

REFERENCE TITLE: water adequacy provisions

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2693

Introduced by
Representatives Mason, Ableser, Saradnik, Senator O'Halleran:
Representatives Alvarez, Barto, Brown, Clark, Groe, Konopnicki, McLain,
Stump, Senator Harper

AN ACT

AMENDING SECTIONS 9-463.01, 11-806.01, 32-2181, 32-2181.02, 32-2183 AND 32-2197.08, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-406; AMENDING TITLE 33, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-424; AMENDING SECTION 45-108, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-108.01; RELATING TO WATER SUPPLIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 9-463.01, Arizona Revised Statutes, is amended to
3 read:
4 9-463.01. Authority
5 A. Pursuant to ~~the provisions of~~ this article, the legislative body of
6 every municipality shall regulate the subdivision of all lands within its
7 corporate limits.
8 B. The legislative body of a municipality shall exercise the authority
9 granted in subsection A of this section by ordinance prescribing:
10 1. Procedures to be followed in the preparation, submission, review
11 and approval or rejection of all final plats.
12 2. Standards governing the design of subdivision plats.
13 3. Minimum requirements and standards for the installation of
14 subdivision streets, sewer and water utilities and improvements as a
15 condition of final plat approval.
16 C. By ordinance, the legislative body of any municipality shall:
17 1. Require the preparation, submission and approval of a preliminary
18 plat as a condition precedent to submission of a final plat.
19 2. Establish the procedures to be followed in the preparation,
20 submission, review and approval of preliminary plats.
21 3. Make requirements as to the form and content of preliminary plats.
22 4. EITHER determine that certain lands may ~~either~~ not be subdivided,
23 by reason of adverse topography, periodic inundation, adverse soils,
24 subsidence of the earth's surface, high water table, lack of water or other
25 natural or man-made hazard to life or property, or control the lot size,
26 establish special grading and drainage requirements, ~~and~~ impose other
27 regulations deemed reasonable and necessary for the public health, safety or
28 general welfare on any lands to be subdivided affected by such
29 characteristics.
30 5. Require payment of a proper and reasonable fee by the subdivider
31 based upon the number of lots or parcels on the surface of the land to defray
32 municipal costs of plat review and site inspection.
33 6. Require the dedication of public streets, sewer and water utility
34 easements or rights-of-way, within the proposed subdivision.
35 7. Require the preparation and submission of acceptable engineering
36 plans and specifications for the installation of required street, sewer,
37 electric and water utilities, drainage, flood control, adequacy of water and
38 improvements as a condition precedent to recordation of an approved final
39 plat.
40 8. Require the posting of performance bonds, assurances or such other
41 security as may be appropriate and necessary to assure the installation of
42 required street, sewer, electric and water utilities, drainage, flood control
43 and improvements meeting established minimum standards of design and
44 construction.

1 D. The legislative body of any municipality may require by ordinance
2 that land areas within a subdivision be reserved for parks, recreational
3 facilities, school sites and fire stations subject to the following
4 conditions:

5 1. The requirement may only be made upon preliminary plats filed at
6 least thirty days after the adoption of a general or specific plan affecting
7 the land area to be reserved.

8 2. The required reservations are in accordance with definite
9 principles and standards adopted by the legislative body.

10 3. The land area reserved shall be of such a size and shape as to
11 permit the remainder of the land area of the subdivision within which the
12 reservation is located to develop in an orderly and efficient manner.

13 4. The land area reserved shall be in such multiples of streets and
14 parcels as to permit an efficient division of the reserved area in the event
15 that it is not acquired within the prescribed period.

16 E. The public agency for whose benefit an area has been reserved shall
17 have a period of one year after recording the final subdivision plat to enter
18 into an agreement to acquire such reserved land area. The purchase price
19 shall be the fair market value of the reserved land area at the time of the
20 filing of the preliminary subdivision plat plus the taxes against such
21 reserved area from the date of the reservation and any other costs incurred
22 by the subdivider in the maintenance of such reserved area, including the
23 interest cost incurred on any loan covering such reserved area.

24 F. If the public agency for whose benefit an area has been reserved
25 does not exercise the reservation agreement set forth in subsection E of this
26 section within such one year period or such extended period as may be
27 mutually agreed upon by such public agency and the subdivider, the
28 reservation of such area shall terminate.

29 G. The legislative body of every municipality shall comply with ~~all~~
30 ~~provisions of~~ this article and applicable state statutes pertaining to the
31 hearing, approval or rejection, and recordation of:

32 1. Final subdivision plats.

33 2. Plats filed for the purpose of reverting to acreage of land
34 previously subdivided.

35 3. Plats filed for the purpose of vacating streets or easements
36 previously dedicated to the public.

37 4. Plats filed for the purpose of vacating or redescribing lot or
38 parcel boundaries previously recorded.

39 H. Approval of every preliminary and final plat by a legislative body
40 is conditioned upon compliance by the subdivider with:

41 1. Rules as may be established by the department of transportation
42 relating to provisions for the safety of entrance upon and departure from
43 abutting state primary highways.

1 2. Rules as may be established by a county flood control district
2 relating to the construction or prevention of construction of streets in land
3 established as being subject to periodic inundation.

4 3. Rules as may be established by the department of health services or
5 a county health department relating to the provision of domestic water supply
6 and sanitary sewage disposal.

7 I. If the subdivision is comprised of subdivided lands, as defined in
8 section 32-2101, and is within ~~a groundwater~~ AN active management area, as
9 defined in section 45-402, the final plat shall not be approved unless it is
10 accompanied by a certificate of assured water supply issued by the director
11 of water resources, or unless the subdivider has obtained a written
12 commitment of water service for the subdivision from a city, town or private
13 water company designated as having an assured water supply by the director of
14 water resources pursuant to section 45-576 or is exempt from the requirement
15 pursuant to section 45-576. The legislative body of the municipality shall
16 note on the face of the final plat that a certificate of assured water supply
17 has been submitted with the plat or that the subdivider has obtained a
18 written commitment of water service for the proposed subdivision from a city,
19 town or private water company designated as having an assured water supply,
20 pursuant to section 45-576, or is exempt from the requirement pursuant to
21 section 45-576.

22 J. EXCEPT AS PROVIDED IN SUBSECTION K OF THIS SECTION, IF THE
23 SUBDIVISION IS COMPRISED OF SUBDIVIDED LANDS, AS DEFINED IN SECTION 32-2101,
24 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE DIRECTOR OF WATER RESOURCES HAS
25 GIVEN WRITTEN NOTICE TO THE MUNICIPALITY PURSUANT TO SECTION 45-108,
26 SUBSECTION H, THE FINAL PLAT SHALL NOT BE APPROVED UNLESS ONE OF THE
27 FOLLOWING APPLIES:

28 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
29 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE
30 SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

31 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
32 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
33 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
34 TO SECTION 45-108.

35 K. THE LEGISLATIVE BODY OF A MUNICIPALITY THAT HAS RECEIVED WRITTEN
36 NOTICE FROM THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108,
37 SUBSECTION H:

38 1. SHALL PROVIDE AN EXEMPTION FROM THE REQUIREMENT IN SUBSECTION J OF
39 THIS SECTION IF THE SUBDIVIDER HAS ACQUIRED A VESTED RIGHT UNDER COMMON LAW
40 TO PROCEED UNDER THE LAW IN EFFECT AT THE TIME THE MUNICIPALITY RECEIVED THE
41 WRITTEN NOTICE.

42 2. MAY PROVIDE BY ORDINANCE AN EXEMPTION FROM THE REQUIREMENT IN
43 SUBSECTION J OF THIS SECTION UNDER ONE OR BOTH OF THE FOLLOWING
44 CIRCUMSTANCES:

1 (a) THE SUBDIVISION WILL BE SERVED BY A WATER SUPPLY PROJECT THAT IS
2 UNDER CONSTRUCTION AND ALL OF THE FOLLOWING APPLY:

3 (i) THE WATER SUPPLY PROJECT WILL BE COMPLETED WITHIN TWENTY YEARS.

4 (ii) THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE
5 SUBDIVISION WILL HAVE AN ADEQUATE WATER SUPPLY WHEN THE WATER SUPPLY PROJECT
6 IS COMPLETED.

7 (iii) THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE INTERIM
8 WATER SUPPLY THAT WILL SERVE THE SUBDIVISION UNTIL THE WATER SUPPLY PROJECT
9 IS COMPLETED MEETS ALL OF THE CRITERIA FOR AN ADEQUATE WATER SUPPLY UNDER
10 SECTION 45-108 EXCEPT THAT THE WATER SUPPLY WILL NOT BE AVAILABLE FOR ONE
11 HUNDRED YEARS.

12 (b) THE WATER SUPPLY FOR THE SUBDIVISION WILL BE TRANSPORTED TO THE
13 SUBDIVISION BY MOTOR VEHICLE OR TRAIN AND ALL OF THE FOLLOWING APPLY:

14 (i) THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER
15 SUPPLY DOES NOT MEET THE CRITERIA FOR AN ADEQUATE WATER SUPPLY UNDER SECTION
16 45-108.

17 (ii) THE LEGISLATIVE BODY DETERMINES THAT THERE IS NO FEASIBLE
18 ALTERNATIVE WATER SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF
19 WATER TO THE SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH
20 AND SAFETY OF THE RESIDENTS OF THE SUBDIVISION.

21 (iii) THE LEGISLATIVE BODY DETERMINES THAT THE WITHDRAWAL OR DIVERSION
22 OF THE WATER FOR TRANSPORTATION TO THE SUBDIVISION WILL NOT ADVERSELY AFFECT
23 THE HEALTH OR SAFETY OF EXISTING WATER USERS.

24 L. A MUNICIPALITY THAT ADOPTS AN EXEMPTION PURSUANT TO SUBSECTION K,
25 PARAGRAPH 2 OF THIS SECTION SHALL GIVE WRITTEN NOTICE OF THE EXEMPTION,
26 INCLUDING A CERTIFIED COPY OF THE ORDINANCE CONTAINING THE EXEMPTION, TO THE
27 DIRECTOR OF WATER RESOURCES AND THE STATE REAL ESTATE COMMISSIONER.

28 M. IF THE LEGISLATIVE BODY OF A MUNICIPALITY APPROVES A SUBDIVISION
29 PLAT PURSUANT TO SUBSECTION J, PARAGRAPH 1 OR 2 OF THIS SECTION, THE
30 LEGISLATIVE BODY SHALL NOTE ON THE FACE OF THE PLAT THAT THE DIRECTOR OF
31 WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION HAS AN ADEQUATE WATER
32 SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT OF WATER SERVICE FOR
33 THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY
34 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108. IF
35 THE LEGISLATIVE BODY OF A MUNICIPALITY APPROVES A SUBDIVISION PLAT PURSUANT
36 TO AN EXEMPTION AUTHORIZED BY SUBSECTION K, PARAGRAPH 1 OR 2 OF THIS SECTION,
37 THE LEGISLATIVE BODY SHALL GIVE WRITTEN NOTICE OF THE APPROVAL TO THE
38 DIRECTOR OF WATER RESOURCES AND SHALL NOTE ON THE FACE OF THE PLAT THAT THE
39 CONDITIONS OF THE EXEMPTION WERE MET.

