

State of Arizona  
Senate  
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1996

**FILED**

Jane Dee Hull  
Secretary of State

CHAPTER 305

**SENATE BILL 1371**

AN ACT

AMENDING SECTION 42-271, ARIZONA REVISED STATUTES; RELATING TO PROPERTY TAX EXEMPTIONS.

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

2 Section 1. Section 42-271, Arizona Revised Statutes, is amended to  
3 read:

4 42-271. Property subject to taxation; exceptions; definitions

5 A. All property in this state shall be subject to taxation, except:

6 1. Federal, state, county and municipal property including property  
7 owned by a nonprofit organization but used by the state or a political  
8 subdivision during the entire taxable year exclusively for a governmental  
9 activity and including property which is the subject of a lease-purchase  
10 agreement authorized by law in which the state or a political subdivision is  
11 the lessee-purchaser and the property is used by the state or a political  
12 subdivision during the entire taxable year exclusively for a governmental  
13 activity.

14 2. Public debts as evidenced by the bonds of this state, counties,  
15 municipalities or other political subdivisions.

16 3. Libraries, colleges, schoolhouses and other buildings used for  
17 education, with their furniture, libraries and equipment, and the lands  
18 appurtenant to and used with such buildings, as long as they are used for the  
19 purpose of education and not used or held for profit.

20 4. Property and buildings pursuant to a lease or lease-purchase  
21 agreement leased from a school district as provided in section 15-342,  
22 paragraph 9 or 10 or leased from a community college district as provided in  
23 section 15-1444.

1           5. Hospitals and other charitable institutions for relief of the  
2 indigent or afflicted and the lands appurtenant to such buildings, with their  
3 fixtures and equipment, not used or held for profit.

4           6. Grounds and buildings belonging to agricultural societies, as long  
5 as they are used for those purposes only, and not used or held for profit.

6           7. Property or buildings used or held primarily for religious worship,  
7 including land, improvements, furniture and equipment, as long as the  
8 property is not used or held for profit.

9           8. Cemeteries set apart and used for interring the dead, except such  
10 portions thereof as are used or held for profit.

11           9. The property of widows, widowers, disabled persons, honorably  
12 discharged veterans, members of the revenue marine service, the coast guard  
13 and military nurses, residents of this state, to the extent allowed by  
14 article IX, sections 2, 2.1, 2.2 and 2.3, Constitution of Arizona, and  
15 subject to the conditions prescribed by section 42-278.

16           10. Observatories maintained for astronomical research and education  
17 for the public welfare, together with all property used in the work or  
18 maintenance of observatories, including property held in trust, as long as  
19 the observatories and other property are used for such purposes only and not  
20 used or held for profit.

21           11. Property used for operation of a health care institution which  
22 provides medical services, nursing services or health related services to  
23 handicapped persons or persons sixty-two years of age or older and which is  
24 not used or held for profit.

25           12. Property used for the operation of a residential apartment housing  
26 facility which is not used or held for profit, which is structured for  
27 handicapped persons or persons sixty-two years of age or older, which is  
28 located adjacent to property exempted from taxation pursuant to paragraph 11  
29 of this subsection and which is owned and operated by the same persons or  
30 associations as such other adjacent property.

31           13. Property used for the operation of a residential apartment housing  
32 facility which is not used or held for profit and is structured for  
33 handicapped persons or persons sixty-two years of age or older and for which  
34 a subsidy or payment is given by federal, state or local government or by  
35 nonprofit organizations in a substantial amount in relation either to the  
36 amount given or to the total annual operating expenses to pay for principal,  
37 interest and operating expenses provided such nonprofit organizations are not  
38 created or operated for the primary purpose of providing such subsidy or  
39 payment.

40           14. Property of other charitable institutions for relief of the  
41 indigent or afflicted, including the lands appurtenant to such property, with  
42 their fixtures and equipment, and other reasonably required property, as long  
43 as such institutions and their property are not held or used for profit.

1           15. Grounds and buildings belonging to societies for the prevention of  
2 cruelty to animals and for sheltering, caring for and controlling animals,  
3 as long as the grounds and buildings are used for those purposes only and not  
4 used or held for profit.

