

plaintiff has possession of the premises, possession of the premises shall, at the request of the defendant, be awarded to the defendant with a writ of restitution to issue after five calendar days.

- D. The date for the issuance for a writ of restitution shall not be delayed or extended beyond the date provided by statute, unless the parties stipulate otherwise.
- (2) Damages. In addition to determining the right to actual possession, and if either party seeks a money judgment, the court may award damages to the party entitled to possession if the party seeking money damages provided proof to the court of a factual and legal basis for an award of rent or any reasonable late fees, attorney fees or other requested fees, charges or damages. If a written rental agreement exists, the party seeking money damages shall have a copy of the written rental agreement available for the court to review at the initial appearance or subsequent hearing at which the judgment is rendered.

The court shall not award any amount for damages or categories of relief not specifically stated in the complaint or counterclaim. The amounts awarded in the judgment must be consistent with the amounts sought in the complaint or counterclaim, although the judgment may also include additional rent, late charges, fees and other amounts that have accrued since the filing of the complaint, if appropriate.

- A. Rent. If appropriate, rent shall be awarded to a prevailing plaintiff together with any additional rent that has accrued since the complaint was filed. If the plaintiff is entitled to rent incurred after the judgment has been entered, then the plaintiff may seek that amount in a separate civil action.
- B. Utilities. If the landlord charged utilities to the tenant under a written or oral rental agreement, unpaid amounts may be awarded to the prevailing plaintiff.
- C. Late Charges. If the written rental agreement provided for periodic late charges in the event of a rent default, the court shall award the prevailing plaintiff reasonable late charges. No late charges shall be awarded unless the court is presented with evidence that they are specified in a written rental agreement.
- D. Additional fees. Other fees such as extra person fees, pet fees, storage fees, signage fees, common area assessments, and other charges that were specified in a written rental agreement and were to be collected periodically together with other rental charges may be awarded to the prevailing plaintiff in accordance with the terms



of the agreements. Charges sought that were not contained in a written rental agreement shall not be awarded in an eviction action, but may be separately sought in a civil action.

- E. **Plaintiff's Damages.** If the plaintiff prevails, in addition to rent and late fees, when appropriate, the court may award to the plaintiff other damages for breach of the rental agreement, including property damages, when properly pled in the complaint and when such damages resulted from the breach giving rise to the eviction. When such claims for other damages are substantial and disputed such that a fair trial of the claims would likely delay the prompt determination of the eviction action, the court may sever those claims and dismiss them without prejudice, permitting the plaintiff to reassert the claims in a separate civil proceeding.
 - F. **Defendant's Damages.** Damages and/or offsets shall be awarded by the court if a defendant prevails on a counterclaim or defense. In such event, the court shall determine the prevailing party for purposes of awarding costs and reasonable attorney fees.
 - G. If undisputed rent has been deposited with the court in connection with a defendant's counterclaim, it shall be distributed in accordance with the judgment without undue delay after the time for appeal has expired. If no rent remains due after such proceedings or the tenant is found to have acted in good faith and satisfies a judgment for rent entered for the landlord, judgment shall be entered for the tenant in the action for possession.
 - H. **Court costs** shall be awarded as required by A.R.S. § 12-341.
- d. **Rent Concessions.** If the court finds that a rental agreement or lease provided a rent concession such as "free rent" for a period, a budget for tenant improvements, or a cash move-in allowance, and the rental agreement provides that in the event of a default the concession becomes due and payable, the amount of the concession may be included as additional damages in the judgment to a prevailing plaintiff if pleaded in the complaint. Alternatively, at the plaintiff's option, such amounts may be sought in a separate civil action.
 - e. **Late Fees in Mobile Home Park and Recreational Vehicle Park Evictions.** In cases involving mobile home parks and recreational vehicle parks, the court shall limit the award of periodic late charges in an eviction action arising out of such a tenancy to the statutory amount, and the court shall not reduce late charges calculated in accord with that limitation unless the plaintiff fails to establish the existence of a written agreement regarding such late charges.
 - f. **Attorney Fees.** Reasonable attorney fees shall be awarded to the prevailing party



if the court determines that such fees are provided for by statute or in a written contract. The award, however, may not exceed the amount the client has paid or agreed to pay.

- g. Where permitted by law, in addition to the remedies set forth above, the court may provide injunctive relief.

Rule 13(c)(1)(B). The term "material and irreparable" as used in this rule refers only to an act of violence, threatened violence, criminal conduct and other conduct meeting the definition of "material and irreparable" breach or noncompliance appearing in the Arizona Residential Landlord and Tenant Act at A.R.S. § 33-1368(A)(2), the Arizona Mobile Home Parks Residential Landlord and Tenant Act at A.R.S. § 33-1476(D)(3), and the Arizona Recreational Vehicle Long-Term Rental Space Act at A.R.S. § 33-2143(D)(3).

Rule 13(d). There are some unique issues concerning rental concessions and tenants who serve in the military. Rental concessions are often claimed if a lease ends prematurely. However, under the Servicemembers' Civil Relief Act ("SCRA"), military members generally can terminate a residential lease agreement without penalty if they enter military service on active duty or are deployed or transferred. In the context of residential lease agreements, the SCRA also protects dependant family members of military personnel. See generally, 50 U.S.C. App. §§ 531–538.

Rule 14. Writs of Restitution. The court shall promptly issue a writ of restitution upon timely application of a party entitled to it if the application is accompanied by the appropriate fee and deposits. The writ of restitution shall direct the constable or the sheriff, as appropriate, to return possession of the premises to the party entitled to possession under the judgment. A judge, justice of the peace, or the clerk of the superior court may issue the writ of restitution if it appears that a judgment granting possession has been entered in favor of the party filing the writ and the action has not been stayed.

