

REFERENCE TITLE: water adequacy requirements; statewide applicability.

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1385

Introduced by
Senators Mendez: Alston, Dalessandro, Quezada, Steele; Representative
Salman

AN ACT

AMENDING SECTIONS 11-823, 32-2181, 32-2183, 32-2197.08, 45-108, 45-108.01,
45-108.02 AND 45-108.03, ARIZONA REVISED STATUTES; RELATING TO WATER
SUPPLIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-823, Arizona Revised Statutes, is amended to
3 read:

4 11-823. Water supply; adequacy; exemptions

5 A. To protect the public health and safety, the general regulations
6 adopted by the board pursuant to section 11-821, subsection B, ~~if approved~~
7 ~~by unanimous vote of the board of supervisors, may~~ **SHALL** provide that,
8 except as provided in subsection C ~~and subsection D, paragraph 1~~ of this
9 section, the board shall not approve a final plat for a subdivision
10 composed of subdivided lands, as defined in section 32-2101, located
11 outside of an active management area, as defined in section 45-402, unless
12 one of the following applies:

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

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

20 B. ~~If the board unanimously adopts the provision authorized~~ **IN**
21 **ADOPTING THE PROVISION REQUIRED** by subsection A of this section:

22 1. The board may include in the general regulations an exemption
23 from the provision for a subdivision that the director of water resources
24 has determined will have an inadequate water supply because the water
25 supply will be transported to the subdivision by motor vehicle or train if
26 all of the following apply:

27 (a) The board determines that there is no feasible alternative
28 water supply for the subdivision and that the transportation of water to
29 the subdivision will not constitute a significant risk to the health and
30 safety of the residents of the subdivision.

31 (b) If the water to be transported to the subdivision will be
32 withdrawn or diverted in the service area of a municipal provider as
33 defined in section 45-561, the municipal provider has consented to the
34 withdrawal or diversion.

35 (c) If the water to be transported is groundwater, the
36 transportation complies with the provisions governing the transportation
37 of groundwater in title 45, chapter 2, article 8.

38 (d) The transportation of water to the subdivision meets any
39 additional conditions imposed by the county.

40 2. The board shall promptly give written notice of the adoption of
41 the provision to the director of water resources, the director of
42 environmental quality and the state real estate commissioner. The notice
43 shall include a certified copy of the provision and any exemptions adopted
44 pursuant to paragraph 1 of this subsection. Water providers may be

1 eligible to receive monies in a water supply development fund, as
2 otherwise provided by law.

3 3. The board shall not rescind the provision or amend it in a
4 manner that is inconsistent with subsection A of this section. If the
5 board amends the provision, it shall give written notice of the amendment
6 to the director of water resources, the director of environmental quality
7 and the state real estate commissioner. The board may rescind an
8 exemption adopted pursuant to paragraph 1 of this subsection. If the
9 board rescinds the exemption, it shall give written notice of the
10 rescission to the director of water resources, the director of
11 environmental quality and the state real estate commissioner, and the
12 board shall not readopt the exemption for at least five years after the
13 rescission becomes effective.

14 4. If the board approves a subdivision plat pursuant to subsection
15 A, paragraph 1 or 2 of this section, the board shall note on the face of
16 the plat that the director of water resources has reported that the
17 subdivision has an adequate water supply or that the subdivider has
18 obtained a commitment of water service for the proposed subdivision from a
19 city, town or private water company designated as having an adequate water
20 supply pursuant to section 45-108.

21 5. If the board approves a subdivision plat pursuant to an
22 exemption authorized by paragraph 1 of this subsection or granted by the
23 director of water resources pursuant to section 45-108.02 or 45-108.03:

24 (a) The board shall give written notice of the approval to the
25 director of water resources and the director of environmental quality.

26 (b) The board shall include on the face of the plat a statement
27 that the director of water resources has determined that the water supply
28 for the subdivision is inadequate and a statement describing the exemption
29 under which the plat was approved, including a statement that the board or
30 the director of water resources, whichever applies, has determined that
31 the specific conditions of the exemption were met. If the director of
32 water resources subsequently informs the board that the subdivision is
33 being served by a water provider that has been designated by the director
34 as having an adequate water supply pursuant to section 45-108, the board
35 shall record in the county recorder's office a statement disclosing that
36 fact.