5           16. Property held by a charitable organization, recognized under  
6 section 501(c)(3) of the United States internal revenue code or section  
7 43-1201, for transfer to this state or a political subdivision of this state  
8 to be used as parkland if no rent or valuable consideration is received by  
9 the charitable organization.

10           17. Property belonging to a volunteer fire department recognized under  
11 section 43-1201 or section 501 of the internal revenue code if the property  
12 is used exclusively for fire suppression and prevention activities and  
13 neither used nor occupied by or for the benefit of any person.

14           18. Property held by a charitable organization recognized under section  
15 501(c)(3) of the United States internal revenue code or section 43-1201 to  
16 preserve and protect scientific, biological, geological, paleontological,  
17 natural or archaeological resources.

18           19. Property owned by a volunteer nonprofit organization that is  
19 recognized under section 501(c)(4) of the internal revenue code or section  
20 43-1201 and that is operated exclusively to promote social welfare and  
21 provide community quasi-governmental services in an unincorporated area of  
22 a county.

23           20. Property that is owned by a volunteer nonprofit organization, used  
24 exclusively for the purpose of performing roadway cleanup and beautification  
25 on a gratuitous basis, not used or held for profit and not used or occupied  
26 by or for the benefit of any person.

27           21. Property of musical, dramatic, dance and community arts groups,  
28 botanical gardens, museums and zoos, qualified as nonprofit charitable  
29 organizations under section 501(c)(3) of the United States internal revenue  
30 code or section 43-1201, as long as the property is used for those purposes  
31 and not used or held for profit.

32           22. A commodity, as defined by title 7 United States Code section 2,  
33 that is consigned for resale in a warehouse in this state in or from which  
34 the commodity is deliverable on a contract for future delivery subject to the  
35 rules of a commodity market regulated by the United States commodity futures  
36 trading commission.

37           23. Animal and poultry feed, including salts, vitamins and other  
38 additives, for animal or poultry consumption.

39           24. FROM AND AFTER DECEMBER 31, 1993, property that is owned by a  
40 United States veterans' organization that qualifies as a charitable  
41 organization and is recognized under either section 501(c)(3) or 501(c)(19)  
42 of the internal revenue code if the property is used ~~exclusively~~  
43 PREDOMINANTLY for those purposes and not used or held for profit.

1           25. PROPERTY THAT IS NOT USED OR HELD FOR PROFIT AND THAT IS OWNED BY  
2 A COMMUNITY SERVICE ORGANIZATION THE MISSION OF WHICH IS TO SERVE A  
3 POPULATION THAT INCLUDES PERSONS WHO ARE INDIGENT OR AFFLICTED, AS DEFINED  
4 IN THIS SECTION, AND THAT QUALIFIES AS A CHARITABLE ORGANIZATION AND IS  
5 RECOGNIZED UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE IF THE  
6 COMMUNITY SERVICE ORGANIZATION IS PRIMARILY ENGAGED IN DELIVERING SERVICES  
7 ON THAT PROPERTY CONSISTING OF FITNESS PROGRAMS, CAMPING PROGRAMS, HEALTH AND  
8 RECREATION SERVICES, YOUTH PROGRAMS, CHILD CARE, SENIOR CITIZEN PROGRAMS,  
9 INDIVIDUAL AND FAMILY COUNSELING, EMPLOYMENT AND TRAINING PROGRAMS, SERVICES  
10 FOR INDIVIDUALS WITH DISABILITIES, MEALS, FEEDING PROGRAMS OR DISASTER  
11 RELIEF.

12           B. The exceptions contained in this section relating to charitable  
13 institutions do not apply to property owned by charitable institutions but  
14 primarily held or used by others whose use is not excepted from taxation by  
15 this section or by the Constitution of Arizona.

