

Senate Engrossed House Bill

land divisions; disclosure affidavit; recording

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HOUSE BILL 2092

AN ACT

AMENDING SECTION 33-422, ARIZONA REVISED STATUTES; RELATING TO PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 33-422, Arizona Revised Statutes, is amended to
3 read:

4 33-422. Land divisions; recording; disclosure affidavit

5 A. A seller of five or fewer parcels of land, other than subdivided
6 land, in an unincorporated area of a county and any subsequent seller of
7 ~~such a~~ ANY parcel THAT IS THE SUBJECT OF AN AFFIDAVIT RECORDED AS
8 PRESCRIBED BY THIS SECTION shall complete and furnish a written affidavit
9 of disclosure to the buyer at least seven days before the transfer of the
10 property and the buyer shall acknowledge receipt of the affidavit.

11 B. The affidavit must be written in twelve-point type.

12 C. A release or waiver of a seller's liability arising out of any
13 omission or misrepresentation contained in an affidavit of disclosure is
14 not valid or binding on the buyer.

15 D. The buyer has the right to rescind the sales transaction for a
16 period of five days after the affidavit of disclosure is furnished to the
17 buyer.

18 E. The seller OR, ON THE REQUEST, DIRECTION OR INSTRUCTION OF THE
19 SELLER, THE ESCROW AGENT FOR THE TRANSACTION WHO IS LICENSED PURSUANT TO
20 TITLE 6, CHAPTER 7 shall record the executed affidavit of disclosure at
21 the same time that the deed is recorded. The county recorder is not
22 required to verify the accuracy of any statement in the affidavit of
23 disclosure. A subsequently recorded affidavit supersedes any previous
24 affidavit AND THE SUBSEQUENT SELLER OR, ON THE REQUEST, DIRECTION OR
25 INSTRUCTION OF THE SUBSEQUENT SELLER, THE ESCROW AGENT FOR THE SUBSEQUENT
26 TRANSACTION WHO IS LICENSED PURSUANT TO TITLE 6, CHAPTER 7 SHALL RECORD
27 THE SUBSEQUENTLY EXECUTED AFFIDAVIT PRESCRIBED BY THIS SECTION. A LICENSED
28 ESCROW AGENT WHO RECORDS AN AFFIDAVIT PURSUANT TO THIS SUBSECTION IS NOT
29 LIABLE FOR ANY INACCURATE INFORMATION IN THE AFFIDAVIT, INCLUDING ANY
30 OMISSIONS OF MATERIAL FACTS.

31 F. The affidavit of disclosure shall contain all of the following
32 disclosures, be completed by the seller, meet the requirements of section
33 11-480 and follow substantially the following form:

34 When recorded mail to:

35 _____
36 _____
37 _____
38 _____

39 Affidavit of Disclosure
40 Pursuant to A.R.S. § 33-422

41 I, _____ (seller(s))
42 being duly sworn, hereby make this affidavit of disclosure
43 relating to the real property situated in the unincorporated
44 area of:

1 _____, County, State of Arizona, located at:

2 _____

3 and legally described as:

4 (Legal description attached hereto as exhibit "A")

5 (property).

6 1. There ☐ is ☐ is not legal access to the property, as
7 defined in A.R.S. § 11-831 ☐ unknown

8 Explain: _____

9 _____

10 _____

11 2. There ☐ is ☐ is not physical access to the property.

12 ☐ unknown

13 Explain: _____

14 _____

15 _____

16 3. There ☐ is ☐ is not a statement from a licensed
17 surveyor or engineer available stating whether the property has
18 physical access that is traversable by a two-wheel drive
19 passenger motor vehicle.

20 4. The legal and physical access to the property ☐ is ☐ is not . .
21 . . the same....☐ unknown ☐ not applicable.

22 Explain: _____

23 _____

24 _____

25 *If access to the parcel is not traversable by emergency*
26 *vehicles, the county and emergency service providers may not*
27 *be held liable for any damages resulting from the inability to*
28 *traverse the access to provide needed services.*

29 5. The road(s) is/are ☐ publicly maintained ☐ privately
30 maintained ☐ not maintained ☐ not applicable. If
31 applicable, there ☐ is ☐ is not a recorded road
32 maintenance agreement.

33 *If the roads are not publicly maintained, it is the*
34 *responsibility of the property owner(s) to maintain the roads*
35 *and roads that are not improved to county standards and*
36 *accepted for maintenance are not the county's responsibility.*

37 6. A portion or all of the property ☐ is ☐ is not
38 located in a FEMA designated regulatory floodplain. If the
39 property is in a floodplain, it may be subject to floodplain
40 regulation.

