

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

# HOUSE BILL 2005

## AN ACT

AMENDING SECTION 9-463.01, ARIZONA REVISED STATUTES; AMENDING SECTION 11-831, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2010, CHAPTER 244, SECTION 7; AMENDING SECTIONS 32-2101 AND 32-2157, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2181, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 244, SECTION 18; AMENDING SECTION 32-2182, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2183, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 144, SECTION 2; REPEALING SECTION 32-2183, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 244, SECTION 19; AMENDING SECTION 32-2195.03, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO THE SALE OF LANDS.

(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 this article, the legislative body of every  
6 municipality shall regulate the subdivision of all lands within its corporate  
7 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 not be subdivided, by  
23 reason of adverse topography, periodic inundation, adverse soils, subsidence  
24 of the earth's surface, high water table, lack of water or other natural or  
25 man-made hazard to life or property, or control the lot size, establish  
26 special grading and drainage requirements and impose other regulations deemed  
27 reasonable and necessary for the public health, safety or general welfare on  
28 any lands to be subdivided affected by such characteristics.  
29 5. Require payment of a proper and reasonable fee by the subdivider  
30 based upon the number of lots or parcels on the surface of the land to defray  
31 municipal costs of plat review and site inspection.  
32 6. Require the dedication of public streets, sewer and water utility  
33 easements or rights-of-way, within the proposed subdivision.  
34 7. Require the preparation and submission of acceptable engineering  
35 plans and specifications for the installation of required street, sewer,  
36 electric and water utilities, drainage, flood control, adequacy of water and  
37 improvements as a condition precedent to recordation of an approved final  
38 plat.  
39 8. Require the posting of performance bonds, assurances or such other  
40 security as may be appropriate and necessary to assure the installation of  
41 required street, sewer, electric and water utilities, drainage, flood control  
42 and improvements meeting established minimum standards of design and  
43 construction.  
44 D. The legislative body of any municipality may require by ordinance  
45 that land areas within a subdivision be reserved for parks, recreational

1 facilities, school sites and fire stations subject to the following  
2 conditions:

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

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

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

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

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

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

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

30 1. Final subdivision plats.

31 2. Plats filed for the purpose of reverting to acreage of land  
32 previously subdivided.

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

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

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

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

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

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

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

19           J. Except as provided in subsections K and P of this section, if the  
20 subdivision is composed of subdivided lands as defined in section 32-2101  
21 outside of an active management area and the director of water resources has  
22 given written notice to the municipality pursuant to section 45-108,  
23 subsection H, the final plat shall not be approved unless one of the  
24 following applies:

25           1. The director of water resources has determined that there is an  
26 adequate water supply for the subdivision pursuant to section 45-108 and the  
27 subdivider has included the report with the plat.

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           K. The legislative body of a municipality that has received written  
33 notice from the director of water resources pursuant to section 45-108,  
34 subsection H or that has adopted an ordinance pursuant to subsection O of  
35 this section may provide by ordinance an exemption from the requirement in  
36 subsection J or O of this section for a subdivision that the director of  
37 water resources has determined will have an inadequate water supply because  
38 the water supply will be transported to the subdivision by motor vehicle or  
39 train if all of the following apply:

40           1. The legislative body determines that there is no feasible  
41 alternative water supply for the subdivision and that the transportation of  
42 water to the subdivision will not constitute a significant risk to the health  
43 and safety of the residents of the subdivision.

1           2. If the water to be transported to the subdivision will be withdrawn  
2 or diverted in the service area of a municipal provider as defined in section  
3 45-561, the municipal provider has consented to the withdrawal or diversion.

4           3. If the water to be transported is groundwater, the transportation  
5 complies with the provisions governing the transportation of groundwater in  
6 title 45, chapter 2, article 8.

7           4. The transportation of water to the subdivision meets any additional  
8 conditions imposed by the legislative body.

9           L. A municipality that adopts the exemption authorized by subsection K  
10 of this section shall give written notice of the adoption of the exemption,  
11 including a certified copy of the ordinance containing the exemption, to the  
12 director of water resources, the director of environmental quality and the  
13 state real estate commissioner. If the municipality later rescinds the  
14 exemption, the municipality shall give written notice of the rescission to  
15 the director of water resources, the director of environmental quality and  
16 the state real estate commissioner. A municipality that rescinds an  
17 exemption adopted pursuant to subsection K of this section shall not readopt  
18 the exemption for at least five years after the rescission becomes effective.

19           M. If the legislative body of a municipality approves a subdivision  
20 plat pursuant to subsection J, paragraph 1 or 2 or subsection O of this  
21 section, the legislative body shall note on the face of the plat that the  
22 director of water resources has reported that the subdivision has an adequate  
23 water supply or that the subdivider has obtained a commitment of water  
24 service for the proposed subdivision from a city, town or private water  
25 company designated as having an adequate water supply pursuant to section  
26 45-108.

27           N. If the legislative body of a municipality approves a subdivision  
28 plat pursuant to an exemption authorized by subsection K of this section or  
29 granted by the director of water resources pursuant to section 45-108.02 or  
30 45-108.03:

31           1. The legislative body shall give written notice of the approval to  
32 the director of water resources and the director of environmental quality.

33           2. The legislative body shall include on the face of the plat a  
34 statement that the director of water resources has determined that the water  
35 supply for the subdivision is inadequate and a statement describing the  
36 exemption under which the plat was approved, including a statement that the  
37 legislative body or the director of water resources, whichever applies, has  
38 determined that the specific conditions of the exemption were met. If the  
39 ~~legislative body~~ DIRECTOR subsequently informs the legislative body that the  
40 subdivision is being served by a water provider that has been designated by  
41 the director as having an adequate water supply pursuant to section 45-108,  
42 the legislative body shall record in the county recorder's office a statement  
43 disclosing that fact.

44           O. If a municipality has not been given written notice by the director  
45 of water resources pursuant to section 45-108, subsection H, the legislative

1 body of the municipality, to protect the public health and safety, may  
2 provide by ordinance that, except as provided in subsections K and P of this  
3 section, the final plat of a subdivision located in the municipality and  
4 outside of an active management area will not be approved by the legislative  
5 body unless the director of water resources has determined that there is an  
6 adequate water supply for the subdivision pursuant to section 45-108 or the  
7 subdivider has obtained a written commitment of water service for the  
8 subdivision from a city, town or private water company designated as having  
9 an adequate water supply by the director of water resources pursuant to  
10 section 45-108. Before holding a public hearing to consider whether to enact  
11 an ordinance pursuant to this subsection, a municipality shall provide  
12 written notice of the hearing to the board of supervisors of the county in  
13 which the municipality is located. A municipality that enacts an ordinance  
14 pursuant to this subsection shall give written notice of the enactment of the  
15 ordinance, including a certified copy of the ordinance, to the director of  
16 water resources, the director of environmental quality, the state real estate  
17 commissioner and the board of supervisors of the county in which the ~~city~~  
18 **MUNICIPALITY** is located. If a municipality enacts an ordinance pursuant to  
19 this subsection, water providers may be eligible to receive monies in a water  
20 supply development fund, as otherwise provided by law.

21 P. Subsections J and O of this section do not apply to:

22 1. A proposed subdivision that the director of water resources has  
23 determined will have an inadequate water supply pursuant to section 45-108 if  
24 the director grants an exemption for the subdivision pursuant to section  
25 45-108.02 and the exemption has not expired or if the director grants an  
26 exemption pursuant to section 45-108.03.

27 2. A proposed subdivision that received final plat approval from the  
28 municipality before the requirement for an adequate water supply became  
29 effective in the municipality if the plat has not been materially changed  
30 since it received the final plat approval. If changes were made to the plat  
31 after the plat received the final plat approval, the director of water  
32 resources shall determine whether the changes are material pursuant to the  
33 rules adopted by the director to implement section 45-108. If the  
34 municipality approves a plat pursuant to this paragraph and the director of  
35 water resources has determined that there is an inadequate water supply for  
36 the subdivision pursuant to section 45-108, the municipality shall note this  
37 on the face of the plat.

