CHAPTER 14

SENATE BILL 1238

AN ACT

AMENDING SECTIONS 37-102, 37-132 AND 37-241, ARIZONA REVISED STATUTES; RELATING TO THE ADMINISTRATION OF STATE LANDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 37-102, Arizona Revised Statutes, is amended to read:

37-102. State land department; powers and duties
A. The state land department shall administer all laws relating to lands owned by, belonging to and under the control of the THIS state.
B. The department shall have charge and control of all lands owned by the THIS state, and timber, stone, gravel and other products of such lands, except lands under the specific use and control of state institutions and the products of such lands.
C. The department, in the name of the THIS state, may commence, prosecute and defend all actions and proceedings to protect the interest of the THIS state in lands within the THIS state or the proceeds thereof of lands within THIS STATE. Actions shall be commenced and prosecuted at the request of the department by the attorney general, a county attorney or a special counsel under the direction of the attorney general.
D. The department shall be the official representative of the THIS state in any communication between the THIS state and the United States government in all matters respecting state lands or any interest of the THIS state in or to the public lands within the THIS state.
E. The summons in any action against the THIS state respecting any lands of the THIS state or the products of such lands and all notices concerning such lands or products shall be served on the commissioner. Summonses, warrants or legal notices served on behalf of the department may be served by the commissioner or the commissioner's deputy, or by the sheriff or a constable of any county of the THIS state.
F. The department shall maintain as a public record in each of its offices a public docket and index of all matters before the department that may be subject to appeal to the board of appeals or to the courts and all sale, exchange and lease transactions subject to bidding by the public. The department shall list a matter on the public docket immediately after an application or other request for department action is received by the department. The department shall include in the public docket every formal action and decision affecting each matter in question. The department shall establish by rule a means by which any person may obtain a copy of the public docket at the current copying cost.
G. The department shall reappraise or update its original appraisal of property to be leased, exchanged or sold if the board of appeals' approval of the lease or sale occurred more than one hundred eighty two hundred forty days before the auction.
H. To the extent possible, the state land department shall:
1. Prepare maps of the ancillary military facilities described in section 28-8461, paragraph 7, subdivisions (b) and (c).
2. Make a map of the ancillary military facility described in section 28-8461, paragraph 7, subdivision (a) available to the public in
printed or electronic format and provide the map in printed or electronic format to the state real estate department.

3. On or before December 25, 2008 and on receipt of proper information from the military installation commander with responsibility for the military electronics range, prepare a map of the military electronics range as defined in section 9-500.28 and make that map available to the public in printed or electronic format and provide the map in printed or electronic format to the state real estate department. Within ninety days of receipt of notice of any change in the boundaries of the military electronics range from the military installation commander, the state land department shall revise its map and provide the map to the public and to the state real estate department.

I. The state land department shall provide each map and the legal description of the boundaries of each ancillary military facility described in section 28-8461, paragraph 7 in electronic format to the state real estate department. Each map prepared by the state land department pursuant to this section shall:

1. Describe the ancillary military facility, the territory in the vicinity of the ancillary military facility and the high noise and accident potential zone, accident potential zone one and accident potential zone two associated with the ancillary military facility.

2. Be submitted to the county in which the ancillary military facility is located.

3. Be made available to the public.

J. The state land department shall prepare a military training route map. The map shall contain military training route numbers in this state that are used by various United States armed forces. The map shall be dated.

K. When preparing the military training route map, the state land department shall use information contained in the most current department of defense publication that is entitled "area planning military training routes for North and South America".

L. The military training route map shall be made available to the public.

M. Within ninety days after the department is notified of a change of a military training route in this state, the department shall prepare a revised military training route map. The map shall be dated and contain a statement that the map supersedes all previously dated maps. The state land department shall send the revised map to the state real estate department electronically and shall also send an accompanying letter specifying the military training route changes. The state land department shall send the revised map and an accompanying letter specifying the military training route changes to the municipalities affected by the changes and to all counties.
N. The department shall submit the military training route map prepared pursuant to this section to the counties in either an electronic or a printed format. The format shall be determined by the receiving county.

O. The state land department shall provide the legal description of the boundaries of the military training routes as delineated in the military training route map to the state real estate department in electronic format.

P. The state land department shall prepare a military restricted airspace map. The map shall contain military restricted airspace in this state that is used by various United States armed forces. The map shall be dated.

Q. When preparing the military restricted airspace map, the state land department shall use information contained in the most current department of transportation publication that is entitled "aeronautical chart".

R. The military restricted airspace map shall be made available in printed or electronic format to the public at the state land department and at the state real estate department.

