

REFERENCE TITLE: adequate water supply; statewide requirements

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

SB 1639

Introduced by
Senators Otondo: Alston, Bowie, Bradley, Contreras, Dalessandro, Gonzales,
Navarrete, Peshlakai, Quezada, Rios, Steele

AN ACT

AMENDING SECTIONS 9-463.01, 11-823, 32-2181, 32-2183, 32-2197.08, 33-406, 45-108 AND 45-108.01, ARIZONA REVISED STATUTES; REPEALING SECTIONS 45-108.02 AND 45-108.03, ARIZONA REVISED STATUTES; AMENDING SECTIONS 45-108.04, 45-576, 48-6414 AND 49-1273, ARIZONA REVISED STATUTES; RELATING TO WATERS.

(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
3 to 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
7 corporate limits.

8 B. The legislative body of a municipality shall exercise the
9 authority granted in subsection A of this section by ordinance
10 prescribing:

11 1. Procedures to be followed in the preparation, submission, review
12 and approval or rejection of all final plats.

13 2. Standards governing the design of subdivision plats.

14 3. Minimum requirements and standards for the installation of
15 subdivision streets, sewer and water utilities and improvements as a
16 condition of final plat approval.

17 C. By ordinance, the legislative body of any municipality shall:

18 1. Require the preparation, submission and approval of a
19 preliminary plat as a condition precedent to submission of a final plat.

20 2. Establish the procedures to be followed in the preparation,
21 submission, review and approval of preliminary plats.

22 3. Make requirements as to the form and content of preliminary
23 plats.

24 4. Either determine that certain lands may not be subdivided, by
25 reason of adverse topography, periodic inundation, adverse soils,
26 subsidence of the earth's surface, high water table, lack of water or
27 other natural or man-made hazard to life or property, or control the lot
28 size, establish special grading and drainage requirements and impose other
29 regulations deemed reasonable and necessary for the public health, safety
30 or general welfare on any lands to be subdivided affected by such
31 characteristics.

32 5. Require payment of a proper and reasonable fee by the subdivider
33 based ~~upon~~ ON the number of lots or parcels on the surface of the land to
34 defray municipal costs of plat review and site inspection.

35 6. Require the dedication of public streets, sewer and water
36 utility easements or rights-of-way, within the proposed subdivision.

37 7. Require the preparation and submission of acceptable engineering
38 plans and specifications for the installation of required street, sewer,
39 electric and water utilities, drainage, flood control, adequacy of water
40 and improvements as a condition precedent to recordation of an approved
41 final plat.

42 8. Require the posting of performance bonds, assurances or such
43 other security as may be appropriate and necessary to assure the
44 installation of required street, sewer, electric and water utilities,

1 drainage, flood control and improvements meeting established minimum
2 standards of design and construction.

3 D. The legislative body of any municipality may require by
4 ordinance that land areas within a subdivision be reserved for parks,
5 recreational facilities, school sites and fire stations subject to the
6 following conditions:

7 1. The requirement may only be made ~~upon~~ ON preliminary plats filed
8 at least thirty days after the adoption of a general or specific plan
9 affecting the land area to be reserved.

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

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

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

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

27 F. If the public agency for whose benefit an area has been reserved
28 does not exercise the reservation agreement set forth in subsection E of
29 this section within such one year period or such extended period as may be
30 mutually agreed ~~upon~~ ON by such public agency and the subdivider, the
31 reservation of such area shall terminate.

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

35 1. Final subdivision plats.

36 2. Plats filed for the purpose of reverting to acreage of land
37 previously subdivided.

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

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

42 H. Approval of every preliminary and final plat by a legislative
43 body is conditioned ~~upon~~ ON compliance by the subdivider with:

1 1. Rules as may be established by the department of transportation
2 relating to provisions for the safety of entrance ~~upon~~ ON and departure
3 from abutting state primary highways.

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

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

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

25 J. Except as provided in ~~subsections K and~~ SUBSECTION P of this
26 section, if the subdivision is composed of subdivided lands as defined in
27 section 32-2101 outside of an active management area ~~and the director of~~
28 ~~water resources has given written notice to the municipality pursuant to~~
29 ~~section 45-108, subsection H~~, the final plat shall not be approved unless
30 one of the following applies:

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

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

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

1 ~~1. The legislative body determines that there is no feasible~~
2 ~~alternative water supply for the subdivision and that the transportation~~
3 ~~of water to the subdivision will not constitute a significant risk to the~~
4 ~~health and safety of the residents of the subdivision.~~

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

9 ~~3. If the water to be transported is groundwater, the~~
10 ~~transportation complies with the provisions governing the transportation~~
11 ~~of groundwater in title 45, chapter 2, article 8.~~

12 ~~4. The transportation of water to the subdivision meets any~~
13 ~~additional conditions imposed by the legislative body.~~

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

25 ~~M. K.~~ If the legislative body of a municipality approves a
26 subdivision plat pursuant to subsection J, ~~paragraph 1 or 2 or~~
27 ~~subsection 0~~ of this section, the legislative body shall note on the face
28 of the plat that the director of water resources has reported that the
29 subdivision has an adequate water supply or that the subdivider has
30 obtained a commitment of water service for the proposed subdivision from a
31 city, town or private water company designated as having an adequate water
32 supply pursuant to section 45-108.

