

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2495

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,  
3 is amended by adding section 9-500.28, to read:

4 9-500.28. Disclosure of filings in military electronics range;  
5 definition

6 A. A CITY OR TOWN THAT CONTAINS ANY PORTION OF A MILITARY ELECTRONICS  
7 RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE  
8 STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 SHALL NOTIFY THE OFFICE OF  
9 THE BASE COMMANDER WHEN AN APPLICATION IS DEEMED COMPLETE BY THE CITY OR TOWN  
10 TO DO ANY OF THE FOLLOWING WITHIN ANY PORTION OF THE MILITARY ELECTRONICS  
11 RANGE:

12 1. REZONE THE PROPERTY.

13 2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN  
14 APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY  
15 OPERATED UTILITY, FOR THE PROPERTY.

16 3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING  
17 ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL,  
18 INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

19 B. IF THE BASE CHOOSES TO MAKE OFFICIAL COMMENTS ON THE PROPOSED LAND  
20 USE CHANGE, THOSE COMMENTS SHALL BE MADE IN WRITING AND RECEIVED BY THE CITY  
21 OR TOWN SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING ON THE PROPOSED LAND USE  
22 CHANGE. IF THE BASE CHOOSES NOT TO SUBMIT OFFICIAL COMMENTS, THE CITY OR  
23 TOWN SHALL NOTE AT THE PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT  
24 THE BASE HAS NO OBJECTION TO THE PROPOSED LAND USE CHANGE.

1 C. THE CITY OR TOWN SHALL PROVIDE NOTICE TO THE OFFICE OF THE BASE  
2 COMMANDER PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE APPLICATION AND  
3 THE RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY DESCRIBE THE  
4 PROPOSED LAND USE CHANGE AS IT RELATES TO THE MILITARY OPERATIONS AT THE  
5 BASE. THIS DOCUMENTATION SHALL INCLUDE A BASIC OUTLINE OF THE PROCEDURES THE  
6 CITY OR TOWN USES WHEN PROCESSING LAND USE CHANGE APPLICATIONS AND DEADLINES  
7 FOR SUBMITTING OFFICIAL COMMENTS.

8 D. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A CITY OR  
9 TOWN TO DENY ANY USE OR OCCUPANCY PERMIT, BUILDING PERMIT, ZONING APPROVAL OR  
10 ANY OTHER PERMIT, APPROVAL OR OTHER AUTHORIZATION BASED ON THE EXISTENCE OF  
11 THE MILITARY ELECTRONICS RANGE OR ITS PROXIMITY TO A PARCEL OF REAL ESTATE.

12 E. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE"  
13 MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION,  
14 MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY  
15 MISSION OF A MILITARY BASE.

16 Sec. 2. Title 11, chapter 6, article 1, Arizona Revised Statutes, is  
17 amended by adding section 11-812, to read:

18 11-812. Disclosure of filings in military electronics range:  
19 definition

20 A. A COUNTY THAT CONTAINS ANY PORTION OF A MILITARY ELECTRONICS RANGE  
21 AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE  
22 LAND DEPARTMENT PURSUANT TO SECTION 37-102 SHALL NOTIFY THE OFFICE OF THE  
23 BASE COMMANDER WHEN AN APPLICATION IS DEEMED COMPLETE BY THE COUNTY TO DO ANY  
24 OF THE FOLLOWING WITHIN ANY PORTION OF THE MILITARY ELECTRONICS RANGE:

25 1. REZONE THE PROPERTY.

26 2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN  
27 APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY  
28 OPERATED UTILITY, FOR THE PROPERTY.

29 3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING  
30 ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL,  
31 INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

1           B. IF THE BASE CHOOSES TO MAKE OFFICIAL COMMENTS ON THE PROPOSED LAND  
2 USE CHANGE, THOSE COMMENTS SHALL BE MADE IN WRITING AND RECEIVED BY THE  
3 COUNTY SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING ON THE PROPOSED LAND USE  
4 CHANGE. IF THE BASE CHOOSES NOT TO SUBMIT OFFICIAL COMMENTS, THE COUNTY  
5 SHALL NOTE AT THE PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT THE  
6 BASE HAS NO OBJECTION TO THE PROPOSED LAND USE CHANGE.