40 N. IF A MUNICIPALITY HAS NOT BEEN GIVEN WRITTEN NOTICE BY THE DIRECTOR
41 OF WATER RESOURCES PURSUANT TO SECTION 45-108, SUBSECTION H, THE LEGISLATIVE
42 BODY OF THE MUNICIPALITY, TO PROTECT THE PUBLIC HEALTH AND SAFETY, MAY
43 PROVIDE BY ORDINANCE THAT THE FINAL PLAT OF A SUBDIVISION LOCATED WITHIN THE
44 MUNICIPALITY AND OUTSIDE OF AN ACTIVE MANAGEMENT AREA WILL NOT BE APPROVED BY
45 THE LEGISLATIVE BODY UNLESS THE DIRECTOR OF WATER RESOURCES HAS DETERMINED

1 THAT THERE IS AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO
2 SECTION 45-108 OR THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER
3 SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY
4 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER
5 RESOURCES PURSUANT TO SECTION 45-108. THE ORDINANCE MAY PROVIDE FOR ONE OR
6 MORE OF THE EXEMPTIONS DESCRIBED IN SUBSECTION K, PARAGRAPHS 1 AND 2 OF THIS
7 SECTION. A MUNICIPALITY THAT ENACTS AN ORDINANCE PURSUANT TO THIS SUBSECTION
8 SHALL GIVE WRITTEN NOTICE OF THE ENACTMENT OF THE ORDINANCE, INCLUDING A
9 CERTIFIED COPY OF THE ORDINANCE, TO THE DIRECTOR OF WATER RESOURCES AND THE
10 STATE REAL ESTATE COMMISSIONER.

11 ~~J.~~ O. Every municipality is responsible for the recordation of all
12 final plats approved by the legislative body and shall receive from the
13 subdivider and transmit to the county recorder the recordation fee
14 established by the county recorder.

15 ~~K.~~ P. Pursuant to provisions of applicable state statutes, the
16 legislative body of any municipality may itself prepare or have prepared a
17 plat for the subdivision of land under municipal ownership.

18 ~~L.~~ Q. The legislative bodies of cities and towns may **REGULATE** by
19 ordinance ~~regulate~~ land splits within their corporate limits. Authority
20 granted under this section refers to the determination of division lines,
21 area and shape of the tracts or parcels and does not include authority to
22 regulate the terms or condition of the sale or lease nor does it include the
23 authority to regulate the sale or lease of tracts or parcels that are not the
24 result of land splits as defined in section 9-463.

25 ~~M.~~ R. For any subdivision that consists of ten or fewer lots, tracts
26 or parcels, each of which is of a size as prescribed by the legislative body,
27 the legislative body of each municipality may waive the requirement to
28 prepare, submit and receive approval of a preliminary plat as a condition
29 precedent to submitting a final plat and may waive or reduce infrastructure
30 standards or requirements except for improved dust-controlled access and
31 minimum drainage improvements.

32 Sec. 2. Section 11-806.01, Arizona Revised Statutes, is amended to
33 read:

34 **11-806.01. Subdivision regulation; platting regulations;**
35 **violation; classification; easement vesting**

36 A. The county board of supervisors shall regulate the subdivision of
37 all lands within its corporate limits, except subdivisions which are
38 regulated by municipalities.

39 B. No plat of a subdivision of land within the area of jurisdiction of
40 such county shall be accepted for recording or recorded until it has been
41 approved by the board. The approval of the board shall be endorsed in
42 writing on the plat and shall also include specific identification and
43 approval of the assurances except those for hiking and equestrian trails
44 required by this section. If a county planning and zoning commission exists,
45 the plat may be referred to such commission for its consideration and the

1 board may receive the recommendation of the commission. If the subdivision
2 is comprised of subdivided land, as defined in section 32-2101, and is within
3 ~~a groundwater~~ AN active management area, as defined in section 45-402, the
4 plat shall not be approved unless it is accompanied by a certificate of
5 assured water supply issued by the director of water resources, or unless the
6 subdivider has obtained a written commitment of water service for the
7 subdivision from a city, town or private water company designated as having
8 an assured water supply by the director of water resources pursuant to
9 section 45-576 or is exempt from such requirement pursuant to section 45-576.
10 The board shall note on the face of the plat that a certificate of assured
11 water supply has been submitted with the plat or that the subdivider has
12 obtained a commitment of water service for the proposed subdivision ~~for~~ FROM
13 a city, town or private water company designated as having an assured water
14 supply, pursuant to section 45-576.

15 C. Any person causing a final plat to be recorded without first
16 submitting the plat and obtaining approval of the board is guilty of a class
17 2 misdemeanor. No county recorder shall accept for recording or record any
18 plat which has not been approved as provided by this article.

19 D. The ground of refusal or approval of any plat submitted, including
20 citation of or reference to the rule or regulation violated by the plat,
21 shall be stated upon the record of the board.

22 E. The commission shall recommend to the board and the board shall
23 adopt general regulations of uniform application governing plats and
24 subdivisions of land within its area of jurisdiction. The regulations
25 adopted shall secure and provide for the proper arrangement of streets or
26 other highways in relation to existing or planned streets, highways or
27 bicycle facilities or to the official map for adequate and convenient open
28 spaces for traffic, utilities, drainage, access of fire fighting apparatus,
29 recreation, light and air. The board may adopt general regulations to
30 provide for the proper arrangement of hiking and equestrian trails in
31 relation to existing or planned streets or highways, and if adopted, such
32 hiking and equestrian trails shall conform to the official map for adequate
33 and convenient open spaces for traffic, utilities, drainage, access of fire
34 fighting apparatus, recreation, light and air. The general regulations may
35 provide for modification by the commission in planned area development or
36 specific cases where unusual topographical or other exceptional conditions
37 may require such action. The regulations shall include provisions as to the
38 extent to which streets and other highways shall be graded and improved and
39 to which water, sewer or other utility mains, piping or other facilities
40 shall be installed or provided for on the plat as a condition precedent to
41 the approval of the final plat.

42 F. TO PROTECT THE PUBLIC HEALTH AND SAFETY, THE GENERAL REGULATIONS
43 ADOPTED BY THE BOARD PURSUANT TO SUBSECTION E OF THIS SECTION MAY PROVIDE
44 THAT THE BOARD SHALL NOT APPROVE A FINAL PLAT FOR A SUBDIVISION COMPRISED OF
45 SUBDIVIDED LANDS, AS DEFINED IN SECTION 32-2101, LOCATED OUTSIDE OF AN ACTIVE

1 MANAGEMENT AREA, AS DEFINED IN SECTION 45-402, UNLESS ONE OF THE FOLLOWING
2 APPLIES:

3 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
4 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE
5 SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

6 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
7 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
8 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
9 TO SECTION 45-108.

10 G. IF THE BOARD ADOPTS THE PROVISION AUTHORIZED BY SUBSECTION F OF
11 THIS SECTION:

12 1. THE BOARD SHALL PROVIDE AN EXEMPTION FROM THE PROVISION IF THE
13 SUBDIVIDER HAS ACQUIRED A VESTED RIGHT UNDER COMMON LAW TO PROCEED UNDER THE
14 LAW IN EFFECT AT THE TIME THE PROVISION WAS ADOPTED.

15 2. THE BOARD MAY INCLUDE IN THE GENERAL REGULATIONS AN EXEMPTION FROM
16 THE PROVISION UNDER ONE OR BOTH OF THE FOLLOWING CIRCUMSTANCES:

17 (a) THE SUBDIVISION WILL BE SERVED BY A WATER SUPPLY PROJECT THAT IS
18 UNDER CONSTRUCTION AND ALL OF THE FOLLOWING APPLY:

19 (i) THE WATER SUPPLY PROJECT WILL BE COMPLETED WITHIN TWENTY YEARS.

20 (ii) THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE
21 SUBDIVISION WILL HAVE AN ADEQUATE WATER SUPPLY WHEN THE WATER SUPPLY PROJECT
22 IS COMPLETED.

23 (iii) THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE INTERIM
24 WATER SUPPLY THAT WILL SERVE THE SUBDIVISION UNTIL THE WATER SUPPLY PROJECT
25 IS COMPLETED MEETS ALL OF THE CRITERIA FOR AN ADEQUATE WATER SUPPLY UNDER
26 SECTION 45-108 EXCEPT THAT THE WATER SUPPLY WILL NOT BE AVAILABLE FOR ONE
27 HUNDRED YEARS.

28 (b) THE WATER SUPPLY FOR THE SUBDIVISION WILL BE TRANSPORTED TO THE
29 SUBDIVISION BY MOTOR VEHICLE OR TRAIN AND ALL OF THE FOLLOWING APPLY:

30 (i) THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER
31 SUPPLY DOES NOT MEET ALL OF THE CRITERIA FOR AN ADEQUATE WATER SUPPLY UNDER
32 SECTION 45-108.

33 (ii) THE BOARD DETERMINES THAT THERE IS NO FEASIBLE ALTERNATIVE WATER
34 SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF WATER TO THE
35 SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH AND SAFETY
36 OF THE RESIDENTS OF THE SUBDIVISION.

37 (iii) THE BOARD DETERMINES THAT THE WITHDRAWAL OR DIVERSION OF THE
38 WATER FOR TRANSPORTATION TO THE SUBDIVISION WILL NOT ADVERSELY AFFECT THE
39 HEALTH OR SAFETY OF EXISTING WATER USERS.

40 3. THE BOARD SHALL PROMPTLY GIVE WRITTEN NOTICE OF THE ADOPTION OF THE
41 PROVISION, INCLUDING ANY EXEMPTION ADOPTED PURSUANT TO PARAGRAPH 2 OF THIS
42 SUBSECTION, TO THE DIRECTOR OF WATER RESOURCES AND THE STATE REAL ESTATE
43 COMMISSIONER. THE NOTICE SHALL INCLUDE A CERTIFIED COPY OF THE PROVISION AND
44 ANY EXEMPTIONS.

1 4. THE BOARD SHALL NOT RESCIND THE PROVISION OR AMEND IT IN A MANNER
2 THAT IS INCONSISTENT WITH SUBSECTION F OF THIS SECTION. IF THE BOARD AMENDS
3 THE PROVISION, IT SHALL GIVE WRITTEN NOTICE OF THE AMENDMENT TO THE DIRECTOR
4 OF WATER RESOURCES AND THE STATE REAL ESTATE COMMISSIONER. THE BOARD MAY
5 RESCIND ANY EXEMPTION ADOPTED PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION. IF
6 THE BOARD RESCINDS AN EXEMPTION, IT SHALL GIVE WRITTEN NOTICE OF THE
7 RESCISSION TO THE DIRECTOR OF WATER RESOURCES AND THE STATE REAL ESTATE
8 COMMISSIONER.

