

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 298

HOUSE BILL 2072

AN ACT

AMENDING TITLE 37, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 37-281.04; AMENDING SECTION 37-255, ARIZONA REVISED STATUTES; RELATING TO THE ADMINISTRATION OF STATE LANDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 37, chapter 2, article 4, Arizona Revised Statutes,
3 is amended by adding section 37-281.04, to read:

4 37-281.04. Default of lease of state land; assignment to cities
5 and towns

6 A. IF A DEFAULT OF A LEASE OF STATE LAND MADE PURSUANT TO THIS ARTICLE
7 OCCURS DURING THE FIRST YEAR OF THE LEASE AGREEMENT OR WITHIN FOUR YEARS OF
8 THE FIRST ANNIVERSARY DATE DETERMINED BY THE LEASE AGREEMENT, THE LEASE MAY
9 BE ASSIGNED TO A CITY OR TOWN BY THE COMMISSIONER PURSUANT TO THIS SECTION
10 IF THE FOLLOWING CONDITIONS ARE MET:

11 1. THE STATE LAND IS LOCATED EITHER ENTIRELY WITHIN OR ADJACENT TO THE
12 CITY OR TOWN.

13 2. NO PORTION OF THE STATE LAND IS CONTAINED WITHIN ANY OTHER CITY OR
14 TOWN.

15 3. THE CITY OR TOWN CONSENTS TO BE BOUND BY ALL OF THE TERMS AND
16 CONDITIONS OF THE LEASE.

17 4. THE COMMISSIONER DETERMINES THAT THE ASSIGNMENT OF THE LEASE TO THE
18 CITY OR TOWN IS IN THE BEST INTEREST OF THE STATE LAND TRUST.

19 B. IF A NOTICE OF DEFAULT HAS BEEN SENT TO THE LESSEE AND THE LESSEE'S
20 REGISTERED MORTGAGEES OR LIENHOLDERS AND THE DEFAULT HAS NOT BEEN CURED IN
21 ACCORDANCE WITH THE PROCEDURES AND TIME PERIODS IN SECTION 37-289, THE
22 COMMISSIONER, ON WRITTEN REQUEST OF A CITY OR TOWN, MAY ASSIGN THE LEASE TO
23 THE CITY OR TOWN WITHOUT THE CONSENT OF THE DEFAULTING LESSEE IF THE CITY OR
24 TOWN CURES ANY OUTSTANDING DEFAULT. AN ASSIGNMENT MADE PURSUANT TO THIS
25 SUBSECTION IS AN ALTERNATIVE TO CANCELLATION OF THE LEASE AS PROVIDED IN
26 SECTION 37-289, SUBSECTION B. IF THE COMMISSIONER GRANTS THE WRITTEN REQUEST
27 OF THE CITY OR TOWN FOR ASSIGNMENT AS PROVIDED IN THIS SUBSECTION, THE
28 COMMISSIONER SHALL MAKE A FORMAL ORDER ASSIGNING THE LEASE TO THE CITY OR
29 TOWN, AND A COPY OF THE ORDER SHALL BE MAILED TO THE LAST KNOWN POST OFFICE
30 ADDRESS OF THE DEFAULTING LESSEE AND THE DEFAULTING LESSEE'S REGISTERED
31 MORTGAGEES AND LIENHOLDERS. THE DEFAULTING LESSEE SHALL BE PERMITTED TO
32 REMOVE THE DEFAULTING LESSEE'S IMPROVEMENTS, IF ANY, AT ANY TIME WITHIN SIXTY
33 DAYS AFTER THE DATE OF ASSIGNMENT.

34 C. THE DEFAULTING LESSEE AND THE DEFAULTING LESSEE'S REGISTERED
35 MORTGAGEES AND LIENHOLDERS MAY APPEAL AN ASSIGNMENT ORDER PURSUANT TO TITLE
36 12, CHAPTER 7, ARTICLE 6. IF NO APPEAL IS MADE WITHIN THE PRESCRIBED TIME
37 OR IF NO NOTICE IS FILED WITH THE DEPARTMENT PURSUANT TO SECTION 37-255,
38 SUBSECTION C, THE ORDER BECOMES FINAL AND THE ASSIGNMENT SHALL BE SHOWN ON
39 THE RECORDS OF THE DEPARTMENT.

