

REFERENCE TITLE: land division; application; attestation

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

HB 2485

Introduced by
Representative Mathis

AN ACT

AMENDING SECTIONS 11-321, 11-831, 32-2101, 32-2163, 32-2181, 32-2185.09
AND 33-422, ARIZONA REVISED STATUTES; RELATING TO LAND DIVISION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-321, Arizona Revised Statutes, is amended to
3 read:

4 11-321. Building permits; issuance; state preemption;
5 utilities; distribution of copies; subsequent
6 owner; limitation; definitions

7 A. Except in those cities and towns that have an ordinance relating
8 to the issuance of building permits, the board of supervisors shall
9 require a building permit for any construction of a building or an
10 addition to a building exceeding a cost of \$1,000 within its
11 jurisdiction. The building permit shall be filed with the board of
12 supervisors or its designated agent.

13 B. The regulation of a utility provider's authority to operate and
14 serve customers is a matter of statewide concern. The regulation of
15 building permits as it relates to a building permit applicant's ability to
16 use a utility provider that is capable and authorized to provide utility
17 service is allowed solely in accordance with subsections C and D of this
18 section. A building permit applicant's ability to use a utility provider
19 that is capable and authorized to provide utility service is not subject
20 to further regulation by a county.

21 C. A county may not deny a permit application based on the utility
22 provider proposed to provide utility service to the project.

23 D. A county issuing a building permit shall ensure that all
24 applicable permits and associated fees assessed on a building permit
25 applicant contain requirements and amounts that do not exceed the
26 requirements and amounts for use of other utility providers and do not
27 have the effect of restricting ~~a~~ THE permit applicant's ability to use
28 the services of a utility provider that is capable and authorized to
29 provide utility service.

30 E. The board of supervisors may not require an applicant for a
31 building permit to hold a transaction privilege tax license or business
32 license as a condition for issuing the building permit.

33 F. Where deemed of public convenience, the board of supervisors
34 shall allow the application for and the issuance of building permits by
35 mail.

36 G. One copy of the building permit required by the terms of
37 subsection A of this section shall be transmitted to the county assessor
38 and one copy shall be transmitted to the director of the department of
39 revenue. The permit copy provided to the assessor and the department of
40 revenue shall have the permit number, the issue date and the parcel number
41 for which the permit is issued. On the issuance of the certificate of
42 occupancy or the certificate of completion or on the expiration or
43 cancellation of the permit, the assessor and the department of revenue
44 shall be notified in writing or in electronic format of the permit number,
45 parcel number, issue date and completion date.

H. AT THE TIME OF APPLICATION FOR A BUILDING PERMIT FOR NEW CONSTRUCTION OF A RESIDENTIAL SINGLE-FAMILY HOME, AN APPLICANT SHALL IDENTIFY ANY OWNERSHIP INTERESTS IN THE PROPERTY.

I. THE APPLICATION FOR A BUILDING PERMIT FOR A SINGLE-FAMILY RESIDENTIAL HOME WITHIN A SUBDIVISION AS DEFINED IN SECTION 32-2101 MUST INCLUDE AN APPROVED PUBLIC REPORT PURSUANT TO SECTION 32-2181 IF THE PROPERTY OWNER OWNS SIX OR MORE PROPERTIES WITHIN THE PARENT PARCEL OR IS A SUBDIVIDER AS DEFINED IN SECTION 32-2101 IF THE APPLICANT INTENDS TO CREATE A SUBDIVISION AS DEFINED IN SECTION 32-2101.

J. AN APPLICANT FOR A BUILDING PERMIT IS EXEMPT FROM THE REQUIREMENTS OF SUBSECTION I OF THIS SECTION IF ANY OF THE FOLLOWING APPLIES:

1. THE APPLICANT IS OTHERWISE EXEMPT FROM PUBLIC REPORT REQUIREMENTS PURSUANT TO SECTION 32-2181.01 OR 32-2181.02. IF THE APPLICANT IS CLAIMING AN EXEMPTION PURSUANT TO SECTION 32-2181.01, THE APPLICANT SHALL PROVIDE EVIDENCE ISSUED BY THE STATE REAL ESTATE COMMISSIONER.

2. THE PROPERTIES THAT ARE THE SUBJECT OF THE BUILDING PERMIT APPLICATION EXIST IN AN ACTIVE MANAGEMENT AREA AS DEFINED IN SECTION 45-402. IF THE PROPERTIES THAT ARE THE SUBJECT OF THE BUILDING PERMIT APPLICATION ARE IN AN ACTIVE MANAGEMENT AREA, THE APPLICANT SHALL PROVIDE EVIDENCE OF COMPLIANCE WITH THE ASSURED WATER SUPPLY REQUIREMENTS SPECIFIED IN SECTION 32-2181, SUBSECTION C. THIS EVIDENCE MAY INCLUDE COPIES OF THE SUBDIVISION PRELIMINARY PLAT OR FINAL PLAT WHERE AN ASSURED WATER SUPPLY IS INDICATED, AS APPROVED BY THE MUNICIPALITY WHERE THE PARCELS, LOTS OR FRACTIONAL INTERESTS EXIST.

3. THE PROPERTIES THAT ARE THE SUBJECT OF THE BUILDING PERMIT THAT ARE LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT AREA. IF THE PROPERTIES THAT ARE THE SUBJECT OF THE BUILDING PERMIT APPLICATION ARE OUTSIDE OF AN ACTIVE MANAGEMENT AREA, THE APPLICANT SHALL PROVIDE EVIDENCE OF COMPLIANCE WITH SECTION 32-2181, SUBSECTION F.

~~H.~~ K. If a person has constructed a building or an addition to a building without obtaining a building permit, a county shall not require a subsequent owner to obtain a permit for the construction or addition done by the prior owner before issuing a permit for a building addition, except that this section does not prohibit A COUNTY FROM enforcing an applicable ordinance or code provision that affects the public health or safety.

~~I.~~ L. This section does not prohibit a county from recovering reasonable costs associated with reviewing and issuing a building permit.

~~J.~~ M. This section does not affect any authority of a county to manage or operate a county-owned utility.

~~K.~~ N. For the purposes of this section: ~~—~~

1. "PARENT PARCEL" HAS THE SAME MEANING PRESCRIBED IN SECTION 11-831.

1 2. "Utility service" means water, wastewater, natural gas,
2 including propane gas, or electric service provided to an end user.

3 Sec. 2. Section 11-831, Arizona Revised Statutes, is amended to
4 read:

5 11-831. Review of land divisions; definitions

6 A. The board of supervisors of each county may adopt ordinances and
7 regulations pursuant to this section for staff review and approval of land
8 divisions of five or fewer lots, parcels or fractional interests, any of
9 which is ten acres or smaller in size. The county may not deny approval
10 of any land division that meets the requirements of this section. If a
11 review of the request is not completed within thirty days after receiving
12 the request, the land division is considered to be approved. At its
13 option, the board of supervisors may submit a ballot question to the
14 voters of the county to allow the voters to determine the application of
15 subsections B and C of this section to qualifying land divisions in that
16 county.

