

REFERENCE TITLE: **adequate water supply requirements; municipalities**

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1268

Introduced by
Senator Griffin; Representatives Gowan, Stevens

AN ACT

AMENDING SECTIONS 9-463.01, 32-2181, 32-2183, 32-2197.08, 45-108, 45-108.01, 45-108.02, 45-108.03 AND 48-6414; RELATING TO WATER SUPPLY.

(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~~ ON the number of lots or parcels on the surface of the land to
31 defray 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~~ ON 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~~ ON 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~~ ON 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~~ ON 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~~ COMPOSED of subdivided lands, as
5 defined in section 32-2101, and is within an active management area, as
6 defined in section 45-402, the final plat shall not be approved unless it is
7 accompanied by a certificate of assured water supply issued by the director
8 of water resources, or unless the subdivider has obtained a written
9 commitment of water service for the subdivision from a city, town or private
10 water company designated as having an assured water supply by the director of
11 water 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~~ LEGISLATIVE BODY OF THE MUNICIPALITY HAS ADOPTED AN ORDINANCE
24 PURSUANT TO SUBSECTION O OF THIS SECTION, the final plat shall not be
25 approved unless one of the following applies:

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

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

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

41 1. The legislative body determines that there is no feasible
42 alternative water supply for the subdivision and that the transportation of
43 water to the subdivision will not constitute a significant risk to the health
44 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 director subsequently informs the legislative body that the subdivision is
40 being served by a water provider that has been designated by the director as
41 having an adequate water supply pursuant to section 45-108, the legislative
42 body shall record in the county recorder's office a statement disclosing that
43 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
46 body of ~~the~~ A municipality, to protect the public health and safety, may

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

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

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

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

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

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

1 section 45-108, the municipality shall note this on the face of the plat if
2 the plat is approved.

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

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

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

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

20 U. For any subdivision that consists of ten or fewer lots, tracts or
21 parcels, each of which is of a size as prescribed by the legislative body,
22 the legislative body of each municipality may expedite the processing of or
23 waive the requirement to prepare, submit and receive approval of a
24 preliminary plat as a condition precedent to submitting a final plat and may
25 waive or reduce infrastructure standards or requirements proportional to the
26 impact of the subdivision. Requirements for dust-controlled access and
27 drainage improvements shall not be waived.

28 Sec. 2. Section 32-2181, Arizona Revised Statutes, is amended to read:

29 32-2181. Notice to commissioner of intention to subdivide
30 lands; unlawful acting in concert; exceptions; deed
31 restrictions; definition

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

35 1. The name and address of the owner. If the holder of any ownership
36 interest in the land is other than an individual, such as a corporation,
37 partnership or trust, **THE NOTICE SHALL CONTAIN** a statement naming the type of
38 legal entity and listing the interest and the extent of any interest of each
39 principal in the entity. For the purposes of this section, "principal" means
40 any person or entity having a ten ~~per cent~~ **PERCENT** or more financial interest
41 or, if the legal entity is a trust, each beneficiary of the trust holding a
42 ten ~~per cent~~ **PERCENT** or more beneficial interest.

43 2. The name and address of the subdivider.

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

45 4. A true statement of the condition of the title to the land,
46 including all encumbrances on the land, and a statement of the provisions

1 agreed to by the holder of any blanket encumbrance enabling a purchaser to
2 acquire title to a lot or parcel free of the lien of the blanket encumbrance
3 on completion of all payments and performance of all of the terms and
4 provisions required to be made or performed by the purchaser under the real
5 estate sales contract by which the purchaser has acquired the lot or parcel.
6 The subdivider shall file copies of documents acceptable to the department
7 containing these provisions with the commissioner before the sale of any
8 subdivision lot or parcel subject to a blanket encumbrance.

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

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

15 7. A brief but comprehensive statement describing the land on and the
16 locality in which the subdivision is located.

17 8. A statement of the provisions that have been made for permanent
18 access and provisions, if any, for health department approved sewage and
19 solid waste collection and disposal and public utilities in the proposed
20 subdivision, including water, electricity, gas and telephone facilities.

21 9. A statement as to the location of the nearest public common and
22 high schools available for the attendance of school age pupils residing on
23 the subdivision property.

24 10. A statement of the use or uses for which the proposed subdivision
25 will be offered.

26 11. A statement of the provisions, if any, limiting the use or
27 occupancy of the parcels in the subdivision, together with copies of any
28 restrictive covenants affecting all or part of the subdivision.

29 12. The name and business address of the principal broker selling or
30 leasing, within this state, lots or parcels in the subdivision.

31 13. A true statement of the approximate amount of indebtedness that is
32 a lien on the subdivision or any part of the subdivision and that was
33 incurred to pay for the construction of any on-site or off-site improvement,
34 or any community or recreational facility.

35 14. A true statement or reasonable estimate, if applicable, of the
36 amount of any indebtedness that has been or is proposed to be incurred by an
37 existing or proposed special district, entity, taxing area or assessment
38 district, within the boundaries of which the subdivision, or any part of the
39 subdivision, is located, and that is to pay for the construction or
40 installation of any improvement or to furnish community or recreational
41 facilities to the subdivision, and which amounts are to be obtained by ad
42 valorem tax or assessment, or by a special assessment or tax ~~upon~~ ON the
43 subdivision or any part of the subdivision.

44 15. A true statement as to the approximate amount of annual taxes,
45 special assessments or fees to be paid by the buyer for the proposed annual
46 maintenance of common facilities in the subdivision.

1 16. A statement of the provisions for easements for permanent access
2 for irrigation water where applicable.

3 17. A true statement of assurances for the completion of off-site
4 improvements, such as roads, utilities, community or recreational facilities
5 and other improvements to be included in the offering or represented as being
6 in the offering, and approval of the offering by the political subdivision
7 with authority. This statement shall include a trust agreement or any other
8 evidence of assurances for delivery of the improvements and a statement of
9 the provisions, if any, for the continued maintenance of the improvements.