37 C. Subsection A of this section does not apply to:

38 1. A proposed subdivision that the director of water resources has
39 determined will have an inadequate water supply pursuant to section 45-108
40 if the director grants an exemption for the subdivision pursuant to
41 section 45-108.02 and the exemption has not expired or the director grants
42 an exemption pursuant to section 45-108.03.

43 2. A proposed subdivision that received final plat approval from
44 the county before the requirement for an adequate water supply became
45 effective in the county if the plat has not been materially changed since

1 it received the final plat approval. If changes were made to the plat
2 after the plat received the final plat approval, the director of water
3 resources shall determine whether the changes are material pursuant to the
4 rules adopted by the director to implement section 45-108. If the county
5 approves a plat pursuant to this paragraph and the director of water
6 resources has determined that there is an inadequate water supply for the
7 subdivision pursuant to section 45-108, the county shall note this on the
8 face of the plat.

9 ~~D. If the subdivision is composed of subdivided lands as defined in
10 section 32-2101 outside of an active management area and the board has not
11 adopted a provision pursuant to subsection A of this section:~~

12 ~~1. If the director of water resources has determined that there is
13 an adequate water supply for the subdivision pursuant to section 45-108 or
14 if the subdivider has obtained a written commitment of water service for
15 the subdivision from a city, town or private water company designated as
16 having an adequate water supply by the director of water resources
17 pursuant to section 45-108, the board shall note this on the face of the
18 plat if the plat is approved.~~

19 ~~2. If the director of water resources has determined that there is
20 an inadequate water supply for the subdivision pursuant to section 45-108,
21 the board shall note this on the face of the plat if the plat is approved.~~

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

24 32-2181. Notice to commissioner of intention to subdivide
25 lands; unlawful acting in concert; exceptions; deed
26 restrictions; definition

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

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

39 2. The name and address of the subdivider.

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

41 4. A true statement of the condition of the title to the land,
42 including all encumbrances on the land, and a statement of the provisions
43 agreed to by the holder of any blanket encumbrance enabling a purchaser to
44 acquire title to a lot or parcel free of the lien of the blanket
45 encumbrance on completion of all payments and performance of all of the

1 terms and provisions required to be made or performed by the purchaser
2 under the real estate sales contract by which the purchaser has acquired
3 the lot or parcel. The subdivider shall file copies of documents
4 acceptable to the department containing these provisions with the
5 commissioner before the sale of any subdivision lot or parcel subject to a
6 blanket encumbrance.

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

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

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

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

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

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

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

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

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

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

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

1 16. A statement of the provisions for easements for permanent
2 access 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
5 facilities and other improvements to be included in the offering or
6 represented as being in the offering, and approval of the offering by the
7 political subdivision with authority. This statement shall include a
8 trust agreement or any other evidence of assurances for delivery of the
9 improvements and a statement of the provisions, if any, for the continued
10 maintenance of the improvements.

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

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

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

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

29 (a) Any subdivision in this state.

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

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

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

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

41 (b) The subdivider.

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

43 23. A true statement as to whether all or any portion of the
44 subdivision is located in territory in the vicinity of a military airport
45 or ancillary military facility as defined in section 28-8461, in territory

1 in the vicinity of a public airport as defined in section 28-8486, on or
2 after July 1, 2001, in a high noise or accident potential zone as defined
3 in section 28-8461 or on or after July 1 of the year in which the
4 subdivision becomes located in a high noise or accident potential zone.
5 The statement required pursuant to this paragraph does not require the
6 amendment or refiling of any notice filed before July 1, 2001 or before
7 July 1 of the year in which the subdivision becomes located in a high
8 noise or accident potential zone.

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

12 (a) That the property is a conversion from multifamily rental to
13 condominiums.

14 (b) The date original construction was completed.