17 B. An application to split a parcel of land shall be approved if:

18 1. The lots, parcels or fractional interests each meet the minimum
19 applicable county zoning requirements of the applicable zoning
20 designation.

21 2. The applicant provides a standard preliminary title report or
22 other acceptable document that demonstrates legal access to the lots,
23 parcels or fractional interests.

24 3. The applicant provides a statement from a licensed surveyor or
25 engineer, or other evidence acceptable to the county, stating whether each
26 lot, parcel or fractional interest has physical access that is traversable
27 by a two-wheel drive passenger motor vehicle.

28 4. The applicant reserves the necessary and appropriate utility
29 easements to serve each lot, parcel or fractional interest created by the
30 land division.

31 5. The applicant signs an affidavit or similar document under oath
32 acknowledging the following:

33 (a) The applicant is aware that it is unlawful pursuant to
34 subsection ~~F~~ H of this section and section 32-2181, subsection D for a
35 person or group of persons to attempt to avoid these sections or the
36 subdivision laws of this state by acting in concert to divide a parcel of
37 land into six or more lots or parcels.

38 (b) The applicant is aware that the county where the land division
39 occurred or the state real estate department may investigate and enforce
40 the prohibition against acting in concert to unlawfully divide a parcel of
41 land into six or more lots or parcels.

42 (c) THE APPLICANT IS AWARE THAT ONE OR MORE LAND DIVISIONS THAT
43 RESULT IN SIX OR MORE PARCELS FROM THE SAME PARENT PARCEL MAY BE SUBJECT
44 TO SECTION 32-2181.

C. An application to split a parcel of land that does not comply with one or more of the items listed in subsection B of this section shall still be approved if the applicant provides an acknowledgment that is signed by the applicant and that confirms that a building or use permit will not be issued by the county until the lot, parcel or fractional interest has met the requirements of subsection B of this section. The county may grant a variance from one or more of the items listed in subsection B of this section.

D. Any approval of a land division under this section may:

1. Include the minimum statutory requirements for legal and physical on-site access that must be met as a condition to issuing a building or use permit for the lots, parcels or fractional interests.

2. Identify topographic, hydrologic or other site constraints, requirements or limitations that must be addressed as conditions to the eventual issuance of a building or use permit. These constraints, requirements or limitations may be as noted by the applicant or through county staff review, but there shall be no requirement for independent studies.

E. If the requirements of subsections A through D of this section do not apply, a county may adopt ordinances and regulations pursuant to this chapter for staff review of land divisions of five or fewer lots, parcels or fractional interests but only to determine compliance with minimum applicable county zoning requirements and legal access and may grant waivers from the county zoning and legal access requirements. The county may not deny approval of any land division that meets the requirements of this section or if the deficiencies are noticed in the deed. A county may not require a public hearing on a request to divide five or fewer lots, parcels or fractional interests. If a review of the request is not completed within thirty days after receipt of the request, the land division shall be deemed approved. If legal access is not available, the legal access does not allow access by emergency vehicles or the county zoning requirements are not met, the access or zoning deficiencies shall be noticed in the deed. If a county by ordinance requires a legal access of more than twenty-four feet roadway width, the county is responsible for the improvement and maintenance of the improvement. If the legal access does not allow access to the lots, parcels or fractional interests by emergency vehicles, neither the county nor its agents or employees are liable for damages resulting from the failure of emergency vehicles to reach the lot, parcel or fractional interest.

F. IF APPLYING FOR A LAND DIVISION, AN APPLICANT SHALL DISCLOSE ANY OWNERSHIP INTERESTS IN THE PROPERTY THAT IS THE SUBJECT OF THE LAND DIVISION OR MINOR LOT SPLIT APPLICATION AND IF THE PROPERTY THAT IS THE SUBJECT OF THE LAND DIVISION APPLICATION HAS BEEN DIVIDED WITHIN THE LAST

1 TEN YEARS, THE OWNERSHIP INTERESTS OF THE PARENT PARCEL FROM WHICH THE
2 SUBJECT PROPERTIES WERE PREVIOUSLY DIVIDED.

3 G. ANY APPLICATION FOR A LAND DIVISION OR MINOR LOT SPLIT SHALL
4 INCLUDE THE FOLLOWING ATTESTATION LANGUAGE:

5 STATE LAW REQUIRES A SUBDIVIDER AS DEFINED IN SECTION
6 32-2101, ARIZONA REVISED STATUTES, TO OBTAIN A PUBLIC REPORT
7 PURSUANT TO SECTION 32-2181, ARIZONA REVISED STATUTES, BEFORE
8 THE SALE OR LEASE OF THE SUBDIVIDED PARCELS, LOTS OR
9 FRACTIONAL INTERESTS. BY SUBMITTING AN APPLICATION FOR A LAND
10 DIVISION OR MINOR LOT SPLIT, THE APPLICANT AND ANY OWNERSHIP
11 INTEREST IN THE LAND THAT IS THE SUBJECT OF THE LAND DIVISION
12 OR MINOR LOT SPLIT APPLICATION ATTEST TO THEIR UNDERSTANDING
13 OF THE PUBLIC REPORT REQUIREMENTS IF INTENDING TO SELL OR
14 LEASE THE SUBDIVIDED PARCELS, LOTS OR FRACTIONAL INTERESTS AND
15 FURTHER ATTEST TO THEIR INTENT TO COMPLY WITH THE SUBDIVISION
16 LAWS OF THIS STATE, AS APPLICABLE.

17 IF A PUBLIC REPORT IS REQUIRED PURSUANT TO SECTION
18 11-321 OR 32-2181, ARIZONA REVISED STATUTES, AND IS NOT
19 OBTAINED, THE COUNTY WHERE THE PROPERTY IS LOCATED MAY DENY
20 BUILDING PERMITS TO THE APPLICANT. THE STATE REAL ESTATE
21 DEPARTMENT MAY ENFORCE THE PUBLIC REPORT REQUIREMENT, IMPOSE A
22 CIVIL PENALTY PURSUANT TO SECTION 32-2185.09, ARIZONA REVISED
23 STATUTES, RECORD WITH THE COUNTY RECORDER IN THE COUNTY WHERE
24 THE PROPERTY IS LOCATED NOTICE OF THE VIOLATION OF SECTION
25 32-2181, ARIZONA REVISED STATUTES, AND ISSUE A CEASE AND
26 DESIST ORDER AGAINST THE SUBDIVIDER TO PREVENT CONVEYANCE OF
27 THE PROPERTY THAT IS THE SUBJECT OF THE PUBLIC REPORT
28 REQUIREMENT UNTIL THE SUBDIVIDER COMPLIES WITH THE PUBLIC
29 REPORT REQUIREMENT.