16           C. Notwithstanding subsection A, paragraph 1 of this section relating  
17 to state property, property that is owned by the state retirement system, the  
18 state retirement plan, the corrections officer retirement plan, the public  
19 safety personnel retirement system or the elected officials' retirement plan,  
20 that is not used during the entire taxable year exclusively for a  
21 governmental activity and that is acquired either by foreclosure of an  
22 authorized investment or for the purposes of producing income for the system  
23 or plan shall be subject to either a possessory interest tax or if a  
24 possessory interest tax is not paid or is not economically feasible, to  
25 voluntary contributions of money to this state, the county, school districts,  
26 a community college district and any other special taxing district organized  
27 under title 48 in which the property is located in lieu of taxes otherwise  
28 levied by those entities. The system or plan may not continue to hold title  
29 as an authorized investment under title 38 unless a possessory interest tax  
30 is paid or the title holder pays a voluntary contribution. On or before  
31 April 1 each year the plan or system shall notify the county assessor of the  
32 county in which the property is located if a possessory interest tax will be  
33 paid or voluntary contribution will be made under this subsection. If a  
34 possessory interest tax is not economically feasible, the county assessor may  
35 require the title holder to pay voluntary contributions. If the system or  
36 plan pays a voluntary contribution:

37           1. The assessor shall determine the full cash value of the property  
38 at market value and transmit that determination to the board of supervisors  
39 on or before the third Monday in June.

40           2. On or before the third Monday in August the assessor shall compute  
41 the contribution to be made based on the determined valuation using the  
42 method of assessment applied in assessing ad valorem taxes of properties of  
43 similar character and devoted to the same use in the county for the current  
44 taxable year.

1           3. The assessor shall submit the computation of the contribution to  
2 the board of supervisors at the same time as he submits the assessment roll  
3 and shall also notify the county school superintendent of the amount of  
4 contribution.

5           4. The retirement system or plan shall pay one-half of the amount  
6 determined not later than the first Monday in November and the other one-half  
7 not later than the first Monday in May of the next year.

8           5. The county treasurer shall distribute the monies received to the  
9 various taxing jurisdictions in the same manner as property taxes are  
10 distributed.

11           6. Any person, public official or taxing entity that is not satisfied  
12 by a determination under this subsection has the same remedies provided by  
13 this title or may file a civil action to determine the correct amount due,  
14 and in any such action the only issue shall be the correctness of the  
15 computation of the amount due.

16           D. If property is exempt from taxation under subsection A, paragraph  
17 16 of this section, and is transferred to an entity other than this state or  
18 a political subdivision of this state or if the property is used or occupied  
19 by or for the benefit of any other person, the charitable organization is  
20 liable for all taxes, interest and penalties which would be due if the  
21 property were not classified as exempt.

22           E. To qualify as providing quasi-governmental services pursuant to  
23 subsection A, paragraph 19 of this section, a volunteer nonprofit  
24 organization must be providing at least six of the following services:

- 25           1. Public information and complaint office.
- 26           2. Voter registration.
- 27           3. Property tax assessment information.
- 28           4. Building permit distribution.
- 29           5. Resident assistance with deed restrictions and violations.
- 30           6. County planning and zoning review.
- 31           7. Water resources planning and management.
- 32           8. Public safety planning, oversight and maintenance.
- 33           9. Government liaison for regional planning activities.

34           F. For the purposes of this article:

35           1. A nonprofit organization status may be shown by a letter of  
36 determination issued in the name of the organization by the United States  
37 internal revenue service or the department recognizing the organization's tax  
38 exempt status under section 501(c)(3) of the United States internal revenue  
39 code or section 43-1201.

40           2. The requirement pursuant to this article that property is not used  
41 or held for profit may be met by a letter of determination as described in  
42 paragraph 1 of this subsection issued in the name of the organization holding  
43 title to such property and for each organization using the property.

44           G. FOR PURPOSES OF THIS SECTION:

1           1. "AFFLICTED" MEANS PERSONS WHO, BECAUSE OF A MENTAL OR PHYSICAL  
2           CONDITION, ILLNESS OR CONDITION OF DISTRESS, ADVERSITY OR HARASSMENT, OR  
3           IMMINENT RISK OF SUCH CONDITION, ARE UNABLE TO REASONABLY TAKE CARE OF  
4           THEMSELVES OR THEIR FAMILIES. OR TO PROPERLY FUNCTION IN SOCIETY WITHOUT  
5           PERIODIC OR CONTINUOUS ASSISTANCE.

