

REFERENCE TITLE: subdivisions; definition; lots

State of Arizona
Senate
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2022

SB 1489

Introduced by
Senators Otondo: Alston, Gabaldon, Gonzales, Hatathlie, Marsh, Steele

AN ACT

AMENDING SECTIONS 32-2101, 32-2181, 32-2181.02 AND 32-2197.08, ARIZONA
REVISED STATUTES; RELATING TO LAND SUBDIVISIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2101, Arizona Revised Statutes, is amended to
3 read:

4 32-2101. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Acting in concert" means evidence of collaborating to pursue a
7 concerted plan.

8 2. "Advertising" means ~~the attempt~~ ATTEMPTING by publication,
9 dissemination, exhibition, solicitation or circulation, oral or written,
10 or for broadcast on radio or television to induce directly or indirectly
11 any person to enter into any obligation or acquire any title or interest
12 in lands subject to this chapter, including the land sales contract to be
13 used and any photographs, drawings or artist's presentations of physical
14 conditions or facilities existing or to exist on the property.
15 Advertising does not include:

16 (a) Press releases or other communications delivered to newspapers,
17 periodicals or other news media for general information or public
18 relations purposes if no charge is made by the newspapers, periodicals or
19 other news media ~~for the publication~~ TO PUBLISH or use ~~of~~ any part of
20 these communications.

21 (b) Communications to stockholders as follows:

22 (i) Annual reports and interim financial reports.

23 (ii) Proxy materials.

24 (iii) Registration statements.

25 (iv) Securities prospectuses.

26 (v) Applications for listing of securities on stock exchanges.

27 (vi) Prospectuses.

28 (vii) Property reports.

29 (viii) Offering statements.

30 3. "Affiliate" means a person who, directly or indirectly through
31 one or more intermediaries, controls, is controlled by or is under common
32 control with the person specified.

33 4. "Associate broker" means a licensed broker who is employed by
34 another broker. Unless otherwise specifically provided, an associate
35 broker has the same license privileges as a salesperson.

36 5. "Barrier" means a natural or man-made ~~geographical~~ GEOGRAPHIC
37 feature that prevents parcels of land from being practicably, reasonably
38 and economically united or reunited and that was not caused or created by
39 the owner of the parcels.

40 6. "Blanket encumbrance":

41 (a) Means EITHER:

42 (i) Any mortgage, any deed of trust or any other encumbrance or
43 lien securing or evidencing the payment of ~~money~~ MONIES and affecting more
44 than one lot or parcel of subdivided land. ~~, or~~

1 (ii) An agreement affecting more than one lot or parcel by which
2 the subdivider holds the subdivision under an option, contract to sell or
3 trust agreement. ~~Blanket encumbrance~~

4 (b) Does not include taxes and assessments that are levied by
5 public authority.

6 7. "Board" means the ~~state~~ real estate advisory board.

7 8. "Broker", when used without modification, means a person who is
8 licensed as a broker under this chapter or who is required to be licensed
9 as a broker under this chapter.

10 9. "Business broker" means a real estate broker who acts as an
11 intermediary or agent between sellers or buyers, or both, in the sale or
12 purchase, or both, of businesses or business opportunities where a lease
13 or sale of real property is either a direct or incidental part of the
14 transaction.

15 10. "Camping site" means a space that is designed and promoted for
16 the purpose of locating any trailer, tent, tent trailer, pickup camper or
17 other similar device used for camping.

18 11. "Cemetery" or "cemetery property" means any one, or a
19 combination of more than one, of the following in a place that is used, or
20 intended to be used, and dedicated for cemetery purposes:

21 (a) A burial park, for earth interments.

22 (b) A mausoleum, for crypt or vault entombments.

23 (c) A crematory, or a crematory and columbarium, for cinerary
24 interments.

25 (d) A cemetery plot, including interment rights, mausoleum crypts,
26 niches and burial spaces.

27 12. "Cemetery broker" means a person other than a real estate
28 broker or real estate salesperson who, for another, for compensation:

29 (a) Sells, leases or exchanges cemetery property or interment
30 services of or for another, or on the person's own account.

31 (b) Offers for another or for the person's own account to buy,
32 sell, lease or exchange cemetery property or interment services.

33 (c) Negotiates the purchase and sale, lease or exchange of cemetery
34 property or interment services.

35 (d) Negotiates the purchase or sale, lease or exchange, or lists or
36 solicits, or negotiates a loan on or leasing of cemetery property or
37 interment services.

38 13. "Cemetery salesperson" means a natural person who acts on the
39 person's own behalf or through and on behalf of a professional limited
40 liability company or a professional corporation engaged by or on behalf of
41 a licensed cemetery or real estate broker, or through and on behalf of a
42 corporation, partnership or limited liability company that is licensed as
43 a cemetery or real estate broker, to perform any act or transaction
44 included in the definition of cemetery broker.

