

REFERENCE TITLE: **adequate water supply; statewide requirements**

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2165**

Introduced by  
Representative Stahl Hamilton

### **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 AND 48-6414, 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 ~~अपण~~ 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 ~~अपण~~ 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 ~~अपण~~ 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 P~~ SUBSECTION L 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, **THE NOTICE SHALL CONTAIN** a statement  
25 naming the type of legal entity and listing the interest and the extent of  
26 any interest of each principal in the entity. For the purposes of this  
27 section, "principal" means any person or entity having a ten ~~per cent~~  
28 **PERCENT** or more financial interest or, if the legal entity is a trust, **THE**  
29 **NAME AND ADDRESS OF** each beneficiary of the trust holding a ten ~~per cent~~  
30 **PERCENT** or more beneficial 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  
23 or 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 ~~apart~~ 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  
41 access 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 refileing 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 a 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 tenth 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. If, by agreement of the parties through  
24 the purchase agreement, the purchase agreement allows for cancellation of  
25 the purchase agreement for a period of time exceeding ten calendar days,  
26 the public report shall include a statement that the cancellation of the  
27 purchase agreement is allowed for that period of time exceeding ten  
28 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 that is necessary for the protection of purchasers  
39 of 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 allowed 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 percent or  
24 more beneficial interest, stockholder owning ten percent or more of the  
25 stock or other person exercising control of the entity, has:

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

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

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

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

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

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

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

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

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

20           1. The director of water resources has reported pursuant to section  
21 45-108 that the timeshare property has an adequate water supply.

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

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

32           ~~4.~~ 3. The subdivision received final plat approval from the city,  
33 town or county before the requirement for an adequate water supply became  
34 effective in the city, town or county, and there have been no material  
35 changes to the plat since the final plat approval. If changes were made  
36 to the plat after the final plat approval, the director of water resources  
37 shall determine whether the changes are material pursuant to the rules  
38 adopted by the director to implement section 45-108.

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

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

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

10 33-406. Disclosure of transportation of water to property by  
11 motor vehicle or train; definition

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

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

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

27 45-108. Evaluation of subdivision water supply; definition

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

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

40 **C. A CITY, TOWN OR COUNTY MAY APPROVE A SUBDIVISION PLAT ONLY IF**  
41 **THE SUBDIVIDER HAS OBTAINED A WATER REPORT FROM THE DIRECTOR THAT THERE IS**  
42 **AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION OR THE SUBDIVIDER HAS**  
43 **OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A**  
44 **CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER**  
45 **SUPPLY PURSUANT TO THIS SECTION.**

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

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

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

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

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

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

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

32 1. Both of the following apply:

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

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

39 2. All of the following apply:

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

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

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

3 ~~F.~~ H. The director may revoke a designation made pursuant to this  
4 section when the director finds that the water supply may become  
5 inadequate.

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

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

15 ~~F.~~ J. For the purposes of this section, "adequate water supply"  
16 means both of the following:

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

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

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

28 45-108.01. Application for water report or designation of  
29 adequate water supply; notice; objections;  
30 hearing; appeals

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

1 notice shall occur within fifteen days after the modified application is  
2 determined or deemed to be administratively complete.

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

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

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

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

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

28 E. If the application is for a designation of adequate water  
29 supply:

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

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

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

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



1           B. Except as provided in subsections G and J of this section, a  
2 city, town or county may approve a subdivision plat only if the subdivider  
3 has obtained a certificate of assured water supply from the director or  
4 the subdivider has obtained a written commitment of water service for the  
5 subdivision from a city, town or private water company designated as  
6 having an assured water supply pursuant to this section. The city, town  
7 or county shall note on the face of the approved plat that a certificate  
8 of assured water supply has been submitted with the plat or that the  
9 subdivider has obtained a written commitment of water service for the  
10 proposed subdivision from a city, town or private water company designated  
11 as having an assured water supply pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (a) The existing rate of decline.

18 (b) The proposed withdrawals.

19 (c) The expected water requirements of all recorded lots that are  
20 not yet served water and that are located in the service area of a  
21 municipal provider.

22 2. The projected groundwater use is consistent with the management  
23 plan and achievement of the management goal for the active management  
24 area.

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

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

33 48-6414. Inapplicability of other adequate water supply  
34 provisions to proposed subdivisions in the  
35 district

36 Section 9-463.01, subsections J ~~through Q~~, K AND L, section 11-823,  
37 section 32-2181, subsection F, section 32-2183, subsection H, section  
38 32-2197.08, subsection E, ~~section AND SECTIONS~~ 45-108, ~~subsection H,~~  
39 ~~section AND~~ 45-108.01, ~~section 45-108.02 and section 45-108.03~~ do not  
40 apply to proposed subdivisions in the district.