9 5. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO SUBSECTION F,
10 PARAGRAPH 1 OR 2 OF THIS SECTION, THE BOARD SHALL NOTE ON THE FACE OF THE
11 PLAT THAT THE DIRECTOR OF WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION
12 HAS AN ADEQUATE WATER SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT
13 OF WATER SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE
14 WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO
15 SECTION 45-108. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO AN
16 EXEMPTION AUTHORIZED BY PARAGRAPH 1 OR 2 OF THIS SUBSECTION, THE BOARD SHALL
17 GIVE WRITTEN NOTICE OF THE APPROVAL TO THE DIRECTOR OF WATER RESOURCES AND
18 SHALL NOTE ON THE FACE OF THE PLAT THAT THE CONDITIONS OF THE EXEMPTION WERE
19 MET.

20 ~~F.~~ H. On recording of a plat, the fee of the streets, alleys,
21 avenues, highways, easements, parks and other parcels of ground reserved to
22 the use of the public vests in trust in the county for the uses and to the
23 extent depicted on the plat including, but not limited to, ingress and egress
24 easements depicted on such plat. On annexation by any city or town such fee
25 automatically vests in the city or town.

26 ~~G.~~ I. Boards of supervisors of counties shall prepare specifications
27 and make orders, inspections, examinations and certificates as may be
28 necessary to protect and complete the provisions and make them effective.
29 The regulations shall require the posting of performance bonds, assurances or
30 such other security as may be appropriate and necessary to assure the
31 installation of required street, sewer, electric and water utilities,
32 drainage, flood control and improvements meeting established minimum
33 standards of design and construction.

34 ~~H.~~ J. Before adoption of regulations by the board or any amendment as
35 provided in this article, a public hearing shall be held by the
36 commission. A copy of the regulations shall be certified by the commission
37 to the county board of supervisors, which shall hold a public hearing after
38 notice of the time and place has been given by one publication fifteen days
39 prior to the public hearing in a newspaper of general circulation in the
40 county.

41 ~~I.~~ K. Approval of a plat shall not be deemed to constitute or effect
42 an acceptance by the county for designation of any street, highway, bicycle
43 facility or other way or open space shown upon the plat into the county
44 maintenance system except for hiking and equestrian trails which shall be
45 constructed and maintained by the county. However, at such time as the

1 streets, highways, bicycle facilities or other ways are fully completed in
2 accordance with the approved plat and written specifications made by the
3 county board, the county shall accept such streets, highways, bicycle
4 facilities and other ways into the county maintenance system within one year
5 of completion.

6 ~~J.~~ L. For any subdivision that consists of lots, tracts or parcels,
7 each of which is of a size as prescribed by the board of supervisors, the
8 board may waive the requirement to prepare, submit and receive approval of a
9 preliminary plat as a condition precedent to submitting a final plat and may
10 waive or reduce infrastructure standards or requirements except for improved
11 dust-controlled access and minimum drainage improvements.

12 Sec. 3. Section 32-2181, Arizona Revised Statutes, is amended to read:
13 32-2181. Notice to commissioner of intention to subdivide
14 lands; unlawful acting in concert; exceptions; deed
15 restrictions; definition

16 A. Before offering subdivided lands for sale or lease, the subdivider
17 shall notify the commissioner in writing of the subdivider's intention. The
18 notice shall contain:

19 1. The name and address of the owner. If the holder of any ownership
20 interest in the land is other than an individual, such as a corporation,
21 partnership or trust, a statement naming the type of legal entity and listing
22 the interest and the extent of any interest of each principal in the entity.
23 For the purposes of this section, "principal" means any person or entity
24 having a ten per cent or more financial interest or, if the legal entity is a
25 trust, each beneficiary of the trust holding a ten per cent or more
26 beneficial interest.

27 2. The name and address of the subdivider.

28 3. The legal description and area of the land.

29 4. A true statement of the condition of the title to the land,
30 including all encumbrances on the land, and a statement of the provisions
31 agreed to by the holder of any blanket encumbrance enabling a purchaser to
32 acquire title to a lot or parcel free of the lien of the blanket encumbrance
33 on completion of all payments and performance of all of the terms and
34 provisions required to be made or performed by the purchaser under the real
35 estate sales contract by which the purchaser has acquired the lot or
36 parcel. The subdivider shall file copies of documents acceptable to the
37 department containing these provisions with the commissioner before the sale
38 of any subdivision lot or parcel subject to a blanket encumbrance.

39 5. The terms and conditions on which it is intended to dispose of the
40 land, together with copies of any real estate sales contract, conveyance,
41 lease, assignment or other instrument intended to be used, and any other
42 information the owner or the owner's agent or subdivider desires to present.

43 6. A map of the subdivision that has been filed in the office of the
44 county recorder in the county in which the subdivision is located.

- 1 7. A brief but comprehensive statement describing the land on and the
2 locality in which the subdivision is located.
- 3 8. A statement of the provisions that have been made for permanent
4 access and provisions, if any, for health department approved sewage and
5 solid waste collection and disposal and public utilities in the proposed
6 subdivision, including water, electricity, gas and telephone facilities.
- 7 9. A statement as to the location of the nearest public common and
8 high schools available for the attendance of school age pupils residing on
9 the subdivision property.
- 10 10. A statement of the use or uses for which the proposed subdivision
11 will be offered.
- 12 11. A statement of the provisions, if any, limiting the use or
13 occupancy of the parcels in the subdivision, together with copies of any
14 restrictive covenants affecting all or part of the subdivision.
- 15 12. The name and business address of the principal broker selling or
16 leasing, within this state, lots or parcels in the subdivision.
- 17 13. A true statement of the approximate amount of indebtedness that is
18 a lien on the subdivision or any part of the subdivision and that was
19 incurred to pay for the construction of any on-site or off-site improvement,
20 or any community or recreational facility.
- 21 14. A true statement or reasonable estimate, if applicable, of the
22 amount of any indebtedness that has been or is proposed to be incurred by an
23 existing or proposed special district, entity, taxing area or assessment
24 district, within the boundaries of which the subdivision, or any part of the
25 subdivision, is located, and that is to pay for the construction or
26 installation of any improvement or to furnish community or recreational
27 facilities to the subdivision, and which amounts are to be obtained by ad
28 valorem tax or assessment, or by a special assessment or tax upon the
29 subdivision or any part of the subdivision.
- 30 15. A true statement as to the approximate amount of annual taxes,
31 special assessments or fees to be paid by the buyer for the proposed annual
32 maintenance of common facilities in the subdivision.
- 33 16. A statement of the provisions for easements for permanent access
34 for irrigation water where applicable.
- 35 17. A true statement of assurances for the completion of off-site
36 improvements, such as roads, utilities, community or recreational facilities
37 and other improvements to be included in the offering or represented as being
38 in the offering, and approval of the offering by the political subdivision
39 with authority. This statement shall include a trust agreement or any other
40 evidence of assurances for delivery of the improvements and a statement of
41 the provisions, if any, for the continued maintenance of the improvements.
- 42 18. A true statement of the nature of any improvements to be installed
43 by the subdivider, the estimated schedule for completion and the estimated
44 costs related to the improvements that will be borne by purchasers of lots in
45 the subdivision.

1 19. A true statement of the availability of sewage disposal facilities
2 and other public utilities, including water, electricity, gas and telephone
3 facilities in the subdivision, the estimated schedule for their installation,
4 and the estimated costs related to the facilities and utilities that will be
5 borne by purchasers of lots in the subdivision.

6 20. A true statement as to whether all or any portion of the
7 subdivision is located in an open range or area in which livestock may roam
8 at large under the laws of this state and what provisions, if any, have been
9 made for the fencing of the subdivision to preclude livestock from roaming
10 within the subdivided lands.

11 21. If the subdivider is a subsidiary corporation, a true statement
12 identifying the parent corporation and any of the following in which the
13 parent or any of its subsidiaries is or has been involved within the past
14 five years:

15 (a) Any subdivision in this state.

16 (b) Any subdivision, wherever located, for which registration is
17 required pursuant to the federal interstate land sales full disclosure act.

18 (c) Any subdivision, wherever located, for which registration would
19 have been required pursuant to the federal interstate land sales full
20 disclosure act but for the exemption for subdivisions whose lots are all
21 twenty acres or more in size.

22 22. A true statement identifying all other subdivisions, designated in
23 paragraph 21 of this subsection, in which any of the following is or, within
24 the last five years, has been directly or indirectly involved:

25 (a) The holder of any ownership interest in the land.

26 (b) The subdivider.

27 (c) Any principal or officer in the holder or subdivider.

28 23. A true statement as to whether all or any portion of the
29 subdivision is located in territory in the vicinity of a military airport or
30 ancillary military facility as defined in section 28-8461, in territory in
31 the vicinity of a public airport as defined in section 28-8486, on or after
32 July 1, 2001, in a high noise or accident potential zone as defined in
33 section 28-8461 or on or after July 1 of the year in which the subdivision
34 becomes located in a high noise or accident potential zone. The statement
35 required pursuant to this paragraph does not require the amendment or
36 refiling of any notice filed before July 1, 2001 or before July 1 of the year
37 in which the subdivision becomes located in a high noise or accident
38 potential zone.

39 24. If the subdivision is a conversion from multifamily rental to
40 condominiums as defined in section 33-1202, a true statement as to the
41 following:

42 (a) That the property is a conversion from multifamily rental to
43 condominiums.

44 (b) The date original construction was completed.

1 25. Other information and documents and certifications as the
2 commissioner may reasonably require.

3 B. The commissioner, on application, may grant a subdivider of lots or
4 parcels within a subdivision for which a public report was previously issued
5 by the commissioner an exemption from all or part of the notification
6 requirements of subsection A of this section. The subdivider shall file a
7 statement with the commissioner indicating the change of ownership in the
8 lots or parcels together with any material changes occurring subsequent to
9 the original approval of the subdivision within which the lots or parcels are
10 located. The statement shall further refer to the original approval by the
11 commissioner.

12 C. If the subdivision is within ~~a groundwater~~ AN active management
13 area, as defined in section 45-402, the subdivider shall accompany the notice
14 with a certificate of assured water supply issued by the director of water
15 resources along with proof that all applicable fees have been paid pursuant
16 to sections 48-3772 and 48-3774.01, unless the subdivider has obtained a
17 written commitment of water service for the subdivision from a city, town or
18 private water company designated as having an assured water supply by the
19 director of water resources pursuant to section 45-576 or is exempt from the
20 requirement pursuant to section 45-576. If the subdivider has submitted a
21 certificate of assured water supply to a city, town or county prior to
22 approval of the plat by the city, town or county and this has been noted on
23 the face of the plat, the submission constitutes compliance with this
24 subsection if the subdivider provides proof to the commissioner that all
25 applicable fees have been paid pursuant to sections 48-3772 and 48-3774.01.