40 D. NOTHING IN THIS SECTION AUTHORIZES A CITY, TOWN, PERSON OR LEGAL
41 ENTITY THAT HAS RIGHTS UNDER THIS SECTION TO CLAIM, REPRESENT, ASSERT OR
42 IMPLY ANY OWNERSHIP INTEREST OR RIGHT OF LEASEHOLD INTEREST, PRESENT OR
43 FUTURE, IN ANY NEGOTIATIONS WITH A STATE OR FEDERAL AGENCY WITHOUT THE

1 CONSENT OF THE PRIVATE LESSEE BEFORE HAVING BEEN GRANTED AN ASSIGNMENT OF A
2 LEASE PURSUANT TO SUBSECTION C OF THIS SECTION.

3 Sec. 2. Section 37-255, Arizona Revised Statutes, is amended to read:

4 37-255. Sale of or mortgage or other lien on interest of lessee
5 or holder of certificate of purchase

6 A. The interest of the holder of any certificate of purchase of state
7 land, or any lease or permit on state land, shall be subject to sale,
8 mortgage or other lien to the same extent as patented land, without prejudice
9 to the state. A contract of sale, mortgage or other lien affecting any
10 certificate of purchase, lease or permit on state land shall not become
11 effective unless a copy of the document is filed with the state land
12 department. When filed, no assignment of the certificate of purchase, lease
13 or permit affected shall be made without notice to and the consent of all
14 parties.

15 B. Upon foreclosure of a contract of sale, mortgage or other lien
16 filed with the department as provided in subsection A of this section, the
17 department shall assign the instrument in question to the party entitled to
18 the instrument, if all taxes, rent and assessment payments are current.

19 C. If a cancellation OR ASSIGNMENT order is issued pursuant to section
20 37-247, 37-281.04 or 37-289, the cancellation OR ASSIGNMENT order shall not
21 become final until any foreclosure action by a party registered with the
22 department as a mortgagee or other lienholder of the purchaser's interest or
23 the lessee's interest is finally resolved, if the mortgagee or lienholder
24 does both of the following:

25 1. Within thirty days of the date of issuance of a notice of default,
26 files written notice with the department of its intent to proceed with a
27 foreclosure action.

28 2. Within one hundred twenty days of the date of issuance of a notice
29 of default, has commenced either a foreclosure action in court or a
30 nonjudicial foreclosure of a deed of trust, and has provided the department
31 with a certified copy of the complaint or other document that officially
32 commences the foreclosure process, and thereafter prosecutes the foreclosure
33 with reasonable diligence.

34 D. If a default notice has been sent to a purchaser pursuant to
35 section 37-247, subsection A or to a lessee pursuant to section 37-289,
36 subsection A, and the purchaser or lessee thereafter applies to assign the
37 certificate of purchase or lease to a mortgagee or lienholder registered with
38 the department, before the date a cancellation order becomes final and
39 conclusive, the department shall approve the assignment if all taxes,
40 purchase payments, rent and assessment payments are current and subject to
41 the written consent of any other mortgagees or lienholders of record.

~~APPROVED BY THE GOVERNOR MAY 1, 2001.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2001.~~

Passed the House February 27, 2001,

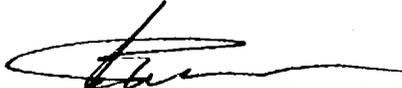
Passed the Senate April 23, 2001,

by the following vote: 57 Ayes,

by the following vote: 19 Ayes,

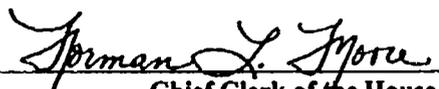
1 Nays, 2 Not Voting

8 Nays, 2 Not Voting


Speaker of the House


President of the Senate

1 vacancy


Chief Clerk of the House


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

H.B. 2072

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

_____ April 25 , 20 01 ,

by the following vote: _____ 50 _____ Ayes,

_____ 5 _____ Nays, _____ 5 _____ Not Voting

John D. Baker
Speaker of the House
Pro Tempore

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ 26 day of April , 20 01 ,

at _____ 8:55 o'clock _____ A M.

Sandra Ramirez
Secretary to the Governor

Approved this _____ first day of

_____ May , 20 01 ,

at _____ 10:24 o'clock _____ U M.

Janet Napolitano
Governor of Arizona

H.B. 2072

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ 1 day of May , 20 01 ,

at _____ 4:45 o'clock _____ P M.

Betsy Bayless
Secretary of State