10 18. A true statement of the nature of any improvements to be installed
11 by the subdivider, the estimated schedule for completion and the estimated
12 costs related to the improvements that will be borne by purchasers of lots in
13 the subdivision.

14 19. A true statement of the availability of sewage disposal facilities
15 and other public utilities, including water, electricity, gas and telephone
16 facilities in the subdivision, the estimated schedule for their installation,
17 and the estimated costs related to the facilities and utilities that will be
18 borne by purchasers of lots in the subdivision.

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

24 21. If the subdivider is a subsidiary corporation, a true statement
25 identifying the parent corporation and any of the following in which the
26 parent or any of its subsidiaries is or has been involved within the past
27 five years:

28 (a) Any subdivision in this state.

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

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

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

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

39 (b) The subdivider.

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

41 23. A true statement as to whether all or any portion of the
42 subdivision is located in territory in the vicinity of a military airport or
43 ancillary military facility as defined in section 28-8461, in territory in
44 the vicinity of a public airport as defined in section 28-8486, on or after
45 July 1, 2001, in a high noise or accident potential zone as defined in
46 section 28-8461 or on or after July 1 of the year in which the subdivision

1 becomes located in a high noise or accident potential zone. The statement
2 required pursuant to this paragraph does not require the amendment or
3 refileing of any notice filed before July 1, 2001 or before July 1 of the year
4 in which the subdivision becomes located in a high noise or accident
5 potential zone.

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

9 (a) That the property is a conversion from multifamily rental to
10 condominiums.

11 (b) The date original construction was completed.

12 25. Other information and documents and certifications as the
13 commissioner may reasonably require provided that the subdivider shall not be
14 required to disclose any critical infrastructure information as defined in
15 section 41-1801 or any information contained in a report issued pursuant to
16 section 41-4273.

17 B. The commissioner, on application, may grant a subdivider of lots or
18 parcels within a subdivision for which a public report was previously issued
19 by the commissioner an exemption from all or part of the notification
20 requirements of subsection A of this section. The subdivider shall file a
21 statement with the commissioner indicating the change of ownership in the
22 lots or parcels together with any material changes occurring subsequent to
23 the original approval of the subdivision within which the lots or parcels are
24 located. The statement shall further refer to the original approval by the
25 commissioner.

26 C. If the subdivision is within an active management area, as defined
27 in section 45-402, the subdivider shall accompany the notice with a
28 certificate of assured water supply issued by the director of water resources
29 along with proof that all applicable fees have been paid pursuant to sections
30 48-3772 and 48-3774.01, unless the subdivider has obtained a written
31 commitment of water service for the subdivision from a city, town or private
32 water company designated as having an assured water supply by the director of
33 water resources pursuant to section 45-576 or is exempt from the requirement
34 pursuant to section 45-576. If the subdivider has submitted a certificate of
35 assured water supply to a city, town or county prior to approval of the plat
36 by the city, town or county and this has been noted on the face of the plat,
37 the submission constitutes compliance with this subsection if the subdivider
38 provides proof to the commissioner that all applicable fees have been paid
39 pursuant to sections 48-3772 and 48-3774.01.

40 D. It is unlawful for a person or group of persons acting in concert
41 to attempt to avoid this article by acting in concert to divide a parcel of
42 land or sell subdivision lots by using a series of owners or conveyances or
43 by any other method that ultimately results in the division of the lands into
44 a subdivision or the sale of subdivided land. The plan or offering is
45 subject to this article. Unlawful acting in concert pursuant to this
46 subsection with respect to the sale or lease of subdivision lots requires

1 proof that the real estate licensee or other licensed professional knew or
2 with the exercise of reasonable diligence should have known that property
3 which the licensee listed or for which the licensee acted in any capacity as
4 agent was subdivided land subject to this article. A familial relationship
5 alone is not sufficient to constitute unlawful acting in concert.

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

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

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

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

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

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

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

32 7. A sale or lease of a lot, parcel or fractional interest occurs ten
33 or more years after the sale or lease of another lot, parcel or fractional
34 interest and the other lot, parcel or fractional interest is not subject to
35 this article and is treated as an independent parcel unless, ~~upon~~ ON
36 investigation by the commissioner, there is evidence of intent to subdivide.

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

39 1. If the ~~subdivision is located in a county that has adopted the~~
40 ~~provision authorized by~~ FINAL PLAT APPROVAL FOR A SUBDIVISION IS SUBJECT TO
41 section 11-823, subsection A, or ~~in a city or town that has enacted an~~
42 ~~ordinance pursuant to~~ section 9-463.01, subsection ~~0~~ J, the subdivider shall
43 accompany the notice with a report issued by the director of water resources
44 pursuant to section 45-108 stating that the subdivision has an adequate water
45 supply, unless one of the following applies:

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

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

8 (c) The plat was approved pursuant to an exemption authorized by
9 section 9-463.01, subsection K, pursuant to an exemption authorized by
10 section 11-823, subsection B, paragraph 1, pursuant to an exemption granted
11 by the director of water resources under section 45-108.02 and the exemption
12 has not expired or pursuant to an exemption granted by the director under
13 section 45-108.03. If the plat was approved pursuant to an authorized
14 exemption, the state real estate commissioner shall require that all
15 promotional material and contracts for the sale of lots in the subdivision
16 adequately display the following:

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

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

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

39 2. If the ~~subdivision is not located in a county that has adopted the~~
40 ~~provision authorized by~~ FINAL PLAT APPROVAL FOR A SUBDIVISION IS NOT SUBJECT
41 TO section 11-823, subsection A or ~~in a city or town that has enacted an~~
42 ~~ordinance pursuant to~~ section 9-463.01, subsection ~~0- J~~, and if the director
43 of water resources, pursuant to section 45-108, reports an inadequate on-site
44 supply of water to meet the needs projected by the developer or if no water
45 is available, the state real estate commissioner shall require that all
46 promotional material and contracts for the sale of lots in subdivisions

1 approved by the commissioner adequately display the director of water
2 resources' report or the developer's brief summary of the report as approved
3 by the commissioner on the proposed water supply for the subdivision.