26 D. It is unlawful for a person or group of persons acting in concert
27 to attempt to avoid this article by acting in concert to divide a parcel of
28 land or sell subdivision lots by using a series of owners or conveyances or
29 by any other method that ultimately results in the division of the lands into
30 a subdivision or the sale of subdivided land. The plan or offering is
31 subject to this article. Unlawful acting in concert pursuant to this
32 subsection with respect to the sale or lease of subdivision lots requires
33 proof that the real estate licensee or other licensed professional knew or
34 with the exercise of reasonable diligence should have known that property
35 which the licensee listed or for which the licensee acted in any capacity as
36 agent was subdivided land subject to this article.

37 E. A creation of six or more lots, parcels or fractional interests in
38 improved or unimproved land, lots or parcels of any size is subject to ~~the~~
39 ~~provisions of~~ this article except when:

40 1. Each of the lots, parcels or fractional interests represents, on a
41 partition basis, thirty-six acres or more in area of land located in this
42 state, including to the centerline of dedicated roads or easements, if any,
43 contiguous to the land in which the interests are held.

44 2. The lots, parcels or fractional interests are the result of a
45 foreclosure sale, the exercise by a trustee under a deed of trust of a power

1 of sale or the grant of a deed in lieu of foreclosure. This paragraph does
2 not allow circumvention of the requirements of this article.

3 3. The lots, parcels or fractional interests are created by a valid
4 order or decree of a court pursuant to and through compliance with title 12,
5 chapter 8, article 7 or by operation of law. This paragraph does not allow
6 circumvention of the requirements of this article.

7 4. The lots, parcels or fractional interests consist of interests in
8 any oil, gas or mineral lease, permit, claim or right therein and such
9 interests are regulated as securities by the United States or by this state.

10 5. The lots, parcels or fractional interests are registered as
11 securities under the laws of the United States or the laws of this state or
12 are exempt transactions under section 44-1844, 44-1845 or 44-1846.

13 6. The commissioner by special order exempts offerings or dispositions
14 of any lots, parcels or fractional interests from compliance with this
15 article on written petition and on a showing satisfactory to the commissioner
16 that compliance is not essential to the public interest or for the protection
17 of buyers.

18 F. In areas outside of ~~groundwater~~ active management areas established
19 pursuant to title 45, chapter 2, article 2, ~~—~~:

20 1. IF THE SUBDIVISION IS LOCATED IN A COUNTY THAT HAS ADOPTED THE
21 PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F, OR IN A CITY OR TOWN
22 THAT HAS ENACTED AN ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION N, THE
23 SUBDIVIDER SHALL ACCOMPANY THE NOTICE WITH A REPORT ISSUED BY THE DIRECTOR OF
24 WATER RESOURCES PURSUANT TO SECTION 45-108 STATING THAT THE SUBDIVISION HAS
25 AN ADEQUATE WATER SUPPLY, UNLESS ONE OF THE FOLLOWING APPLIES:

26 (a) THE SUBDIVIDER SUBMITTED THE REPORT TO A CITY, TOWN OR COUNTY
27 BEFORE APPROVAL OF THE PLAT BY THE CITY, TOWN OR COUNTY AND THIS HAS BEEN
28 NOTED ON THE FACE OF THE PLAT.

29 (b) THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
30 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
31 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
32 TO SECTION 45-108.

33 (c) THE PLAT WAS APPROVED BY THE LEGISLATIVE BODY OF A CITY OR TOWN
34 PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01, SUBSECTION K OR N,
35 OR BY THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN EXEMPTION
36 AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1 OR 2. IF THE PLAT
37 WAS APPROVED PURSUANT TO AN AUTHORIZED EXEMPTION, THE STATE REAL ESTATE
38 COMMISSIONER SHALL REQUIRE THAT ALL PROMOTIONAL MATERIAL AND CONTRACTS FOR
39 THE SALE OF LOTS IN THE SUBDIVISION ADEQUATELY DISPLAY THE FOLLOWING:

40 (i) THE DIRECTOR OF WATER RESOURCES' REPORT OR THE DEVELOPER'S BRIEF
41 SUMMARY OF THE REPORT AS APPROVED BY THE COMMISSIONER.

42 (ii) A STATEMENT DESCRIBING THE EXEMPTION UNDER WHICH THE SUBDIVISION
43 WAS APPROVED. IF THE PLAT WAS APPROVED BY THE LEGISLATIVE BODY OF A CITY OR
44 TOWN PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01, SUBSECTION K,
45 PARAGRAPH 2, SUBDIVISION (b) OR BY THE BOARD OF SUPERVISORS OF A COUNTY

1 PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 11-806.01, SUBSECTION G,
2 PARAGRAPH 2, SUBDIVISION (b), THE DEED OR CONVEYANCE DOCUMENT SHALL CONTAIN
3 THE DISCLOSURE REQUIRED BY SECTION 33-406.

4 2. IF THE SUBDIVISION IS NOT LOCATED IN A COUNTY THAT HAS ADOPTED THE
5 PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F OR IN A CITY OR TOWN
6 THAT HAS ENACTED AN ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION N, AND
7 if the director of water resources, pursuant to section 45-108, reports an
8 inadequate on-site supply of water to meet the needs projected by the
9 developer or if no water is available, the state real estate commissioner
10 shall require that all promotional material and contracts for the sale of
11 lots in subdivisions approved by the commissioner adequately display the
12 director of water resources' report or the developer's brief summary of the
13 report as approved by the commissioner on the proposed water supply for the
14 subdivision.

15 G. The commissioner may require the subdivider to supplement the
16 notice of intention to subdivide lands and may require the filing of periodic
17 reports to update the information contained in the original notice of
18 intention to subdivide lands.

19 H. The commissioner may authorize the subdivider to file as the notice
20 of intention to subdivide lands, in lieu of some or all of the requirements
21 of subsection A of this section, a copy of the statement of record filed with
22 respect to the subdivision pursuant to the federal interstate land sales full
23 disclosure act if the statement complies with the requirements of the act and
24 the regulations pertinent to the act.

25 I. Neither a real estate sales contract, conveyance, lease, assignment
26 or other instrument to transfer any interest in subdivided land nor any
27 covenant or restriction affecting real property shall contain any provision
28 limiting the right of any party to appear or testify in support of or
29 opposition to zoning changes, building permits or any other official acts
30 affecting real property before a governmental body or official considering
31 zoning changes, building permits or any other official acts affecting real
32 property, whether the property is located within or outside of the boundaries
33 of the subdivision. All contractual provisions that conflict with this
34 subsection are declared to be contrary to public policy. Nothing contained
35 in this subsection shall prohibit private restrictions on the use of any real
36 property.

37 J. Before offering subdivided lands for lease or sale, the subdivider
38 who makes any promises through any form of advertising media that the
39 subdivided lands will be exclusively a retirement community or one that is
40 limited to the residency of adults or senior citizens shall include the
41 promises in the deed restrictions affecting any interest in real property
42 within the subdivided lands.

1 Sec. 4. Section 32-2181.02, Arizona Revised Statutes, is amended to
2 read:

3 32-2181.02. Exempt sales and leases

4 A. The following are exempt under this article:

5 1. The sale or lease in bulk of six or more lots, parcels or
6 fractional interests to one buyer in one transaction.

7 2. The sale or lease of lots or parcels of one hundred sixty acres or
8 more.

9 B. The following are exempt from section 32-2181, subsection A and
10 section 32-2183, subsection A:

11 1. The sale or lease of parcels, lots, units or spaces that are zoned
12 and restricted to commercial or industrial uses.

13 2. The sale or lease of lots or parcels located in a single platted
14 subdivision by a subdivider if:

15 (a) A public report has been issued within the past two years pursuant
16 to this article on the subdivision lots or parcels.

17 (b) The subdivision meets all current requirements otherwise required
18 of a subdivision under this article.

19 (c) The method of sale or lease of lots or parcels meets all current
20 requirements under this article.

21 (d) The lots or parcels are included on a recorded subdivision plat
22 that is approved by a municipal or county government.

23 (e) All roads within the subdivision, all utilities to the lots or
24 parcels being offered for sale or lease and all other required improvements
25 within the subdivision, other than a residence to be built, are complete,
26 paid for and free of any blanket encumbrances.

27 (f) The roads, utilities or other improvements are not complete, but
28 the completion of all improvements is assured pursuant to section 32-2183,
29 subsection D.

30 (g) Except for matters relating to ownership, there have been no
31 material changes to the information set forth in the most recent public
32 report issued for the subdivision lots that would require an amendment to the
33 public report.

34 (h) No owner of a ten per cent or greater interest, subdivider,
35 director, partner, agent, officer or developer of the subdivision has:

36 (i) Been convicted of a felony or any crime involving theft,
37 dishonesty, violence against another person, fraud or real estate, regardless
38 of whether the convictions were subsequently expunged.

39 (ii) Had a civil judgment entered against the person in a case
40 involving allegations of misrepresentation, fraud, breach of fiduciary duty,
41 misappropriation, dishonesty or, if the subject matter involved real
42 property, securities or investments.

43 (iii) Had a business or professional license, including a real estate
44 license, denied, suspended or revoked or voluntarily surrendered a business
45 or professional license during the course of an investigative or disciplinary

1 proceeding or other disciplinary action taken in this state or any other
2 state.

3 (i) The sale of the subdivided lands violates no laws or ordinances of
4 any governmental authority.

5 (j) Before the buyer's or lessee's execution of a purchase contract or
6 lease, the subdivider has provided the buyer or lessee with a copy of the
7 most recent public report on the lot and has taken a receipt from the buyer
8 for the copy.

9 (k) The subdivider has provided to the buyer or lessee, along with the
10 public report, a signed statement that the subdivider has reviewed and is in
11 compliance with the terms of the exemption provided in this paragraph.

12 (l) Before sale or lease, the subdivider has notified the
13 commissioner, on a form provided by the department, of the subdivider's
14 intent to sell or lease lots or parcels pursuant to this paragraph. The
15 notice shall include:

16 (i) The name, address and telephone number of the subdivider.

17 (ii) The name, address and telephone number of any real estate broker
18 retained by the subdivider to make sales or leases of the lots.

19 (iii) The name and location of the subdivision.

20 (iv) The most recent subdivision public report reference number on the
21 lots.

22 (v) The completion status of subdivision improvements.

23 3. The conveyance to a person who previously conveyed the lot to a
24 home builder for the purpose of constructing a dwelling for the person.

25 4. The sale or lease by a person of individual lots or parcels that
26 were separately acquired by the person from different persons and that were
27 not acquired for the purpose of development if:

28 (a) The lots or parcels are not located in a platted subdivision.

29 (b) Each lot or parcel bears the same legal description that it bore
30 when the lot or parcel was acquired by the person.

31 (c) The seller or lessor is in compliance with all other applicable
32 state and local government requirements.

33 5. The sale of an improved lot in a subdivision that is located
34 outside of this state if:

35 (a) The subdivision is located within the United States and the sale
36 is exempt from ~~the provisions of~~ the interstate land sales full disclosure
37 act (P.L. 90-448; 82 Stat. 590; 15 United States Code sections 1701 through
38 1720).