- a. **Delays in Issuance.** Neither the issuance nor the enforcement of a writ of restitution will be suspended, delayed, or otherwise affected by the filing of a motion to set aside or vacate the judgment or similar motion unless the court finds good cause.
- b. **Time Standards for Writs of Restitution.**
 - (1) **Application for Writ.** A party who obtains a judgment for possession in an eviction action shall have up to 45 days to apply for a writ of restitution.
 - (2) **Writ Applications after 45 Days.** If a party applies for a writ of restitution more than 45 days after the judgment, the party must also explain the reasons for the delay in making the application and shall certify that the tenancy has not been reinstated since the date of the judgment. If it is clear that the tenancy has not been reinstated, the court shall issue the writ.



If it appears to the court that the tenancy has or may have been reinstated, the court shall schedule a hearing before granting the application. This hearing shall be scheduled no more than three business days after the application. The court shall attempt to contact the party in possession by telephone to provide notice of the hearing, and the applicant for the writ shall cause a notice of the date, time, place and purpose of the hearing to be delivered to the party in possession either personally or by posting the notice on the main entrance to the premises.

- c. Quashing a Writ of Restitution. After a judgment for possession has been issued, a party may file a motion to stay the issuance of a writ or quash a writ already issued. The court shall promptly review the motion. If the court finds good cause to believe that the writ was improperly or prematurely issued, it may stay the issuance or enforcement and schedule a hearing on the motion. Any such hearing shall be conducted as soon as possible but in no event later than three business days after the filing of the motion.

Rule 15. Relief from Judgment or Order

- a. Motions to Set Aside Judgments, Orders, or Proceedings. Either party can file a motion to set aside a judgment, order or proceeding on any of the following grounds:
 - b.
 - (1) The court did not have jurisdiction to hear the case;
 - (2) The defendant tendered all amounts due the landlord under the lease agreement prior to a judgment being entered, or had made a partial payment under the Arizona Residential Landlord Tenant Act, A.R.S. §§ 33-1301 to -1381, which was accepted by the landlord;
 - (3) A party did not receive proper notice or was not properly served;
 - (4) Mistake, inadvertence, surprise, or excusable neglect;
 - (5) Newly discovered material facts exist that could establish a defense to an allegation;
 - (6) A party filed for bankruptcy protection;
 - (7) A party is requesting relief under the Servicemembers' Civil Relief Act;
 - (8) The parties have stipulated to set aside the judgment; or
 - (9) The judgment is contrary to the law;
 - (10) Fraud, misrepresentation, or other misconduct of an adverse party.



The motion shall be filed within a reasonable time, and, for reasons (2), (4), and (5), not more than 60 days after the judgment or order was entered.

- b. Clerical errors may be corrected by the Court with or without notice to the parties.
- c. A post judgment motion affecting possession of the property shall be treated as an emergency matter and decided within three court days.
- d. Where a post judgment motion does not affect possession of property, the other party may file a response within 10 court days of service of the motion. The moving party may then file a reply within 5 court days of service of the response.

Rule 16. Transfer of Cases from Justice to Superior Court

A justice court must transfer an eviction action to the superior court whenever the amount in controversy in the complaint or in a valid counterclaim exceeds the statutory ceiling for justice courts, and whenever title or ownership of the premises becomes an issue. If a justice court transfers an eviction action to the superior court as provided by statute or rule, the procedures set forth in A.R.S. § 22-201 shall be followed. Transfers shall not delay the eviction action, and both the transferring and receiving court shall take reasonable steps to assure that no delays result from the transfer.

Comment

Most residential eviction actions will fall within the jurisdiction of the justice courts, and in most cases the parties will not dispute the existence of a landlord-tenant relationship. As a result of the documented problem of subprime mortgage lending and other equity theft schemes, however, see, e.g. In re First Alliance Mortgage Company, 280 B.R. 246 (C.D. Cal. 2002) (denying dismissal of multistate petition in bankruptcy by attorneys general from Arizona and elsewhere), a defendant in an eviction action who has a prior legal ownership interest in the premises may be justified in raising a claim of equitable title. Among other limitations on jurisdiction, a justice court cannot try an eviction action in which the title or ownership of the premises "becomes an issue." A.R.S. § 22-201(E)-(F); see also United Effort Plan v. Holm, 209 Ariz. 347, 351, 101 P. 3d 641, 645 (App. 2004) (contrasting a summary proceeding to determine possession with a conventional civil action to determine the legal relationship between the parties). If a defendant both denies the existence of a landlord-tenant relationship and produces some evidence of a superior claim of title to or ownership of the premises, a justice court must stop the proceedings and transfer the action to the superior court.

A factual dispute over title or ownership may also be the basis for a motion to dismiss an eviction action. Holm, 209 Ariz. at 351, 101 P. 3d at 645. "A real dispute regarding a landlord-tenant relationship must be tried in an ordinary civil action, in which time periods are not accelerated, counter- and cross claims are allowed, and there is an opportunity for discovery." Id.