33 ~~N. If the legislative body of a municipality approves a subdivision~~
34 ~~plat pursuant to an exemption authorized by subsection K of this section~~
35 ~~or granted by the director of water resources pursuant to section~~
36 ~~45-108.02 or 45-108.03:~~

37 ~~1. The legislative body shall give written notice of the approval~~
38 ~~to the director of water resources and the director of environmental~~
39 ~~quality.~~

40 ~~2. The legislative body shall include on the face of the plat a~~
41 ~~statement that the director of water resources has determined that the~~
42 ~~water supply for the subdivision is inadequate and a statement describing~~
43 ~~the exemption under which the plat was approved, including a statement~~
44 ~~that the legislative body or the director of water resources, whichever~~
45 ~~applies, has determined that the specific conditions of the exemption were~~

1 ~~met. If the director subsequently informs the legislative body that the~~
2 ~~subdivision is being served by a water provider that has been designated~~
3 ~~by the director as having an adequate water supply pursuant to section~~
4 ~~45-108, the legislative body shall record in the county recorder's office~~
5 ~~a statement disclosing that fact.~~

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

29 ~~P. L. Subsections SUBSECTION J and 0 of this section do DOES not~~
30 ~~apply to:~~

31 ~~1. A proposed subdivision that the director of water resources has~~
32 ~~determined will have an inadequate water supply pursuant to section 45-108~~
33 ~~if the director grants an exemption for the subdivision pursuant to~~
34 ~~section 45-108.02 and the exemption has not expired or if the director~~
35 ~~grants an exemption pursuant to section 45-108.03.~~

36 ~~2. a proposed subdivision that received final plat approval from~~
37 ~~the municipality before the requirement for an adequate water supply~~
38 ~~became effective in the municipality if the plat has not been materially~~
39 ~~changed since it received the final plat approval. If changes were made~~
40 ~~to the plat after the plat received the final plat approval, the director~~
41 ~~of water resources shall determine whether the changes are material~~
42 ~~pursuant to the rules adopted by the director to implement section 45-108.~~
43 ~~If the municipality approves a plat pursuant to this paragraph and the~~
44 ~~director of water resources has determined that there is an inadequate~~

1 water supply for the subdivision pursuant to section 45-108, the
2 municipality shall note this on the face of the plat.

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

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

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

18 ~~R.~~ M. Every municipality is responsible for the recordation of all
19 final plats approved by the legislative body and shall receive from the
20 subdivider and transmit to the county recorder the recordation fee
21 established by the county recorder.

22 ~~S.~~ N. Pursuant to provisions of applicable state statutes, the
23 legislative body of any municipality may itself prepare or have prepared a
24 plat for the subdivision of land under municipal ownership.

25 ~~T.~~ O. The legislative bodies of cities and towns may regulate by
26 ordinance land splits within their corporate limits. Authority granted
27 under this section refers to the determination of division lines, area and
28 shape of the tracts or parcels and does not include authority to regulate
29 the terms or condition of the sale or lease nor does it include the
30 authority to regulate the sale or lease of tracts or parcels that are not
31 the result of land splits as defined in section 9-463.

32 ~~U.~~ P. For any subdivision that consists of ten or fewer lots,
33 tracts or parcels, each of which is of a size as prescribed by the
34 legislative body, the legislative body of each municipality may expedite
35 the processing of or waive the requirement to prepare, submit and receive
36 approval of a preliminary plat as a condition precedent to submitting a
37 final plat and may waive or reduce infrastructure standards or
38 requirements proportional to the impact of the subdivision. Requirements
39 for dust-controlled access and drainage improvements shall not be waived.

40 Sec. 2. Section 11-823, Arizona Revised Statutes, is amended to
41 read:

42 11-823. Water supply; adequacy

43 A. To protect the public health and safety, ~~the general regulations~~
44 ~~adopted by the board pursuant to section 11-821, subsection B, if approved~~
45 ~~by unanimous vote of the board of supervisors, may provide that, except as~~

1 ~~provided in subsection C and subsection D, paragraph 1 of this section,~~
2 the board shall not approve a final plat for a subdivision composed of
3 subdivided lands, as defined in section 32-2101, located outside of an
4 active management area, as defined in section 45-402, unless one of the
5 following applies:

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

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

13 ~~B. If the board unanimously adopts the provision authorized by~~
14 ~~subsection A of this section:~~

15 1. ~~The board may include in the general regulations an exemption~~
16 ~~from the provision for a subdivision that the director of water resources~~
17 ~~has determined will have an inadequate water supply because the water~~
18 ~~supply will be transported to the subdivision by motor vehicle or train if~~
19 ~~all of the following apply:~~

20 (a) ~~The board determines that there is no feasible alternative~~
21 ~~water supply for the subdivision and that the transportation of water to~~
22 ~~the subdivision will not constitute a significant risk to the health and~~
23 ~~safety of the residents of the subdivision.~~

24 (b) ~~If the water to be transported to the subdivision will be~~
25 ~~withdrawn or diverted in the service area of a municipal provider as~~
26 ~~defined in section 45-561, the municipal provider has consented to the~~
27 ~~withdrawal or diversion.~~

28 (c) ~~If the water to be transported is groundwater, the~~
29 ~~transportation complies with the provisions governing the transportation~~
30 ~~of groundwater in title 45, chapter 2, article 8.~~

31 (d) ~~The transportation of water to the subdivision meets any~~
32 ~~additional conditions imposed by the county.~~

33 2. ~~The board shall promptly give written notice of the adoption of~~
34 ~~the provision to the director of water resources, the director of~~
35 ~~environmental quality and the state real estate commissioner. The notice~~
36 ~~shall include a certified copy of the provision and any exemptions adopted~~
37 ~~pursuant to paragraph 1 of this subsection. Water providers may be~~
38 ~~eligible to receive monies in a water supply development fund, as~~
39 ~~otherwise provided by law.~~

