



# ARIZONA HOUSE OF REPRESENTATIVES FLOOR AMENDMENT EXPLANATION

*57th Legislature, 2nd Regular Session*

*Majority Research Staff*

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## **HB 2383: school districts; leases; housing development**

### **BIASIUCCI FLOOR AMENDMENT**

1. Requires a school district governing board (governing board), or the superintendent or chief administrative officer with governing board approval, to spend the proceeds from the lease of school property for the:
  - a. payment of any outstanding bonded indebtedness of the school district or;
  - b. reduction of school district taxes.
2. Allows a governing board to lease, or approve the lease, of school property to any person for a housing development project, subject to existing statutory requirements relating to the lease of school property.
3. Stipulates that property and buildings that are leased from a school district are:
  - a. eligible for a property tax exemption for educational and library property only if the property and buildings are used for education purposes; and
  - b. not eligible for the property tax exemption for affordable housing projects.
4. Removes the applicability clause.

BIASIUCCI FLOOR AMENDMENT  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2383  
(Reference to printed bill)

Amendment instruction key:

~~[GREEN UNDERLINING IN BRACKETS]~~ indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

~~[GREEN STRIKEOUT IN BRACKETS]~~ indicates new text removed from statute or previously enacted session law.

~~[Green strikeout in brackets]~~ indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

~~<<Green strikeout in carets>>~~ indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 <<Section 1. Section 15-1102, Arizona Revised Statutes, is amended  
3 to read:

4 15-1102. Disposition of proceeds from sale or lease of school  
5 property; school plant monies; payment of bonded  
6 indebtedness; definition

7 A. The governing board, or the superintendent or chief  
8 administrative officer with the approval of the governing board~~[.]~~ [~~,-~~]

9 [1.] May ~~[expend]~~ [SPEND] the proceeds from the sale ~~[or lease]~~ of  
10 school property for the payment of any outstanding bonded indebtedness of  
11 the school district or for the reduction of school district taxes.

12 [2. SHALL SPEND THE PROCEEDS FROM THE LEASE OF SCHOOL PROPERTY FOR  
13 THE PAYMENT OF ANY OUTSTANDING BONDED INDEBTEDNESS OF THE SCHOOL DISTRICT  
14 OR FOR THE REDUCTION OF SCHOOL DISTRICT TAXES.]

15 B. A common school district or a high school district that has an  
16 outstanding bonded indebtedness of seven percent of the current year's  
17 assessed valuation or less or a unified school district that has an  
18 outstanding bonded indebtedness of fourteen percent of the current year's  
19 assessed valuation or less may ~~[expend]~~ [SPEND] the proceeds from the sale  
20 ~~[or lease]~~ of school property as follows:

21 1. The total sum of the proceeds from the sale of school property  
22 executed before July 1, 2016~~[,- for]~~ [OR] the total sum of the proceeds  
23 from the sale of property to a school ~~[or the total sum of the proceeds~~  
24 ~~from the lease of school property to persons or entities other than~~  
25 ~~schools for more than one year]:~~

26 (a) May be ~~[expended]~~ [SPEND] for maintenance and operation in an  
27 amount that does not exceed fifteen percent of the revenue control limit  
28 for that year as provided in section 15-947, subsection A in any year.

1 (b) May be ~~[expended]~~ ~~[SPENT]~~ for capital outlay in any amount.

2 2. From and after June 30, 2016, proceeds from the sale of school  
3 property that exceed ~~[one hundred thousand dollars]~~ ~~[\$100,000]~~ per sales  
4 transaction to persons or entities other than schools may not be  
5 ~~[expended]~~ ~~[SPENT]~~ for maintenance and operation and may be ~~[expended]~~  
6 ~~[SPENT]~~ for capital outlay in any amount.