4 G. The commissioner may require the subdivider to supplement the
5 notice of intention to subdivide lands and may require the filing of periodic
6 reports to update the information contained in the original notice of
7 intention to subdivide lands.

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

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

26 J. Before offering subdivided lands for lease or sale, the subdivider
27 who makes any promises through any form of advertising media that the
28 subdivided lands will be exclusively a retirement community or one that is
29 limited to the residency of adults or senior citizens shall include the
30 promises in the deed restrictions affecting any interest in real property
31 within the subdivided lands.

32 K. Except as otherwise provided in this section, a subdivider shall
33 not be required to disclose items that are over one mile from the subdivision
34 boundaries. The existence of foreign nations or tribal lands shall also be
35 disclosed if located within the one mile radius of the subdivision
36 boundaries.

37 Sec. 3. Section 32-2183, Arizona Revised Statutes, is amended to read:

38 ~~32-2183.~~ Subdivision public reports; denial of issuance;
39 unlawful sales; voidable sale or lease; order
40 prohibiting sale or lease; investigations; hearings;
41 summary orders

42 A. ~~Upon~~ **ON** examination of a subdivision, the commissioner, unless
43 there are grounds for denial, shall issue to the subdivider a public report
44 authorizing the sale or lease in this state of the lots, parcels or
45 fractional interests within the subdivision. The report shall contain the
46 data obtained in accordance with section 32-2181 and any other information

1 ~~which~~ THAT the commissioner determines is necessary to implement the purposes
2 of this article. If any of the lots, parcels or fractional interests within
3 the subdivision are located within territory in the vicinity of a military
4 airport or ancillary military facility as defined in section 28-8461, under a
5 military training route as delineated in the military training route map
6 prepared pursuant to section 37-102, under restricted air space as delineated
7 in the restricted air space map prepared pursuant to section 37-102 or
8 contained in the military electronics range as delineated in the military
9 electronics range map prepared pursuant to section 37-102, the report shall
10 include, in bold twelve point font block letters on the first page of the
11 report, the statements required pursuant to section 28-8484, subsection A,
12 section 32-2183.05 or section 32-2183.06 and, if the department has been
13 provided a map prepared pursuant to section 28-8484, subsection B or section
14 37-102, the report shall include a copy of the map. The military airport
15 report requirements do not require the amendment or reissuance of any public
16 report issued on or before December 31, 2001 or on or before December 31 of
17 the year in which the lots, parcels or fractional interests within a
18 subdivision become territory in the vicinity of a military airport or
19 ancillary military facility. The military training route report requirements
20 do not require the amendment or reissuance of any public report issued on or
21 before December 31, 2004. The restricted air space report requirements do
22 not require the amendment or reissuance of any public report issued on or
23 before December 31, 2006. The military electronics range report requirements
24 do not require the amendment or reissuance of any public report issued on or
25 before December 31, 2008. The commissioner shall require the subdivider to
26 reproduce the report, make the report available to each initial prospective
27 customer and furnish each initial buyer or lessee with a copy before the
28 buyer or lessee signs any offer to purchase or lease, taking a receipt
29 therefor.

30 B. This section ~~shall~~ DOES not ~~be construed to~~ require a public report
31 issued sixty or fewer days ~~prior to~~ BEFORE the filing of the military
32 electronics range map prepared pursuant to section 37-102 to meet the
33 military electronics range notification requirements of this section.

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

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

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

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

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

5 4. On receipt of the notification and public report, the department
6 shall review and issue within ten business days either a certification that
7 the notification and public report are administratively complete or a denial
8 letter if it appears that the application or project is not in compliance
9 with all legal requirements, that the applicant has a background of
10 violations of state or federal law or that the applicant or project presents
11 an unnecessary risk of harm to the public. If the commissioner has received
12 the notification and public report but has not issued a certification or a
13 denial letter within ten business days pursuant to this paragraph, the
14 notification and public report are administratively complete.

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

18 6. Before or after the commissioner issues a certificate of
19 administrative completeness or, if applicable, after the notification and
20 public report are deemed to be administratively complete pursuant to
21 paragraph 4 of this subsection, the department may examine any public report,
22 subdivision or applicant that has applied for or received the certificate.
23 If the commissioner determines that the subdivider or subdivision is not in
24 compliance with any requirement of state law or that grounds exist under this
25 chapter to suspend, deny or revoke a public report, the commissioner may
26 commence an administrative action under section 32-2154 or 32-2157. If the
27 subdivider immediately corrects the deficiency and comes into full compliance
28 with state law, the commissioner shall vacate any action that the
29 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

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

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

34 1. Failure to comply with this article or the rules of the
35 commissioner pertaining to this article.

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

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

39 4. Inability to demonstrate that adequate financial or other
40 arrangements acceptable to the commissioner have been made for completion of
41 all streets, sewers, electric, gas and water utilities, drainage and flood
42 control facilities, community and recreational facilities and other
43 improvements included in the offering.

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

1 6. The owner, agent, subdivider, officer, director or partner,
2 subdivider trust beneficiary holding ten ~~per-cent~~ PERCENT or more direct or
3 indirect beneficial interest or, if a corporation, any stockholder owning ten
4 ~~per-cent~~ PERCENT or more of the stock in the corporation has:

5 (a) Been convicted of a felony or misdemeanor involving fraud or
6 dishonesty or involving conduct of any business or a transaction in real
7 estate, cemetery property, time-share intervals or membership camping
8 campgrounds or contracts.

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

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

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

20 (e) Disregarded or violated this chapter or the rules of the
21 commissioner pertaining to this chapter.