- 1 14. "Commissioner" means the state real estate commissioner.
- 2 15. "Common promotional plan" means a plan, undertaken by a person
3 or a group of persons acting in concert, to offer lots for sale or lease.
4 If the land is offered for sale by a person or group of persons acting in
5 concert, and the land is contiguous or is known, designated or advertised
6 as a common unit or by a common name, the land is presumed, without regard
7 to the number of lots covered by each individual offering, as being
8 offered for sale or lease as part of a common promotional plan. Separate
9 subdividers selling lots or parcels in separately platted subdivisions
10 within a master planned community shall not be deemed to be offering their
11 combined lots for sale or lease as part of a common promotional plan.
- 12 16. "Compensation" means any fee, commission, salary, ~~money~~ MONIES
13 or other valuable consideration for services rendered or to be rendered as
14 well as the promise of consideration whether contingent or not.
- 15 17. "Contiguous" means lots, parcels or fractional interests that
16 share a common boundary or point. Lots, parcels or fractional interests
17 are not contiguous if they are separated by either of the following:
- 18 (a) A barrier.
- 19 (b) A road, street or highway that has been established by this
20 state or by any agency or political subdivision of this state, that has
21 been designated by the federal government as an interstate highway or that
22 has been regularly maintained by this state or by any agency or political
23 subdivision of this state and has been used continuously by the public for
24 at least the last five years.
- 25 18. "Control" or "controlled" means a person who, through
26 ownership, voting rights, power of attorney, proxy, management rights,
27 operational rights or other rights, has the right to make decisions
28 binding on an entity, whether a corporation, a partnership or any other
29 entity.
- 30 19. "Corporation licensee" means a lawfully organized corporation
31 that is registered with the Arizona corporation commission and that has an
32 officer licensed as the designated broker pursuant to section 32-2125.
- 33 20. "Department" means the state real estate department.
- 34 21. "Designated broker" means the natural person who is licensed as
35 a broker under this chapter and who is either:
- 36 (a) Designated to act on behalf of an employing real estate,
37 cemetery or membership camping entity.
- 38 (b) Doing business as a sole proprietor.
- 39 22. "Developer" means a person who offers real property in a
40 development for sale, lease or use, either immediately or in the future,
41 on the person's own behalf or on behalf of another person, under this
42 chapter. Developer does not include a person whose involvement with a
43 development is limited to the listing of property within the development
44 for sale, lease or use.

1 23. "Development" means any division, proposed division or use of
2 real property that the department has authority to regulate, including
3 subdivided and unsubdivided lands, cemeteries, condominiums, timeshares,
4 membership campgrounds and stock cooperatives.

5 24. "Employing broker" means a person who is licensed or is
6 required to be licensed as a:

7 (a) Broker entity pursuant to section 32-2125, subsection A.

8 (b) Sole proprietorship if the sole proprietor is a broker licensed
9 pursuant to this chapter.

10 25. "Fractional interest" means an undivided interest in improved
11 or unimproved land, lots or parcels of any size created for the purpose of
12 sale or lease and evidenced by any receipt, certificate, deed or other
13 document conveying the interest. Undivided interests in land, lots or
14 parcels created in the names of a husband and wife as community property,
15 joint tenants or tenants in common, or in the names of other persons who,
16 acting together as part of a single transaction, acquire the interests
17 without a purpose to divide the interests for present or future sale or
18 lease shall be deemed to constitute only one fractional interest.

19 26. "Improved lot or parcel" means a lot or parcel of a subdivision
20 on which there is a residential, commercial or industrial building or
21 concerning which a contract has been entered into between a subdivider and
22 a purchaser that obligates the subdivider directly, or indirectly through
23 a building contractor, to completely construct a residential, commercial
24 or industrial building on the lot or parcel within two years after the
25 date on which the contract of sale for the lot is entered into.

26 27. "Inactive license" means a license that is issued pursuant to
27 article 2 of this chapter to a licensee who is on inactive status during
28 the current license period and who is not engaged by or on behalf of a
29 broker.

30 28. "Lease" or "leasing" includes any lease, whether it is the
31 sole, the principal or any incidental part of a transaction.

32 29. "License" means the whole or part of any agency permit,
33 certificate, approval, registration, public report, charter or similar
34 form of permission required by this chapter.

35 30. "Licensee" means a person to whom a license for the current
36 license period has been granted under any provision of this chapter, and,
37 for the purposes of section 32-2153, subsection A, includes original
38 license applicants.

39 31. "License period" means the two-year period beginning with the
40 date of original issue or renewal of a particular license and ending on
41 the expiration date, if any.

42 32. "Limited liability company licensee" means a lawfully organized
43 limited liability company that has a member or manager who is a natural
44 person and who is licensed as the designated broker pursuant to section
45 32-2125.

1 33. "Lot reservation" means an expression of interest by a
2 prospective purchaser in buying at some time in the future a subdivided or
3 unsubdivided lot, unit or parcel in this state. In all cases, a
4 subsequent affirmative action by the prospective purchaser must be taken
5 to create a contractual obligation to purchase.

6 34. "Master planned community" means a development that consists of
7 two or more separately platted subdivisions and that is either subject to
8 a master declaration of covenants, conditions or restrictions, is subject
9 to restrictive covenants sufficiently uniform in character to clearly
10 indicate a general scheme for improving or developing real property or is
11 governed or administered by a master owner's association.

12 35. "Member" means a member of the real estate advisory board.

13 36. "Membership camping broker" means a person, other than a
14 salesperson, who, for compensation:

15 (a) Sells, purchases, lists, exchanges or leases membership camping
16 contracts.

17 (b) Offers to sell, purchase, exchange or lease membership camping
18 contracts.

19 (c) Negotiates or offers, attempts or agrees to negotiate the sale,
20 purchase, exchange or lease of membership camping contracts.

21 (d) Advertises or holds himself out as being engaged in the
22 business of selling, buying, exchanging or leasing membership camping
23 contracts or counseling or advising regarding membership camping
24 contracts.

25 (e) Assists or directs in procuring prospects calculated or
26 intended to result in the sale, purchase, listing, exchange or lease of
27 membership camping contracts.