Rule 17. Appeals

- a. General. Appeals from lower court to the superior court shall be taken in the manner prescribed by A.R.S. § 12-1179 and by the Superior Court Rules of Appellate Procedure. Appeals from superior court shall be governed by A.R.S. § 12-1182 and the Rules of Civil Appellate Procedure.
- b. Justice Court Appeals. A.R.S. § 12-1179 requires several different types of bonds. The statute explains the details as to amounts and procedures.
 - (1) Cost bond. The court will set a cost bond at the time the notice of appeal is filed. The court may waive the cost bond if the appellant files a satisfactory affidavit of his or her inability to pay. The purpose of this bond is to reimburse the appellee's taxable costs if the appellant does not win. Failure to post a cost bond, unless waived based on an affidavit of inability to pay the judgment, is cause to dismiss the appeal.
 - (2) Rent bond. If the appellant wants to remain in possession of the premises while the appeal is pending, he or she must post a rent bond. The initial rent bond must include all rent due, except for rent included in the judgment. The appellant must continue to pay rent as it becomes due to the justice court while the appeal is pending. Failure of the appellant to pay any rent due as it accrues is cause for the appellee to seek an order allowing it to enforce a writ of restitution. Failure to post a rent bond or remain current in the payment of accruing rents is cause to allow enforcement of a writ of restitution, but is not cause for the dismissal of the appeal. In this event, the appeal will proceed despite the appellant's loss of possession of the premises while it is pending.
 - (3) Supersedeas bond. If the appellant wants to stop the enforcement of the monetary portion of the judgment while the appeal is pending, he or she must post a supersedeas bond. The amount of the bond is the same as the dollar amount of the judgment being appealed. Failure to post a supersedeas bond allows enforcement of the monetary portion of the judgment but is not cause for dismissal of the appeal.
- c. Superior Court Appeals. A.R.S. § 12-1182 provides that an appeal shall not stay execution of the judgment unless the superior court so orders. It also provides that the appellant shall file a bond in an amount fixed and approved by the court, conditioned on the appellant prosecuting the appeal to its conclusion. The bond provides security for the rental value of the premises pending the appeal and all damages, costs and rent that has been or may be ordered by the superior court or the Supreme Court.
- d. Cases Involving Findings of "Material and Irreparable Breach." After a hearing in which the court finds a material and irreparable breach occurred on the



premises that resulted from violent conduct, crimes against children, criminal activity involving serious property damage or drug-related criminal activity, the court may permit the execution of the writ of restitution notwithstanding the payment of a rent bond. If a defendant appeals from a judgment as set forth in the previous sentence and desires to remain in possession of the premises pending appeal, he or she shall promptly advise the court that issued the judgment by filing a notice in writing. Based on the evidence already in the record, that court shall then balance the interests of the breaching tenant, any other residents lawfully residing in the same rental unit or complex, the landlord and the public at large, and consider whether the writ of restitution can and should be stayed or superseded. The court may consider promised actions of the breaching tenant or remaining residents in the same rental unit that will protect the safety of others and otherwise prevent the deterioration of the status quo during the pendency of the appeal when making an appropriate order. An appropriate order may include conditions that exclude one or more residents from the rental unit but permit other residents in the same rental unit to remain pending appeal.

In the event that a defendant remaining in possession pending appeal subsequently breaches an appeal condition imposed by the court, the plaintiff may file an emergency motion to lift a stay, and the court shall conduct a hearing within three days. If the third day is a Saturday, Sunday or other legal holiday the hearing shall be held on the next court day.

The court's decision denying a stay, conditioning the stay, or subsequently lifting the stay after a breach of an imposed condition may be reviewed by special action to an appropriate court.

Rule 18. Definitions

- a. "Eviction" or "eviction action" as used herein shall mean forcible detainer actions and special detainer actions as defined in this rule.
- b. "Ex parte communications" are communications between a litigant or its attorney and a judge, without including the opposing party. Ex parte communications are generally prohibited. However, a communication with a judge in open court on a date and at a time when all litigants have been notified that the issue will be addressed is not an ex parte communication.
- c. "Forcible detainer" shall have the same meaning as set forth at A.R.S. §§ 12-1173 and 12-1173.01.
- d. "Good cause" shall mean a stated, substantial reason, the accommodation of which will serve the interests of fairness and justice, without also causing a significant delay or harm to another party. Good cause may include relieving a person from the consequences of a mistake or inadvertence, but not from simple neglect.



- e. "Initial return date" is the date scheduled for the first appearance by the defendant following service of the summons and complaint. This shall also be known as the "initial appearance date," or the "trial date."
- f. "Personal service" shall mean person-to-person delivery of any pleading or notice to the intended recipient. If service is made at the residence, delivery of the papers to another person of suitable age and discretion who lives at the residence shall also qualify as "personal service."
- g. "Pertinent" shall mean anything that relates directly and significantly to the matter in issue.
- h. "Post and mail service" shall have the same meaning as set forth in A.R.S. § 33-1377(B) and 33-1485(B).
- i. "Rental agreement" shall include, but not be limited to, oral and written rental agreements and leases.
- j. "Special detainer" refers to the procedures set forth at A.R.S. §§ 33-1377 and 33-1485.

Rule 19. Miscellaneous

- a. If a plaintiff is entitled to rent, late charges, court costs or attorney fees in a detainer judgment, the court shall not deny the request or delay entry of judgment solely because of a claim that Fair Debt Collection Practices Act notification requirements have not yet been satisfied.
- b. If, after entry of a detainer judgment a plaintiff or attorney concludes, either unilaterally or in response to a dispute by the defendant, that the basis for the detainer action or judgment was not valid, then the plaintiff shall promptly file a motion to set aside the judgment.
- c. Agreements between parties. No agreement between parties or their attorneys is binding if later disputed unless it is in writing and signed by the parties or their attorneys or made orally in open court on the record. This rule shall not prohibit a party who disputes the content of the agreement to move the court to refuse to enforce the agreement if good cause is shown for doing so.



Appendix A

RESIDENTIAL EVICTION INFORMATION SHEET (PUBLISHED AND DISTRIBUTION REQUIRED BY THE ARIZONA SUPREME COURT)

Notice. A landlord must provide a tenant with written notice saying why the eviction process has started. The tenant should have received this notice before this lawsuit was filed.

Rent cases. If this lawsuit has been filed for not paying rent, the tenant can stop it and continue living in the residence by paying all rent now due, late fees, attorney's fees and court costs. After a judgment has been granted, reinstatement of the lease is solely in the landlord's discretion. Inability to pay rent is not a legal defense and the judge cannot give more time to pay, even if the tenant is having financial problems.

