

REFERENCE TITLE: local development fees; energy credit

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2492

Introduced by
Representatives Mason, Lopez

AN ACT

AMENDING SECTIONS 9-463.05 AND 11-1102, ARIZONA REVISED STATUTES; RELATING TO
DEVELOPMENT FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-463.05, Arizona Revised Statutes, is amended to
3 read:

4 9-463.05. Development fees; imposition by cities and towns;
5 annual report

6 A. A municipality may assess development fees to offset costs to the
7 municipality associated with providing necessary public services to a
8 development.

9 B. Development fees assessed by a municipality under this section are
10 subject to the following requirements:

11 1. Development fees shall result in a beneficial use to the
12 development.

13 2. Monies received from development fees assessed pursuant to this
14 section shall be placed in a separate fund and accounted for separately and
15 may only be used for the purposes authorized by this section. Interest
16 earned on monies in the separate fund shall be credited to the fund.

17 3. The schedule for payment of fees shall be provided by the
18 municipality. The municipality shall provide a credit toward the payment of
19 a development fee for the required dedication of public sites and
20 improvements provided by the developer for which that development fee is
21 assessed. The developer of residential dwelling units shall be required to
22 pay development fees when construction permits for the dwelling units are
23 issued.

24 4. The amount of any development fees assessed pursuant to this
25 section must bear a reasonable relationship to the burden imposed upon the
26 municipality to provide additional necessary public services to the
27 development. The municipality, in determining the extent of the burden
28 imposed by the development, shall consider, among other things, the
29 contribution made or to be made in the future in cash or by taxes, fees or
30 assessments by the property owner towards the capital costs of the necessary
31 public service covered by the development fee.

32 5. If development fees are assessed by a municipality, such fees shall
33 be assessed in a non-discriminatory manner.

34 6. In determining and assessing a development fee applying to land in
35 a community facilities district established under title 48, chapter 4,
36 article 6, the municipality shall take into account all public infrastructure
37 provided by the district and capital costs paid by the district for necessary
38 public services and shall not assess a portion of the development fee based
39 on the infrastructure or costs.

40 7. DEVELOPERS SHALL BE GIVEN A FIFTEEN PER CENT DISCOUNT IN
41 DEVELOPMENT FEES FOR HOMES THAT QUALIFY FOR THE FEDERAL TAX CREDIT FOR ENERGY
42 EFFICIENT HOMES.

43 C. A municipality shall give at least sixty days' advance notice of
44 intention to assess a new or increased development fee and shall release to
45 the public a written report including all documentation that supports the

1 assessment of a new or increased development fee. The municipality shall
2 conduct a public hearing on the proposed new or increased development fee at
3 any time after the expiration of the sixty day notice of intention to assess
4 a new or increased development fee and at least fourteen days prior to the
5 scheduled date of adoption of the new or increased fee by the governing
6 body. A development fee assessed pursuant to this section shall not be
7 effective until ninety days after its formal adoption by the governing body
8 of the municipality. Nothing in this subsection shall affect any development
9 fee adopted prior to July 24, 1982.

10 D. Each municipality that assesses development fees shall submit an
11 annual report accounting for the collection and use of the fees. The annual
12 report shall include the following:

13 1. The amount assessed by the municipality for each type of
14 development fee.

15 2. The balance of each fund maintained for each type of development
16 fee assessed as of the beginning and end of the fiscal year.

17 3. The amount of interest or other earnings on the monies in each fund
18 as of the end of the fiscal year.

19 4. The amount of development fee monies used to repay:

20 (a) Bonds issued by the municipality to pay the cost of a capital
21 improvement project that is the subject of a development fee assessment.

22 (b) Monies advanced by the municipality from funds other than the
23 funds established for development fees in order to pay the cost of a capital
24 improvement project that is the subject of a development fee assessment.

25 5. The amount of development fee monies spent on each capital
26 improvement project that is the subject of a development fee assessment and
27 the physical location of each capital improvement project.

28 6. The amount of development fee monies spent for each purpose other
29 than a capital improvement project that is the subject of a development fee
30 assessment.

31 E. Within ninety days following the end of each fiscal year, each
32 municipality shall submit a copy of the annual report to the city
33 clerk. Copies shall be made available to the public on request. The annual
34 report may contain financial information that has not been audited.

