

REFERENCE TITLE: land divisions; county regulation; surveys

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2589

Introduced by
Representatives Griffin: Dunn, Nutt, Senator Gowan

AN ACT

AMENDING SECTION 11-831, ARIZONA REVISED STATUTES; RELATING TO COUNTY
PLANNING AND ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-831, Arizona Revised Statutes, is amended to
3 read:

4 11-831. Review of land divisions; definitions

5 A. The board of supervisors of each county may adopt ordinances and
6 regulations pursuant to this section for staff review and approval of land
7 divisions of five or fewer lots, parcels or fractional interests, any of
8 which is ten acres or smaller in size. The county may not deny approval
9 of any land division that meets the requirements of this section **AND MAY**
10 **NOT REQUIRE THE APPLICANT FOR THE LAND DIVISION TO CONDUCT A SURVEY AS A**
11 **CONDITION OF ISSUING APPROVAL OF THE LAND DIVISION OR CONVEYANCE OF THE**
12 **LAND OR ISSUANCE OF A BUILDING PERMIT.** If review of the request is not
13 completed within thirty days after receiving the request, the land
14 division is considered to be approved. At its option, the board of
15 supervisors may submit a ballot question to the voters of the county to
16 allow the voters to determine the application of subsections B and C **OF**
17 **THIS SECTION** to qualifying land divisions in that county.

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

19 1. The lots, parcels or fractional interests each meet the minimum
20 applicable county zoning requirements of the applicable zoning
21 designation.

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

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

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

32 5. **THE APPLICANT DISCLOSES TO ANY BUYER THAT THE APPLICANT HAS NOT**
33 **CONDUCTED A SURVEY OF THE LAND DIVISION.**

34 C. An application to split a parcel of land that does not comply
35 with one or more of the items listed in subsection B **OF THIS SECTION** shall
36 still be approved if the applicant provides an acknowledgment that is
37 signed by the applicant and that confirms that no building or use permit
38 will be issued by the county until the lot, parcel or fractional interest
39 has met the requirements of subsection B **OF THIS SECTION AND THAT NO**
40 **SURVEY OF THE PROPERTY HAS BEEN CONDUCTED.** The county may grant a
41 variance from one or more of the items listed in subsection B **OF THIS**
42 **SECTION.**

1 D. Any approval of a land division under this section may:
2 1. Include the minimum statutory requirements for legal and
3 physical on-site access that must be met as a condition to the issuance of
4 a building or use permit for the lots, parcels or fractional interests.
5 2. Identify topographic, hydrologic or other site constraints,
6 requirements or limitations that must be addressed as conditions to the
7 eventual issuance of a building or use permit. These constraints,
8 requirements or limitations may be as noted by the applicant or through
9 county staff review, but there shall be no requirement for independent
10 studies.

11 E. If the requirements of subsections A through D **OF THIS SECTION**
12 do not apply, a county may adopt ordinances and regulations pursuant to
13 this chapter for staff review of land divisions of five or fewer lots,
14 parcels or fractional interests but only to determine compliance with
15 minimum applicable county zoning requirements and legal access and may
16 grant waivers from the county zoning and legal access requirements. The
17 county may not deny approval of any land division that meets the
18 requirements of this section or where the deficiencies are noticed in the
19 deed. A county may not require a public hearing on a request to divide
20 five or fewer lots, parcels or fractional interests. If review of the
21 request is not completed within thirty days from receipt of the request,
22 the land division shall be deemed approved. If no legal access is
23 available, the legal access does not allow access by emergency vehicles or
24 the county zoning requirements are not met, the access or zoning
25 deficiencies shall be noticed in the deed. If a county by ordinance
26 requires a legal access of more than twenty-four feet roadway width, the
27 county is responsible for the improvement and maintenance of the
28 improvement. If the legal access does not allow access to the lots,
29 parcels or fractional interests by emergency vehicles, neither the county
30 nor its agents or employees are liable for damages resulting from the
31 failure of emergency vehicles to reach the lot, parcel or fractional
32 interest.

33 F. It is unlawful for a person or group of persons acting in
34 concert to attempt to avoid this section or the subdivision laws of this
35 state by acting in concert to divide a parcel of land into six or more
36 lots or sell or lease six or more lots by using a series of owners or
37 conveyances. Either the county where the division occurred or the state
38 real estate department pursuant to title 32, chapter 20, but not both, may
39 enforce this prohibition. A familial relationship alone is not sufficient
40 to constitute unlawful acting in concert.

41 G. For any subdivision that consists of ten or fewer lots, tracts
42 or parcels, each of which is of a size as prescribed by the board of
43 supervisors, the board of supervisors of each county may waive the
44 requirement to prepare, submit and receive approval of a preliminary plat
45 as a condition precedent to submitting a final plat and may waive or

1 reduce infrastructure standards or requirements except for improved
2 dust-controlled access and minimum drainage improvements.

3 H. For the purposes of this section:

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

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

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