Before Court. Eviction cases move through the court system very fast. If the tenant disagrees with the landlord's allegations, the tenant is encouraged to file a written answer. The court provided answer form allows the tenant to admit or deny the allegations and explain his or her position. If the tenant cannot afford to pay the answer fee, he or she may apply for a waiver. If the tenant of a dwelling unit believes that the landlord owes him money, he or she may under some circumstances file a counterclaim. The summons states that a trial will occur on the date listed but due to the high volume of cases, a trial may not occur then. However, if the tenant fails to appear, and the landlord or his attorney is present, a judgment will probably be entered against the tenant. Tenants can appear or arrange for lawyers to represent them. The court will not provide a lawyer.

At Court. At the time listed on the summons, the judge will start calling cases. If both parties are there, the judge will ask the tenant whether the complaint is true. If the tenant says "no", he or she will need to briefly tell the judge why. If the reason appears to be a legal defense, the judge will need to hear testimony from both sides and make a decision after a trial. After talking to the landlord or its attorney, a tenant may wish to agree to what the landlord is requesting by signing a "stipulation". This is an agreement under which the parties resolve the dispute on the basis of what the agreement says, and nothing that is not in the written agreement can be enforced against either party. These agreements should be clear and understandable by both parties. Most stipulations include judgments against tenants. See below.

Continuances. Either party can ask that the court date be delayed. The court will agree only if there is a very good reason. A delay will be no more than three business days. There is no assurance a delay will be granted and parties should come to court prepared for trial and bring necessary witnesses and documents.

After a Judgment. If a landlord receives a judgment, it may apply for a writ of restitution to remove the residents. These are served by constables, who will direct the residents to leave. A tenant can avoid the difficulties associated with a writ of restitution by turning in the keys of a rental dwelling into the landlord. This ends his or her possession of the residence. If the tenant wants to continue to live in the residence after a judgment has been entered, the tenant will need to obtain the landlord's approval and sign a new lease. A tenant will have five (5) days to vacate the premises unless evicted for criminal activity. Then the tenant has only twelve (12) to twenty-four (24) hours to vacate. A judgment will probably appear on a tenant's credit report for several years. Parties wishing to appeal from a judgment have five days to do so after the judgment is entered and can obtain forms and information from the court filing counter. If a tenant wants to remain in the rental home during the appeal, the tenant must also pay a "supersedeas bond" to suspend the judgment while the case is being reviewed. If the tenant prevails the court will dismiss the case.

Sources of Additional Information. You can get copies of the Arizona Residential Landlord Tenant Act, the Arizona Mobile Home Parks Residential Landlord and Tenant Act and the Long Term Recreational Vehicle Rental Space Act from a library or from the Secretary of State's office or web page: www.azsos.gov. In Maricopa County if you wish to consult an attorney, you may want to contact the Arizona State Bar Attorney Referrals Line at (602) 257-4434 or Community Legal Services at (602) 258-3434. Contact the court in other counties for similar referrals. You can obtain a summary of the obligations of landlords and tenants on the web page for justice courts in Maricopa County: www.superiorcourt.maricopa.gov/justicecourts/info



Appendix B

Economic impact analysis examines the regional implications of an activity in terms of three basic measures: output, earnings, and job creation. Fiscal impact analysis, on the other hand, evaluates the public revenues and costs created by a particular activity. In fiscal impact analysis, the primary revenue sources of a city, county, or state government are analyzed to determine how the activity may financially affect them. For this report, the fiscal impact on the State of Arizona, all counties within the State, and all cities and towns within the State have been estimated. The impacts on both the county and city level have been aggregated using weighted averages of tax rates.

1.1 Methodology & Assumptions

1.1.1 Project Assumptions

Assumptions for evaluation of the economic and fiscal impacts of the multi-housing industry within Arizona were developed from a variety of sources including Real Data, Saylor publications, the Arizona Department of Revenue, the U.S. Census, and information provided by the Arizona Multi-Housing Association. The data was reviewed and verified to determine its reasonableness and applicability to the proposed project.

The analysis utilizes an incremental impact approach. Thus, the impacts expressed for both the construction and operations reflect the impact of each 1,000 apartment units. In terms of construction, the estimated or projected number of apartment units to be built in any given year can be divided by 1,000 and multiplied by the results of this analysis to determine a reasonable impact in that year. Similarly for operations, the estimated inventory of apartment units can be divided by 1,000 and multiplied by the resulting operational impact to derive an estimated total impact. All of the following results are valued in 2008 dollars.

In terms of assumptions for construction, an industry average of just under \$92,000 per unit was used, based on the average size of an apartment unit at 811 square feet. It is assumed that this estimate reflects the hard costs of construction and a state approved portion of this amount will be applied to each governing entity's construction sales tax rate.

In terms of assumptions for operations, all taxable purchases, estimated rent and utility revenues are valued in 2008 dollars. Annual rent per square foot has been estimated at just over \$11 dollars per square foot, with an additional \$1,200 dollars spent per unit annually in taxable utilities.

Employment impacts at the resort were based on an employee per unit ratio of 0.05, or 1 employee for every 20 units.

Current property taxes for apartment units were estimated based on a per unit valuation of \$55,000. It is expected that newer complexes would yield higher per unit values, but that the existing stock of older units lowers the total average.



The following table displays the assumptions of the economic and fiscal impact analysis.

Assumptions of Analysis	
Arizona Multi-Family Housing Industry	
Units	1,000
Average sf per unit	811
<i>Construction</i>	
Construction cost per unit	\$91,546
<i>Operations</i>	
Employment increment	50
Taxable purchases	\$500,000
Annual rent per square foot	\$11
Average vacancy	11.2%
Value per unit	\$55,000
Estimated annual utilities per unit (taxable)	\$1,200

Sources: Elliott D. Pollack & Co., U.S. Census Bureau, REAL Data, Saylor Publications, AZ Tax Book, City of Phoenix, Maricopa County, Pima County



1.1.2 Economic Impact Methodology

Economic impact analysis examines the economic implications of an activity in terms of output, earnings, and employment. For this study, the analysis focused on two separate impacts:

- 1) Construction of new apartment units.
- 2) Operations impact of apartment complexes.