7           C. THE COUNTY SHALL PROVIDE NOTICE TO THE OFFICE OF THE BASE COMMANDER  
8 PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE APPLICATION AND THE  
9 RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY DESCRIBE THE PROPOSED  
10 LAND USE CHANGE AS IT RELATES TO THE MILITARY OPERATIONS AT THE BASE. THIS  
11 DOCUMENTATION SHALL INCLUDE A BASIC OUTLINE OF THE PROCEDURES THE COUNTY USES  
12 WHEN PROCESSING LAND USE CHANGE APPLICATIONS AND DEADLINES FOR SUBMITTING  
13 OFFICIAL COMMENTS.

14           D. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A COUNTY TO  
15 DENY ANY USE OR OCCUPANCY PERMIT, BUILDING PERMIT, ZONING APPROVAL OR ANY  
16 OTHER PERMIT, APPROVAL OR OTHER AUTHORIZATION BASED ON THE EXISTENCE OF THE  
17 MILITARY ELECTRONICS RANGE OR ITS PROXIMITY TO A PARCEL OF REAL ESTATE.

18           E. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE"  
19 MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION,  
20 MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY  
21 MISSION OF A MILITARY BASE.

22           Sec. 3. Title 32, chapter 20, article 1, Arizona Revised Statutes, is  
23 amended by adding section 32-2114.01, to read:

24           32-2114.01. Military electronics range

25           A. THE COMMISSIONER SHALL EXECUTE AND RECORD IN THE OFFICE OF THE  
26 COUNTY RECORDER IN EACH COUNTY IN THIS STATE THAT INCLUDES A MILITARY  
27 ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP  
28 PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 A DOCUMENT  
29 THAT APPLIES TO LAND CONTAINED IN A MILITARY ELECTRONICS RANGE AND THAT  
30 DISCLOSES THAT THE LAND IS CONTAINED IN A MILITARY ELECTRONICS RANGE.

1 B. IF A MILITARY ELECTRONICS RANGE CHANGES AND PERSONS WHO WERE  
2 NOTIFIED PURSUANT TO SUBSECTION A OF THIS SECTION NO LONGER HAVE PROPERTY  
3 CONTAINED IN A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY  
4 ELECTRONICS RANGE MAP, THE COMMISSIONER SHALL EXECUTE AND RECORD IN THE  
5 OFFICE OF THE COUNTY RECORDER IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED  
6 A DOCUMENT DISCLOSING THAT THE LAND IS NOT CONTAINED IN A MILITARY  
7 ELECTRONICS RANGE.

8 C. THE ATTORNEY GENERAL SHALL PREPARE IN RECORDABLE FORM THE DOCUMENTS  
9 THAT ARE EXECUTED AND RECORDED BY THE COMMISSIONER PURSUANT TO THIS SECTION.

10 D. THE DOCUMENTS THAT ARE EXECUTED AND RECORDED BY THE COMMISSIONER  
11 PURSUANT TO THIS SECTION SHALL INCLUDE A GEOSPATIAL DESCRIPTION OF THE  
12 MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE  
13 MAP.

14 Sec. 4. Section 32-2115, Arizona Revised Statutes, is amended to read:

15 32-2115. Department's website; military training route map;  
16 restricted air space map; military electronics range  
17 map

18 The department shall post on its ~~web-site~~ WEBSITE THE FOLLOWING MAPS  
19 PREPARED BY THE STATE LAND DEPARTMENT AS PRESCRIBED BY LAW:

- 20 1. The military training route map. ~~and~~  
21 2. The restricted air space map ~~prepared by the state land department~~  
22 ~~pursuant to section 37-102.~~  
23 3. THE MILITARY ELECTRONICS RANGE OF A MILITARY BASE.

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

25 32-2183. Subdivision public reports; denial of issuance;  
26 unlawful sales; voidable sale or lease; order  
27 prohibiting sale or lease; investigations; hearings;  
28 summary orders

29 A. Upon examination of a subdivision, the commissioner, unless there  
30 are grounds for denial, shall issue to the subdivider a public report  
31 authorizing the sale or lease in this state of the lots, parcels or