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

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

29 C. If the subdivision is within an active management area, as
30 defined in section 45-402, the subdivider shall accompany the notice with
31 a certificate of assured water supply issued by the director of water
32 resources along with proof that all applicable fees have been paid
33 pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has
34 obtained a written commitment of water service for the subdivision from a
35 city, town or private water company designated as having an assured water
36 supply by the director of water resources pursuant to section 45-576 or is
37 exempt from the requirement pursuant to section 45-576. If the subdivider
38 has submitted a certificate of assured water supply to a city, town or
39 county prior to approval of the plat by the city, town or county and this
40 has been noted on the face of the plat, the submission constitutes
41 compliance with this subsection if the subdivider provides proof to the
42 commissioner that all applicable fees have been paid pursuant to sections
43 48-3772 and 48-3774.01.

1 D. It is unlawful for a person or group of persons acting in
2 concert to attempt to avoid this article by acting in concert to divide a
3 parcel of land or sell subdivision lots by using a series of owners or
4 conveyances or by any other method that ultimately results in the division
5 of the lands into a subdivision or the sale of subdivided land. The plan
6 or offering is subject to this article. Unlawful acting in concert
7 pursuant to this subsection with respect to the sale or lease of
8 subdivision lots requires proof that the real estate licensee or other
9 licensed professional knew or with the exercise of reasonable diligence
10 should have known that property which the licensee listed or for which the
11 licensee acted in any capacity as agent was subdivided land subject to
12 this article. A familial relationship alone is not sufficient to
13 constitute unlawful acting in concert.

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

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

21 2. The lots, parcels or fractional interests are the result of a
22 foreclosure sale, the exercise by a trustee under a deed of trust of a
23 power of sale or the grant of a deed in lieu of foreclosure. This
24 paragraph does not allow circumvention of the requirements of this
25 article.

26 3. The lots, parcels or fractional interests are created by a valid
27 order or decree of a court pursuant to and through compliance with title
28 12, chapter 8, article 7 or by operation of law. This paragraph does not
29 allow circumvention of the requirements of this article.

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

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

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

42 7. A sale or lease of a lot, parcel or fractional interest occurs
43 ten or more years after the sale or lease of another lot, parcel or
44 fractional interest and the other lot, parcel or fractional interest is
45 not subject to this article and is treated as an independent parcel

1 unless, ~~upon~~ ON investigation by the commissioner, there is evidence of
2 intent to subdivide.

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

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

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

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

19 (c) The plat was approved pursuant to an exemption authorized by
20 section 9-463.01, subsection K, pursuant to an exemption authorized by
21 section 11-823, subsection B, paragraph 1, pursuant to an exemption
22 granted by the director of water resources under section 45-108.02 and the
23 exemption has not expired or pursuant to an exemption granted by the
24 director under section 45-108.03. If the plat was approved pursuant to an
25 authorized exemption, the state real estate commissioner shall require
26 that all promotional material and contracts for the sale of lots in the
27 subdivision adequately display the following:

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

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

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

1 promotional materials and contracts for the sale of lots in the
2 subdivision adequately display the director of water resources' report or
3 the developer's brief summary of the report as approved by the
4 commissioner on the proposed water supply for the subdivision.

5 2. If the subdivision is not located in a county that has adopted
6 the provision ~~authorized~~ REQUIRED by section 11-823, subsection A or in a
7 city or town that has enacted an ordinance pursuant to section 9-463.01,
8 subsection O, and if the director of water resources, pursuant to section
9 45-108, reports an inadequate on-site supply of water to meet the needs
10 projected by the developer or if no water is available, the state real
11 estate commissioner shall require that all promotional material and
12 contracts for the sale of lots in subdivisions approved by the
13 commissioner adequately display the director of water resources' report or
14 the developer's brief summary of the report as approved by the
15 commissioner on the proposed water supply for the subdivision.

16 G. The commissioner may require the subdivider to supplement the
17 notice of intention to subdivide lands and may require the filing of
18 periodic reports to update the information contained in the original
19 notice of intention to subdivide lands.