38 Q. If the subdivision is composed of subdivided lands as defined in  
39 section 32-2101 outside of an active management area and the municipality has  
40 not received written notice pursuant to section 45-108, subsection H and has  
41 not adopted an ordinance pursuant to subsection O of this section:

42 1. If the director of water resources has determined that there is an  
43 adequate water supply for the subdivision pursuant to section 45-108 or if  
44 the subdivider has obtained a written commitment of water service for the  
45 subdivision from a city, town or private water company designated as having

1 an adequate water supply by the director of water resources pursuant to  
2 section 45-108, the municipality shall note this on the face of the plat if  
3 the plat is approved.

4 2. If the director of water resources has determined that there is an  
5 inadequate water supply for the subdivision pursuant to section 45-108, the  
6 municipality shall note this on the face of the plat if the plat is approved.

7 R. Every municipality is responsible for the recordation of all final  
8 plats approved by the legislative body and shall receive from the subdivider  
9 and transmit to the county recorder the recordation fee established by the  
10 county recorder.

11 S. Pursuant to provisions of applicable state statutes, the  
12 legislative body of any municipality may itself prepare or have prepared a  
13 plat for the subdivision of land under municipal ownership.

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

21 U. For any subdivision that consists of ten or fewer lots, tracts or  
22 parcels, each of which is of a size as prescribed by the legislative body,  
23 the legislative body of each municipality may EXPEDITE THE PROCESSING OF OR  
24 waive the requirement to prepare, submit and receive approval of a  
25 preliminary plat as a condition precedent to submitting a final plat and may  
26 waive or reduce infrastructure standards or requirements ~~except for improved~~  
27 ~~dust-controlled access and minimum drainage improvements~~ PROPORTIONAL TO THE  
28 IMPACT OF THE SUBDIVISION. REQUIREMENTS FOR DUST-CONTROLLED ACCESS AND  
29 DRAINAGE IMPROVEMENTS SHALL NOT BE WAIVED.

30 Sec. 2. Section 11-831, Arizona Revised Statutes, as added by Laws  
31 2010, chapter 244, section 7, is amended to read:

32 11-831. Review of land divisions; definitions

33 A. The board of supervisors of each county may adopt ordinances and  
34 regulations pursuant to this section for staff review and approval of land  
35 divisions of five or fewer lots, parcels or fractional interests, any of  
36 which is ten acres or smaller in size. The county may not deny approval of  
37 any land division that meets the requirements of this section. If review of  
38 the request is not completed within thirty days after receiving the request,  
39 the land division is considered to be approved. At its option, the board of  
40 supervisors may submit a ballot question to the voters of the county to allow  
41 the voters to determine the application of subsections B and C to qualifying  
42 land divisions in that county.

43 B. An application to split a parcel of land shall be approved if:

44 1. The lots, parcels or fractional interests each meet the minimum  
45 applicable county zoning requirements of the applicable zoning designation.

1           2. The applicant provides a standard preliminary title report or other  
2 acceptable document that demonstrates legal access to the lots, parcels or  
3 fractional interests.

4           3. The applicant provides a statement from a licensed surveyor or  
5 engineer, or other evidence acceptable to the county, stating whether each  
6 lot, parcel or fractional interest has physical access that is traversable by  
7 a two-wheel drive passenger motor vehicle.

8           4. The applicant reserves the necessary and appropriate utility  
9 easements to serve each lot, parcel or fractional interest created by the  
10 land division.

11           C. An application to split a parcel of land that does not comply with  
12 one or more of the items listed in subsection B shall still be approved if  
13 the applicant provides an acknowledgment that is signed by the applicant and  
14 that confirms that no building or use permit will be issued by the county  
15 until the lot, parcel or fractional interest has met the requirements of  
16 subsection B. The county may grant a variance from one or more of the items  
17 listed in subsection B.

18           D. Any approval of a land division under this section may:

19           1. Include the minimum statutory requirements for legal and physical  
20 on-site access that must be met as a condition to the issuance of a building  
21 or use permit for the lots, parcels or fractional interests.

22           2. Identify topographic, hydrologic or other site constraints,  
23 requirements or limitations that must be addressed as conditions to the  
24 eventual issuance of a building or use permit. These constraints,  
25 requirements or limitations may be as noted by the applicant or through  
26 county staff review, but there shall be no requirement for independent  
27 studies.

28           E. If the requirements of subsections A through D do not apply, a  
29 county may adopt ordinances and regulations pursuant to this chapter for  
30 staff review of land divisions of five or fewer lots, parcels or fractional  
31 interests but only to determine compliance with minimum applicable county  
32 zoning requirements and legal access and may grant waivers from the county  
33 zoning and legal access requirements. The county may not deny approval of  
34 any land division that meets the requirements of this section or where the  
35 deficiencies are noticed in the deed. A county may not require a public  
36 hearing on a request to divide five or fewer lots, parcels or fractional  
37 interests. If review of the request is not completed within thirty days from  
38 receipt of the request, the land division shall be deemed approved. If no  
39 legal access is available, the legal access does not allow access by  
40 emergency vehicles or the county zoning requirements are not met, the access  
41 or zoning deficiencies shall be noticed in the deed. If a county by  
42 ordinance requires a legal access of more than twenty-four feet roadway  
43 width, the county is responsible for the improvement and maintenance of the  
44 improvement. If the legal access does not allow access to the lots, parcels  
45 or fractional interests by emergency vehicles, neither the county nor its

1 agents or employees are liable for damages resulting from the failure of  
2 emergency vehicles to reach the lot, parcel or fractional interest.

3 F. It is unlawful for a person or group of persons acting in concert  
4 to attempt to avoid this section or the subdivision laws of this state by  
5 acting in concert to divide a parcel of land into six or more lots or sell or  
6 lease six or more lots by using a series of owners or conveyances. ~~Any~~  
7 EITHER THE county where the division occurred or the state real estate  
8 department pursuant to title 32, chapter 20, BUT NOT BOTH, may enforce this  
9 prohibition. A FAMILIAL RELATIONSHIP ALONE IS NOT SUFFICIENT TO CONSTITUTE  
10 UNLAWFUL ACTING IN CONCERT.

11 G. FOR ANY SUBDIVISION THAT CONSISTS OF TEN OR FEWER LOTS, TRACTS OR  
12 PARCELS, EACH OF WHICH IS OF A SIZE AS PRESCRIBED BY THE BOARD OF  
13 SUPERVISORS, THE BOARD OF SUPERVISORS OF EACH COUNTY MAY WAIVE THE  
14 REQUIREMENT TO PREPARE, SUBMIT AND RECEIVE APPROVAL OF A PRELIMINARY PLAT AS  
15 A CONDITION PRECEDENT TO SUBMITTING A FINAL PLAT AND MAY WAIVE OR REDUCE  
16 INFRASTRUCTURE STANDARDS OR REQUIREMENTS EXCEPT FOR IMPROVED DUST-CONTROLLED  
17 ACCESS AND MINIMUM DRAINAGE IMPROVEMENTS.

18 ~~G.~~ H. For the purposes of this section:

19 1. "Legal access" means a public right of vehicular ingress and egress  
20 between the lots, parcels or fractional interests being created.

21 2. "Minimum applicable county zoning requirements" means the minimum  
22 acreage and dimensions of the resulting lot, parcel or fractional interest as  
23 required by the county's zoning ordinance.

24 3. "Utility easement" means an easement of eight feet in width  
25 dedicated to the general public to install, maintain and access sewer,  
26 electric, gas and water utilities.

27 Sec. 3. Section 32-2101, Arizona Revised Statutes, is amended to read:

28 32-2101. Definitions

29 In this chapter, unless the context otherwise requires:

30 1. "Acting in concert" means evidence of collaborating to pursue a  
31 concerted plan.