1 fractional interests within the subdivision. The report shall contain the  
2 data obtained in accordance with section 32-2181 and any other information  
3 which the commissioner determines is necessary to implement the purposes of  
4 this article. If any of the lots, parcels or fractional interests within the  
5 subdivision are located within territory in the vicinity of a military  
6 airport or ancillary military facility as defined in section 28-8461, under a  
7 military training route as delineated in the military training route map  
8 prepared pursuant to section 37-102, ~~or~~ under restricted air space as  
9 delineated in the restricted air space map prepared pursuant to section  
10 37-102 OR CONTAINED IN THE MILITARY ELECTRONICS RANGE AS DELINEATED IN THE  
11 MILITARY ELECTRONICS RANGE MAP PREPARED PURSUANT TO SECTION 37-102, the  
12 report shall include, in bold twelve point font block letters on the first  
13 page of the report, the statements required pursuant to section 28-8484,  
14 subsection A, section 32-2183.05 or section 32-2183.06 and, if the department  
15 has been provided a map prepared pursuant to section 28-8484, subsection B or  
16 section 37-102, the report shall include a copy of the map. The military  
17 airport report requirements do not require the amendment or reissuance of any  
18 public report issued on or before December 31, 2001 or on or before December  
19 31 of the year in which the lots, parcels or fractional interests within a  
20 subdivision become territory in the vicinity of a military airport or  
21 ancillary military facility. The military training route report requirements  
22 do not require the amendment or reissuance of any public report issued on or  
23 before December 31, 2004. The restricted air space report requirements do  
24 not require the amendment or reissuance of any public report issued on or  
25 before December 31, 2006. THE MILITARY ELECTRONICS RANGE REPORT REQUIREMENTS  
26 DO NOT REQUIRE THE AMENDMENT OR REISSUANCE OF ANY PUBLIC REPORT ISSUED ON OR  
27 BEFORE DECEMBER 31, 2008. The commissioner shall require the subdivider to  
28 reproduce the report, make the report available to each prospective customer  
29 and furnish each buyer or lessee with a copy before the buyer or lessee signs  
30 any offer to purchase or lease, taking a receipt therefor.

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

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

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

11           3. The department shall assign a registration number to each  
12 notification and public report submitted pursuant to this subsection and  
13 shall maintain a database of all of these submissions. The subdivider shall  
14 place the number on each public report.

15           4. The department shall determine within fifteen business days after  
16 the receipt of the notification and public report whether the notification  
17 and public report are administratively complete. The commissioner either may  
18 issue a certification that the notification and public report are  
19 administratively complete or may deny issuance of the certification if it  
20 appears that the application or project is not in compliance with all legal  
21 requirements, that the applicant has a background of violations of state or  
22 federal law or that the applicant or project presents an unnecessary risk of  
23 harm to the public.

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

27           6. Before or after the commissioner issues a certificate of  
28 administrative completeness, the department may examine any public report,  
29 subdivision or applicant that has applied for or received the certificate.  
30 If the commissioner determines that the subdivider or subdivision is not in  
31 compliance with any requirement of state law or that grounds exist under this

1 chapter to suspend, deny or revoke a public report, the commissioner may  
2 commence an administrative action under section 32-2154 or 32-2157. If the  
3 subdivider immediately corrects the deficiency and comes into full compliance  
4 with state law, the commissioner shall vacate any action that the  
5 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

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

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

10 1. Failure to comply with this article or the rules of the  
11 commissioner pertaining to this article.

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

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

15 4. Inability to demonstrate that adequate financial or other  
16 arrangements acceptable to the commissioner have been made for completion of  
17 all streets, sewers, electric, gas and water utilities, drainage and flood  
18 control facilities, community and recreational facilities and other  
19 improvements included in the offering.

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

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

26 (a) Been convicted of a felony or misdemeanor involving fraud or  
27 dishonesty or involving conduct of any business or a transaction in real  
28 estate, cemetery property, time-share intervals or membership camping  
29 campgrounds or contracts.

30 (b) Been permanently or temporarily enjoined by order, judgment or  
31 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

1 lot or parcel. The subdivider shall file copies of documents acceptable to  
2 the commissioner containing these provisions with the commissioner before the  
3 sale of any subdivision lot or parcel subject to a blanket encumbrance.

4 10. Failure to demonstrate permanent access to the subdivision lots or  
5 parcels.

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

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

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

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

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

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

24 E. If the subdivision is within an active management area, as defined  
25 in section 45-402, the commissioner shall deny issuance of a public report or  
26 the use of any exemption pursuant to section 32-2181.02, subsection B unless  
27 the subdivider has been issued a certificate of assured water supply by the  
28 director of water resources and has paid all applicable fees pursuant to  
29 sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a  
30 written commitment of water service for the subdivision from a city, town or  
31 private water company designated as having an assured water supply by the

1 director of water resources pursuant to section 45-576 or is exempt from the  
2 requirement pursuant to section 45-576.