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

26 I. Neither a real estate sales contract, conveyance, lease,
27 assignment or other instrument to transfer any interest in subdivided land
28 nor any covenant or restriction affecting real property shall contain any
29 provision limiting the right of any party to appear or testify in support
30 of or opposition to zoning changes, building permits or any other official
31 acts affecting real property before a governmental body or official
32 considering zoning changes, building permits or any other official acts
33 affecting real property, whether the property is located within or outside
34 of the boundaries of the subdivision. All contractual provisions that
35 conflict with this subsection are declared to be contrary to public
36 policy. Nothing contained in this subsection shall prohibit private
37 restrictions on the use of any real property.

38 J. Before offering subdivided lands for lease or sale, the
39 subdivider who makes any promises through any form of advertising media
40 that the subdivided lands will be exclusively a retirement community or
41 one that is limited to the residency of adults or senior citizens shall
42 include the promises in the deed restrictions affecting any interest in
43 real property within the subdivided lands.

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

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

8 32-2183. Subdivision public reports; denial of issuance;
9 unlawful sales; voidable sale or lease; order
10 prohibiting sale or lease; investigations;
11 hearings; summary orders

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

1 each initial buyer or lessee with a copy before the buyer or lessee signs
2 any offer to purchase or lease, taking a receipt therefor.

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

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

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

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

17 2. An initial filing fee of ~~five hundred dollars~~ \$500 or an amended
18 filing fee of ~~two hundred fifty dollars~~ \$250 shall accompany the
19 notification required by paragraph 1 of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (e) Disregarded or violated this chapter or the rules of the
43 commissioner pertaining to this chapter.

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

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

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

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

24 10. Failure to demonstrate permanent access to the subdivision lots
25 or parcels.

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

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

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

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

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

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

1 G. If the subdivision is within an active management area, as
2 defined in section 45-402, the commissioner shall deny issuance of a
3 public report or the use of any exemption pursuant to section 32-2181.02,
4 subsection B unless the subdivider has been issued a certificate of
5 assured water supply by the director of water resources and has paid all
6 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
7 subdivider has obtained a written commitment of water service for the
8 subdivision from a city, town or private water company designated as
9 having an assured water supply by the director of water resources pursuant
10 to section 45-576 or is exempt from the requirement pursuant to section
11 45-576.

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

19 1. The director of water resources has reported pursuant to section
20 45-108 that the subdivision has an adequate water supply.

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

25 3. The plat was approved pursuant to an exemption authorized by
26 section 9-463.01, subsection K, pursuant to an exemption authorized by
27 section 11-823, subsection B, paragraph 1, pursuant to an exemption
28 granted by the director of water resources under section 45-108.02 and the
29 exemption has not expired or pursuant to an exemption granted by the
30 director of water resources under section 45-108.03.

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

38 I. A subdivider shall not sell or lease or offer for sale or lease
39 in this state any lots, parcels or fractional interests in a subdivision
40 without first obtaining a public report from the commissioner except as
41 provided in section 32-2181.01 or 32-2181.02, and a certificate of
42 administrative completeness issued pursuant to this section. Unless
43 exempt, the sale or lease of subdivided lands ~~prior to~~ BEFORE issuance of
44 the public report or failure to deliver the public report to the purchaser
45 or lessee shall render the sale or lease rescindable by the purchaser or

1 lessee. An action by the purchaser or lessee to rescind the transaction
2 shall be brought within three years of the date of execution of the
3 purchase or lease agreement by the purchaser or lessee. In any rescission
4 action, the prevailing party is entitled to reasonable attorney fees as
5 determined by the court.

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

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

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

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

1 furtherance of the violation. The court may make orders or judgments,
2 including the appointment of a receiver, **THAT ARE** necessary to prevent the
3 use or employment by a person of any unlawful practices, or **which THAT** may
4 be necessary to restore to any person in interest any monies or property,
5 real or personal, that may have been acquired by means of any practice in
6 this article declared to be unlawful.