41 7. The property ☐ is ☐ is not subject to ☐ fissures or
42 ☐ expansive soils. ☐ unknown

43 Explain: _____

44 _____

45 _____

1 8. The following services are currently provided to the property:
2 ☐ water ☐ sewer ☐ electric ☐ natural gas ☐ single
3 party telephone ☐ cable television services.

4 9. The property ☐ is ☐ is not served by a water supply
5 that requires the transportation of water to the property. If
6 the property is served by a water supply that requires the
7 transportation of water to the property, the seller shall
8 disclose the name and contact information of the water hauler
9 or water hauling company that is currently providing the
10 transportation services to the property and the name and
11 location of the water supply from which the water is currently
12 being transported.

13 Water hauler name: _____ Phone: _____

14 Water supply: _____ Location: _____

15 10. The property is served by ☐ a private water company ☐ a
16 municipal water provider ☐ a private well ☐ a shared well
17 ☐ no well. If served by a shared well, the shared well ☐ is
18 ☐ is not a public water system, as defined by the safe
19 drinking water act (42 United States Code § 300f). IF SERVED
20 BY A PRIVATE WELL, ☐ IS ☐ IS NOT REGISTERED WITH THE ARIZONA
21 DEPARTMENT OF WATER RESOURCES ☐ UNKNOWN. THE WELL ☐ DOES
22 ☐ DOES NOT HAVE A PUMP COMPLETION REPORT ON FILE WITH THE
23 ARIZONA DEPARTMENT OF WATER RESOURCES ☐ UNKNOWN. WELL
24 REGISTRATION NUMBER: _____

25 *Notice to buyer: If the property is served by a well, a*
26 *private water company or a municipal water provider the*
27 *Arizona department of water resources may not have made a*
28 *water supply determination. WELLS REQUIRE MAINTENANCE. IT IS*
29 *THE BUYER'S RESPONSIBILITY TO INSPECT A PRIVATE WELL. DUE TO*
30 *GEOLOGIC CONDITIONS, WATER DELIVERY SYSTEMS OR WATER HAULING*
31 *MAY BE REQUIRED. TRANSPORTING WATER BY WATER HAULING IS*
32 *ACCEPTABLE. For more information about water supply, contact*
33 *the water provider.*

34 11. The property or the water used on the property ☐ is ☐ is not
35 the subject of a statement of claimant for the use of water in
36 a general adjudication of water rights. ☐ unknown.

37 *This is a lawsuit to determine the use of and relative*
38 *priority of water rights. A map of adjudicated areas is*
39 *available at the website of the department of water resources.*

40 12. The property ☐ does have ☐ does not have an on-site
41 wastewater treatment facility (i.e., standard septic or
42 alternative system to treat and dispose of wastewater).
43 ☐ unknown. If applicable: a) The property ☐ will ☐ will not
44 require installation of an on-site wastewater treatment

1 facility; b) The on-site wastewater treatment facility ☐ has
2 ☐ has not been inspected.

3 13. THE DATE THE ON-SITE WASTEWATER TREATMENT FACILITY WAS LAST
4 INSPECTED: (DATE) ☐ UNKNOWN.

5 14. IF THE ON-SITE WASTEWATER TREATMENT FACILITY IS A STANDARD
6 SEPTIC SYSTEM, THE DATE THE SEPTIC TANK WAS LAST PUMPED:
7 (DATE) ☐ UNKNOWN.

8 NOTICE TO BUYER: SEPTIC SYSTEMS ARE LAWFUL.
9 CESSPOOLS ARE UNLAWFUL.
10 A PERSON MAY NOT USE A CESSPOOL FOR SEWAGE DISPOSAL.

11 ~~13.~~ 15. The property ☐ has been ☐ has not been subject
12 to a percolation test. ☐ unknown.

13 ~~14.~~ 16. The property ☐ does have ☐ does not have one or more
14 solar energy devices that are ☐ leased ☐ owned.
15 If the solar energy devices are leased, the seller shall
16 disclose the name and contact information of the leasing
17 company.
18 Leasing company name: _____ Phone: _____

19 ~~15.~~ 17. The property ☐ does have ☐ does not have one or more
20 battery energy storage devices that are ☐ leased ☐ owned.
21 If the battery energy storage devices are leased, the seller
22 shall disclose the name and contact information of the leasing
23 company.
24 Leasing company name: _____ Phone: _____

25 ~~16.~~ 18. The property ☐ does ☐ does not meet the minimum
26 applicable county zoning requirements of the applicable zoning
27 designation.