30 THE APPLICANT IS AWARE THAT IT IS UNLAWFUL FOR A PERSON
31 OR GROUP OF PERSONS TO ATTEMPT TO AVOID THE SUBDIVISION LAWS
32 OF THIS STATE BY ACTING IN CONCERT TO DIVIDE A PARCEL OF LAND
33 INTO SIX OR MORE LOTS, PARCELS OR FRACTIONAL INTERESTS OR TO
34 SELL OR LEASE SIX OR MORE LOTS, PARCELS OR FRACTIONAL
35 INTERESTS BY USING A SERIES OF OWNERS OR CONVEYANCES OR BY ANY
36 OTHER METHOD THAT RESULTS IN THE DIVISION OF LAND INTO A
37 SUBDIVISION OR SUBDIVIDED LAND.

38 IF THE PROPERTY THAT IS THE SUBJECT OF THIS LAND
39 DIVISION OR MINOR LOT SPLIT APPLICATION IS APPROVED FOR A LAND
40 DIVISION OR MINOR LOT SPLIT, THE APPLICANT ☐ DOES ☐ DOES NOT
41 INTEND TO SELL OR LEASE THE PROPERTY AS A SUBDIVIDER AS
42 DEFINED IN SECTION 32-2101, ARIZONA REVISED STATUTES.

43 IF AT THE TIME OF AN APPLICATION FOR A LAND DIVISION OR
44 MINOR LOT SPLIT, AN APPLICANT INDICATES THAT IT IS NOT THE
45 APPLICANT'S INTENTION TO CREATE A SUBDIVISION OR ACT AS A

SUBDIVIDER AND THE APPLICANT'S INTENTION CHANGES, THE APPLICANT UNDERSTANDS THE NEED TO OBTAIN A PUBLIC REPORT PURSUANT TO SECTION 32-2181, ARIZONA REVISED STATUTES, BEFORE THE SALE OR LEASE OF THE PROPERTY THAT IS THE SUBJECT OF THE LAND DIVISION OR MINOR LOT SPLIT APPLICATION.

~~F.~~ H. It is unlawful for a person or group of persons acting in concert to attempt to avoid this section or the subdivision laws of this state by acting in concert to divide a parcel of land into six or more lots or sell or lease six or more lots by using a series of owners or conveyances. Either the county where the division occurred or the state real estate department pursuant to title 32, chapter 20, but not both, may enforce this prohibition. A familial relationship alone is not sufficient to constitute unlawful acting in concert.

~~G.~~ I. For any subdivision that consists of ten or fewer lots, tracts or parcels, each of which is of a size as prescribed by the board of supervisors, the board of supervisors of each county may waive the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plat and may waive or reduce infrastructure standards or requirements except for improved dust-controlled access and minimum drainage improvements.

~~H.~~ J. For the purposes of this section:

1. "Legal access" means a public right of vehicular ingress and egress between the lots, parcels or fractional interests being created.

2. "Minimum applicable county zoning requirements" means the minimum acreage and dimensions of the resulting lot, parcel or fractional interest as required by the county's zoning ordinance.

3. "MINOR LOT SPLIT" MEANS IMPROVED OR UNIMPROVED LAND THAT IS DIVIDED OR PROPOSED TO BE DIVIDED INTO FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL INTERESTS FOR IMMEDIATE OR FUTURE SALE OR LEASE.

4. "PARENT PARCEL" MEANS A PARCEL THAT IS LESS THAN ONE HUNDRED SIXTY ACRES OR ANY SUBSEQUENT LAND DIVISION OF TEN OR MORE ACRES.

~~S.~~ 5. "Utility easement" means an easement of eight feet in width dedicated to the general public to install, maintain and access sewer, electric, gas and water utilities.

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

32-2101. Definitions

In this chapter, unless the context otherwise requires:

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

2. "Address of record" means any of the following:

(a) The address where a licensee practices or is otherwise employed.

(b) A licensee's residential address.

1 (c) The address of a licensee's statutory agent who is registered
2 as the licensee's statutory agent with the corporation commission. This
3 subdivision applies only if notice of the statutory agent is given to the
4 department pursuant to section 32-2126.

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

13 (a) Press releases or other communications delivered to newspapers,
14 periodicals or other news media for general information or public
15 relations purposes if no charge is made by the newspapers, periodicals or
16 other news media to publish or use any part of these communications.

17 (b) Communications to stockholders as follows:

18 (i) Annual reports and interim financial reports.

19 (ii) Proxy materials.

20 (iii) Registration statements.

21 (iv) Securities prospectuses.

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

23 (vi) Prospectuses.

24 (vii) Property reports.

25 (viii) Offering statements.

26 4. "Affiliate" means a person who, directly or indirectly through
27 one or more intermediaries, controls, is controlled by or is under common
28 control with the person specified.

29 5. "Associate broker" means a licensed broker who is employed by
30 another broker. Unless otherwise specifically provided, an associate
31 broker has the same license privileges as a salesperson.

32 6. "Barrier":

33 (a) Means a natural or man-made geographic feature that prevents
34 parcels of land from being practicably, reasonably and economically united
35 or reunited and that was not caused or created by the owner of the
36 parcels.

37 (b) DOES NOT INCLUDE LOTS, PARCELS OR FRACTIONAL INTERESTS CREATED
38 FROM A LAND DIVISION OF THE SAME PARENT PARCEL, UNLESS THE LOTS, PARCELS
39 OR FRACTIONAL INTERESTS ARE SEPARATED DUE TO AN INTEREST THAT HAS BEEN
40 DEEDED TO THE GOVERNING BODY OF THE MUNICIPALITY OR A HOMEOWNER'S
41 ASSOCIATION.

1 7. "Blanket encumbrance":

2 (a) Means either:

3 (i) Any mortgage, any deed of trust or any other encumbrance or
4 lien that secures or evidences the payment of monies and that affects more
5 than one lot or parcel of subdivided land.

6 (ii) An agreement that affects more than one lot or parcel by which
7 the subdivider holds the subdivision under an option, contract to sell or
8 trust agreement.

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

11 8. "Board" means the real estate advisory board.

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

15 10. "Business broker" means a real estate broker who acts as an
16 intermediary or agent between sellers or buyers, or both, in the sale or
17 purchase, or both, of businesses or business opportunities where a lease
18 or sale of real property is either a direct or incidental part of the
19 transaction.

20 11. "Camping site" means a space that is designed and promoted for
21 the purpose of locating any trailer, tent, tent trailer, pickup camper or
22 other similar device used for camping.

23 12. "Cemetery" or "cemetery property" means any one, or a
24 combination of more than one, of the following in a place that is used, or
25 intended to be used, and dedicated for cemetery purposes:

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

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

28 (c) A crematory, or a crematory and columbarium, for cinerary
29 interments.

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

32 13. "Cemetery broker" means a person other than a real estate
33 broker or real estate salesperson who, for another, for compensation:

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

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

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

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

43 14. "Cemetery salesperson" means a natural person who acts on the
44 person's own behalf or through and on behalf of a professional limited
45 liability company or a professional corporation engaged by or on behalf of

1 a licensed cemetery or real estate broker, or through and on behalf of a
2 corporation, partnership or limited liability company that is licensed as
3 a cemetery or real estate broker, to perform any act or transaction
4 included in the definition of cemetery broker.

5 15. "Commissioner" means the state real estate commissioner.