32 2. "Advertising" means the attempt by publication, dissemination,  
33 exhibition, solicitation or circulation, oral or written, or for broadcast on  
34 radio or television to induce directly or indirectly any person to enter into  
35 any obligation or acquire any title or interest in lands subject to this  
36 chapter including the land sales contract to be used and any photographs,  
37 drawings or artist's presentations of physical conditions or facilities  
38 existing or to exist on the property. Advertising does not include:

39 (a) Press releases or other communications delivered to newspapers,  
40 periodicals or other news media for general information or public relations  
41 purposes if no charge is made by the newspapers, periodicals or other news  
42 media for the publication or use of any part of these communications.

43 (b) Communications to stockholders as follows:

44 (i) Annual reports and interim financial reports.

45 (ii) Proxy materials.

- 1 (iii) Registration statements.  
2 (iv) Securities prospectuses.  
3 (v) Applications for listing of securities on stock exchanges.  
4 (vi) Prospectuses.  
5 (vii) Property reports.  
6 (viii) Offering statements.
- 7 3. "Affiliate" means a person who, directly or indirectly through one  
8 or more intermediaries, controls, is controlled by or is under common control  
9 with the person specified.
- 10 4. "Associate broker" means a licensed broker employed by another  
11 broker. Unless otherwise specifically provided, an associate broker has the  
12 same license privileges as a salesperson.
- 13 5. "Barrier" means a natural or man-made geographical feature that  
14 prevents parcels of land from being practicably, reasonably and economically  
15 united or reunited and that was not caused or created by the owner of the  
16 parcels.
- 17 6. "Blanket encumbrance" means any mortgage, any deed of trust or any  
18 other encumbrance or lien securing or evidencing the payment of money and  
19 affecting more than one lot or parcel of subdivided land, or an agreement  
20 affecting more than one lot or parcel by which the subdivider holds the  
21 subdivision under an option, contract to sell or trust agreement. Blanket  
22 encumbrance does not include taxes and assessments levied by public  
23 authority.
- 24 7. "Board" means the state real estate advisory board.
- 25 8. "Broker", when used without modification, means a person who is  
26 licensed as a broker under this chapter or who is required to be licensed as  
27 a broker under this chapter.
- 28 9. "Business broker" means a real estate broker who acts as an  
29 intermediary or agent between sellers or buyers, or both, in the sale or  
30 purchase, or both, of businesses or business opportunities where a lease or  
31 sale of real property is either a direct or incidental part of the  
32 transaction.
- 33 10. "Camping site" means a space designed and promoted for the purpose  
34 of locating any trailer, tent, tent trailer, pickup camper or other similar  
35 device used for camping.
- 36 11. "Cemetery" or "cemetery property" means any one, or a combination  
37 of more than one, of the following in a place used, or intended to be used,  
38 and dedicated for cemetery purposes:
- 39 (a) A burial park, for earth interments.  
40 (b) A mausoleum, for crypt or vault entombments.  
41 (c) A crematory, or a crematory and columbarium, for cinerary  
42 interments.  
43 (d) A cemetery plot, including interment rights, mausoleum crypts,  
44 niches and burial spaces.

1           12. "Cemetery broker" means a person other than a real estate broker or  
2 real estate salesperson who, for another, for compensation:

3           (a) Sells, leases or exchanges cemetery property or interment services  
4 of or for another, or on the person's own account.

5           (b) Offers for another or for the person's own account to buy, sell,  
6 lease or exchange cemetery property or interment services.

7           (c) Negotiates the purchase and sale, lease or exchange of cemetery  
8 property or interment services.

9           (d) Negotiates the purchase or sale, lease or exchange, or lists or  
10 solicits, or negotiates a loan on or leasing of cemetery property or  
11 interment services.

12           13. "Cemetery salesperson" means a natural person who acts on the  
13 person's own behalf or through and on behalf of a professional limited  
14 liability company or a professional corporation engaged by or on behalf of a  
15 licensed cemetery or real estate broker, or through and on behalf of a  
16 corporation, partnership or limited liability company that is licensed as a  
17 cemetery or real estate broker, to perform any act or transaction included in  
18 the definition of cemetery broker.

19           14. "Commissioner" means the state real estate commissioner.

20           15. "Common promotional plan" means a plan, undertaken by a person or a  
21 group of persons acting in concert, to offer lots for sale or lease. If the  
22 land is offered for sale by a person or group of persons acting in concert,  
23 and the land is contiguous or is known, designated or advertised as a common  
24 unit or by a common name, the land is presumed, without regard to the number  
25 of lots covered by each individual offering, as being offered for sale or  
26 lease as part of a common promotional plan. Separate subdividers selling  
27 lots or parcels in separately platted subdivisions within a master planned  
28 community shall not be deemed to be offering their combined lots for sale or  
29 lease as part of a common promotional plan.

30           16. "Compensation" means any fee, commission, salary, money or other  
31 valuable consideration for services rendered or to be rendered as well as the  
32 promise of consideration whether contingent or not.

33           17. "Contiguous" means lots, parcels or fractional interests that share  
34 a common boundary or point. Lots, parcels or fractional interests are not  
35 contiguous if they are separated by either of the following:

36           (a) A barrier.

37           (b) A road, street or highway that has been established by this state  
38 or by any agency or political subdivision of this state, that has been  
39 designated by the federal government as an interstate highway or that has  
40 been regularly maintained by this state or by any agency or political  
41 subdivision of this state and has been used continuously by the public for at  
42 least the last five years.

43           18. "Control" or "controlled" means a person who, through ownership,  
44 voting rights, power of attorney, proxy, management rights, operational

1 rights or other rights, has the right to make decisions binding on an entity,  
2 whether a corporation, a partnership or any other entity.

3 19. "Corporation licensee" means a lawfully organized corporation that  
4 is registered with the Arizona corporation commission and that has an officer  
5 licensed as the designated broker pursuant to section 32-2125.

6 20. "Department" means the state real estate department.

7 21. "Designated broker" means the natural person who is licensed as a  
8 broker under this chapter and who is either:

9 (a) Designated to act on behalf of an employing real estate, cemetery  
10 or membership camping entity.

11 (b) Doing business as a sole proprietor.

12 22. "Developer" means a person who offers real property in a  
13 development for sale, lease or use, either immediately or in the future, on  
14 the person's own behalf or on behalf of another person, under this chapter.  
15 Developer does not include a person whose involvement with a development is  
16 limited to the listing of property within the development for sale, lease or  
17 use.

18 23. "Development" means any division, proposed division or use of real  
19 property that the department has authority to regulate, including subdivided  
20 and unsubdivided lands, cemeteries, condominiums, timeshares, membership  
21 campgrounds and stock cooperatives.

22 24. "Employing broker" means a person who is licensed or is required to  
23 be licensed as a:

24 (a) Broker entity pursuant to section 32-2125, subsection A.

25 (b) Sole proprietorship if the sole proprietor is a broker licensed  
26 pursuant to this chapter.

27 25. "Fractional interest" means an undivided interest in improved or  
28 unimproved land, lots or parcels of any size created for the purpose of sale  
29 or lease and evidenced by any receipt, certificate, deed or other document  
30 conveying the interest. Undivided interests in land, lots or parcels created  
31 in the names of a husband and wife as community property, joint tenants or  
32 tenants in common, or in the names of other persons who, acting together as  
33 part of a single transaction, acquire the interests without a purpose to  
34 divide the interests for present or future sale or lease shall be deemed to  
35 constitute only one fractional interest.

36 26. "Improved lot or parcel" means a lot or parcel of a subdivision  
37 upon which lot or parcel there is a residential, commercial or industrial  
38 building or concerning which a contract has been entered into between a  
39 subdivider and a purchaser that obligates the subdivider directly, or  
40 indirectly through a building contractor, to complete construction of a  
41 residential, commercial or industrial building on the lot or parcel within  
42 two years from the date on which the contract of sale for the lot is entered  
43 into.