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

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

27 8. Failure of the declaration for a condominium created pursuant to
28 title 33, chapter 9, article 2 to comply with the requirements of section
29 33-1215 or failure of the plat for the condominium to comply with the
30 requirements of section 33-1219. The commissioner may require an applicant
31 for a public report to submit a notarized statement signed by the subdivider
32 or an engineer or attorney licensed to practice in this state certifying that
33 the condominium plat and declaration of condominium are in compliance with
34 the requirements of sections 33-1215 and 33-1219. If the notarized statement
35 is provided, the commissioner is entitled to rely on this statement.

36 9. Failure of any blanket encumbrance or valid supplementary agreement
37 executed by the holder of the blanket encumbrance to contain provisions that
38 enable the purchaser to acquire title to a lot or parcel free of the lien of
39 the blanket encumbrance, on completion of all payments and performance of all
40 of the terms and provisions required to be made or performed by the purchaser
41 under the real estate sales contract by which the purchaser has acquired the
42 lot or parcel. The subdivider shall file copies of documents acceptable to
43 the commissioner containing these provisions with the commissioner before the
44 sale of any subdivision lot or parcel subject to a blanket encumbrance.

45 10. Failure to demonstrate permanent access to the subdivision lots or
46 parcels.

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

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

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

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

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

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

19 G. If the subdivision is within an active management area, as defined
20 in section 45-402, the commissioner shall deny issuance of a public report or
21 the use of any exemption pursuant to section 32-2181.02, subsection B unless
22 the subdivider has been issued a certificate of assured water supply by the
23 director of water resources and has paid all applicable fees pursuant to
24 sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a
25 written commitment of water service for the subdivision from a city, town or
26 private water company designated as having an assured water supply by the
27 director of water resources pursuant to section 45-576 or is exempt from the
28 requirement pursuant to section 45-576.

29 H. In areas outside of active management areas, if the ~~subdivision is~~
30 ~~located in a county that has adopted the provision authorized by FINAL PLAT~~
31 ~~APPROVAL FOR A SUBDIVISION IS SUBJECT TO~~ section 11-823, subsection A or ~~in a~~
32 ~~city or town that has enacted an ordinance pursuant to~~ section 9-463.01,
33 subsection ~~θ~~ J, the commissioner shall deny issuance of a public report or
34 the use of any exemption pursuant to section 32-2181.02, subsection B unless
35 one of the following applies:

36 1. The director of water resources has reported pursuant to section
37 45-108 that the subdivision has an adequate water supply.

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

42 3. The plat was approved pursuant to an exemption authorized by
43 section 9-463.01, subsection K, pursuant to an exemption authorized by
44 section 11-823, subsection B, paragraph 1, pursuant to an exemption granted
45 by the director of water resources under section 45-108.02 and the exemption

1 has not expired or pursuant to an exemption granted by the director of water
2 resources under section 45-108.03.

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

10 I. A subdivider shall not sell or lease or offer for sale or lease in
11 this state any lots, parcels or fractional interests in a subdivision without
12 first obtaining a public report from the commissioner except as provided in
13 section 32-2181.01 or 32-2181.02, and a certificate of administrative
14 completeness issued pursuant to this section. Unless exempt, the sale or
15 lease of subdivided lands ~~prior to~~ BEFORE issuance of the public report or
16 failure to deliver the public report to the purchaser or lessee shall render
17 the sale or lease rescindable by the purchaser or lessee. An action by the
18 purchaser or lessee to rescind the transaction shall be brought within three
19 years of the date of execution of the purchase or lease agreement by the
20 purchaser or lessee. In any rescission action, the prevailing party is
21 entitled to reasonable attorney fees as determined by the court.

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

26 K. Any applicant objecting to the denial of a public report, within
27 thirty days after receipt of the order of denial, may file a written request
28 for a hearing. The commissioner shall hold the hearing within twenty days
29 after receipt of the request for a hearing unless the party requesting the
30 hearing has requested a postponement. If the hearing is not held within
31 twenty days after a request for a hearing is received, plus the period of any
32 postponement, or if a proposed decision is not rendered within forty-five
33 days after submission, the order of denial shall be rescinded and a public
34 report issued.

35 L. On the commissioner's own motion, or when the commissioner has
36 received a complaint and has satisfactory evidence that the subdivider or the
37 subdivider's agent is violating this article or the rules of the commissioner
38 or has engaged in any unlawful practice as defined in section 44-1522 with
39 respect to the sale of subdivided lands or deviated from the provisions of
40 the public report, the commissioner may investigate the subdivision project
41 and examine the books and records of the subdivider. For the purpose of
42 examination, the subdivider shall keep and maintain records of all sales
43 transactions and funds received by the subdivider pursuant to the sales
44 transactions and shall make them accessible to the commissioner ~~upon~~ ON
45 reasonable notice and demand.

1 M. On the commissioner's own motion, or when the commissioner has
2 received a complaint and has satisfactory evidence that any person has
3 violated this article or the rules of the commissioner or has engaged in any
4 unlawful practice as defined in section 44-1522 with respect to the sale of
5 subdivided lands or deviated from the provisions of the public report or
6 special order of exemption, or has been indicted for fraud or against whom an
7 information for fraud has been filed or has been convicted of a felony,
8 before or after the commissioner issues the public report as provided in
9 subsection A of this section, the commissioner may conduct an investigation
10 of the matter, issue a summary order as provided in section 32-2157, or
11 provide notice and hold a public hearing and, after the hearing, may issue
12 the order or orders the commissioner deems necessary to protect the public
13 interest and ensure compliance with the law, rules or public report or the
14 commissioner may bring action in any court of competent jurisdiction against
15 the person to enjoin the person from continuing the violation or engaging in
16 or doing any act or acts in furtherance of the violation. The court may make
17 orders or judgments, including the appointment of a receiver, necessary to
18 prevent the use or employment by a person of any unlawful practices, or which
19 may be necessary to restore to any person in interest any monies or property,
20 real or personal, that may have been acquired by means of any practice in
21 this article declared to be unlawful.