6 16. "Common promotional plan" means a plan, undertaken by a person
7 or a group of persons acting in concert, to offer lots for sale or lease.
8 If the land is offered for sale by a person or group of persons acting in
9 concert, and the land is contiguous or is known, designated or advertised
10 as a common unit or by a common name, the land is presumed, without regard
11 to the number of lots covered by each individual offering, as being
12 offered for sale or lease as part of a common promotional plan. Separate
13 subdividers selling lots or parcels in separately platted subdivisions
14 within a master planned community shall not be deemed to be offering their
15 combined lots for sale or lease as part of a common promotional plan.

16 17. "Compensation" means any fee, commission, salary, monies or
17 other valuable consideration for services rendered or to be rendered as
18 well as the promise of consideration whether contingent or not.

19 18. "Contiguous":

20 (a) Means lots, parcels or fractional interests that share a common
21 boundary or point.

22 (b) Does not include lots, parcels or fractional interests that are
23 separated by either of the following:

24 (i) A barrier.

25 (ii) A ~~road, street or~~ COUNTY, STATE OR FEDERAL highway that has
26 been established by this state or by any agency or political subdivision
27 of this state, that has been designated by the federal government as an
28 interstate highway or that has been regularly maintained by this state or
29 by any agency or political subdivision of this state and has been used
30 continuously by the public for at least the last five years.

31 19. "Control" or "controlled" means a person who, through
32 ownership, voting rights, power of attorney, proxy, management rights,
33 operational rights or other rights, has the right to make decisions
34 binding on an entity, whether a corporation, a partnership or any other
35 entity.

36 20. "Corporation licensee" means a lawfully organized corporation
37 that is registered with the corporation commission and that has an officer
38 licensed as the designated broker pursuant to section 32-2125.

39 21. "Department" means the state real estate department.

40 22. "Designated broker" means a natural person who is licensed as a
41 broker under this chapter and who is either:

42 (a) Designated to act on behalf of an employing real estate,
43 cemetery or membership camping entity.

44 (b) Doing business as a sole proprietor.

1 23. "Developer":

2 (a) Means a person who offers real property in a development for
3 sale, lease or use, either immediately or in the future, on the person's
4 own behalf or on behalf of another person, under this chapter.

5 (b) Does not include a person whose involvement with a development
6 is limited to listing property within the development for sale, lease or
7 use.

8 24. "Development" means any division, proposed division or use of
9 real property that the department has authority to regulate, including
10 subdivided and unsubdivided lands, cemeteries, condominiums, timeshares,
11 membership campgrounds and stock cooperatives.

12 25. "Distance learning" means continuing education or prelicensure
13 education that is an online, planned learning experience with a geographic
14 separation that may be synchronous or asynchronous, that does not require
15 real-time interaction between a student and an instructor and that uses a
16 platform with self-paced or prerecorded lessons and materials that a
17 student can access via the internet to proceed at the student's own pace.

18 26. "Employing broker" means a person who is licensed or is
19 required to be licensed as a:

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

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

23 27. "Fractional interest" means an undivided interest in improved
24 or unimproved land, lots or parcels of any size created for the purpose of
25 sale or lease and evidenced by any receipt, certificate, deed or other
26 document conveying the interest. Undivided interests in land, lots or
27 parcels created in the names of a husband and wife as community property,
28 joint tenants or tenants in common, or in the names of other persons who,
29 acting together as part of a single transaction, acquire the interests
30 without a purpose to divide the interests for present or future sale or
31 lease shall be deemed to constitute only one fractional interest.

32 28. "Improved lot or parcel" means a lot or parcel of a subdivision
33 on which there is a residential, commercial or industrial building or
34 concerning which a contract has been entered into between a subdivider and
35 a purchaser that obligates the subdivider directly, or indirectly through
36 a building contractor, to completely construct a residential, commercial
37 or industrial building on the lot or parcel within two years after the
38 date on which the contract of sale for the lot is entered into, or for a
39 condominium as defined in section 33-1202, within four years after the
40 date on which the contract for sale is entered into.

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

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

3 31. "License" means the whole or part of any agency permit,
4 certificate, approval, registration, public report, charter or similar
5 form of permission required by this chapter.

6 32. "Licensee" means a person to whom a license for the current
7 license period has been granted under any provision of this chapter, and,
8 for the purposes of section 32-2153, subsection A, includes original
9 license applicants.

10 33. "License period" means the two-year period beginning with the
11 date of original issue or renewal of a particular license and ending on
12 the expiration date, if any.

13 34. "Limited liability company licensee" means a lawfully organized
14 limited liability company that has a member or manager who is a natural
15 person and who is licensed as the designated broker pursuant to section
16 32-2125.

17 35. "Live classroom course" means a course or instructional segment
18 delivered in either an in-person classroom instructional format or a
19 synchronous remote instructional format that allows students to observe
20 and participate remotely in an instructional segment via livestreaming.

21 36. "Lot reservation" means an expression of interest by a
22 prospective purchaser in buying at some time in the future a subdivided or
23 unsubdivided lot, unit or parcel in this state. In all cases, a
24 subsequent affirmative action by the prospective purchaser must be taken
25 to create a contractual obligation to purchase.

26 37. "Master planned community" means a development that consists of
27 two or more separately platted subdivisions and that is either subject to
28 a master declaration of covenants, conditions or restrictions, is subject
29 to restrictive covenants sufficiently uniform in character to clearly
30 indicate a general scheme for improving or developing real property or is
31 governed or administered by a master owner's association.

32 38. "Member" means a member of the real estate advisory board.

33 39. "Membership camping broker" means a person, other than a
34 salesperson, who, for compensation:

35 (a) Sells, purchases, lists, exchanges or leases membership camping
36 contracts.

37 (b) Offers to sell, purchase, exchange or lease membership camping
38 contracts.

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

41 (d) Advertises or holds himself out as being engaged in the
42 business of selling, buying, exchanging or leasing membership camping
43 contracts or counseling or advising regarding membership camping
44 contracts.

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

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

6 40. "Membership camping contract" means an agreement that is
7 offered or sold in this state evidencing a purchaser's right or license to
8 use the camping or outdoor recreation facilities of a membership camping
9 operator and includes a membership that provides for this use.

10 41. "Membership camping operator":

11 (a) Means an enterprise, other than one that is tax exempt under
12 section 501(c)(3) of the internal revenue code of 1986, as amended, that
13 solicits membership paid for by a fee or periodic payments and has as one
14 of its purposes camping or outdoor recreation, including the use of
15 camping sites primarily by members.

16 (b) Does not include camping or recreational trailer parks that are
17 open to the general public and that contain camping sites rented for a per
18 use fee or a mobile home park.

19 42. "Membership camping salesperson" means a natural person who
20 acts on the person's own behalf or through and on behalf of a professional
21 limited liability company or a professional corporation engaged by or on
22 behalf of a licensed membership camping or real estate broker, or by or on
23 behalf of a corporation, partnership or limited liability company that is
24 licensed as a membership camping or real estate broker, to perform any act
25 or participate in any transaction in a manner included in the definition
26 of membership camping broker.