40 3. ~~The board shall not rescind the provision or amend it in a~~
41 ~~manner that is inconsistent with subsection A of this section. If the~~
42 ~~board amends the provision, it shall give written notice of the amendment~~
43 ~~to the director of water resources, the director of environmental quality~~
44 ~~and the state real estate commissioner. The board may rescind an~~
45 ~~exemption adopted pursuant to paragraph 1 of this subsection. If the~~

1 ~~board rescinds the exemption, it shall give written notice of the~~
2 ~~rescission to the director of water resources, the director of~~
3 ~~environmental quality and the state real estate commissioner, and the~~
4 ~~board shall not readopt the exemption for at least five years after the~~
5 ~~rescission becomes effective.~~

6 ~~4.~~ B. If the board approves a subdivision plat pursuant to
7 subsection A, ~~paragraph 1 or 2~~ of this section, the board shall note on
8 the face of the plat that the director of water resources has reported
9 that the subdivision has an adequate water supply or that the subdivider
10 has obtained a commitment of water service for the proposed subdivision
11 from a city, town or private water company designated as having an
12 adequate water supply pursuant to section 45-108.

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

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

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

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

30 ~~1. A proposed subdivision that the director of water resources has~~
31 ~~determined will have an inadequate water supply pursuant to section 45-108~~
32 ~~if the director grants an exemption for the subdivision pursuant to~~
33 ~~section 45-108.02 and the exemption has not expired or the director grants~~
34 ~~an exemption pursuant to section 45-108.03.~~

35 ~~2.~~ a proposed subdivision that received final plat approval from
36 the county before the requirement for an adequate water supply became
37 effective in the county if the plat has not been materially changed since
38 it received the final plat approval. If changes were made to the plat
39 after the plat received the final plat approval, the director of water
40 resources shall determine whether the changes are material pursuant to the
41 rules adopted by the director to implement section 45-108. If the county
42 approves a plat pursuant to this paragraph and the director of water
43 resources has determined that there is an inadequate water supply for the
44 subdivision pursuant to section 45-108, the county shall note this on the
45 face of the plat.

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

4 ~~1. If the director of water resources has determined that there is~~
5 ~~an adequate water supply for the subdivision pursuant to section 45-108 or~~
6 ~~if the subdivider has obtained a written commitment of water service for~~
7 ~~the subdivision from a city, town or private water company designated as~~
8 ~~having an adequate water supply by the director of water resources~~
9 ~~pursuant to section 45-108, the board shall note this on the face of the~~
10 ~~plat if the plat is approved.~~

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

14 Sec. 3. Section 32-2181, Arizona Revised Statutes, is amended to
15 read:

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

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

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

31 2. The name and address of the subdivider.

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

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

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

1 political subdivision with authority. This statement shall include a
2 trust agreement or any other evidence of assurances for delivery of the
3 improvements and a statement of the provisions, if any, for the continued
4 maintenance of the improvements.

5 18. A true statement of the nature of any improvements to be
6 installed by the subdivider, the estimated schedule for completion and the
7 estimated costs related to the improvements that will be borne by
8 purchasers of lots in the subdivision.

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

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

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

23 (a) Any subdivision in this state.

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

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

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

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

35 (b) The subdivider.

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

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

1 July 1 of the year in which the subdivision becomes located in a high
2 noise or accident potential zone.

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

6 (a) That the property is a conversion from multifamily rental to
7 condominiums.

8 (b) The date original construction was completed.

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

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

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

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

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

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

9 1. Each of the lots, parcels or fractional interests represents, on
10 a partition basis, thirty-six acres or more in area of land located in
11 this state, including to the centerline of dedicated roads or easements,
12 if any, 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
15 power of sale or the grant of a deed in lieu of foreclosure. This
16 paragraph does not allow circumvention of the requirements of this
17 article.

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

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

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

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

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

40 F. In areas outside of active management areas established pursuant
41 to title 45, chapter 2, article 2:-

42 ~~1. If the subdivision is located in a county that has adopted the~~
43 ~~provision authorized by section 11-823, subsection A, or in a city or town~~
44 ~~that has enacted an ordinance pursuant to section 9-463.01, subsection 0,~~
45 the subdivider shall accompany the notice with a report issued by the

1 director of water resources pursuant to section 45-108 stating that the
2 subdivision has an adequate water supply, unless one of the following
3 applies:

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

7 ~~(b)~~ 2. The subdivider has obtained a written commitment of water
8 service for the subdivision from a city, town or private water company
9 designated as having an adequate water supply by the director of water
10 resources pursuant to section 45-108.

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

20 ~~(i) The director of water resources' report or the developer's~~
21 ~~brief summary of the report as approved by the commissioner on the~~
22 ~~proposed water supply for the subdivision.~~

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

30 ~~(d)~~ 3. The subdivision received final plat approval from the city,
31 town or county before the requirement for an adequate water supply became
32 effective in the city, town or county, and there have been no material
33 changes to the plat since the final plat approval. If changes were made
34 to the plat after the final plat approval, the director of water resources
35 shall determine whether the changes are material pursuant to the rules
36 adopted by the director to implement section 45-108. If this ~~subdivision~~
37 ~~PARAGRAPH~~ applies, the state real estate commissioner shall require that
38 all promotional materials and contracts for the sale of lots in the
39 subdivision adequately display the director of water resources' report or
40 the developer's brief summary of the report as approved by the
41 commissioner on the proposed water supply for the subdivision.