S. Within ninety days after the department is notified of a change of military restricted airspace in this state, the department shall prepare a revised military restricted airspace map. The map shall be dated and contain a statement that the map supersedes all previously dated maps. The state land department shall send the revised map to the state real estate department electronically and shall also send an accompanying letter specifying the military restricted airspace changes. The state land department shall send the revised map and an accompanying letter specifying the military restricted airspace changes to the municipalities affected by the changes and to all counties.

T. The department shall submit the military restricted airspace map prepared pursuant to this section to the counties in either an electronic or a printed format. The format shall be determined by the receiving county.

U. The state land department shall provide the legal description of the boundaries of the military restricted airspace as delineated in the military restricted airspace map to the state real estate department in electronic format.

V. The department may accept title to and manage real estate, property rights and related infrastructure acquired pursuant to section 26-262, subsection K for preserving or enhancing military installations in this state.

Sec. 2. Section 37-132, Arizona Revised Statutes, is amended to read:

37-132. Powers and duties
A. The commissioner shall:
1. Exercise and perform all powers and duties vested in or imposed upon the department and prescribe such rules as are necessary to discharge those duties.

2. Exercise the powers of surveyor-general except for the powers of the surveyor-general exercised by the treasurer as a member of the selection board pursuant to section 37-202.

3. Make long-range plans for the future use of state lands in cooperation with other state agencies, local planning authorities and political subdivisions.

4. Promote the infill and orderly development of state lands in areas beneficial to the trust and prevent urban sprawl or leapfrog development on state lands.

5. Classify and appraise all state lands, together with the improvements on state lands, for the purpose of sale, lease or grant of rights-of-way. The commissioner may impose such conditions and covenants and make such reservations in the sale of state lands as the commissioner deems to be in the best interest of the state trust. The provisions of this paragraph are subject to hearing procedures pursuant to title 41, chapter 6, article 10 and, except as provided in section 41-1092.08, subsection H, are subject to judicial review pursuant to title 12, chapter 7, article 6.

6. Have authority to lease for grazing, agricultural, homesite or other purposes, except commercial, all land owned or held in trust by the state.

7. Have authority to lease for commercial purposes and sell all land owned or held in trust by the state, but any such lease for a term longer than ten years for commercial purposes or any such sale shall first be approved by the board of appeals.

8. Except as otherwise provided, determine all disputes, grievances or other questions pertaining to the administration of state lands.

9. Appoint deputies and other assistants and employees necessary to perform the duties of the department and assign their duties subject to title 41, chapter 4, article 4 and require of them such surety bonds as the commissioner deems proper. The compensation of the deputy, assistants or employees shall be as determined pursuant to section 38-611.

10. Make a written report to the governor annually, not later than September 1, disclosing in detail the activities of the department for the preceding fiscal year and publish it for distribution. The report shall include an evaluation of auctions of state land leases held during the preceding fiscal year considering the advantages and disadvantages to the state trust of the existence and exercise of preferred rights to lease reclassified state land.

11. Withdraw state land from surface or subsurface sales or lease applications if the commissioner deems it to be in the best interest of the trust. This closure of state lands to new applications for sale or
lease does not affect the rights that existing lessees have under law for
renewal of their leases and reimbursement for improvements.

B. The commissioner may:

1. Take evidence relating to, and may require of the various county
officers information on, any matter that the commissioner has the power to
investigate or determine.

2. Under such rules as the commissioner adopts, use private real
estate brokers to assist in any sale or long-term lease of state land and
pay, from fees collected under section 37-107, subsection B, paragraph 1,
a commission to a broker that is licensed pursuant to title 32, chapter 20
and that provides the purchaser or lessee at auction. The purchaser or
lessee at auction is not eligible to receive a commission pursuant to this
subsection. A commission shall not be paid on a sale or a long-term lease
if the purchaser or lessee is a political subdivision of this state.

3. Require a permittee, lessee or grantee to post a surety bond or
any form of collateral deemed sufficient by the commissioner for
performance or restoration purposes. The commissioner shall use the
proceeds of a bond or collateral only for the purposes determined at the
time the bond or collateral is posted. For agricultural lessees, the
commissioner may require collateral as follows:

(a) As security for payment of the annual assessments levied by the
irrigation district in which the state land is located if the lessee has a
history of late payments or defaults. The amount of the collateral
required shall not exceed the annual assessment levied by the
irrigation district.

(b) As security for payment of rent, if an extension of time for
payment is requested or if the lessee has a history of late payments of
rent. The collateral shall be submitted at the time any extension of time
for payment is requested. The amount of the collateral required shall not exceed the annual amount of rent for the land.

(c) A surety bond shall be required only if the commissioner
determines that other forms of collateral are insufficient.