35 F. A municipality that fails to file the report required by this
36 section shall not collect development fees until the report is filed.

37 Sec. 2. Section 11-1102, Arizona Revised Statutes, is amended to read:
38 11-1102. County development fees; annual report

39 A. If a county has adopted a capital improvements plan, the county may
40 assess development fees within the covered planning area in order to offset
41 the capital costs for water, sewer, streets, parks and public safety
42 facilities determined by the plan to be necessary for public services
43 provided by the county to a development in the planning area.

44 B. Development fees assessed under this section are subject to the
45 following requirements:

1 1. Development fees shall result in a beneficial use to the
2 development.

3 2. Monies received from development fees shall be placed in a separate
4 fund and accounted for separately and may only be used for the purposes
5 authorized by this section. Interest earned on monies in the separate fund
6 shall be credited to the fund.

7 3. The county shall prescribe the schedule for paying the development
8 fees. The county shall provide a credit toward the payment of the fee for
9 the required dedication of public sites and improvements provided by the
10 developer for which that fee is assessed. The developer of residential
11 dwelling units shall be required to pay the fees when construction permits
12 for the dwelling units are issued.

13 4. The amount of any development fees must bear a reasonable
14 relationship to the burden of capital costs imposed on the county to provide
15 additional necessary public services to the development. In determining the
16 extent of the burden imposed by the development, the county shall consider,
17 among other things, the contribution made or to be made in the future in cash
18 by taxes, fees or assessments by the property owner toward the capital costs
19 of the necessary public service covered by the development fee.

20 5. Development fees shall be assessed in a nondiscriminatory manner.

21 6. In determining and assessing a development fee applying to land in
22 a community facilities district established under title 48, chapter 4,
23 article 6, the county shall take into account all public infrastructure
24 provided by the district and capital costs paid by the district for necessary
25 public services and shall not assess a portion of the development fee based
26 on the infrastructure or costs.

27 7. DEVELOPERS SHALL BE GIVEN A FIFTEEN PER CENT DISCOUNT IN
28 DEVELOPMENT FEES FOR HOMES THAT QUALIFY FOR THE FEDERAL TAX CREDIT FOR ENERGY
29 EFFICIENT HOMES.

30 C. Before assessing or increasing a development fee, the county shall:

31 1. Give at least one hundred twenty days' advance notice of intention
32 to assess a new or increased development fee.

33 2. Release to the public a written report including all documentation
34 that supports the assessment of a new or increased development fee.

35 3. Conduct a public hearing on the proposed new or increased
36 development fee at any time after the expiration of the one hundred twenty
37 day notice of intention to assess a new or increased development fee and at
38 least fourteen days before the scheduled date of adoption of the new or
39 increased fee.

40 D. A development fee assessed pursuant to this section is not
41 effective for at least ninety days after its formal adoption by the board of
42 supervisors.

43 E. Each county that assesses development fees shall submit an annual
44 report accounting for the collection and use of the fees. The annual report
45 shall include the following:

- 1 1. The amount assessed by the county for each type of development fee.
- 2 2. The balance of each fund maintained for each type of development
- 3 fee assessed as of the beginning and end of the fiscal year.
- 4 3. The amount of interest or other earnings on the monies in each fund
- 5 as of the end of the fiscal year.
- 6 4. The amount of development fee monies used to repay:
- 7 (a) Bonds issued by the county to pay the cost of a capital
- 8 improvement project that is the subject of a development fee assessment.
- 9 (b) Monies advanced by the county from funds other than the funds
- 10 established for development fees in order to pay the cost of a capital
- 11 improvement project that is the subject of a development fee assessment.
- 12 5. The amount of development fee monies spent on each capital
- 13 improvement project that is the subject of a development fee assessment and
- 14 the physical location of each capital improvement project.
- 15 6. The amount of development fee monies spent for each purpose other
- 16 than a capital improvement project that is the subject of a development fee
- 17 assessment.
- 18 F. Within ninety days following the end of each fiscal year, each
- 19 county shall submit a copy of the annual report to the clerk of the board of
- 20 supervisors. Copies shall be made available to the public on request. The
- 21 annual report may contain financial information that has not been audited.
- 22 G. A county that fails to file the report required by this section
- 23 shall not collect development fees until the report is filed.
- 24 H. This section does not affect any development fee adopted before May
- 25 18, 2000.