7 C. A common school district or a high school district that has an  
8 outstanding bonded indebtedness of greater than seven percent of the  
9 current year's assessed valuation or a unified school district that has an  
10 outstanding bonded indebtedness of greater than fourteen percent of the  
11 current year's assessed valuation may ~~[expend]~~ ~~[SPEND]~~ the proceeds from  
12 the ~~[lease or]~~ sale of school property as follows:

13 1. For the total sum of the proceeds from the sale of school  
14 property executed before July 1, 2016~~[, -]~~ ~~[OR]~~ for the total sum of the  
15 proceeds from the sale of property to a school ~~[or for the total sum of~~  
16 ~~the proceeds from the lease of school property to persons or entities~~  
17 ~~other than schools for more than one year]:~~

18 (a) Up to twenty-five percent of the sales proceeds may be  
19 ~~[expended]~~ ~~[SPENT]~~ for maintenance and operation in an amount that does  
20 not exceed fifteen percent of the revenue control limit for that year as  
21 provided in section 15-947, subsection A in any year.

22 (b) The sales ~~[or lease]~~ proceeds may be ~~[expended]~~ ~~[SPENT]~~ for  
23 capital outlay in any amount.

24 2. From and after June 30, 2016, for proceeds from the sale of  
25 school property that exceed ~~[one hundred thousand dollars]~~ ~~[\$100,000]~~ per  
26 sales transaction to persons or entities other than schools:

27 (a) The sales proceeds may not be ~~[expended]~~ ~~[SPENT]~~ for  
28 maintenance and operation.

29 (b) ~~[THE SCHOOL DISTRICT SHALL USE]~~ at least thirty-eight percent  
30 of the sales proceeds ~~[shall be used]~~ for the payment of any outstanding  
31 bonded indebtedness of the school district or for the reduction of school  
32 district taxes.

33 (c) The remainder of the sales proceeds that are not obligated  
34 pursuant to subdivision (b) of this paragraph may be ~~[expended]~~ ~~[SPENT]~~  
35 for capital outlay in any amount.

36 D. The governing board, or the superintendent or chief  
37 administrative officer with the approval of the governing board, shall  
38 promptly deposit monies received for and derived from the sale or lease of  
39 school property with the county treasurer who shall establish a school  
40 plant fund. Monies placed to the credit of the school plant fund may be  
41 expended as provided in this section. The school plant fund is a  
42 continuing fund that is not subject to reversion.

43 E. Proceeds from sales by condemnation or sales under threat of  
44 condemnation may be deposited with the county treasurer for deposit in the  
45 condemnation fund or the school plant fund of the school district. The  
46 condemnation fund is a continuing fund that is not subject to reversion,  
47 except that after ten years any unspent monies shall be placed in the

1 school plant fund to be used as prescribed in this section. The governing  
2 board, or the superintendent or chief administrative officer with the  
3 approval of the governing board, may apply the proceeds in the  
4 condemnation fund to:

5 1. The payment of any outstanding bonded indebtedness of the school  
6 district that is payable from the levy of taxes on property within the  
7 school district.

8 2. Construct, acquire, improve, repair or furnish school facilities  
9 or sites after notice and a hearing.

10 F. Proceeds from a right-of-way settlement shall be deposited with  
11 the county treasurer for deposit in the condemnation fund of the school  
12 district. The governing board, or the superintendent or chief  
13 administrative officer with the approval of the governing board, shall  
14 apply those proceeds in the condemnation fund to construct, acquire,  
15 improve, repair or furnish school facilities or sites after notice and a  
16 hearing.

17 G. The restrictions prescribed in subsections B and C of this  
18 section do not apply to the proceeds from:

19 ~~1. Leases of school property to other schools.~~

20 ~~2. Leases of school property for less than one year.~~

21 ~~3.] sales of school property of less than [one hundred thousand~~  
22 ~~dollars] [\$100,000] per transaction.~~

23 ~~[H. A lease of school property for less than one year that includes~~  
24 ~~an automatic lease renewal resulting in a total lease duration that~~  
25 ~~exceeds one year is considered a lease for more than one year for the~~  
26 ~~purposes of this section.]~~

27 ~~[I.]~~ H. For the purposes of this section, "capital outlay" means unres  
28 tricted capital outlay as prescribed in section 15-903, subsection C.>>

29 Sec. 2. Section 15-1105, Arizona Revised Statutes, is amended to  
30 read:

31 15-1105. Lease of school property; immunity; fee schedule;  
32 use of monies; tax exemption; definitions

33 A. The SCHOOL DISTRICT governing board, or the superintendent or  
34 chief administrative officer with the approval of the governing board, may  
35 lease school property, including school buildings, grounds, buses and  
36 equipment, to any person, group or organization for any lawful purpose,  
37 including ANY recreational, educational, political, economic, artistic,  
38 moral, scientific, social, religious or other civic or governmental  
39 purpose in the interest of the community, including extended day resource  
40 programs. The governing board, superintendent or chief administrative  
41 officer shall charge a reasonable use fee for the lease of the school  
42 property, which may include goods contributed or services rendered by the  
43 person, group or organization to the school district.