42 ~~2. If the subdivision is not located in a county that has adopted~~
43 ~~the provision authorized by section 11-823, subsection A or in a city or~~
44 ~~town that has enacted an ordinance pursuant to section 9-463.01,~~
45 ~~subsection 0, and if the director of water resources, pursuant to section~~

~~45-108, reports an inadequate on-site supply of water to meet the needs projected by the developer or if no water is available, the state real estate commissioner shall require that all promotional material and contracts for the sale of lots in subdivisions approved by the commissioner adequately display the director of water resources' report or the developer's brief summary of the report as approved by the commissioner on the proposed water supply for the subdivision.~~

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

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

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

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

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

1 Sec. 4. Section 32-2183, Arizona Revised Statutes, is amended to
2 read:

3 32-2183. Subdivision public reports; denial of issuance;
4 unlawful sales; voidable sale or lease; order
5 prohibiting sale or lease; investigations;
6 hearings; summary orders

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

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

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

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

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

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

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

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

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

32 6. Before or after the commissioner issues a certificate of
33 administrative completeness or, if applicable, after the notification and
34 public report are deemed to be administratively complete pursuant to
35 paragraph 4 of this subsection, the department may examine any public
36 report, subdivision or applicant that has applied for or received the
37 certificate. If the commissioner determines that the subdivider or
38 subdivision is not in compliance with any requirement of state law or that
39 grounds exist under this chapter to suspend, deny or revoke a public
40 report, the commissioner may commence an administrative action under
41 section 32-2154 or 32-2157. If the subdivider immediately corrects the
42 deficiency and comes into full compliance with state law, the commissioner
43 shall vacate any action that the commissioner may have commenced pursuant
44 to section 32-2154 or 32-2157.

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

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

5 1. Failure to comply with this article or the rules of the
6 commissioner pertaining to this article.

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

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

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

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

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

21 (a) Been convicted of a felony or misdemeanor involving fraud or
22 dishonesty or involving conduct of any business or a transaction in real
23 estate, cemetery property, ~~time-share~~ TIMESHARE intervals or membership
24 camping campgrounds or contracts.

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

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

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

37 (e) Disregarded or violated this chapter or the rules of the
38 commissioner pertaining to this chapter.

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

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

44 8. Failure of the declaration for a condominium created pursuant to
45 title 33, chapter 9, article 2 to comply with the requirements of section

1 33-1215 or failure of the plat for the condominium to comply with the
2 requirements of section 33-1219. The commissioner may require an
3 applicant for a public report to submit a notarized statement signed by
4 the subdivider or an engineer or attorney licensed to practice in this
5 state certifying that the condominium plat and declaration of condominium
6 are in compliance with the requirements of sections 33-1215 and 33-1219.
7 If the notarized statement is provided, the commissioner is entitled to
8 rely on this statement.

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

19 10. Failure to demonstrate permanent access to the subdivision lots
20 or parcels.

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

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

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

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

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

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

39 G. If the subdivision is within an active management area, as
40 defined in section 45-402, the commissioner shall deny issuance of a
41 public report or the use of any exemption pursuant to section 32-2181.02,
42 subsection B unless the subdivider has been issued a certificate of
43 assured water supply by the director of water resources and has paid all
44 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
45 subdivider has obtained a written commitment of water service for the

1 subdivision from a city, town or private water company designated as
2 having an assured water supply by the director of water resources pursuant
3 to section 45-576 or is exempt from the requirement pursuant to section
4 45-576.

5 H. In areas outside of active management areas, ~~if the subdivision~~
6 ~~is located in a county that has adopted the provision authorized by~~
7 ~~section 11-823, subsection A or in a city or town that has enacted an~~
8 ~~ordinance pursuant to section 9-463.01, subsection 0,~~ the commissioner
9 shall deny issuance of a public report or the use of any exemption
10 pursuant to section 32-2181.02, subsection B unless one of the following
11 applies:

12 1. The director of water resources has reported pursuant to section
13 45-108 that the subdivision has an adequate water supply.

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

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

24 ~~4.~~ 3. The subdivision received final plat approval from the city,
25 town or county before the requirement for an adequate water supply became
26 effective in the city, town or county, and there have been no material
27 changes to the plat since the final plat approval. If changes were made
28 to the plat after the final plat approval, the director of water resources
29 shall determine whether the changes are material pursuant to the rules
30 adopted by the director to implement section 45-108.

31 I. A subdivider shall not sell or lease or offer for sale or lease
32 in this state any lots, parcels or fractional interests in a subdivision
33 without first obtaining a public report from the commissioner except as
34 provided in section 32-2181.01 or 32-2181.02, and a certificate of
35 administrative completeness issued pursuant to this section. Unless
36 exempt, the sale or lease of subdivided lands ~~prior to~~ BEFORE issuance of
37 the public report or failure to deliver the public report to the purchaser
38 or lessee shall render the sale or lease rescindable by the purchaser or
39 lessee. An action by the purchaser or lessee to rescind the transaction
40 shall be brought within three years of the date of execution of the
41 purchase or lease agreement by the purchaser or lessee. In any rescission
42 action, the prevailing party is entitled to reasonable attorney fees as
43 determined by the court.

44 J. On a print advertisement in a magazine or newspaper or on an
45 internet advertisement that advertises a specific lot or parcel of a

1 subdivider, the subdivider shall include a disclosure stating that "a
2 public report is available on the state real estate department's website".