4. Withhold market and economic analyses, preliminary engineering,
site and area studies and appraisals that are collected during the urban
planning process from public viewing before they are submitted to local
planning and zoning authorities.

5. Withhold from public inspection proprietary information received
during lease negotiations. The proprietary information shall be released
to public inspection unless the release may harm the competitive position
of the applicant and the information could not have been obtained by other
legitimate means.

6. Issue permits for short-term use of state land for specific
purposes as prescribed by rule.
7. Contract with a third party to sell recreational permits. A third party under contract pursuant to this paragraph may assess a surcharge for its services as provided in the contract, in addition to the fees prescribed pursuant to section 37-107.

8. Close urban lands to specific uses as prescribed by rule if necessary for dust abatement, to reduce a risk from hazardous environmental conditions that pose a risk to human health or safety or for remediation purposes.

9. Notwithstanding subsection A, paragraph 4 of this section, authorize, in the best interest of the trust, the extension of public services and facilities either:
   (a) That are necessary to implement plans of the local governing body, including plans adopted or amended pursuant to section 9-461.06 or 11-805.
   (b) Across state lands that are either:
      (i) Classified as suitable for conservation pursuant to section 37-312.
      (ii) Sold or leased at auction for conservation purposes.

C. The commissioner or any deputy or employee of the department shall MAY not have, own or acquire, directly or indirectly, any state lands or the products on any state lands, any interest in or to such lands or products, or improvements on leased state lands, or be interested in any state irrigation project affecting state lands.

Sec. 3. Section 37-241, Arizona Revised Statutes, is amended to read:

37-241. Terms of sale of state land; payment; interest rate
A. The terms of sale of state land are as follows:
   1. At least ten percent, but not more than twenty-five percent, of the appraised value, as stated in the auction notice, which shall be applied to THE principal AND ASSOCIATED RIGHTS-OF-WAY, together with the required fees prescribed pursuant to section 37-107, shall be paid by cashier's check or any other form of payment approved by the commissioner on announcement of the successful bidder.
   2. If the amount bid for the land exceeds the appraised value, further payment shall be made within thirty days so that the total amount paid, including the amount paid on the date of sale, equals the percentage of the bid, as stated in the auction notice, which shall be allocated to THE principal AND ASSOCIATED RIGHTS-OF-WAY, together with the required fees prescribed under section 37-107.

B. On payment of the amounts provided in subsection A of this section, on compliance by the purchaser with the requirements of this article and on payment of the fees under section 37-107, a certificate of purchase shall issue as provided in section 37-244. On full payment for the entire tract of land sold within thirty days after the auction, the department shall issue a patent as provided in section 37-251.
C. If the purchaser fails to complete the payment of the percentage of the bid stated in the auction notice, together with the fees required pursuant to section 37-107, or to enter into a contract of sale within the time provided in the certificate of purchase offered by the department:
   1. The purchaser forfeits all amounts paid, including:
      (a) All payments made on the purchase price, which shall be deemed to be rental for the land.
      (b) All amounts paid under section 37-107.
   2. The commissioner may declare that the bid placed before the final bid accepted is the highest bid and that bidder has five business days after notification by the department to pay by cashier's check or any other form of payment approved by the commissioner all amounts due under this section and section 37-107.

D. The balance of the purchase price is payable as follows:
   1. The commissioner shall establish before the notice of sale the length of the term over which the balance shall be paid and whether a variable or fixed interest rate is appropriate or whether the entire balance without interest is due and payable within thirty days after the auction. This determination shall be based on the nature of the land being sold and general market conditions in effect at the time.
   2. After establishing the length of the term and whether a fixed or variable rate is appropriate, the commissioner shall notify the state treasurer to establish the interest rate after consideration of local prevailing prime interest rates and mortgage rates and the maximum amount of interest set by statute by this state, if any.
   3. If a variable rate is established, the interest rate charged to a purchaser may vary from year to year. The department shall annually notify each purchaser of the interest rate specified by the state treasurer to be paid by the purchaser for the following year and the total amount of interest payable the following year with the purchaser's annual payment.

E. The commissioner shall establish before the notice of sale the length of the term over which the balance shall be paid. The term shall not exceed twenty-five years.

F. The length of term and interest rate and whether the rate is variable or fixed shall be considered terms of the sale to be included in the notice required by section 37-237.

G. The purchaser may discharge the entire debt at any time and be entitled to a patent for the land if the purchaser pays the entire purchase price, together with the applicable fees, and demonstrates that all terms and conditions of the certificate of purchase have been satisfied.
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APPROVED BY THE GOVERNOR MARCH 18, 2022.