27 43. "PARENT PARCEL" MEANS A PARCEL THAT IS LESS THAN ONE HUNDRED
28 SIXTY ACRES OR ANY SUBSEQUENT LAND DIVISION OF TEN OR MORE ACRES.

29 ~~43.~~ 44. "Partnership licensee" means a partnership with a managing
30 general partner who is licensed as the designated broker pursuant to
31 section 32-2125.

32 ~~44.~~ 45. "Permanent access", as required under article 4 of this
33 chapter, means permanent access from the subdivision to any federal, state
34 or county highway.

35 ~~45.~~ 46. "Perpetual care" or "endowed care":

36 (a) Means maintaining and caring, in all places where interments
37 have been made, for the trees, shrubs, roads, streets and other
38 improvements and embellishments contained within or forming a part of the
39 cemetery.

40 (b) Does not include maintaining or repairing monuments, tombs,
41 copings or other man-made ornaments as associated with individual burial
42 spaces.

43 ~~46.~~ 47. "Perpetual or endowed-care cemetery" means a cemetery in
44 which lots or other burial spaces are sold or transferred under the
45 representation that the cemetery will receive perpetual care or endowed

care free of further cost to the purchaser after payment of the original purchase price for the lot, burial space or interment right.

~~47.~~ 48. "Person" means any individual, corporation, partnership or company and any other form of multiple organization for carrying on business, foreign or domestic.

~~48.~~ 49. "Private cemetery" means a cemetery or place that is not licensed under article 6 of this chapter, where burials or interments of human remains are made, in which sales or transfers of interment rights or burial plots are not made to the public and in which not more than ten interments or burials occur annually.

~~49.~~ 50. "Promotion" or "promotional practice" means advertising and any other act, practice, device or scheme to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in or use of real property subject to this chapter, including meetings with prospective purchasers, arrangements for prospective purchasers to visit real property, travel allowances and discount, exchange, refund and cancellation privileges.

~~50.~~ 51. "Real estate" includes leasehold-interests and any estates in land as defined in title 33, chapter 2, articles 1 and 2, regardless of whether located in this state.

~~51.~~ 52. "Real estate broker" means a person, other than a salesperson, who, for another and for compensation:

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

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

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

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

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

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

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

1 (h) Advertises or holds himself out as being engaged in the
2 business of buying, selling, exchanging, renting or leasing real estate,
3 businesses and business opportunities or timeshare interests or counseling
4 or advising regarding real estate, businesses and business opportunities
5 or timeshare interests.

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

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

12 (k) Incident to the sale of real estate, businesses and business
13 opportunities negotiates or offers, attempts or agrees to negotiate a loan
14 secured or to be secured by any mortgage or other encumbrance on or
15 transfer of real estate, businesses and business opportunities or
16 timeshare interests subject to section 32-2155, subsection D. This
17 subdivision does not apply to mortgage brokers as defined in and subject
18 to title 6, chapter 9, article 1.

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

22 (m) Claims, demands, charges, receives, collects or contracts to
23 collect an advance fee in connection with any employment enumerated in
24 this section, including employment undertaken to promote the sale or lease
25 of real property by advance fee listing, by furnishing rental information
26 to a prospective tenant for a fee paid by the prospective tenant, by
27 advertising or by any other offering to sell, lease, exchange or rent real
28 property or selling kits connected therewith. This does not include the
29 activities of any communications media of general circulation or coverage
30 not primarily engaged in advertising real estate or any communications
31 media activities that are specifically exempt from applicability of this
32 article under section 32-2121.

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

37 (o) Performs any of the acts listed in subdivisions (a) through (m)
38 of this paragraph as an employee of, or in behalf of, the owner of real
39 estate, or interest in the real estate, or improvements affixed on the
40 real estate, for compensation.

41 (p) Acts as a business broker.

42 ~~52.~~ 53. "Real estate sales contract" means an agreement in which
43 one party agrees to convey title to real estate to another party on the
44 satisfaction of specified conditions set forth in the contract.

~~53.~~ 54. "Real estate salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed real estate broker, or by or on behalf of a limited liability company, partnership or corporation that is licensed as a real estate broker, to perform any act or participate in any transaction in a manner included in the definition of real estate broker subject to section 32-2155.

~~54.~~ 55. "Sale" or "lease" includes every disposition, transfer, option or offer or attempt to dispose of or transfer real property, or an interest, use or estate in the real property, including offering the property as a prize or gift if a monetary charge or consideration for whatever purpose is required.

~~55.~~ 56. "Salesperson", when used without modification, means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation licensed under this chapter or any person required to be licensed as a salesperson under this chapter.

~~56.~~ 57. "School" means a person or entity that offers a course of study toward completion of the education requirements leading to licensure or renewal of licensure under this chapter.

~~57.~~ 58. "Stock cooperative" means a corporation to which all of the following apply:

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

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

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

~~58.~~ 59. "Subdivider":

(a) Means any person who offers for sale or lease six or more lots, parcels or fractional interests in a subdivision or who POSSESSES ANY OWNERSHIP IN OR causes land to be subdivided into a subdivision for the subdivider or for others, or who undertakes to develop a subdivision.

(b) Does not include a public agency or officer authorized by law to create subdivisions.

~~59.~~ 60. "Subdivision" or "subdivided lands":

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

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

1 (c) Does not include:

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

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

7 (iii) The leasing of agricultural lands or apartments, offices,
8 stores, hotels, motels, pads or similar space within an apartment
9 building, industrial building, rental recreational vehicle community,
10 rental manufactured home community, rental mobile home park or commercial
11 building.

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

15 (v) A sale or lease of a lot, parcel or fractional interest that
16 occurs ten or more years after the sale or lease of another lot, parcel or
17 fractional interest if the other lot, parcel or fractional interest is not
18 subject to this article and is treated as an independent parcel unless, on
19 investigation by the commissioner, there is evidence of intent to
20 subdivide.

21 ~~60.~~ 61. "Timeshare" or "timeshare property" means real property
22 ownership or right of occupancy in real property pursuant to article 9 of
23 this chapter. For the purposes of this chapter, a timeshare is not a
24 security unless it meets the definition of a security under section
25 44-1801.

26 ~~61.~~ 62. "Trustee":

27 (a) Means a person who either:

28 (i) Is designated under section 32-2194.27 to act as a trustee for
29 an endowment-care cemetery fund.

30 (ii) Holds bare legal title to real property under a subdivision
31 trust.

32 (b) Does not include a developer, subdivider, broker or salesperson
33 within this chapter.

34 ~~62.~~ 63. "Unimproved lot or parcel" means a lot or parcel of a
35 subdivision that is not an improved lot or parcel.

36 ~~63.~~ 64. "Unsubdivided lands":

37 (a) Means land or lands divided or proposed to be divided for the
38 purpose of sale or lease, whether immediate or future, into six or more
39 lots, parcels or fractional interests and the lots or parcels are
40 thirty-six acres or more each but less than one hundred sixty acres each,
41 or that are offered, known or advertised under a common promotional plan
42 for sale or lease, except that agricultural leases shall not be included
43 in this definition.