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

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

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

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

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

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

25 Sec. 5. Section 32-2197.08, Arizona Revised Statutes, is amended to
26 read:

27 32-2197.08. Issuance of public report and amended public
28 report by commissioner on timeshare plan;
29 denial of issuance; additional information; use
30 of another state's public report

31 A. On examination of a timeshare plan, the commissioner, unless
32 there are grounds for denial, shall approve for use by the developer a
33 public report authorizing the sale or lease of the timeshare interests
34 within the timeshare plan. For all timeshare interests sold in this
35 state, the commissioner shall require the developer to reproduce the
36 public report and furnish each prospective customer with a copy, taking a
37 receipt for each copy. The public report shall be made available to each
38 prospective purchaser in written format and may also be made available in
39 CD-ROM or other electronic format as approved by the commissioner. The
40 public report shall include the following:

- 41 1. The name and principal address of the owner and developer.
- 42 2. A description of the type of timeshare interests being offered.
- 43 3. A description of the existing and proposed accommodations and
44 amenities of the timeshare plan, including type and number, any use
45 restrictions and any required fees for use.

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

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

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

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

9 (c) Each type of accommodation in terms of the number of bedrooms,
10 bathrooms and sleeping capacity and a statement of whether or not the
11 accommodation contains a full kitchen. For the purposes of this
12 subdivision, "full kitchen" means a kitchen having a minimum of a
13 dishwasher, range, oven, sink and refrigerator.

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

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

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

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

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

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

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

31 (h) The location and the anticipated relative use demand of each
32 component site in a multisite timeshare plan as well as any periodic
33 adjustment or amendment to the reservation system that may be needed in
34 order to respond to actual purchaser use patterns and changes in purchaser
35 use demand for the accommodations existing at the time within the
36 multisite timeshare plan.

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

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

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

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

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

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

15 2. An amendment filing fee established pursuant to section
16 32-2197.07 shall accompany the application prescribed by paragraph 1 of
17 this subsection.

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

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

38 5. Before or after the commissioner issues a certification of
39 administrative completeness or, if applicable, after the application and
40 amended public report are deemed to be administratively complete pursuant
41 to paragraph 3 of this subsection, the department may examine any public
42 report, timeshare plan or applicant that has applied for or received the
43 certification. If the commissioner determines that the public report,
44 timeshare plan or applicant is not in compliance with any requirement of
45 state law or that grounds exist under this chapter to suspend, deny or

1 revoke a public report, the commissioner may commence an administrative
2 action under section 32-2154, 32-2157 or 32-2197.14. If the developer
3 immediately corrects the deficiency and fully complies with state law, the
4 commissioner shall promptly vacate any action that the commissioner may
5 have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

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

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

13 1. Failure to comply with this article or the rules of the
14 commissioner pertaining to this article.

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

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

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

27 (a) Been convicted of a felony or misdemeanor involving theft,
28 fraud or dishonesty or involving the conduct of any business or a
29 transaction in real estate, cemetery property, timeshare interests or
30 membership camping campgrounds or contracts.

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

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

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

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

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

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

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

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

22 1. The director of water resources has reported pursuant to section
23 45-108 that the timeshare property has an adequate water supply.

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

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

34 ~~4.~~ 3. The subdivision received final plat approval from the city,
35 town or county before the requirement for an adequate water supply became
36 effective in the city, town or county, and there have been no material
37 changes to the plat since the final plat approval. If changes were made
38 to the plat after the final plat approval, the director of water resources
39 shall determine whether the changes are material pursuant to the rules
40 adopted by the director to implement section 45-108.

41 F. In addition to providing to each prospective customer a copy of
42 the public report as required in subsection A of this section, the
43 developer shall also provide to each customer before the close of any
44 transaction information and materials that identify any timeshare exchange
45 companies currently under contract and disclosure statements regarding the

1 use of the timeshare exchange companies, as well as any additional
2 information the commissioner deems appropriate.

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

10 Sec. 6. Section 33-406, Arizona Revised Statutes, is amended to
11 read:

12 33-406. Disclosure of transportation of water to property by
13 motor vehicle or train; definition

14 A. Notwithstanding section 33-411, subsection D, a subdivider who
15 sells a lot that was included in a plat approved by the legislative body
16 of a city, ~~or town pursuant to an exemption authorized by section~~
17 ~~9-463.01, subsection K or by the board of supervisors of a county pursuant~~
18 ~~to an exemption authorized by section 11-823, subsection B, paragraph 1~~
19 ~~WITH A DETERMINATION BY THE DIRECTOR OF WATER RESOURCES THAT THERE IS AN~~
20 ~~INADEQUATE WATER SUPPLY FOR THE SUBDIVISION~~ shall record with the plat a
21 document that contains a legal description of the land that is subject to
22 the subdivision plat and that contains a statement that the lots are
23 served by a water supply that has been determined as inadequate and that
24 the water must be hauled to the lot.

25 B. For the purposes of this section, "subdivider" has the same
26 meaning ~~as~~ prescribed in section 32-2101.

27 Sec. 7. Section 45-108, Arizona Revised Statutes, is amended to
28 read:

29 45-108. Evaluation of subdivision water supply; definition

30 A. In areas outside of active management areas established pursuant
31 to chapter 2, article 2 of this title, the developer of a proposed
32 subdivision including dry lot subdivisions, regardless of subdivided lot
33 size, ~~prior to~~ BEFORE recordation of the plat, shall submit plans for the
34 water supply for the subdivision and demonstrate the adequacy of the water
35 supply to meet the needs projected by the developer to the director. The
36 director shall evaluate the plans and issue a report on the plans.

37 B. The director shall evaluate the proposed source of water for the
38 subdivision to determine whether there is an adequate water supply for the
39 subdivision, and shall forward a copy of the director's WATER report to
40 the state real estate commissioner and the city, town or county
41 responsible for platting the subdivision.