3 F. In areas outside of active management areas, if the subdivision is  
4 located in a county that has adopted the provision authorized by section  
5 11-806.01, subsection F or in a city or town that has enacted an ordinance  
6 pursuant to section 9-463.01, subsection O, the commissioner shall deny  
7 issuance of a public report or the use of any exemption pursuant to section  
8 32-2181.02, subsection B unless one of the following applies:

9 1. The director of water resources has reported pursuant to section  
10 45-108 that the subdivision has an adequate water supply.

11 2. The subdivider has obtained a written commitment of water service  
12 for the subdivision from a city, town or private water company designated as  
13 having an adequate water supply by the director of water resources pursuant  
14 to section 45-108.

15 3. The plat was approved pursuant to an exemption authorized by  
16 section 9-463.01, subsection K, pursuant to an exemption authorized by  
17 section 11-806.01, subsection G, paragraph 1, pursuant to an exemption  
18 granted by the director of water resources under section 45-108.02 and the  
19 exemption has not expired or pursuant to an exemption granted by the director  
20 of water resources under section 45-108.03.

21 4. The subdivision received final plat approval from the city, town or  
22 county before the requirement for an adequate water supply became effective  
23 in the city, town or county, and there have been no material changes to the  
24 plat since the final plat approval. If changes were made to the plat after  
25 the final plat approval, the director of water resources shall determine  
26 whether the changes are material pursuant to the rules adopted by the  
27 director to implement section 45-108.

28 G. A subdivider shall not sell or lease or offer for sale or lease in  
29 this state any lots, parcels or fractional interests in a subdivision without  
30 first obtaining a public report from the commissioner except as provided in  
31 section 32-2181.01 or 32-2181.02. Unless exempt, the sale or lease of

1 subdivided lands prior to issuance of the public report or failure to deliver  
2 the public report to the purchaser or lessee shall render the sale or lease  
3 rescindable by the purchaser or lessee. An action by the purchaser or lessee  
4 to rescind the transaction shall be brought within three years of the date of  
5 execution of the purchase or lease agreement by the purchaser or lessee. In  
6 any rescission action, the prevailing party is entitled to reasonable  
7 attorney fees as determined by the court.

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

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

28 J. On the commissioner's own motion, or when the commissioner has  
29 received a complaint and has satisfactory evidence that any person has  
30 violated this article or the rules of the commissioner or has engaged in any  
31 unlawful practice as defined in section 44-1522 with respect to the sale of

1 subdivided lands or deviated from the provisions of the public report or  
2 special order of exemption, or has been indicted for fraud or against whom an  
3 information for fraud has been filed or has been convicted of a felony,  
4 before or after the commissioner issues the public report as provided in  
5 subsection A of this section, the commissioner may conduct an investigation  
6 of the matter, issue a summary order as provided in section 32-2157, or hold  
7 a public hearing and, after the hearing, may issue the order or orders the  
8 commissioner deems necessary to protect the public interest and ensure  
9 compliance with the law, rules or public report or the commissioner may bring  
10 action in any court of competent jurisdiction against the person to enjoin  
11 the person from continuing the violation or engaging in or doing any act or  
12 acts in furtherance of the violation. The court may make orders or  
13 judgments, including the appointment of a receiver, necessary to prevent the  
14 use or employment by a person of any unlawful practices, or which may be  
15 necessary to restore to any person in interest any monies or property, real  
16 or personal, that may have been acquired by means of any practice in this  
17 article declared to be unlawful.

18 K. When it appears to the commissioner that a person has engaged in or  
19 is engaging in a practice declared to be unlawful by this article and that  
20 the person is concealing assets or self or has made arrangements to conceal  
21 assets or is about to leave the state, the commissioner may apply to the  
22 superior court, ex parte, for an order appointing a receiver of the assets of  
23 the person or for a writ of ne exeat, or both.

24 L. The court, on receipt of an application for the appointment of a  
25 receiver or for a writ of ne exeat, or both, shall examine the verified  
26 application of the commissioner and other evidence that the commissioner may  
27 present the court. If satisfied that the interests of the public require the  
28 appointment of a receiver or the issuance of a writ of ne exeat without  
29 notice, the court shall issue an order appointing the receiver or issue the  
30 writ, or both. If the court determines that the interests of the public will

1 not be harmed by the giving of notice, the court shall set a time for a  
2 hearing and require notice be given as the court deems satisfactory.