39 (b) The subdivider is required by the state where the subdivision is
40 located to deliver a public report or equivalent disclosure document to
41 prospective purchasers and the subdivider delivers the report or equivalent
42 disclosure document.

43 6. The sale of an improved lot in a subdivision located in this state
44 where five or more sales were previously made by the seller if:

1 (a) The sale is the seller's first or second sale in the subdivision
2 within the previous twelve month period.

3 (b) The subdivision is located within the corporate limits of a town
4 or city.

5 (c) Electricity and telephone service are complete and available to
6 the improved lot.

7 (d) Water and sewage service is complete and available to the improved
8 lot.

9 (e) Streets and roads located outside of the subdivision provide
10 permanent access to the subdivision and are complete and maintained by the
11 county, town or city, or by a legally created and operational property
12 owners' association.

13 (f) Streets within the subdivision are dedicated, provide permanent
14 access to the lot, are complete to town or city standards and are maintained
15 by the town or city or, in the case of private streets, a legally created and
16 operational property owners' association accepts the responsibility of
17 perpetual maintenance.

18 (g) All subdivision common area improvements, including landscaping,
19 recreational facilities and other jointly used and maintained improvements,
20 are complete and maintained by a legally created and operational property
21 owners' association.

22 (h) The purchaser's down payment, earnest money, deposit or other
23 advanced money is placed and held in a neutral escrow depository in this
24 state until escrow closes and the deed is delivered to the purchaser.

25 (i) Within the previous twelve months the seller has not had an
26 ownership interest in more than two lots in the subdivision, including an
27 interest by option, an agreement for sale, a beneficial interest under a
28 trust or a purchase contract.

29 C. Nothing in this section shall be construed to increase, decrease or
30 otherwise affect any rights or powers granted the commissioner under this
31 chapter.

32 D. ~~The provisions of~~ This section ~~do~~ DOES not apply to lands on which
33 the commissioner has issued orders pursuant to sections 32-2154 and 32-2157
34 and section 32-2183, subsection ~~I~~ J unless the commissioner has issued a
35 public report on those lands subsequent to the date of the orders.

36 E. Nothing in this section shall be construed to increase, to decrease
37 or to otherwise affect any rights or powers granted to political subdivisions
38 of this state with respect to their jurisdictions.

39 Sec. 5. Section 32-2183, Arizona Revised Statutes, is amended to read:

40 32-2183. Subdivision public reports; denial of issuance;
41 unlawful sales; voidable sale or lease; order
42 prohibiting sale or lease; investigations; hearings;
43 summary orders

44 A. Upon examination of a subdivision, the commissioner, unless there
45 are grounds for denial, shall issue to the subdivider a public report

1 authorizing the sale or lease in this state of the lots, parcels or
 2 fractional interests within the subdivision. The report shall contain the
 3 data obtained in accordance with section 32-2181 and any other information
 4 which the commissioner determines is necessary to implement the purposes of
 5 this article. If any of the lots, parcels or fractional interests within the
 6 subdivision are located within territory in the vicinity of a military
 7 airport or ancillary military facility as defined in section 28-8461, under a
 8 military training route as delineated in the military training route map
 9 prepared pursuant to section 37-102 or under restricted air space as
 10 delineated in the restricted air space map prepared pursuant to section
 11 37-102, the report shall include, in bold twelve point font block letters on
 12 the first page of the report, the statements required pursuant to section
 13 28-8484, subsection A, section 32-2183.05 or section 32-2183.06 and, if the
 14 department has been provided a map prepared pursuant to section 28-8484,
 15 subsection B, ~~OR~~ section 37-102, the report shall include a copy of the map.
 16 The military airport report requirements do not require the amendment or
 17 reissuance of any public report issued on or before December 31, 2001 or on
 18 or before December 31 of the year in which the lots, parcels or fractional
 19 interests within a subdivision become territory in the vicinity of a military
 20 airport or ancillary military facility. The military training route report
 21 requirements do not require the amendment or reissuance of any public report
 22 issued on or before December 31, 2004. The restricted air space report
 23 requirements do not require the amendment or reissuance of any public report
 24 issued on or before December 31, 2006. The commissioner shall require the
 25 subdivider to reproduce the report, make the report available to each
 26 prospective customer and furnish each buyer or lessee with a copy before the
 27 buyer or lessee signs any offer to purchase or lease, taking a receipt
 28 therefor.

29 B. Notwithstanding subsection A of this section, a subdivider may
 30 elect to prepare a final public report for use in the sale of improved lots
 31 as defined in section 32-2101, as follows:

32 1. The subdivider shall prepare the public report and provide a copy
 33 of the report to the commissioner with the submission of the notification
 34 required by sections 32-2181 and 32-2184 and shall comply with all other
 35 requirements of this article.

36 2. An initial filing fee of five hundred dollars or an amended filing
 37 fee of two hundred fifty dollars shall accompany the notification required by
 38 paragraph 1 of this subsection.

39 3. The department shall assign a registration number to each
 40 notification and public report submitted pursuant to this subsection and
 41 shall maintain a database of all of these submissions. The subdivider shall
 42 place the number on each public report.

43 4. The department shall determine within fifteen business days after
 44 the receipt of the notification and public report whether the notification
 45 and public report are administratively complete. The commissioner either may

1 issue a certification that the notification and public report are
2 administratively complete or may deny issuance of the certification if it
3 appears that the application or project is not in compliance with all legal
4 requirements, that the applicant has a background of violations of state or
5 federal law or that the applicant or project presents an unnecessary risk of
6 harm to the public.

7 5. A subdivider may commence sales or leasing activities as permitted
8 under this article after obtaining a certificate of administrative
9 completeness from the commissioner.

10 6. Before or after the commissioner issues a certificate of
11 administrative completeness, the department may examine any public report,
12 subdivision or applicant that has applied for or received the certificate.
13 If the commissioner determines that the subdivider or subdivision is not in
14 compliance with any requirement of state law or that grounds exist under this
15 chapter to suspend, deny or revoke a public report, the commissioner may
16 commence an administrative action under section 32-2154 or 32-2157. If the
17 subdivider immediately corrects the deficiency and comes into full compliance
18 with state law, the commissioner shall vacate any action that the
19 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

20 7. The department shall provide forms and guidelines for the
21 submission of the notification and public report pursuant to this section.

22 C. The commissioner may suspend, revoke or deny issuance of a public
23 report on any of the following grounds:

24 1. Failure to comply with this article or the rules of the
25 commissioner pertaining to this article.

26 2. The sale or lease would constitute misrepresentation to or deceit
27 or fraud of the purchasers or lessees.

28 3. Inability to deliver title or other interest contracted for.

29 4. Inability to demonstrate that adequate financial or other
30 arrangements acceptable to the commissioner have been made for completion of
31 all streets, sewers, electric, gas and water utilities, drainage and flood
32 control facilities, community and recreational facilities and other
33 improvements included in the offering.

34 5. Failure to make a showing that the lots, parcels or fractional
35 interests can be used for the purpose for which they are offered.

36 6. The owner, agent, subdivider, officer, director or partner,
37 subdivider trust beneficiary holding ten per cent or more direct or indirect
38 beneficial interest or, if a corporation, any stockholder owning ten per cent
39 or more of the stock in the corporation has:

40 (a) Been convicted of a felony or misdemeanor involving fraud or
41 dishonesty or involving conduct of any business or a transaction in real
42 estate, cemetery property, time-share intervals or membership camping
43 campgrounds or contracts.

44 (b) Been permanently or temporarily enjoined by order, judgment or
45 decree from engaging in or continuing any conduct or practice in connection

1 with the sale or purchase of real estate or cemetery property, time-share
2 intervals, membership camping contracts or campgrounds, or securities or
3 involving consumer fraud or the racketeering laws of this state.

4 (c) Had an administrative order entered against him by a real estate
5 regulatory agency or security regulatory agency.

6 (d) Had an adverse decision or judgment entered against him involving
7 fraud or dishonesty or involving the conduct of any business or transaction
8 in real estate, cemetery property, time-share intervals or membership camping
9 campgrounds or contracts.

10 (e) Disregarded or violated this chapter or the rules of the
11 commissioner pertaining to this chapter.

12 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)
13 applies.

14 7. Procurement or an attempt to procure a public report by fraud,
15 misrepresentation or deceit or by filing an application for a public report
16 that is materially false or misleading.

17 8. Failure of the declaration for a condominium created pursuant to
18 title 33, chapter 9, article 2 to comply with the requirements of section
19 33-1215 or failure of the plat for the condominium to comply with the
20 requirements of section 33-1219. The commissioner may require an applicant
21 for a public report to submit a notarized statement signed by the subdivider
22 or an engineer or attorney licensed to practice in this state certifying that
23 the condominium plat and declaration of condominium are in compliance with
24 the requirements of sections 33-1215 and 33-1219. If the notarized statement
25 is provided, the commissioner is entitled to rely on this statement.

26 9. Failure of any blanket encumbrance or valid supplementary agreement
27 executed by the holder of the blanket encumbrance to contain provisions that
28 enable the purchaser to acquire title to a lot or parcel free of the lien of
29 the blanket encumbrance, on completion of all payments and performance of all
30 of the terms and provisions required to be made or performed by the purchaser
31 under the real estate sales contract by which the purchaser has acquired the
32 lot or parcel. The subdivider shall file copies of documents acceptable to
33 the commissioner containing these provisions with the commissioner before the
34 sale of any subdivision lot or parcel subject to a blanket encumbrance.

35 10. Failure to demonstrate permanent access to the subdivision lots or
36 parcels.

37 11. The use of the lots presents an unreasonable health risk.

38 D. It is unlawful for a subdivider to sell any lot in a subdivision
39 unless one of the following occurs:

40 1. All proposed or promised subdivision improvements are completed.

41 2. The completion of all proposed or promised subdivision improvements
42 is assured by financial arrangements acceptable to the commissioner. The
43 financial arrangements may be made in phases for common community and
44 recreation facilities required by a municipality or county as a stipulation
45 for approval of a plan for a master planned community.

1 3. The municipal or county government agrees to prohibit occupancy and
2 the subdivider agrees not to close escrow for lots in the subdivision until
3 all proposed or promised subdivision improvements are completed.

4 4. The municipal or county government enters into an assurance
5 agreement with any trustee not to convey lots until improvements are
6 completed within the portion of the subdivision containing these lots, if the
7 improvements can be used and maintained separately from the improvements
8 required for the entire subdivision plat. The agreement shall be recorded in
9 the county in which the subdivision is located.

10 E. If the subdivision is within ~~a groundwater~~ AN active management
11 area, as defined in section 45-402, the commissioner shall deny issuance of a
12 public report or the use of any exemption pursuant to section 32-2181.02,
13 subsection B unless the subdivider has been issued a certificate of assured
14 water supply by the director of water resources and has paid all applicable
15 fees pursuant to sections 48-3772 and 48-3774.01, or unless the subdivider
16 has obtained a written commitment of water service for the subdivision from a
17 city, town or private water company designated as having an assured water
18 supply by the director of water resources pursuant to section 45-576 or is
19 exempt from the requirement pursuant to section 45-576.