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

28 O. The court, on receipt of an application for the appointment of a
29 receiver or for a writ of ne exeat, or both, shall examine the verified
30 application of the commissioner and other evidence that the commissioner may
31 present the court. If satisfied that the interests of the public require the
32 appointment of a receiver or the issuance of a writ of ne exeat without
33 notice, the court shall issue an order appointing the receiver or issue the
34 writ, or both. If the court determines that the interests of the public will
35 not be harmed by the giving of notice, the court shall set a time for a
36 hearing and require notice be given as the court deems satisfactory.

37 P. If the court appoints a receiver without notice, the court shall
38 further direct that a copy of the order appointing a receiver be served on
39 the person engaged in or engaging in a practice declared to be unlawful under
40 this article by delivering the order to the last address of the person that
41 is on file with the state real estate department. The order shall inform the
42 person that the person has the right to request a hearing within ten days of
43 the date of the order and, if requested, the hearing shall be held within
44 thirty days from the date of the order.

1 Sec. 4. Section 32-2197.08, Arizona Revised Statutes, is amended to
2 read:

3 32-2197.08. Issuance of public report and amended public report
4 by commissioner on timeshare plan; denial of
5 issuance; additional information; use of another
6 state's public report

7 A. On examination of a timeshare plan, the commissioner, unless there
8 are grounds for denial, shall approve for use by the developer a public
9 report authorizing the sale or lease of the timeshare interests within the
10 timeshare plan. For all timeshare interests sold in this state, the
11 commissioner shall require the developer to reproduce the public report and
12 furnish each prospective customer with a copy, taking a receipt for each
13 copy. The public report shall be made available to each prospective
14 purchaser in written format and may also be made available in CD-ROM or other
15 electronic format as approved by the commissioner. The public report shall
16 include the following:

17 1. The name and principal address of the owner and developer.

18 2. A description of the type of timeshare interests being offered.

19 3. A description of the existing and proposed accommodations and
20 amenities of the timeshare plan, including type and number, any use
21 restrictions and any required fees for use.

22 4. A description of any accommodations and amenities that are
23 committed to be built, including:

24 (a) The developer's schedule of commencement and completion of all
25 accommodations and amenities.

26 (b) The estimated number of accommodations per site that may become
27 subject to the timeshare plan.

28 5. A brief description of the duration, phases and operation of the
29 timeshare plan.

30 6. The current annual budget if available or the projected annual
31 budget for the timeshare plan. The budget shall include:

32 (a) A statement of the amount or a statement that there is no amount
33 included in the budget as a reserve for repairs and replacement.

34 (b) The projected common expense liability, if any, by category of
35 expenditures for the timeshare plan.

36 (c) A statement of any services or expenses that are not reflected in
37 the budget and that the developer provides or pays.

38 7. A description of any liens, defects or encumbrances on or affecting
39 the title to the timeshare interests.

40 8. A statement that by midnight of the seventh calendar day after
41 execution of the purchase agreement a purchaser may cancel any purchase
42 agreement for a timeshare interest from a developer together with a statement
43 providing the name and street address where the purchaser should mail any
44 notice of cancellation. However, if, by agreement of the parties through the
45 purchase agreement, the purchase agreement allows for cancellation of the
46 purchase agreement for a period of time exceeding seven calendar days, the

1 public report shall include a statement that the cancellation of the purchase
2 agreement is allowed for that period of time exceeding seven calendar days.

3 9. A description of any bankruptcies, pending suits, adjudications or
4 disciplinary actions material to the timeshare interests of which the
5 developer has knowledge.

6 10. Any restrictions on alienation of any number or portion of any
7 timeshare interests.

8 11. Any current or expected fees or charges to be paid by timeshare
9 purchasers for the use of any amenities related to the timeshare plan.

10 12. The extent to which financial arrangements have been provided for
11 completion of all promised improvements.

12 13. If the timeshare plan provides purchasers with the opportunity to
13 participate in any exchange programs, a description of the name and address
14 of the exchange companies and the method by which a purchaser accesses the
15 exchange programs.

16 14. Any other information that the developer, with the approval of the
17 commissioner, desires to include in the public report.

18 15. If the developer is offering a multisite timeshare plan, the
19 following information, which may be disclosed in a written, graphic or
20 tabular form:

21 (a) A description of each component site, including the name and
22 address of each component site.

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

26 (c) Each type of accommodation in terms of the number of bedrooms,
27 bathrooms and sleeping capacity and a statement of whether or not the
28 accommodation contains a full kitchen. For the purposes of this subdivision,
29 "full kitchen" means a kitchen having a minimum of a dishwasher, range, oven,
30 sink and refrigerator.

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

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

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

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

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

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

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

1 (h) The location and the anticipated relative use demand of each
2 component site in a multisite timeshare plan as well as any periodic
3 adjustment or amendment to the reservation system that may be needed in order
4 to respond to actual purchaser use patterns and changes in purchaser use
5 demand for the accommodations existing at the time within the multisite
6 timeshare plan.

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

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

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

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

17 B. Except as otherwise provided in this subsection, the requirements
18 prescribed by subsection A of this section apply to a developer's application
19 for approval to use an amended public report for the sale of timeshare
20 interests in a timeshare plan, including an amended public report to disclose
21 and address a material change under section 32-2197.04. A developer may
22 elect to prepare an amended public report for use in the sale of timeshare
23 interests as follows:

24 1. The developer shall prepare the amended public report and provide a
25 copy of the report to the commissioner with the submission of the application
26 for an amended public report, including any notification required by section
27 32-2197.04, and shall comply with all other requirements of this article.

28 2. An amendment filing fee established pursuant to section 32-2197.07
29 shall accompany the application prescribed by paragraph 1 of this subsection.

