

REFERENCE TITLE: local land subdivisions; size

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

HB 2583

Introduced by
Representatives Farley, Ableser, Bradley, Kirkpatrick, Saradnik, Thrasher:
Alvarez, Campbell CH, Campbell CL, Meza, Rios P, Schapira, Ulmer

AN ACT

AMENDING SECTIONS 9-463.02, 11-809, 32-2101 AND 33-422, ARIZONA REVISED
STATUTES; RELATING TO LAND SUBDIVISIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 9-463.02, Arizona Revised Statutes, is amended to
3 read:
4 9-463.02. Subdivision defined; applicability
5 A. "Subdivision":
6 1. Means improved or unimproved land or lands divided for the purpose
7 of financing, sale or lease, whether immediate or future, into ~~four~~ THREE or
8 more lots, tracts or parcels of land, or, if a new street is involved, any
9 such property which is divided into two or more lots, tracts or parcels of
10 land, or, any such property, the boundaries of which have been fixed by a
11 recorded plat, which is divided into more than two parts. ~~"Subdivision" also~~
12 2. Includes any condominium, cooperative, community apartment,
13 townhouse or similar project containing four or more parcels, in which an
14 undivided interest in the land is coupled with the right of exclusive
15 occupancy of any unit located thereon, but plats of such projects need not
16 show the buildings or the manner in which the buildings or airspace above the
17 property shown on the plat are to be divided.
18 B. The legislative body of a municipality shall not refuse approval of
19 a final plat of a project included in subsection A under provisions of an
20 adopted subdivision regulation because of location of buildings on the
21 property shown on the plat not in violation of such subdivision regulations
22 or on account of the manner in which airspace is to be divided in conveying
23 the condominium. Fees and lot design requirements shall be computed and
24 imposed with respect to such plats on the basis of parcels or lots on the
25 surface of the land shown thereon as included in the project. This
26 subsection does not limit the power of such legislative body to regulate the
27 location of buildings in such a project by or pursuant to a zoning ordinance.
28 C. ~~"Subdivision"~~ does not include the following:
29 1. The sale or exchange of parcels of land to or between adjoining
30 property owners if such sale or exchange does not create additional lots.
31 2. The partitioning of land in accordance with other statutes
32 regulating the partitioning of land held in common ownership.
33 3. The leasing of apartments, offices, stores or similar space within
34 a building or trailer park, nor to mineral, oil or gas leases.
35 Sec. 2. Section 11-809, Arizona Revised Statutes, is amended to read:
36 11-809. Review of land divisions; definitions
37 A. The board of supervisors of each county may adopt ordinances and
38 regulations pursuant to this section for staff review and approval of land
39 divisions of ~~five~~ THREE or fewer lots, parcels or fractional interests, any
40 of which is ten acres or smaller in size. The county may not deny approval
41 of any land division that meets the requirements of this section. If review
42 of the request is not completed within thirty days after receiving the
43 request, the land division is considered to be approved. At its option, the
44 board of supervisors may submit a ballot question to the voters of the county

1 to allow the voters to determine the application of subsections B and C to
2 qualifying land divisions in that county.

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

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

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

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

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

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

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

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

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

33 E. If the requirements of subsections A through D do not apply, a
34 county may adopt ordinances and regulations pursuant to this chapter for
35 staff review of land divisions of ~~five~~ THREE or fewer lots, parcels or
36 fractional interests but only to determine compliance with minimum applicable
37 county zoning requirements and legal access, and may grant waivers from the
38 county zoning and legal access requirements. The county may not deny
39 approval of any land division that meets the requirements of this section or
40 where the deficiencies are noticed in the deed. A county may not require a
41 public hearing on a request to divide five or fewer lots, parcels or
42 fractional interests, and if review of the request is not completed within
43 thirty days from receipt of the request, the land division shall be deemed
44 approved. If no legal access is available, the legal access does not allow
45 access by emergency vehicles or the county zoning requirements are not met,

1 the access or zoning deficiencies shall be noticed in the deed. If a county
2 by ordinance requires a legal access of more than twenty-four feet roadway
3 width, the county is responsible for the improvement and maintenance of the
4 improvement. If the legal access does not allow access to the lots, parcels
5 or fractional interests by emergency vehicles, neither the county nor its
6 agents or employees are liable for damages resulting from the failure of
7 emergency vehicles to reach such lot, parcel or fractional interest.