3 M. If the court appoints a receiver without notice, the court shall  
4 further direct that a copy of the order appointing a receiver be served on  
5 the person engaged in or engaging in a practice declared to be unlawful under  
6 this article by delivering the order to the last address of the person that  
7 is on file with the state real estate department. The order shall inform the  
8 person that the person has the right to request a hearing within ten days of  
9 the date of the order and, if requested, the hearing shall be held within  
10 thirty days from the date of the order.

11 Sec. 6. Section 32-2183.05, Arizona Revised Statutes, is amended to  
12 read:

13 32-2183.05. Military training route disclosure; military  
14 electronics range disclosure; residential  
15 property

16 A. Any public report that is issued after December 31, 2004 pursuant  
17 to section 32-2183 or 32-2195.03 and that is applicable to property located  
18 under a military training route, as delineated in the military training route  
19 map prepared by the state land department pursuant to section 37-102, **AND ANY**  
20 **PUBLIC REPORT THAT IS ISSUED AFTER DECEMBER 31, 2008 AND THAT IS APPLICABLE**  
21 **TO PROPERTY LOCATED IN A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE**  
22 **MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT**  
23 **TO SECTION 37-102**, shall include the following statements:

24 1. The property is located under a military training route **OR IN A**  
25 **MILITARY ELECTRONICS RANGE**.

26 2. The state land department and the state real estate department  
27 maintain military training route maps **AND MILITARY ELECTRONICS RANGE MAPS**  
28 available to the public.

29 3. The military training route map ~~is~~ **AND MILITARY ELECTRONICS RANGE**  
30 **MAP ARE** posted on the state real estate department's ~~web-site~~ **WEBSITE**.

1           B. The public report prescribed by subsection A of this section may  
2 contain a disclaimer that the subdivider has no control over the military  
3 training routes as delineated in the military training route map or the  
4 timing or frequency of flights and associated levels of noise **AND HAS NO**  
5 **CONTROL OVER THE MILITARY ELECTRONICS RANGE AND ITS TESTING AND TRAINING**  
6 **OPERATIONS.**

7           C. For any lot reservation or conditional sale that occurs before the  
8 issuance of a public report, the disclosure statements listed in subsection A  
9 of this section shall be included within the reservation document or  
10 conditional sales contract.

11           D. This section does not require the amendment or reissuance of any  
12 public report issued on or before December 31, 2004 **OR ON OR BEFORE DECEMBER**  
13 **31, 2008** or the amendment or reissuance of any reservation document or  
14 conditional sales contract accepted on or before December 31, 2004 **OR ON OR**  
15 **BEFORE DECEMBER 31, 2008.**

16           E. Notwithstanding any other law, if the public report complies with  
17 subsection A of this section, a subdivider is not liable to any person or  
18 governmental entity for any act or failure to act in connection with the  
19 disclosure of a military training route as delineated in the military  
20 training route map **OR A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE**  
21 **MILITARY ELECTRONICS RANGE MAP.**

22           Sec. 7. Section 33-422, Arizona Revised Statutes, is amended to read:

23           **33-422. Land divisions; recording; disclosure affidavit**

24           A. A seller of five or fewer parcels of land, other than subdivided  
25 land, in an unincorporated area of a county and any subsequent seller of such  
26 a parcel shall furnish a written affidavit of disclosure to the buyer, at  
27 least seven days before the transfer of the property, and the buyer shall  
28 acknowledge receipt of the affidavit.

1 B. The affidavit must be written in twelve point type.

2 C. No release or waiver of a seller's liability arising out of any  
3 omission or misrepresentation contained in an affidavit of disclosure is  
4 valid or binding on the buyer.

5 D. The buyer has the right to rescind the sales transaction for a  
6 period of five days after the affidavit of disclosure is furnished to the  
7 buyer.

8 E. The seller shall record the executed affidavit of disclosure at the  
9 same time that the deed is recorded. The county recorder is not required to  
10 verify the accuracy of any statement in the affidavit of disclosure. A  
11 subsequently recorded affidavit supersedes any previous affidavit.