28 (f) Performs any of the foregoing acts as an employee or on behalf
29 of a membership camping operator or membership contract owner.

30 37. "Membership camping contract" means an agreement that is
31 offered or sold in this state evidencing a purchaser's right or license to
32 use the camping or outdoor recreation facilities of a membership camping
33 operator and includes a membership that provides for this use.

34 38. "Membership camping operator" means an enterprise, other than
35 one that is tax exempt under section 501(c)(3) of the internal revenue
36 code of 1986, as amended, that solicits membership paid for by a fee or
37 periodic payments and has as one of its purposes camping or outdoor
38 recreation, including the use of camping sites primarily by members.
39 Membership camping operator does not include camping or recreational
40 trailer parks that are open to the general public and that contain camping
41 sites rented for a per use fee or a mobile home park.

42 39. "Membership camping salesperson" means a natural person who
43 acts on the person's own behalf or through and on behalf of a professional
44 limited liability company or a professional corporation engaged by or on
45 behalf of a licensed membership camping or real estate broker, or by or on

1 behalf of a corporation, partnership or limited liability company that is
2 licensed as a membership camping or real estate broker, to perform any act
3 or participate in any transaction in a manner included in the definition
4 of membership camping broker.

5 40. "Online course" means prelicensure education that is a planned
6 learning experience with a geographic separation that may be synchronous
7 or asynchronous, that does not require real-time interaction between a
8 student and an instructor and that uses a platform with self-paced or
9 prerecorded lessons and materials that a student can access via the
10 internet to proceed at the student's own pace.

11 41. "Partnership licensee" means a partnership with a managing
12 general partner who is licensed as the designated broker pursuant to
13 section 32-2125.

14 42. "Permanent access", as required under article 4 of this
15 chapter, means permanent access from the subdivision to any federal, state
16 or county highway.

17 43. "Perpetual care" or "endowed care" means maintaining and
18 caring, in all places where interments have been made, for the trees,
19 shrubs, roads, streets and other improvements and embellishments contained
20 within or forming a part of the cemetery but does not include maintaining
21 or repairing monuments, tombs, copings or other man-made ornaments as
22 associated with individual burial spaces.

23 44. "Perpetual or endowed-care cemetery" means a cemetery in which
24 lots or other burial spaces are sold or transferred under the
25 representation that the cemetery will receive perpetual care or endowed
26 care free of further cost to the purchaser after payment of the original
27 purchase price for the lot, burial space or interment right.

28 45. "Person" means any individual, corporation, partnership or
29 company and any other form of multiple organization for carrying on
30 business, foreign or domestic.

31 46. "Private cemetery" means a cemetery or place that is not
32 licensed under article 6 of this chapter, where burials or interments of
33 human remains are made, in which sales or transfers of interment rights or
34 burial plots are not made to the public and in which not more than ten
35 interments or burials occur annually.

36 47. "Promotion" or "promotional practice" means advertising and any
37 other act, practice, device or scheme to induce directly or indirectly any
38 person to enter into any obligation or acquire any title or interest in or
39 use of real property subject to this chapter, including meetings with
40 prospective purchasers, arrangements for prospective purchasers to visit
41 real property, travel allowances and discount, exchange, refund and
42 cancellation privileges.

43 48. "Real estate" includes leasehold-interests and any estates in
44 land as defined in title 33, chapter 2, articles 1 and 2, regardless of
45 whether located in this state.

1 49. "Real estate broker" means a person, other than a salesperson,
2 who, for another and for compensation:

3 (a) Sells, exchanges, purchases, rents or leases real estate,
4 businesses and business opportunities or timeshare interests.

5 (b) Offers to sell, exchange, purchase, rent or lease real estate,
6 businesses and business opportunities or timeshare interests.

7 (c) Negotiates or offers, attempts or agrees to negotiate the sale,
8 exchange, purchase, rental or leasing of real estate, businesses and
9 business opportunities or timeshare interests.

10 (d) Lists or offers, attempts or agrees to list real estate,
11 businesses and business opportunities or timeshare interests for sale,
12 lease or exchange.

13 (e) Auctions or offers, attempts or agrees to auction real estate,
14 businesses and business opportunities or timeshare interests.

15 (f) Buys, sells, offers to buy or sell or otherwise deals in
16 options on real estate, businesses and business opportunities or timeshare
17 interests or improvements to real estate, businesses and business
18 opportunities or timeshare interests.

19 (g) Collects or offers, attempts or agrees to collect rent for the
20 use of real estate, businesses and business opportunities or timeshare
21 interests. This subdivision does not apply to a person who is not a
22 licensee, who works for a real estate broker or a real estate salesperson,
23 who collects in-person rent and related fees on behalf of the real estate
24 broker or real estate salesperson for the use of real estate as part of
25 the person's clerical duties and who provides a receipt when rent is paid.

26 (h) Advertises or holds himself out as being engaged in the
27 business of buying, selling, exchanging, renting or leasing real estate,
28 businesses and business opportunities or timeshare interests or counseling
29 or advising regarding real estate, businesses and business opportunities
30 or timeshare interests.

31 (i) Assists or directs in procuring prospects that are calculated
32 to result in the sale, exchange, leasing or rental of real estate,
33 businesses and business opportunities or timeshare interests.

34 (j) Assists or directs in negotiating any transaction calculated or
35 intended to result in the sale, exchange, leasing or rental of real
36 estate, businesses and business opportunities or timeshare interests.