20 F. IN AREAS OUTSIDE OF ACTIVE MANAGEMENT AREAS, IF THE SUBDIVISION IS
21 LOCATED IN A COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION
22 11-806.01, SUBSECTION F, OR IN A CITY OR TOWN THAT HAS ENACTED AN ORDINANCE
23 PURSUANT TO SECTION 9-463.01, SUBSECTION N, THE COMMISSIONER SHALL DENY
24 ISSUANCE OF A PUBLIC REPORT OR THE USE OF ANY EXEMPTION PURSUANT TO SECTION
25 32-2181.02, SUBSECTION B UNLESS ONE OF THE FOLLOWING APPLIES:

26 1. THE DIRECTOR OF WATER RESOURCES HAS REPORTED PURSUANT TO SECTION
27 45-108 THAT THE SUBDIVISION HAS AN ADEQUATE WATER SUPPLY.

28 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
29 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
30 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
31 TO SECTION 45-108.

32 3. THE PLAT WAS APPROVED BY THE LEGISLATIVE BODY OF A CITY OR TOWN
33 PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01, SUBSECTION K OR N,
34 OR BY THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN EXEMPTION
35 AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1 OR 2.

36 ~~F.~~ G. A subdivider shall not sell or lease or offer for sale or lease
37 in this state any lots, parcels or fractional interests in a subdivision
38 without first obtaining a public report from the commissioner except as
39 provided in section 32-2181.01 or 32-2181.02. Unless exempt, the sale or
40 lease of subdivided lands prior to issuance of the public report or failure
41 to deliver the public report to the purchaser or lessee shall render the sale
42 or lease rescindable by the purchaser or lessee. An action by the purchaser
43 or lessee to rescind the transaction shall be brought within three years of
44 the date of execution of the purchase or lease agreement by the purchaser or

1 lessee. In any rescission action, the prevailing party is entitled to
2 reasonable attorney fees as determined by the court.

3 ~~G.~~ H. Any applicant objecting to the denial of a public report,
4 within thirty days after receipt of the order of denial, may file a written
5 request for a hearing. The commissioner shall hold the hearing within twenty
6 days after receipt of the request for a hearing unless the party requesting
7 the hearing has requested a postponement. If the hearing is not held within
8 twenty days after a request for a hearing is received, plus the period of any
9 postponement, or if a proposed decision is not rendered within forty-five
10 days after submission, the order of denial shall be rescinded and a public
11 report issued.

12 ~~H.~~ I. On the commissioner's own motion, or when the commissioner has
13 received a complaint and has satisfactory evidence that the subdivider or the
14 subdivider's agent is violating this article or the rules of the commissioner
15 or has engaged in any unlawful practice as defined in section 44-1522 with
16 respect to the sale of subdivided lands or deviated from the provisions of
17 the public report, the commissioner may investigate the subdivision project
18 and examine the books and records of the subdivider. For the purpose of
19 examination, the subdivider shall keep and maintain records of all sales
20 transactions and funds received by the subdivider pursuant to the sales
21 transactions and shall make them accessible to the commissioner upon
22 reasonable notice and demand.

23 ~~I.~~ J. On the commissioner's own motion, or when the commissioner has
24 received a complaint and has satisfactory evidence that any person has
25 violated this article or the rules of the commissioner or has engaged in any
26 unlawful practice as defined in section 44-1522 with respect to the sale of
27 subdivided lands or deviated from the provisions of the public report or
28 special order of exemption, or has been indicted for fraud or against whom an
29 information for fraud has been filed or has been convicted of a felony,
30 before or after the commissioner issues the public report as provided in
31 subsection A of this section, the commissioner may conduct an investigation
32 of the matter, issue a summary order as provided in section 32-2157, or hold
33 a public hearing and, after the hearing, may issue the order or orders the
34 commissioner deems necessary to protect the public interest and ensure
35 compliance with the law, rules or public report or the commissioner may bring
36 action in any court of competent jurisdiction against the person to enjoin
37 the person from continuing the violation or engaging in or doing any act or
38 acts in furtherance of the violation. The court may make orders or
39 judgments, including the appointment of a receiver, necessary to prevent the
40 use or employment by a person of any unlawful practices, or which may be
41 necessary to restore to any person in interest any monies or property, real
42 or personal, that may have been acquired by means of any practice in this
43 article declared to be unlawful.

44 ~~J.~~ K. When it appears to the commissioner that a person has engaged
45 in or is engaging in a practice declared to be unlawful by this article and

1 that the person is concealing assets or self or has made arrangements to
2 conceal assets or is about to leave the state, the commissioner may apply to
3 the superior court, ex parte, for an order appointing a receiver of the
4 assets of the person or for a writ of ne exeat, or both.

5 ~~K.~~ L. The court, on receipt of an application for the appointment of
6 a receiver or for a writ of ne exeat, or both, shall examine the verified
7 application of the commissioner and other evidence that the commissioner may
8 present the court. If satisfied that the interests of the public require the
9 appointment of a receiver or the issuance of a writ of ne exeat without
10 notice, the court shall issue an order appointing the receiver or issue the
11 writ, or both. If the court determines that the interests of the public will
12 not be harmed by the giving of notice, the court shall set a time for a
13 hearing and require notice be given as the court deems satisfactory.

14 ~~L.~~ M. If the court appoints a receiver without notice, the court
15 shall further direct that a copy of the order appointing a receiver be served
16 on the person engaged in or engaging in a practice declared to be unlawful
17 under this article by delivering the order to the last address of the person
18 that is on file with the state real estate department. The order shall
19 inform the person that the person has the right to request a hearing within
20 ten days of the date of the order and, if requested, the hearing shall be
21 held within thirty days from the date of the order.

22 Sec. 6. Section 32-2197.08, Arizona Revised Statutes, is amended to
23 read:

24 32-2197.08. Issuance of public report by commissioner on
25 timeshare plan; denial of issuance; additional
26 information; use of another state's public report

27 A. On examination of a timeshare plan, the commissioner, unless there
28 are grounds for denial, shall approve for use by the developer a public
29 report authorizing the sale or lease of the timeshare interests within the
30 timeshare plan. For all timeshare interests sold in this state, the
31 commissioner shall require the developer to reproduce the public report and
32 furnish each prospective customer with a copy, taking a receipt for each
33 copy. The public report shall be made available to each prospective
34 purchaser in written format and may also be made available in CD-ROM or other
35 electronic format as approved by the commissioner. The public report shall
36 include the following:

- 37 1. The name and principal address of the owner and developer.
- 38 2. A description of the type of timeshare interests being offered.
- 39 3. A description of the existing and proposed accommodations and
40 amenities of the timeshare plan, including type and number, any use
41 restrictions and any required fees for use.
- 42 4. A description of any accommodations and amenities that are
43 committed to be built, including:
 - 44 (a) The developer's schedule of commencement and completion of all
45 accommodations and amenities.

- 1 (b) The estimated number of accommodations per site that may become
2 subject to the timeshare plan.
- 3 5. A brief description of the duration, phases and operation of the
4 timeshare plan.
- 5 6. The current annual budget if available or the projected annual
6 budget for the timeshare plan. The budget shall include:
- 7 (a) A statement of the amount or a statement that there is no amount
8 included in the budget as a reserve for repairs and replacement.
- 9 (b) The projected common expense liability, if any, by category of
10 expenditures for the timeshare plan.
- 11 (c) A statement of any services or expenses that are not reflected in
12 the budget and that the developer provides or pays.
- 13 7. A description of any liens, defects or encumbrances on or affecting
14 the title to the timeshare interests.
- 15 8. A statement that by midnight of the seventh calendar day after
16 execution of the purchase agreement a purchaser may cancel any purchase
17 agreement for a timeshare interest from a developer together with a statement
18 providing the name and street address where the purchaser should mail any
19 notice of cancellation. However, if, by agreement of the parties through the
20 purchase agreement, the purchase agreement allows for cancellation of the
21 purchase agreement for a period of time exceeding seven calendar days, the
22 public report shall include a statement that the cancellation of the purchase
23 agreement is allowed for that period of time exceeding seven calendar days.
- 24 9. A description of any bankruptcies, pending suits, adjudications or
25 disciplinary actions material to the timeshare interests of which the
26 developer has knowledge.
- 27 10. Any restrictions on alienation of any number or portion of any
28 timeshare interests.
- 29 11. Any current or expected fees or charges to be paid by timeshare
30 purchasers for the use of any amenities related to the timeshare plan.
- 31 12. The extent to which financial arrangements have been provided for
32 completion of all promised improvements.
- 33 13. If the timeshare plan provides purchasers with the opportunity to
34 participate in any exchange programs, a description of the name and address
35 of the exchange companies and the method by which a purchaser accesses the
36 exchange programs.
- 37 14. Any other information that the developer, with the approval of the
38 commissioner, desires to include in the public report.
- 39 15. If the developer is offering a multisite timeshare plan, the
40 following information, which may be disclosed in a written, graphic or
41 tabular form:
- 42 (a) A description of each component site, including the name and
43 address of each component site.

1 (b) The number of accommodations and timeshare periods, expressed in
2 periods of use availability, committed to the multisite timeshare plan and
3 available for use by purchasers.

4 (c) Each type of accommodation in terms of the number of bedrooms,
5 bathrooms and sleeping capacity and a statement of whether or not the
6 accommodation contains a full kitchen. For the purposes of this subdivision,
7 "full kitchen" means a kitchen having a minimum of a dishwasher, range, oven,
8 sink and refrigerator.

9 (d) A description of amenities available for use by the purchaser at
10 each component site.

11 (e) A description of the reservation system, including the following:

12 (i) The entity responsible for operating the reservation system.

13 (ii) A summary of the rules governing access to and use of the
14 reservation system.

15 (iii) The existence of and an explanation regarding any priority
16 reservation features that affect a purchaser's ability to make reservations
17 for the use of a given accommodation on a first reserved, first served basis.

18 (f) A description of any right to make any additions, substitutions or
19 deletions of accommodations or amenities and a description of the basis on
20 which accommodations and amenities may be added to, substituted in or deleted
21 from the multisite timeshare plan.

22 (g) A description of the purchaser's liability for any fees associated
23 with the multisite timeshare plan.

24 (h) The location and the anticipated relative use demand of each
25 component site in a multisite timeshare plan as well as any periodic
26 adjustment or amendment to the reservation system that may be needed in order
27 to respond to actual purchaser use patterns and changes in purchaser use
28 demand for the accommodations existing at the time within the multisite
29 timeshare plan.

30 (i) Any other information reasonably required by the commissioner or
31 established by rule necessary for the protection of purchasers of timeshare
32 interests in timeshare plans.

33 (j) Any other information that the developer, with the approval of the
34 commissioner, desires to include in the public report.