42 C. A CITY, TOWN OR COUNTY MAY APPROVE A SUBDIVISION PLAT ONLY IF
43 THE SUBDIVIDER HAS OBTAINED A WATER REPORT FROM THE DIRECTOR THAT THERE IS
44 AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION OR THE SUBDIVIDER HAS
45 OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A

1 CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER
2 SUPPLY PURSUANT TO THIS SECTION.

3 D. THE STATE REAL ESTATE COMMISSIONER MAY ISSUE A PUBLIC REPORT
4 AUTHORIZING THE SALE OR LEASE OF SUBDIVIDED LANDS ONLY IF THE DIRECTOR HAS
5 ISSUED A WATER REPORT THAT THERE IS AN ADEQUATE WATER SUPPLY FOR THE
6 SUBDIVISION OR THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER
7 SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY
8 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO THIS SECTION.

9 ~~E.~~ E. The director may designate cities, towns and private water
10 companies as having an adequate water supply by reporting that designation
11 to the water department of the city or town or private water company and
12 the state real estate commissioner.

13 ~~F.~~ F. As an alternative to designation under subsection ~~E~~ E of
14 this section, the director may designate a city or town that has entered
15 into a contract with the United States secretary of the interior or a
16 county water authority established pursuant to chapter 13 of this title
17 for permanent supplies of Colorado river water for municipal and
18 industrial use as having an adequate water supply if all of the following
19 apply:

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

23 2. The Colorado river water for which the city or town has
24 contracted is sufficient together with other water supplies available to
25 the city or town and the private water companies that serve water within
26 that city or town to provide an adequate supply of water for the city or
27 town.

28 3. The director finds that new subdivisions within the city or town
29 will be served primarily with Colorado river water by the city or town or
30 one of the private water companies that serve water within that city or
31 town.

32 ~~F.~~ G. The director shall not require a developer to submit plans
33 for the water supply pursuant to subsection A of this section if either:

34 1. Both of the following apply:

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

38 (b) That city, town or private water company has been designated as
39 having an adequate water supply pursuant to subsection ~~E~~ E of this
40 section.

41 2. All of the following apply:

42 (a) The city or town has been designated as having an adequate
43 water supply pursuant to subsection ~~F~~ F of this section.

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

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

6 ~~F.~~ H. The director may revoke a designation made pursuant to this
7 section when the director finds that the water supply may become
8 inadequate.

9 ~~G.~~ I. The state of Arizona and the director or department shall
10 not be liable for any report, designation or evaluation prepared in good
11 faith pursuant to this section.

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

18 ~~I.~~ J. For the purposes of this section, "adequate water supply"
19 means both of the following:

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

23 2. The financial capability has been demonstrated to construct the
24 water facilities necessary to make the supply of water available for the
25 proposed use, including a delivery system and any storage facilities or
26 treatment works. ~~The director may accept evidence of the construction~~
27 ~~assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this~~
28 ~~requirement.~~

29 Sec. 8. Section 45-108.01, Arizona Revised Statutes, is amended to
30 read:

31 45-108.01. Application for water report or designation of
32 adequate water supply; notice; objections;
33 hearing; appeals

34 A. On receipt of an application for a water report or an
35 application by a city, town or private water company to be designated as
36 having an adequate water supply under section 45-108, ~~if the proposed use~~
37 ~~is in a county that has adopted the provision authorized by section~~
38 ~~11-823, subsection A or in a city or town that has enacted an ordinance~~
39 ~~pursuant to section 9-463.01, subsection 0,~~ the director shall publish
40 notice of the application once each week for two consecutive weeks in a
41 newspaper of general circulation in the groundwater basin in which the
42 applicant proposes to use water. The first publication shall occur within
43 fifteen days after the application is determined or deemed to be
44 administratively complete. If the application is substantially modified
45 after notice of the application is given pursuant to this subsection, the

1 director shall give notice of the application as modified in the manner
2 prescribed by this subsection. The first publication of any subsequent
3 notice shall occur within fifteen days after the modified application is
4 determined or deemed to be administratively complete.

5 B. Notice pursuant to subsection A of this section shall state that
6 written objections to the application may be filed with the director by
7 residents and landowners within the groundwater basin within fifteen days
8 after the last publication of notice. An objection shall state the name
9 and mailing address of the objector and be signed by the objector, the
10 objector's agent or the objector's attorney. The grounds for objection
11 are limited to whether the application meets the criteria for determining
12 an adequate water supply set forth in section 45-108, subsection ~~I~~ J.
13 The objection shall clearly set forth reasons why the application does not
14 meet the criteria.

15 C. In appropriate cases, including cases in which a proper written
16 objection to the application has been filed, an administrative hearing may
17 be held before the director's decision on the application if the director
18 deems a hearing necessary. Thirty days before the date of the hearing,
19 the director shall give notice of the hearing to the applicant and to any
20 person who filed a proper written objection to the application. The
21 hearing shall be scheduled for at least sixty days but not more than
22 ninety days after the expiration of the time in which to file objections.

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

24 1. If the director determines that an adequate water supply exists
25 for the proposed use, the director shall issue a water report stating that
26 the water supply for the subdivision is adequate.

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

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

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

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

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

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

1 has obtained a certificate of assured water supply from the director or
2 the subdivider has obtained a written commitment of water service for the
3 subdivision from a city, town or private water company designated as
4 having an assured water supply pursuant to this section. The city, town
5 or county shall note on the face of the approved plat that a certificate
6 of assured water supply has been submitted with the plat or that the
7 subdivider has obtained a written commitment of water service for the
8 proposed subdivision from a city, town or private water company designated
9 as having an assured water supply pursuant to this section.