37 (k) Incident to the sale of real estate, businesses and business
38 opportunities negotiates or offers, attempts or agrees to negotiate a loan
39 secured or to be secured by any mortgage or other encumbrance on or
40 transfer of real estate, businesses and business opportunities or
41 timeshare interests subject to section 32-2155, subsection C. This
42 subdivision does not apply to mortgage brokers as defined in and subject
43 to title 6, chapter 9, article 1.

1 (l) Engages in the business of assisting or offering to assist
2 another in filing an application for the purchase or lease of, or in
3 locating or entering on, lands owned by the state or federal government.

4 (m) Claims, demands, charges, receives, collects or contracts to
5 collect an advance fee in connection with any employment enumerated in
6 this section, including employment undertaken to promote the sale or lease
7 of real property by advance fee listing, by furnishing rental information
8 to a prospective tenant for a fee paid by the prospective tenant, by
9 advertisement or by any other offering to sell, lease, exchange or rent
10 real property or selling kits connected therewith. This shall not include
11 the activities of any communications media of general circulation or
12 coverage not primarily engaged in the advertisement of real estate or any
13 communications media activities that are specifically exempt from
14 applicability of this article under section 32-2121.

15 (n) Engages in any of the acts listed in subdivisions (a) through
16 (m) of this paragraph for the sale or lease of other than real property if
17 a real property sale or lease is a part of, contingent on or ancillary to
18 the transaction.

19 (o) Performs any of the acts listed in subdivisions (a) through (m)
20 of this paragraph as an employee of, or ~~in~~ ON behalf of, the owner of real
21 estate, or interest in the real estate, or improvements affixed on the
22 real estate, for compensation.

23 (p) Acts as a business broker.

24 50. "Real estate sales contract" means an agreement in which one
25 party agrees to convey title to real estate to another party on the
26 satisfaction of specified conditions set forth in the contract.

27 51. "Real estate salesperson" means a natural person who acts on
28 the person's own behalf or through and on behalf of a professional limited
29 liability company or a professional corporation engaged by or on behalf of
30 a licensed real estate broker, or by or on behalf of a limited liability
31 company, partnership or corporation that is licensed as a real estate
32 broker, to perform any act or participate in any transaction in a manner
33 included in the definition of real estate broker subject to section
34 32-2155.

35 52. "Sale" or "lease" includes every disposition, transfer, option
36 or offer or attempt to dispose of or transfer real property, or an
37 interest, use or estate in the real property, including offering the
38 property as a prize or gift if a monetary charge or consideration for
39 whatever purpose is required.

40 53. "Salesperson", when used without modification, means a natural
41 person who acts on the person's own behalf or through and on behalf of a
42 professional limited liability company or a professional corporation
43 licensed under this chapter or any person required to be licensed as a
44 salesperson under this chapter.

1 54. "School" means a person or entity that offers a course of study
2 towards completion of the education requirements leading to licensure or
3 renewal of licensure under this chapter.

4 55. "Stock cooperative" means a corporation to which all of the
5 following apply:

6 (a) The corporation is formed or used to hold title to improved
7 real property in fee simple or for a term of years.

8 (b) All or substantially all of the shareholders of the corporation
9 each receive a right of exclusive occupancy in a portion of the real
10 property to which the corporation holds title.

11 (c) The right of occupancy may only be transferred with the
12 concurrent transfer of the shares of stock in the corporation held by the
13 person having the right of occupancy.

14 56. "Subdivider" means any person who offers for sale or lease ~~six~~
15 **FOUR** or more lots, parcels or fractional interests in a subdivision or who
16 causes land to be subdivided into a subdivision for the subdivider or for
17 others, or who undertakes to develop a subdivision, but does not include a
18 public agency or officer authorized by law to create subdivisions.

19 57. "Subdivision" or "subdivided lands":

20 (a) Means improved or unimproved land or lands divided or proposed
21 to be divided for the purpose of sale or lease, whether immediate or
22 future, into ~~six~~ **FOUR** or more lots, parcels or fractional interests.

23 (b) Includes a stock cooperative, lands divided or proposed to be
24 divided as part of a common promotional plan and residential condominiums
25 as defined in title 33, chapter 9.

26 (c) Does not include:

27 (i) Leasehold offerings of one year or less.

28 (ii) The division or proposed division of land located in this
29 state into lots or parcels each of which is or will be thirty-six acres or
30 more in area including to the centerline of dedicated roads or easements,
31 if any, contiguous to the lot or parcel.

32 (iii) The leasing of agricultural lands or apartments, offices,
33 stores, hotels, motels, pads or similar space within an apartment
34 building, industrial building, rental recreational vehicle community,
35 rental manufactured home community, rental mobile home park or commercial
36 building.

37 (iv) The subdivision into or development of parcels, plots or
38 fractional portions within the boundaries of a cemetery that has been
39 formed and approved pursuant to this chapter.

40 (v) A sale or lease of a lot, parcel or fractional interest that
41 occurs ten or more years after the sale or lease of another lot, parcel or
42 fractional interest if the other lot, parcel or fractional interest is not
43 subject to this article and is treated as an independent parcel unless, on
44 investigation by the commissioner, there is evidence of intent to
45 subdivide.

1 58. "Timeshare" or "timeshare property" means real property
2 ownership or right of occupancy in real property pursuant to article 9 of
3 this chapter. For the purposes of this chapter, a timeshare is not a
4 security unless it meets the definition of a security under section
5 44-1801.

