



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: WM DPA 6-4-0-0

HCR2023: property tax; refund; nuisance enforcement.

Sponsor: Representative Toma, LD 27

House Engrossed

Overview

Allows a property owner to apply for a primary property tax refund if the fair market value (FMV) of their property is decreased, or they incur expenses caused by a city, town or county adopting a policy, pattern or practice which declines to enforce existing laws or the maintaining of a public nuisance.

History

[Ariz. Const. art 9 § 2](#) states all property that is not exempt under law in Arizona is subject to taxation. *Primary property taxes* mean all ad valorem taxes except for secondary property taxes ([A.R.S. § 42-11001](#)).

The Department of Revenue (DOR) is responsible for providing a uniform system of tax administration and revenue collection for the state. From this revenue collection, a portion of TPT and severance taxes is allocated as the distribution base, which is distributed to cities, towns, counties and other purposes throughout Arizona. 25% of the monies designated as distribution base are designated to the various incorporated municipalities in Arizona in proportion to their population, which is to be used for any purpose ([A.R.S. § 42-5029](#)).

Provisions

1. Allows a property owner to apply for a primary property tax refund in the city, town or county they are located if the FMV of their property is decreased from or they incur expenses to mitigate the city, town or county:
 - a) adopting a policy, pattern or practice that declines to enforce existing laws, ordinances or other legislation prohibiting illegal camping, loitering, panhandling, public urination or defecation, public consumption of alcoholic beverages or possession or use of illegal substances; or
 - b) maintaining a public nuisance. (Sec. 1)
2. Outlines the calculations and methods to refunding the tax (Sec. 1)
3. Limits the amount of the primary property tax refund to the amount the property owner paid in primary property taxes for the tax year to the affected city, town or county. (Sec. 1)
4. Grants a property owner a full refund for that tax year in an amount equal to the amount the owner paid in primary property taxes if the total amount of the determined refund exceeds the amount of primary property tax paid. (Sec. 1)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note

5. Requires the property owner to apply to DOR for the remaining portion of the refund in the following or successive tax years. (Sec. 1)
6. Requires DOR to notify the affected city, town or county of an application from a property owner within 15 days. (Sec. 1)
7. Allows the affected city, town or county to respond within 30 days of the notice by:
 - a) accepting the refund, where DOR pays the refund to the property owner;
 - b) rejecting the refund, where the refund is not paid; or
 - c) deciding not to respond, where the refund is deemed accepted. (Sec. 1)
8. Allows a property owner to file a cause of action in the superior court of the county in which the real property is located if the refund is rejected. (Sec. 1)
9. Stipulates that in a cause of action filed:
 - a) the city, town or county must 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; and
 - c) the prevailing property owner must be awarded reasonable attorney fees and costs. (Sec. 1)
10. Requires the state treasurer to:
 - a) withhold monies to the affected city, town or county based on the aggregate amount of the refunds claimed; and
 - b) credit any monies withheld to the DOR as reimbursement for issuing the refund. (Sec. 1)
11. Removes the requirement that a property owner must submit a claim as a prerequisite to filing a claim for a refund. (Sec. 1)
12. Entitles a property owner to apply for a refund once per tax year for every year the policy, pattern, practice or public nuisance remains in place. (Sec. 1)
13. Prescribes a refund for the property taxes paid to a city or town if the real property is located within the corporate boundaries of a city or town, and prescribes a refund to a county if the real property is located within an unincorporated area of a county. (Sec. 1)
14. States that the refund process is in addition to any other law. (Sec. 1)
15. Directs the DOR to administer the refund process and prescribe the procedure. (Sec. 1)
16. Outlines the specific acts or decisions that do not apply to the refund process. (Sec. 1)
17. Defines *fair market value*, *property owner* and *affected city, town or county*. (Sec. 1)
18. Repeals the refund process beginning January 1, 2036. (Sec. 2)
19. Requires the Secretary of State to submit the proposition to the voters at the next general election.
20. Becomes effective if approved by the voters and on proclamation of the Governor.