44 B. The governing board, or the superintendent or chief  
45 administrative officer with the approval of the governing board, may  
46 ~~permit~~ ALLOW the uncompensated use of school buildings, grounds, buses,  
47 equipment and other school property by any ~~school related~~ SCHOOL-RELATED

1 group, including student political organizations, or by any organization  
2 whose membership is open to the public and whose activities promote the  
3 educational function of the school district as determined in good faith by  
4 the school district's governing board, or the superintendent or chief  
5 administrative officer with the approval of the governing board, including  
6 extended day resource programs, except as provided in section 15-511.

7 C. A school district and its employees, including the governing  
8 board, superintendent or chief administrative officer, are immune from  
9 civil liability with respect to all decisions made and actions taken to  
10 allow the lease or use of school property, unless the school district or  
11 its employees are guilty of gross negligence or intentional misconduct.  
12 This subsection does not limit any other immunity provisions that are  
13 prescribed by law.

14 D. A person, group or organization that is otherwise eligible to  
15 lease school property shall not be denied use of or charged differentiated  
16 fees for school property on the basis of the person's, group's or  
17 organization's beliefs, expression of beliefs or exercise of the rights of  
18 association that are protected under the laws of this state, the  
19 Constitution of Arizona, the laws of the United States ~~or~~ AND the United  
20 States Constitution.

21 E. The governing board shall annually approve a fee schedule for  
22 the lease of school property. The fee schedule shall include a  
23 designation of the persons, groups or organizations that ~~shall~~ have  
24 uncompensated use of the school property, ~~and~~ and a procedure for determining  
25 the value of goods and services being provided as compensation for the use  
26 of school property. The governing board, superintendent or chief  
27 administrative officer shall require proof of liability insurance for such  
28 use or lease of school property.

29 F. Except as provided in section 15-1102, monies received for and  
30 derived from the use or lease of school property under this section shall  
31 be promptly deposited with the county treasurer, who shall credit the  
32 deposits to the civic center school fund of the respective school  
33 district. Monies placed to the credit of a civic center school fund may  
34 be ~~expended~~ SPENT for civic center school purposes by warrants drawn ~~upon~~  
35 ON AN order of the school district governing board, or the superintendent  
36 or chief administrative officer with the approval of the governing board.  
37 The civic center school fund of a school district or multiple school  
38 district civic center school program is a continuing fund not subject to  
39 reversion, except ~~upon~~ ON termination of a civic center school program.  
40 ~~upon~~ ON termination of a civic center school program, any remaining ~~funds~~  
41 ~~shall~~ MONIES revert to the school plant fund of the school district or  
42 districts.

43 G. ~~[NOTWITHSTANDING SECTIONS 15-342, 15-491, 15-789 AND 41-5704 AND~~  
44 ~~SUBSECTION A OF THIS SECTION,] A SCHOOL DISTRICT GOVERNING BOARD MAY~~  
45 ~~LEASE, OR APPROVE THE LEASE, OF SCHOOL PROPERTY TO ANY PERSON FOR A~~  
46 ~~HOUSING DEVELOPMENT PROJECT [ONLY AS ALLOWED BY SECTION 15-342,~~  
47 ~~PARAGRAPH 6] [SUBJECT TO THE REQUIREMENTS PRESCRIBED BY SECTION 15-342.~~