6           2. "INDIGENT" MEANS PERSONS OR FAMILIES THAT MEET THE CRITERIA OF  
7           SECTION 11-297, SUBSECTION B OR THAT ARE WITHOUT SUFFICIENT MEANS OR ABILITY  
8           TO PROVIDE THEMSELVES WITH ADEQUATE FOOD, SHELTER OR SOCIAL NECESSARIES.

9           Sec. 2. Refund or forgiveness of taxes

10          A. The county board of supervisors shall direct the county treasurer  
11          to grant a refund to any charitable organization that qualifies for exemption  
12          under the amendment of section 42-271, subsection A, paragraph 24, Arizona  
13          Revised Statutes, in section 1 of this act if:

14           1. The charitable organization paid taxes, penalty or interest during  
15           the 1994 or 1995 tax year on property that is exempt under the amendment of  
16           section 42-271, subsection A, paragraph 24, Arizona Revised Statutes, in  
17           section 1 of this act.

18           2. The taxes, penalty or interest paid have not already been refunded.

19          B. The charitable organization shall submit a claim for refund to the  
20          county treasurer within sixty days after the effective date of this act, and  
21          the treasurer shall pay the claim after it is submitted. The county  
22          treasurer is entitled to credit for the refund in the next accounting with  
23          the state and each political subdivision to which the treasurer transmitted  
24          the overpayment.

25          C. Property taxes and any accrued penalties and interest due from but  
26          not paid by a charitable organization on property that qualifies for  
27          exemption under the amendment of section 42-271, subsection A, paragraph 24,  
28          Arizona Revised Statutes, in section 1 of this act for tax year 1994 or 1995  
29          are forgiven and no longer due and payable. The county board of supervisors  
30          shall direct the county treasurer to strike off any forgiven amounts from the  
31          tax roll.

32          Sec. 3. Legislative intent

33          A. A property tax exemption for certain nonprofit community service  
34          organizations whose property has not been used or held for profit has long  
35          been available under the general exemption for nonprofit charitable  
36          institutions that provide relief to the indigent or the afflicted. Both the  
37          statutory intent and historical administrative interpretation recognize that  
38          charitable community service organizations like the boys and girls clubs, the  
39          American red cross, the boy scouts and girl scouts of America, goodwill  
40          industries, the salvation army, the young men's Christian association, the  
41          young women's Christian association, big brothers and big sisters and other  
42          similar charitable community service organizations qualify for the property  
43          tax exemption. The property of charities that provide residential housing  
44          predominantly to persons who are in distress or in need of housing assistance

1 also qualifies as exempt property of charitable institutions for relief of  
2 the indigent or the afflicted.

3 B. In recent years, as the legislature has enacted more specific  
4 statutory exemptions for a variety of charitable organizations, some  
5 assessors have tried to narrow the general exemption for nonprofit charitable  
6 institutions that provide relief for the indigent or the afflicted.

7 C. It is specifically intended by the addition of section 42-271,  
8 subsection A, paragraph 25, Arizona Revised Statutes, as provided by this  
9 act, that no property of an organization previously taxable under Arizona law  
10 shall, solely by virtue of this act, become nontaxable. The addition of  
11 section 42-271, subsection A, paragraph 25, Arizona Revised Statutes, by this  
12 act is only intended to clarify statutory intent and to ratify the historical  
13 administrative interpretation that charitable organizations that are  
14 described in this section whose mission is to serve a population that  
15 includes indigent or afflicted and where property is not used or held for  
16 profit and that are exempt from taxation under section 501(c)(3) of the  
17 United States internal revenue code are also exempt from property tax based  
18 on charitable works they do in communities and neighborhoods and does not  
19 provide for any substantive change in the law.

APPROVED BY THE GOVERNOR APRIL 30, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 1996