1           27. "Inactive license" means a license issued pursuant to article 2 of  
2 this chapter to a licensee who is on inactive status during the current  
3 license period and who is not engaged by or on behalf of a broker.

4           28. "Lease" or "leasing" includes any lease, whether it is the sole,  
5 the principal or any incidental part of a transaction.

6           29. "License" means the whole or part of any agency permit,  
7 certificate, approval, registration, public report, charter or similar form  
8 of permission required by this chapter.

9           30. "License period" means the two year period beginning with the date  
10 of original issue or renewal of a particular license and ending on the  
11 expiration date, if any.

12           31. "Licensee" means a person to whom a license for the current license  
13 period has been granted under any provision of this chapter, and, for  
14 purposes of section 32-2153, subsection A, shall include original license  
15 applicants.

16           32. "Limited liability company licensee" means a lawfully organized  
17 limited liability company that has a member or manager who is a natural  
18 person and who is licensed as the designated broker pursuant to section  
19 32-2125.

20           33. "Lot reservation" means an expression of interest by a prospective  
21 purchaser in buying at some time in the future a subdivided or unsubdivided  
22 lot, unit or parcel in this state. In all cases, a subsequent affirmative  
23 action by the prospective purchaser must be taken to create a contractual  
24 obligation to purchase.

25           34. "Master planned community" means a development that consists of two  
26 or more separately platted subdivisions and that is either subject to a  
27 master declaration of covenants, conditions or restrictions, is subject to  
28 restrictive covenants sufficiently uniform in character to clearly indicate a  
29 general scheme for improvement or development of real property or is governed  
30 or administered by a master owner's association.

31           35. "Member" means a member of the real estate advisory board.

32           36. "Membership camping broker" means a person, other than a  
33 salesperson, who, for compensation:

34           (a) Sells, purchases, lists, exchanges or leases membership camping  
35 contracts.

36           (b) Offers to sell, purchase, exchange or lease membership camping  
37 contracts.

38           (c) Negotiates or offers, attempts or agrees to negotiate the sale,  
39 purchase, exchange or lease of membership camping contracts.

40           (d) Advertises or holds himself out as being engaged in the business  
41 of selling, buying, exchanging or leasing membership camping contracts or  
42 counseling or advising regarding membership camping contracts.

43           (e) Assists or directs in the procuring of prospects calculated or  
44 intended to result in the sale, purchase, listing, exchange or lease of  
45 membership camping contracts.

1 (f) Performs any of the foregoing acts as an employee or on behalf of  
2 a membership camping operator or membership contract owner.

3 37. "Membership camping contract" means an agreement offered or sold in  
4 this state evidencing a purchaser's right or license to use the camping or  
5 outdoor recreation facilities of a membership camping operator and includes a  
6 membership that provides for this use.

7 38. "Membership camping operator" means an enterprise, other than one  
8 that is tax exempt under section 501(c)(3) of the internal revenue code of  
9 1986, as amended, that solicits membership paid for by a fee or periodic  
10 payments and has as one of its purposes camping or outdoor recreation  
11 including the use of camping sites primarily by members. Membership camping  
12 operator does not include camping or recreational trailer parks that are open  
13 to the general public and that contain camping sites rented for a per use fee  
14 or a mobile home park.

15 39. "Membership camping salesperson" means a natural person who acts on  
16 the person's own behalf or through and on behalf of a professional limited  
17 liability company or a professional corporation engaged by or on behalf of a  
18 licensed membership camping or real estate broker, or by or on behalf of a  
19 corporation, partnership or limited liability company that is licensed as a  
20 membership camping or real estate broker, to perform any act or participate  
21 in any transaction in a manner included in the definition of membership  
22 camping broker.

23 40. "Partnership licensee" means a partnership with a managing general  
24 partner who is licensed as the designated broker pursuant to section 32-2125.

25 41. "Permanent access", as required under article 4 of this chapter,  
26 means permanent access from the subdivision to any federal, state or county  
27 highway.

28 42. "Perpetual or endowed-care cemetery" means a cemetery wherein lots  
29 or other burial spaces are sold or transferred under the representation that  
30 the cemetery will receive "perpetual" or "endowed" care as defined in this  
31 section free of further cost to the purchaser after payment of the original  
32 purchase price for the lot, burial space or interment right.

33 43. "Perpetual-care" or "endowed-care" means the maintenance and care  
34 of all places where interments have been made of the trees, shrubs, roads,  
35 streets and other improvements and embellishments contained within or forming  
36 a part of the cemetery. This shall not include the maintenance or repair of  
37 monuments, tombs, copings or other man-made ornaments as associated with  
38 individual burial spaces.

39 44. "Person" means any individual, corporation, partnership or company  
40 and any other form of multiple organization for carrying on business, foreign  
41 or domestic.

42 45. "Private cemetery" means a cemetery or place that is not licensed  
43 under article 6 of this chapter, where burials or interments of human remains  
44 are made, in which sales or transfers of interment rights or burial plots are

1 not made to the public and in which not more than ten interments or burials  
2 occur annually.

3 46. "Promotion" or "promotional practice" means advertising and any  
4 other act, practice, device or scheme to induce directly or indirectly any  
5 person to enter into any obligation or acquire any title or interest in or  
6 use of real property subject to this chapter, including meetings with  
7 prospective purchasers, arrangements for prospective purchasers to visit real  
8 property, travel allowances and discount, exchange, refund and cancellation  
9 privileges.

10 47. "Real estate" includes leasehold-interests and any estates in land  
11 as defined in title 33, chapter 2, articles 1 and 2, regardless of whether  
12 located in this state.

13 48. "Real estate broker" means a person, other than a salesperson, who,  
14 for another and for compensation:

15 (a) Sells, exchanges, purchases, rents or leases real estate,  
16 businesses and business opportunities or timeshare interests.

17 (b) Offers to sell, exchange, purchase, rent or lease real estate,  
18 businesses and business opportunities or timeshare interests.

19 (c) Negotiates or offers, attempts or agrees to negotiate the sale,  
20 exchange, purchase, rental or leasing of real estate, businesses and business  
21 opportunities or timeshare interests.

22 (d) Lists or offers, attempts or agrees to list real estate,  
23 businesses and business opportunities or timeshare interests for sale, lease  
24 or exchange.

25 (e) Auctions or offers, attempts or agrees to auction real estate,  
26 businesses and business opportunities or timeshare interests.

27 (f) Buys, sells, offers to buy or sell or otherwise deals in options  
28 on real estate, businesses and business opportunities or timeshare interests  
29 or improvements to real estate, businesses and business opportunities or  
30 timeshare interests.

31 (g) Collects or offers, attempts or agrees to collect rent for the use  
32 of real estate, businesses and business opportunities or timeshare interests.

33 (h) Advertises or holds himself out as being engaged in the business  
34 of buying, selling, exchanging, renting or leasing real estate, businesses  
35 and business opportunities or timeshare interests or counseling or advising  
36 regarding real estate, businesses and business opportunities or timeshare  
37 interests.

38 (i) Assists or directs in the procuring of prospects, calculated to  
39 result in the sale, exchange, leasing or rental of real estate, businesses  
40 and business opportunities or timeshare interests.

41 (j) Assists or directs in the negotiation of any transaction  
42 calculated or intended to result in the sale, exchange, leasing or rental of  
43 real estate, businesses and business opportunities or timeshare interests.

44 (k) Incident to the sale of real estate, businesses and business  
45 opportunities negotiates or offers, attempts or agrees to negotiate a loan

1 secured or to be secured by any mortgage or other encumbrance upon or  
2 transfer of real estate, businesses and business opportunities or timeshare  
3 interests subject to section 32-2155, subsection C. This subdivision does  
4 not apply to mortgage brokers as defined in and subject to title 6, chapter  
5 9, article 1.