44 (b) Includes any land that is sold and that would otherwise
45 constitute the sixth lot, parcel or fractional interest if the sale occurs

1 ten or more years after the earliest of the previous five sales and if all
2 of the sales consist of property that was originally contained within the
3 same parcel that is thirty-six acres or more and less than one hundred
4 sixty acres.

5 Sec. 4. Section 32-2163, Arizona Revised Statutes, is amended to
6 read:

7 32-2163. Unlawful acts; out-of-state broker; cooperation
8 agreement

9 A. It is unlawful for any licensed broker in this state to employ
10 or compensate, directly or indirectly, any person for performing any of
11 the acts within the scope of this chapter if the person is not also a
12 licensed broker in this state, or a salesperson licensed under the broker
13 employing or compensating the salesperson, except that a licensed broker
14 in this state may pay compensation to and receive compensation from a
15 broker who is lawfully operating in another state.

16 B. Notwithstanding that pursuant to subsection A of this section a
17 licensed broker in this state may pay to and receive compensation from an
18 out-of-state broker, this authority does not allow an out-of-state broker
19 to conduct activity in this state that would otherwise require a broker's
20 license issued by the department.

21 C. A licensed broker in this state may cooperate with an
22 out-of-state broker who would otherwise require licensure in this state
23 if:

24 1. The licensed broker and the out-of-state broker enter into a
25 written cooperation agreement before the out-of-state broker conducts any
26 activity otherwise requiring a broker's license pursuant to this
27 chapter. The cooperation agreement shall include the following:

28 (a) A list of the real estate activities to be conducted by the
29 out-of-state broker.

30 (b) A statement that the out-of-state broker agrees to fully comply
31 with the laws of this state and submit to the regulatory jurisdiction of
32 the department for activities subject to real estate broker licensure
33 pursuant to this chapter.

34 (c) A statement that the licensed broker in this state understands
35 and accepts responsibility for the acts of the out-of-state broker.

36 2. All negotiations in this state or with people who own property
37 in this state are conducted through the licensed broker in this state.

38 3. The licensed broker in this state assumes all responsibility for
39 the acts of the out-of-state broker.

40 4. All principal funds handled by either the licensed broker in
41 this state or the out-of-state broker are subject to the deposit and
42 handling requirements of section 32-2151.

43 D. The offering of real estate brokerage services specified by
44 section 32-2101, paragraph ~~51~~ 52 for compensation or any other thing of
45 value pertaining to real property located in this state through an

internet website constitutes activity that requires a broker's license issued by the department.

E. This section does not allow an out-of-state broker who is not licensed in this state to list, market or advertise in this state real property located in this state for sale, lease or exchange.

F. Signs shall not be placed on real property in this state by an out-of-state broker. An out-of-state broker shall not use a cooperation agreement as authority to sell, lease, rent, exchange or attempt to sell, lease, rent or exchange real property to a resident of this state.

Sec. 5. Section 32-2181, Arizona Revised Statutes, is amended to read:

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

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

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

2. The name and address of the subdivider.

3. The legal description and area of the land.

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

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

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

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

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

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

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

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

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

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

23 14. A true statement or reasonable estimate, if applicable, of the
24 amount of any indebtedness that has been or is proposed to be incurred by
25 an existing or proposed special district, entity, taxing area or
26 assessment district, within the boundaries of which the subdivision, or
27 any part of the subdivision, is located, and that is to pay for the
28 construction or installation of any improvement or to furnish community or
29 recreational facilities to the subdivision, and which amounts are to be
30 obtained by ad valorem tax or assessment, or by a special assessment or
31 tax ~~upon~~ ON the subdivision or any part of the subdivision.

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

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

37 17. A true statement of assurances for the completion of off-site
38 improvements, such as roads, utilities, community or recreational
39 facilities and other improvements to be included in the offering or
40 represented as being in the offering, and approval of the offering by the
41 political subdivision with authority. This statement shall include a
42 trust agreement or any other evidence of assurances for delivery of the
43 improvements and a statement of the provisions, if any, for the continued
44 maintenance of the improvements.

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

5 19. A true statement of the availability of sewage disposal
6 facilities and other public utilities, including water, electricity, gas
7 and telephone facilities in the subdivision, the estimated schedule for
8 their installation, and the estimated costs related to the facilities and
9 utilities that will be borne by purchasers of lots in the subdivision.

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

15 21. If the subdivider is a subsidiary corporation, a true statement
16 identifying the parent corporation and any of the following in which the
17 parent or any of its subsidiaries is or has been involved within the past
18 five years:

19 (a) Any subdivision in this state.

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

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

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

30 (a) The holder of any ownership interest in the land.

31 (b) The subdivider.

32 (c) Any principal or officer in the holder or subdivider.

33 23. A true statement as to whether all or any portion of the
34 subdivision is located in territory in the vicinity of a military airport
35 or ancillary military facility as defined in section 28-8461, in territory
36 in the vicinity of a public airport as defined in section 28-8486, on or
37 after July 1, 2001, in a high noise or accident potential zone as defined
38 in section 28-8461 or on or after July 1 of the year in which the
39 subdivision becomes located in a high noise or accident potential
40 zone. The statement required pursuant to this paragraph does not require
41 the amendment or refiling of any notice filed before July 1, 2001 or
42 before July 1 of the year in which the subdivision becomes located in a
43 high noise or accident potential zone.

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

4 (a) That the property is a conversion from multifamily rental to
5 condominiums.

6 (b) The date original construction was completed.

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

12 B. The commissioner, on application, may grant a subdivider of lots
13 or parcels within a subdivision for which a public report was previously
14 issued by the commissioner an exemption from all or part of the
15 notification requirements of subsection A of this section. The subdivider
16 shall file a statement with the commissioner indicating the change of
17 ownership in the lots or parcels together with any material changes
18 occurring subsequent to the original approval of the subdivision within
19 which the lots or parcels are located. The statement shall further refer
20 to the original approval by the commissioner.

21 C. If the subdivision is within an active management area, as
22 defined in section 45-402, the subdivider shall accompany the notice with
23 a certificate of assured water supply issued by the director of water
24 resources along with proof that all applicable fees have been paid
25 pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has
26 obtained a written commitment of water service for the subdivision from a
27 city, town or private water company designated as having an assured water
28 supply by the director of water resources pursuant to section 45-576 or is
29 exempt from the requirement pursuant to section 45-576. If the subdivider
30 has submitted a certificate of assured water supply to a city, town or
31 county ~~prior to~~ BEFORE approval of the plat by the city, town or county
32 and this has been noted on the face of the plat, the submission
33 constitutes compliance with this subsection if the subdivider provides
34 proof to the commissioner that all applicable fees have been paid pursuant
35 to sections 48-3772 and 48-3774.01.