8 F. It shall be unlawful for a person or group of persons acting in
9 concert to attempt to avoid the provisions of this section or the subdivision
10 laws of this state by acting in concert to divide a parcel of land into six
11 or more lots or sell or lease six or more lots by using a series of owners or
12 conveyances. This prohibition may be enforced by any county where the
13 division occurred or by the state real estate department pursuant to title
14 32, chapter 20.

15 G. In this section:

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

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

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

24 Sec. 3. Section 32-2101, Arizona Revised Statutes, is amended to read:
25 32-2101. Definitions

26 In this chapter, unless the context otherwise requires:

27 1. "Acting in concert" means evidence of collaborating to pursue a
28 concerted plan.

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

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

40 (b) Communications to stockholders as follows:

41 (i) Annual reports and interim financial reports.

42 (ii) Proxy materials.

43 (iii) Registration statements.

44 (iv) Securities prospectuses.

45 (v) Applications for listing of securities on stock exchanges.

1 (vi) Prospectuses.

2 (vii) Property reports.

3 (viii) Offering statements.

4 3. "Affiliate" means a person who, directly or indirectly through one
5 or more intermediaries, controls, is controlled by or is under common control
6 with the person specified.

7 4. "Associate broker" means a licensed broker employed by another
8 broker. Unless otherwise specifically provided, an associate broker has the
9 same license privileges as a salesperson.

10 5. "Barrier" means a natural or man-made geographical feature that
11 prevents parcels of land from being practicably, reasonably and economically
12 united or reunited and that was not caused or created by the owner of the
13 parcels.

14 6. "Blanket encumbrance" means any mortgage, any deed of trust or any
15 other encumbrance or lien securing or evidencing the payment of money and
16 affecting more than one lot or parcel of subdivided land, or an agreement
17 affecting more than one lot or parcel by which the subdivider holds the
18 subdivision under an option, contract to sell or trust agreement. Blanket
19 encumbrance does not include taxes and assessments levied by public
20 authority.

21 7. "Board" means the state real estate advisory board.

22 8. "Broker", when used without modification, means a person who is
23 licensed as a broker under this chapter or who is required to be licensed as
24 a broker under this chapter.

25 9. "Camping site" means a space designed and promoted for the purpose
26 of locating any trailer, tent, tent trailer, pickup camper or other similar
27 device used for camping.

28 10. "Cemetery" or "cemetery property" means any one, or a combination
29 of more than one, of the following in a place used, or intended to be used,
30 and dedicated for cemetery purposes:

31 (a) A burial park, for earth interments.

32 (b) A mausoleum, for crypt or vault entombments.

33 (c) A crematory, or a crematory and columbarium, for cinerary
34 interments.

35 (d) A cemetery plot, including interment rights, mausoleum crypts,
36 niches and burial spaces.

37 11. "Cemetery broker" means a person other than a real estate broker or
38 real estate salesperson who, for another, for compensation:

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

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

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

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

4 12. "Cemetery salesperson" means a natural person who acts on the
5 person's own behalf or through and on behalf of a professional limited
6 liability company or a professional corporation engaged by or on behalf of a
7 licensed cemetery or real estate broker, or through and on behalf of a
8 corporation, partnership or limited liability company that is licensed as a
9 cemetery or real estate broker, to perform any act or transaction included in
10 the definition of cemetery broker.

11 13. "Commissioner" means the state real estate commissioner.

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

22 15. "Compensation" means any fee, commission, salary, money or other
23 valuable consideration for services rendered or to be rendered as well as the
24 promise of consideration whether contingent or not.

25 16. "Contiguous" means lots, parcels or fractional interests that share
26 a common boundary or point. Lots, parcels or fractional interests are not
27 contiguous if they are separated by either of the following:

28 (a) A barrier.