The different types of economic impacts are known as direct, indirect, and induced, according to the manner in which the impacts are generated. For instance, direct employment consists of permanent jobs held by the construction workers or apartment employees. Indirect employment is those jobs created by businesses that provide goods and services essential to the operation or construction of the apartments. These businesses range from manufacturers (who make goods) to wholesalers (who deliver goods). Finally, the spending of the wages and salaries of the direct and indirect employees on items such as food, housing, transportation and medical services creates induced employment in all sectors of the economy, throughout the metropolitan area. These secondary effects are captured in the analysis conducted in this study.

Multipliers have been developed to estimate the indirect and induced impacts of various direct economic activities. The Minnesota IMPLAN Group developed the multipliers used in this study. The economic impact is categorized into three types of impacts:

- (1) **Employment Impact** – the total wage and salary and self employed jobs in a region. Jobs include both part time and full time workers.
- (2) **Earnings Impact** – the personal income, earnings or wages, of the direct, indirect and induced employees. Earnings include total wage and salary payments as well as benefits of health and life insurance, retirement payments and any other non-cash compensation.
- (3) **Economic Output** – the economic output, also referred to economic activity, relates to the gross receipts for goods or services generated by the company's operations.

Economic impacts are by their nature regional in character. Such impacts are best illustrated when not assigned to a specific city or locality, although clearly the primary impact of job creation would be on the area where the project is located. However, many other communities in region and state would also benefit from the construction and operation of the project. People working at the apartment complexes would commute to work from their homes in all parts of the region. Therefore, the economic impact of the development project is expressed in this report as a statewide benefit. All dollar figures, unless otherwise stated, are expressed in 2008 dollars.



1.1.3 Fiscal Impact Methodology

Fiscal impact analysis studies the public revenues associated with a particular economic activity. The main revenue sources of local, county, and state governments (i.e., taxes) are analyzed to determine how an activity may affect the various jurisdictions. This section will evaluate the impact of the multi-housing industry on the State of Arizona, Arizona counties and Arizona cities and towns. The analysis excludes special districts or other taxing entities.

The fiscal impact figures cited in this report have been generated from information provided by a variety of sources including the U.S. Bureau of the Census; the U.S. Department of Labor; the Internal Revenue Service; the Arizona Tax Research Association; the Arizona Department of Revenue; and the U.S. Consumer Expenditure Survey.

This fiscal impact analysis also relies upon the estimates of construction cost and operating revenues outlined in the assumptions table displayed previously. Unless otherwise stated, all dollar values are expressed in 2008 dollars.

Fiscal impacts are categorized by type in this study, similar to economic impact analysis. The main sources of revenue generation for governmental entities are related to construction of the units and ongoing operations of new and existing apartment units.

Construction impacts relate to the revenues generated from constructing new apartment units and include the state, county and local sales taxes levied on construction materials. These are the primary revenues generated from the project. In addition, the direct, indirect and induced employees supported by the construction activity also generate revenues to local governments. For instance, employees would spend part of their salaries on retail goods (thereby paying sales taxes), pay property taxes and contribute to the other revenue sources that are shared by the State with local counties and cities. Part of the State's collection of sales taxes on construction materials is also shared with local governments. These revenues are referred to in this report as secondary impacts.

The ongoing operations of a real estate project also create beneficial fiscal effects for a community. In addition to lease tax and utility tax collections from apartment residents, sales taxes would be collected on taxable operating purchases at the complexes. Additionally, each apartment complex would be liable for property taxes that are assessed by respective counties and cities. These are primary revenues to governmental entities that can be calculated from the assumptions of the study.

In addition to the above revenues, employees who work at the apartment complexes would spend part of their salaries on local goods and services and pay taxes on the homes they occupy. The employees would contribute to revenues collected by the State that are ultimately shared with local counties and cities. These revenues are similarly referred to in this report as secondary impacts.

Following is a description of the applicable tax revenue sources of the various jurisdictions that will be considered for this analysis.



- Construction Sales Tax

The State, counties, and cities levy a sales tax on materials used in the construction of buildings or development of land improvements. That tax is calculated by State law under the assumption that 65% of the construction cost of the facility and its land improvements are related to construction materials with the remaining 35% devoted to labor. The sales tax rate is then applied to the 65% materials figure. The sales tax on construction materials is a one-time collection by the governmental entity. The State currently levies a 5.6% sales tax on construction activity (a portion of which is shared with local governments). The weighted tax rate of all Arizona counties is 0.61% and the weighted construction sales tax for Arizona cities and towns is approximately 2.06%.

- Sales Tax

The State, counties, and local cities in Arizona charge sales tax on retail goods and services. The sales tax rate for the State is 5.6%. Portions of this tax are redistributed through revenue sharing to counties and cities throughout Arizona based on population.

Among Arizona counties, the weighted sales tax rate is 0.60%. The weighted sales tax rate is 1.96% for cities and towns throughout Arizona. These tax rates are applied to taxable revenues from operational purchases at apartment complexes as well as to the spending of direct, indirect and induced employees. Most of the employees supported by the project reside within a city or, at the very least, purchase goods from retailers located within a municipality. Based on data from the U.S. Consumer Expenditure Survey, the projected extent of retail spending and resulting sales tax receipts was calculated.

- Lease Tax

Counties and local cities in Arizona charge lease tax on rents of home dwellings. Among Arizona counties, the weighted lease tax rate is 0.60%. The weighted sales tax rate is 1.96% for cities and towns throughout Arizona. These tax rates are applied to taxable revenues from leases of apartment unit residents.