30 3. On receipt of the application and amended public report, the
31 department shall review and, within fifteen business days if the amendment
32 adds less than six new component sites to the timeshare plan or within thirty
33 calendar days if the amendment adds six or more new component sites to the
34 timeshare plan, issue either a certification that the application and amended
35 public report are administratively complete or a denial letter if it appears
36 that the application, amended public report or timeshare plan is not in
37 compliance with all legal requirements, that the applicant has a background
38 of violations of state or federal law or that the applicant or timeshare plan
39 presents an unnecessary risk of harm to the public. If the commissioner has
40 received the application and amended public report but has not issued a
41 certification or a denial letter within the required time period, the
42 application and amended public report are deemed administratively complete.

43 4. The developer may commence sales or leasing activities as permitted
44 under this article using an amended public report when the commissioner
45 issues a certification of administrative completeness or as of the date the
46 application and amended public report are deemed administratively complete

1 pursuant to paragraph 3 of this subsection. The certification may be issued
2 on paper or electronically.

3 5. Before or after the commissioner issues a certification of
4 administrative completeness or, if applicable, after the application and
5 amended public report are deemed to be administratively complete pursuant to
6 paragraph 3 of this subsection, the department may examine any public report,
7 timeshare plan or applicant that has applied for or received the
8 certification. If the commissioner determines that the public report,
9 timeshare plan or applicant is not in compliance with any requirement of
10 state law or that grounds exist under this chapter to suspend, deny or revoke
11 a public report, the commissioner may commence an administrative action under
12 section 32-2154, 32-2157 or 32-2197.14. If the developer immediately
13 corrects the deficiency and fully complies with state law, the commissioner
14 shall promptly vacate any action that the commissioner may have commenced
15 pursuant to section 32-2154, 32-2157 or 32-2197.14.

16 6. The department shall provide forms and guidelines for the
17 submission of the application and amended public report pursuant to this
18 subsection.

19 C. In the event of denial, suspension or revocation, grounds shall be
20 set forth in writing at the time of denial, suspension or revocation. The
21 commissioner may deny, suspend or revoke the public report on any of the
22 following grounds:

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

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

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

32 4. The developer, including if an entity, an officer, director,
33 member, manager, partner, owner, trust beneficiary holding ten ~~per cent~~
34 PERCENT or more beneficial interest, stockholder owning ten ~~per cent~~ PERCENT
35 or more of the stock or other person exercising control of the entity, has:

36 (a) Been convicted of a felony or misdemeanor involving theft, fraud
37 or dishonesty or involving the conduct of any business or a transaction in
38 real estate, cemetery property, timeshare interests or membership camping
39 campgrounds or contracts.

40 (b) Been permanently or temporarily enjoined by order, judgment or
41 decree from engaging in or continuing any conduct or practice in connection
42 with the sale or purchase of real estate, cemetery property, timeshare
43 interests, membership camping campgrounds or contracts, or securities or
44 involving consumer fraud or the ~~Arizona~~ racketeering laws OF THIS STATE.

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

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

5 (e) Disregarded or violated this chapter or the rules of the
6 commissioner pertaining to this chapter.

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

9 5. If within this state, the timeshare property is incompatible with
10 the existing neighborhood and would introduce into a neighborhood a character
11 of property or use that would clearly be detrimental to property values in
12 that neighborhood.

13 D. If the timeshare property is within an active management area, as
14 defined in section 45-402, the commissioner shall deny issuance of a public
15 report unless the developer has been issued a certificate of assured water
16 supply by the director of water resources and has paid all applicable fees
17 pursuant to sections 48-3772 and 48-3774.01, or unless the developer has
18 obtained a written commitment of water service for the timeshare property
19 from a city, town or private water company designated as having an assured
20 water supply by the director of water resources pursuant to section 45-576.

21 E. In areas outside of active management areas, if the timeshare
22 property is ~~located in a county that has adopted the provision authorized by~~
23 **SUBJECT TO** section 11-823, subsection A or ~~in a city or town that has enacted~~
24 ~~an ordinance pursuant to~~ section 9-463.01, subsection ~~0~~ J, the commissioner
25 shall deny issuance of a public report unless one of the following applies:

26 1. The director of water resources has reported pursuant to section
27 45-108 that the timeshare property has an adequate water supply.

28 2. The developer has obtained a written commitment of water service
29 for the timeshare property from a city, town or private water company
30 designated as having an adequate water supply by the director of water
31 resources pursuant to section 45-108.

32 3. The timeshare property was approved pursuant to an exemption
33 authorized by section 9-463.01, subsection K, pursuant to an exemption
34 authorized by section 11-823, subsection B, paragraph 1, pursuant to an
35 exemption granted by the director of water resources under section 45-108.02
36 and the exemption has not expired or pursuant to an exemption granted by the
37 director of water resources under section 45-108.03.

38 4. The subdivision received final plat approval from the city, town or
39 county before the requirement for an adequate water supply became effective
40 in the city, town or county, and there have been no material changes to the
41 plat since the final plat approval. If changes were made to the plat after
42 the final plat approval, the director of water resources shall determine
43 whether the changes are material pursuant to the rules adopted by the
44 director to implement section 45-108.

45 F. In addition to providing to each prospective customer a copy of the
46 public report as required in subsection A of this section, the developer

1 shall also provide to each customer before the close of any transaction
2 information and materials that identify any timeshare exchange companies
3 currently under contract and disclosure statements regarding the use of the
4 timeshare exchange companies, as well as any additional information the
5 commissioner deems appropriate.

6 G. The commissioner may authorize for use in this state by a developer
7 of a timeshare plan in which all accommodations are located outside of this
8 state a current public report that is issued by another jurisdiction or an
9 equivalent registration and disclosure document that is required before
10 offering a timeshare plan for sale, lease or use and that is issued by
11 another jurisdiction. This authorization does not constitute an exemption
12 from other applicable requirements of this article.