29 (b) A road, street or highway that has been established by this state
30 or by any agency or political subdivision of this state, that has been
31 designated by the federal government as an interstate highway or that has
32 been regularly maintained by this state or by any agency or political
33 subdivision of this state and has been used continuously by the public for at
34 least the last five years.

35 17. "Control" or "controlled" means a person who, through ownership,
36 voting rights, power of attorney, proxy, management rights, operational
37 rights or other rights, has the right to make decisions binding on an entity,
38 whether a corporation, a partnership or any other entity.

39 18. "Corporation licensee" means a lawfully organized corporation that
40 is registered with the Arizona corporation commission and that has an officer
41 licensed as the designated broker pursuant to section 32-2125.

42 19. "Department" means the state real estate department.

43 20. "Designated broker" means the natural person who is licensed as a
44 broker under this chapter and who is either:

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

3 (b) Doing business as a sole proprietor.

4 21. "Developer" means a person who offers real property in a
5 development for sale, lease or use, either immediately or in the future, on
6 the person's own behalf or on behalf of another person, under this chapter.
7 Developer does not include a person whose involvement with a development is
8 limited to the listing of property within the development for sale, lease or
9 use.

10 22. "Development" means any division, proposed division or use of real
11 property that the department has authority to regulate, including subdivided
12 and unsubdivided lands, cemeteries, condominiums, timeshares, membership
13 campgrounds and stock cooperatives.

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

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

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

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

28 25. "Improved lot or parcel" means a lot or parcel of a subdivision
29 upon which lot or parcel there is a residential, commercial or industrial
30 building or concerning which a contract has been entered into between a
31 subdivider and a purchaser that obligates the subdivider directly, or
32 indirectly through a building contractor, to complete construction of a
33 residential, commercial or industrial building on the lot or parcel within
34 two years from the date on which the contract of sale for the lot is entered
35 into.

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

39 27. "Lease" or "leasing" includes any lease, whether it is the sole,
40 the principal or any incidental part of a transaction.

41 28. "License" means the whole or part of any agency permit,
42 certificate, approval, registration, public report, charter or similar form
43 of permission required by this chapter.

44 29. "License period" means the two year period beginning with the date
45 of original issue or renewal of a particular license.

1 30. "Licensee" means a person to whom a license for the current license
2 period has been granted under any provision of this chapter, and, for
3 purposes of section 32-2153, subsection A, shall include original license
4 applicants.

5 31. "Limited liability company licensee" means a lawfully organized
6 limited liability company that has a member or manager who is a natural
7 person and who is licensed as the designated broker pursuant to section
8 32-2125.

9 32. "Lot reservation" means an expression of interest by a prospective
10 purchaser in buying at some time in the future a subdivided or unsubdivided
11 lot, unit or parcel in this state. In all cases, a subsequent affirmative
12 action by the prospective purchaser must be taken to create a contractual
13 obligation to purchase.

14 33. "Master planned community" means a development that consists of two
15 or more separately platted subdivisions and that is either subject to a
16 master declaration of covenants, conditions or restrictions, is subject to
17 restrictive covenants sufficiently uniform in character to clearly indicate a
18 general scheme for improvement or development of real property or is governed
19 or administered by a master owner's association.

20 34. "Member" means a member of the real estate advisory board.

21 35. "Membership camping broker" means a person, other than a
22 salesperson, who, for compensation:

23 (a) Sells, purchases, lists, exchanges or leases membership camping
24 contracts.

25 (b) Offers to sell, purchase, exchange or lease membership camping
26 contracts.

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

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

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

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

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

41 37. "Membership camping operator" means an enterprise, other than one
42 that is tax exempt under section 501(c)(3) of the internal revenue code of
43 1986, as amended, that solicits membership paid for by a fee or periodic
44 payments and has as one of its purposes camping or outdoor recreation
45 including the use of camping sites primarily by members. Membership camping

1 operator does not include camping or recreational trailer parks that are open
2 to the general public and that contain camping sites rented for a per use fee
3 or a mobile home park.