6 (l) Engages in the business of assisting or offering to assist another  
7 in filing an application for the purchase or lease of, or in locating or  
8 entering upon, lands owned by the state or federal government.

9 (m) Claims, demands, charges, receives, collects or contracts for the  
10 collection of an advance fee in connection with any employment enumerated in  
11 this section, including employment undertaken to promote the sale or lease of  
12 real property by advance fee listing, by furnishing rental information to a  
13 prospective tenant for a fee paid by the prospective tenant, by advertisement  
14 or by any other offering to sell, lease, exchange or rent real property or  
15 selling kits connected therewith. This shall not include the activities of  
16 any communications media of general circulation or coverage not primarily  
17 engaged in the advertisement of real estate or any communications media  
18 activities that are specifically exempt from applicability of this article  
19 under section 32-2121.

20 (n) Engages in any of the acts listed in subdivisions (a) through (m)  
21 of this paragraph for the sale or lease of other than real property if a real  
22 property sale or lease is a part of, contingent on or ancillary to the  
23 transaction.

24 (o) Performs any of the acts listed in subdivisions (a) through (m) of  
25 this paragraph as an employee of, or in behalf of, the owner of real estate,  
26 or interest in the real estate, or improvements affixed on the real estate,  
27 for compensation.

28 (p) Acts as a business broker.

29 49. "Real estate sales contract" means an agreement in which one party  
30 agrees to convey title to real estate to another party upon the satisfaction  
31 of specified conditions set forth in the contract.

32 50. "Real estate salesperson" means a natural person who acts on the  
33 person's own behalf or through and on behalf of a professional limited  
34 liability company or a professional corporation engaged by or on behalf of a  
35 licensed real estate broker, or by or on behalf of a limited liability  
36 company, partnership or corporation that is licensed as a real estate broker,  
37 to perform any act or participate in any transaction in a manner included in  
38 the definition of real estate broker subject to section 32-2155.

39 51. "Sale" or "lease" includes every disposition, transfer, option or  
40 offer or attempt to dispose of or transfer real property, or an interest, use  
41 or estate in the real property, including the offering of the property as a  
42 prize or gift if a monetary charge or consideration for whatever purpose is  
43 required.

44 52. "Salesperson", when used without modification, means a natural  
45 person who acts on the person's own behalf or through and on behalf of a

1 professional limited liability company or a professional corporation licensed  
2 under this chapter or any person required to be licensed as a salesperson  
3 under this chapter.

4 53. "School" means a person or entity that offers a course of study  
5 towards completion of the education requirements leading to licensure or  
6 renewal of licensure under this chapter.

7 54. "Stock cooperative" means a corporation to which all of the  
8 following apply:

9 (a) The corporation is formed or used to hold title to improved real  
10 property in fee simple or for a term of years.

11 (b) All or substantially all of the shareholders of the corporation  
12 each receive a right of exclusive occupancy in a portion of the real property  
13 to which the corporation holds title.

14 (c) The right of occupancy may only be transferred with the concurrent  
15 transfer of the shares of stock in the corporation held by the person having  
16 the right of occupancy.

17 55. "Subdivider" means any person who offers for sale or lease six or  
18 more lots, parcels or fractional interests in a subdivision or who causes  
19 land to be subdivided into a subdivision for the subdivider or for others, or  
20 who undertakes to develop a subdivision, but does not include a public agency  
21 or officer authorized by law to create subdivisions.

22 56. "Subdivision" or "subdivided lands":

23 (a) Means improved or unimproved land or lands divided or proposed to  
24 be divided for the purpose of sale or lease, whether immediate or future,  
25 into six or more lots, parcels or fractional interests.

26 (b) Includes a stock cooperative, lands divided or proposed to be  
27 divided as part of a common promotional plan and residential condominiums as  
28 defined in title 33, chapter 9.

29 (c) Does not include:

30 (i) Leasehold offerings of one year or less.

31 (ii) The division or proposed division of land located in this state  
32 into lots or parcels each of which is or will be thirty-six acres or more in  
33 area including to the centerline of dedicated roads or easements, if any,  
34 contiguous to the lot or parcel.

35 (iii) The leasing of agricultural lands or apartments, offices,  
36 stores, hotels, motels, pads or similar space within an apartment building,  
37 industrial building, rental recreational vehicle community, rental  
38 manufactured home community, rental mobile home park or commercial building.

39 (iv) The subdivision into or development of parcels, plots or  
40 fractional portions within the boundaries of a cemetery that has been formed  
41 and approved pursuant to this chapter.

42 (v) A SALE OR LEASE OF A LOT, PARCEL OR FRACTIONAL INTEREST THAT  
43 OCCURS TEN OR MORE YEARS AFTER THE SALE OR LEASE OF ANOTHER LOT, PARCEL OR  
44 FRACTIONAL INTEREST IF THE OTHER LOT, PARCEL OR FRACTIONAL INTEREST IS NOT  
45 SUBJECT TO THIS ARTICLE AND IS TREATED AS AN INDEPENDENT PARCEL.



1 licensee, owner, **INCLUDING THE CURRENT OWNER OF THE PROPERTY**, operator, agent  
2 or developer may request a hearing pursuant to title 41, chapter 6,  
3 article 10. A summary suspension shall be deemed to be final if a request  
4 for a hearing is not received within thirty days as provided by section  
5 41-1092.03.

6 C. The department may issue a summary suspension when the department  
7 receives notice that a person licensed pursuant to this chapter has been  
8 convicted of a felony offense and is currently incarcerated for the  
9 conviction, paroled or under the supervision of a parole or community  
10 supervision officer or is on probation as a result of the conviction. This  
11 subsection does not limit the commissioner's authority to seek revocation of  
12 a license or other disciplinary action pursuant to this chapter.

13 Sec. 5. Section 32-2181, Arizona Revised Statutes, as amended by Laws  
14 2010, chapter 244, section 18, is amended to read:

15 32-2181. Notice to commissioner of intention to subdivide  
16 lands; unlawful acting in concert; exceptions; deed  
17 restrictions; definition

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

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

29 2. The name and address of the subdivider.

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

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

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

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

1 costs related to the improvements that will be borne by purchasers of lots in  
2 the subdivision.

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

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

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

17 (a) Any subdivision in this state.

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

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

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

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

28 (b) The subdivider.

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

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

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

44 (a) That the property is a conversion from multifamily rental to  
45 condominiums.

1 (b) The date original construction was completed.

2 25. Other information and documents and certifications as the  
3 commissioner may reasonably require provided that the subdivider shall not be  
4 required to disclose any critical infrastructure information as defined in  
5 section 41-1801 or any information contained in a report issued pursuant to  
6 section 41-4273.

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

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

30 D. It is unlawful for a person or group of persons acting in concert  
31 to attempt to avoid this article by acting in concert to divide a parcel of  
32 land or sell subdivision lots by using a series of owners or conveyances or  
33 by any other method that ultimately results in the division of the lands into  
34 a subdivision or the sale of subdivided land. The plan or offering is  
35 subject to this article. Unlawful acting in concert pursuant to this  
36 subsection with respect to the sale or lease of subdivision lots requires  
37 proof that the real estate licensee or other licensed professional knew or  
38 with the exercise of reasonable diligence should have known that property  
39 which the licensee listed or for which the licensee acted in any capacity as  
40 agent was subdivided land subject to this article. **A FAMILIAL RELATIONSHIP  
41 ALONE IS NOT SUFFICIENT TO CONSTITUTE UNLAWFUL ACTING IN CONCERT.**

42 E. A creation of six or more lots, parcels or fractional interests in  
43 improved or unimproved land, lots or parcels of any size is subject to this  
44 article except when:

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

5           2. The lots, parcels or fractional interests are the result of a  
6 foreclosure sale, the exercise by a trustee under a deed of trust of a power  
7 of sale or the grant of a deed in lieu of foreclosure. This paragraph does  
8 not allow circumvention of the requirements of this article.