12 F. The affidavit of disclosure shall meet the requirements of section  
13 11-480 and follow substantially the following form:

14 When recorded mail to:

15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_

19 Affidavit of Disclosure

20 Pursuant to A.R.S. §33-422

21 I, \_\_\_\_\_ (seller(s))  
22 being duly sworn, hereby make this affidavit of disclosure  
23 relating to the real property situated in the unincorporated area  
24 of:

25 \_\_\_\_\_, County, State of Arizona, located at:  
26 \_\_\_\_\_

27 and legally described as:

28 (Legal description attached hereto as exhibit "A")

29 (property).

30 1. There is is not . . . . legal access to the  
31 property, as defined in A.R.S. § 11-809 . . . . unknown

1 Explain: \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

4 2. There is is not . . . . physical access to the  
5 property. unknown

6 Explain: \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 3. There is is not . . . . a statement from a  
10 licensed surveyor or engineer available stating whether the  
11 property has physical access that is traversable by a two-wheel  
12 drive passenger motor vehicle.

13 4. The legal and physical access to the property is  
14 is not . . . . the same.... unknown not applicable.

15 Explain: \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

18 *If access to the parcel is not traversable by emergency vehicles,*  
19 *the county and emergency service providers may not be held liable*  
20 *for any damages resulting from the inability to traverse the*  
21 *access to provide needed services.*

22 5. The road(s) is/are publicly maintained  
23 privately maintained not maintained not  
24 applicable. If applicable, there is is not . . . . a  
25 recorded road maintenance agreement.

26 *If the roads are not publicly maintained, it is the*  
27 *responsibility of the property owner(s) to maintain the roads and*  
28 *roads that are not improved to county standards and accepted for*  
29 *maintenance are not the county's responsibility.*

30 6. A portion or all of the property is is not .  
31 . . . . located in a FEMA designated regulatory floodplain. If the

1 property is in a floodplain, it may be subject to floodplain  
2 regulation.

3 7. The property is is not subject to  
4 fissures or expansive soils. unknown

5 Explain: \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_

8 8. The following services are currently provided to the  
9 property: water sewer electric natural gas  
10 single party telephone cable television services.

11 9. The property is is not . . . . served by a  
12 water supply that requires the transportation of water to the  
13 property.

14 10. The property is served by a private water company  
15 a municipal water provider a private well a shared  
16 well no well. If served by a shared well, the shared well  
17 is is not . . . . a public water system, as defined by the  
18 safe drinking water act (42 United States Code § 300f).

19 *Notice to buyer: If the property is served by a well, A private*  
20 *water company or a municipal water provider the Arizona*  
21 *department of water resources may not have made a water supply*  
22 *determination. For more information about water supply, contact*  
23 *the water provider.*

24 11. The property does have does not have . . . . an  
25 on-site wastewater treatment facility (i.e., standard septic or  
26 alternative system to treat and dispose of wastewater).  
27 unknown. If applicable: a) The property will will not  
28 . . . . require installation of an on-site wastewater treatment  
29 facility; b) The on-site wastewater treatment facility has  
30 has not been inspected.

1           12. The property       has been           has not been . . . .  
2       subject to a percolation test.       unknown.

3           13. The property       does           does not . . . . meet the  
4       minimum applicable county zoning requirements of the applicable  
5       zoning designation.

6           14. The sale of the property       does           does not . . . .  
7       meet the requirements of A.R.S. § 11-809 regarding land  
8       divisions. If those requirements are not met, the property owner  
9       may not be able to obtain a building permit. The seller or  
10      property owner shall disclose each of the deficiencies to the  
11      buyer.

12      Explain: \_\_\_\_\_  
13      \_\_\_\_\_  
14      \_\_\_\_\_

15           15. The property       is           is not located in the clear  
16      zone of a military airport or ancillary military facility, as  
17      defined in A.R.S. § 28-8461. (Maps are available at the state  
18      real estate department's ~~web-site~~ WEBSITE.)

19           16. The property       is           is not located in the high  
20      noise or accident potential zone of a military airport or  
21      ancillary military facility, as defined in A.R.S. § 28-8461.  
22      (Maps are available at the state real estate department's ~~web~~  
23      ~~site~~ WEBSITE.)

24           17. Notice: If the property is located within the  
25      territory in the vicinity of a military airport or ancillary  
26      military facility, the property is required to comply with sound  
27      attenuation standards as prescribed by A.R.S. § 28-8482. (Maps  
28      are available at the state real estate department's ~~web-site~~  
29      WEBSITE.)