4 38. "Membership camping salesperson" means a natural person who acts on
5 the person's own behalf or through and on behalf of a professional limited
6 liability company or a professional corporation engaged by or on behalf of a
7 licensed membership camping or real estate broker, or by or on behalf of a
8 corporation, partnership or limited liability company that is licensed as a
9 membership camping or real estate broker, to perform any act or participate
10 in any transaction in a manner included in the definition of membership
11 camping broker.

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

14 40. "Permanent access", as required under article 4 of this chapter,
15 means permanent access from the subdivision to any federal, state or county
16 highway.

17 41. "Perpetual or endowed-care cemetery" means a cemetery wherein lots
18 or other burial spaces are sold or transferred under the representation that
19 the cemetery will receive "perpetual" or "endowed" care as defined in this
20 section free of further cost to the purchaser after payment of the original
21 purchase price for the lot, burial space or interment right.

22 42. "Perpetual-care" or "endowed-care" means the maintenance and care
23 of all places where interments have been made of the trees, shrubs, roads,
24 streets and other improvements and embellishments contained within or forming
25 a part of the cemetery. This shall not include the maintenance or repair of
26 monuments, tombs, copings or other man-made ornaments as associated with
27 individual burial spaces.

28 43. "Person" means any individual, corporation, partnership or company
29 and any other form of multiple organization for carrying on business, foreign
30 or domestic.

31 44. "Private cemetery" means a cemetery or place that is not licensed
32 under article 6 of this chapter, where burials or interments of human remains
33 are made, in which sales or transfers of interment rights or burial plots are
34 not made to the public and in which not more than ten interments or burials
35 occur annually.

36 45. "Promotion" or "promotional practice" means advertising and any
37 other act, practice, device or scheme to induce directly or indirectly any
38 person to enter into any obligation or acquire any title or interest in or
39 use of real property subject to this chapter, including meetings with
40 prospective purchasers, arrangements for prospective purchasers to visit real
41 property, travel allowances and discount, exchange, refund and cancellation
42 privileges.

43 46. "Real estate" includes leasehold-interests and any estates in land
44 as defined in title 33, chapter 2, articles 1 and 2, regardless of whether
45 located in this state.

- 1 47. "Real estate broker" means a person, other than a salesperson, who,
2 for another and for compensation:
- 3 (a) Sells, exchanges, purchases, rents or leases real estate or
4 timeshare interests.
- 5 (b) Offers to sell, exchange, purchase, rent or lease real estate or
6 timeshare interests.
- 7 (c) Negotiates or offers, attempts or agrees to negotiate the sale,
8 exchange, purchase, rental or leasing of real estate or timeshare interests.
- 9 (d) Lists or offers, attempts or agrees to list real estate or
10 timeshare interests for sale, lease or exchange.
- 11 (e) Auctions or offers, attempts or agrees to auction real estate or
12 timeshare interests.
- 13 (f) Buys, sells, offers to buy or sell or otherwise deals in options
14 on real estate or timeshare interests or improvements to real estate or
15 timeshare interests.
- 16 (g) Collects or offers, attempts or agrees to collect rent for the use
17 of real estate or timeshare interests.
- 18 (h) Advertises or holds himself out as being engaged in the business
19 of buying, selling, exchanging, renting or leasing real estate or timeshare
20 interests or counseling or advising regarding real estate or timeshare
21 interests.
- 22 (i) Assists or directs in the procuring of prospects, calculated to
23 result in the sale, exchange, leasing or rental of real estate or timeshare
24 interests.
- 25 (j) Assists or directs in the negotiation of any transaction
26 calculated or intended to result in the sale, exchange, leasing or rental of
27 real estate or timeshare interests.
- 28 (k) Incident to the sale of real estate negotiates or offers, attempts
29 or agrees to negotiate a loan secured or to be secured by any mortgage or
30 other encumbrance upon or transfer of real estate or timeshare interests
31 subject to section 32-2155, subsection C. This subdivision does not apply to
32 mortgage brokers as defined in and subject to title 6, chapter 9, article 1.
- 33 (l) Engages in the business of assisting or offering to assist another
34 in filing an application for the purchase or lease of, or in locating or
35 entering upon, lands owned by the state or federal government.
- 36 (m) Claims, demands, charges, receives, collects or contracts for the
37 collection of an advance fee in connection with any employment enumerated in
38 this section, including employment undertaken to promote the sale or lease of
39 real property by advance fee listing, by furnishing rental information to a
40 prospective tenant for a fee paid by the prospective tenant, by advertisement
41 or by any other offering to sell, lease, exchange or rent real property or
42 selling kits connected therewith. This shall not include the activities of
43 any communications media of general circulation or coverage not primarily
44 engaged in the advertisement of real estate or any communications media