1 ~~15-491, 15-789 OR 41-5704 OR THIS SECTION]. [THIS SUBSECTION DOES NOT~~  
2 ~~RESTRICT A SCHOOL DISTRICT'S AUTHORITY TO DO ANY OF THE FOLLOWING:~~  
3 ~~1. MAINTAIN AND RENOVATE TEACHER HOUSING PURSUANT TO SECTION~~  
4 ~~15-965.~~  
5 ~~2. ESTABLISH AND ADMINISTER A PERMANENT TEACHERAGE FUND PURSUANT TO~~  
6 ~~SECTION 15-1106.~~  
7 ~~3. SELL PROPERTY THAT IS OWNED BY THE SCHOOL DISTRICT TO A PERSON~~  
8 ~~FOR A HOUSING DEVELOPMENT PROJECT.]~~  
9 [H. PROPERTY AND BUILDINGS THAT ARE LEASED FROM A SCHOOL DISTRICT  
10 PURSUANT TO SECTION 15-342, 15-491, 15-789 OR 41-5704 OR THIS SECTION ARE:  
11 1. ELIGIBLE FOR A TAX EXEMPTION PURSUANT TO SECTION 42-11104 ONLY  
12 IF THE PROPERTY AND BUILDINGS ARE USED FOR EDUCATION PURPOSES.  
13 2. NOT ELIGIBLE FOR A TAX EXEMPTION PURSUANT TO SECTION 42-11133.]  
14 ~~G.~~ [I.] For the purposes of this section:  
15 1. "Educational function" means ~~uses~~ A USE that ~~are~~ IS directly  
16 related to the educational mission of the school district as adopted by  
17 the school district governing board and includes parent-teacher  
18 organizations, youth organizations and school employee organizations.  
19 2. "Extended day resource programs" means activities offered on  
20 school property before or after school or at times when school is not  
21 customarily in session for children who are of the age required for  
22 kindergarten programs and grades one through eight. The program may be  
23 offered for children who are of the age required for a kindergarten  
24 program or for one grade or for any combination of kindergarten programs  
25 and grades. Activities may include physical conditioning, tutoring,  
26 supervised homework or arts activities.  
27 3. "Reasonable use fee" means an amount that is at least equal to  
28 the school district's cost for utilities, services, supplies or personnel  
29 that the school provides to the lessee pursuant to the terms of the lease.  
30 <<Sec. 3. Section 42-11104, Arizona Revised Statutes, is amended to  
31 read:  
32 42-11104. Exemption for educational and library property  
33 A. Libraries, colleges, school buildings and other buildings that  
34 are used for education, with their furniture, libraries and equipment and  
35 the land that is appurtenant to and used with them, are exempt from  
36 taxation if they are used for education and not used or held for profit.  
37 B. Property and buildings are exempt from taxation if leased from:  
38 1. A school district pursuant to a lease or lease-purchase  
39 agreement under section 15-342, paragraph 9 or 10 [IF THE PROPERTY AND  
40 BUILDINGS ARE USED FOR EDUCATION PURPOSES].  
41 2. A community college district pursuant to a lease or  
42 lease-purchase agreement under section 15-1444.  
43 C. Property and buildings, including land, improvements, furniture  
44 and equipment, that are owned by a nonprofit organization that is  
45 recognized under section 501(c)(3) of the internal revenue code and that  
46 operates as:

1 1. A charter school pursuant to section 15-183 are exempt from  
2 taxation beginning on the date the nonprofit organization acquires  
3 ownership of the property and buildings if the property and buildings are  
4 used for education and are not used or held for profit.

5 2. A trap and skeet shooting club that teaches, trains, sponsors,  
6 coaches or hosts or sponsors clinics, shooting leagues, competitive  
7 tournaments or other events, including hunter and firearm safety classes,  
8 are exempt from taxation if the property and buildings are used for  
9 education purposes and not used or held for profit.

10 3. A residential treatment and education facility are exempt from  
11 taxation beginning on the date the nonprofit organization acquires  
12 ownership of the property and buildings if the property and buildings are  
13 used for education and are not used or held for profit.

14 D. Within ten days after receiving an ~~[initial]~~ affidavit of  
15 eligibility submitted under section 42-11152~~[, SUBSECTION A, PARAGRAPH 1]~~  
16 by a nonprofit organization described under subsection C of this section,  
17 the county assessor, on request, shall issue a receipt for the affidavit.

18 E. A nonprofit organization described under subsection C of this  
19 section shall file with the assessor the affidavit required by section  
20 42-11152 and evidence of the organization's ~~[tax-exempt]~~ ~~[TAX-EXEMPT]~~  
21 status under section 501(c)(3) of the internal revenue code when initially  
22 claiming the exemption.