35 16. If a developer offers a nonspecific timeshare interest in a
36 multisite timeshare plan, the information set forth in paragraphs 1 through
37 14 of this subsection as to each component site.

38 17. Any other information that the commissioner determines or
39 establishes by rule is necessary to implement the purpose of this article.

40 B. In the event of denial, suspension or revocation, grounds shall be
41 set forth in writing at the time of denial, suspension or revocation. The
42 commissioner may deny, suspend or revoke the public report on any of the
43 following grounds:

44 1. Failure to comply with this article or the rules of the
45 commissioner pertaining to this article.

1 2. The sale or lease would constitute misrepresentation to or deceit
2 or fraud of the purchasers or lessees.

3 3. Inability to demonstrate that adequate financial or other
4 arrangements acceptable to the commissioner have been made for completion of
5 the timeshare property, installation of all streets, sewers, electric, gas
6 and water utilities, drainage, flood control and other similar improvements
7 included in the offering.

8 4. The developer, including if an entity, an officer, director,
9 member, manager, partner, owner, trust beneficiary holding ten per cent or
10 more beneficial interest, stockholder owning ten per cent or more of the
11 stock or other person exercising control of the entity, has:

12 (a) Been convicted of a felony or misdemeanor involving theft, fraud
13 or dishonesty or involving the conduct of any business or a transaction in
14 real estate, cemetery property, timeshare interests or membership camping
15 campgrounds or contracts.

16 (b) Been permanently or temporarily enjoined by order, judgment or
17 decree from engaging in or continuing any conduct or practice in connection
18 with the sale or purchase of real estate, cemetery property, timeshare
19 interests, membership camping campgrounds or contracts, or securities or
20 involving consumer fraud or the Arizona racketeering laws.

21 (c) Had an administrative order entered against him by a real estate
22 regulatory agency or securities regulatory agency.

23 (d) Had an adverse decision or judgment entered against him involving
24 fraud or dishonesty or involving the conduct of any business in or a
25 transaction in real estate, cemetery property, timeshare interests or
26 membership camping campgrounds or contracts.

27 (e) Disregarded or violated this chapter or the rules of the
28 commissioner pertaining to this chapter.

29 (f) Participated in, operated or held an interest in any entity to
30 which subdivision (b), (c), (d), or (e) of this paragraph applies.

31 5. If within this state, the timeshare property is incompatible with
32 the existing neighborhood and would introduce into a neighborhood a character
33 of property or use that would clearly be detrimental to property values in
34 that neighborhood.

35 C. If the timeshare property is within ~~a groundwater~~ AN active
36 management area, as defined in section 45-402, the commissioner shall deny
37 issuance of a public report unless the developer has been issued a
38 certificate of assured water supply by the director of water resources and
39 has paid all applicable fees pursuant to sections 48-3772 and 48-3774.01, or
40 unless the developer has obtained a written commitment of water service for
41 the timeshare property from a city, town or private water company designated
42 as having an assured water supply by the director of water resources pursuant
43 to section 45-576.

44 D. IN AREAS OUTSIDE OF ACTIVE MANAGEMENT AREAS, IF THE TIMESHARE
45 PROPERTY IS LOCATED IN A COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY

1 SECTION 11-806.01, SUBSECTION F, OR IN A CITY OR TOWN THAT HAS ENACTED AN
2 ORDINANCE PURSUANT TO SECTION 9-463.01, SUBSECTION N, THE COMMISSIONER SHALL
3 DENY ISSUANCE OF A PUBLIC REPORT UNLESS ONE OF THE FOLLOWING APPLIES:

4 1. THE DIRECTOR OF WATER RESOURCES HAS REPORTED PURSUANT TO SECTION
5 45-108 THAT THE TIMESHARE PROPERTY HAS AN ADEQUATE WATER SUPPLY.

6 2. THE DEVELOPER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
7 FOR THE TIMESHARE PROPERTY FROM A CITY, TOWN OR PRIVATE WATER COMPANY
8 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER
9 RESOURCES PURSUANT TO SECTION 45-108.

10 3. THE TIMESHARE PROPERTY WAS APPROVED BY THE LEGISLATIVE BODY OF A
11 CITY OR TOWN PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION 9-463.01,
12 SUBSECTION K OR N, OR BY THE BOARD OF SUPERVISORS OF A COUNTY PURSUANT TO AN
13 EXEMPTION AUTHORIZED BY SECTION 11-806.01, SUBSECTION G, PARAGRAPH 1 OR 2.

14 ~~D.~~ E. In addition to providing to each prospective customer a copy of
15 the public report as required in subsection A of this section, the developer
16 shall also provide to each customer before the close of any transaction
17 information and materials that identify any timeshare exchange companies
18 currently under contract and disclosure statements regarding the use of the
19 timeshare exchange companies, as well as any additional information the
20 commissioner deems appropriate.

21 ~~E.~~ F. The commissioner may authorize for use in this state by a
22 developer of a timeshare plan in which all accommodations are located outside
23 of this state a current public report that is issued by another jurisdiction
24 or an equivalent registration and disclosure document that is required before
25 offering a timeshare plan for sale, lease or use and that is issued by
26 another jurisdiction. This authorization does not constitute an exemption
27 from other applicable requirements of this article.

28 Sec. 7. Title 33, chapter 4, article 1, Arizona Revised Statutes, is
29 amended by adding section 33-406, to read:

30 33-406. Disclosure of transportation of water to property by
31 motor vehicle or train; voidable transaction

32 A. NOTWITHSTANDING SECTION 33-411, SUBSECTION D, EVERY DEED OR
33 CONVEYANCE OF REAL PROPERTY OR AN INTEREST IN REAL PROPERTY THAT IS LOCATED
34 IN THIS STATE AND THAT WAS INCLUDED IN A PLAT APPROVED BY THE LEGISLATIVE
35 BODY OF A CITY OR TOWN PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION
36 9-463.01, SUBSECTION K, PARAGRAPH 2, SUBDIVISION (b) OR BY THE BOARD OF
37 SUPERVISORS OF A COUNTY PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION
38 11-806.01, SUBSECTION G, PARAGRAPH 2, SUBDIVISION (b) SHALL DISCLOSE IN THE
39 DEED OR CONVEYANCE DOCUMENT THE FACT THAT THE PLAT WAS APPROVED PURSUANT TO
40 THE EXEMPTION.

41 B. ANY CONVEYANCE OF REAL PROPERTY OR AN INTEREST IN REAL PROPERTY
42 THAT IS SUBJECT TO SUBSECTION A OF THIS SECTION AND THAT DOES NOT INCLUDE THE
43 DISCLOSURE REQUIRED BY THAT SUBSECTION IS VOIDABLE BY THE OTHER PARTY TO THE
44 CONVEYANCE. ANY ACTION TO VOID THE CONVEYANCE SHALL BE COMMENCED WITHIN TWO
45 YEARS AFTER THE DATE OF RECORDATION OF THE DOCUMENT AFFECTING THE CONVEYANCE.

1 C. IF REAL PROPERTY OR ANY INTEREST IN REAL PROPERTY, OR ANY MORTGAGE,
2 DEED OF TRUST OR OTHER LIEN ON REAL PROPERTY, IS ACQUIRED FOR VALUE, THE
3 TITLE, INTEREST, MORTGAGE, DEED OF TRUST OR OTHER LIEN IS NOT IMPAIRED OR IN
4 ANY WAY ADVERSELY AFFECTED BY REASON OF THE FAILURE OF ANY PERSON TO COMPLY
5 WITH THIS SECTION.

6 Sec. 8. Title 33, chapter 4, article 2, Arizona Revised Statutes, is
7 amended by adding section 33-424, to read:

8 33-424. Seller's disclosure; water transported to subdivision

9 A PERSON SELLING REAL PROPERTY THAT WAS INCLUDED IN A PLAT APPROVED BY
10 THE LEGISLATIVE BODY OF A CITY OR TOWN PURSUANT TO AN EXEMPTION AUTHORIZED BY
11 SECTION 9-463.01, SUBSECTION K, PARAGRAPH 2, SUBDIVISION (b) OR BY THE BOARD
12 OF SUPERVISORS OF A COUNTY PURSUANT TO AN EXEMPTION AUTHORIZED BY SECTION
13 11-806.01, SUBSECTION G, PARAGRAPH 2, SUBDIVISION (b), RELATING TO
14 TRANSPORTING WATER TO THE PROPERTY, SHALL DISCLOSE IN WRITING TO THE BUYER
15 BEFORE EXECUTING THE SALES CONTRACT THE FOLLOWING INFORMATION:

- 16 1. THE FACT THAT THE PLAT WAS APPROVED PURSUANT TO THE EXEMPTION.
- 17 2. WHETHER THE PROPERTY IS CURRENTLY SERVED BY A WATER SUPPLY THAT
18 REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY BY MOTOR VEHICLE OR
19 TRAIN.

20 Sec. 9. Section 45-108, Arizona Revised Statutes, is amended to read:

21 45-108. Evaluation of subdivision water supply; definition

22 A. In areas outside of active management areas established pursuant to
23 chapter 2, article 2 of this title, the developer of a proposed subdivision
24 including dry lot subdivisions, regardless of subdivided lot size, prior to
25 recordation of the plat, shall submit plans for the water supply for the
26 subdivision and demonstrate the adequacy of the water supply to meet the
27 needs projected by the developer to the director. The director shall
28 evaluate the plans and issue a report on the plans.

29 B. The director shall evaluate the proposed source of water for the
30 subdivision to determine ~~its ability to meet proposed uses for a period of~~
31 ~~years commensurate with normal practices in other areas of the state~~ WHETHER
32 THERE IS AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION, and shall forward a
33 copy of ~~such evaluation~~ THE DIRECTOR'S REPORT to the state real estate
34 commissioner AND THE CITY, TOWN OR COUNTY RESPONSIBLE FOR PLATTING THE
35 SUBDIVISION.

36 C. The director may designate cities, towns and private water
37 companies as having an adequate water supply by reporting that designation to
38 the water department of the city or town or private water company and the
39 state real estate commissioner.

40 D. The director may designate a city or town that does not directly
41 supply water to customers as having an adequate water supply by reporting
42 that designation to the city or town and the state real estate commissioner
43 if all of the following apply:

- 44 1. The city or town has entered into a contract with the United States
45 secretary of the interior or a county water authority established pursuant to

1 chapter 13 of this title for permanent supplies of Colorado river water for
2 municipal and industrial use.

3 2. The city or town has entered into a contract with each private
4 water company that serves water within the city or town to provide Colorado
5 river water to those private water companies.

6 3. The Colorado river water for which the city or town has contracted
7 is sufficient together with other water supplies available to the private
8 water companies that serve water within that city or town to provide an
9 adequate supply of water for the city or town.

10 4. The director finds that new subdivisions within the city or town
11 will be served primarily with Colorado river water by one of the private
12 water companies that serve water within that city or town.