36 D. It is unlawful for a person or group of persons acting in
37 concert to attempt to avoid this article by acting in concert to divide a
38 parcel of land or sell subdivision lots by using a series of owners or
39 conveyances or by any other method that ultimately results in the division
40 of the lands into a subdivision or the sale of subdivided land. The plan
41 or offering is subject to this article. Unlawful acting in concert
42 pursuant to this subsection with respect to the sale or lease of
43 subdivision lots requires proof that the real estate licensee or other
44 licensed professional knew or with the exercise of reasonable diligence
45 should have known that property ~~which~~ THAT the licensee listed or for

1 which the licensee acted in any capacity as agent was subdivided land
2 subject to this article. A familial relationship alone is not sufficient
3 to constitute unlawful acting in concert.

4 E. A creation of six or more lots, parcels or fractional interests
5 in improved or unimproved land, lots or parcels of any size is subject to
6 this article except when:

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

11 2. The lots, parcels or fractional interests are the result of a
12 foreclosure sale, the exercise by a trustee under a deed of trust of a
13 power of sale or the grant of a deed in lieu of foreclosure. This
14 paragraph does not allow circumvention of the requirements of this
15 article.

16 3. The lots, parcels or fractional interests are created by a valid
17 order or decree of a court pursuant to and through compliance with title
18 12, chapter 8, article 7 or by operation of law. This paragraph does not
19 allow circumvention of the requirements of this article.

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

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

27 6. The commissioner by special order exempts offerings or
28 dispositions of any lots, parcels or fractional interests from compliance
29 with this article on written petition and on a showing satisfactory to the
30 commissioner that compliance is not essential to the public interest or
31 for the protection of buyers. LOTS, PARCELS OR FRACTIONAL INTERESTS IN
32 WHICH COMPLIANCE IS NOT ESSENTIAL TO THE PUBLIC INTEREST OR FOR THE
33 PROTECTION OF BUYERS INCLUDE LOTS, PARCELS OR FRACTIONAL INTERESTS THAT
34 HAVE BEEN INCLUDED WITH A PREVIOUS PUBLIC REPORT THAT HAS BEEN APPROVED
35 WITHIN THE LAST TEN YEARS AND IN WHICH THE APPLICANT FOR AN EXEMPTION
36 ATTESTS THAT THERE ARE NO MATERIAL CHANGES ALTERING THE FACTS OF THE
37 PUBLIC REPORT.

38 7. A sale or lease of a lot, parcel or fractional interest occurs
39 ten or more years after the sale or lease of another lot, parcel or
40 fractional interest and the other lot, parcel or fractional interest is
41 not subject to this article and is treated as an independent parcel
42 unless, upon investigation by the commissioner, there is evidence of
43 intent to subdivide.

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

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

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

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

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

(i) 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.

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

(d) The subdivision received final plat approval from the city, town or county before the requirement for an adequate water supply became effective in the city, town or county, and there have been no material changes to the plat since the final plat approval. If changes were made to the plat after the final plat approval, the director of water resources shall determine whether the changes are material pursuant to the rules adopted by the director to implement section 45-108. If this subdivision applies, the state real estate commissioner shall require that all promotional materials and contracts for the sale of lots in the subdivision adequately display the director of water resources' report or

1 the developer's brief summary of the report as approved by the
2 commissioner on the proposed water supply for the subdivision.

3 2. If the subdivision is not located in a county that has adopted
4 the provision authorized by section 11-823, subsection A or in a city or
5 town that has enacted an ordinance pursuant to section 9-463.01,
6 subsection O, and if the director of water resources, pursuant to section
7 45-108, reports an inadequate on-site supply of water to meet the needs
8 projected by the developer or if no water is available, the state real
9 estate commissioner shall require that all promotional material and
10 contracts for the sale of lots in subdivisions approved by the
11 commissioner adequately display the director of water resources' report or
12 the developer's brief summary of the report as approved by the
13 commissioner on the proposed water supply for the subdivision.

14 G. The commissioner may require the subdivider to supplement the
15 notice of intention to subdivide lands and may require the filing of
16 periodic reports to update the information contained in the original
17 notice of intention to subdivide lands.

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

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

36 J. Before offering subdivided lands for lease or sale, the
37 subdivider who makes any promises through any form of advertising media
38 that the subdivided lands will be exclusively a retirement community or
39 one that is limited to the residency of adults or senior citizens shall
40 include the promises in the deed restrictions affecting any interest in
41 real property within the subdivided lands.

42 K. Except as otherwise provided in this section, a subdivider ~~shall~~
43 IS not ~~be~~ required to disclose items that are over one mile from the
44 subdivision boundaries. The existence of foreign nations or tribal lands

shall also be disclosed if located within the ~~one mile~~ ONE-MILE radius of the subdivision boundaries.

Sec. 6. Section 32-2185.09, Arizona Revised Statutes, is amended to read:

32-2185.09. Civil penalties; limitation

A. A subdivider or agent ~~who~~ THAT is subject to the jurisdiction of the department, ~~who~~ THAT violates this chapter or any rule adopted or order issued by the commissioner or ~~who~~ THAT engages in any unlawful ~~practices defined~~ PRACTICE PRESCRIBED in section 44-1522 with respect to the sale or lease of subdivided lands may be assessed a civil penalty by the commissioner, after a hearing, in an amount not to exceed \$2,000 for each ~~infraction. An infraction that concerns more than one lot in a subdivision is a single infraction for the purposes of this section~~ LOT IN WHICH AN INFRACTION OCCURS.

B. A proceeding for imposition of a civil penalty or for suspension or revocation of a license for a violation of this article or any rule adopted or order issued by the commissioner must be commenced within five years of actual discovery by the department or discovery that should have occurred with the exercise of reasonable diligence by the department.

C. A subdivider ~~who~~ THAT sells or leases in this state any lots, parcels or fractional interest in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01 or 32-2181.02 for a lot or lots created from and after December 31, 2008 and on an order issued by the commissioner may be assessed a civil penalty by the commissioner, after a hearing, in an amount not to exceed \$5,000 for each infraction. A proceeding for the imposition of a civil penalty or suspension or revocation of a license for a violation of this subsection or any rule adopted or order issued by the commissioner must be commenced within five years after actual discovery by the department or discovery that should have occurred with the exercise of reasonable diligence by the department.

Sec. 7. Section 33-422, Arizona Revised Statutes, is amended to read:

33-422. Land divisions; recording; disclosure affidavit

A. 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 shall complete and furnish a written affidavit of disclosure to the buyer at least seven days before the transfer of the property and the buyer shall acknowledge receipt of the affidavit.

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

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

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

E. The seller shall record the executed affidavit of disclosure at the same time that the deed is recorded. The county recorder is not required to verify the accuracy of any statement in the affidavit of disclosure. A subsequently recorded affidavit supersedes any previous affidavit.

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

When recorded mail to:

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

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

_____, County, State of Arizona, located at:

_____ and legally described as:

(Legal description attached hereto as exhibit "A")
(property).