- Utility Sales Tax

The State, counties, and local cities in Arizona charge utility sales tax utilities such as electricity, natural or artificial gas, and water. The sales tax rate for the State is 5.6%. Portions of this tax are redistributed through revenue sharing to counties and cities throughout Arizona based on population.

Among Arizona counties, the weighted sales tax rate is 0.61%. The weighted sales tax rate is 2.28% for cities and towns throughout Arizona. These tax rates are applied to taxable revenues from utility sales within the apartment units.

- State Shared Revenues

Each city and town in Arizona receives a portion of State revenues from four different sources - State sales tax, State income tax, vehicle license tax and highway user tax. The formulas for allocating these revenues are primarily based on population. Counties also share in the revenue sources of the State, with the exception of income



tax. In the case of this analysis, the aggregated counties and towns will receive 100% of revenues that are distributed by the State.

- State Income Tax

The State of Arizona collects taxes on personal income. The tax rate used in the analysis averages about 1.6% for earnings. These percentages are based on the most recently available income tax data from the State and the projected wage levels of jobs created by the construction and operations impact. This tax is applied to the wages and earnings of direct indirect and induced employment. Portions of this tax are redistributed through revenue sharing to cities and towns throughout Arizona based on population.

- State Unemployment Tax

Unemployment insurance tax for employees is 2.7% on the first \$7,000 of earned income. This factor is applied to the projected wages and earnings of direct, indirect, and induced employees.

- HURF Taxes

The State of Arizona collects specific taxes for the Highway User Revenue Fund (HURF). Both the registration fees and the motor vehicle fuel tax (gas tax) are considered in this analysis. The motor vehicle fuel tax is \$0.18 per gallon and is calculated based on a vehicle traveling 12,000 miles per year at 15 miles per gallon. Registration fees average \$66 per employee in the State of Arizona. These factors are applied to the projected direct, indirect and induced employee count. Portions of these taxes are distributed to cities and counties throughout Arizona based on a formula that includes population and the origin of gasoline sales.

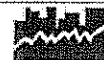
- Vehicle License Tax

The vehicle license tax is a personal property tax placed on vehicles at the time of annual registration. This factor is applied to the projected direct, indirect and induced employee count. The average tax used in this analysis is \$325 and portions of the total collections are distributed to the Highway User Revenue Fund. The remaining funds are shared between cities and counties in accordance with population-based formulas.

- Property Taxes

Taxes on real property would be levied on the apartment complexes. In addition, direct, indirect and induced employees supported by the project would pay county and city property taxes on homes they occupy. A weighted property tax rate of 1.1822 per \$100 of assessed value was used for city level estimation of property tax liability while at the county level, a weighted rate of 3.7553 per \$100 of assessed value was used. In order to estimate property taxes, the value of a typical housing unit in the state of Arizona has been estimated at approximately \$236,500. This value assumes that employees would occupy units in a pattern similar to the current inventory of housing in the State.

The above tax categories represent the largest sources of revenues that would be generated to city, county, and state governments. This analysis considers gross tax collections and does not differentiate among dedicated purposes or uses of such gross tax collections.



1.2 Impact of Construction

Construction phase impacts are generally short-term effects related to onsite and offsite construction employment and other industries that support the construction. The long-term consequences of a project are the operational phase impacts (Section 4.0). These include employment, earnings and expenditures that recur over the long-term. However, in this case, apartment construction is expected to continue to occur year after year throughout the state to satisfy the growing population. Thus, construction phase impacts can also be considered long term effects in conjunction with the operations phase impacts of the existing inventory of apartment units.

1.2.1 Economic Impact of Construction

This portion of the analysis will outline the economic impact on the State of Arizona of the construction of every 1,000 apartment units. The economic impact is outlined in the following table along with job creation and wages. From the construction of every 1,000 apartment units, 801 direct jobs with \$44.3 million in wages and \$91.5 million in direct economic output would be generated. An additional 563 indirect and induced jobs would be created from ripple effects throughout the economy, for a total of 1,364 direct, indirect, and induced jobs created during each increment of 1,000 units constructed with \$68.4 million in wages and \$160.6 million in economic activity. The figures are summarized below in the following table.

Impact Type	Jobs	Wages	Economic Output
Direct	801	\$44,302,000	\$91,545,680
Indirect	207	\$10,223,000	\$25,810,000
Induced	356	\$13,870,000	\$43,231,000
Total	1,364	\$68,395,000	\$160,586,680

Source: Elliott D. Pollack & Company; IMPLAN

1.2.2 Fiscal Impact of Construction

The tables included in this section summarize the revenues that would ultimately flow to the State of Arizona, all of the counties within the State and the cities and towns within the State as well. Some revenues are more direct and definable than others. Revenues have been defined in this analysis as either primary or secondary, depending on their source and how the dollars flow through the economy into governing entities' tax accounts. For instance, some revenues, such as construction sales taxes, are definable, straightforward calculations based on the cost of construction. These revenues are described in this study as primary revenues.



Secondary revenues, on the other hand, flow from the wages of those direct, indirect and induced employees who are supported by the construction projects. Revenue projections are based on typical wages of the employees working in a project, their spending patterns, projections of where they might live, and other assumptions outlined earlier in this report.

The following tables show the total fiscal impact of the construction of 1,000 apartment units irrespective of how many years each of the individual complexes take to construct. Even if construction of certain portions of the 1,000 units were delayed or the development were to take more than their allotted time to complete, the sum of the individual impacts from each component or phase would be equal to the total projection provided below (in 2008 dollars, excluding any impact of inflation), but extended over a longer time frame.