1           18. The property is is not located under military  
2 restricted airspace. unknown. (Maps are available at the  
3 state real estate department's ~~web-site~~ WEBSITE.)

4           19. THE PROPERTY IS IS NOT LOCATED IN A MILITARY  
5 ELECTRONICS RANGE OF AS DEFINED IN A.R.S. §§ 9-500.28 AND  
6 11-812. UNKNOWN. (MAPS ARE AVAILABLE AT THE STATE REAL  
7 ESTATE DEPARTMENT'S WEBSITE.)

8 This affidavit of disclosure supersedes any previously recorded  
9 affidavit of disclosure.

10 I certify under penalty of perjury that the information contained  
11 in this affidavit is true, complete and correct according to my  
12 best belief and knowledge.

13 Dated this \_\_\_\_ (date) \_\_\_\_ day of \_\_\_\_ (year) \_\_\_\_ by:

14 Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

15 Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

16 State of Arizona )

17 ) ss.

18 County of \_\_\_\_\_)

19           Subscribed and sworn before me this \_\_\_\_ (date) \_\_\_\_ day of  
20 \_\_\_\_ (year) \_\_\_\_, by \_\_\_\_\_.

21 \_\_\_\_\_

22 Notary public

23 My commission expires:

24 \_\_\_\_\_ (date)

25 Buyer(s) hereby acknowledges receipt of a copy of this affidavit  
26 of disclosure this \_\_\_\_ (date) \_\_\_\_ day of \_\_\_\_ (year) \_\_\_\_

27 Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

28 Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

29 G. For the purposes of this section, seller and subsequent seller do  
30 not include a trustee of a deed of trust who is selling property by a  
31 trustee's sale pursuant to title 33, chapter 6.1 or any officer who is

1 selling property by execution sale pursuant to title 12, chapter 9 and  
2 title 33, chapter 6. If the seller is a trustee of a subdivision trust as  
3 defined in section 6-801, the disclosure affidavit required by this section  
4 shall be provided by the beneficiary of the subdivision trust.

5 Sec. 8. Section 37-102, Arizona Revised Statutes, is amended to read:

6 37-102. State land department; powers and duties

7 A. The state land department shall administer all laws relating to  
8 lands owned by, belonging to and under the control of the state.

9 B. The department shall have charge and control of all lands owned by  
10 the state, and timber, stone, gravel and other products of such lands, except  
11 lands under the specific use and control of state institutions and the  
12 products of such lands.

13 C. The department, in the name of the state, may commence, prosecute  
14 and defend all actions and proceedings to protect the interest of the state  
15 in lands within the state or the proceeds thereof. Actions shall be  
16 commenced and prosecuted at the request of the department by the attorney  
17 general, a county attorney or a special counsel under the direction of the  
18 attorney general.

19 D. The department shall be the official representative of the state in  
20 any communication between the state and the United States government in all  
21 matters respecting state lands or any interest of the state in or to the  
22 public lands within the state.

23 E. The summons in any action against the state respecting any lands of  
24 the state or the products of such lands and all notices concerning such lands  
25 or products shall be served upon the commissioner. Summonses, warrants or  
26 legal notices served on behalf of the department may be served by the  
27 commissioner or the commissioner's deputy, or by the sheriff or a constable  
28 of any county of the state.

29 F. The department shall maintain as a public record in each of its  
30 offices a public docket and index of all matters before the department which  
31 may be subject to appeal to the board of appeals or to the courts and all

1 sale, exchange and lease transactions subject to bidding by the public. The  
2 department shall list a matter on the public docket immediately after an  
3 application or other request for department action is received by the  
4 department. The department shall include in the public docket every formal  
5 action and decision affecting each matter in question. The department shall  
6 establish by rule a means by which any person may obtain a copy of the public  
7 docket at the current copying cost.

8 G. The department shall reappraise or update its original appraisal of  
9 property to be leased, exchanged or sold if the board of appeals' approval of  
10 the lease or sale occurred more than one hundred eighty days before the  
11 auction.

12 H. The state land department shall:

13 1. Prepare maps of the ancillary military facilities described in  
14 section 28-8461, paragraph 7, subdivisions (b) and (c).

15 2. Make a map of the ancillary military facility described in section  
16 28-8461, paragraph 7, subdivision (a) available to the public in printed or  
17 electronic format and provide the map in printed or electronic format to the  
18 state real estate department.