6 59. "Trustee" means:

7 (a) A person who is designated under section 32-2194.27 to act as a
8 trustee for an endowment-care cemetery fund.

9 (b) A person holding bare legal title to real property under a
10 subdivision trust. A trustee shall not be deemed to be a developer,
11 subdivider, broker or salesperson within this chapter.

12 60. "Unimproved lot or parcel" means a lot or parcel of a
13 subdivision that is not an improved lot or parcel.

14 61. "Unsubdivided lands":

15 (a) Means land or lands divided or proposed to be divided for the
16 purpose of sale or lease, whether immediate or future, into ~~six~~ FOUR or
17 more lots, parcels or fractional interests and the lots or parcels are
18 thirty-six acres or more each but less than one hundred sixty acres each,
19 or that are offered, known or advertised under a common promotional plan
20 for sale or lease, except that agricultural leases shall not be included
21 in this definition.

22 (b) Includes any land that is sold and that would otherwise
23 constitute the ~~sixth~~ FOURTH lot, parcel or fractional interest if the sale
24 occurs ten or more years after the earliest of the previous ~~five~~ THREE
25 sales and if all of the sales consist of property that was originally
26 contained within the same parcel that is thirty-six acres or more and less
27 than one hundred sixty acres.

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

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

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

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

45 2. The name and address of the subdivider.

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

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

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

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

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

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

26 9. A statement as to the location of the nearest public common and
27 high schools available for the attendance of ~~school-age~~ SCHOOL-AGE pupils
28 residing on the subdivision property.

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

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

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

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

40 14. A true statement or reasonable estimate, if applicable, of the
41 amount of any indebtedness that has been or is proposed to be incurred by
42 an existing or proposed special district, entity, taxing area or
43 assessment district, within the boundaries of which the subdivision, or
44 any part of the subdivision, is located, and that is to pay for the
45 construction or installation of any improvement or to furnish community or

1 recreational facilities to the subdivision, and which amounts are to be
2 obtained by ad valorem tax or assessment, or by a special assessment or
3 tax ~~upon~~ ON the subdivision or any part of the subdivision.

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

7 16. A statement of the provisions for easements for permanent
8 access for irrigation water, ~~where~~ IF applicable.

9 17. A true statement of assurances for the completion of off-site
10 improvements, such as roads, utilities, community or recreational
11 facilities and other improvements, to be included in the offering or
12 represented as being in the offering, ~~and~~ approval of the offering by the
13 political subdivision with authority. This statement shall include a
14 trust agreement or any other evidence of assurances for delivery of the
15 improvements and a statement of the provisions, if any, for the continued
16 maintenance of the improvements.

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

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

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

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

35 (a) Any subdivision in this state.

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

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

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

- 1 (a) The holder of any ownership interest in the land.
- 2 (b) The subdivider.
- 3 (c) Any principal or officer in the holder or subdivider.

4 23. A true statement as to whether all or any portion of the
5 subdivision is located in territory in the vicinity of a military airport
6 or ancillary military facility as defined in section 28-8461, in territory
7 in the vicinity of a public airport as defined in section 28-8486, on or
8 after July 1, 2001, in a high noise or accident potential zone as defined
9 in section 28-8461 or on or after July 1 of the year in which the
10 subdivision becomes located in a high noise or accident potential zone.
11 The statement required pursuant to this paragraph does not require the
12 amendment or refileing of any notice filed before July 1, 2001 or before
13 July 1 of the year in which the subdivision becomes located in a high
14 noise or accident potential zone.

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

18 (a) That the property is a conversion from multifamily rental to
19 condominiums.

20 (b) The date original construction was completed.

21 25. Other information and documents and certifications as the
22 commissioner may reasonably require, ~~provided~~ EXCEPT that the subdivider
23 ~~shall~~ IS not ~~be~~ required to disclose any critical infrastructure
24 information as defined in section 41-1801 or any information contained in
25 a report issued pursuant to section 41-4273.

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

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

1 and this has been noted on the face of the plat, the submission
2 constitutes compliance with this subsection if the subdivider provides
3 proof to the commissioner that all applicable fees have been paid pursuant
4 to sections 48-3772 and 48-3774.01.

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

18 E. A creation of ~~six~~ FOUR or more lots, parcels or fractional
19 interests in improved or unimproved land, lots or parcels of any size is
20 subject to this article except when:

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

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

30 3. The lots, parcels or fractional interests are created by a valid
31 order or decree of a court pursuant to and through compliance with title
32 12, chapter 8, article 7 or by operation of law. This paragraph does not
33 allow circumvention of the requirements of this article.

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

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

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

1 7. A sale or lease of a lot, parcel or fractional interest occurs
2 ten or more years after the sale or lease of another lot, parcel or
3 fractional interest and the other lot, parcel or fractional interest is
4 not subject to this article and is treated as an independent parcel
5 unless, ~~upon~~ ON investigation by the commissioner, there is evidence of
6 intent to subdivide.

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

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

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

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

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

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

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

42 (d) The subdivision received final plat approval from the city,
43 town or county before the requirement for an adequate water supply became
44 effective in the city, town or county, and there have been no material
45 changes to the plat since the final plat approval. If changes were made

1 to the plat after the final plat approval, the director of water resources
2 shall determine whether the changes are material pursuant to the rules
3 adopted by the director to implement section 45-108. If this subdivision
4 applies, the state real estate commissioner shall require that all
5 promotional materials and contracts for the sale of lots in the
6 subdivision adequately display the director of water resources' report or
7 the developer's brief summary of the report as approved by the
8 commissioner on the proposed water supply for the subdivision.