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

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

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

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

24           7. A SALE OR LEASE OF A LOT, PARCEL OR FRACTIONAL INTEREST OCCURS TEN  
25 OR MORE YEARS AFTER THE SALE OR LEASE OF ANOTHER LOT, PARCEL OR FRACTIONAL  
26 INTEREST AND THE OTHER LOT, PARCEL OR FRACTIONAL INTEREST IS NOT SUBJECT TO  
27 THIS ARTICLE AND IS TREATED AS AN INDEPENDENT PARCEL.

28           F. In areas outside of active management areas established pursuant to  
29 title 45, chapter 2, article 2:

30           1. If the subdivision is located in a county that has adopted the  
31 provision authorized by section 11-823, subsection A, or in a city or town  
32 that has enacted an ordinance pursuant to section 9-463.01, subsection 0, the  
33 subdivider shall accompany the notice with a report issued by the director of  
34 water resources pursuant to section 45-108 stating that the subdivision has  
35 an adequate water supply, unless one of the following applies:

36           (a) The subdivider submitted the report to a city, town or county  
37 before approval of the plat by the city, town or county and this has been  
38 noted on the face of the plat.

39           (b) The subdivider has obtained a written commitment of water service  
40 for the subdivision from a city, town or private water company designated as  
41 having an adequate water supply by the director of water resources pursuant  
42 to section 45-108.

43           (c) The plat was approved pursuant to an exemption authorized by  
44 section 9-463.01, subsection K, pursuant to an exemption authorized by  
45 section 11-823, subsection B, paragraph 1, pursuant to an exemption granted

1 by the director of water resources under section 45-108.02 and the exemption  
2 has not expired or pursuant to an exemption granted by the director under  
3 section 45-108.03. If the plat was approved pursuant to an authorized  
4 exemption, the state real estate commissioner shall require that all  
5 promotional material and contracts for the sale of lots in the subdivision  
6 adequately display the following:

7 (i) The director of water resources' report or the developer's brief  
8 summary of the report as approved by the commissioner on the proposed water  
9 supply for the subdivision.

10 (ii) A statement describing the exemption under which the subdivision  
11 was approved, including the specific conditions of the exemption that were  
12 met. If the plat was approved by the legislative body of a city or town  
13 pursuant to an exemption authorized by section 9-463.01, subsection K or by  
14 the board of supervisors of a county pursuant to an exemption authorized by  
15 section 11-823, subsection B, paragraph 1, the subdivider shall record the  
16 document required by section 33-406.

17 (d) The subdivision received final plat approval from the city, town  
18 or county before the requirement for an adequate water supply became  
19 effective in the city, town or county, and there have been no material  
20 changes to the plat since the final plat approval. If changes were made to  
21 the plat after the final plat approval, the director of water resources shall  
22 determine whether the changes are material pursuant to the rules adopted by  
23 the director to implement section 45-108. If this subdivision applies, the  
24 state real estate commissioner shall require that all promotional materials  
25 and contracts for the sale of lots in the subdivision adequately display the  
26 director of water resources' report or the developer's brief summary of the  
27 report as approved by the commissioner on the proposed water supply for the  
28 subdivision.

29 2. If the subdivision is not located in a county that has adopted the  
30 provision authorized by section 11-823, subsection A or in a city or town  
31 that has enacted an ordinance pursuant to section 9-463.01, subsection O, and  
32 if the director of water resources, pursuant to section 45-108, reports an  
33 inadequate on-site supply of water to meet the needs projected by the  
34 developer or if no water is available, the state real estate commissioner  
35 shall require that all promotional material and contracts for the sale of  
36 lots in subdivisions approved by the commissioner adequately display the  
37 director of water resources' report or the developer's brief summary of the  
38 report as approved by the commissioner on the proposed water supply for the  
39 subdivision.

40 G. The commissioner may require the subdivider to supplement the  
41 notice of intention to subdivide lands and may require the filing of periodic  
42 reports to update the information contained in the original notice of  
43 intention to subdivide lands.

44 H. The commissioner may authorize the subdivider to file as the notice  
45 of intention to subdivide lands, in lieu of some or all of the requirements

1 of subsection A of this section, a copy of the statement of record filed with  
2 respect to the subdivision pursuant to the federal interstate land sales full  
3 disclosure act if the statement complies with the requirements of the act and  
4 the regulations pertinent to the act.

5 I. Neither a real estate sales contract, conveyance, lease, assignment  
6 or other instrument to transfer any interest in subdivided land nor any  
7 covenant or restriction affecting real property shall contain any provision  
8 limiting the right of any party to appear or testify in support of or  
9 opposition to zoning changes, building permits or any other official acts  
10 affecting real property before a governmental body or official considering  
11 zoning changes, building permits or any other official acts affecting real  
12 property, whether the property is located within or outside of the boundaries  
13 of the subdivision. All contractual provisions that conflict with this  
14 subsection are declared to be contrary to public policy. Nothing contained  
15 in this subsection shall prohibit private restrictions on the use of any real  
16 property.

17 J. Before offering subdivided lands for lease or sale, the subdivider  
18 who makes any promises through any form of advertising media that the  
19 subdivided lands will be exclusively a retirement community or one that is  
20 limited to the residency of adults or senior citizens shall include the  
21 promises in the deed restrictions affecting any interest in real property  
22 within the subdivided lands.

23 Sec. 6. Section 32-2182, Arizona Revised Statutes, is amended to read:  
24 32-2182. Examination of subdivision by commissioner; fee; time  
25 limit to determine violation

26 A. The commissioner shall examine any subdivision offered for sale or  
27 lease, and shall make public his findings. The total cost of travel and  
28 subsistence expenses incurred by the department in the examination, in  
29 addition to the initial filing fee provided for in this section, shall be  
30 borne by the subdivider on the basis of actual cost to the department. A  
31 filing fee of five hundred dollars or such lesser fee as determined by the  
32 commissioner shall accompany the written notification required in section  
33 32-2181.

34 B. The commissioner may, but is not required to, inspect a subdivision  
35 site if all of the following apply:

36 1. The commissioner has previously inspected the subdivision within  
37 the past two years.

38 2. All proposed improvements were complete at the time of the previous  
39 inspection.

40 3. The sales offering does not include any changes to the physical  
41 aspects of the subdivision, including the plat, site and locations of  
42 improvements.

43 C. The commissioner is not required to complete the inspection of the  
44 subdivision site before issuing a public report. Nevertheless, if the  
45 commissioner discovers anything during any subsequent inspection that would

1 have been grounds to deny issuance of the public report or anything that  
2 would have warranted additional disclosure in the public report, the  
3 commissioner may issue a summary order as provided in section 32-2157 ~~and~~  
4 ~~take whatever other action he deems necessary to ensure compliance with the~~  
5 ~~subdivision laws of this state.~~

6 D. NOTWITHSTANDING ANY OTHER LAW, THE COMMISSIONER HAS NO MORE THAN  
7 FIVE YEARS AFTER THE DATE OF AN INITIAL COMPLAINT OR INITIATION OF AN  
8 INVESTIGATION BY THE COMMISSIONER TO DETERMINE IF THE SALE OR LEASE VIOLATED  
9 THIS ARTICLE.