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

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

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

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

33 32-2197.08. Issuance of public report and amended public
34 report by commissioner on timeshare plan;
35 denial of issuance; additional information; use
36 of another state's public report

37 A. On examination of a timeshare plan, the commissioner, unless
38 there are grounds for denial, shall approve for use by the developer a
39 public report authorizing the sale or lease of the timeshare interests
40 within the timeshare plan. For all timeshare interests sold in this
41 state, the commissioner shall require the developer to reproduce the
42 public report and furnish each prospective customer with a copy, taking a
43 receipt for each copy. The public report shall be made available to each
44 prospective purchaser in written format and may also be made available in

1 CD-ROM or other electronic format as approved by the commissioner. The
2 public report shall include the following:

- 3 1. The name and principal address of the owner and developer.
- 4 2. A description of the type of timeshare interests being offered.
- 5 3. A description of the existing and proposed accommodations and
6 amenities of the timeshare plan, including type and number, any use
7 restrictions and any required fees for use.
- 8 4. A description of any accommodations and amenities that are
9 committed to be built, including:
 - 10 (a) The developer's schedule of commencement and completion of all
11 accommodations and amenities.
 - 12 (b) The estimated number of accommodations per site that may become
13 subject to the timeshare plan.
- 14 5. A brief description of the duration, phases and operation of the
15 timeshare plan.
- 16 6. The current annual budget if available or the projected annual
17 budget for the timeshare plan. The budget shall include:
 - 18 (a) A statement of the amount or a statement that there is no
19 amount included in the budget as a reserve for repairs and replacement.
 - 20 (b) The projected common expense liability, if any, by category of
21 expenditures for the timeshare plan.
 - 22 (c) A statement of any services or expenses that are not reflected
23 in the budget and that the developer provides or pays.
- 24 7. A description of any liens, defects or encumbrances on or
25 affecting the title to the timeshare interests.
- 26 8. A statement that by midnight of the seventh calendar day after
27 execution of the purchase agreement a purchaser may cancel any purchase
28 agreement for a timeshare interest from a developer together with a
29 statement providing the name and street address where the purchaser should
30 mail any notice of cancellation. However, if, by agreement of the parties
31 through the purchase agreement, the purchase agreement allows for
32 cancellation of the purchase agreement for a period of time exceeding
33 seven calendar days, the public report shall include a statement that the
34 cancellation of the purchase agreement is allowed for that period of time
35 exceeding seven calendar days.
- 36 9. A description of any bankruptcies, pending suits, adjudications
37 or disciplinary actions material to the timeshare interests of which the
38 developer has knowledge.
- 39 10. Any restrictions on alienation of any number or portion of any
40 timeshare interests.
- 41 11. Any current or expected fees or charges to be paid by timeshare
42 purchasers for the use of any amenities related to the timeshare plan.
- 43 12. The extent to which financial arrangements have been provided
44 for completion of all promised improvements.

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

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

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

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

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

15 (c) Each type of accommodation in terms of the number of bedrooms,
16 bathrooms and sleeping capacity and a statement of whether or not the
17 accommodation contains a full kitchen. For the purposes of this
18 subdivision, "full kitchen" means a kitchen having a minimum of a
19 dishwasher, range, oven, sink and refrigerator.

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

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

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

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

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

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

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

37 (h) The location and the anticipated relative use demand of each
38 component site in a multisite timeshare plan as well as any periodic
39 adjustment or amendment to the reservation system that may be needed in
40 order to respond to actual purchaser use patterns and changes in purchaser
41 use demand for the accommodations existing at the time within the
42 multisite timeshare plan.

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

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

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

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

8 B. Except as otherwise provided in this subsection, the
9 requirements prescribed by subsection A of this section apply to a
10 developer's application for approval to use an amended public report for
11 the sale of timeshare interests in a timeshare plan, including an amended
12 public report to disclose and address a material change under section
13 32-2197.04. A developer may elect to prepare an amended public report for
14 use in the sale of timeshare interests as follows:

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

20 2. An amendment filing fee established pursuant to section
21 32-2197.07 shall accompany the application prescribed by paragraph 1 of
22 this subsection.

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

37 4. The developer may commence sales or leasing activities as
38 permitted under this article using an amended public report when the
39 commissioner issues a certification of administrative completeness or as
40 of the date the application and amended public report are deemed
41 administratively complete pursuant to paragraph 3 of this subsection. The
42 certification may be issued on paper or electronically.