10 C. Except as provided in subsections G and J of this section, the
11 state real estate commissioner may issue a public report authorizing the
12 sale or lease of subdivided lands only on compliance with either of the
13 following:

14 1. The subdivider, owner or agent has paid any activation fee
15 required under section 48-3772, subsection A, paragraph 7 and any
16 replenishment reserve fee required under section 48-3774.01, subsection A,
17 paragraph 2 and has obtained a certificate of assured water supply from
18 the director.

19 2. The subdivider has obtained a written commitment of water
20 service for the lands from a city, town or private water company
21 designated as having an assured water supply pursuant to this section and
22 the subdivider, owner or agent has paid any activation fee required under
23 section 48-3772, subsection A, paragraph 7.

24 D. The director shall designate private water companies in active
25 management areas that have an assured water supply. If a city or town
26 acquires a private water company that has contracted for central Arizona
27 project water, the city or town shall assume the private water company's
28 contract for central Arizona project water.

29 E. The director shall designate cities and towns in active
30 management areas where an assured water supply exists. If a city or town
31 has entered into a contract for central Arizona project water, the city or
32 town is deemed to continue to have an assured water supply until December
33 31, 1997. Commencing on January 1, 1998, the determination that the city
34 or town has an assured water supply is subject to review by the director
35 and the director may determine that a city or town does not have an
36 assured water supply.

37 F. The director shall notify the mayors of all cities and towns in
38 active management areas and the chairmen of the boards of supervisors of
39 counties in which active management areas are located of the cities, towns
40 and private water companies designated as having an assured water supply
41 and any modification of that designation within thirty days of the
42 designation or modification. If the service area of the city, town or
43 private water company has qualified as a member service area pursuant to
44 title 48, chapter 22, article 4, the director shall also notify the
45 conservation district of the designation or modification and shall report

1 the projected average annual replenishment obligation for the member
2 service area based on the projected and committed average annual demand
3 for water within the service area during the effective term of the
4 designation or modification subject to any limitation in an agreement
5 between the conservation district and the city, town or private water
6 company. For each city, town or private water company that qualified as a
7 member service area under title 48, chapter 22 and was designated as
8 having an assured water supply before January 1, 2004, the director shall
9 report to the conservation district on or before January 1, 2005 the
10 projected average annual replenishment obligation based on the projected
11 and committed average annual demand for water within the service area
12 during the effective term of the designation subject to any limitation in
13 an agreement between the conservation district and the city, town or
14 private water company. Persons proposing to offer subdivided lands served
15 by those designated cities, towns and private water companies for sale or
16 lease are exempt from applying for and obtaining a certificate of assured
17 water supply.

18 G. This section does not apply in the case of the sale of lands for
19 developments that are subject to a mineral extraction and processing
20 permit or an industrial use permit pursuant to sections 45-514 and 45-515.

21 H. The director shall adopt rules to carry out the purposes of this
22 section. On or before January 1, 2008, the rules shall provide for a
23 reduction in water demand for an application for a designation of assured
24 water supply or a certificate of assured water supply if a gray water
25 reuse system will be installed that meets the requirements of the rules
26 adopted by the department of environmental quality for gray water systems
27 and if the application is for a certificate of assured water supply, the
28 land for which the certificate is sought must qualify as a member land in
29 a conservation district pursuant to title 48, chapter 22, article 4. For
30 the purposes of this subsection, "gray water" has the same meaning
31 prescribed in section 49-201.

32 I. If the director designates a municipal provider as having an
33 assured water supply under this section and the designation lapses or
34 otherwise terminates while the municipal provider's service area is a
35 member service area of a conservation district, the municipal provider or
36 its successor shall continue to comply with the consistency with
37 management goal requirements in the rules adopted by the director under
38 subsection H of this section as if the designation was still in effect
39 with respect to the municipal provider's designation uses. When
40 determining compliance by the municipal provider or its successor with the
41 consistency with management goal requirements in the rules, the director
42 shall consider only water delivered by the municipal provider or its
43 successor to the municipal provider's designation uses. A person is the
44 successor of a municipal provider if the person commences water service to
45 uses that were previously designation uses of the municipal provider. Any

1 groundwater delivered by the municipal provider or its successor to the
2 municipal provider's designation uses in excess of the amount allowed
3 under the consistency with management goal requirements in the rules shall
4 be considered excess groundwater for purposes of title 48, chapter 22.
5 For the purposes of this subsection, "designation uses" means all water
6 uses served by a municipal provider on the date the municipal provider's
7 designation of assured water supply lapses or otherwise terminates and all
8 recorded lots within the municipal provider's service area that were not
9 being served by the municipal provider on that date but that received
10 final plat approval from a city, town or county on or before that date.
11 Designation uses do not include industrial uses served by an irrigation
12 district under section 45-497.

13 J. Subsections A, B and C of this section do not apply to a person
14 who proposes to offer subdivided land for sale or lease in an active
15 management area if all the following apply:

16 1. The director issued a certificate of assured water supply for
17 the land to a previous owner of the land and the certificate was
18 classified as a type A certificate under rules adopted by the director
19 pursuant to subsection H of this section.

20 2. The director has not revoked the certificate of assured water
21 supply described in paragraph 1 of this subsection, and proceedings to
22 revoke the certificate are not pending before the department or a court.
23 The department shall post on its website a list of all certificates of
24 assured water supply that have been revoked or for which proceedings are
25 pending before the department or a court.

26 3. The plat submitted to the department in the application for the
27 certificate of assured water supply described in paragraph 1 of this
28 subsection has not changed.