23 F. A nonprofit organization described under subsection C of this  
24 section that acquires ownership of property that was previously owned by  
25 another nonprofit organization and used primarily for education shall  
26 comply with the requirements of section 42-11152 to qualify and establish  
27 eligibility for exemption.

28 G. If a nonprofit organization described under subsection C of this  
29 section that holds title to property used primarily for education fails to  
30 file the affidavit required by section 42-11152 in a timely manner, but  
31 otherwise qualifies for exemption, the county board of supervisors, on  
32 petition by the organization, shall direct the county treasurer to:

33 1. Refund any property taxes paid by the organization for a tax  
34 year if the organization submits a claim for the refund to the county  
35 treasurer within one year after the date the taxes were paid. The county  
36 treasurer shall pay the claim within thirty days after it is submitted to  
37 the treasurer. The county treasurer is entitled to a credit for the  
38 refund in the next accounting period with each taxing jurisdiction to  
39 which the tax monies may have been transmitted.

40 2. Forgive and strike off from the tax roll any property taxes and  
41 accrued interest and penalties that are due but not paid.>>

42 <<Sec. 4. Section 42-11133, Arizona Revised Statutes, is amended to  
43 read:

44 42-11133. Exemption for affordable housing projects; definition

45 A. Property that is used exclusively for affordable rental housing  
46 pursuant to section 42 of the internal revenue code or another recorded

1 restrictive covenant imposed by financing for affordable housing and  
2 related facilities ~~[are]~~ [IS] exempt from taxation if:

3 1. The property is owned and operated by, or is a wholly owned  
4 subsidiary of, a corporation that is qualified pursuant to section  
5 501(c)(3) or 501(c)(4) of the internal revenue code or a limited  
6 partnership or limited liability company in which the general partner or  
7 the managing member, as applicable, is an eligible nonprofit corporation  
8 or a single purpose entity that is wholly owned by one or more eligible  
9 nonprofit corporations.

10 2. Either of the following applies:

11 (a) The acquisition, rehabilitation, development or operation of  
12 the property, or any combination of these factors, is financed with ~~[tax~~  
13 ~~exempt]~~ [TAX-EXEMPT] mortgage revenue bonds or general obligation bonds or  
14 is financed by local, state or federal loans or grants and the amount of  
15 rent paid by or on behalf of the occupants does not exceed the amount of  
16 rent that is prescribed by deed restrictions or by regulatory agreements  
17 pursuant to the property's financing or financial assistance terms.

18 (b) The owner of the property is eligible for and receives tax  
19 credits for low-income or moderate-income residential housing established  
20 under section 42 of the internal revenue code and the amount of rent paid  
21 by or on behalf of the occupants does not exceed the amount that is  
22 prescribed by deed restrictions or by regulatory agreements pursuant to  
23 the property's financing or financial assistance terms.

24 [3. THE PROPERTY IS NOT LEASED FROM A SCHOOL DISTRICT.]

25 B. To qualify under this section, the owner of the property must:

26 1. For any claim that is filed in any fiscal year, certify and  
27 ensure, subject to paragraph 2 of this subsection, that there is an  
28 enforceable and verifiable agreement with a public agency, a recorded deed  
29 restriction or any other legal document that restricts the use of the  
30 property and requires that the rents do not exceed the terms that are  
31 prescribed by the financing or financial assistance terms.

32 2. Certify that the monies that would have been necessary to pay  
33 the property taxes are used to maintain the affordability of or otherwise  
34 reduce the rents of the units that are occupied by eligible low-income  
35 households.

36 C. For the purposes of this section, "eligible nonprofit  
37 corporation" means a corporation that is qualified pursuant to section  
38 501(c)(3) or 501(c)(4) of the internal revenue code and for which one of  
39 its exempt purposes includes providing affordable housing.>>

40 <<~~Sec. 4. Existing leases; applicability~~

41 ~~Section 15-1105, Arizona Revised Statutes, as amended by this act,~~  
42 ~~applies to any lease executed, renewed or amended after the effective date~~  
43 ~~of this act.>>~~

House Amendments to H.B. 2383

- 1 Enroll and engross to conform
- 2 Amend title to conform

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