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

Explain: _____

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

Explain: _____

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

- 1 4. The legal and physical access to the property ☐ is ☐ is not . .
 2 . . the same....☐ unknown ☐ not applicable.
 3 Explain: _____
 4 _____
 5 _____
 6 *If access to the parcel is not traversable by emergency*
 7 *vehicles, the county and emergency service providers may not*
 8 *be held liable for any damages resulting from the inability to*
 9 *traverse the access to provide needed services.*
- 10 5. The road(s) is/are ☐ publicly maintained ☐ privately
 11 maintained ☐ not maintained ☐ not applicable. If
 12 applicable, there ☐ is ☐ is not a recorded road
 13 maintenance agreement.
 14 *If the roads are not publicly maintained, it is the*
 15 *responsibility of the property owner(s) to maintain the roads*
 16 *and roads that are not improved to county standards and*
 17 *accepted for maintenance are not the county's responsibility.*
- 18 6. A portion or all of the property ☐ is ☐ is not
 19 located in a FEMA designated regulatory floodplain. If the
 20 property is in a floodplain, it may be subject to floodplain
 21 regulation.
- 22 7. The property ☐ is ☐ is not subject to ☐ fissures or
 23 ☐ expansive soils. ☐ unknown
 24 Explain: _____
 25 _____
 26 _____
- 27 8. The following services are currently provided to the property:
 28 ☐ water ☐ sewer ☐ electric ☐ natural gas ☐ single
 29 party telephone ☐ cable television services.
- 30 9. The property ☐ is ☐ is not served by a water supply
 31 that requires the transportation of water to the property. If
 32 the property is served by a water supply that requires the
 33 transportation of water to the property, the seller shall
 34 disclose the name and contact information of the water hauler
 35 or water hauling company that is currently providing the
 36 transportation services to the property and the name and
 37 location of the water supply from which the water is currently
 38 being transported.
 39 Water hauler name: _____ Phone: _____
 40 Water supply: _____ Location: _____

- 1 10. The property is served by ☐ a private water company ☐ a
2 municipal water provider ☐ a private well ☐ a shared well
3 ☐ no well. If served by a shared well, the shared well ☐ is
4 ☐ is not a public water system, as defined by the safe
5 drinking water act (42 United States Code § 300f).
6 *Notice to buyer: If the property is served by a well, a*
7 *private water company or a municipal water provider the*
8 *Arizona department of water resources may not have made a*
9 *water supply determination. For more information about water*
10 *supply, contact the water provider.*
- 11 11. The property or the water used on the property ☐ is ☐ is not
12 the subject of a statement of claimant for the use of water in
13 a general adjudication of water rights. ☐ unknown.
14 *This is a lawsuit to determine the use of and relative*
15 *priority of water rights. A map of adjudicated areas is*
16 *available at the website of the department of water resources.*
- 17 12. The property ☐ does have ☐ does not have an on-site
18 wastewater treatment facility (i.e., standard septic or
19 alternative system to treat and dispose of wastewater).
20 ☐ unknown. If applicable: a) The property ☐ will ☐ will not
21 require installation of an on-site wastewater treatment
22 facility; b) The on-site wastewater treatment facility ☐ has
23 ☐ has not been inspected.
- 24 13. The property ☐ has been ☐ has not been subject to a
25 percolation test. ☐ unknown.
- 26 14. The property ☐ does have ☐ does not have one or more solar
27 energy devices that are ☐ leased ☐ owned.
28 *If the solar energy devices are leased, the seller shall*
29 *disclose the name and contact information of the leasing*
30 *company.*
31 *Leasing company name: _____ Phone: _____*
- 32 15. The property ☐ does have ☐ does not have one or more battery
33 energy storage devices that are ☐ leased ☐ owned.
34 If the battery energy storage devices are leased, the seller
35 shall disclose the name and contact information of the leasing
36 company.
37 Leasing company name: _____ Phone: _____
- 38 16. The property ☐ does ☐ does not meet the minimum
39 applicable county zoning requirements of the applicable zoning
40 designation.
- 41 17. The sale of the property ☐ does ☐ does not meet the
42 requirements of A.R.S. § 11-831 and § 32-2181 regarding land
43 divisions. If those requirements are not met, the property
44 owner may not be able to obtain a building permit. It is
45 unlawful pursuant to A.R.S. § 11-831, subsection ~~F~~ H and

A.R.S. § 32-2181, subsection D for a person or group of persons to attempt to avoid the subdivision laws of this state by acting in concert to divide a parcel of land into six or more lots or parcels. The county where the land division occurred or the state real estate department may investigate and enforce the prohibition against acting in concert to unlawfully divide a parcel of land into six or more lots or parcels. The seller or property owner shall disclose each of the deficiencies to the buyer.

Explain: _____

18. The property ☐ is ☐ is not located in the clear zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's website.)
19. The property ☐ is ☐ is not located in the high noise or accident potential zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's website.)
20. Notice: If the property is located within the territory in the vicinity of a military airport or ancillary military facility, the property is required to comply with sound attenuation standards as prescribed by A.R.S. § 28-8482. (Maps are available at the state real estate department's website.)
21. The property ☐ is ☐ is not located under military restricted airspace. ☐ unknown. (Maps are available at the state real estate department's website.)
22. The property ☐ is ☐ is not located in a military electronics range as defined in A.R.S. § 9-500.28 and § 11-818. ☐ unknown. (Maps are available at the state real estate department's website.)
23. The property ☐ is ☐ is not located within the influence area of a military installation or range or Arizona national guard site as defined in ~~sections~~ A.R.S. § 9-500.50 and § 11-818.01 (Maps are available at the state real estate department website.)
24. Use of the property ☐ is ☐ is not limited in any way relating to an encumbrance of title due to a lis pendens, a court order or a state real estate department order or a pending legal action. If the use of the property is limited due to an encumbrance of title, the seller or property owner shall disclose the limitations to the buyer.

Explain: _____

1
2 This affidavit of disclosure supersedes any previously
3 recorded affidavit of disclosure.
4 I certify under penalty of perjury that the information
5 contained in this affidavit is true, complete and correct
6 according to my best belief and knowledge.
7 Dated this ____ (date) ____ day of ____ (year) ____ by:
8 Seller's name (print): _____ Signature: _____
9 Seller's name (print): _____ Signature: _____
10 State of Arizona)
11) ss.
12 County of _____
13 Subscribed and sworn before me this ____ (date) ____ day
14 of ____ (year) ____, by _____.
15 _____
16 Notary public
17 My commission expires:
18 ____ (date) ____
19 Buyer(s) hereby acknowledges receipt of a copy of this
20 affidavit of disclosure this ____ (date) ____ day
21 of ____ (year) ____
22 Buyer's name (print): _____ Signature: _____
23 Buyer's name (print): _____ Signature: _____
24 G. For the purposes of this section, seller and subsequent seller
25 do not include a trustee of a deed of trust who is selling property by a
26 trustee's sale pursuant to chapter 6.1 of this title or any officer who is
27 selling property by execution sale pursuant to title 12, chapter 9 and
28 chapter 6 of this title. If the seller is a trustee of a subdivision trust
29 as defined in section 6-801, the disclosure affidavit required by this
30 section shall be provided by the beneficiary of the subdivision trust.