State of Arizona Fiscal Impact of Construction

Primary revenues (construction sales tax) that would accrue to the State total approximately \$2.9 million. The remainder of the revenues that would be generated during construction are classified as secondary revenues and, as previously described, relate to the spending of construction employees on retail goods, vehicle registration, gasoline taxes and similar items. The State would collect about \$2.5 million in secondary revenue during the construction of 1,000 units. Overall, the State would collect over \$5.4 million in construction related revenues. The following table outlines the fiscal impact of construction of the development of 1,000 apartment units on the State of Arizona.



**Total Fiscal Impact from New Construction (per 1,000 Units)
Arizona Multi-Housing Industry
State of Arizona
(2008 Dollars)**

Impact Type	Primary Revenues		Secondary Revenues from Employment						Total Revenues
	Construction Sales Tax		Employees Spending Sales Tax	Income Tax	Vehicle License Tax	Unemp. Tax	HURF Tax		
Direct	\$2,942,400		\$550,900	\$756,900	\$51,700	\$151,300	\$74,200	\$4,527,400	
Indirect	N/A		\$133,200	\$160,800	\$13,400	\$39,100	\$19,200	\$365,700	
Induced	N/A		\$201,200	\$202,800	\$23,000	\$67,300	\$33,000	\$527,300	
Total Revenues^{1/}	\$2,942,400		\$885,300	\$1,120,500	\$88,100	\$257,700	\$126,400	\$5,420,000	

^{1/} The figures for the state of Arizona do not include revenues distributed to counties, cities, and towns. The figures are intended only as a general guideline as to how the State could be impacted by the project. The above figures are based on the current economic structure and tax rates of the state of Arizona.

Source: Elliott D. Pollack & Company; MP/LAN; Arizona Department of Revenue; Arizona Tax Research Association



Arizona Counties Fiscal Impact of Construction

The table below provides the county fiscal impact that would be generated by the construction of 1,000 apartment units, aggregated for all of the counties within the State. During construction, county revenues would total over \$2.0 million. This includes primary tax revenues of \$361,000 and additional secondary revenues of nearly \$1.7 million.



Total Fiscal Impact on from New Construction (per 1,000 Units)
Arizona Counties
 (2008 Dollars)

Type	Primary Revenues		Secondary Revenues from Employment				Total Revenues
	Construction Sales Tax		Employees Sales Tax	Residents Property Tax	State Shared Revenues		
Direct	\$360,900		\$86,400	\$494,800	\$515,300	\$1,457,400	
Indirect	N/A		\$21,000	\$127,900	\$69,000	\$217,900	
Induced	N/A		\$32,100	\$220,100	\$113,000	\$365,200	
Total Revenues^{1/}	\$360,900		\$139,500	\$842,800	\$697,300	\$2,040,500	

^{1/} The figures include revenues collected by the state and shared with counties. The figures are intended only as a general guideline as to how the counties could be impacted by the project. The above figures are based on the current economic structure and tax rates of the counties.
 Source: Elliott D. Pollack & Company; IMPLAN; Arizona Department of Revenue; Arizona Tax Research Association



Arizona Cities and Towns Fiscal Impact of Construction

Fiscal impacts related to the construction of 1,000 apartment units on Arizona cities and towns are provided in the table below. During construction, city and town revenues would total nearly \$2.4 million when aggregated. This includes primary tax revenues of over \$1.2 million and additional secondary revenues of over \$1.1 million.



**Total Fiscal Impact on from New Construction (per 1,000 Units)
Arizona Cities and Towns
(2008 Dollars)**

Impact Type	Primary Revenues	Secondary Revenues from Employment			Total Revenues
	Construction Sales Tax	Employees Spending Sales Tax	Residents Property Tax	State Shared Revenues	
Direct	\$1,225,800	\$155,800	\$86,326	\$509,300	\$1,977,226
Indirect	N/A	\$37,900	\$22,322	\$88,340	\$148,562
Induced	N/A	\$57,900	\$38,398	\$137,240	\$233,538
Total Revenues^{1/}	\$1,225,800	\$251,600	\$147,046	\$734,880	\$2,359,300

^{1/} The figures include revenues collected by the state and shared with cities. The figures are intended only as a general guideline as to how the city could be impacted by the project. The above figures are based on the current economic structure and tax rates of the city.

Source: Elliott D. Pollack & Company; IMPLAN; Arizona Department of Revenue; Arizona Tax Research Association



1.3 Impact of Operations

Operations impacts are the long-term (ongoing) benefits of a project once construction of the project is completed. There are thousands of apartment complexes throughout the State that are currently operating and generating an economic and fiscal impact. This section of the analysis provides economic and fiscal estimates for the operations for every 1,000 apartment units. The results of the analysis can be multiplied by a factor that resembles the current apartment stock to generate the total operational impacts, as well as the impact of an increase in that inventory. Employment impacts are represented in increments of 50 direct employees, which is an average estimate of industry experts for every 1,000 units.

1.3.1 Economic Impact of Operations

Fifty direct, full-time employees yield an estimated \$2.2 million in annual wages and produce \$7.2 million in economic activity. The ripple effect of these direct jobs generates an additional 40 indirect and induced jobs with \$1.6 million in wages and \$4.7 million economic activity. Overall, 90 jobs are found in the economy created by the initial 50 jobs, with \$3.8 million in wages and \$11.9 million in economic activity. Although the primary impact of any given apartment complex would focus upon the municipality in which it was located, the entire state as a whole is being considered. Therefore, the economic impact is expressed as a statewide benefit.

**Annual Economic Impact from Operations per 50 Full-Time Employees
Arizona Multi-Housing Industry
State of Arizona
(2008 Dollars)**

Impact Type	Jobs	Wages	Economic Output
Direct	50	\$2,216,000	\$7,216,260
Indirect	20	\$849,000	\$2,323,000
Induced	20	\$773,000	\$2,408,000
Total	90	\$3,838,000	\$11,947,260

† The total may not equal the sum of the Impacts due to rounding. All dollar figures are in constant dollars. Inflation has not been included in these figures.