9 2. If the subdivision is not located in a county that has adopted
10 the provision authorized by section 11-823, subsection A or in a city or
11 town that has enacted an ordinance pursuant to section 9-463.01,
12 subsection 0, and if the director of water resources, pursuant to section
13 45-108, reports an inadequate on-site supply of water to meet the needs
14 projected by the developer or if no water is available, the state real
15 estate commissioner shall require that all promotional material and
16 contracts for the sale of lots in subdivisions approved by the
17 commissioner adequately display the director of water resources' report or
18 the developer's brief summary of the report as approved by the
19 commissioner on the proposed water supply for the subdivision.

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

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

30 I. ~~Neither~~ A real estate sales contract, conveyance, lease,
31 assignment or other instrument to transfer any interest in subdivided land
32 ~~nor~~ AND any covenant or restriction affecting real property shall NOT
33 contain any provision limiting the right of any party to appear or testify
34 in support of or opposition to zoning changes, building permits or any
35 other official acts affecting real property before a governmental body or
36 official considering zoning changes, building permits or any other
37 official acts affecting real property, whether the property is located
38 within or outside of the boundaries of the subdivision. All contractual
39 provisions that conflict with this subsection are declared to be contrary
40 to public policy. ~~Nothing contained in~~ This subsection ~~shall~~ DOES NOT
41 prohibit private restrictions on the use of any real property.

42 J. Before offering subdivided lands for lease or sale, the
43 subdivider who makes any promises through any form of advertising media
44 that the subdivided lands will be exclusively a retirement community or
45 one that is limited to the residency of adults or senior citizens shall

1 include the promises in the deed restrictions affecting any interest in
2 real property within the subdivided lands.

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

8 Sec. 3. Section 32-2181.02, Arizona Revised Statutes, is amended to
9 read:

10 32-2181.02. Exempt sales and leases

11 A. The following are exempt under this article:

12 1. The sale or lease in bulk of ~~six~~ FOUR or more lots, parcels or
13 fractional interests to one buyer in one transaction.

14 2. The sale or lease of lots or parcels of one hundred sixty acres
15 or more.

16 B. The following are exempt from section 32-2181, subsection A and
17 section 32-2183, subsection A:

18 1. The sale or lease of parcels, lots, units or spaces that are
19 zoned and restricted to commercial or industrial uses.

20 2. The sale or lease of lots or parcels located in a single platted
21 subdivision by a subdivider if:

22 (a) A public report has been issued within the past five years
23 pursuant to this article on the subdivision lots or parcels.

24 (b) The subdivision meets all current requirements otherwise
25 required of a subdivision under this article.

26 (c) The method of sale or lease of lots or parcels meets all
27 current requirements under this article.

28 (d) The lots or parcels are included on a recorded subdivision plat
29 that is approved by a municipal or county government.

30 (e) All roads within the subdivision, all utilities to the lots or
31 parcels being offered for sale or lease and all other required
32 improvements within the subdivision, other than a residence to be built,
33 are complete, paid for and free of any blanket encumbrances.

34 (f) The roads, utilities or other improvements are not complete,
35 but the completion of all improvements is assured pursuant to section
36 32-2183, subsection F.

37 (g) Except for matters relating to ownership and financing, there
38 have been no material changes to the information set forth in the most
39 recent public report issued for the subdivision lots that would require an
40 amendment to the public report.

41 (h) No owner of a ten ~~per cent~~ PERCENT or greater interest,
42 subdivider, director, partner, agent, officer or developer of the
43 subdivision has:

1 (i) Been convicted of a felony or any crime involving theft,
2 dishonesty, violence against another person, fraud or real estate,
3 regardless of whether the convictions were subsequently expunged.

4 (ii) Had a civil judgment entered against the person in a case
5 involving allegations of misrepresentation, fraud, breach of fiduciary
6 duty, misappropriation, dishonesty or, if the subject matter involved real
7 property, securities or investments.

8 (iii) Had a business or professional license, including a real
9 estate license, denied, suspended or revoked or voluntarily surrendered a
10 business or professional license during the course of an investigative or
11 disciplinary proceeding or other disciplinary action taken in this state
12 or any other state.

13 (i) The sale of the subdivided lands violates no laws or ordinances
14 of any governmental authority.

15 (j) Before the buyer's or lessee's execution of a purchase contract
16 or lease, the subdivider has provided the buyer or lessee with a copy of
17 the most recent public report on the lot and has taken a receipt from the
18 buyer for the copy.

19 (k) The subdivider has provided to the buyer or lessee, along with
20 the public report, a signed statement that the subdivider has reviewed and
21 is in compliance with the terms of the exemption provided in this
22 paragraph.

23 (l) Before sale or lease, the subdivider has notified the
24 commissioner, on a form provided by the department, of the subdivider's
25 intent to sell or lease lots or parcels pursuant to this paragraph. The
26 notice shall include:

27 (i) The name, address and telephone number of the subdivider.

28 (ii) The name, address and telephone number of any real estate
29 broker retained by the subdivider to make sales or leases of the lots.

30 (iii) The name and location of the subdivision.

31 (iv) The most recent subdivision public report reference number on
32 the lots.

33 (v) The completion status of subdivision improvements.

34 3. The conveyance to a person who previously conveyed the lot to a
35 home builder for the purpose of constructing a dwelling for the person.

