

<a href="#">ARS TITLE PAGE</a>	<a href="#">NEXT DOCUMENT</a>	<a href="#">PREVIOUS DOCUMENT</a>
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42-6209. Abatement of tax for government property improvements in single central business district

A. A city or town may abate the tax provided for under this article for a limited period beginning when the certificate of occupancy is issued and ending eight years after the certificate of occupancy is issued on a government property improvement that is constructed either before or after July 20, 1996 and that meets the following requirements:

1. The improvement is located in a single central business district in the city or town and is subject to a lease or development agreement entered into on or after April 1, 1985. For the purposes of this section:

(a) A city or town shall not designate more than one central business district within its corporate boundaries.

(b) A city or town shall not approve or enter into a development agreement or lease for a government property improvement within one year after the designation of the central business district in which the improvement is located.

(c) "Central business district" means a single and contiguous geographical area designated by resolution of the governing body of the city or town and meeting the following requirements:

(i) The central business district is located entirely within a slum or blighted area that is established pursuant to title 36, chapter 12, article 3.

(ii) The central business district is geographically compact and no larger than the greater of five per cent of the total land area within the exterior boundaries of the city or town or six hundred forty acres.

2. The government property improvement resulted or will result in an increase in property value of at least one hundred per cent.

B. The prime lessee shall notify the county treasurer and the government lessor and apply for the abatement before the taxes under this article are due and payable in the first year after the certificate of occupancy is issued.

C. Except as provided by subsection D, each lease between a prime lessee and a government lessor for which the tax is abated under this section and that is entered into from and after May 31, 2010, and that does not meet the conditions provided in section 42-6203, subsection A, must be approved by a simple majority vote of the governing body without the use of a consent calendar and shall not be approved unless:

1. The government lessor notifies the governing bodies of the county and any city, town and school district in which the government property improvement is located at least sixty days before the approval. The notice must include the name and address of the intended prime lessee, the location and proposed use of the government property improvement and the proposed term of the lease or development agreement.

2. The government lessor determines that, within the term of the lease or development agreement, the economic and fiscal benefit to this state and the county, city or town in which the government property improvement is located will exceed the benefits received by the prime lessee as a result of the development agreement or lease on the basis of an estimate of those benefits prepared by an independent third party in a manner and method acceptable to the governing body of the government lessor. The estimate must be provided to the government lessor and the governing bodies of the county and any city, town and school district in which the government property improvement is located at least thirty days before the vote of the governing body. A lease or development agreement between a prime lessee and a government lessor involving residential rental housing is exempt from the economic estimate analysis requirements of this paragraph.

3. The lease or development agreement provides that the government lessor may not approve an amendment to change the use of the government property improvement during the period of abatement unless:

(a) The government lessor notifies the governing bodies of the county and any city, town and school district in which the government property improvement is located at least sixty days before the approval. The notice must include the name and address of the prime lessee, the location and proposed use of the government property improvement and the remaining term of the lease or development agreement.

(b) The government lessor determines that, within the remaining term of the lease or development agreement, the economic and fiscal benefit to this state and the county,

city or town in which the government property improvement is located will exceed the benefits received by the prime lessee as a result of the change in the lease or development agreement on the basis of an estimate of those benefits prepared by an independent third party in a manner and method acceptable to the governing body of the government lessor. The estimate must be provided to the government lessor and the governing bodies of the county and any city, town and school district in which the government property improvement is located at least thirty days before the vote of the governing body. A change in use under a lease or development agreement between a prime lessee and a government lessor to residential rental housing is exempt from the economic estimate analysis requirements of this subdivision.

D. Subsection C does not apply if:

1. The tax is not abated under this section.
2. The government lessor is acting as a commercial landlord without a development agreement in a lease for a use ancillary to a government property improvement used for a public purpose.