28 ~~17.~~ 19. The sale of the property ☐ does ☐ does not . . . meet the
29 requirements of A.R.S. § 11-831 and § 32-2181 regarding land
30 divisions. If those requirements are not met, the property
31 owner may not be able to obtain a building permit. It is
32 unlawful pursuant to A.R.S. § 11-831, subsection F and A.R.S.
33 § 32-2181, subsection D for a person or group of persons to
34 attempt to avoid the subdivision laws of this state by acting
35 in concert to divide a parcel of land into six or more lots or
36 parcels. The county where the land division occurred or the
37 state real estate department may investigate and enforce the
38 prohibition against acting in concert to unlawfully divide a
39 parcel of land into six or more lots or parcels. The seller or
40 property owner shall disclose each of the deficiencies to the
41 buyer.
42 Explain: _____
43 _____
44 _____

1 ~~18.~~ 20. The property ☐ is ☐ is not located in the clear zone of
2 a military airport or ancillary military facility, as defined
3 in A.R.S. § 28-8461. (Maps are available at the state real
4 estate department's website.)

5 ~~19.~~ 21. The property ☐ is ☐ is not located in the high noise or
6 accident potential zone of a military airport or ancillary
7 military facility, as defined in A.R.S. § 28-8461. (Maps are
8 available at the state real estate department's website.)

9 ~~20.~~ 22. Notice: If the property is located within the territory in
10 the vicinity of a military airport or ancillary military
11 facility, the property is required to comply with sound
12 attenuation standards as prescribed by A.R.S. § 28-8482. (Maps
13 are available at the state real estate department's website.)

14 ~~21.~~ 23. The property ☐ is ☐ is not located under military
15 restricted airspace. ☐ unknown. (Maps are available at the
16 state real estate department's website.)

17 ~~22.~~ 24. The property ☐ is ☐ is not located in a military
18 electronics range as defined in A.R.S. § 9-500.28 and § 11-818.
19 ☐ unknown. (Maps are available at the state real estate
20 department's website.)

21 ~~23.~~ 25. The property ☐ is ☐ is not located within the influence
22 area of a military installation or range or Arizona national
23 guard site as defined in ~~sections~~ A.R.S. § 9-500.50 and
24 § 11-818.01 (Maps are available at the state real estate
25 department website.)

26 ~~24.~~ 26. Use of the property ☐ is ☐ is not limited in any way
27 relating to an encumbrance of title due to a lis pendens, a
28 court order or a state real estate department order or a
29 pending legal action. If the use of the property is limited
30 due to an encumbrance of title, the seller or property owner
31 shall disclose the limitations to the buyer.

32 Explain: _____

33
34
35 27. IF THE PROPERTY WAS SOLD PURSUANT TO A TRUSTEE'S SALE, OR AN
36 EXECUTION SALE OR MORTGAGE FORECLOSURE OR BY A PERSONAL
37 REPRESENTATIVE OF AN ESTATE, THOSE PERSONS ARE EXEMPT FROM
38 PROVIDING AN AFFIDAVIT, AND THE BUYER SHOULD INVESTIGATE THESE
39 UNKNOWN ITEMS.

40 This affidavit of disclosure supersedes any previously
41 recorded affidavit of disclosure.

42 I certify under penalty of perjury that the information
43 contained in this affidavit is true, complete and correct
44 according to my best belief and knowledge.

1 Dated this ____ (date) ____ day of ____ (year) ____ by:
2 Seller's name (print): _____ Signature: _____
3 Seller's name (print): _____ Signature: _____
4 State of Arizona)
5) ss.
6 County of _____)
7 Subscribed and sworn before me this ____ (date) ____ day
8 of ____ (year) ____, by _____.

9 _____
10 Notary public

11 My commission expires:
12 _____ (date) _____

13 Buyer(s) hereby acknowledges receipt of a copy of this
14 affidavit of disclosure this ____ (date) ____ day
15 of ____ (year) ____

16 Buyer's name (print): _____ Signature: _____
17 Buyer's name (print): _____ Signature: _____

18 G. IF THE SELLER IS A TRUSTEE OF A SUBDIVISION TRUST AS DEFINED IN
19 SECTION 6-801, THE BENEFICIARY OF THE SUBDIVISION TRUST SHALL PROVIDE THE
20 DISCLOSURE AFFIDAVIT REQUIRED BY THIS SECTION.

21 ~~G.~~ H. For the purposes of this section, seller and subsequent
22 seller do not include ANY OF THE FOLLOWING:

23 1. A trustee of a deed of trust who is selling property by a
24 trustee's sale pursuant to chapter 6.1 of this title. ~~or~~

25 2. Any officer who is selling property by execution sale pursuant
26 to title 12, chapter 9 and chapter 6 of this title. ~~If the seller is a~~
27 ~~trustee of a subdivision trust as defined in section 6-801, the disclosure~~
28 ~~affidavit required by this section shall be provided by the beneficiary of~~
29 ~~the subdivision trust.~~

30 3. A PERSONAL REPRESENTATIVE ACTING ON BEHALF OF AN ESTATE THAT IS
31 SELLING THE PROPERTY.