43 5. Before or after the commissioner issues a certification of
44 administrative completeness or, if applicable, after the application and
45 amended public report are deemed to be administratively complete pursuant

1 to paragraph 3 of this subsection, the department may examine any public
2 report, timeshare plan or applicant that has applied for or received the
3 certification. If the commissioner determines that the public report,
4 timeshare plan or applicant is not in compliance with any requirement of
5 state law or that grounds exist under this chapter to suspend, deny or
6 revoke a public report, the commissioner may commence an administrative
7 action under section 32-2154, 32-2157 or 32-2197.14. If the developer
8 immediately corrects the deficiency and fully complies with state law, the
9 commissioner shall promptly vacate any action that the commissioner may
10 have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

11 6. The department shall provide forms and guidelines for the
12 submission of the application and amended public report pursuant to this
13 subsection.

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

18 1. Failure to comply with this article or the rules of the
19 commissioner pertaining to this article.

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

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

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

32 (a) Been convicted of a felony or misdemeanor involving theft,
33 fraud or dishonesty or involving the conduct of any business or a
34 transaction in real estate, cemetery property, timeshare interests or
35 membership camping campgrounds or contracts.

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

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

44 (d) Had an adverse decision or judgment entered against him
45 involving fraud or dishonesty or involving the conduct of any business in

1 or a transaction in real estate, cemetery property, timeshare interests or
2 membership camping campgrounds or contracts.

3 (e) Disregarded or violated this chapter or the rules of the
4 commissioner pertaining to this chapter.

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

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

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

20 E. In areas outside of active management areas, if the timeshare
21 property is located in a county that has adopted the provision **authorized**
22 **REQUIRED** by section 11-823, subsection A or in a city or town that has
23 enacted an ordinance pursuant to section 9-463.01, subsection 0, the
24 commissioner shall deny issuance of a public report unless one of the
25 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
36 45-108.02 and the exemption has not expired or pursuant to an exemption
37 granted by the director of water resources under section 45-108.03.

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

1 F. In addition to providing to each prospective customer a copy of
2 the public report as required in subsection A of this section, the
3 developer shall also provide to each customer before the close of any
4 transaction information and materials that identify any timeshare exchange
5 companies currently under contract and disclosure statements regarding the
6 use of the timeshare exchange companies, as well as any additional
7 information the commissioner deems appropriate.

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

15 Sec. 5. Section 45-108, Arizona Revised Statutes, is amended to
16 read:

17 45-108. Evaluation of subdivision water supply; definition

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

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

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

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

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

43 2. The Colorado river water for which the city or town has
44 contracted is sufficient together with other water supplies available to
45 the city or town and the private water companies that serve water within

1 that city or town to provide an adequate supply of water for the city or
2 town.

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

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

9 1. Both of the following apply:

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

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

15 2. All of the following apply:

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

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

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

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

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

29 H. ~~If the director receives~~ ON RECEIPT OF written notice from the
30 board of supervisors of a county that it has adopted the provision
31 ~~authorized~~ REQUIRED by section 11-823, subsection A, the director shall
32 give written notice of the provision to the mayors of all cities and towns
33 in the county. A city or town that receives the notice shall comply with
34 section 9-463.01, subsections J, K, L, M and N.

35 I. For the purposes of this section, "adequate water supply" means
36 both of the following:

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

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

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

3 45-108.01. Application for water report or designation of
4 adequate water supply; notice; objections;
5 hearing; appeals

6 A. On receipt of an application for a water report or an
7 application by a city, town or private water company to be designated as
8 having an adequate water supply under section 45-108, if the proposed use
9 is in a county that has adopted the provision ~~authorized~~ REQUIRED by
10 section 11-823, subsection A or in a city or town that has enacted an
11 ordinance pursuant to section 9-463.01, subsection 0, the director shall
12 publish notice of the application once each week for two consecutive weeks
13 in a newspaper of general circulation in the groundwater basin in which
14 the applicant proposes to use water. The first publication shall occur
15 within fifteen days after the application is determined or deemed to be
16 administratively complete. If the application is substantially modified
17 after notice of the application is given pursuant to this subsection, the
18 director shall give notice of the application as modified in the manner
19 prescribed by this subsection. The first publication of any subsequent
20 notice shall occur within fifteen days after the modified application is
21 determined or deemed to be administratively complete.