1 activities that are specifically exempt from applicability of this article
2 under section 32-2121.

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

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

11 48. "Real estate sales contract" means an agreement in which one party
12 agrees to convey title to real estate to another party upon the satisfaction
13 of specified conditions set forth in the contract.

14 49. "Real estate salesperson" means a natural person who acts on the
15 person's own behalf or through and on behalf of a professional limited
16 liability company or a professional corporation engaged by or on behalf of a
17 licensed real estate broker, or by or on behalf of a limited liability
18 company, partnership or corporation that is licensed as a real estate broker,
19 to perform any act or participate in any transaction in a manner included in
20 the definition of real estate broker subject to section 32-2155.

21 50. "Sale" or "lease" includes every disposition, transfer, option or
22 offer or attempt to dispose of or transfer real property, or an interest, use
23 or estate in the real property, including the offering of the property as a
24 prize or gift if a monetary charge or consideration for whatever purpose is
25 required.

26 51. "Salesperson", when used without modification, means a natural
27 person who acts on the person's own behalf or through and on behalf of a
28 professional limited liability company or a professional corporation licensed
29 under this chapter or any person required to be licensed as a salesperson
30 under this chapter.

31 52. "School" means a person or entity that offers a course of study
32 towards completion of the education requirements leading to licensure or
33 renewal of licensure under this chapter.

34 53. "Stock cooperative" means a corporation to which all of the
35 following apply:

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

38 (b) All or substantially all of the shareholders of the corporation
39 each receives a right of exclusive occupancy in a portion of the real
40 property to which the corporation holds title.

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

1 54. "Subdivider" means any person who offers for sale or lease ~~six~~ FOUR
2 or more lots, parcels or fractional interests in a subdivision or who causes
3 land to be subdivided into a subdivision for the subdivider or for others, or
4 who undertakes to develop a subdivision, but does not include a public agency
5 or officer authorized by law to create subdivisions.

6 55. "Subdivision" or "subdivided lands":

7 (a) Means improved or unimproved land or lands divided or proposed to
8 be divided for the purpose of sale or lease, whether immediate or future,
9 into ~~six~~ FOUR or more lots, parcels or fractional interests.

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

13 (c) Does not include:

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

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

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

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

26 56. "Timeshare" or "timeshare property" means real property ownership
27 or right of occupancy in real property pursuant to article 9 of this chapter.
28 For the purposes of this chapter, a timeshare is not a security unless it
29 meets the definition of a security under section 44-1801.

30 57. "Trustee" means:

31 (a) A person designated under section 32-2194.27 to act as a trustee
32 for an endowment-care cemetery fund.

33 (b) A person holding bare legal title to real property under a
34 subdivision trust. A trustee shall not be deemed to be a developer,
35 subdivider, broker or salesperson within this chapter.

36 58. "Unimproved lot or parcel" means a lot or parcel of a subdivision
37 that is not an improved lot or parcel.

38 59. "Unsubdivided lands" means land or lands divided or proposed to be
39 divided for the purpose of sale or lease, whether immediate or future, into
40 ~~six~~ FOUR or more lots, parcels or fractional interests and the lots or
41 parcels are thirty-six acres or more each but less than one hundred sixty
42 acres each, or that are offered, known or advertised under a common
43 promotional plan for sale or lease, except that agricultural leases shall not
44 be included in this definition.