29 4. Water service is currently available to each lot within the
30 subdivided land and the water provider listed on the certificate of
31 assured water supply described in paragraph 1 of this subsection has not
32 changed.

33 5. The subdivided land qualifies as a member land under title 48,
34 chapter 22 and the subdivider has paid any activation fee required under
35 section 48-3772, subsection A, paragraph 7 and any replenishment reserve
36 fee required under section 48-3774.01, subsection A, paragraph 2.

37 6. The plat is submitted for approval to a city, town or county
38 that is listed on the department's website as a qualified platting
39 authority.

40 K. Subsection J of this section does not affect the assignment of a
41 certificate of assured water supply as prescribed by section 45-579.

42 L. For the purposes of this section, "assured water supply" means
43 all of the following:

44 1. Sufficient groundwater, surface water or effluent of adequate
45 quality will be continuously available to satisfy the water needs of the

1 proposed use for at least one hundred years. Beginning January 1 of the
2 calendar year following the year in which a groundwater replenishment
3 district is required to submit its preliminary plan pursuant to section
4 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
5 a member of the district, "sufficient groundwater" for the purposes of
6 this paragraph means that the proposed groundwater withdrawals that the
7 applicant will cause over a period of one hundred years will be of
8 adequate quality and will not exceed, in combination with other
9 withdrawals from land in the replenishment district, a depth to water of
10 one thousand feet or the depth of the bottom of the aquifer, whichever is
11 less. In determining depth to water for the purposes of this paragraph,
12 the director shall consider the combination of:

- 13 (a) The existing rate of decline.
- 14 (b) The proposed withdrawals.
- 15 (c) The expected water requirements of all recorded lots that are
16 not yet served water and that are located in the service area of a
17 municipal provider.

18 2. The projected groundwater use is consistent with the management
19 plan and achievement of the management goal for the active management
20 area.

21 3. The financial capability has been demonstrated to construct the
22 water facilities necessary to make the supply of water available for the
23 proposed use, including a delivery system and any storage facilities or
24 treatment works. ~~The director may accept evidence of the construction~~
25 ~~assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this~~
26 ~~requirement.~~

27 Sec. 12. Section 48-6414, Arizona Revised Statutes, is amended to
28 read:

29 48-6414. Inapplicability of other adequate water supply
30 provisions to proposed subdivisions in the
31 district

32 Section 9-463.01, subsections J ~~through Q~~, K AND L, section 11-823,
33 section 32-2181, subsection F, section 32-2183, subsection H, section
34 32-2197.08, subsection E, ~~section AND SECTIONS 45-108, subsection H,~~
35 ~~section AND 45-108.01, section 45-108.02 and section 45-108.03~~ do not
36 apply to proposed subdivisions in the district.

37 Sec. 13. Section 49-1273, Arizona Revised Statutes, is amended to
38 read:

39 49-1273. Water supply development revolving fund; purposes;
40 limitation

41 A. Monies in the water supply development revolving fund may be
42 used for the following purposes:

1 1. Making water supply development loans to water providers in this
2 state under section 49-1274 for water supply development purposes.

3 2. Making loans or grants to water providers for the planning or
4 design of water supply development projects. A single grant shall not
5 exceed ~~one hundred thousand dollars~~ \$100,000.

6 3. Purchasing or refinancing debt obligations of water providers at
7 or below market rate if the debt obligation was issued for a water supply
8 development purpose.

9 4. Providing financial assistance to water providers with bonding
10 authority to purchase insurance for local bond obligations incurred by
11 them for water supply development purposes.

12 5. Paying the costs to administer the fund.

13 6. Providing linked deposit guarantees through third party lenders
14 by depositing monies with the lender on the condition that the lender make
15 a loan on terms approved by the committee, at a rate of return on the
16 deposit approved by the committee and the state treasurer and by giving
17 the lender recourse against the deposit of loan repayments that are not
18 made when due.

19 B. If the monies pledged to secure water supply development bonds
20 issued pursuant to section 49-1278 become insufficient to pay the
21 principal and interest on the water supply development bonds guaranteed by
22 the water supply development revolving fund, the authority shall direct
23 the state treasurer to liquidate securities in the fund as may be
24 necessary and shall apply those proceeds to make current all payments then
25 due on the bonds. The state treasurer shall immediately notify the
26 attorney general and auditor general of the insufficiency. The auditor
27 general shall audit the circumstances surrounding the depletion of the
28 fund and report the findings to the attorney general. The attorney
29 general shall conduct an investigation and report those findings to the
30 governor and the legislature.

31 C. Monies in the water supply development revolving fund shall not
32 be used to provide financial assistance to a water provider, other than an
33 Indian tribe, unless one of the following applies:

34 ~~1. The board of supervisors of the county in which the water~~
35 ~~provider is located has adopted the provision authorized by section~~
36 ~~11-823, subsection A.~~

37 ~~2. The water provider is located in a city or town and the~~
38 ~~legislative body of the city or town has enacted the ordinance authorized~~
39 ~~by section 9-463.01, subsection 0.~~

40 ~~3.~~ 1. The water provider is located in an active management area
41 established pursuant to title 45, chapter 2, article 2.

42 ~~4.~~ 2. The water provider is located outside of an active
43 management area and either of the following applies:

1 (a) The director of water resources has designated the water
2 provider as having an adequate water supply pursuant to section 45-108.

3 (b) The water provider will use the financial assistance for a
4 water supply development project and the director of water resources has
5 determined pursuant to section 45-108 that there is an adequate water
6 supply for all subdivided land that will be served by the project and for
7 which a public report was issued after the effective date of this
8 amendment to this section.