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

32 C. In appropriate cases, including cases in which a proper written
33 objection to the application has been filed, an administrative hearing may
34 be held before the director's decision on the application if the director
35 deems a hearing necessary. Thirty days before the date of the hearing,
36 the director shall give notice of the hearing to the applicant and to any
37 person who filed a proper written objection to the application. The
38 hearing shall be scheduled for at least sixty days but not more than
39 ninety days after the expiration of the time in which to file objections.

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

41 1. If the director determines that an adequate water supply exists
42 for the proposed use, the director shall issue a water report stating that
43 the water supply for the subdivision is adequate.

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

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

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

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

10 F. The applicant or a person who contested the application by
11 filing a proper objection pursuant to subsection B of this section may
12 seek judicial review of the final decision of the director as provided in
13 section 45-114, subsection B in the superior court.

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

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

21 45-108.02. Exemption from adequate water supply requirements
22 for city, town or county based on substantial
23 capital investment; application; criteria;
24 expiration

25 A. If the director determines pursuant to section 45-108 that an
26 adequate water supply does not exist for a proposed subdivision and the
27 proposed subdivision is located ~~in a city, town or county~~ OUTSIDE OF AN
28 ACTIVE MANAGEMENT AREA IN A JURISDICTION that ~~requires~~ HAS ADOPTED A
29 REQUIREMENT FOR a determination of adequate water supply by the director
30 as a condition of approval of the plat pursuant to section 9-463.01,
31 subsection J or O or section 11-823, subsection A, the subdivider may
32 apply to the director for an exemption from the water adequacy requirement
33 pursuant to this section on a form prescribed by the director within one
34 year after the requirement first becomes effective. The director shall
35 grant the exemption if the subdivider demonstrates to the satisfaction of
36 the director that all of the following apply:

37 1. The subdivider has made substantial capital investment toward
38 the construction of the proposed subdivision before the date the water
39 adequacy requirement first became effective. For the purposes of this
40 paragraph, substantial capital investment may include construction costs,
41 site preparation costs, construction of off-site improvements and
42 conversion or remodeling costs for existing structures, as well as
43 planning and design costs associated with those items, but does not
44 include the original cost of acquiring the property.

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

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

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

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

12 2. The director may extend the period of the exemption for no more
13 than two successive five-year periods if the subdivider applies for an
14 extension before the exemption expires and demonstrates to the
15 satisfaction of the director that the subdivider has made material
16 progress in developing the subdivision, but that sales of parcels in the
17 subdivision have been delayed for reasons outside the control of the
18 subdivider.

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

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

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

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

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

33 45-108.03. Exemption from adequate water supply requirements
34 for city, town or county based on an adequate
35 water supply within twenty years; criteria:
36 application

37 A. If a proposed subdivision is located ~~in a city, town or county~~
38 **OUTSIDE OF AN ACTIVE MANAGEMENT AREA IN A JURISDICTION** that ~~requires~~ **HAS**
39 **ADOPTED** an adequate water supply determination by the director as a
40 condition of approval of the plat pursuant to section 9-463.01, subsection
41 J or O or section 11-823, subsection A, the subdivider may apply to the
42 director for an exemption from the requirement pursuant to this section on
43 a form prescribed by the director. The director shall grant the exemption
44 if the subdivider demonstrates to the satisfaction of the director that

1 the subdivision will be served by a water supply project to which both of
2 the following apply:

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

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

10 (b) The subdivision will be served Colorado river water by a water
11 provider that does not currently have the legal right to serve the water
12 to the subdivision, but the water provider has an existing permanent
13 contract for the Colorado river water and will have the legal right to
14 serve the water to the subdivision within twenty years.

15 2. The subdivision will have an adequate water supply when the
16 construction of the physical works is completed or the water supply is
17 legally available to serve the subdivision, whichever applies, and the
18 interim water supply that will serve the subdivision meets all of the
19 criteria for an adequate water supply under section 45-108 except that the
20 interim water supply will not be available for one hundred years.

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