10 Sec. 7. Section 32-2183, Arizona Revised Statutes, as amended by Laws  
11 2010, chapter 144, section 2, is amended to read:

12 32-2183. Subdivision public reports; denial of issuance;  
13 unlawful sales; voidable sale or lease; order  
14 prohibiting sale or lease; investigations; hearings;  
15 summary orders

16 A. Upon examination of a subdivision, the commissioner, unless there  
17 are grounds for denial, shall issue to the subdivider a public report  
18 authorizing the sale or lease in this state of the lots, parcels or  
19 fractional interests within the subdivision. The report shall contain the  
20 data obtained in accordance with section 32-2181 and any other information  
21 which the commissioner determines is necessary to implement the purposes of  
22 this article. If any of the lots, parcels or fractional interests within the  
23 subdivision are located within territory in the vicinity of a military  
24 airport or ancillary military facility as defined in section 28-8461, under a  
25 military training route as delineated in the military training route map  
26 prepared pursuant to section 37-102, under restricted air space as delineated  
27 in the restricted air space map prepared pursuant to section 37-102 or  
28 contained in the military electronics range as delineated in the military  
29 electronics range map prepared pursuant to section 37-102, the report shall  
30 include, in bold twelve point font block letters on the first page of the  
31 report, the statements required pursuant to section 28-8484, subsection A,  
32 section 32-2183.05 or section 32-2183.06 and, if the department has been  
33 provided a map prepared pursuant to section 28-8484, subsection B or section  
34 37-102, the report shall include a copy of the map. The military airport  
35 report requirements do not require the amendment or reissuance of any public  
36 report issued on or before December 31, 2001 or on or before December 31 of  
37 the year in which the lots, parcels or fractional interests within a  
38 subdivision become territory in the vicinity of a military airport or  
39 ancillary military facility. The military training route report requirements  
40 do not require the amendment or reissuance of any public report issued on or  
41 before December 31, 2004. The restricted air space report requirements do  
42 not require the amendment or reissuance of any public report issued on or  
43 before December 31, 2006. The military electronics range report requirements  
44 do not require the amendment or reissuance of any public report issued on or  
45 before December 31, 2008. The commissioner shall require the subdivider to

1 reproduce the report, make the report available to each prospective customer  
2 and furnish each buyer or lessee with a copy before the buyer or lessee signs  
3 any offer to purchase or lease, taking a receipt therefor.

4 B. This section shall not be construed to require a public report  
5 issued sixty or fewer days prior to the filing of the military electronics  
6 range map prepared pursuant to section 37-102 to meet the military  
7 electronics range notification requirements of this section.

8 C. A public report issued sixty-one or more days after the filing of  
9 the military electronics range map prepared pursuant to section 37-102 shall  
10 meet all of the requirements of subsection A of this section.

11 D. Notwithstanding subsection A of this section, a subdivider may  
12 elect to prepare a final public report for use in the sale of improved lots  
13 as defined in section 32-2101, as follows:

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

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

21 3. The department shall assign a registration number to each  
22 notification and public report submitted pursuant to this subsection and  
23 shall maintain a database of all of these submissions. The subdivider shall  
24 place the number on each public report.

25 4. On receipt of the notification and public report, the department  
26 shall review and issue within ten business days either a certification that  
27 the notification and public report are administratively complete or a denial  
28 letter if it appears that the application or project is not in compliance  
29 with all legal requirements, that the applicant has a background of  
30 violations of state or federal law or that the applicant or project presents  
31 an unnecessary risk of harm to the public. If the commissioner has received  
32 the notification and public report but has not issued a certification or a  
33 denial letter within ten business days pursuant to this paragraph, the  
34 notification and public report are administratively complete.

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

38 6. Before or after the commissioner issues a certificate of  
39 administrative completeness or, if applicable, after the notification and  
40 public report are deemed to be administratively complete pursuant to  
41 paragraph 4 of this subsection, the department may examine any public report,  
42 subdivision or applicant that has applied for or received the certificate.  
43 If the commissioner determines that the subdivider or subdivision is not in  
44 compliance with any requirement of state law or that grounds exist under this  
45 chapter to suspend, deny or revoke a public report, the commissioner may

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

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

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

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

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

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

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

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

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

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

29 (b) Been permanently or temporarily enjoined by order, judgment or  
30 decree from engaging in or continuing any conduct or practice in connection  
31 with the sale or purchase of real estate or cemetery property, time-share  
32 intervals, membership camping contracts or campgrounds, or securities or  
33 involving consumer fraud or the racketeering laws of this state.

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

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

40 (e) Disregarded or violated this chapter or the rules of the  
41 commissioner pertaining to this chapter.

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

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

4           8. Failure of the declaration for a condominium created pursuant to  
5 title 33, chapter 9, article 2 to comply with the requirements of section  
6 33-1215 or failure of the plat for the condominium to comply with the  
7 requirements of section 33-1219. The commissioner may require an applicant  
8 for a public report to submit a notarized statement signed by the subdivider  
9 or an engineer or attorney licensed to practice in this state certifying that  
10 the condominium plat and declaration of condominium are in compliance with  
11 the requirements of sections 33-1215 and 33-1219. If the notarized statement  
12 is provided, the commissioner is entitled to rely on this statement.

13           9. Failure of any blanket encumbrance or valid supplementary agreement  
14 executed by the holder of the blanket encumbrance to contain provisions that  
15 enable the purchaser to acquire title to a lot or parcel free of the lien of  
16 the blanket encumbrance, on completion of all payments and performance of all  
17 of the terms and provisions required to be made or performed by the purchaser  
18 under the real estate sales contract by which the purchaser has acquired the  
19 lot or parcel. The subdivider shall file copies of documents acceptable to  
20 the commissioner containing these provisions with the commissioner before the  
21 sale of any subdivision lot or parcel subject to a blanket encumbrance.

22           10. Failure to demonstrate permanent access to the subdivision lots or  
23 parcels.

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

25           F. It is unlawful for a subdivider to sell any lot in a subdivision  
26 unless one of the following occurs:

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

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

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

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

42           G. If the subdivision is within an active management area, as defined  
43 in section 45-402, the commissioner shall deny issuance of a public report or  
44 the use of any exemption pursuant to section 32-2181.02, subsection B unless  
45 the subdivider has been issued a certificate of assured water supply by the

1 director of water resources and has paid all applicable fees pursuant to  
2 sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a  
3 written commitment of water service for the subdivision from a city, town or  
4 private water company designated as having an assured water supply by the  
5 director of water resources pursuant to section 45-576 or is exempt from the  
6 requirement pursuant to section 45-576.

7 H. In areas outside of active management areas, if the subdivision is  
8 located in a county that has adopted the provision authorized by section  
9 ~~11-806.01, subsection F~~ 11-823, SUBSECTION A or in a city or town that has  
10 enacted an ordinance pursuant to section 9-463.01, subsection O, the  
11 commissioner shall deny issuance of a public report or the use of any  
12 exemption pursuant to section 32-2181.02, subsection B unless one of the  
13 following applies:

14 1. The director of water resources has reported pursuant to section  
15 45-108 that the subdivision has an adequate water supply.

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

20 3. The plat was approved pursuant to an exemption authorized by  
21 section 9-463.01, subsection K, pursuant to an exemption authorized by  
22 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, pursuant  
23 to an exemption granted by the director of water resources under section  
24 45-108.02 and the exemption has not expired or pursuant to an exemption  
25 granted by the director of water resources under section 45-108.03.

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

33 I. A subdivider shall not sell or lease or offer for sale or lease in  
34 this state any lots, parcels or fractional interests in a subdivision without  
35 first obtaining a public report from the commissioner except as provided in  
36 section 32-2181.01 or 32-2181.02, AND A CERTIFICATE OF ADMINISTRATIVE  
37 COMPLETENESS ISSUED PURSUANT TO THIS SECTION. Unless exempt, the sale or  
38 lease of subdivided lands prior to issuance of the public report or failure  
39 to deliver the public report to the purchaser or lessee shall render the sale  
40 or lease rescindable by the purchaser, ~~or~~ THE lessee OR ANY CURRENT OWNER OF  
41 THE LAND. An action by the purchaser, ~~or~~ THE lessee OR ANY CURRENT OWNER OF  
42 THE LAND to rescind the transaction FOR A VIOLATION OF THIS ARTICLE shall be  
43 brought within ~~three~~ FIVE years of the date of ~~execution of the purchase or~~  
44 ~~lease agreement by the purchaser or lessee~~ AN INITIAL COMPLAINT OR INITIATION  
45 OF AN INVESTIGATION BY THE COMMISSIONER. In any rescission action, the

1 prevailing party is entitled to reasonable attorney fees as determined by the  
2 court.