19 3. ON RECEIPT OF PROPER INFORMATION FROM THE MILITARY BASE COMMANDER  
20 WITH RESPONSIBILITY FOR THE MILITARY ELECTRONICS RANGE, PREPARE A MAP OF THE  
21 MILITARY ELECTRONICS RANGE AS DEFINED IN SECTION 9-500.28 AND MAKE THAT MAP  
22 AVAILABLE TO THE PUBLIC IN PRINTED OR ELECTRONIC FORMAT AND PROVIDE THE MAP  
23 IN PRINTED OR ELECTRONIC FORMAT TO THE STATE REAL ESTATE DEPARTMENT. ON  
24 RECEIPT OF NOTICE OF ANY CHANGE IN THE BOUNDARIES OF THE MILITARY ELECTRONICS  
25 RANGE FROM THE MILITARY BASE COMMANDER, THE STATE LAND DEPARTMENT SHALL  
26 REVISE ITS MAP AND PROVIDE THE MAP TO THE PUBLIC AND TO THE STATE REAL ESTATE  
27 DEPARTMENT.

28 I. The state land department shall provide each map and the legal  
29 description of the boundaries of each ancillary military facility described  
30 in section 28-8461, paragraph 7 in electronic format to the state real estate

1 department. Each map prepared by the state land department pursuant to this  
2 section shall:

3 1. Describe the ancillary military facility, the territory in the  
4 vicinity of the ancillary military facility and the high noise and accident  
5 potential zone, accident potential zone one and accident potential zone two  
6 associated with the ancillary military facility.

7 2. Be submitted to the county in which the ancillary military facility  
8 is located.

9 3. Be made available in printed or electronic format to the public at  
10 the state land department and at the state real estate department.

11 J. The state land department shall prepare a military training route  
12 map. The map shall contain military training route numbers in this state  
13 that are used by various United States armed forces. The map shall be dated.

14 K. When preparing the military training route map, the state land  
15 department shall use information contained in the most current department of  
16 defense publication that is entitled area planning military training routes  
17 for North and South America.

18 L. The military training route map shall be made available in printed  
19 or electronic format to the public at the state land department and at the  
20 state real estate department.

21 M. Within ninety days after the department is notified of a change of  
22 a military training route in this state, the department shall prepare a  
23 revised military training route map. The map shall be dated and contain a  
24 statement that the map supersedes all previously dated maps. The state land  
25 department shall send the revised map to the state real estate department  
26 electronically and shall also send an accompanying letter specifying the  
27 military training route changes. The state land department shall send the  
28 revised map and an accompanying letter specifying the military training route  
29 changes to the municipalities affected by the changes and to all counties.

1           N. The department shall submit the military training route map  
2 prepared pursuant to this section to the counties in either an electronic or  
3 a printed format. The format shall be determined by the receiving county.

4           O. The state land department shall provide the legal description of  
5 the boundaries of the military training routes as delineated in the military  
6 training route map to the state real estate department in electronic format.

7           P. ~~Within ninety days after the effective date of this amendment to~~  
8 ~~this section,~~ The state land department shall prepare a military restricted  
9 airspace map. The map shall contain military restricted airspace in this  
10 state that is used by various United States armed forces. The map shall be  
11 dated.

12           Q. When preparing the military restricted airspace map, the state land  
13 department shall use information contained in the most current department of  
14 transportation publication that is entitled "aeronautical chart".

15           R. The military restricted airspace map shall be made available in  
16 printed or electronic format to the public at the state land department and  
17 at the state real estate department.

18           S. Within ninety days after the department is notified of a change of  
19 military restricted airspace in this state, the department shall prepare a  
20 revised military restricted airspace map. The map shall be dated and contain  
21 a statement that the map supersedes all previously dated maps. The state  
22 land department shall send the revised map to the state real estate  
23 department electronically and shall also send an accompanying letter  
24 specifying the military restricted airspace changes. The state land  
25 department shall send the revised map and an accompanying letter specifying  
26 the military restricted airspace changes to the municipalities affected by  
27 the changes and to all counties.

1           T. The department shall submit the military restricted airspace map  
2 prepared pursuant to this section to the counties in either an electronic or  
3 a printed format. The format shall be determined by the receiving county.

4           U. The state land department shall provide the legal description of  
5 the boundaries of the military restricted airspace as delineated in the  
6 military restricted airspace map to the state real estate department in  
7 electronic format.

8 Amend title to conform

JOHN B. NELSON

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02/29/2008  
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C: myr