36 4. The sale or lease by a person of individual lots or parcels that
37 were separately acquired by the person from different persons and that
38 were not acquired for the purpose of development if:

39 (a) The lots or parcels are not located in a platted subdivision.

40 (b) Each lot or parcel bears the same legal description that it
41 bore when the lot or parcel was acquired by the person.

42 (c) The seller or lessor is in compliance with all other applicable
43 state and local government requirements.

1 5. The sale of an improved lot in a subdivision that is located
2 outside of this state if:

3 (a) The subdivision is located within the United States and the
4 sale is exempt from the interstate land sales full disclosure act (P.L.
5 90-448; 82 Stat. 590; 15 United States Code sections 1701 through 1720).

6 (b) The subdivider is required by the state where the subdivision
7 is located to deliver a public report or equivalent disclosure document to
8 prospective purchasers and the subdivider delivers the report or
9 equivalent disclosure document.

10 6. The sale of an improved lot in a subdivision located in this
11 state where five or more sales were previously made by the seller if:

12 (a) The sale is the seller's first or second sale in the
13 subdivision within the previous ~~twelve month~~ TWELVE-MONTH period.

14 (b) The subdivision is located within the corporate limits of a
15 town or city.

16 (c) Electricity and telephone service are complete and available to
17 the improved lot.

18 (d) Water and sewage service is complete and available to the
19 improved lot.

20 (e) Streets and roads located outside of the subdivision provide
21 permanent access to the subdivision and are complete and maintained by the
22 county, town or city, or by a legally created and operational property
23 owners' association.

24 (f) Streets within the subdivision are dedicated, provide permanent
25 access to the lot, are complete to town or city standards and are
26 maintained by the town or city or, in the case of private streets, a
27 legally created and operational property owners' association accepts the
28 responsibility of perpetual maintenance.

29 (g) All subdivision common area improvements, including
30 landscaping, recreational facilities and other jointly used and maintained
31 improvements, are complete and maintained by a legally created and
32 operational property owners' association.

33 (h) The purchaser's down payment, earnest money, deposit or other
34 advanced money is placed and held in a neutral escrow depository in this
35 state until escrow closes and the deed is delivered to the purchaser.

36 (i) Within the previous twelve months the seller has not had an
37 ownership interest in more than two lots in the subdivision, including an
38 interest by option, an agreement for sale, a beneficial interest under a
39 trust or a purchase contract.

40 C. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT increase,
41 decrease or otherwise affect any rights or powers granted the commissioner
42 under this chapter.

1 D. This section does not apply to lands on which the commissioner
2 has issued orders pursuant to sections 32-2154 and 32-2157 and section
3 32-2183, subsection M unless the commissioner has issued a public report
4 on those lands subsequent to the date of the orders.

5 E. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT increase,
6 ~~to~~ decrease or ~~to~~ otherwise affect any rights or powers granted to
7 political subdivisions of this state with respect to their jurisdictions.

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

10 32-2197.08. Issuance of public report and amended public
11 report by commissioner on timeshare plan;
12 denial of issuance; additional information; use
13 of another state's public report

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

- 24 1. The name and principal address of the owner and developer.
- 25 2. A description of the type of timeshare interests being offered.
- 26 3. A description of the existing and proposed accommodations and
27 amenities of the timeshare plan, including type and number, any use
28 restrictions and any required fees for use.
- 29 4. A description of any accommodations and amenities that are
30 committed to be built, including:
 - 31 (a) The developer's schedule of commencement and completion of all
32 accommodations and amenities.
 - 33 (b) The estimated number of accommodations per site that may become
34 subject to the timeshare plan.
- 35 5. A brief description of the duration, phases and operation of the
36 timeshare plan.
- 37 6. The current annual budget if available or the projected annual
38 budget for the timeshare plan. The budget shall include:
 - 39 (a) A statement of the amount or a statement that there is no
40 amount included in the budget as a reserve for repairs and replacement.
 - 41 (b) The projected common expense liability, if any, by category of
42 expenditures for the timeshare plan.
 - 43 (c) A statement of any services or expenses that are not reflected
44 in the budget and that the developer provides or pays.

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

3 8. A statement that by midnight of the tenth calendar day after
4 execution of the purchase agreement a purchaser may cancel any purchase
5 agreement for a timeshare interest from a developer together with a
6 statement providing the name and street address where the purchaser should
7 mail any notice of cancellation. If, by agreement of the parties through
8 the purchase agreement, the purchase agreement allows for cancellation of
9 the purchase agreement for a period of time exceeding ten calendar days,
10 the public report shall include a statement that the cancellation of the
11 purchase agreement is allowed for that period of time exceeding ten
12 calendar days.

13 9. A description of any bankruptcies, pending suits, adjudications
14 or disciplinary actions material to the timeshare interests of which the
15 developer has knowledge.

16 10. Any restrictions on alienation of any number or portion of any
17 timeshare interests.

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

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

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

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

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

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

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

36 (c) Each type of accommodation in terms of the number of bedrooms,
37 bathrooms and sleeping capacity and a statement of whether or not the
38 accommodation contains a full kitchen. For the purposes of this
39 subdivision, "full kitchen" means a kitchen having a minimum of a
40 dishwasher, range, oven, sink and refrigerator.

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

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

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

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

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

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

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

13 (h) The location and the anticipated relative use demand of each
14 component site in a multisite timeshare plan as well as any periodic
15 adjustment or amendment to the reservation system that may be needed in
16 order to respond to actual purchaser use patterns and changes in purchaser
17 use demand for the accommodations existing at the time within the
18 multisite timeshare plan.