- 1 2. There is is not physical access to the property.
2 unknown
3 Explain: _____
4 _____
5 _____
- 6 3. There is is not a statement from a licensed
7 surveyor or engineer available stating whether the property has
8 physical access that is traversable by a two-wheel drive passenger
9 motor vehicle.
- 10 4. The legal and physical access to the property is is not
11 the same.... unknown not applicable.
12 Explain: _____
13 _____
14 _____
- 15 *If access to the parcel is not traversable by emergency*
16 *vehicles, the county and emergency service providers may not be*
17 *held liable for any damages resulting from the inability to*
18 *traverse the access to provide needed services.*
- 19 5. The road(s) is/are publicly maintained privately
20 maintained not maintained not applicable. If
21 applicable, there is is not a recorded road
22 maintenance agreement.
23 *If the roads are not publicly maintained, it is the*
24 *responsibility of the property owner(s) to maintain the roads*
25 *and roads that are not improved to county standards and accepted*
26 *for maintenance are not the county's responsibility.*
- 27 6. A portion or all of the property is is not
28 located in a FEMA designated regulatory floodplain. If the
29 property is in a floodplain, it may be subject to floodplain
30 regulation.
- 31 7. The property is is not subject to fissures or
32 expansive soils. unknown
33 Explain: _____
34 _____
35 _____
- 36 8. The following services are currently provided to the property:
37 water sewer electric natural gas single
38 party telephone cable television services.
- 39 9. The property is is not served by a water supply
40 that requires the transportation of water to the property.
- 41 10. The property is served by a private water company a
42 municipal water provider a private well a shared well
43 no well. If served by a shared well, the shared well is
44 is not a public water system, as defined by the safe
45 drinking water act (42 United States Code § 300f).

1 *Notice to buyer: If the property is served by a well, A private*
2 *water company or a municipal water provider the Arizona*
3 *department of water resources may not have made a water supply*
4 *determination. For more information about water supply, contact*
5 *the water provider.*

6 11. The property does have does not have an on-site
7 wastewater treatment facility (i.e., standard septic or
8 alternative system to treat and dispose of wastewater).
9 unknown. If applicable: a) The property will will not
10 require installation of an on-site wastewater treatment
11 facility; b) The on-site wastewater treatment facility has
12 has not been inspected.

13 12. The property has been has not been subject to a
14 percolation test. unknown.

15 13. The property does does not meet the minimum
16 applicable county zoning requirements of the applicable zoning
17 designation.

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

23 Explain: _____
24 _____
25 _____

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

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

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

39 18. The property is is not located under military restricted
40 airspace. unknown. (Maps are available at the state real
41 estate department's web site.)

42 This affidavit of disclosure supersedes any previously recorded
43 affidavit of disclosure.

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

4 Dated this ____ (date) ____ day of ____ (year) ____ by:
5 Seller's name (print): _____ Signature: _____
6 Seller's name (print): _____ Signature: _____
7 State of Arizona)
8) ss.
9 County of _____)

10 Subscribed and sworn before me this ____ (date) ____ day of
11 ____ (year) ____, by _____.

12 _____
13 Notary public

14 My commission expires:
15 _____ (date)

16 Buyer(s) hereby acknowledges receipt of a copy of this affidavit
17 of disclosure this ____ (date) ____ day of ____ (year) ____
18 Buyer's name (print): _____ Signature: _____
19 Buyer's name (print): _____ Signature: _____

20 G. For the purposes of this section, seller and subsequent seller do
21 not include a trustee of a deed of trust who is selling property by a
22 trustee's sale pursuant to title 33, chapter 6.1 or any officer who is
23 selling property by execution sale pursuant to title 12, chapter 9 and
24 title 33, chapter 6. If the seller is a trustee of a subdivision trust as
25 defined in section 6-801, the disclosure affidavit required by this section
26 shall be provided by the beneficiary of the subdivision trust.