13 Sec. 5. Section 45-108, Arizona Revised Statutes, is amended to read:
14 45-108. Evaluation of subdivision water supply; definition

15 A. In areas outside of active management areas established pursuant to
16 chapter 2, article 2 of this title, the developer of a proposed subdivision
17 including dry lot subdivisions, regardless of subdivided lot size, ~~prior to~~
18 **BEFORE** recordation of the plat, shall submit plans for the water supply for
19 the subdivision and demonstrate the adequacy of the water supply to meet the
20 needs projected by the developer to the director. The director shall
21 evaluate the plans and issue a report on the plans.

22 B. The director shall evaluate the proposed source of water for the
23 subdivision to determine whether there is an adequate water supply for the
24 subdivision, and shall forward a copy of the director's report to the state
25 real estate commissioner and the city, town or county responsible for
26 platting the subdivision.

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

31 D. As an alternative to designation under subsection C of this
32 section, the director may designate a city or town that has entered into a
33 contract with the United States secretary of the interior or a county water
34 authority established pursuant to chapter 13 of this title for permanent
35 supplies of Colorado river water for municipal and industrial use as having
36 an adequate water supply if all of the following apply:

37 1. The city or town has entered into a contract with each private
38 water company that serves water within the city or town to provide Colorado
39 river water to those private water companies.

40 2. The Colorado river water for which the city or town has contracted
41 is sufficient together with other water supplies available to the city or
42 town and the private water companies that serve water within that city or
43 town to provide an adequate supply of water for the city or town.

44 3. The director finds that new subdivisions within the city or town
45 will be served primarily with Colorado river water by the city or town or one
46 of the private water companies that serve water within that city or town.

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

3 1. Both of the following apply:

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

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

9 2. All of the following apply:

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

12 (b) The developer has obtained a written commitment of water service
13 from the city or town or a private water company that serves water within
14 that city or town.

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

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

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

22 ~~H. If the director receives written notice from the board of~~
23 ~~supervisors of a county that it has adopted the provision authorized by~~
24 ~~section 11-823, subsection A, the director shall give written notice of the~~
25 ~~provision to the mayors of all cities and towns in the county. A city or~~
26 ~~town that receives the notice shall comply with section 9-463.01, subsections~~
27 ~~J, K, L, M and N.~~

28 ~~I.~~ H. For the purposes of this section, "adequate water supply" means
29 both of the following:

30 1. Sufficient groundwater, surface water or effluent of adequate
31 quality will be continuously, legally and physically available to satisfy the
32 water needs of the proposed use for at least one hundred years.

33 2. The financial capability has been demonstrated to construct the
34 water facilities necessary to make the supply of water available for the
35 proposed use, including a delivery system and any storage facilities or
36 treatment works. The director may accept evidence of the construction
37 assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this
38 requirement.

39 Sec. 6. Section 45-108.01, Arizona Revised Statutes, is amended to
40 read:

41 45-108.01. Application for water report or designation of
42 adequate water supply; notice; objections;
43 hearing; appeals

44 A. On receipt of an application for a water report or an application
45 by a city, town or private water company to be designated as having an
46 adequate water supply under section 45-108, if the ~~proposed use is in a~~

1 ~~county that has adopted the provision authorized by~~ FINAL PLAT APPROVAL FOR A
2 SUBDIVISION IS SUBJECT TO section 11-823, subsection A or ~~in a city or town~~
3 ~~that has enacted an ordinance pursuant to~~ section 9-463.01, subsection ~~θ~~ J,
4 the director shall publish notice of the application once each week for two
5 consecutive weeks in a newspaper of general circulation in the groundwater
6 basin in which the applicant proposes to use water. The first publication
7 shall occur within fifteen days after the application is determined or deemed
8 to be administratively complete. If the application is substantially
9 modified after notice of the application is given pursuant to this
10 subsection, the director shall give notice of the application as modified in
11 the manner prescribed by this subsection. The first publication of any
12 subsequent notice shall occur within fifteen days after the modified
13 application is determined or deemed to be administratively complete.

14 B. Notice pursuant to subsection A of this section shall state that
15 written objections to the application may be filed with the director by
16 residents and landowners within the groundwater basin within fifteen days
17 after the last publication of notice. An objection shall state the name and
18 mailing address of the objector and be signed by the objector, the objector's
19 agent or the objector's attorney. The grounds for objection are limited to
20 whether the application meets the criteria for determining an adequate water
21 supply ~~set forth~~ AS DEFINED in section 45-108, ~~subsection I~~. The objection
22 shall clearly set forth reasons why the application does not meet the
23 criteria.

24 C. In appropriate cases, including cases in which a proper written
25 objection to the application has been filed, an administrative hearing may be
26 held before the director's decision on the application if the director deems
27 a hearing necessary. Thirty days before the date of the hearing, the
28 director shall give notice of the hearing to the applicant and to any person
29 who filed a proper written objection to the application. The hearing shall
30 be scheduled for at least sixty days but not more than ninety days after the
31 expiration of the time in which to file objections.

32 D. If the application is for a water report:

33 1. If the director determines that an adequate water supply exists for
34 the proposed use, the director shall issue a water report stating that the
35 water supply for the subdivision is adequate.

36 2. If the director determines that an adequate water supply does not
37 exist, the director shall issue a water report stating that the water supply
38 for the subdivision is inadequate.

39 E. If the application is for a designation of adequate water supply:

40 1. If the director determines that an adequate water supply exists for
41 the proposed use, the director shall approve the application.

42 2. If the director determines that an adequate water supply does not
43 exist, the director shall deny the application.

44 F. The applicant or a person who contested the application by filing a
45 proper objection pursuant to subsection B of this section may seek judicial

1 review of the final decision of the director as provided in section 45-114,
2 subsection B in the superior court.

