ARIZONA STATE SENATE

Fifty-Seventh Legislature, First Regular Session

VETOED
AMENDED

FACT SHEET FOR H.B. 2092

land divisions; disclosure affidavit; recording

Purpose

Modifies the requirements for and contents of an affidavit of disclosure (affidavit) for the sale of parcels of land in an unincorporated area.

Background

A seller of five or fewer parcels of land, other than subdivided land, in an unincorporated area of a county and any subsequent seller of such a parcel must complete and furnish a written affidavit containing outlined information to the buyer at least seven days before the transfer of the property and the buyer must acknowledge receipt of the affidavit. The seller must record the executed affidavit at the same time that the deed is recorded, and the county recorder is not required to verify the accuracy of any statement in the affidavit. A subsequently recorded affidavit supersedes any previous affidavit. *Seller* and *subsequent seller* do not include a trustee of a deed of trust who is selling property by a trustee's sale or any officer who is selling property by execution sale (A.R.S. § 33-422).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Modifies the affidavit to add questions regarding:
   a) if the property is served by a private well, whether the well is registered with the Arizona Department of Water Resources (ADWR) and has a pump completion report on file with ADWR;
   b) the date the on-site wastewater treatment facility was last inspected; and
   c) if the on-site wastewater treatment facility is a standard septic system, the date the on-site wastewater treatment facility was last pumped, which includes a notice to the buyer that septic systems are lawful and that cesspools are unlawful and may not be used for sewage disposal.

2. Adds, to the affidavit, a statement exempting sellers from providing an affidavit if the property was sold pursuant to a trustee's sale, or an execution sale or mortgage foreclosure or by a personal representative of an estate and advising that the buyer should investigate unknown items.

3. Requires the licensed escrow agent for a transaction, on the request, direction or instruction of the seller, to record the executed affidavit at the same time that the deed is recorded.

4. Requires a subsequent seller or, on the request, direction or instruction of the subsequent seller, the licensed escrow agent for the subsequent transaction to record the subsequently executed affidavit.

5. Specifies that a licensed escrow agent who records an affidavit is not liable for any inaccurate information in the affidavit, including any omissions of material facts.

6. Adds, to the notice to a buyer of property served by a well, a disclaimer that wells require maintenance, that it is the buyer's responsibility to inspect a private well and that water delivery systems or water hauling may be required due to geologic conditions and transporting water by water hauling is acceptable.

7. Requires the beneficiary of the subdivision to provide the affidavit if the seller is a trustee of a subdivision.

8. Exempts, from being considered a seller or subsequent seller, a personal representative acting on behalf of an estate that is selling property.

9. Makes technical and conforming changes.

10. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

- Requires the affidavit to include a statement exempting outlined sellers from providing an affidavit, rather than a question identifying whether the seller is a trustee in a trustee's sale, a person conducting an execution sale or mortgage foreclosure or a personal representative of an estate.

Governor's Veto Message

The Governor indicates in her veto message that H.B. 2092 would exempt certain property sellers from providing a disclosure affidavit. The Governor states that it is unclear to her why it would be in the public interest to allow for available details about a property to be withheld from a prospective buyer and that all buyers deserve the benefit of as much transparency as possible.

House Action				Senate Action			
LARA	1/27/25	DP	8-0-0-1	GOV	3/26/25	DP	7-0-0
3rd Read	2/13/25		52-1-7	3rd Read	4/29/25		18-11-1
				Final Read	5/6/25		34-21-5

Vetoed by the Governor on 5/12/25

Prepared by Senate Research
May 13, 2025
AN/SDR/slp