OR THE
24 EXACTION. THE COURT SHALL REVIEW THE EXACTION DE NOVO. THE COUNTY HAS
25 THE BURDEN OF PROOF TO DEMONSTRATE THAT THE EXACTION IS ROUGHLY
26 PROPORTIONAL TO THE ADVERSE IMPACT OF THE PROPOSED PROJECT. THE COURT
27 SHALL AWARD COMPENSATORY DAMAGES AND ATTORNEY FEES TO A PREVAILING
28 APPLICANT THAT BRINGS AN ACTION PURSUANT TO THIS SUBSECTION.

29 G. FOR THE PURPOSES OF THIS SECTION:

30 1. "EXACTION":

31 (a) MEANS ANY FEE, DEDICATION OR CONDITION THAT IS IMPOSED BY A
32 COUNTY ON AN APPLICANT OR PROPERTY OWNER AS A CONDITION OF GRANTING A
33 PERMIT OR OTHER APPROVAL FOR THE PROPOSED PROJECT.

34 (b) DOES NOT INCLUDE:

35 (i) DEVELOPMENT FEES COLLECTED PURSUANT TO SECTION 11-1102.

36 (ii) FEES FOR COUNTY SERVICES.

37 (iii) REGULAR PERMIT APPLICATION FEES.

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

42 3. "PROPOSED PROJECT" MEANS ANY APPLICATION FOR USE OR DEVELOPMENT
43 OF RESIDENTIAL REAL PROPERTY.