13 E. The director shall not require a developer to submit plans for the
14 water supply pursuant to subsection A of this section if either:

15 1. Both of the following apply:

16 (a) The developer has obtained a written commitment of water service
17 from cities, towns or private water companies that have been designated as
18 having an adequate water supply.

19 (b) That city, town or private water company has been designated as
20 having an adequate water supply pursuant to subsection C of this section.

21 2. All of the following apply:

22 (a) The city or town has been designated as having an adequate water
23 supply pursuant to subsection D of this section.

24 (b) The developer has obtained a written commitment of water service
25 from a private water company that serves water within that city or town.

26 (c) The developer has obtained the written concurrence of the city or
27 town that has been designated.

28 F. The director may revoke a designation made pursuant to this section
29 when the director finds that the water supply may become inadequate.

30 G. The state of Arizona and the director or department shall not be
31 liable for any report, designation or evaluation prepared in good faith
32 pursuant to this section.

33 H. IF THE DIRECTOR RECEIVES WRITTEN NOTICE FROM THE BOARD OF
34 SUPERVISORS OF A COUNTY THAT IT HAS ADOPTED THE PROVISION AUTHORIZED BY
35 SECTION 11-806.01, SUBSECTION F, THE DIRECTOR SHALL GIVE WRITTEN NOTICE OF
36 THE PROVISION TO THE MAYORS OF ALL CITIES AND TOWNS IN THE COUNTY. A CITY OR
37 TOWN THAT RECEIVES THE NOTICE SHALL COMPLY WITH SECTION 9-463.01, SUBSECTIONS
38 J, K, L AND M.

39 I. FOR THE PURPOSES OF THIS SECTION, "ADEQUATE WATER SUPPLY" MEANS ALL
40 OF THE FOLLOWING:

41 1. SUFFICIENT GROUNDWATER, SURFACE WATER OR EFFLUENT OF ADEQUATE
42 QUALITY WILL BE CONTINUOUSLY, LEGALLY AND PHYSICALLY AVAILABLE TO SATISFY THE
43 WATER NEEDS OF THE PROPOSED USE FOR AT LEAST ONE HUNDRED YEARS.

44 2. THE FINANCIAL CAPABILITY HAS BEEN DEMONSTRATED TO CONSTRUCT THE
45 WATER FACILITIES NECESSARY TO MAKE THE SUPPLY OF WATER AVAILABLE FOR THE

1 PROPOSED USE, INCLUDING A DELIVERY SYSTEM AND ANY STORAGE FACILITIES OR
2 TREATMENT WORKS. THE DIRECTOR MAY ACCEPT EVIDENCE OF THE CONSTRUCTION
3 ASSURANCES REQUIRED BY SECTION 9-463.01, 11-806.01 OR 32-2181 TO SATISFY THIS
4 REQUIREMENT.

5 Sec. 10. Title 45, chapter 1, article 1, Arizona Revised Statutes, is
6 amended by adding section 45-108.01, to read:

7 45-108.01. Adequate water supply; notice; objections; hearing;
8 appeals

9 A. ON RECEIPT OF AN APPLICATION FOR A WATER REPORT OR AN APPLICATION
10 BY A CITY, TOWN OR PRIVATE WATER COMPANY TO BE DESIGNATED AS HAVING AN
11 ADEQUATE WATER SUPPLY UNDER SECTION 45-108, IF THE PROPOSED USE IS IN A
12 COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION 11-806.01,
13 SUBSECTION F, OR IN A CITY OR TOWN THAT HAS ENACTED AN ORDINANCE PURSUANT TO
14 SECTION 9-463.01, SUBSECTION N, THE DIRECTOR SHALL PUBLISH NOTICE OF THE
15 APPLICATION ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF
16 GENERAL CIRCULATION IN THE GROUNDWATER BASIN IN WHICH THE APPLICANT PROPOSES
17 TO USE WATER. THE FIRST PUBLICATION SHALL OCCUR WITHIN FIFTEEN DAYS AFTER
18 THE APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY COMPLETE. IF
19 THE APPLICATION IS SUBSTANTIALLY MODIFIED AFTER NOTICE OF THE APPLICATION IS
20 GIVEN PURSUANT TO THIS SUBSECTION, THE DIRECTOR SHALL GIVE NOTICE OF THE
21 APPLICATION AS MODIFIED IN THE MANNER PRESCRIBED BY THIS SUBSECTION. THE
22 FIRST PUBLICATION OF ANY SUBSEQUENT NOTICE SHALL OCCUR WITHIN FIFTEEN DAYS
23 AFTER THE MODIFIED APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY
24 COMPLETE.

25 B. NOTICE PURSUANT TO SUBSECTION A OF THIS SECTION SHALL STATE THAT
26 WRITTEN OBJECTIONS TO THE APPLICATION MAY BE FILED WITH THE DIRECTOR BY
27 RESIDENTS OF THE GROUNDWATER BASIN WITHIN FIFTEEN DAYS AFTER THE LAST
28 PUBLICATION OF NOTICE. AN OBJECTION SHALL STATE THE NAME AND MAILING ADDRESS
29 OF THE OBJECTOR AND BE SIGNED BY THE OBJECTOR, THE OBJECTOR'S AGENT OR THE
30 OBJECTOR'S ATTORNEY. THE GROUNDS FOR OBJECTION ARE LIMITED TO WHETHER THE
31 INFORMATION IN THE APPLICATION IS CORRECT. THE OBJECTION SHALL CLEARLY SET
32 FORTH REASONS WHY THE APPLICATION IS NOT CORRECT.

33 C. IN APPROPRIATE CASES, INCLUDING CASES IN WHICH A PROPER WRITTEN
34 OBJECTION TO THE APPLICATION HAS BEEN FILED, AN ADMINISTRATIVE HEARING MAY BE
35 HELD BEFORE THE DIRECTOR'S DECISION ON THE APPLICATION IF THE DIRECTOR DEEMS
36 A HEARING NECESSARY. THIRTY DAYS BEFORE THE DATE OF THE HEARING, THE
37 DIRECTOR SHALL GIVE NOTICE OF THE HEARING TO THE APPLICANT AND TO ANY PERSON
38 WHO FILED A PROPER WRITTEN OBJECTION TO THE APPLICATION. THE HEARING SHALL
39 BE SCHEDULED FOR AT LEAST SIXTY DAYS BUT NOT MORE THAN NINETY DAYS AFTER THE
40 EXPIRATION OF THE TIME IN WHICH TO FILE OBJECTIONS.

41 D. IF THE APPLICATION IS FOR A WATER REPORT:

42 1. IF THE DIRECTOR DETERMINES THAT THE INFORMATION IN THE APPLICATION
43 IS CORRECT AND THAT AN ADEQUATE WATER SUPPLY EXISTS FOR THE PROPOSED USE, THE
44 DIRECTOR SHALL ISSUE A WATER REPORT STATING THAT THE WATER SUPPLY FOR THE
45 SUBDIVISION IS ADEQUATE.

1 2. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY DOES NOT
2 EXIST, THE DIRECTOR SHALL ISSUE A WATER REPORT STATING THAT THE WATER SUPPLY
3 FOR THE SUBDIVISION IS INADEQUATE.

4 E. IF THE APPLICATION IS FOR A DESIGNATION OF ADEQUATE WATER SUPPLY:

5 1. IF THE DIRECTOR DETERMINES THAT THE INFORMATION IN THE APPLICATION
6 IS CORRECT AND THAT AN ADEQUATE WATER SUPPLY EXISTS FOR THE PROPOSED USE, THE
7 DIRECTOR SHALL APPROVE THE APPLICATION.

8 2. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY DOES NOT
9 EXIST, THE DIRECTOR SHALL DENY THE APPLICATION.

10 F. THE APPLICANT OR A PERSON WHO CONTESTED THE APPLICATION BY FILING A
11 PROPER OBJECTION PURSUANT TO SUBSECTION B OF THIS SECTION MAY SEEK JUDICIAL
12 REVIEW OF THE FINAL DECISION OF THE DIRECTOR AS PROVIDED IN SECTION 45-114,
13 SUBSECTION B IN THE SUPERIOR COURT.

14 G. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
15 PROCEEDINGS, REHEARINGS OR REVIEWS AND JUDICIAL REVIEWS OF FINAL DECISIONS OF
16 THE DIRECTOR UNDER THIS SECTION. IF AN ADMINISTRATIVE HEARING IS HELD, IT
17 SHALL BE CONDUCTED IN THE GROUNDWATER BASIN IN WHICH THE USE IS LOCATED.

18 Sec. 11. Adequate water supply requirements; amendment of
19 assured water supply rules

20 A. In determining whether an adequate water supply exists under
21 section 45-108, Arizona Revised Statutes, as amended by this act, if the
22 proposed use is located in a city or town that has enacted an ordinance
23 authorized by section 9-463.01, subsection N, Arizona Revised Statutes, as
24 amended by this act, or in a county that has adopted the provision authorized
25 by section 11-806.01, subsection F, Arizona Revised Statutes, as amended by
26 this act, the director of water resources shall include in the calculation of
27 the projected one hundred-year depth-to-static water level under
28 R12-15-716(B)(3), Arizona Administrative Code, the estimated water demand of
29 any projected use in the same groundwater basin to which both of the
30 following apply:

31 1. The use will not be located in a county that has adopted the
32 provision authorized by section 11-806.01, subsection F, Arizona Revised
33 Statutes, as amended by this act, or in a city or town that has enacted an
34 ordinance authorized by section 9-463.01, subsection N, Arizona Revised
35 Statutes, as amended by this act.

36 2. The use is not included in a submitted application for a water
37 report or a designation of adequate water supply.

38 B. The director of water resources shall amend the rules adopted to
39 implement section 45-108, Arizona Revised Statutes, as amended by this act,
40 to include the following:

41 1. Criteria for making determinations pursuant to section 9-463.01,
42 subsection K, paragraph 2, subdivision (a), items (ii) and (iii), Arizona
43 Revised Statutes, as amended by this act, and section 11-806.01, subsection
44 G, paragraph 2, subdivision (a), items (ii) and (iii), Arizona Revised
45 Statutes, as amended by this act.

1 2. Criteria for demonstrating a physically available one hundred-year
2 supply of groundwater or stored water to be recovered outside the area of
3 impact, as defined in section 45-802.01, Arizona Revised Statutes, in
4 specific aquifer systems and groundwater basins and sub-basins outside of
5 active management areas. The criteria may include depth-to-static water
6 level limits or limits based on other physical aquifer characteristics that
7 affect the physical availability of water for a proposed use and shall be
8 appropriate for the groundwater basin or sub-basin.

9 C. In developing rule amendments pursuant to this section, the
10 director of water resources shall consult with cities and towns that have
11 enacted an ordinance authorized by section 9-463.01, subsection N, Arizona
12 Revised Statutes, as amended by this act, and counties that have adopted the
13 provision authorized by section 11-806.01, subsection F, Arizona Revised
14 Statutes, as amended by this act, and the cities and towns located within
15 those counties.