3 G. Section 45-114, subsections A and B govern administrative
4 proceedings, rehearings or reviews and judicial reviews of final decisions of
5 the director under this section. If an administrative hearing is held, it
6 shall be conducted in the groundwater basin in which the use is located.

7 Sec. 7. Section 45-108.02, Arizona Revised Statutes, is amended to
8 read:

9 45-108.02. Exemption from adequate water supply requirements
10 for city, town or county based on substantial
11 capital investment; application; criteria;
12 expiration

13 A. If the director determines pursuant to section 45-108 that an
14 adequate water supply does not exist for a proposed subdivision and the
15 proposed subdivision is located in a city, town or county that requires a
16 determination of adequate water supply by the director as a condition of
17 approval of the plat pursuant to section 9-463.01, subsection J ~~or~~ or
18 section 11-823, subsection A, the subdivider may apply to the director for an
19 exemption from the water adequacy requirement pursuant to this section on a
20 form prescribed by the director within one year after the requirement first
21 becomes effective. The director shall grant the exemption if the subdivider
22 demonstrates to the satisfaction of the director that all of the following
23 apply:

24 1. The subdivider has made substantial capital investment toward the
25 construction of the proposed subdivision before the date the water adequacy
26 requirement first became effective. For the purposes of this paragraph,
27 substantial capital investment may include construction costs, site
28 preparation costs, construction of off-site improvements and conversion or
29 remodeling costs for existing structures, as well as planning and design
30 costs associated with those items, but does not include the original cost of
31 acquiring the property.

32 2. The subdivider was not aware of the proposed water adequacy
33 requirement at the time the investment was made.

34 3. The proposed subdivision complied in all other respects with
35 existing state laws as of the date the water adequacy requirement became
36 effective.

37 B. If the director grants an exemption pursuant to subsection A of
38 this section:

39 1. The exemption expires five years after the date the exemption is
40 granted, unless before that date at least one parcel in the subdivision is
41 sold to a bona fide purchaser or the director extends the exemption pursuant
42 to paragraph 2 of this subsection.

43 2. The director may extend the period of the exemption for no more
44 than two successive five-year periods if the subdivider applies for an
45 extension before the exemption expires and demonstrates to the satisfaction
46 of the director that the subdivider has made material progress in developing

1 the subdivision, but that sales of parcels in the subdivision have been
2 delayed for reasons outside the control of the subdivider.

3 C. If an exemption granted under this section expires, any public
4 report issued for the subdivision by the state real estate commissioner
5 pursuant to section 32-2183 expires and the subdivider shall not sell any
6 lots in the subdivision unless both of the following apply:

7 1. The subdivider files with the state real estate commissioner a new
8 notice of intention to subdivide lands pursuant to section 32-2181 and
9 complies with section 32-2181, subsection F.

10 2. The state real estate commissioner issues a new public report for
11 the subdivision pursuant to section 32-2183.

12 D. Section 45-114, subsections A and B govern administrative
13 proceedings, rehearing or review and judicial review of final decisions of
14 the director under this section.

15 Sec. 8. Section 45-108.03, Arizona Revised Statutes, is amended to
16 read:

17 45-108.03. Exemption from adequate water supply requirements
18 for city, town or county based on an adequate
19 water supply within twenty years; criteria;
20 application

21 A. If a proposed subdivision is located in a city, town or county that
22 requires an adequate water supply determination by the director as a
23 condition of approval of the plat pursuant to section 9-463.01, subsection J
24 ~~or~~ or section 11-823, subsection A, the subdivider may apply to the
25 director for an exemption from the requirement pursuant to this section on a
26 form prescribed by the director. The director shall grant the exemption if
27 the subdivider demonstrates to the satisfaction of the director that the
28 subdivision will be served by a water supply project to which both of the
29 following apply:

30 1. The subdivider has demonstrated financial capability pursuant to
31 section 45-108, subsection ~~I~~ H, but the water supply project will not be
32 capable of serving the subdivision with sufficient water to meet its demands
33 in a timely manner because of one of the following:

34 (a) The physical works for delivering water to the subdivision are not
35 complete but are under construction and will be completed within twenty
36 years.

37 (b) The subdivision will be served Colorado river water by a water
38 provider that does not currently have the legal right to serve the water to
39 the subdivision, but the water provider has an existing permanent contract
40 for the Colorado river water and will have the legal right to serve the water
41 to the subdivision within twenty years.

42 2. The subdivision will have an adequate water supply when the
43 construction of the physical works is completed or the water supply is
44 legally available to serve the subdivision, whichever applies, and the
45 interim water supply that will serve the subdivision meets all of the

1 criteria for an adequate water supply under section 45-108 except that the
2 interim water supply will not be available for one hundred years.

3 B. Section 45-114, subsections A and B govern administrative
4 proceedings, rehearing or review and judicial review of final decisions of
5 the director under this section.

6 Sec. 9. Section 48-6414, Arizona Revised Statutes, is amended to read:
7 48-6414. Inapplicability of other adequate water supply
8 provisions to proposed subdivisions in the district

9 Section 9-463.01, subsections J through Q, section 11-823, section
10 32-2181, subsection F, section 32-2183, subsection H, section 32-2197.08,
11 subsection E, ~~section 45-108, subsection H,~~ section 45-108.01, section
12 45-108.02 and section 45-108.03 do not apply to proposed subdivisions in the
13 district.

14 Sec. 10. Applicability; county, city and town water adequacy
15 ordinances

16 A. This act applies to any city or town that received a notice from
17 the director of water resources before the effective date of this act that
18 the county in which the city or town is located enacted an adequate water
19 supply ordinance affecting the city or town, and those cities and towns are
20 no longer bound by that county's adequate water supply ordinance.

21 B. This act does not apply to any city or town that adopts its own
22 adequate water supply ordinance pursuant to section 9-463.01, subsection O,
23 Arizona Revised Statutes, before, on or after the effective date of this act.