19 (i) Any other information reasonably required by the commissioner
20 or established by rule that is necessary for the protection of purchasers
21 of timeshare interests in timeshare plans.

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

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

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

29 B. Except as otherwise provided in this subsection, the
30 requirements prescribed by subsection A of this section apply to a
31 developer's application for approval to use an amended public report for
32 the sale of timeshare interests in a timeshare plan, including an amended
33 public report to disclose and address a material change under section
34 32-2197.04. A developer may elect to prepare an amended public report for
35 use in the sale of timeshare interests as follows:

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

41 2. An amendment filing fee established pursuant to section
42 32-2197.07 shall accompany the application prescribed by paragraph 1 of
43 this subsection.

1 3. On receipt of the application and amended public report, the
2 department shall review and, within fifteen business days if the amendment
3 adds ~~less~~ FEWER than ~~six~~ FOUR new component sites to the timeshare plan or
4 within thirty calendar days if the amendment adds ~~six~~ FOUR or more new
5 component sites to the timeshare plan, issue either a certification that
6 the application and amended public report are administratively complete or
7 a denial letter if it appears that the application, amended public report
8 or timeshare plan is not in compliance with all legal requirements, that
9 the applicant has a background of violations of state or federal law or
10 that the applicant or timeshare plan presents an unnecessary risk of harm
11 to the public. If the commissioner has received the application and
12 amended public report but has not issued a certification or a denial
13 letter within the required time period, the application and amended public
14 report are deemed administratively complete.

15 4. The developer may commence sales or leasing activities as
16 allowed under this article using an amended public report when the
17 commissioner issues a certification of administrative completeness or as
18 of the date the application and amended public report are deemed
19 administratively complete pursuant to paragraph 3 of this subsection. The
20 certification may be issued on paper or electronically.

21 5. Before or after the commissioner issues a certification of
22 administrative completeness or, if applicable, after the application and
23 amended public report are deemed to be administratively complete pursuant
24 to paragraph 3 of this subsection, the department may examine any public
25 report, timeshare plan or applicant that has applied for or received the
26 certification. If the commissioner determines that the public report,
27 timeshare plan or applicant is not in compliance with any requirement of
28 state law or that grounds exist under this chapter to suspend, deny or
29 revoke a public report, the commissioner may commence an administrative
30 action under section 32-2154, 32-2157 or 32-2197.14. If the developer
31 immediately corrects the deficiency and fully complies with state law, the
32 commissioner shall promptly vacate any action that the commissioner may
33 have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

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

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

41 1. Failure to comply with this article or the rules of the
42 commissioner pertaining to this article.

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

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

6 4. The developer, including if an entity, an officer, director,
7 member, manager, partner, owner, trust beneficiary holding ten percent or
8 more beneficial interest, stockholder owning ten percent or more of the
9 stock or other person exercising control of the entity, has:

10 (a) Been convicted of a felony or misdemeanor involving theft,
11 fraud or dishonesty or involving the conduct of any business or a
12 transaction in real estate, cemetery property, timeshare interests or
13 membership camping campgrounds or contracts.

14 (b) Been permanently or temporarily enjoined by order, judgment or
15 decree from engaging in or continuing any conduct or practice in
16 connection with the sale or purchase of real estate, cemetery property,
17 timeshare interests, membership camping campgrounds or contracts, or
18 securities or involving consumer fraud or the Arizona racketeering laws.

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

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

25 (e) Disregarded or violated this chapter or the rules of the
26 commissioner pertaining to this chapter.

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

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

33 D. If the timeshare property is within an active management area,
34 as defined in section 45-402, the commissioner shall deny issuance of a
35 public report unless the developer has been issued a certificate of
36 assured water supply by the director of water resources and has paid all
37 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
38 developer has obtained a written commitment of water service for the
39 timeshare property from a city, town or private water company designated
40 as having an assured water supply by the director of water resources
41 pursuant to section 45-576.

42 E. In areas outside of active management areas, if the timeshare
43 property is located in a county that has adopted the provision authorized
44 by section 11-823, subsection A or in a city or town that has enacted an
45 ordinance pursuant to section 9-463.01, subsection 0, the commissioner

1 shall deny issuance of a public report unless one of the following
2 applies:

3 1. The director of water resources has reported pursuant to section
4 45-108 that the timeshare property has an adequate water supply.

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

9 3. The timeshare property was approved pursuant to an exemption
10 authorized by section 9-463.01, subsection K, pursuant to an exemption
11 authorized by section 11-823, subsection B, paragraph 1, pursuant to an
12 exemption granted by the director of water resources under section
13 45-108.02 and the exemption has not expired or pursuant to an exemption
14 granted by the director of water resources under section 45-108.03.

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

22 F. In addition to providing to each prospective customer a copy of
23 the public report as required in subsection A of this section, the
24 developer shall also provide to each customer before the close of any
25 transaction information and materials that identify any timeshare exchange
26 companies currently under contract and disclosure statements regarding the
27 use of the timeshare exchange companies, as well as any additional
28 information the commissioner deems appropriate.

29 G. The commissioner may authorize for use in this state by a
30 developer of a timeshare plan in which all accommodations are located
31 outside of this state a current public report that is issued by another
32 jurisdiction or an equivalent registration and disclosure document that is
33 required before offering a timeshare plan for sale, lease or use and that
34 is issued by another jurisdiction. This authorization does not constitute
35 an exemption from other applicable requirements of this article.