Source: Elliott D. Pollack & Company; IMPLAN

1.3.2 Fiscal Impact of Operations

Similar to the fiscal impact of construction, the effects of multi-family housing operations have been divided into primary and secondary impacts. Primary impacts of the project are generated from lease taxes (at the county and city level), sales taxes, utility taxes, and property taxes (at the county and city level). Secondary effects of the project relate to the employees who would work in the project including employee spending (which generates sales taxes) and various other tax payments such as income taxes, property taxes, vehicle license taxes, unemployment taxes, and



gasoline taxes. For purposes of this analysis, the employment increment of 50 was applied to derive the fiscal impacts of employment on 1,000 units.

State of Arizona Fiscal Impact of Operations

The following table provides the fiscal impact of the operations of 1,000 apartment units on the State of Arizona. The 1,000 apartment units generate \$21,449 in direct sales tax and an additional \$52,700 in direct utility tax. Secondary revenues from employment total \$143,800 for a total fiscal impact on the State of \$196,500 annually.



**Annual Fiscal Impact from Operations per 1,000 Units at Stabilized Occupancy
Arizona Multi-Housing Industry
State of Arizona
(2008 Dollars)**

Impact Type	Primary Revenues			Secondary Revenues				Total Annual Revenues	
	Direct Sales Tax	Utility Tax	Direct Tax	Employees Sales Tax	Income Tax	Vehicle License Tax	Unemp. Tax		HURF Tax
Direct	\$21,449	\$52,700		\$30,300	\$34,800	\$3,200	\$9,500	\$4,600	\$135,100
Indirect	N/A	N/A		\$11,800	\$13,400	\$1,300	\$3,800	\$1,800	\$32,100
Induced	N/A	N/A		\$11,200	\$11,300	\$1,300	\$3,700	\$1,800	\$29,300
Total^{2/}	\$21,449	\$52,700		\$53,300	\$59,500	\$5,800	\$17,000	\$8,200	\$196,500

^{2/} Total may not equal sum of impacts due to rounding. All dollar figures are in constant dollars. Inflation has not been included in these figures. All of the above figures do not include revenues distributed to counties, cities, and towns. All of the above figures are representative of major revenue sources for the state of Arizona. Figures are intended only as a general guideline as to how the state could be impacted by the project. The above figures are based on current economic structure and tax rates of the state of Arizona.

Source: Elliott D. Pollack & Company, IMPLAN; Arizona Department of Revenue; Arizona Tax Research Association



Arizona Counties Fiscal Impact of Operations

The table below provides the ongoing annual fiscal impact of 1,000 apartment units on all of the counties within Arizona. The units generate \$337,700 annually in tax collections for the counties. This includes \$238,800 in direct sales, lease, utility, and property taxes. The additional \$98,900 would be generated from employee spending and State shared revenues.



**Annual Fiscal Impact from Operations per 1,000 Units at Stabilized Occupancy
Arizona Multi-Housing Industry
Arizona Counties
(2008 Dollars)**

	Primary Revenues				Secondary Revenues				Total Revenues
	Direct Sales Tax	Direct Lease Tax	Direct Utility Tax	Direct Property Tax	Employees Sales Tax	Residential Property Tax	State Shared Revenues		
Direct	\$3,011	\$49,061	\$6,465	\$180,310	\$4,800	\$30,900	\$23,250	\$297,800	
Indirect	N/A	N/A	N/A	N/A	\$1,900	\$12,300	\$5,870	\$20,100	
Induced	N/A	N/A	N/A	N/A	\$1,800	\$12,300	\$5,750	\$19,900	
Total^{1/}	\$3,011	\$49,061	\$6,465	\$180,310	\$8,500	\$55,500	\$34,870	\$337,700	

^{1/}The total may not equal the sum of the impacts due to rounding. All dollar figures are in constant dollars. Inflation has not been included in these figures. All of the above figures are representative of the major revenue sources for the counties. The figures are intended only as a general guideline as to how the counties could be impacted by the project. The above figures are based on the current economic structure and weighted tax rates of Arizona counties.

Source: Elliott D. Pollack & Company, MAP/AS, Arizona Department of Revenue, Arizona Tax Research Association



Arizona Cities and Towns Fiscal Impact of Operations

The 1,000 apartment units generate \$304,600 annually in tax collections for the cities and towns within Arizona. This includes \$250,600 in direct sales, lease, utility and property taxes. The additional \$54,000 would be generated from the employee spending and State shared revenues. The following table provides the ongoing annual fiscal impact of the apartment units on all of the cities and towns within Arizona.



**Annual Fiscal Impact from Operations per 1,000 Units at Stabilized Occupancy
Arizona Multi-Housing Industry
Arizona Cities and Towns
(2008 Dollars)**

	Primary Revenues			Secondary Revenues			Total Annual Revenues
	Direct Sales Tax	Direct Lease Tax	Direct Utility Tax	Direct Property Tax	Employees Sales Tax	Residential Property Tax	
Direct	\$9,798	\$159,655	\$24,350	\$56,765	\$8,700	\$5,391	\$18,760
Indirect	N/A	N/A	N/A	N/A	\$3,400	\$2,144	\$5,290
Induced	N/A	N/A	N/A	N/A	\$3,200	\$2,139	\$5,010
Total^{1/}	\$9,798	\$159,655	\$24,350	\$56,765	\$15,300	\$9,674	\$29,060

^{1/} The total may not equal the sum of the impacts due to rounding. All dollar figures are in constant dollars. Inflation has not been included in these figures. All of the above figures are representative of the major revenue sources for the cities and towns. The figures are intended only as a general guideline as to how cities and towns could be impacted by the project. The above figures are based on the current economic structure and weighted tax rates of Arizona cities and towns.

Source: Elliott D. Pollack & Company; IMPLAN; Arizona Department of Revenue; Arizona Tax Research Association