3 J. On a print advertisement in a magazine or newspaper or on an  
4 internet advertisement that advertises a specific lot or parcel of a  
5 subdivider, the subdivider shall include a disclosure stating that "a public  
6 report is available on the state real estate department's website".

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

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

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

1 real or personal, that may have been acquired by means of any practice in  
2 this article declared to be unlawful.

3 N. When it appears to the commissioner that a person has engaged in or  
4 is engaging in a practice declared to be unlawful by this article and that  
5 the person is concealing assets or self or has made arrangements to conceal  
6 assets or is about to leave the state, the commissioner may apply to the  
7 superior court, ex parte, for an order appointing a receiver of the assets of  
8 the person or for a writ of ne exeat, or both.

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

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

26 Sec. 8. Repeal

27 Section 32-2183, Arizona Revised Statutes, as amended by Laws 2010,  
28 chapter 244, section 19, is repealed.

29 Sec. 9. Section 32-2195.03, Arizona Revised Statutes, is amended to  
30 read:

31 32-2195.03. Unsubdivided land reports; denial of issuance;  
32 order prohibiting sale or lease; investigations;  
33 hearings; summary orders

34 A. Upon examination of unsubdivided land, the commissioner, unless  
35 there are grounds for denial, shall prepare and issue to the owner or agent a  
36 public report authorizing the sale or lease of the unsubdivided lands in this  
37 state. The report shall contain the data obtained in accordance with section  
38 32-2195 and any other information which the commissioner determines is  
39 necessary to implement the purposes of this article. If any of the  
40 unsubdivided land is located within territory in the vicinity of a military  
41 airport or ancillary military facility as defined in section 28-8461, the  
42 report shall include, in bold twelve point font block letters on the first  
43 page of the report, the statements required pursuant to section 28-8484,  
44 subsection A and, if the department has been provided a map prepared pursuant  
45 to section 28-8484, subsection B, the report shall include a copy of the map.

1 These report requirements do not require the amendment or reissuance of any  
2 public report issued on or before December 31, 2001 or on or after December  
3 31 of the year in which the unsubdivided land becomes territory in the  
4 vicinity of a military airport or ancillary military facility. The  
5 commissioner shall require the owner or agent to reproduce the report and  
6 furnish each prospective buyer with a copy before the buyer signs an offer to  
7 purchase, taking a receipt therefor.

8 B. Notwithstanding any provision of subsection A of this section, an  
9 owner may prepare a final public report for use in the sale of unsubdivided  
10 lands as defined in section 32-2101, as follows:

11 1. The owner shall prepare the public report and provide a copy of the  
12 report to the commissioner with the submission of the notification required  
13 by sections 32-2195 and 32-2195.10 and shall comply with all other  
14 requirements of this article.

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

18 3. The department shall assign a registration number to each  
19 notification and public report submitted pursuant to this subsection and  
20 shall maintain a database of all of these submissions. The owner shall place  
21 the number on each public report.

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

31 5. An owner may commence sales or leasing activities as permitted  
32 under this article after obtaining a certificate of administrative  
33 completeness from the commissioner.

34 6. Before or after the commissioner issues a certificate of  
35 administrative completeness, the department may examine any public report,  
36 development or applicant that has applied for or received the certificate. If  
37 the commissioner determines that the owner or development is not in  
38 compliance with any requirement of state law or that grounds exist under this  
39 chapter to suspend, deny or revoke a public report, the commissioner may  
40 commence an administrative action under section 32-2154 or 32-2157. If the  
41 owner immediately corrects the deficiency and comes into full compliance with  
42 state law, the commissioner shall vacate any action that he may have  
43 commenced pursuant to section 32-2154 or 32-2157.

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

1 C. The commissioner may deny issuance of a public report on any of the  
2 following grounds:  
3 1. Failure to comply with any of the provisions of this article or the  
4 rules of the commissioner pertaining to this article.  
5 2. The sale or lease would constitute misrepresentation to or deceit  
6 or fraud of the purchasers or lessees.  
7 3. Inability to deliver title or other interest contracted for.  
8 4. Inability to demonstrate that adequate financial or other  
9 arrangements acceptable to the commissioner have been made for installation  
10 of all streets, sewers, electric, gas and water utilities, drainage, flood  
11 control and other similar improvements included in the offering.  
12 5. Failure to make a showing that the parcels can be used for the  
13 purpose for which they are offered.  
14 6. Failure to provide in the contract or other writing the use or  
15 uses, if any, for which the parcels are offered, together with any covenants  
16 or conditions relative to the parcel.  
17 7. Failure to demonstrate that adequate financial arrangements have  
18 been made for any guaranty or warranty included in the offering.  
19 8. The owner or agent, officer, director or partner or trust  
20 beneficiary holding a ten per cent or more beneficial interest, or, if a  
21 corporation, any stockholder owning ten per cent or more of the stock in the  
22 corporation has:  
23 (a) Been convicted of a felony or misdemeanor involving fraud or  
24 dishonesty or involving conduct of any business or a transaction in real  
25 estate, cemetery property, time-share intervals or membership camping  
26 campgrounds or contracts.  
27 (b) Been permanently or temporarily enjoined by order, judgment or  
28 decree from engaging in or continuing any conduct or practice in connection  
29 with the sale or purchase of real estate or cemetery property, time-share  
30 intervals, membership camping contracts or campgrounds, or securities or  
31 involving consumer fraud or the racketeering laws of this state.  
32 (c) Had an administrative order entered against him by a real estate  
33 regulatory agency or security regulatory agency.  
34 (d) Had an adverse decision or judgment entered against him involving  
35 fraud or dishonesty or involving the conduct of any business in or a  
36 transaction in real estate, cemetery property, time-share intervals or  
37 membership camping campgrounds or contracts.  
38 (e) Disregarded or violated any of the provisions of this chapter or  
39 the rules of the commissioner pertaining to this chapter.  
40 (f) Participated in, operated or held an interest in any entity to  
41 which subdivision (b), (c), (d) or (e) applies.  
42 D. No owner or agent may sell or lease or offer for sale or lease  
43 unsubdivided lands without first obtaining a public report AND A CERTIFICATE  
44 OF ADMINISTRATIVE COMPLETENESS from the commissioner. Any sale or lease of  
45 unsubdivided lands prior to issuance of the public report shall be voidable

1 by the purchaser OR CURRENT OWNER. An action by the purchaser OR CURRENT  
2 OWNER to void the transaction FOR A VIOLATION OF THIS ARTICLE shall be  
3 brought within ~~three~~ FIVE years of the date of ~~execution of the purchase~~  
4 ~~agreement by the purchaser~~ AN INITIAL COMPLAINT OR INITIATION OF AN  
5 INVESTIGATION BY THE COMMISSIONER. In any voidance action the prevailing  
6 party is entitled to reasonable attorney fees as determined by the court.

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

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

27 G. On the commissioner's own motion, or when the commissioner has  
28 received a complaint and has satisfactory evidence that grounds exist as  
29 provided in subsection C of this section or that any person has engaged in  
30 any unlawful practice as defined in section 44-1522 with respect to the sale  
31 of unsubdivided lands or deviated from the provisions of the public report,  
32 the commissioner may conduct an investigation of the matter, issue a summary  
33 order as provided in section 32-2157, or hold a public hearing and, after the  
34 hearing, may issue the order or orders the commissioner deems necessary to  
35 protect the public interest and ensure compliance with the law, rules or  
36 public report. If, after the hearing, the violation of the law, rules or  
37 public report continues, the commissioner may bring an action in any court of  
38 competent jurisdiction against the person to enjoin the person from  
39 continuing the violation or engaging in or doing any act or acts in  
40 furtherance of the violation.

41 Sec. 10. Effective date

42 This act is effective from and after September 30, 2011.